

**Individual responses to public  
questions submitted to the City  
Executive Board meeting on 17 March  
2016**

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## Individual responses to the public questions submitted to the City Executive Board meeting on 17 March 2016

### 1. Cassi Perry (Lt.Col. Retired)

I would like to ask how the council intend to protect boaters from malicious complaints? Under this current proposal it would seem that a single complaint from a wealthy homeowner, who backs onto the canal or river, could result in a boater(s) being required to extinguish their only source of heat or electricity.

**Response:** All complaints will be investigated as set out in the Council's Enforcement Policy.

### 2. Jane Charlesworth

I have a question regarding for the Executive Board meeting on Thursday regarding the evidence presented in the submissions from the public document regarding the proposed Oxford Waterways PSPO.

The statement from Lynn Shepherd of Aristotle lane uses emotive language in regard to "toxic fumes" from boats and Ms Shepherd includes several photos of boats, stating that the PSPO is the "only way to deal with this". Ms Shepherd attributes fog on the St Edwards' playing fields to the boats and links to an article on the dangers of pollution.

As someone who uses the same area of towpath for running and dog-walking, I can't say that I have noticed huge amounts of pollution compared to, for example, Oxford town centre, which often suffers from stationary traffic. Is the validity of complaints such as Ms Shepherd's going to be taken at face value? The idea that a single homeowner's complaint could prevent someone from being able to heat their home or generate electricity is concerning.

**Response:** The consultation process is designed to gather views from the public on the issues set out in the draft Order. The photographs in the evidence pack were not of fog but smoke emitted from boats nearby. All consultation responses will be assessed at the end of the consultation period and if unfounded will be given no weight.

### 3. Nick Brown (Secretary NBTA)

The National Bargee Travellers Association ("NBTA") wishes to address the following questions to the Executive Board of Oxford City Council in relation to the Draft Waterways Public Space Protection Order being considered in the meeting of 17-3-2016.

- 1 Given that the legal competence of the draft PSPO is now in question will the Executive Board please clarify what further advice Council will seek to

investigate these defects and whether it will amend the draft in the light of advice

**Response:** All consultation responses will be assessed at the end of the consultation period. If an order is proposed for consideration by the City Executive Board later in the year, the legal considerations of such an order will be reviewed by the council's legal service.

- 2 If the Executive Board approves the procession of the draft PSPO to consultation, will it please:
  - (a) clarify the mechanisms by which the consultation documents will be delivered to
    - (i) boaters within the area over which the PSPO (if promulgated) would apply; and
    - (ii) boaters not physically within this area but may reasonably be expected to navigate into this area and thus fall under the scope of the PSPO
  - (b) clarify the period of time that will be set aside to assimilate and evaluate the consultation responses and how these will be used to amend the draft PSPO
  - (c) clarify the relative weight that will be given to responses from boaters noting that it is this demographic that will be the worst affected by the PSPO; and
  - (d) clarify the budget available to defend a judicial review, in the High Court, of the draft PSPO should it be promulgated by Counsel.

**Response:** a) Consultation mechanisms have been described in the report. In addition key stakeholders will be included, for example, river user groups. Reasonable efforts will be made to consult with boaters who are not currently moored in the city area, or move through.

b) The time taken to assimilate and evaluate the consultation cannot be predicted as it is dependent upon the quantity of responses. The City Executive Board, if it wishes to proceed with a PSPO, will consider the responses and add, amend or delete aspects of the order accordingly.

c) Equal weight will be applied to all responses. Due to the nature of on-line questionnaire's it is not possible to validate who is responding. Specific consultation activity will take place with boat owners and land owners affected.

d) No budget has been allocated for this purpose.

- 3 If the Executive Board does not approve proceeding to consultation, will it please clarify the brief that it will give to the sponsoring team of the draft PSPO relating to engagement with the NBTA, other representative groups and boaters themselves to
  - (a) negotiate adjustments to the draft PSPO or, in the alternative;
  - (b) develop alternative ways of addressing antisocial behaviour outside of the jurisdictions of EA or CRT including the establishment of a steering group (the "Mooring Policy Steering Group: Oxford") to act as a forum to develop such a policy.

