

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

3790

Author:

Melanie Fretwell

Department:

Commercial and Operations

Contact:

Melanie Fretwell

(Job Title: Principal Enforcement Officer, Email: melanie.fretwell@nottinghamshire.pnn.police.uk, Phone: 07904066858)

Subject:

Extension to the Public Spaces Protection Orders in respect of Alcohol

Total Value:

Nil (Type: Nil)

**Decision Being Taken:**

**To authorise the Director of Community Protection to publish notification of, and undertake, consultation in respect of the proposed extensions to the Public Spaces Protection Orders referred to as Orders 1 - 8 (listed below) for a further three years from 19 October 2020:-**

**Nottingham City Council (Alcohol Consumption in Public Places) Designation Order 2005 ('Order 1') (a copy of which is at Appendix 1)**

**Nottingham City Council (Hyson Green) Alcohol Consumption in Public Places) Designation Order 2006 ('Order 2') (a copy of which is at Appendix 2)**

**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)**

**Nottingham City Council Basford Designated Public Place Order 2011 ('Order 4') (a copy of which is at Appendix 4)**

**Nottingham City Council St Ann's Designated Public Place Order 2011 ('Order 5') (a copy of which is at Appendix 5)**

**Nottingham City Council St Anns and Sneinton Designated Public Place Order 2011 ('Order 6') (a copy of which is at Appendix 6)**

**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)**

**Nottingham City Council (City Wide Extension) Alcohol Consumption in Designated Public Places Order 2014 ('Order 8') (a copy of which is at Appendix 8)**

**Reasons for the Decision(s)**

If Orders 1 - 8 are not first extended, they will all expire on 19 October 2020. Before a decision can be taken by the Council whether or not to extend one or more of these Orders the Council must formally consult in accordance with the relevant legislative provisions. This Decision is therefore to authorise the commencement of formal consultation in relation to the proposed extension of Orders 1 - 8 for a further 3 year period.

Orders 1 - 8 were made under the Criminal Justice and Police Act 2001 ("the 2001 Act"), which introduced Designated Public Place Orders ("DPPOs") and allowed local authorities to designate public areas where the consumption of alcohol was restricted. Nottingham City Council made eight separate DPPOs between 2005 and 2014, which between them designate public areas across the whole of the Nottingham City Council administrative area, subject to some exemptions as specified in the 2001 Act. The plan at Appendix 9 shows the areas of Nottingham that are covered by Orders 1 - 8 as follows:

- Order 1 (Nottingham City Centre) - shaded in red
- Order 2 (Sneinton 1) - shaded in green, and (part of Arboretum) - shaded in light blue
- Order 3 (Sneinton 2) - shaded in yellow
- Order 4 (Hyson Green) - shaded in rose
- Order 5 (St Ann's) - shaded in sand
- Order 6 (Vernon Park) - shaded in olive
- Order 7 (Radford, Arboretum and parts of Leen Valley) - shaded in dark blue
- Order 8 (City Wide - covering areas not included in Orders 1 - 7) - shown in white

The provisions of the 2001 Act relating to DPPOs have now been repealed, but under section 75 of the Anti-social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") any DPPOs made under the 2001 Act before 20 October 2014 remained in force until 20 October 2017, after which, under section 75(3) of the 2014 Act, if still in force at that time they continued to remain in force as if the provisions of the order were provisions of a Public Spaces Protection Order (PSPO) made under the 2014 Act with any 'necessary modifications'. Therefore from 20 October 2017 Orders 1 - 8 effectively became PSPOs, and, unlike DPPOs alcohol consumption is prohibited in the areas that the Orders apply.

Necessary modifications are that sections 62 and 63 of the 2014 Act apply to Orders 1 - 8, which require a warning to be given before an offence is committed (maximum fine on conviction is £500), and a fixed penalty notice is available as an alternative to prosecution for such an offence. However, unlike DPPOs which were not time limited, a PSPO may not have effect for a period of more than 3 years, unless extended under section 60 of the 2014 Act. Orders 1 - 8 will therefore expire on 19 October 2020 unless they are all first extended.

