

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

4580

Author:

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Department:

Resident Services

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Subject:

Public Consultation on Renewal of the Citywide PSPO's as respects dogs

Total Value:

0 (Type: Nil)

Decision Being Taken:

1. To authorise the Director of Community Protection to publish notification of, and undertake, consultation in respect of the proposed 3-year extensions (from 24 September 2022 to 23 September 2025) for each of the following Orders:

- a) Nottingham City Council Dogs on Lead by Direction Public Spaces Protection Order 2016;
- b) Nottingham City Council Dogs Exclusion Public Spaces Protection Order 2016;
- c) Nottingham City Council Dogs on Leads Public Spaces Protection Order 2016;
- d) Nottingham City Council Fouling of land by dogs and requirement to produce device for or other suitable means of removing dog faeces Public Spaces Protection Order 2016.

On 17 May 2016 Nottingham City Council's Executive Board approved the making of the four Public Spaces Protection Orders (PSPOs) specified at a) to d) of the Decision Being Taken ('the Orders') and relating to the control of dogs in locations specified in the Orders, these were then extended at the Executive Board held in July 2019.

PSPOs can only be granted for a maximum of three years and the Orders detailed above are currently set to expire on 24 September 2022 having last been extended by Executive Board in July 2019.

Legislation

Under Section 60(2) of the Anti-Social Behaviour, Crime and Policing Act 2014 ('the 2014 Act') PSPOs can be extended for up to three years if, before they are due to expire, the local authority that made the PSPO is satisfied on reasonable grounds that doing so is necessary to prevent -

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

b) 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 -

a) The Chief Officer of Police and the local policing body for the public 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.

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

If approval to consult is given, Community Protection will publicise the proposals on the Council's website, and will consult in accordance with the requirements under section 72(4) of the 2014 Act.

Relevant representations in relation to whether or not to extend the PSPOs will be invited. Any representations received at the expiry of the consultation period will be reported back to the City Council's Executive Board for a decision to be made on the proposed extension of the Orders. A consultation period of six weeks is proposed.

Proposed extension to the Orders

It is considered that the restrictions contained in the Orders which are proposed to be extended are proportionate, necessary and reasonable.

Before the Orders were made in 2016, there were significant problems caused by dog related anti-social behaviour, nuisance and disorder across the whole City of Nottingham. Reports received showed that the problems were often caused by irresponsible dog owners allowing their dogs to intimidate citizens in Nottingham and run amok within the urban areas of Nottingham without being under the full control of their owners. Evidence showed that these issues impacted greatly on the quality of the life for the residents, visitors and businesses alike by intimidation to citizens, posing a danger to citizens and traffic control, and damage to play equipment, street furniture and the wildlife and trees. It undoubtedly had a detrimental effect on the quality of life of those in the locality.

Evidence gathered in the areas where the Council had previously implemented Dog Control Orders showed a reduction in dog related nuisance and disorder through the use of associated powers and as such, the Orders were implemented across the Council's administrative area to ensure that the problems being experienced at that time were not pushed into neighbouring areas. This ensured that the problems caused by dog related anti-social behaviour, nuisance and disorder across the city were cohesively dealt with effectively.

The powers arising from the Orders are not intended to disrupt peaceful activities, for example families or groups taking their dog out for a walk but are solely used as a control measure for dogs to be kept under control by their owners at all times. They have successfully supported the Council in its efforts to stop irresponsible dog owners from causing anti-social behaviour and associated harassment, alarm and distress to members of the public.

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

The consultation proposed is for an extension to the Orders. No amendments are to be made other than the extension to the expiry date, extending the Orders to expire on the 24th September 2025.

Briefing notes documents: Appendix 2 Dogs exclusion PSPO.pdf, Appendix 3 Dogs on Leads PSPO.pdf, 2022 1 25 SLT Briefing Note.docx, Appendix 4 Dog fouling and having the means PSPO.pdf, Appendix 5 Consultation questionnaire.doc, Appendix 6 Letter to concerned parties.doc

Other Options Considered: Not consulting on extending the Orders - REJECTED as the Orders cannot legally be extended without consultation and would expire on 25 September 2022 and Restrictions contained in the Orders would no longer be available.