**Response:** a) The Executive Board has decided to consult on the order, which includes engagement with key stakeholder groups, including river user groups.

b) The council welcome all views and ideas to address the issues in the draft order.

#### **4. Dr. Stephen Preston**

As someone who boats on the River Thames and the Oxford Canal, and often passes through Oxford, I would like to seek clarification as to the likely impact and intended effect of provision (a) of the proposed Waterways PSPO:

“a. No person shall moor any boat or amphibious craft to any land without the consent of the land owner, or managing authority, or breach any conditions imposed by the land owner or managing authority;”

Current custom and practise amongst responsible boaters on the Thames (as opposed to on the Oxford Canal, which is subject to clear and extensive rules under CaRT authority) is to obey signed restrictions on mooring, whether on length of stay; prohibition of mooring; payment of fees; or other stipulations. The wording of the proposed PSPO appears to shift the onus to the boater to seek prior permission to moor, even in the absence of signage forbidding or restricting mooring. This seems likely to have the effect of prohibiting mooring in places where the landowner is content for boats to moor, but would not wish to deal with the bureaucracy involved in dealing with (possibly large numbers) of mooring requests. Is this the intended effect? Similarly, what procedure should be adopted where the identity of the landowner is unclear or unknown?

**Response:** Consent can be explicitly given or denied through appropriate signage; that is at the discretion of the land owner. The application of this prohibition will be in response to the withdrawal of consent by the land owner or managing agent, either through relevant signage or the land owner informing the council. Where land ownership cannot be determined, but there is a public footpath, it is proposed that the managing authority can provide consent.

#### **5. Jon Ody BEng (Hons), Engineer, Green Boat Services**

I'm writing to you as an Oxford resident for over 30 years, a member of the waterways community and a marine industry engineer trading on the Oxford waterways.

I would appreciate answers from councillors prior to the city council proceeding with the Oxford Waterways PSPO consultation:

I reported the incident of a sinking narrowboat to the environment agency in the summer of 2014, prior to its sinking, and despite operating from a boatyard opposite the sinking narrowboat I was instructed by the environment agency not to attempt to prevent the narrowboat sinking. I did not at any point report the incident to the council, since it was not in their jurisdiction, and no officer of the council has ever contacted me regarding the incident. I note that one of my photographs of the incident has been used as supporting evidence in favour of the PSPO, although it is not clear how the photograph suggests any form of antisocial behaviour. I also note that the same single incident has been identified in repeated complaints within the PSPO supporting evidence, leading to the impression that multiple issues have been caused when in fact it is referencing a single issue. I also note that two further photographs that I have taken have been used in the supporting evidence document,

being that of four boats moored together, which happened for a very short time and does not demonstrate antisocial behaviour, and another sunk boat at Jericho, again not demonstrating any antisocial behaviour, being a photograph posted as a 'tweet' from Green Boat Services, containing a link within the supporting evidence document to a reply from the Oxford City Council Twitter account confirming that the Environment Agency and the Canal River Trust were the appropriate authority for the incident rather than the council.

Therefore:

1) Can the councillors voting to proceed with the PSPO consultation please confirm that they are satisfied with the evidence gathering operation prior to the proposal of the PSPO, to the extent that they are satisfied that it will stand up to a judicial review on the grounds indicated by communications between the scrutiny committee and the NBTA?

**Response:** The report does not seek permission to implement a PSPO. Photographic evidence provided has helped determine the content of a draft PSPO being consulting on. The Executive Board will consider whether the consultation responses and further evidence, if supplied, support the introduction of an order.

Also: I have witnessed prejudicial statements against the waterways community by Councillor Suzanna Pressell over several years. In 2010 it is widely understood that she played a key role in the formation of UMBEG, an apparently non-accountable organisation funded by Oxford City Council that attempts to discourage and/or forcibly remove residential boats from Oxford waterways. On 2nd March 2012 Councillor Pressell was quoted in the Oxford Mail claiming "Oxford has been seen as a soft touch by boaters from other parts of the country" and accused boat-owners of "leaving litter, fly tipping and trashing green spaces", comments that were apparently unfounded and caused great animosity towards boat-owners. In the same article she claims that "hundreds of people live on boats in Oxford" however recently I heard the councillor as part of a BBC Radio Oxford interview state that "only a couple of dozen individuals live on boats in Oxford". I am aware of approximately 70 boat moorings in Oxford with residential planning permission and many other individuals without moorings who live on boats legitimately. It appears that the councillor is speaking from a position of ignorance, or that she is misleading the public to support her own ends. I am aware, as a boat-owner, that Oxford City Council does not have any jurisdiction over the waterways of Oxford and that if I have concerns I should raise them with the EA or CRT, however in the same recent BBC radio interview Councillor Pressell claimed that all Oxford boat-owners supported her promotion of the PSPO, due to the lack of contact she had received. It is hard not to see this as an obvious attempt to mislead the public and generate anti-boater sentiment.

