



## London Borough of Hounslow; Draft Proposed Byelaw, Assessment and Consultation.

### Introduction;

The London Borough of Hounslow (LBH) has existing byelaws covering its recreation grounds, parks, play areas and open spaces.

It has recognised for some time that these bye laws should be expanded to include areas of riverside with regard to the extensive frontages to the River Thames.

In order to ensure that the authority can properly control the river frontages with a view to making the riverside available to all it is proposed to adopt a new set of Byelaws relating to mooring.

The bye laws mirror those adopted recently by the London Borough of Richmond upon Thames and will serve to both improve the amenity of the riverside and ensure that parks and open spaces are maintained for the benefit of all users. In particular the Council wishes to;

- ) Introduce bye laws that are clear and consistent with modern practice;
- ) Enable the Council to control fly-mooring on riversides;
- ) Reduce pollution;
- ) Ensure that the byelaws are a robust framework for dealing with unfortunate instances of anti-social behaviour;
- ) To ensure that the authority has full control over the important riverside asset to the benefit of the majority.

The council sees byelaws as a basis for ensuring the maximum possible benefit of its open spaces is available to the widest possible range of residents. The London Borough of Hounslow is of the view that the proposed new bye laws do not represent a burden on lawful users of its parks/open spaces and are justifiable in the wider public interest.

### What is the objectives of the proposed byelaw?

The London Borough of Hounslow has five miles of riverside. The number of boats using the riverbanks as permanent or semi-permanent moorings has increased significantly over the last few years. The proposed byelaw is designed to restrict and control the mooring of boats on land with a frontage on the River Thames which is owned or managed by the Council.

To enable the council to ensure the enjoyment and safety of those who use parks and open spaces alongside river frontages the council has a duty to ensure it can tackle nuisance and other anti-social behaviours that adversely affect these sites.

The introduction of a new byelaw will:



- ) Enable the Council to move the boats on after mooring on its property
- ) Create safer mooring areas across Hounslow Riverbanks;
- ) Promote a cleaner and greener borough by preventing environmental pollution and discharge of waste into the river;
  
- ) Provide the Council the ability to control anti-social behaviour on its river frontage;
- ) Increase public enjoyment of parks and open spaces;
- ) Provide managed moorings with appropriate services and drainage connections for waste where appropriate ; and
  
- ) Encourage responsible mooring to protect the river and future maintenance

The byelaws will provide a means of regulating the quality/safety of the boats moored on the river in areas under the council's control and set criteria such as the ability of the boats to have pump out facilities for discharge.

The byelaws will also allow the Council to monitor boats polluting its river front and take action against specific boats. In addition, the Council received outline Cabinet approval in September 2014 to create a new marina development next to Waterman's Park. The proposal is to create 26 new moorings in Brentford. This will create job opportunities and provide well-managed, regulated mooring for houseboats.

Brentford is one of the UK's most important waterway junctions and is one of only two gateways to the canal network in London that link the River Thames with the rest of the country via the Grand Union (which follows the course of the River Brent in its lower reaches).

Boaters displaced elsewhere are now using this important gateway to moor illegally. On the River Brent. Parts of Boston manor and Cletheroe Island, nature reserve, are now being taken over by boaters, with the potential to destroy valuable wildlife habitat. The byelaws will ensure that the council can properly legislate against unlawful occupation and enable the riverside to be managed to the benefit of residents throughout the borough.

### **Could the objective be achieved by any other way, short of a byelaw?**

The Council's ability to deal with these unauthorised vessels is limited to civil remedies which can often be ineffective, time consuming and expensive to pursue. The Council does not currently have the ability to impose criminal sanctions at this time.

The byelaw will give the Council further powers to be able to deal more effectively with unlicensed and/or illegally moored vessels. In 1999, the Council together with the Port of London Authority (PLA) obtained possession of the areas alongside the Watermans Park and a total of 47 boats were removed from the area.



Over time however, new boats arrived in the area and this particular stretch of land has become congested as boats displaced from elsewhere have moored on a permanent basis. Licensed boaters on both sides of the Waterman's have complained to the council for a number of years regarding the effect on them due to the activities of the illegal boaters.

The Council have for years been trying to tackle illegal boaters on an individual basis, with limited success. As one boat leaves, another arrive to take its place and the whole process starts again as the council is required to enforce through additional legal proceedings. Recently, the Council has again taken renewed action at Watermans Park.

There are other areas of the borough experiencing a similar problem and it is not economically viable or desirable for the Council to incur costs pursuing individual legal actions on an on-going basis.

The byelaw will enable the Council to exert a greater degree of control and management over its riverbanks given that contravention of a byelaw is a criminal offence liable on summary conviction to a fine.

The enforcement against persistent nuisance requires monitoring of individual behaviours and is time consuming / costly. The proposed byelaws can be enforced promptly with any party in breach removed / dealt with forthwith.

### **What will be the impact of the proposed byelaw upon those affected by it?**

The London Borough of Hounslow undertook extensive public consultation last year with relevant organisations, including the Port of London Authority and London Borough of Richmond on Thames, park users, boaters and other organisations including residents.

The intention to bring in new bye laws was advertised in a local newspaper and on the authorities web site. The proposed bye laws were published widely by the council including public meetings and through social media.

A specific web site was set up for feedback on the proposed bye laws which was opened in the Summer 2017 and closed on the 31 December 2017. The site was headed; HOUNSLOW MOORINGS PUBLIC CONSULTATION; HAVE YOUR SAY ON PROPOSALS FOR MOORING BYELAWS IN HOUNSLOW.

