

REPORT TO CABINET ON BOAT MOORING ISSUES ON RIVER THAMES BETWEEN BOULTERS LOCK AND MAIDENHEAD BRIDGE

Title: **River Thames Mooring Issues**

Date: 23 June 2011

Member Reporting: Cllr. S. Dudley

Contact Officer: Kevin Mist; Head of Leisure Services

Wards affected: Maidenhead Riverside

1. SUMMARY

There are a number of unlicensed and/or illegally moored craft on the stretch of the Thames within the Royal Borough of Windsor & Maidenhead

The council owns the riparian rights to some stretches of the river, 3 islands (not the riparian rights) and has a claim to other river bank areas. Riparian ownership rights and responsibilities usually apply to riverbanks and river beds.

This report seeks to clarify the position regarding the practical steps the council can take to regularise boat moorings in the area.

2. RECOMMENDATION That;

- i. **Cabinet note issues regarding moorings on the Thames**
- ii. **Approve the officers proposed actions in the attached Action Plan (Appendix 3)**
- iii. **Cabinet authorise officers to market the operation of any legitimate moorings to a licensed operators for an income valued at approximately £2,000 per year, subject to proving title**
- iv. **Where expenditure is required to implement the Action Plan this will be funded by in-year savings elsewhere in the service, such expenditure and saving to be approved by the Lead Member for Adult & Community Services**
- v. **That a press release is published informing residents what action is proposed**

What will be different for residents as a result of this decision?
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The visual appearance of the Thames in the area between Maidenhead bridge and Boulters lock will be improved. Day moorings will be encouraged with the regularisation of mooring charges and enforcement.

3. SUPPORTING INFORMATION

3.1. Background

Although a relatively small stretch of the Thames, the current position as to rights over the riverbed including mooring rights is uncertain with several interested parties and competing rights.

The standard presumption for a non tidal river is that in the absence of any evidence to the contrary the owner of the banks of the river would own the riverbed.

However the owner of site of the former Taplow Mill has since 1940 conducted itself as if it owned the entirety of the river bed. Its successor, Watchword Limited ('Watchword'), since taking ownership of the former Taplow Mill site has similarly claimed rights over the entire riverbed of the Thames not only on the Glen Island part of the river but also that surrounding the islands and abutting the part inside the Borough.

Watchword has registered its interest on the river bed (as a caution) with the Land Registry and has been exercising rights associated with legal ownership. Watchword does not however, at this time, possess sufficient documentary evidence to prove ownership.

Watchword is currently in dispute with the Council over riparian rights on the Boulter's Lock site. This dispute is nearing resolution, after 2 yrs, without any acknowledgement of ownership by either side but allows the Council to register title to the restaurant at Boulter's Lock only. This does not change the position to the remainder of the rights claimed by Watchword over the riverbed surrounding Boulter's Lock.

Watchword have to date strenuously defended their perceived rights over the river bed and have not in the past been particularly co-operative with the Council in relocating untidy vessels and are continuing to exercise riparian rights along this area of the Thames including the licensing of mooring points to third parties.

3.2. Mooring Points

The regulation of mooring points on the Thames has been delegated to the Environmental Agency ('EA') by statute. Mooring points that involve a construction of a structure that projects into the river or installed into the river bed such as a mooring post requires licence from the EA. It is the EA and not the Council that has the powers to take action in relation to illegal mooring points or obstructions to the Thames.

The EA has the authority to licence craft on the Thames and has recently been granted powers to seize unlicensed craft and remove them for disposal. The EA are currently writing to all unlicensed craft on the Thames (approx 500 vessels) and giving them 21 days to obtain a licence. Due to resourcing issues they do not

anticipate commencing proceedings against the remaining unlicensed craft in the near future.

Officers visited area on the 16th May 2011 & 17th May 2011 and observed several areas of concern. The issues in relation to mooring points are best described by reference to areas which are shown on the attached plan:

Island Mooring Points – coloured red

Ray Mead Road Mooring Points – coloured orange and coloured blue

Poet Mooring Point – coloured green

Appendix 1 to this report details the names of the vessels that were in each area as of the 17th May 2011.

3.3. Island Mooring Points

Bridge Eyot, Grass Eyot and the small island between them was given to the Council in 1947 by the then owner of Taplow Mill. The islands were gifted with the express exclusion that riparian rights were retained by the owner. The islands are preserved as a natural area for birds and water fowl to breed. No mooring to the islands is allowed.

