

Cabinet

24 March 2021



Title	Update on potential moorings PSPO
Purpose of the report	To note
Report Author	Jackie Taylor Group Head of Neighbourhood Services
Cabinet Member	Councillor Richard Barratt
Confidential	No
Corporate Priority	Clean and Safe Environment
Recommendations	Cabinet is asked to note this report.
Reason for Recommendation	Not applicable

1. Key issues

- 1.1 For many years Spelthorne has encountered issues and problems with boats who overstay the 24 in 48 hour mooring by laws. Dealing with these overstayers is time consuming in that we are required to follow due process in terms of warnings & prosecutions.
- 1.2 In 2018 the River Thames Task Group was set up and one of the actions from this group was to deal with this overstaying and by law issue.
- 1.3 In July 2019 a report went to Cabinet and the recommendation from the report was for officers to engage with the community on a proposed change to enforcement on the River Thames and work on partnership with other councils to achieve a consistent approach to mooring enforcement in the area.
- 1.4 After a series joint of meetings between operational and legal officers it was agreed jointly by Elmbridge, Runnymede and Spelthorne to go out for public consultation on a potential mooring Public Space Protection Order (PSPO) and to undertake a review of moorings byelaws and managed moorings. Having also engaged with the Environment Agency (EA) it was also hoped that they would be willing to get involved.
- 1.5 The initial public consultation was published in August-September 2019 for 4 weeks. The survey created 53 responses, 32 of which were from Spelthorne residents, including local organisations. Almost all agreed that there was a need for enforcement of illegally moored boats.
- 1.6 Out of the 53 responses, 41 responders had been affected by antisocial behaviour (ASB), including drunken behaviour and obscene language (13),

lack of mooring spaces (12), unsightly nature of vessel (10) and concerns of pollution of Thames and unsafe navigation (6).

- 1.7 In addition, 2 formal written responses were received from the National Bargee Traveller Association and the Birmingham Community Law Partnership. These both claimed that the consultation was flawed and failed to meet minimum standards required by law. There were also claims that consultation breached the legislation by not publishing a draft PSPO order, nor showing the detrimental effect on the community as required by law. There were also allegations of breaches of the Equalities Act 2010, because the Gypsy Romany traveller community (GRTC) have protected characteristics and as no assessment had been carried out this could raise alleged breaches of Articles 6 (fair trial) and 8 (right to a private life) of the Human Rights Act 1998.
- 1.8 It would be fair to say that neither were in favour of any of the options mooring PSPO, review of moorings byelaws or managed moorings. The only supported option was to do nothing. They further stated that they would appeal to the Courts if a PSPO was imposed, which is their right under s.66 ASB Crime and Policing Act 2014.
- 1.9 As a result of the consultation, Runnymede Council decided that as they had very few public moorings, they would do nothing. Elmbridge Council decided to opt for managed moorings and employed District Enforcement; similarly, the EA also engaged District Enforcement.
- 1.10 Research was carried out by Spelthorne Officers to ascertain whether there were grounds to pursue a PSPO. The period researched was between 2017-2020, during which time a total of 55 mooring complaints were received, of which 4 were complaints of ASB and the remainder were complaints relating to mooring overstaying. During the same period, a total of 225 overstay warnings and 17 abandoned vessel notices were issued to boats moored on Spelthorne sites, and of those 4 were removed and disposed of by the Council. In relation to the allegations of ASB, these were all dealt with by the issuing of Community Protection Warnings and then the enforceable Community Protection Notices. All boats have since complied and no Fixed Penalty Notices were issued, or Court Proceedings taken.
- 1.11 The level of ASB complaints did not reach the standard that would allow a full consultation on a PSPO. Therefore, any imposition of such an order would likely be appealed and the Council would be in breach and subject to a Court sanction and costs order.
- 1.12 The officers also researched whether Moorings PSPO's had been successful in England and it appears that there have are no successful PSPOs in place in the UK.
- 1.13 Two high-profile moorings PSPOs were proposed by Oxford City Council in 2016 and Reading Borough Council in 2018, but both were ultimately unsuccessful due to the intervention of the National Bargee Travellers Association and the Community Law Partnership.

The criteria for a PSPO is as follows:-

- **Section 59 power to make orders.**
- **A local authority may make a Public Spaces Protection Order if satisfied on reasonable grounds that two conditions are met:**
- **The first condition is that—**
 - activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
 - it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- **The second condition is that the effect, or likely effect, of the activities—**
 - is, or is likely to be, of a persistent or continuing nature,
 - is, or is likely to be, such as to make the activities unreasonable, and
 - justifies the restrictions imposed by the notice.

2. Options analysis and proposal

- 2.1 There are no options as Spelthorne officers are of the belief that currently we have insufficient grounds to go out for formal consultation and successfully obtain a Moorings PSPO.
- 2.2 Mooring enforcement will continue to be undertaken by the Joint Enforcement Team (JET) and any isolated cases of ASB will be dealt with by way of the issuing of community protection warning letters and notices.

3. Financial implications

- 3.1 At this stage there are no financial implications as all work is carried out by our own legal and JET officers.

4. Other considerations

- 4.1 If Spelthorne were to reconsider the potential for a PSPO a full Equality & Diversity analysis would need to be undertaken by officers as noted in 1.4 of this report.

5. Timetable for implementation

- 5.1 There is no timetable, as management and enforcement of the moorings will continue to be carried out by the JET officers as and when the need arises.

Background papers:

Appendices:

There are none