Therefore:

2) Do councillors recognise the prejudice demonstrated by Councillor Pressell in her involvement with the boating community, and can it be clarified as to the extent of involvement of UMBEG in the development of the proposed Waterways PSPO?

**Response:** The UMBEG group comprised the council, Environment Agency, Canal and Rivers Trust and landowners, brought together to deal with problems on the waterways. Boat dwellers were invited to attend but rarely did. Since the

introduction of the ASB, Crime and Policing Act 2014, the PSPO has been discussed by the group as a potential solution to some of the issues raised by the group.

## 6. Dr. Adrian L. Smith

I have just been made aware of the proposed PSPO covering Oxford waterways and having read the document have a number of concerns/questions.

Firstly, is there a clear need for the PSPO, which may restrict the use of the waterways and areas surrounding these waterways by people that would otherwise be acting legally? Is the whole area well justified and documented for each of the problems covered in the PSPO?

**Response:** The consultation process seeks to determine whether the proposed area is correct, and whether the issues in the draft order are detrimental, or likely to be, in the area proposed. Factors such as the likelihood of dispersal from one section of the waterways to another will be considered.

Secondly, have all interested parties been canvassed for opinion, including those that live on or use canal boats and similar craft. Also have angling organisations or other recreational users been consulted? Even then, there will be a large number of users that might not belong to a formal organisation e.g. holidaymakers or casual waterways users (how will these be effectively consulted?).

**Response:** The consultation process has not yet begun.

Thirdly, the wording of the proposed "rules" are unclear (or perhaps inappropriate) in terms of what constitutes an offence under some of the circumstances. For example, how do the proposed "rules" affect users such as anglers or anyone simply sitting on the riverbank or canal bank. At what point will they be considered as causing an obstruction or be "tampering with the habitat". Some of the proposals may be interpreted over-zealously, for example whilst there may be some circumstances where alcohol use may be inappropriate, will officers be able to target people enjoying a glass of wine or can of beer and causing no annoyance or public order issues. If not, then exactly how would anyone define the "line"?

There could be similar issues with interpretation of other rules within the proposed PSPO. The issues of wording, clarity and interpretation could cause many problems for both users of the waterways and for anyone attempting to enforce the PSPO.

These are just a few questions that come immediately to mind and I am sure that were the document considered more widely then others will also find good reason to question the proposed rules. Finally, how many of the issues covered in this PSPO are issues that are not already covered by law?

**Response:** Incorporated in the legislation is the term "reasonable excuse". PSPO is not enforceable where a person has reasonable excuse to act in a particular way. In regard to alcohol restrictions, the whole of Oxford is already subject to a Designated Public Places Order that restricts the consumption of alcohol if a police officer believes it may lead to anti-social behaviour. The PSPO replaces this existing legislation.

The enforcement of the PSPO would be governed by the council's Enforcement Policy, available on the Council's website. It sets out the approach council officers must take when dealing with enforcement situations, requiring them to use the lowest level of intervention appropriate to the circumstances. This is most commonly words of advice. A Frequently Asked Questions leaflet was developed for the city centre PSPO. Over 120 leaflets have been issued since February 1<sup>st</sup>, and no further enforcement action has been necessary.

## 7. Kirstin Bilham

I have been made aware of the recent discussions surrounding the implementation of a waterways PSPO in Oxford.

One of the suggested restrictions is about noise pollution. As an Oxford blues rower, I am aware that our morning trainings might not be particularly popular with some local residents and I was wondering how the PSPO might affect this? Would complainants be able to restrict our early morning sessions in order to protect their peace and quiet? These are often the only times we can train before we have lectures/labs and therefore I am worried about how these would be affected by the PSPO.

