

**Area Committee – Dales, Mapperley And St Ann’s  
08 September 2020**

<b>Title of paper:</b>	<b>Proposed extensions to the following Public Spaces Protection Orders (PSPOs)</b> <b>Nottingham City Council (Candle Meadow, Colwick Park, Nottingham) Gating Order 2008 (GO 5003)</b> <b>Nottingham City Council (Kilwood Close, Carlton, Nottingham) Gating Order 2009 (GO 5005)</b> <b>Nottingham City Council (Botany Avenue to Ransom Road, Mapperley) Gating Order 2012 (GO 5009)</b>	
<b>Director(s)/ Corporate Director(s):</b>	Andrew Errington Director, Community Protection	<b>Wards affected:</b> Dales and Mapperley
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<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>The Orders detailed in the title to this Report were made under section 129A of the Highways Act 1980 ('HA') and were originally known as 'Gating Orders', and are now Public Spaces Protection Orders (PSPOs).</p> <p>Each of the above Orders prohibits access to land as detailed in that Order and shown on the plans attached to the Orders (Restricted Areas). Each Order authorised the installation of barriers at each entrance to the Restricted Areas to enforce the restrictions. Those barriers remain in situ at the time of writing this report.</p> <p>The Orders will expire on 19 October 2020 and the barriers will need to be removed if the Orders are not first extended. It is proposed that the Orders are 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</b>	

	<b>to the rights of freedom of expression and freedom of assembly, the Area Committee authorise an extension to the Nottingham City Council (Candle Meadow, Colwick Park, Nottingham) Gating Order 2008 for a further three years from 19 October 2020.</b>
<b>2.</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 Council (Kilnwood Close, Carlton, Nottingham) Gating Order 2009 for a further three years from 19 October 2020.</b>
<b>3.</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 Council (Botany avenue to Ransom Road, Mapperley, Nottingham) Gating Order 2012 for a further three years from 19 October 2020.</b>
<b>4.</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>
<b>5.</b>	<b>In the event that a decision is made to extend the Order under recommendation (2) 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>
<b>6.</b>	<b>In the event that a decision is made to extend the Order under recommendation (3) 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 8 January 2008 the St Anns and Dales Area Committee approved the making of the Nottingham City Council (Candle Meadow, Colwick Park, Nottingham) Gating Order 2008 (GO 5003), a copy of which is attached as Appendix 1. The Order prohibits access to land to the rear between Number 15 and Number 25 Candle Meadow as shown on the plan attached to the Order ('Restricted Area 1').
- 1.2 On 28 January 2009 the St Anns and Dales Area Committee approved the making of the Nottingham City Council (Kilnwood Close, Carlton, Nottingham) Gating Order 2009 (GO 5005), a copy of which is attached as Appendix 2, prohibits access to land between Kilnwood Close and Bowland Close as shown on the plan attached to the Order ('Restricted Area 2')
- 1.3 On 20 September 2011 the Mapperley & Sherwood Area Committee approved the making of the Nottingham City Council (Botany Avenue to Ransom Road, Mapperley, Nottingham) Gating Order (GO 5009), a copy of which is attached as Appendix 3, prohibits access to land between Botany Avenue and Ransom Road as shown on the plan attached to the Order ('Restricted Area 3')
- 1.4 The above Orders were made under section 129A of the Highways Act 1980 to address issues of anti-social behaviour identified in Restricted Areas 1 – 3. The Orders are subject to limited exceptions, and also authorised the installation of barriers at each entrance to Restricted Areas 1 – 3 for the purposes of enforcing the restrictions. Those barriers remain in situ at the time of writing this report.
- 1.5 Section 129A Highways Act has now been repealed. Under section 75(1)(A) of the Anti-Social Behaviour, Crime and Policing Act 2014 ('the 2014 Act') any orders made under section 129A HA before 20 October 2014 remained in force until 20

October 2017. 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 the Orders effectively became PSPOs.

- 1.6 However, unlike Gating Orders 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. The Orders will therefore expire on 19 October 2020, and the barriers at each entrance to the Restricted Areas will no longer be authorised and will need to be removed, unless the Orders are first extended.
- 1.7 Since the Orders were made there has been a significant reduction in the anti-social behaviour reported in the localities of Restricted Areas 1 - 3. However, if the Orders were allowed to expire, which would result in the above mentioned barriers being removed, this may result in the recurrence of the identified anti-social behaviours in these locations.
- 1.8 Under section 60 (2) of the 2014 Act the Orders 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.
- 1.9 Section 72 of the 2014 Act also applies, which contains provisions relating to convention rights, consultation, publicity and notification requirements.
- 1.10 This report seeks authority for an extension to the Orders for a further 3 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 the local policing body for the police area that includes the restricted area
  - (b) Whatever community representatives the local authority thinks it appropriate to consult and
  - (c) The owner or occupier of land within the restricted area.
- 2.2 On 12th February 2020 the Director of Community Protection authorised the formal consultation on the proposal to extend the Orders for a further three years from 19th October 2020.
- 2.3 The Council has consulted with the Chief Constable, Nottinghamshire Police, and the Nottinghamshire Police and Crime Commissioner.
- 2.4 The Council has made Neighbourhood Development Officers aware of the formal consultation and sought confirmation as to whether there are any relevant community representatives in any of the three localities of the Orders.

