

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

<b>Reference Number:</b>	5016
<b>Author:</b>	Sabina Basic
<b>Department:</b>	Communities, Environment and Resident Services
<b>Contact:</b>	Sabina Basic (Job Title: Principal Enforcement Officer, Email: sabina.basic@nottinghamcity.gov.uk, Phone: 07342071098)
<b>Subject:</b>	Variation of Hovenden Gardens Public Space Protection Order (PSPO)
<b>Total Value:</b>	£7,400 (Type: Revenue)
<b>Decision Being Taken:</b>	<p>1) The Portfolio Holder note the results of the consultation on the proposal to vary the PSPO relating to Hovenden Gardens to extend the area where the public right of way is restricted by the Order as shown on the Map attached as Appendix 4 ("The Varied Order Map"); 2) 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 Portfolio Holder authorise a variation to the Nottingham City Council (Hovenden Gardens, Hyson Green, Nottingham) 2012 Gating Order (GO5010); 3) In the event that a decision is made to vary the order under Recommendation 1 above, the Portfolio Holder authorise the Interim Director of Communities to carry out the necessary advertisements and arrange for gates to be installed and appropriate signage to be erected where necessary in accordance with legislative requirements for the Order as varied.</p>
<b>Reasons for the Decision(s)</b>	<p>There has been a resurgence of anti-social behaviour in the area with visitors no longer gathering under the flat where we have already gated off the alleyway, but instead they have begun to gather in the small alleyway that runs from Brushfield Street up through Hovenden Gardens. Within this alleyway is a small set of steps where individuals have begun to sit to deal and take drugs, carry out sexual acts, drink alcohol and discard their empty bottles and cause anti-social behaviour. Near these steps is a small recessed area that accesses a resident's property and this area allows individuals to hide from view. The full report to the Portfolio Holder for Neighbourhoods, Safety and Inclusion is attached to the decision.</p>
<b>Briefing notes documents:</b>	REPORT TO THE PORTFOLIO HOLDER DMM.docx, Proposed Variation Order Hovenden Gardens DMM.docx, Report to director of communities NEW.pdf, Appendix 3 Map PSPO Hovenden Gardens.pdf, Existing Order PSPO Hovenden Gardens.pdf

<b>Other Options Considered:</b>	<b>We have considered a Closure Order of a premises on Hovenden Gardens that is associated with serious nuisance and disorder, but this is only a temporary measure and can last of maximum of three months, 6 months if extended.</b>
<b>Background Papers:</b>	<b>Report to the Director of Communities, Proposed Variation Order (Hovenden Gardens PSPO), Map of Hovenden Gardens, Existing Order (Hovenden Gardens PSPO), Report to the Portfolio Holder for Neighbourhoods, Safety and Inclusion)</b>
<b>Published Works:</b>	<b>N/A</b>
<b>Affected Wards:</b>	<b>Hyson Green and Arboretum</b>
<b>Colleague / Councillor Interests:</b>	
<b>Consultations:</b>	<b>Those not consulted are not directly affected by the decision.</b>
<b>Crime and Disorder Implications:</b>	<b>Installation of the gates will reduce anti-social behaviour and criminality in the area. At the moment Hovenden gardens is a crime and ASB hotspot, people congregate, take drugs and commit ASB in and around the area we are considering installing the gates.</b>
<b>Equality:</b>	<b>Please login to the system to view the EIA document: Hovenden Gardens PSPO EIA variation NM (002).docx</b>
<b>Decision Type:</b>	<b>Portfolio Holder</b>
<b>Subject to Call In:</b>	<b>Yes</b>
<b>Call In Expiry date:</b>	<b>12/09/2023</b>
<b>Advice Sought:</b>	<b>Legal, Finance, Equality and Diversity</b>

**Legal Advice:**

The power to vary the Order falls within the remit of the Portfolio Holder and the proposal appears to be in accordance with the Council's Scheme of Delegations.

As identified in the main body of the Report, PSPOs should only be varied 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 the area that the Order applies to.

When deciding whether to vary 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).

As identified in the main body of the Report, the Council has undertaken a consultation exercise regarding the proposed variation to the Order, which appears to be in compliance with the requirements in the 2014 Act and Statutory Guidance.

The Council should also consider how easy the Order, if varied, 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.

It is proposed that, if varied, the Order will last until the expiry of the current Order on 18 October 2023. 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, there is no restriction on the number of times that a PSPO can be extended. It is proposed that the Order (as varied) will then be extended for a further period of 3 years from 18 October 2023.

Advice provided by Tahira Lee (Solicitor Planning & Environment) on 20/07/2023.

**Finance Advice:**

This decision seeks approval to vary the PSPO relating to Hovenden Gardens to extend the area where the public right of way is restricted by the Order, following the consultation exercise undertaken regarding the proposed variation to the Order.

The financial implications of this order and the installation of the gates as identified and associated signage as required under the 2014 Act is expected to be £7,400. All costs for the gates, signage and any other associated costs will be met within the existing MTFP of the Service and have been confirmed as being included in the latest forecasted position.

Advice provided by Susan Turner (Senior Commercial Business Partner) on 29/08/2023.

**Equality and Diversity Advice:**

EIA for this has been submitted. Comments on the EIA will need to be addressed before this EIA can be approved. Advice provided by Nasreen Miah (Equality & employability consultant) on 13/07/2023.

**Signatures**

<b>Sajid Mohammed (PH - Neighbourhoods, Safety &amp; Inclusion)</b>
<b>SIGNED and Dated: 05/09/2023</b>
<b>Colin Wilderspin (Interim Director of Communities)</b>
<b>SIGNED and Dated: 05/09/2023</b>