A number of mooring posts have been legitimately driven into the river bed around the islands to allow moorings to occur around the Council owned islands. The majority of the boats are not moored to the islands and the Council cannot take any action notwithstanding they are industrial type boats and are visually incongruous. It appears these are owned by the boatyard.

3.4. Poet Mooring Point

Officers observed a larger vessel known as the 'Poet' which had been moored at Bridge Eyot by way of direct attachment to the Council's island and to mooring posts. It appeared to the officers in attendance that this was being used as permanent living accommodation.

Officers have received Counsel's advice that action could be taken by the Council as landowner against the occupants under trespass in the High Court as they are illegally moored to the islands. It is expected however that the costs could be in the vicinity of £10,000 depending on how vigorously these are defended.

However, bearing in mind the expenditure and that injunctive proceedings are a precise remedy (i.e. they would only prevent the Poet and not any other vessel that subsequently illegally moors at the island). The EA will also be consulted to request that they take action if they have the legal authority.

Although the EA does not consider the mooring points strong enough for the Poet, the risk is that the Council could obtain an injunction to remove the attachment to the island but find that the EA is wrong and the Poet is able to remain attached to the posts.

3.5. Ray Mead Road Mooring Points

This area consists of two parts. The area coloured orange is a private mooring point and owned by the boat yard. No action can be taken by the Council in relation to these boats.

The second area is coloured blue on the plan. These are the “public” mooring points which are currently marked by the EA as being 24 hr mooring points.

The Council maintains the highway along Ray Mead Road but does not appear to have title to the land next to the 24 hr mooring points. To allow collection of mooring fees along Ray Mead Road the council needs to prove a claim to title of the land which it is currently unable to do. Without proof of ownership the Council has no obvious clear right to charge for mooring. Officers are currently awaiting Land Registry documents to identify whether any third parties have title to this area.

If no third party owns this area, the practicalities of the mooring points mean that any party would need access through Council maintained parts of the public highway to enable entry to the concrete mooring area. It is also possible that as boats currently attach themselves to the river wall and the highway railings, then if this wall is maintained by the Council as part of the public highway as the retaining wall, then the Council could charge mooring fees.

4. OPTIONS AVAILABLE AND RISK ASSESSMENT

4.1. Options

	Option	Comments	Financial Implications
1.	Authorise officers to carry out recommendation and return to obtain necessary authority and budget (recommended)	An action plan will be drawn up.	Expenditure potentially up to £25k budget may be approved by the Lead Member. This would be found from in year savings
2.	Leave the matter with the Environment Agency to monitor and remove unlicensed boats	Resource issues at the EA would mean a delay in any implementation and the EA have no legitimate authority to take action against many of the craft involved	None

4.2. Risk assessment

1. Cost of enforcement action at £5,000 to £10,000 for each action in the High Court, this is mitigated by delegating expenditure to the Lead Member. This would be found from in year savings
2. Cost of removal and disposal of unlicensed vessels - £2,000 to £4,000 per vessel. This would be found from in year savings.

3. Potential claims against the authority for illegal removal of unlicensed vessel
4. Income from the moorings approximately £2,000 per year. The moorings will be basic with no waste disposal or drinking water provision so income from the moorings will be limited

IMPLICATIONS

The following implications have been addressed where indicated below.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity & Equality
✓	✓	N/A	N/A	N/A	N/A

Background Papers:

 Authorisation:

	Legal	Finance	Planning	Property	Procurement	DMT
Name:	Sean O'Connor	Alan Abrahamson	Graham Stallwood			Christabel Shawcross
Date Approved:	270111	060611	240511			260511

	Directors Group	Lead Member	Ward Cllrs (if Appropriate)	Leader's Office	Scrutiny Panel
Name:		Simon Dudley			
Date Approved:		260511			

Island Mooring Points – coloured red (Bridge Eyot)

Small white boat – legally moored, RBWM to check license with EA



Long industrial craft legally moored, RBWM to check license with EA



Small white craft, small blue craft, industrial boat with yellow hand rails, large rusty barge – legally moored to piles but also trespassing on island.



