

Executive Board – 21 July 2020

Subject:	Proposed Extensions of the Public Spaces Protection Orders as respects Alcohol in the Nottingham City Council Administrative Area
Corporate Director(s)/Director(s):	Andrew Errington Director of Community Protection
Portfolio Holder(s):	Councillor David Mellen, Leader of the Council
Report author and contact details:	Melanie Fretwell, Principal Enforcement Officer Melanie.fretwell@nottinghamcity.gov.uk
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a)	<input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
and/or	
(b)	Significant impact on communities living or working in two or more wards in the City <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of expenditure:	<input type="checkbox"/> Revenue <input type="checkbox"/> Capital
Total value of the decision:	Nil
Wards affected:	All Wards
Date of consultation with Portfolio Holder(s):	13 th February 2020
Relevant Council Plan Key Theme:	
Nottingham People	<input type="checkbox"/>
Living in Nottingham	<input type="checkbox"/>
Growing Nottingham	<input type="checkbox"/>
Respect for Nottingham	<input checked="" type="checkbox"/>
Serving Nottingham Better	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>On 13th February 2020, authority was given to Community Protection to consult on the proposal to extend for a further three years, the eight Public Spaces Protection Orders (PSPOs) that prohibit alcohol consumption in public spaces across the administrative area of Nottingham City Council. This report outlines the responses received during consultation and seeks approval to extend the Orders and, where extended, to carry out necessary publication in accordance with the legislative requirements.</p>	
Exempt information:	None
Recommendation(s):	

<p>1 To note the results of the consultation on the proposal to extend the Public Spaces Protection Orders referred to as Orders 1 – 8 (listed below) for a further three years from 19 October 2020:-</p> <ul style="list-style-type: none"> i. Nottingham City Council (Alcohol Consumption in Public Places) Designation Order 2005 ('Order 1') (a copy of which is at Appendix 1) ii. Nottingham City Council (Hyson Green) Alcohol Consumption in Public Places) Designation Order 2006 ('Order 2') (a copy of which is at Appendix 2) iii. Nottingham City Council (Sneinton, Forest and Mapperley) Alcohol Consumption in Designated Public Places Order 2008 ('Order 3') (a copy of which is at Appendix 3) iv. Nottingham City Council Basford Designated Public Place Order 2011 ('Order 4') (a copy of which is at Appendix 4) v. Nottingham City Council St Ann's and Mapperley Designated Public Place Order 2011 ('Order 5') (a copy of which is at Appendix 5) vi. Nottingham City Council St Ann's and Sneinton Designated Public Place Order 2011 ('Order 6') (a copy of which is at Appendix 6) vii. Nottingham City Council (Arboretum and Radford & Park) Alcohol Consumption in Designated Public Places Order 2013 ('Order 7') (a copy of which is at Appendix 7) viii. Nottingham City Council (City Wide Extension) Alcohol Consumption in Designated Public Places Order 2014 ('Order 8') (a copy of which is at Appendix 8)
<p>2 To authorise the extension of Order 1 referred to in recommendation 1(i) above for a further three years from 19 October 2020 being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.</p>
<p>3 To authorise the extension of Order 2 referred to in recommendation 1(ii) above for a further three years from 19 October 2020, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.</p>
<p>4 To authorise the extension of Order 3 referred to in recommendation 1(iii) above for a further three years from 19 October 2020, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.</p>
<p>5 To authorise the extension of Order 4 referred to in recommendation 1(iv) above for a further three years from 19 October 2020, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.</p>
<p>6 To authorise the extension of Order 5 referred to in recommendation 1(v) above for a further three years from 19 October 2020, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.</p>
<p>7 To authorise the extension of Order 6 referred to in recommendation 1(vi) above for a further three years from 19 October 2020, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.</p>
<p>8 To authorise the extension of Order 7 referred to in recommendation 1(vii) above for a further three years from 19 October 2020, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.</p>

9 To authorise the extension of Order 8 referred to in recommendation 1(viii) above for a further three years from 19 October 2020, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of Freedom of Expression and Freedom of Assembly.