The site received 476 viewings and 23 comments were left on the proposals. We are advised that under current privacy of information legislation we should not identify individuals and therefore, particularly as most dissenters had common themes, the broad feedback was as follows;

#### **National Bargee Travellers Association;**

Objection on five grounds as follows;

*1. Subverting the right to moor subordinate to the Public right of navigation (PRN) on the River Thames.*



*2. Subverting the right to moor on Canal and River Trust water.*

*3. Failing to address the needs of BT's in violation of LBH's obligation under s.124 of the Housing and Planning Act 2016.*

*4. Compromising navigational safety.*

*5. Pursuing a policy that is socially divisive, objectionable in the extreme, amounts to gentrification, falls under social cleansings contrary to labour party policy, repugnant to general law and is not becoming of a public body.*

**Individual;**

*This labour Council... appears hell bent on reshaping the borough into a corporate kleptocracy.... a complete disregard for people who live on boats.*

**Individual;**

*I completely agree with the council's proposals. I live near the River Brent and I have to witness rusty boats overfilled with rubbish and the unsocial behaviour of the occupants using the river banks as private space.*

**Individual;**

*Council do not have the required skill or knowledge to manage any part of the waterways.... we should protect our heritage..... not by penalising to social cleanse for developers.... Creating this bye law will remove some people's personal lifestyle choice.*

**Individual;**

*I am against the council taking on these excess powers.....the idea that the council should be able to rule on issues of visual appropriateness is ridiculous.*

**Individual;**

*I agree with the council proposal. All the comments on here are from boat owners that have total disregard for the river.....we need a better river and this is going in the right direction...*

**Individual (s)**



*Shame on you council. Just a land grab..... you have treated the boaters in a despicable and criminal way.....I strongly believe the council has amoral obligation to allow the present people who live on boats.....to have moorings at a reasonable cost.*

**Individual (s)**

*24 hour moorings is a joke..... Hounslow Council is deluded to think they can impose 24-hour mooring,..*

**Individual;**

*I think that if there is illegal mooring, and existing moorings are full...exploring where additional moorings might be possible would be a good step.*

**Individual;**

*Rowing clubs need these areas to be safe for practising and racing.*

**Individual;**

*I am against the new mooring bye laws in Hounslow lots of people live on houseboat .... I feel it's an attack on poor people.*

The primary theme in most of the adverse comments relates to the issue of human rights and the need for unregulated boaters to move to formal locations which have facilities and are designed for overnight stays.

Those affected by the bye law will be required to move from council owned or managed land onto legal regulated moorings.

Houseboats by their very nature are or should be capable of navigation and there are a large number of locations up and down the river which are approved mooring sites.

The position of a boater displaced by a mooring byelaw in terms of their human rights was tested in the High Court in Akerman v London Borough of Richmond (2017). It should be noted that the London Borough of Hounslow intends to adopt the same mirror byelaws.

Briefly, Mr Akerman, a boater sought to argue that making the bye law by Richmond was a disproportionate infringement and breach of his rights under Article 8 of the European Convention of Human Right.



Richmond's Byelaws came into force on the 13 February 2015 making it a criminal offence to moor against its property for longer than 24 hours except in an emergency or other unavoidable reason.

Mr Akerman, who was previously moored to Land owned by Richmond before the byelaw came into force breached the transitional time period, and continued to breach the time period thereafter. He stated the earlier judge erred in deciding the byelaw was valid.

The High Court held that the Byelaws were valid since they were a proportionate and necessary step for the council to ensure good rule and government and the suppression of nuisance, in the borough.

### **Will the proposed byelaw increase, or decrease, the regulatory burden imposed upon those affected by it, and can the local authority express the increase or decrease as a financial benefit?**

The mooring byelaw will give the Council the means of removing boats from its land speedily and effectively. It will in the long term provide a cost effective alternative to serving of enforcement notices, which are often ignored and difficult to enforce.

The expense of Legal action is not sustainable in the long run, give the demand placed on Council services and shortfall in budgets.

The Council is unable to express the financial cost or benefit in exact terms although a table showing an analysis of the impacts of the proposed changes has been attached. In the last three years, the council has expended in excess of £500,000 in enforcing against unregulated boaters. The Byelaws will enable the authority to enforce where appropriate or necessary without recourse in future to costly legal proceedings.

### **How does making the proposed byelaw compare to taking no further action?**

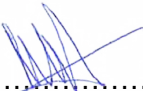
If no further action is taken the Council will continue to be plagued with illegal boats mooring on its river banks and be engaged in costly enforcement actions which lacks grip as the boats simply move to another location and the whole process starts all over again.

The byelaw will give the Council the ability to serve notices on the boats to move on. If they do not move, they can be taken to court. This is a simplified process than trying to enforce sections of the river at a time. The mooring byelaw will make unauthorised mooring a criminal offence and carry a fine and or prison sentence. For every 24 hours the boat remains moored a new offence is created.

The London Borough of Richmond which has experience a similar problem with unauthorised boaters has significantly reduced the number of illegal boats from 51 boats before the byelaw came into force to just 7 remaining in the first month the byelaw came into force.



It is anticipated that the introduction of mooring byelaws and threat of criminal sanction will suppress the problems faced by the Council with the unlicensed and/or illegally moored vessels and reduce the number of unauthorised moorings because the use of Byelaws will have an immediacy which other means of enforcement lacks.

Signed..........

Dated....25/05/2018.....

Michael Sudlow

Director, Asset Management & Major Projects