Background Papers: None

Published Works: Anti-social Behaviour, Crime and Policing Act 2014;
Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014;
Home Office - Guidance on the Anti-Social Behaviour, Crime and Police Act 2014 December 2017;
Dealing with irresponsible dog ownership Practitioners Manual October 2014;
Nottingham City Council's Public Spaces Protection Orders in respect of Dogs - Nottingham City Council Executive Board: May 2016.
Extension to Nottingham City Council'd Public Spaces Protection Orders in respect o dogs - Nottingham City Council Executive Board: July 2019

Affected Wards: Citywide

Colleague / Councillor Interests: None

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

Crime and Disorder Implications: Under Section 60(2) of the Act, PSPOs can be extended for up to three years if, before the Orders are due to expire, the local authority that made the Order is satisfied on reasonable grounds that doing so is necessary to prevent:
Occurrence or recurrence after that time of the activities identified in the Order,
or
An increase in the frequency or seriousness of those activities after that time.
Section 67 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides the Police and accredited officers with the power to deal with anti-social behaviour, nuisance and disorder in areas that have been included by the local authority as restricted areas under Section 59 of the Act as a PSPO. Section 67 of the Act makes it an offence for a person without reasonable excuse to do anything that the PSPO prohibits them from doing, or fail to comply with a requirement. Failure to comply with the officer's request becomes an offence that can result in a fixed penalty notice or a fine. In order to ensure a proportionate use of the powers all accredited officers are trained in these powers fully before commencing their role and/or dealing with breaches of the PSPO.

Equality:	Please login to the system to view the EIA document: Appendix 7 EIA 2022 Final - Extension to the Public Spaces Protection Orders in respect of Dogs.docx
Decision Type:	Portfolio Holder
Subject to Call In:	Yes
Call In Expiry date:	04/04/2022
Advice Sought:	Legal, Finance, Equality and Diversity
Legal Advice:	<p>Under section 60(2) of the 2014 Act PSPOs 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 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.</p> <p>The Orders were initially made in 2016, and have already been extended once for a period of three years.</p> <p>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.</p> <p>In deciding whether or not to extend the period for which a PSPO has effect, and if so for how long, 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.</p> <p>It is proposed that the consultation shall be on the proposed extension of the Orders for the maximum period of a further three years.</p> <p>Control of dogs and enforcement relating to problems concerning dogs appears to fall within the remit of the Portfolio Holder, and the decision to commence consultation on the proposed extension of the Orders is in accordance with the Council's Scheme of Delegations.</p> <p>The consultation and publication proposed in the body of the decision would appear to comply with the legislative requirements.</p> <p>The consultation proposes an extension to the period that the Orders will have effect only, and therefore, if the consultation is authorised, no other changes to the contents of the Orders will be possible at the end of this consultation.</p> <p>It is noted that, if the consultation is authorised, the results of that consultation and any other evidence gathered in support of the proposed extension of the Orders will then be taken to the Council's Executive Board meeting for a decision on whether or not to extend the Orders in accordance with the Council's Scheme of Delegations. Advice provided by Tamazin Wilson (Solicitor) on 04/03/2022.</p>

Finance Advice:

This decision seeks approval to undertake the consultation processes outlined within this report. The expectation is that any costs will be contained within approved resources. Following on after the consultation process, any financial implications will need to met within the medium term financial plan (MTFP).

Advice provided by Susan Turner (Senior Commercial Business Partner) on 10/03/2022.

Equality and Diversity Advice:

Advice was provided on the attached EIA. The author has included mitigation for disabled people and carers as there are specific provisions within the orders that relate to citizens who may have a disability. Officers will also be mindful of hidden disabilities. Advice provided by Rosey Donovan (Equality and Employability Consultant) on 03/03/2022.

Signatures

Neghat Khan (PH Neighbourhoods, Safety and Inclusion)

SIGNED and Dated: 25/03/2022

Andrew Errington (Director of Community Protection)

SIGNED and Dated: 25/03/2022