I am also wondering about key Oxford cultural events such as Summer Eights. These involve noise and on the Saturday, often include some alcohol. Would special provisions be made for such occasions?

**Response:** Incorporated in the legislation is the term "reasonable excuse". PSPO is not enforceable where a person has reasonable excuse to act in a particular way.

## 8. Holly Morse

I am writing in response to the attempts by Oxford Council to instate a Waterways PSPO. As a narrowboat resident with a residential mooring with CRT I find many of the proposed regulations to be excessive and the evidence to support establishing them weak.

I have two particular concerns with related questions:

Firstly, there are already laws and regulations in place to deal with a number of matters on the PSPO, policed by either the Thames Valley Police service, CRT or EA. What reason is there to establish the PSPO at additional public cost?

**Response:** The PSPO describes a clear set of standards for all users of the waterways. It is a preventative tool and allows council officers and other designated bodies to enforce its provisions. In many ways it is a lesser intervention than the Environmental Protection Act 1990, criminal damage offences available to the police, or the removal of a license and ultimately the unlicensed vessel by the Canal and River Trust, or Environment Agency.

Second, numerous boaters with permanent moorings have contracts with the owner of their moorings that regulate, for example, when boaters may run their engines. CRT Agenda 21 mooring agreements stipulate that on these moorings boat engines

or generators may be used between 8am and 8pm. Does the Council intend to override standing legal agreements with, for example, CRT or EA with the proposed PSPO? Do they have the authority to do so?

**Response:** The PSPO allows for provisions within it to be targeted in particular areas and at specified times. Provisions within the draft order also include “with owners consent” to deal with local arrangements by the land owner. We are working closely with the Canal and Rivers Trust to ensure that the application of the PSPO provisions complements, and is not at odds with, its own policies. However, if a boat were to be causing a nuisance under existing legislation, the council and police will investigate the matter.

### **9. Sam Dent BA ACA, Business Manager, Green Boat Services**

The evidence, such as it is, seems to be for the most part extremely localised to a few areas, mostly in or near the centre of the City. There is, for example, nothing regarding the Cherwell, Hinksey or Weirs Mill Streams, and nothing north of Binsey on the River Thames. Given that PSPOs are permitted only for persistent activities having a detrimental effect on quality of life and need to be justified, I would like to ask on what basis the extended area of the PSPO is proposed?

**Response:** The nature of the waterways provides an easy means of dispersal both on the riverbank, and on water. A piecemeal approach to the area covered by the order would see boats breaching the order moving to those areas not covered.

There are a significant number of waterside businesses operating in this proposed PSPO area, including but not limited to

- pubs and restaurants whose properties are on the waterfront,
- numerous companies which hire out narrowboats, rowing boats, punts, canoes etc,
- considerable number of roving traders who have trading licenses from CRT enabling them to operate from their boats across the Waterways network,
- marinas, marine engineers and similar trades.

Given the ongoing lack of facilities for boat repair in Oxford, my marine engineering business is one of several who offer mobile boat repair in the area. It appears on a lay reading that we would no longer, for example, be able to bring a generator to the towpath alongside a boat, and run it in situ to enable repair of vital services.

I would therefore also like to ask what consideration has been given to the impact the PSPO will have on waterways businesses and what, if any, discussions have been had with them?

**Response:** The consultation process has not begun yet. However, the examples you describe appear to be covered by the exemption in the Act that deals with “reasonable excuse”. The PSPO is not enforceable where a person has reasonable excuse to act in a particular way, such as the repair and maintenance of boats on the water.

On a related note of vital services, the nature of navigation is that ancillary to navigation, boats must take on water and dispose of various waste. Again, on a lay reading, it strongly appears that a boat owner would be unable to run a hose across

the towpath from their boat to a tap or pump-out machine. This would seem to be a serious overreach by the Council.

**Response:** Incorporated in the legislation is the term “reasonable excuse”. PSPO is not enforceable where a person has reasonable excuse to act in a particular way such as taking on water or pumping out. The suggested prohibition that deals with obstruction of the tow path is very unlikely to be used against pipe lying on the ground, but is more concerned with ropes tied across the path that are off the ground, and the serious dangers that presents.

