



REPORT TO: MORAY COUNCIL ON 19 JANUARY 2022

SUBJECT: URBAN GULLS

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

- 1.1 To inform the Council of the action taken to date regarding Urban Gulls and of the changes to the licensing scheme for gull control actions.
- 1.2 This report is submitted to Council in terms of Section III, F, (9) of the Council's Scheme of Administration relating to maintenance and allied property services.

2 REASON FOR URGENCY

- 2.1 This report is submitted to Committee in terms of the Local Government (Access to Information) Act 1985, on the Chair certifying that, in his/her opinion it requires to be considered on the grounds of urgency in order to give early consideration to enable action to be taken prior to the nesting season commencing.

3. RECOMMENDATION

3.1 It is recommended that the Council:

- i) consider and note activity in relation to gull control to date;
- ii) note the change to the NatureScot licence provisions regarding gulls and the potential impact of this on continuation of interventions previously instructed;
- iii) consider and note the constraints on funding of activity across the whole council housing estate from the Housing Revenue Account (HRA), but the potential for use of general maintenance budgets in particular cases;
- iv) note that following discussions at Group Leaders, contractual discussions regarding laser disruption in 2022/23 have been advanced only for Elgin and Forres on the assumption that, if supported, commissioning for these areas would be funded via Common Good/Public Trust/External funding, and that it is

understood this activity is not to be progressed for other areas for 2022/23;

- v) agree that authority be delegated to the Head of Housing and Property Services to progress commissioning in terms of iv) above in discussion with local members who have authority to authorise Common Good/Public Trust funding allocations;**
- vi) consider whether to agree to the following further actions:**
 - a) a public education programme as set out in para 6.1 at a maximum cost of £2000 with spend in 2021/22, with delegated powers to the Head of Economic Growth and Development to liaise with Group Leaders on final details ;**
 - b) a prioritised rolling programme for the supply and installation of gull proof bins in affected communities in Moray as set out in para 6.2 and Appendix 1;**
 - c) in principle, a survey detailing species, habits and identification of long term strategy regarding urban gulls as set out in para 6.3;**
- vii) note that Officers will keep options in terms of the new General License under review as further detail emerges.**

4. BACKGROUND

- 4.1** In 2016 the Planning and Regulatory Services Committee (para 11 of minute 6 September 2016 refers) considered a report on the control of gulls and noted that, whilst the Council took action to control gulls on its own premises such as schools and commercial buildings where necessary using repairs and maintenance budgets, no specific budget had been identified for gull control and, in the view of officers, no further action was recommended at that time in light of the considerations set out in the report.

CURRENT CONTRACT

- 4.2** In 2019 local members determined that a trial of gull egg and nest removal together with laser disruption and associated contractual works from residential properties within certain locations in Elgin be undertaken. This is distinct from works instructed by Elgin Bid. A contractor was appointed to undertake the works. Part of the contractor fees were paid from the Elgin Common Good fund with the bulk met from repairs and maintenance budgets for council buildings for work on those buildings.
- 4.3** The Elgin trial was extended in 2020 to include additional Elgin residential areas identified within the LOIP and the Elgin Common Good contribution to costs was increased accordingly.
- 4.4** In March 2021 a one year pilot of egg and nest removal with laser disruption and associated contractual works for the Pilmuir residential area in Forres funded from the Forres Common Good fund supplemented by a private donation was agreed and actioned.

