



To: Executive Councillor for City Centre and Public Places (and Deputy Leader): Councillor Carina O'Reilly

Report by: Alistair Wilson - Streets and Open Space Development Manager

Relevant scrutiny committee: Community Services Scrutiny 8/10/2015

Wards affected: Abbey Arbury East Chesterton Market Newnham West Chesterton

## **PROGRESS ON THE REVIEW OF THE RIVER MOORINGS POLICY**

### **Non - Key Decision**

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#### **1. Executive summary**

- 1.1 This report contains recommendations that the Council consults about amendments to, and the management of, the Council's River Moorings Policy.
- 1.2 The report details issues and options that have been raised by stakeholders, namely the management of the waiting list, overstays on the 48 hour visitor moorings and issues that arise from boats not on the regulated moorings scheme at Riverside.
- 1.3 An effective enforcement policy is crucial to the efficient management of River Moorings.
- 1.4 Officers have considered and detailed the options available to regulate moorings to overcome the current management issues; the civil possession claims for trespass to move on unauthorised boaters, and a contract law approach based on the Oxford Model<sup>1</sup>, which sets out 'licence' terms that are a contract for the non-exclusive use of a space for a period of time.
- 1.5 The report highlights areas for further consideration and scrutiny relating to the need for consultation to include the option to use a civil

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<sup>1</sup> The Oxford Model offers a gratuitous licence to anyone using the land and a 'contract to pay' only applies when set conditions are met

contract law approach for the regulation and management of the Council's moorings.

- 1.6 Further investigative work is required to establish how the civil contract law approach would be best implemented and managed should the results of the recommended consultation support the approach.

## **2. Recommendations**

The Executive Councillor is recommended to instruct Officers to:-

- a) Consult on the following proposals:-
- i) To introduce a management regime for the regulation and enforcement of the City Council moorings based on civil contract law;
  - ii) To retain the existing provision of a free 48 hour visitor mooring period, with no return for 7 days on designated moorings owned by Cambridge City Council;
  - iii) To introduce a free 6 hour mooring period, with no overnight stay or return for 7 days on all moorings owned by Cambridge City Council excepted the 48 hours visitor moorings; and
  - iv) Levy a charge for overstaying/ or for mooring without a licence.
- b) To report the outcomes of the consultation, and to make further recommendations with regard to the management and enforcement of the City Council moorings taking into account the consultation responses.

## **3. Background**

- 3.1 The River Moorings policy came into effect on the 1st April 2006 and further adaptations to the policy have been made since that time following periodic reviews.
- 3.2 At present there is no single document that can be called the definitive River Moorings Policy. The policy is a collection of previous Executive Councillor Decisions.
- 3.3 In administering the River Moorings Policy, the City Council meets regularly with a range of stakeholders to discuss issues and concerns such as:-
- Mooring at Riverside;
  - Liaison between users;
  - Events;
  - and Waiting lists.

- 3.4 Stakeholders include the Cam Conservators, Camboaters, and river users and residents groups and people who enjoy the river for its amenity value.
- 3.5 This report summarises feedback, discussion points, actions and outcomes from these meetings and is intended to give background to recommendations set out in the report.
- 3.6 This report is intended to update Members on a range of issues currently frustrating the effective management of the River Moorings Policy.

#### **4 Enforcing the use of moorings**

- 4.1 Officers recognise that regulation and enforcement of the River Moorings Policy is essential, to reduce the number of complaints, to meet the expectations of boaters, to support the City's economy, and to meet our responsibilities as a landowner.
- 4.2 The Council does not have Byelaws it can use to regulate the use of its moorings; so the options available to it are limited. The Cam Conservators have a suite of Byelaws, however these relate to the effective management of navigation and are therefore not scoped to deal with management issues that the Council experiences with the operation of its River Moorings Policy.
- 4.3 The alternative to regulation through 'criminal' (Byelaws) approaches is for the Council to use 'civil' enforcement. Under this approach, the Council has two options:
  - (i) to bring civil possession claims for trespass to move on unauthorised boaters:
  - (ii) to bring civil action for breach of a contract terms.
- 4.4 The first option requires evidence gathering (monitoring) over a consistent period of time to establish that the boater has been trespassing, as the boater has not been mooring in compliance with the mooring periods and that the court action is proportionate.
- 4.5 This approach is at cost, and does not enable the Council to act swiftly enough to move boaters on, and ensure that as many moorings as possible are available to visiting boaters.
- 4.6 The second option uses a contractual approach, which sets out 'licence' terms that are a contract for the non-exclusive use of a space for a period of time. This approach has been successfully trialled by

the Environment Agency in Oxford and has now been adopted by Spelthorne District Council and East Cambridgeshire District Council, using a specialist mooring enforcement company to enforce the contract.

- 4.7 This approach requires the moorings to be monitored consistently and regularly to establish who is not complying with the terms specified for mooring, and enables pro-active, timely enforcement action to be taken.
- 4.8 If, following consultation, the Council agreed the introduction of a civil contract law approach, the Council would be required to publish its terms, both on its website and on signs along the stretch of its moorings. These signs would set out the contract or 'offer' which the boater accepts upon mooring. The terms would need to include for example; the duration of the visitor moorings; the charge payable if the boater chooses to moor in excess of the 48 hours of free mooring (or chooses to return sooner than 7 days); the fact that any debt recovery action will be added to the charge and are payable on an indemnity basis; and provide for a contracted right to remove a vessel and in the event of a non-payment of fees, the sale of the vessel.
- 4.9 The contract law approach is enforced through civil debt recovery proceedings if the boater does not pay charges when they have become due.
- 4.10 The Environment Agency's Oxford 'contract law' trial was initially for 6 months and saw a 191% increase in compliance of its terms of use at the moorings, compared to the same period the year before. One charge notice was issued, which was paid within the first two weeks of issue, at the discounted rate.
- 4.11 It is recommended that the Council consults on the proposed approach to managing the Council's moorings based on a contract law model.