10 In the event that a decision is made to extend one or more of Orders 1 - 8 under recommendation 2 to 9 above, the Executive Board authorise the Director of Community Protection to carry out the necessary advertisements and arrange for the appropriate signage to be erected in accordance with the legislative requirements for each of the extended Orders.

1 Reasons for recommendations

- 1.1 Orders 1 – 8 as detailed in the Decision were all made under section 13(2) of the Criminal Justice and Police Act 2001 (“the 2001 Act”) by Nottingham City Council between 2005 and 2014 and were originally known as Designated Public Place Orders or “DPPOs”. Orders 1 - 8 were made with a view to address issues with the consumption of alcohol in public places across the Administrative Area of Nottingham.
- 1.2 Section 13 of the 2001 Act was repealed by the Anti-Social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”), but DPPOs made under the 2001 Act remained in force until 20 October 2017 when they effectively became Public Spaces Protection Orders made under the 2014 Act (“PSPOs”).
- 1.3 Orders 1 – 8 as amended by the 2014 Act prohibit the consumption of alcohol in public places as specified in the 2014 Act within the area covered by the Orders, give the power to PCSO, the Police and authorised officers of the Council to require a person not to consume/surrender alcohol, and it is an offence to fail to comply with this requirement.
- 1.4 A PSPO may not have effect for a period of more than 3 years, unless first extended under section 60 of the 2014 Act, and therefore if not extended, Orders 1 – 8 will all expire on 19 October 2020.
- 1.5 Under section 60(2) of the 2014 Act Orders 1- 8 can be extended for up to three years if, before the Orders are due to expire, the Council is satisfied on reasonable grounds that doing so is necessary to prevent the –
- (a) Occurrence or recurrence after that time of the activities identified in the Orders, or
 - (b) An increase in the frequency or seriousness of those activities after that time.

Section 72 of the 2014 also applies, which contains provision relating to convention rights, consultation, publicity and notification requirements. This report seeks authority for an extension to Orders 1 – 8 for a further three years.

2 Background (including outcomes of consultation)

- 2.1 When considering whether to extend a PSPO the Council must have particular regard to the rights of Freedom of Expression and Freedom of Assembly set out in Articles 10 and 11 of the Convention. Under section 72(4) of the 2014 Act the Council must also consult with
- (a) The Chief Officer of police and that local policing body for the police area that includes the restricted area

- (b) Whatever community representatives the local authority thinks it appropriate to consult with and
- (c) The owner or occupier of land within the restricted area.

- 2.2 On 13th February 2020 date the Leader of the Council and Portfolio Holder for Regeneration, Safety and Communications, Councillor David Mellen authorised the formal consultation on the proposal to extend Orders 1 – 8 for a further three years from 19 October 2020.
- 2.3 Formal consultation on the proposed extension of Orders 1 – 8 commenced on 17th February 2020 and concluded on 12th May 2020
- 2.4 The Council has consulted the Police and Crime Commission and the Chief Constable of Nottinghamshire Police on 24th February 2020
- 2.5 The Council must also publicise the proposed extensions of the Orders on the Council's website. The notice of proposal to extend the Orders went up on the Council's website on 17th February 2020 and was removed on 12th May 2020
- 2.6 No responses were received from either the Police and Crime Commissioner, the Chief Constable of Nottinghamshire Police or members of the public or businesses in Nottingham.
- 2.7 Evidence to date indicates that Orders 1 – 8 have been effective in deterring anti-social behaviour. As detailed in the Delegated Decision Making report which authorised the formal consultation on the proposed extension of the Orders, the powers have been used over 12,000 times over the past four years and they have been critical in supporting the Council's aims of dealing effectively with alcohol related anti-social behaviour. Without the use of these powers, it is a concern that alcohol related anti-social behaviour could increase exponentially causing significant problems for businesses, citizens and visitors to Nottingham.
- 2.8 It is felt that these Orders continue to be required to:-
 - a) Reduce crime and anti-social behaviour, including nuisance and disorder arising from people drinking alcohol in the public spaces covered by the Orders within Nottingham City Council's administrative area;
 - b) Improve the quality of life and enjoyment of the area by residents, businesses and visitors.

