

**Reference Number:** GO5010

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**Subject:** Proposed Extension of the Nottingham City Council (Hovenden Gardens, Hyson Green, Nottingham) Variation Order 2023 - Public Spaces Protection Order restricting public rights of way over the 'Restricted Area' in Nottingham City Council Administrative Area

**Total Value:** Nil (Type: Nil)

### **Decision Being Taken:**

1. The Portfolio Holder note the results of the consultation on the proposal to extend the Public Spaces Protection Order referred to as the Nottingham City Council (Hovenden Gardens, Hyson Green, Nottingham) Variation Order 2023 for a further three years until 17 October 2026:
2. That, being satisfied that the test in Section 60(2) 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 Portfolio Holder authorise extension of the Nottingham City Council (Hovenden Gardens, Hyson Green, Nottingham) Variation Order 2023 referred to in recommendation 1 above for a further three years to expire on 17 October 2026.
3. In the event that a decision is made to extend the Nottingham City Council (Hovenden Gardens, Hyson Green, Nottingham) Variation Order 2023 under recommendation 2 above, the Portfolio Holder 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 requirement for the Order as extended.

### **Reasons for the Decision(s)**

The Nottingham City Council (Hovenden Gardens, Hyson Green Nottingham) Gating Order 2012 (GO5010) ('the Order') was made under section 129A of the Highways Act 1980 ('HA') and originally known as a Gating Order. The effect of 'the Order' was to close off a small area of Hovenden Gardens situated directly under one of the flats following a large amount of anti-social behaviour, drug activities and environmental issues caused by individuals visiting this particular sheltered location.

Section 129A HA has now been repealed but pursuant to section 75 of the Anti-social Behaviour, Crime and Policing Act 2014 ('the 2014 Act') the Order remained in force until 20 October 2017, after which it 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.

'PSPO's' (including those which were originally Gating Orders) may not have effect for a period of more than 3 years, unless extended under section 60 of 'the 2014 Act'. On 2 October 2020, pursuant to section 60(2) of 'the 2014 Act', Nottingham City Council ("the Council") approved an extension of the period that 'the Order' had effect, to expire on 18 October 2023 unless first further extended.

The making of the Gating Order in 2012 (and subsequent PSPO) was successful in removing the problems caused by people gathering in this area and causing significant anti-social behaviour to local residents. However, by 2016 there was a resurgence of anti-social behaviour in the area with visitors no longer gathering under the flat but instead, they had 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 had 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 very small, recessed area that accesses a resident's property, and this area allows individuals to hide from view.

Following consultation, in August 2023 'the Order' was varied on 6 September 2023 to increase the area restricted by 'the Order' as shown on the attached 'Varied Order Map.' The Order was also re-named and is now known as Nottingham City Council (Hovenden Gardens, Hyson Green, Nottingham) Variation Order 2023. ('The Variation Order'). The restrictions to public rights of way in 'the Variation Order' are subject to limited exceptions, and 'the Variation Order' also authorised the installation of barriers at the entrance to each restricted area as shown on the 'Varied Order Map' attached. For the purposes of enforcing the restrictions, those barriers remain in situ at the time of writing this report.

If the 'Variation Order' is **not** extended before the Expiry Date of **18 October 2023**, the barriers referred to above will no longer be authorised and will be obstructions to the highway and must be removed.

In addition to this 'Variation Order' there are a further 11 PSPO's currently being extended. These include: Bentinck School, Beverley Square, Botany Avenue, Camomile Gardens, Candle Meadow, Dane Court, Haswell Road, Holland Street, Kilnwood Close, Neston Drive, Portland Road and Smedley Close, all of which became PSPOs under the Act and extended in 2020 to last a further three years to October/ November 2023 depending on when they were approved at Area Committee. The proposal for extension in respect of the 11 PSPO's mentioned above also seeks to bring in to line the expiry date of each Order to allow for a more streamlined process going forward so that each Order expires on 18 October 2026.

The Hovenden Gardens 'PSPO' was not included in the consultation or subsequent report to the Portfolio Holder in respect of those 11 PSPO's because it was out for consultation in relation to the proposal to vary the extent of land that the restrictions apply to. This variation has now been completed and 'the Order' (as varied) can now be extended before it expires on 18 October 2023.

Public consultation on the proposed extension of 'the Variation Order' was approved by the Director of Community Protection on 4 September 2023 and took place for a period of 28 days between 13 September 2023 to 11 October 2023. A Notice of Consultation was placed on the Council's website and Notices were hand delivered to all owners and occupiers of land within each restricted area. Notices were sent to the Chief Officer of Police for Nottingham City and the local policing body for the police area that includes each restricted area. Notices were also placed in prominent positions close to the restricted areas affected by each PSPO. Inviting

representations/comments on the proposal to extend as well as community representatives such as Nottingham Local Access Forum.

Whilst no official responses to the proposed extension of 'the Variation Order' have been received residents in the locality have verbally communicated their support for the extension confirming that since the Order was varied and the new gates installed restricting access to the extended 'Restricted Area,' they have enjoyed the peace and quiet and respite from the anti-social behaviour that was previously prevalent within the locality. The local police have also indicated that the extension of 'the Varied Order' will provide a useful tool in enforcing against any further anti-social behaviour within the locality.

**Briefing notes documents:** Consultation Report 2023, EIA doc.

**Other Options Considered:** not extending the Order, this would result in an increase in the ASB in the affected area and a revenue cost to the Council to remove any structural furniture ie fencing/gating. Therefore this has been discounted

**Background Papers:**

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 Policing Act 2014 December 2017

PSPOs (ex-gating orders) located on the NCC website

<https://www.nottinghamcity.gov.uk/information-for-residents/community/community-protection/public-spaces-protection-orders/alleyways-and-rights-of-way/>

[https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance\\_06\\_1.pdf](https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf)

**Affected Wards:**

Hyson Green & Arboretum

**Colleague / Councillor Interests:**

**Consultations:**

Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:**

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.

**Equality:** Please login to the system to view the EIA document: EIA.docx

**Decision Type:** Portfolio Holder

**Subject to Call In:** Yes

Call In Expiry date:

**Advice Sought:** Legal, Finance, Equality and Diversity