## **10. Penny Schenk**

Question 1: Has there been any consideration to how the proposed PSPO would interact with the Environment Agency's statutory responsibility for navigation on the Thames, and have there been any discussions with them about this?

**Response:** The Environmental Agency has been involved in discussions about the use of a PSPO. Further discussions may take place as permission to consult has been granted by the Executive Board.

Question 2: What powers of enforcement would this PSPO put in place that would affect someone living on a legal residential Thames mooring in Oxford, i.e. would council representatives have any jurisdiction over what happens on that private property under the PSPO.

**Response:** The PSPO only affects areas where the public have an express or implied right of access, this includes the water.

## **11. Sean O'Reilly**

I am writing as concerned boat resident in Wolvercote regarding the proposed draft of the Waterways PSPO put forward from Scrutiny Committee. Although reduction of anti-social behaviour is a desirable outcome, why is it that such a specific and in some cases incredibly restrictive tool must be put in place on top of current methods of law enforcement? Regulations by CRT cover aspects such as times when engines may be run and smoke production, as does governmental regulation over smoke-free zones - why does the council feel the need to override these and increase the scope for prosecution of individuals for offences, for which they have never presented a nuisance.

**Response:** The PSPO legislation is designed to present a clear set of standards for all users of the waterways. It is a preventative tool and allows council officers and other designated bodies to enforce its provisions. In many ways it is a lesser intervention than the Environmental Protection Act 1990, and criminal damage offences available to the police.

The Canal and Rivers Trust do not have powers to deal with smoke and fumes and the regulations under the Clean Air Act that govern emissions do not apply to vessels.

Similarly, I note the vagaries of the proposed restrictions on alcohol - they do not talk specifically about the consumption of alcohol on public byways, nor with links to anti-

social behaviour. Need I be concerned that some overenthusiastic enforcement officer may try to fine me for drinking on my front deck - on private property - but in full view of the towpath?

**Response:** The whole of Oxford is already subject to a Designated Public Places Order that restricts the consumption of alcohol if a police officer believes it may lead to, or the area is associated with, alcohol-related disorder. The PSPO replaces this existing legislation. The process of enforcement is determined by the council's enforcement policy, thus ensuring that breaches of the order are dealt with at the lowest level. This is usually through giving words of advice. A Frequently Asked Questions leaflet was developed for the city centre PSPO. Over 120 leaflets have been issued since February 1<sup>st</sup>, and no further enforcement action has been necessary.

Though making the waterways safer is an aim we as a community of residents all support, I would note that although we are often the primary targets of such behaviour, we still hold perfectly valid concerns that this proposed PSPO would target aspects of our lives in a way that is placing the rights of those residents in houses near waterway above those of ourselves. I also note the legal challenge the council received when attempting similar well-meaning controls on vagrancy and begging, wherein the PSPO inadvertently attacked the rights of specific groups perhaps not well represented in the democratic process. I would encourage you to take on board the concerns we have as active residents of a proud community, and please address the excessive powers laid out in the draft PSPO.

12. **Joe Jennings** - I have been nominated as a representative for the Wolvercote boaters for matters such as these.

On behalf of:

- Beth – Mind employee
- Jon – Engineer for green boat services
- Sophie – Nurse for children and young adults with learning disabilities and manager of a respite centre
- Becky – Council employee
- Holly – Phd academic researcher at Oxford University
- Sean – PR and manager and journalist in training
- Dave – Maintenance for a business estate
- Becky – Technical operations analyst for Vodafone
- Ruth – Senior engineer for the county council
- Julia – Manager of a research group connected with Oxford University
- Simon – Community Action Group co-ordinator
- Phil – Tree House builder and Tai Chi teacher

My partner and I bought a boat last year and have loved being a part of the community in Wolvercote. She works for Mind and I work for TurningPoint. We both spend a lot of our free time engaging in community work, including the food surplus cafe. We would not be able to do this and live in a house, given the housing crisis in Oxford.