3. Other options considered in making recommendations

- 3.1 Not consulting on extending Orders 1 - 8 – REJECTED as Orders 1 – 8 expire on 19 October 2020 and Restrictions contained in Orders 1 - 8 would no longer be available

4 Finance colleague comments (including implications and value for money/VAT)

- 4.1 This decision seeks approval to continue the current arrangement for a further 3 years in respect of PSPOs. The financial implications of this decision are expected to be minimal (less than £1k over the period of the scheme), and expected to be contained within existing resources. The expenditure to be incurred will be in respect of communicating the PSPOs such as placing notifications in the affected areas.

Maria Balchin, Senior Commercial Business Partner, 26 June 2020.

5 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)

- 5.1 Orders 1 – 8 were all authorised by Full Council under section 13 (2) of the 2001 Act between 18 July 2005 and 27 January 2014 (Order 1 on 18 July 2005, Order 2 on 6 March 2006, Order 3 on 12 May 2008, Order 4 and 6 on 13 June 2011, Order 5 on 12 December 2011, Order 7 on 8 July 2013, and Order 8 on 27 January 2014). As explained in the body of the Report, section 13 of the 2001 Act was repealed by the 2014 Act, and Orders 1 – 8 effectively became PSPOs on 20 October 2017. PSPOs can only last for a maximum of three years, and therefore Orders 1 – 8 will end on 19 October 2020 unless first extended.
- 5.2 The power to extend Orders 1- 8 falls within the remit of Executive Board and the proposal appears to be in accordance with the Council’s Scheme of Delegations. As identified in the main body of the Report, PSPOs should only be extended where the Council is satisfied on reasonable grounds, that the legal test in section 60(2) of the 2014 Act is met in relation to the locations that each of the Orders apply to.
- 5.3 When deciding whether to extend Orders 1 - 8 the Council must have particular regard to the Rights of Freedom of Expression and Freedom of Assembly set out in Articles 10 and 11 of the Convention (as provided by section 72(1) of the 2014 Act).
- 5.4 As identified in the main body of the Report, the Council has undertaken a consultation exercise regarding the proposed extension to Orders 1 – 8, which appears to be in compliance with the requirements of the 2014 Act and Statutory Guidance.
- 5.5 The Council should also consider how easy the Orders, if extended, will be to enforce, since failure to properly enforce an Order could undermine the effect of an Order.
- 5.6 It is proposed that, if extended, Orders 1 – 8 will last for a further period of three years. Under section 60(2) of the 2014 Act there is provision for a PSPO to be extended for a further period of up to three years at the end of that extended period. There is no restriction on the number of times that a PSPO can be extended. As identified in the body of the Report, the Council must comply with publication and signage requirements.

Advice provided by Tamazin Wilson, Solicitor, 17 June 2020.

6 Strategic Assets & Property colleague comments (for decisions relating to all property assets and associated infrastructure)

- 6.1 N/A

7 Social value considerations

- 7.1 Section 17 of the Crime and Disorder Act 1998 places a duty on Councils to do all they reasonably can to prevent crime and disorder. The extended Orders will continue to provide tools to deal with the behaviour identified in the report including Fixed Penalty Notices.

7.2 Part 2.5 starting at page 47 of the Government Guidance updated in December 2017 states that the Local Authority will want to satisfy itself that these powers are not being used disproportionately or in an arbitrary fashion.

8 Regard to the NHS Constitution

8.1 N/A

9 Equality Impact Assessment (EIA)

9.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:
(Please explain why an EIA is not necessary)

Yes

Attached as Appendix 11, and due regard will be given to any implications identified in it.

10 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

10.1 None

11 Published documents referred to in this report

11.1 Anti-Social Behaviour, Crime and Policing Act 2014

11.2 Anti-Social Behaviour, Crime and Policing Act 204 (Publication of Public Spaces Protection Orders) Regulations 2014;

11.3 Home Office – Guidance on the Anti-Social Behaviour Crime and Policing Act 2014 December 2017

11.4 Nottingham City Council Delegated Decision Reference 3790. Extension to the Public Spaces Protection Orders in respect of Alcohol signed 13 February 2020