Orders 1 - 8 do not apply at any time to:

Premises holding a Premises Licence or Club Premises Certificate authorising the sale or supply of alcohol under the Licensing Act 2003 and places within the curtilage of such premises

**Places where the sale or consumption of alcohol is authorised under Section 115E of the Highways Act 1980**

**Where:**

**The City Council holds a Premises Licence authorising the sale or supply of alcohol or the premises are occupied or managed on behalf of the City Council then the Order does not apply to those premises at those times when the Licence or Certificate is actually being used for the sale or supply of alcohol and for 30 minutes thereafter**

**Premises are the subject of a Temporary Event Notice authorising the sale or supply of alcohol under Part 5 of the Licensing Act 2003 then the Order does not apply to those premises but only for the period of the Temporary Event Notice and for 30 minutes thereafter**

**Under section 60(2) of the 2014 Act, Orders 1 - 8 can be extended for up to three years if, before they are due to expire, the Council is satisfied on reasonable grounds that doing so is necessary to prevent -**

**Occurrence or recurrence after that time of the activities identified in the PSPO,**

**or**

**An increase in the frequency or seriousness of those activities after that time.**

**Section 60(3) of the 2014 Act confirms that an extension under Section 60 of the 2014 Act may not be for a period of more than 3 years.**

**Section 72 of the 2014 Act also applies, which contains provisions relating to consultation rights, publicity and notification requirements.**

**Under Section 72(4) of the 2014 Act the Council must also consult with -**

**The Chief Officer of Police and the local Policing body for the public area that includes the restricted area**

**Whatever community representatives the local authority thinks it appropriate to consult with and;**

**The owner or occupier of land within the restricted area.**

The Council must also publicise the proposed extensions on the Council's website.

If approval to consult is given, the decision will authorise Community Protection to commence the required consultation in accordance with the legislative requirements, which includes publicising the proposals on the Council's website. It should be noted that as consultation is only in relation to the extension of the Orders, at the end of the consultation no change other than the extension may be made.

Relevant representations in relation to whether or not to extend Orders 1 - 8 will be invited. Any representations received at the expiry of the consultation period will be reported back to the Council's Executive Board in July 2020 for a decision to be made on the proposed extension of Orders 1 - 8 in accordance with the Council's Scheme of Delegations. A consultation period of ten weeks is proposed.

Since Orders 1 - 8 were transferred into PSPOs in 2017, information obtained from the Council's files confirm that they are still a very necessary tool in dealing with alcohol related anti-social behaviour.

In the year 2017 to 2018, 2453 alcohol confiscations were made by Community Protection Officers and this figure has increased to over double that number in the year 2018 to 2019

A more detailed breakdown of the alcohol confiscations can be seen in the table below

**Locality**

**2016 / 2017**

**2017 / 2018**

**2018 / 2019**

**2019 to date**

**Bestwood, Top Valley, Rise Park, Bulwell**

**12**

**285**

101

40

**Canning Circus , Park**

257

662

1093

263

**Broxtowe, Bilborough, Aspley**

5

17

12

65

**Sherwood, Hyson Green, Basford**

643

555

451

87

**Meadows, Clifton**

27

162

101

52

St Anns, Sneinton

81

335

46

50

Specialist Community Protection Teams

1428

884

3649

309

Total

2453

2900

5453

1548

**It is important to note that on occasion, Community Protection Officers are transferred to other locations for short periods of time or for operational reasons. The statistics produced above are those statistics for the Officers based at their normal location but may include alcohol confiscations from other areas such as the City Centre when the Officer has been de-deployed there for a specific operational reason. The statistics therefore are not entirely representative of the alcohol related issues within each location.**

**When considering whether to extend a PSPO the Council must have particular regard to Rights of Freedom of Expression and Freedom of Assembly set out in Articles 10 and 11 of the Convention.**

**Evidence has and continues to be collated by Community Protection and Police colleagues. This evidence will be reviewed and considered before being made available to view prior to seeking an extension to Orders 1 - 8. A copy of all evidence will be made available in the Committee meeting room immediately before the Council's Executive Board meeting in July 2020**