## **5 Management of the Waiting List**

- 5.1 There are currently 141 applicants waiting for a narrow beam position (with 24 month wait for offer) and 53 waiting for a wide beam position (with 8+ year wait).
- 5.2 A closed waiting list has the advantage of highlighting that the River moorings have reached capacity and that there are no more currently available. It also discourages some boats and their owners from

entering onto the River Cam, and using the visitor moorings and other third party moorings as permanent locations.

- 5.3 Closing the waiting list means that the list is closed to new applicants, but officers continue to issue available licences in chronological date order as spaces become available on the river.
- 5.4 There are currently 3 boats moored on Council property, not on the waiting list. Officers are currently progressing civil possession claims for trespass to move on these unauthorised boaters, who are taking up space that could be let to applicants from the waiting list. The Council is also losing income as a consequence of their unauthorised mooring.
- 5.5 A civil possession claim option requires evidence gathering (monitoring) over a consistent period of time to establish that the boater has been trespassing, as the boater has not been mooring in compliance with the mooring periods and that the court action is proportionate.
- 5.6 The amount of time spent managing unauthorised mooring is disproportionate to the time spent managing those holding a River Moorings Licence. The time spent managing unauthorised moorings could be used to support the River Moorings Policy more effectively.

## **6 Management of the 48 hour visitor moorings**

- 6.1 There are currently approximately 8/9 visitor moorings at Jesus Green and Midsummer Common. Visitor moorings are free of charge, and are provided for the use by visiting boaters to the city.
- 6.2 Boats are allowed to stay at any given visitor mooring for up to 48 hours, and after that may not return to that visitor mooring within 7 days.
- 6.3 However, issues surrounding the use of the 48 hour visitor moorings remain with regular reports of the rules surrounding the use of these areas being flouted, both by local and visiting craft. Many boats stay longer than 48 hours on the visitor moorings, or shuttle between different visitor moorings in the city. There are regular reports of boats over staying 48 hours or returning to the same visitor mooring within 7 days.

## **7 Review of River Mooring Licence pricing, fees and charges**

- 7.1 Research completed by Officers in 2009 showed that the City Council is one of the largest local authority providers of moorings for residential craft in the country. The City Council has 70 River Moorings Licences.
- 7.2 The Mooring Licence Fee (MLF) is the fee that boat owners pay to City Council on an annual basis.
- 7.3 City Council charges a flat fee of £969 per annum. It also applies a 25% discount for the following categories:
- Single occupancy;
  - Students;
  - Those on means tested benefits; and
  - Those receiving pension credits.
- 7.4 Cambridge Mooring Licence holders are also exempt from council tax.
- 7.5 It was recommended at Environment Scrutiny Committee in 2014 that Officers review the MLF pricing structure, fees and charges and to consider introducing a market place rent. The recommendation was to include a review of the discounts offered for sole occupancy and student status (but not the discounts offered for those receiving means tested benefits or pension credits).
- 7.6 Officers will revisit the review fees and charges, and report to the Executive Councillor at a future Scrutiny Committee. There is currently limited justification for changes to fees and charges when there are some Boaters that pay nothing.

## **8 Regulated Moorings at Riverside**

- 8.1 The Executive Councillor in July 2014 approved that the regulation of moorings be introduced at Riverside by 1st October 2014, and that the current River Moorings Waiting List remains closed to allow incorporation in chronological order
- 8.2 Regulation of moorings at Riverside takes the form of a registration to enter the Waiting List, which sets out new terms and conditions to allow temporary mooring at Riverside.
- 8.3 The Council is currently following the process of enforcing at Riverside by civil possession claim for trespass to move on unauthorised boaters.

- 8.4 This option requires evidence gathering (monitoring) over a consistent period of time to establish that the boater has been trespassing, as the boater has not been mooring in compliance with the mooring periods and that the court action is proportionate.
- 8.5 The amount of time spent managing unauthorised mooring is disproportionate to the time spent managing those holding a River Moorings Licence. There is considerable cost to the Council in pursuing a civil action with no cost born by the trespassing boat until a Court decision has been determined.

## **9. Implications**

(a) **Financial Implications**

There are no financial implications identified at this stage.

(b) **Staffing Implications**

There are no staffing implications identified at this stage.

(c) **Equality and Poverty Implications**

An equality impact assessment has not been completed and will be available with the consultation results.

(d) **Environmental Implications**

This proposal has no direct climate change impact.

(e) **Procurement**

There are no procurement implications identified in this report.

(f) **Consultation and communication**

It is recommended that a stakeholder consultation is completed on the introduction of the recommended contractual approach (ref. section 4.6-4.11) to assist in managing moorings.

Responses and feedback will be used to consider, and, if supported formulate a contract law model.

Consultation will be carried out using a web survey with signposting by the use of, direct emailing, social media and news release.

Streets and Open Space have a database of contacts including Licence Holders, Waiting Lists, Stakeholders and other organisations that can be utilised, to ensure good coverage to raise awareness.

(g) **Community Safety**

The recommendations in this report have no foreseen direct impact on Community Safety.

**10. Background papers**

These background papers were used in the preparation of this report:

- An Update Report on Riverside Moorings – 11<sup>th</sup> July 2014
- Changes to the Moorings Policy – 16<sup>th</sup> January 2014.

**11. Inspection of papers**

To inspect the background papers or if you have a query on the report please contact:

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