

**Area Committee - Dales, Mapperley & St Ann's**  
**Tuesday 08 September 2020**

<b>Title of paper:</b>	<b>Proposed extension to the Nottingham City Council Restriction of Public Rights of Way (Beverley Square, St Ann's) Public Spaces Protection Order 2017</b>	
<b>Director(s)/ Corporate Director(s):</b>	Andrew Errington Director, Community Protection	<b>Wards affected:</b> St Ann's
<b>Report author(s) and contact details:</b>	Melanie Fretwell, Principal Enforcement Officer, ASB Team Community Protection Email Address: <a href="mailto:melanie.fretwell@nottinghamcity.gov.uk">melanie.fretwell@nottinghamcity.gov.uk</a> Telephone: 101 Ext: 3110022 or Mobile: 07904066858	
<b>Other colleagues who have provided input:</b>	Tamazin Wilson, Solicitor, Legal Services, Nottingham City Council Email Address: <a href="mailto:tamazin.wilson@nottinghamcity.gov.uk">tamazin.wilson@nottinghamcity.gov.uk</a> Telephone: 0115 8764417 Maria Balchin – Commercial Business Partner Email address: <a href="mailto:maria.balchin@nottinghamcity.gov.uk">maria.balchin@nottinghamcity.gov.uk</a> Telephone: 0115 876370	
<b>Date of consultation with Portfolio Holder(s) (if relevant)</b>	Not applicable	
<b>Relevant Council Plan Key Theme:</b>		
Nottingham People		<input type="checkbox"/>
Living in Nottingham		<input checked="" type="checkbox"/>
Growing Nottingham		<input type="checkbox"/>
Respect for Nottingham		<input checked="" type="checkbox"/>
Serving Nottingham Better		<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>		
<p>In 2017, a need was identified to control and reduce various problems associated with anti-social behaviour being perpetrated in and around two footpaths, which are public rights of way, at Beverley Square, St Ann's. Concerns were raised regarding persistent and on-going anti-social behaviour caused by youths congregating on Beverley Square which had a detrimental effect on the quality of life of local residents. The anti-social behaviour was concentrated in and around two footpaths adjacent to numbers 11 and 12 Beverley Square and numbers 14 and 15 Beverley Square and was having a negative impact on the local community and surrounding area.</p> <p>In order to deal with the behaviour a Public Spaces Protection Order ("PSPO") pursuant to the Anti-social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") came into effect on 6<sup>th</sup> November 2017 and prohibits access to the footpaths running between numbers 11 and 12 and numbers 14 and 15 Beverley Square ("the Restricted Area") and to install barriers at either end of the footpaths.</p> <p>The current PSPO will expire on 5<sup>th</sup> November 2020 and it is proposed that this Order is extended for a further three years.</p>		
<b>Recommendation(s):</b>		
<b>1</b>	<b>That, being satisfied that the test in Section 59 of the 2014 Act is met, and having regard to the rights of freedom of expression and freedom of assembly, the Area Committee authorise an extension to the Nottingham City Restriction of Public Rights of Way</b>	

	<b>(Beverley Square, St Ann's) Public Spaces Protection Order 2017 for a further three years from 5 November 2020.</b>
<b>3.</b>	<b>In the event that a decision is made to extend the Order under recommendation (1) above, the Area Committee authorise the Director of Community Protection to carry out the necessary advertisements and arrange for appropriate signage to be erected where necessary in accordance with the legislative requirements.</b>