**Briefing notes documents:** Briefing Note.docx, Appendix 1.pdf, Appendix 2.pdf, Appendix 3.pdf, Appendix 4.pdf, Appendix 5.pdf, Appendix 6.pdf, Appendix 8.pdf, Appendix 7.pdf, Appendix 9.pdf, Appendix 10.docx

**Other Options Considered:** 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

**Background Papers:**

**Published Works:** Anti-Social Behaviour, Crime and Policing Act 2014  
Anti-Social Behaviour, Crime and Policing Act 204 (Publication of Public Spaces Protection Orders) Regulations 2014;  
Home Office - Guidance on the Anti-Social Behaviour Crime and Policing Act 2014 December 2017  
Executive Board Report and minutes 19 September 2017

**Affected Wards:** Citywide

**Colleague / Councillor  
Interests:**

**Consultations:** Those not consulted are not directly affected by the decision.

**Crime and Disorder  
Implications:** 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.  
  
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.

**Equality:** Please login to the system to view the EIA document: EIA.docx

**Decision Type:** Portfolio Holder

**Subject to Call In:** Yes

**Call In Expiry date:** 24/02/2020

**Advice Sought:**

**Legal, Finance, Equality and Diversity**

**Legal Advice:**

The body of the Decision explains the legislative background in the 'Reasons for the Decision(s)' section, and the process by which Orders 1 - 8 remained in force as PSPOs from 20 October 2017.

The maximum duration of a PSPO is three years. However, under section 60(2) of the 2014 Act PSPOs can be extended for up to three years if, before they are due to expire, the Council is satisfied on reasonable grounds that doing so is necessary to meet the test in the section, which is set out in the body of the Decision. Under section 60(2) of the 2014 Act PSPOs may be extended more than once.

Pursuant to section 72 of the 2014 Act before a decision whether or not to extend the Orders can be taken the Council is required to carry out the 'necessary consultation' and 'necessary publicity' as defined in the 2014 Act.

In deciding whether or not to extend the period for which a PSPO has effect, and if so for how long, the Council must also have particular regard to

the Rights of Freedom of Expression and Freedom of Assembly set out in Articles 10 and 11 of the Convention.

This Decision proposes that consultation be commenced by the Director of Community Protection on the proposed extension of Orders 1 - 8 for the maximum period of a further three years.

Control of Street drinking and associated anti-social behaviour appears to fall within the remit of the Portfolio Holder, and the proposed decision is in accordance with the Council's Scheme of Delegations.

The consultation and publication proposed in the Decision would appear to comply with the legislative requirements.

It is noted that, if the consultation is authorised, the results of the consultation and any other evidence gathered in support of the proposed extension of Orders 1 - 8 will then be taken to the Council's Executive Board meeting for a decision on whether or not to extend Orders 1 - 8 in accordance with the Council's Scheme of Delegations.

Advice provided by Tamazin Wilson (Solicitor) on 09/01/2020. Advice provided by Phil Wye (Governance Officer) on 24/01/2020.

**Finance Advice:**

This decision has no direct financial implications. There is no impact to the Medium Term Financial Plan.

Advice provided by Maria Balchin (Finance Analyst) on 13/01/2020. Advice provided by Phil Wye (Governance Officer) on 24/01/2020.

**Equality and Diversity Advice:**

The Equality Impact Assessment has been reviewed. In section 3, Impacts and Actions, you need to underline which of the 'other' groups it's likely to have a negative impact on. Here it would be 'vulnerable adults' as the people it will mostly affect will be adults who are homeless and who are dependent upon alcohol. Additionally, in section 4, 'outcome', you need to untick the 'No major change needed' box and leave the 'Adverse impact but continue' box ticked. Advice provided by Sally Edwards (Equality Diversity & Inclusion Lead) on 22/01/2020. Advice provided by Phil Wye (Governance Officer) on 24/01/2020.

**Signatures**

<b>David Mellen (Leader/ PH Regeneration, Safety and Communications)</b>
<b>SIGNED and Dated: 17/02/2020</b>
<b>Andy Vaughan (Corporate Director Commercial and Operations)</b>
<b>SIGNED and Dated: 13/02/2020</b>