- 2.5 The Council has written to the occupier of each of the properties which abut Restricted Areas 1 - 3 making them aware of the formal consultation. These are:
- Candle Meadow, Colwick Park – 15-25 Candle Meadow (odds) and 17 Colwick Park Close  
Kilnwood Close, Carlton – 28 Kilnwood Close and 654-658 Carlton Road.  
Botany Avenue to Ransom Road – 14-30 Abbey Grove, 17-34 St Ann’s Gardens and 3-11 (odds), 21, 23, 29, 31 45 and 47 Botany Avenue
- 2.6 The Council must also publicise the proposed extension proposals on the Council’s website. The Council has published a copy of the Orders on its website and explained that it proposed to extend the effect of the Orders for a further three years. Attached to this report at Appendices 1, 2 and 3 are copies of the three Orders.
- 2.7 Evidence to date indicates that the Orders have been effective in deterring anti-social behaviour.
- 2.8 Concerns have been raised with Nottingham City Council’s Community Protection Service that if the Orders 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 Council. It is therefore proposed that the Orders be extended for a further period of three years to provide a continuation of the respite.
- 2.9 Formal consultation on the proposed extension of the Orders commenced during the period 24 February 2020 and concluded on 22 March 2020. An additional two weeks was allowed to take account of any late responses.
- 2.10 The consultation ended on 22 March 2020. There have been no further comments received in relation to the proposal to extend each of the Orders since the consultations ended and no other issues have been raised.
- 2.11 It had been intended to take this report to the June Area Committee but due to the Covid-19 situation and June’s Area Committee being cancelled that this report is being taken to the next available committee. Since the consultation period ended the Council has not received any further communications regarding the proposed extensions, or the PSPOs generally and therefore the recommendations remain unchanged.
- 2.12 There were no letters received in response to the consultation on any of the three Orders. Two e mails supporting the extension of the Candle Meadow order were received. One of the responses was from a Candle Meadow resident who stated “These gates have been a godsend and should never be removed”. Two e mails were received in respect of the Botany Avenue order. One was in favour of the renewal and one against. The objection was around the lack of access to the rear of their property in order to carry out boundary repairs. Despite requesting access to the gates key holder they had not been granted access. The objector stated that if they could get access then they would withdraw their opposition. This issue has been taken up by Community Protection to try and resolve. It should also be noted that the restrictions in the Orders do not apply to ‘occupiers of premises and the invitees and licensees of occupiers of premises adjoining or adjacent to the Highway’, and therefore access by the objector for the reason they describe is not prohibited.

- 2.13 It is considered that the restrictions/prohibitions being sought to continue are proportionate, necessary and reasonable.
- 2.14 The Council must be satisfied that the proposed extension to each of the Orders meets the test contained in section 60(2) of the 2014 Act detailed at paragraph 1.8 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.
- 2.15 In addition, if the extension to the Orders is made, the extended Orders will be published on the Council's website and signage to confirm the extension will be placed in the Restricted Areas in accordance with the statutory provisions and the existing signage that advises of the prohibitions contained in the Orders will be amended to refer to the extension. These will continue to act as a deterrent.
- 2.16 The cost of signage is estimated to be well under £100.00 in total for all three Orders and will met from Community Protection budgets.

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

- 3.1 If the Orders are 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 in the original Gating Orders and the Council is of the opinion that it is likely that the behaviours will begin to reoccur and that users of the footpaths and those living in the vicinity will start to suffer increased 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 Orders 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 Orders apply to.
- 5.3 When deciding whether to extend the Orders 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 Orders, 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 Orders, 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 Areas will remain in place and will continue to support the Order's enforcement.

5.6 It is proposed that, if extended, the Orders 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

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

6.1 None needed at present.

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

No

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

Yes

Attached as Appendix 4, 5 and 6, and due regard will be given to any implications identified in them.

7.1 The extension of the Orders will not adversely affect any particular group of citizens. Under the Council's Fair and Just Nottingham Equity Scheme, the proposed extension of the Orders comply with the underlying principles of the scheme and promotes fair and individual enforcement based on the Orders. The extension of the Orders may have originally impacted on those who are disabled through limiting their access to adjoining roads meaning that they may have had to travel longer distances. However Restricted Areas 1 - 3 have all remained gated off for at least eight years and the Council has received no concerns from residents. Therefore there will be no additional adverse impact on disabled citizens that has not been in place for over eight years.

## 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 St Ann's and Dales Area Committee dated 08 January 2008 to approve the making of the Candle Meadow Order.
- 9.6 Report of the St Ann's and Dales Area Committee dated 28 January 2009 to approve the making of the Kilnwood Close Order
- 9.7 Report of the Mapperley and Sherwood Area Committee dated 20 September 2011 to approve the making of the Botany Avenue to Ransom Road Order.