## **1. Reasons for recommendations**

- 1.1 On 12<sup>th</sup> September 2017 the Dales, Mapperley & St Ann's Area Committee approved the making of a Public Spaces Protection Order ("PSPO") for Beverley Square ("the Order") which came into force on 6<sup>th</sup> November 2017
- 1.2 The Order (copy attached at Appendix 1) includes the following restrictions:
  - No person shall proceed on foot, pedal cycle, horse or in a vehicle or cause any animal to proceed in the Restricted Area during the times specified in Schedule 2 to this Order
- 1.3 PSPOs can only be in effect for a maximum of three years, and the Order expires on 5<sup>th</sup> November 2020.
- 1.4 Under section 60(2) of the Anti-social Behaviour, Crime and Policing Act 2014 (the 2014 Act") the Order can be extended for up to three years if, before the Order is due to expire, the local authority that made the Order is satisfied on reasonable grounds that doing so is necessary to prevent –
  - a) The occurrence or recurrence after that time of activities identified in the Order; or
  - b) An increase in the frequency or seriousness of those activities after that time.
- 1.5 Section 60(2) of the 2014 Act confirms that an extension under section 60 of the 2014 Act may not be for a period of more than three years.
- 1.6 Section 72 of the 2014 Act also applies, which contains provisions relating to convention rights, consultation, publicity and notification requirements.
- 1.7 On 12<sup>th</sup> February 2020 the Director of Community Protection authorised the formal consultation on the proposal to extend the effect of the Order for a further three years from 5<sup>th</sup> November 2019
- 1.8 The penalty for committing an offence contained in a PSPO is a maximum fine of level 3 on the standard scale (currently £1,000) although the opportunity to pay a fixed penalty may be offered instead. In the event that a decision is made to extend the Order, fixed penalties for offences in breach of the Order will continue to be £70, with a reduction to £35 if paid within ten days.
- 1.9 The proposed extension to the Order is not intended to interfere with responsible persons frequenting the area to use the shops available or to interfere with local tenants and residents using the area.

## **2 Background (including outcome of consultation)**

- 2.1 For a number of years concerns have been raised by local residents regarding persistent and on-going anti-social behaviour around Beverley Square, which has had a detrimental effect on the quality of life of local residents. From the evidence and other relevant information gathered from local residents and other sources, the anti-social behaviour appeared to be concentrated in and around two footpaths running between numbers 11 and 12 Beverley Square and numbers 14 and 15 Beverley Square. The footpaths have "flying bedrooms" above them and these design characteristics mean that the footpaths are

sheltered from the weather, partly concealed from passive surveillance and were therefore an ideal environment for carrying out the anti-social behaviour and other reported incidents.

- 2.2 The unreasonable conduct was reported to be persistent in its nature and was causing harassment, alarm and distress; evidence showed that these issues impacted greatly on the quality of life for the residents, visitors and businesses alike through intimidation. This undoubtedly was having a detrimental effect on the quality of life of those in the locality,
- 2.3 Evidence to date indicates that the Order has been very effective in deterring the above behaviour
- 2.4 Concerns have been raised with both Nottinghamshire Police and Nottingham City Council's Community Protection Service that if the Order were to lapse, the behaviours described above may restart and the problems may reoccur resulting in further anti-social behaviour once more in an area that has been provided respite as a result of the actions taken by the City Council. It is therefore proposed that the Order be extended for a further period of three years to provide a continuation of the respite.
- 2.5 Consultation on the proposed extension of the Order commenced during the 24<sup>th</sup> February 2020 and concluded on 22<sup>nd</sup> March 2020 however an additional two weeks were given to those occupants of properties abutting the alleyway.
- 2.6 The Council has consulted with:
  - The Chief of Police, the local policing body, and the Police and Crime Commissioner for the police area that includes the restricted area. However, the Council have not received a response.
  - The owner or occupiers of land within the restricted area.
  - The Council published a copy of the Order on its website and explained that it proposed to extend the effect of the Order for a further three years.
  - Neighbourhood Development Officers have been made aware of the proposals.
  - A consultation letter and questionnaire in the form attached at Appendix 3 were discussed with all residents in the locality of the Restricted Area where possible, otherwise posted through their letterboxes.
- 2.7 The consultation ended on 22 March 2020 and it is recognised that four months have passed since the formal consultation ended. I can confirm however that there have been no further comments received in relation to the proposal to extend the Order since the consultation ended and no other issues have been raised.
- 2.8 It had been intended to take this report to the June Area Committee but due to the Covid-19 pandemic and the resultant 'lockdown' resulting in June's Area Committee being cancelled, this report is being brought forward to the first available committee. Since the consultation period ended the Council has not received any further communications regarding the proposed extension, or the PSPO generally and therefore the recommendations remain unchanged.
- 2.9 As a result of evidence collated during the consultation period, there appears to be support for the proposed extension to the Order. The Council has not received any responses to the consultation however anecdotal evidence from residents in the locality suggests that there continues to be support for the pathway to be gated off.
- 2.10 It is considered that the restrictions/prohibitions being sought to continue are proportionate, necessary and reasonable.
- 2.11 The Council must be satisfied that the proposed extension to the Order meets the test contained in section 60(2) of the 2014 Act detailed at paragraph 1.4 above, and they must have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Human Rights Convention.