- 4.5 The appointed contractor applied for the necessary licenses from Nature Scot. The licenses available for the 2021 season allowed nest and egg removal but only allowed chick removal if there was danger to public health. Any chick was to be taken to the Ellon Bird Sanctuary.
- 4.6 The appointed contractor has reported that during the 2021 breeding season they removed 175 nests, 441 eggs and 20 chicks. Pilmuir area within Forres was brought into the project late in the season and although 10 properties reported nests, 2 had chicks with no apparent danger to public health therefore, no action could be taken and the other 8 reported had no nests.
- 4.7 35 commercial council properties were also identified for an initial laser program, followed by nest and egg removal. Of these, the most adversely affected council buildings were Forres Academy and Kinloss Primary which both had 32 nests removed over the breeding season followed by Council HQ, Annexe, East End School, St Gerardines Primary which had an average of 15 nests removed over the season.
- 4.8 The contractor has reported that there was no gull activity reported in Lesmurdie and Kingsmill LOIP areas but they had requests from Bishopmill, which was outwith the agreed areas. High activity areas in Elgin were reported as areas around Elgin High School, Pinefield Industrial Estate and Ashgrove. Areas identified as having potential for inclusion in the laser preventative nesting program are Mosstodloch Depot and Lossiemouth High School.
- 4.9 Costs for the 2021 program were £58750.75 which includes £20,000 from Elgin Common Good fund for residential properties, £1330 from Forres Common Good Fund and a £2000 private donation for Forres residential properties.
- 4.10 Property spend approximately 1 day per week managing the contract during the breeding season. Support for the contract has been absorbed within existing resources to date but this is not sustainable moving forward if activity at the same level or greater continues.
- 4.11 Environmental Health received 2 complaints in 2021, one about noise one alleging a nesting colony on commercial roofs. However it is recognised that councillors receive a significant volume of informal complaints on this issue directly from constituents which are not recorded corporately.
- 4.12 In addition to the property egg and nest removal in Elgin and Forres, Environmental Protection also undertake gull control at Dallachy Landfill. This control is aimed at the safety of the staff working on site given the unique issues at that site, and the control mechanism used is flying hawks. This has a contracted cost of £36500 for 2021/22.

APPROACH IN OTHER AREAS

- 4.13 Issues with gulls of the scale and nature encountered in Moray are only apparent in a few areas in Scotland, particularly the North East and Dumfries and Galloway.
- 4.14 Dumfries and Galloway Council have undertaken extensive gull control interventions since 2009 which is informed and overseen by an independent

biologist. Regular surveys and assessments on gull behaviour have been carried out in the area to assess the effectiveness of the interventions. This oversight together with independent surveys carried out throughout the breeding season are seen as essential elements of the programme of gull control.

- 4.15 The surveys undertaken by Dumfries and Galloway Council have identified that the gull population has not reduced in over 10 years of nest and egg removal. It would appear that their various interventions have displaced the gulls' breeding from the city centre to more residential areas of the town. The effect of the interventions in relation to the breeding of gulls cannot be calculated but overall there are similar numbers of breeding gulls across the wider area.

GENERAL LICENSING CHANGES

- 4.16 From 2020, Nature Scot has removed all gulls from their general license. Herring gulls are now also on the conservation red list.
- 4.17 Nature Scot has advised that from 2022 they are introducing a new licensing scheme where the applicant has to be the person with authority to make changes to the fabric of the building such as attaching spikes or nets. This would likely be the owner, occupier or tenant of the building and approval for nest and egg removal will only be given if adequate proofing has already been done but has proved ineffective or is not feasible. This means the Council cannot instruct works by a contractor without the owner, occupier or tenant approving the application before it is submitted.
- 4.18 Nature Scot website states *"We are currently in the process of developing an online application system for gull public health & safety licences. We are not accepting licence applications for the 2022 gull nesting season until early 2022, when we anticipate the new online application system to be launched. We will provide information regarding the new online application process in early 2022."*
- 4.19 A licence will be issued where it has been demonstrated that there is a need for health and safety (e.g. swooping attacks), serious damage to agriculture or prevent the spread of disease (more than their droppings on cars or paths etc.). Noise from gulls is not an accepted reason for introducing nest or egg removal. As part of any license consideration the use or provision of preventative measures may form part of the conditions of the license.
- 4.20 The new licence requirements will significantly impact on the ability of the pest control contractor to undertake works on non-council owned buildings where use of other preventative measures cannot be enforced. In response to a question on feasibility in this situation, NatureScot advised:

We appreciate that due to costs it may not be feasible for councils to install preventative measures on all properties experiencing issues with gulls, but we would expect that measures are installed within financial means. If this is the case then this justification needs to be provided when gull licence applications are submitted. Note that it may be more cost-effective in the long-term to install preventative measures rather than employing a pest controller to carry out annual nest and egg removal.

Experience at Dumfries and Galloway experience suggests that once costs per property exceed £37 it is more cost effective to install spikes.