When we moved into our boat, within two months we had large rocks thrown through two of our windows over an interval of a month. The first incident happened in the early hours whilst I was away for the weekend. My partner was alone and vulnerable and the rock came through the window she was sleeping under. The police response was atrocious. It took them 11 hours to arrive on the scene. The boaters, however, rallied around and looked after her. Since then we have come together more strongly as a community. We have liaised with the police and other services, who now have a better understanding of boaters needs and a map of which boats are where. We have also asked our CRT representative to deliver a skip in order to clean up our area, the majority of which is left from previous residents or fly tipped into our area. The point I am making is that we are proactive and engaged in our community, but are not being supported in this endeavour. Therefore, my first question is why have the council taken it upon themselves to create this draconian policy without first trying to consult or engage with many of the relevant stakeholders in an inclusive manner?

**Response:** The report requested permission to consult on a draft PSPO, not to implement a PSPO.

It seems clear to us that there is some anti-boater sentiment from certain factions of the council and so this over reaching policy has been put forward. Yet all that will do is fracture community relations. Why can't we work together on this?

**Response:** The council welcome all views and ideas to address the issues in the draft order.

What makes this policy even more absurd is the so called evidence that supports it. The majority of the evidence pertains to certain areas or individuals yet is being used as a reason to create legislation that covers the whole of the river and canal network. Why are all boaters being penalised for the actions of a few? It is like saying that all home owners are responsible for the antics that happen in the town centre over the weekend.

**Response:** The order challenges behaviours, not a group of people. The proposed area is extensive due to the potential ease of dispersal both on the riverbank and on the water.

There is no evidence for a lot of the river and canal. A lot of the evidence that is there is historical and what isn't is often people suffering with homelessness and drug or alcohol issues who use the toe-path after being kicked out of the town centre. You can't keep pushing these people to the edges or punishing them for their problems. They need to be helped and there are services for this. Why is this policy focused on punitive rather than preventative actions? Especially as it is know that that does not work for these issues.

**Response:** The PSPO is a preventative tool that sets clear standards of behaviour for all persons within the area.

The issues we had in Wolvercote were a result of an individual with drug, alcohol, homelessness and mental health issues. There is still a camp of such individuals in a wooded area just off the bridal path North of Wolvercote village hall. They have been there for years and not received any help and have caused a number of issues for boaters. Why is nothing being done to help these people?

**Response:** Support agencies do provide assistance to the homeless community when they wish to engage.

We would much rather see associations of boaters and other stakeholders brought together to talk through the problems this policy is meant to address. We believe with a bit of communication and cooperation most of these issues could be dealt with in a relatively swift manner without the need for punitive action. How about we focus on positive changes like this instead?

**Response:** The council welcome all views and ideas to address the issues in the draft order.

### **13. Max Mason - Now resident of Adelaide, South Australia through winter months, and resident of Nina the Narrowboat through Summer Months**

I hope I write not as what people may perceive to be the 'standard boat dweller' but as a professional who didn't want to live in a square confines of an overpriced box, immediately adjacent to another few boxes around the city of Oxford. The easiest way for me to afford a residence in Oxford was to live on a boat on the Thames and accept the countless complications which accompany that decision.

I was questioned 'Diesel, Dogs, Divorce, Drugs or Desperation?' when I first turned up alongside the towpath and was met with surprise when I declared myself none of the above, just someone who appreciated that the waterborne views of Oxford are unparalleled in beauty and sadly under-represented in political voice. I subsequently discovered the majority of boat dwellers to be superb people, often a little different, but as proud of Oxford as anyone, with a perspective that should often be carefully listened to. I have my concerns that this paperwork sadly seems to want to curb both their voice and their presence along the waterway, but I may well be getting the wrong end of the stick. As a young professional who has enjoyed an aspect of Oxford which I think should be wholly encouraged and developed, for both tourists and residents alike, I feel I should submit my comments to this discussion and subsequent question.

Those who complain that boats are a nuisance, as 'fumes belch from moored boats' should attempt a few nights staying on board through winter, in order to realise that when you are unable to simply plug into the mains to get your 230 volt supply, you have to create every fraction of power that you want to use. Use of engines and generators is essential to survival through winter, and no boater wants to run any machinery for longer than they have to. Sensible provision of electric supplies along the towpaths, with fee paying moorings occupied by boat-proud boaters would be a splendid sight, encouraging another strong arm of Oxford tourism to leap into action. Whilst evocative pictures of river stretches with smoke hanging are very good at swinging the argument that boaters are a nuisance, they actually have more to do with meteorological conditions than actual volume of smoke. Most boat engines are

no more harmful than car engines, are run for a fraction of the time, and are only a fraction of the number of cars contributing to local pollution.

