

Executive Board – 20th June 2023

Subject:	Proposed Extension of the Public Spaces Protection Orders Prohibiting the Consumption of Alcohol in the Nottingham City Council Administrative Area
Corporate Director(s)/Director(s):	Ita O'Donovan, Corporate Director for Communities, Environment & Resident Services Colin Wilderspin, Director of Community Protection
Portfolio Holder(s):	Councillor Sajid Mohammed, Portfolio Holder for Neighbourhoods, Safety and Inclusion
Report author and contact details:	Alex Cox alex.cox@nottinghamcity.gov.uk
Other colleagues who have provided input:	
Subject to call-in:	<input type="checkbox"/> Yes <input checked="" 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 £750,000 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 If Capital, provide the date considered by Capital Board Date:
Total value of the decision:	Nil
Wards affected:	All
Date of consultation with Portfolio Holder(s):	16/03/2023
Relevant Council Plan Key Outcome:	
Green, Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input checked="" type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Living Well in our Communities	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>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 5000 times over the past three 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 expected that alcohol related anti-social behaviour would increase exponentially causing significant problems for businesses, citizens and visitors to Nottingham. If Orders 1 – 8 are not first extended, they will all expire on 18 October 2023. It is felt that these Orders are required to:-</p> <p>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;</p>	

b) Improve the quality of life and enjoyment of the area by residents, businesses and visitors.

Does this report contain any information that is exempt from publication?

No

Recommendation(s):

- 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 18 October 2023 until 17th October 2026
 - 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 Designated Public Place Order 2011 ('Order 5') (a copy of which is at Appendix 5)
 - vi. Nottingham City Council St Anns 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)
- 2** That, being satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act is met, and having regard to the rights of freedom of expression and freedom of assembly, the Executive Board authorise extension of Orders 1-8 (inclusive) referred to in recommendation 1 (i)-(viii) above for a further three years from 18 October 2023.
- 3** In the event that a decision is made to extend Orders 1-8 under recommendation 2 above, the Executive Board authorise the Director of Communities to carry out the necessary advertisements and arrange for the appropriate signage to be erected in accordance with the legislative requirements for each Order as extended.

1. Reasons for recommendations

- 1.1 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 5000 times over the past three 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 expected that alcohol related anti-social behaviour would increase exponentially causing significant problems for businesses, citizens and visitors to Nottingham. If Orders 1 – 8 are not first extended, they will all expire on 18 October 2023. It is felt that these Orders are 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.

2. **Background (including outcomes of consultation)**

- 2.1 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.

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 as DPPOs until 20 October 2017 when they then effectively became Public Spaces Protection Orders made under the 2014 Act ("PSPOs").

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.

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 Orders 1 – 8 initially remained in effect as PSPOs for three years from 20 October 2017, expiring on 19 October 2020.

On 21 July 2020, in accordance with the provisions of the 2014 Act and Regulations made under it, the Executive Board authorised the extension of Orders 1 – 8 for a further three years, so that they will now all expire on 18 October 2023 unless first further extended.

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 60(4) of the 2014 Act confirms that a PSPO may be extended under the provisions of section 60 more than once.

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.

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 with and
- (c) The owner or occupier of land within the restricted area.

On 16th March 2023 date the Portfolio Holder for Neighbourhoods, Safety and Inclusion Neghat Khan authorised the formal consultation on the proposal to extend Orders 1 – 8 for a further three years from 18 October 2023.

Formal consultation on the proposed extension of Orders 1 – 8 commenced on 30th March 2023 and concluded on 1st May 2023.

The Council has consulted the Police and Crime Commission and the Chief Constable of Nottinghamshire Police on 30th March 2023.

The Council must also publicise the proposed extensions of the Orders on the Council's website. The notice of proposal to extend the Orders was publicised on the Council's website on 30th March 2023 and was removed on 2nd May 2023.