- 2.12 In addition, if the extension to the current Order is made, the extended Order will be published on the Council's website and signage to confirm the extension will be placed in the Restricted Area in accordance with the statutory provisions, together with the existing signage that advises of the prohibitions contained in the Order, and that breach of the Order is a criminal offence. These will continue to act as a deterrent.
- 2.13 Once the extension to the PSPO on Beverley Square has been approved, there will be no on-going financial implications. The costs of enforcing the Order will be met within the existing roles of the Community Protection Officers, Police Officers and Police Community Support Officers.
- 2.14 The cost of any additional signage and advertisement in accordance with the legal requirements will be taken from Community Protection's budget but it is expected to be well under £100.

### **3. Other options considered in making recommendations**

- 3.1 If allowed to end, the gates that have been placed to prohibit access to the footpaths would have to be removed. The Council and the Police would no longer have the powers to take enforcement action to tackle the behaviours described above under the Order and the Council is of the opinion that it is likely that the behaviours will begin to reoccur and Beverley Square will start to suffer anti-social behaviour again.

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

- 4.1 The financial implications in respect of this decision are minimal. There will a cost in relation to new signage following this decision (estimated to be less than £100). This cost can be contained within approved resources within the Community Protection Directorate.

### **5. Legal and procurement colleague comments (including risk management issues, and legal, crime and disorder act and procurement implications)**

- 5.1 The power to extend the Order falls within the remit of this Area Committee and the proposal appears to be in accordance with the Council's Scheme of Delegations.
- 5.2 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 all of the areas that the Order applies to.
- 5.3 When deciding whether to extend the Order 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 the Order, which appears to be in compliance with the requirements in the 2014 Act and Statutory Guidance.
- 5.5 The Council should also consider how easy the Order, if extended, will be to enforce, since failure to properly enforce an Order could undermine the effect of an Order. The gates, currently in place to prohibit access to the Restricted Area will remain in place and will continue to support the Order's enforcement.
- 5.6 It is proposed that, if extended, the Order will last for a further period of three years. Under section 60(2) of the 2014 Act there is provision for the 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

**6. Strategic Assets & Property colleague comments (for decision relating to all property assets and associated infrastructure) (Area Committee reports only)**

None needed at present.

**7. Equality Impact Assessment (EIA)**

7.1 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 2 and due regard will be given to any implications identified in it.

7.2 The extension of the Public Spaces Protection Order will not adversely affect any particular group of citizens. Under the Council's Fair and Just Nottingham Equity Scheme, the proposed PSPO complies with the underlying principles of the scheme and promotes fair and individual enforcement based on the Order. The extension of the current PSPO may adversely impact on those who are disabled through limited mobility as they would be required to travel a longer distance via one of the alternative routes.

**8. List of background papers other than published works or those disclosing confidential or exempt information**

8.1 None

**9. Published documents referred to in compiling this report**

9.1 Anti-Social Behaviour, Crime and Policing Act 2014

9.2 Home Office Guidance 'Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory guidance for frontline professional dated August 2019

9.3 Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014

9.4 Local Government Association Public Spaces Protection Orders Guidance for Councils

9.5 Report of the Dales, Mapperley & St Ann's Area Committee dated 12<sup>th</sup> September 2017 to approve the making of the Order.