COSTS FOR THE HRA

- 4.21 The new licence will still be available for the continuation of control where the council are the owners of the buildings and either proofing has proved inadequate or is unfeasible. However, there are issues in terms of the new regime for council houses previously covered by the contract under the outgoing license regime. In particular, it is unlikely that the feasibility test will be met for these properties simply by virtue of the scale of council housing in the area and even a phased proofing programme across all housing stock would have a significant impact on the HRA given the statutory imperatives increasingly apparent as regards EESH and SHQS compliance etc. Even if this spend could be managed within the Housing Business Plan for 2022 onwards, such spend would have to be the subject of consultation with tenants and as many are not affected by gulls, given other pressures on the HRA and following discussion with Group Leaders, this has not formed part of the 2022/23 rent consultation.
- 4.22 However, Housing could potentially undertake works to remove moss and install proofing on council owned residential roofs where there are architectural features that make the roofs particularly attractive for nesting gulls where this could be accommodated within the existing repairs and maintenance budget of the HRA account. This will be investigated by officers and if feasible, action will be taken within existing budgets.

5. GULL CONTROL CONTRACT CONSIDERATIONS FOR 2022 ONWARDS

- 5.1 Once we receive guidance on the form and requirements of the new license conditions and protocols being established by Nature Scot we will be able to report back to Committee with the options available. Meantime, based on discussions with Group Leaders, contractual discussions regarding laser disruption in 2022/23 have been advanced only for Elgin and Forres on the assumption that, if supported, commissioning for these areas would be funded via Common Good/Public Trust/External funding as has been the case in previous years. In that event, local members could agree application of funding if delegated authority as recommended is agreed. Other areas outside Elgin and Forres do not have access to funding streams of this nature and scale and so any activity would fall to be funded from general revenue, creating a new budget pressure at a time of reducing resources. It is therefore understood this activity is not to be progressed for other areas for 2022/23. Such activity cannot be legitimately charged to the HRA except as part of maintenance in particular cases. As highlighted above, it is questionable whether disruption provides value for money while other measures are constrained and so, whilst local members may consider this activity to provide some relief for residents such that common good and other external funding may reasonably be used for this purpose, this is not recommended by officers at present.

6. OTHER MEASURES.

EDUCATION AND INFORMATION

- 6.1 Gulls are not just a problem in the urban environment during the breeding season and are now being increasingly seen and heard all year. All interventions rely on the public taking responsibility and reducing all available opportunistic feeding and stopping nesting on private roofs. A publicity campaign discouraging feeding and promoting proofing on roofs may help with the educational needs to address the issue. In order to manage costs, any educational programme would have to be progressed within existing staffing resources. A high level approach based on the following activity is proposed: leaflets posted to properties within targeted areas within a budget of £2000 for 2021/22; social media advert campaign; radio advert at start of breeding season. Given the approach of the breeding season, delegated authority powers for the Head of Economic Development and Growth to liaise with Group Leaders to finalise details of the educational programme would enable any programme to be progressed timeously.

GULL PROOF BINS

- 6.2 Gull proof bins are already in place in some parts of Buckie and Cullen where they are generally effective in reducing waste overspill. Environmental Protection have provided a high level estimate of the cost of providing litter bins that are gull proof in communities across Moray which are believed to be affected by gulls as in the region of £200k to supply and install gull proof bins. This estimate could be reduced by reviewing the list and focussing provision in areas where there is a high footfall such as the main public parks, cemeteries, car parks, village and town centres and areas around schools and food outlets as shown in **Appendix 1** resulting in a cost of £44k. It is recommended that council consider whether to progress with a prioritised rolling programme covering high footfall/amenity areas across the communities identified in **Appendix 1**. If so, the cost will be included in the draft Capital Plan considered at the Council's meeting on 22 February 2022. If this is successful, consideration could be given to expansion of this provision in future years.

GULL SURVEY

- 6.3 In order to have a lasting impact we would require a comprehensive report detailing the species, locations for breeding, roosting, feeding and habits of juveniles as well as adults as this would significantly inform the type of interventions that could be undertaken and enable a strategy for intervention to be developed. This would also provide a baseline to measure any intervention effectiveness against and thus help to establish value for money. The survey could be carried out across the North of Scotland, would need to be over a 4 year period and the costs spilt between the relevant Local Authorities. High level costs for a survey are £480,000 from which it may be assumed that Moray's share would be £160,000. It is recommended that council consider whether there is support in principle for this action and if so, officers will establish accurate costs and parameters and report back to Committee. Given the scale of initial indicative costs however, this is not recommended at this time.

7. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

While gull control has not hitherto been viewed as a corporate priority given the policy position agreed in 2016, the impact of gulls in our communities is increasing and this has a clear impact on health and well-being. The Council is also seeking to engage communities in shaping council services and while few corporate complaints have been received about seagulls, it is recognised that this is an area about which affected communities feel very strongly and have sought to engage local members to influence a change of policy on their behalf. This is a fundamental aspect of the corporate priority concerning Place shaping which must be weighed against other areas of local and area interest and concern.

(b) Policy and Legal

Corporate policy was set in 2016 but now requires review. This is an area where service provision is discretionary, with the legislative context set out in the report. The presence of gulls can result in a statutory nuisance but only in cases where the property owner/occupier contributes to attraction of gulls by the nature of their activities on site.

(c) Financial implications

The proposals would require spending from reserves of up to £2000 in 21/22 together with a capital allocation of £44k for gull proof bins in 22/23. In considering whether to agree in that activity progress, the pressures including those both mandatory and discretionary should be borne in mind:

Corporate Management Team Additional Expenditure Warning. When the Council approved the budget for 2021/22 on 3 March 2021 (paragraph 3 of the Minute refers) it balanced only by using one-off financial flexibilities. The indicative 3 year budget showed a likely requirement to continue to make significant savings in future years. All financial decisions must be made in this context and only essential additional expenditure should be agreed in the course of the year. In making this determination the committee should consider whether the financial risk to the Council of incurring additional expenditure outweighs the risk to the Council of not incurring that expenditure, as set out in the risk section below and whether a decision on funding could reasonably be deferred until the budget for future years is approved.

(d) Risk Implications

If additional unbudgeted expenditure is proposed, set out the risks of not approving this here:

This is an area where the council has a discretion as to whether and to what extent action should be taken. Although gulls can spread disease, the risk is extremely low and is not, in itself, a reason to control gulls.

There is a risk that limited or no value for money is achieved from a contract for laser disruption of gulls given other constraints in dealing with gulls.

There is a risk that interventions simply displace the problems associated with gulls to other more sensitive areas.

(e) Staffing Implications

Resource to manage a limited lasering contract for Elgin and Forres and a limited educative programme can be contained within existing resources. The impact of the interventions listed would be detailed in a future report.

(f) Property

Control of birds that are causing a nuisance and the proofing of buildings to prevent nesting is the responsibility of the property owner and in the Council this is undertaken through Property Services. Options to proof buildings and remove nests and eggs are already undertaken when necessary. Additional budget would be required if this work was to be extended.

(g) Equalities/Socio Economic Impact

There are no equalities implications associated with this report.

(h) Climate Change and Biodiversity Impacts

Herring gulls are on the conservation red list, criteria for being added to the red list are as follows.

- Species is globally threatened.
- Historical population decline in UK during 1800–1995.
- Severe (at least 50%) decline in UK breeding population over last 25 years, or longer-term period
- Severe (at least 50%) contraction of UK breeding range over last 25 years, or the longer-term period.

In order to conserve numbers but remove the potential for annoyance or safety concerns, an approach that prevents nesting on urban buildings and urban food sources would be preferred, so that birds are not disturbed once nesting has commenced.

(i) Consultations

The options set out in this report have been formulated in consultation with the Depute Chief Executive (Economy, Environment and Finance), the Head of Environmental and Commercial Services, the Head of Economic Growth and Development, the Head of Housing and Property Services, the Head of Financial Services; Tracey Sutherland, Committee Services Officer and the Equalities Officer. The options have also been discussed with Group Leaders.

8. CONCLUSION

8.1 Gulls are now all protected.

- 8.2 A new licensing regime will be introduced for the next breeding season by NatureScot which will impact on the nest and egg removal previously undertaken.**
- 8.3 To be effective, any programme of gull control needs to employ a range of methodologies and to be carried out over a number of years. Even with such a programmed approach, other Local Authority gull control operations have demonstrated the interventions did not reduce the population and moved gulls around potentially into more sensitive areas.**

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Background Papers:
Ref: SPMAN-813460984-173