No responses were received from members of the public or businesses in Nottingham. The Police and Crime Commissioner and the Chief Constable of Nottinghamshire Police fully support the extension of Orders 1-8 for a further 3 year period and have commented that "this PSPO is an essential tool in reducing the risks inherent to the city centre, particularly in relation to anti-social street drinking during the day and incidents of violence and disorder associated with the policing of sporting events and night time economy policing.

3. Other options considered in making recommendations

- 3.1 Not authorising extension of 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. Consideration of Risk

- 4.1 No known risk, this is an extension of current orders and with powers in use by authorised officers
5. **Best Value Considerations, including consideration of Make or Buy where appropriate**
- 5.1 Best value can be demonstrated by the fact that the powers delegated from these orders can be used by both Nottingham City Council officers and Nottinghamshire Police. Allowing both partner organisations to tackle anti-social behaviour within Nottingham City
6. **Finance colleague comments (including implications and value for money/VAT)**
- 6.1 This decision seeks approval to extend the current City Centre Public Spaces Protection Order Policy for a further period of 3 years (18th October 2023 through to 17th October 2026). There are minimal financial implications identified as a result of this decision or as a result of extending this order as the required signage as required under the 2014 Act is already in place and can easily be amended in relation to the dates shown on the notices.
- 6.2 There is no specific funding available for this work so any costs incurred for this continuation must be met from within the MTFP of the Community Protection Directorate.

Susan Turner (Senior Commercial Business Partner) on 12/05/2023

7. **Legal colleague comments**

- 7.1 Under the Anti-Social Behaviour Crime and Policing Act 2014 (the Act), Public Spaces Protection Orders (PSPO's) can be made for a maximum duration of three years. Under section 60(2) of the Act PSPO's can be extended for up to three years, after which time they may be extended if, before they are due to expire, the Council is satisfied on reasonable grounds that doing so is necessary to prevent activity recurring, or there has been an increase in frequency or seriousness of the activity. Extensions can be repeated, with each lasting for a maximum of three years.

As explained in the body of the Decision the Orders 1 – 8 will expire on 18 October 2023 if not first extended.

By way of background: 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 would have expired on 19 October 2020, however, these were all extended prior to the date of expiry in accordance with the provisions of the 2014 Act and Regulations made under it, when the Executive Board authorised the extension of Orders 1-8 for a further three years, so that they will now all expire on 18 October 2023 unless first further extended. 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 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 and Association set out in Articles 10 and 11 of the Human Rights Act 1998.

Consultation on the proposed extension of Orders 1-8 was authorised by the Portfolio Holder in accordance with the Council's Scheme of Delegations and carried out between 30 March 2023 and 1 May 2023.

Consultation and publication requirements were carried out in accordance with the legislative requirements under the Anti-Social Behaviour Crime and Policing Act 2014.

Responses received following consultation and statistical evidence support the proposed extension of Orders 1-8 for a further three years in order to enable law enforcers to continue to control street drinking and associated anti-social behaviour.

The recommendation is for the Executive Board to agree to the extension of Orders 1-8 for a further period of three years up to 17 October 2026 in accordance with the Council's Scheme of Delegations.

As identified in the body of the Report, if the extension is approved, the Council must comply with publication and signage requirements, and the recommendation addresses these requirements.

Tahira Lee – Solicitor - 12/05/2023

8. **Other relevant comments**

None

9. **Crime and Disorder Implications (If Applicable)**

- 9.1 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.

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.

10. **Social value considerations (If Applicable)**

10.1 N/a

11. **Regard to the NHS Constitution (If Applicable)**

11.1 N/a

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

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

No

Yes

Attached as an appendix to the report, and due regard will be given to any implications identified in it.

13. Data Protection Impact Assessment (DPIA)

13.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because this is a continuation of existing PSPOs with no changes

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because this is a continuation of existing PSPOs with no changes

Yes

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

15.1 none

16. Published documents referred to in this report

16.1 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
Delegated Decision 4894 16/03/2023