Grass Eyot

3 craft moored on the Eastern banks of Grass Eyot including 'Solaris' and 2 tenders illegally moored to Grass Eyot. RBWM to check license with EA and locate owner to seek removal

Ray Mead Road Mooring Points – coloured blue (Boatyard)

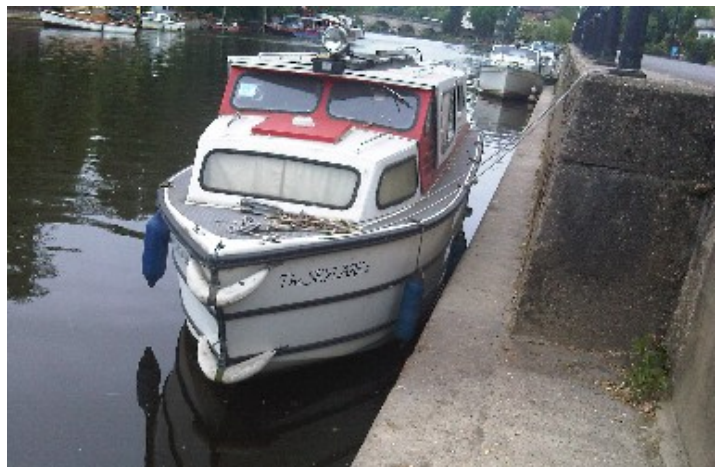
Licensed and legally moored on Bray Boats moorings – Weir Stream, Rita, Captain Jet, Sunrise, Quiet Stream, White Osprey, Princess Mikita, Miss Eleanor, Scrounger, Take Five, Orion and an un-named barge

Ray Mead Road Mooring Points – coloured red (24hr mooring points)

Katie II moored on 24hr moorings
– RBWM to locate owner and request to remove



Sky Lark moored on 24hr moorings
– RBWM to locate owner and request to remove



River Mouse –24hr moorings
unlicensed boat RBWM to seek enforced removal by EA



La Gavin – 24hr moorings
unlicensed boat, RBWM to seek
enforced removal by EA



Sweet Little Buttercup 24hr
moorings – unlicensed boat, RBWM
to seek removal by EA



Baglady – licensed, moored on 24hr mooring, have requested removal


Rallytando – 24hr moorings licensed – RBWM to locate owner and request to move.

Poet Mooring Point – coloured green

Poet – house boat legally
moored to piles but also
trespassing on the island





<p>Address River Bank Ray Mead Road Maidenhead Berkshire SL6 8PF</p>	<p>SU9081 nw OS ref</p>	<p>Royal Borough of Windsor and Maidenhead</p>
	<p>04/07/2008 Date</p>	<p><small>Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. The Royal Borough of Windsor and Maidenhead, Licence No. 100014817 (2006)</small></p> 

Moorings on the River Thames

Action Plan

1. Continue to investigate whether the Council has the ability to force the removal of the unlicensed boats on the Thames and that officers liaise with the Environment Agency (EA) on the most effective method of achieving this.
2. Put procedures in place with the EA to ensure that unlicensed craft are removed on a timely basis.
3. Continue to investigate whether the Council can introduce a mooring charge for all Maidenhead river bank areas which are perceived to be under Council's control. Investigating title to the second area of mooring identified in this report with the Land Registry, following up with the Highways Unit to identify whether this area is maintained by the Council. If this is determined to be feasible then Cabinet is asked to delegate authority to put licensing into effect and set charges to the Lead Member and Head of Service.
4. Follow up with the EA as to the current position on whether the mooring posts are licensed and if not what is the EA intention for these unlicensed mooring posts
5. Establish ownership of the any vessel or objects currently on Bridge Eyot and Grass Eyot and if the owner will not voluntarily remove them these will be added to authorised injunctive proceedings for the Poet vessel.
6. That officers market the operation of any legitimate moorings to a licensed operator for a period of 5years. Income potential is valued at approximately £2,000 per year.
7. Engage local residents, the Environment Agency and partner organisations through a mail drop to ask for monitors, encouraging localism with a telephone number to report breaches.
8. Negotiate with the Taplow Paper Mill property developers to achieve an agreement on riparian rights around Grass Eyot and Bridge Eyot. Any exchanges of rights to be agreed by the Lead Member.
9. Negotiate with Bray Boats to find a more appropriate location for their more industrial vessels.
10. Officers will bring a progress report to Cabinet in September 2011.