So, to my question - Oxford has the enviable position of situation across the most stunning section of the River Thames and it is all too underused, neglected even ignored for all but the periods of activity surrounding Summer 8s and, for those more hardy to the winter conditions, Torpids. The towpaths are a site for poor behaviour (I speak as one who may well have had his boat damaged this week, causing in excess of £50,000 of damage) and the lack of facilities, information and preparation for visiting boaters is often embarrassing. I request that the intended legislation be intelligently sculpted, to fully recognise the need for both tourists and 'presentable' boat dwellers to live alongside one another, showcasing this most attractive attribute. Nobody minds paying for a mooring, but the fees, along with elevated tourist fees should assist to pay for suitable development of our most hidden feature.

**Response:** The council welcome all views and ideas to address the issues in the draft order. The purpose of the consultation period is to obtain the views and ideas of a broad range of consultees to ensure any future order is relevant to the issues and contributes to the safety of all who use the waterways of Oxford.

I have chosen to live aboard a boat on both Christ Church Meadows and as a Constant Cruiser for the past two years and have been constantly delighted by the benefits that river dwelling brings. It's the most attractive part of Oxford and I personally would love to see the moorings along the River Thames be made full use of, with electricity supplied, with water and pump-out amenities, with clear signage and with sufficient dredging to allow boats to moor along either side of the bank without running the regular risk of running aground.

#### **14. Sharyn Hyde**

I am contacting you to express my concern about the proposed PSPO for Oxford Waterways and to ask some questions for consideration at the Executive Board Meeting on Thursday 17th March. I am writing in my capacity as a member of the boating community. I have continuously cruised on my narrow boat for the last 5 years. I work full time for the NHS and need to be based around Oxford to be able to continue to do my work.

Firstly, I am concerned about the proposal to make it necessary to obtain the permission of the relevant landowner to moor within the restricted area.

1. As a boater who continuously cruises, it is not always possible to know who owns the land and therefore not practical to obtain permission.

2. On the river it is normal practice to be able to moor for 24 hours unless expressly asked to move by the landowner:

<https://www.whatdotheyknow.com/request/100220/response/252394/attach/6/Moorin%20factsheet%20v7%20June%202011.pdf>

3. On the canal it is normal practice to moor alongside the towpath, and mooring is already covered by the British Waterways Act 1995 and enforced by Canal and River Trust.

4. The Antisocial Behaviour, Crime and Policing Act 2014 states that activities must have a detrimental effect on the quality of life of those in a locality. Normal use of

moorings as detailed above would not have a detrimental effect on the quality of life of those in a locality, yet the proposed restriction would have a detrimental impact on the lives of many boaters, both liveaboard and pleasure boaters in terms of their use of the waterways.

5. There is anti-boater sentiment in Oxford, both from UMBEG which is heavily biased against boats in an area where there are too many boats for the available moorings and also from residents who have bought properties near to a working waterway without understanding the boating community and normal use and have filed repeated complaints. The "evidence" submitted to the committee appears to be from these residents with a grudge to bear rather than from any officially sanctioned and objective source such as Environmental Health.

Secondly, I am concerned that the alcohol restrictions proposed in the PSPO conflate several groups of waterway users and again are too broad as the blanket restriction would be inappropriate in many cases for different reasons.

1. As a one-time regular user of Oxford's waterways the main problem alcohol use was from people using the waterways as a throughfare on the way home from a night out, and underage drinking. The PSPO wording implies that there is an alcohol problem with boaters, but mentions nothing about the main cause of problem drinking around Oxford's waterways.

2. The waterways have long been a place where many homeless people sleep or spend time. The amount of people who are sleeping rough has visibly increased in the last 2 years. In addition to this, there has been an increase in people who would otherwise be homeless living on boats (which are often not particularly fit for habitation but are better than a park bench). All of these people are vulnerable and frequently have substance misuse problems including alcohol dependency. It is common for people to have had traumatic experiences and alcohol dependency is often bound up in this. The complexity of the difficulties experienced and faced by this vulnerable sector of the population means that a PSPO is not the most appropriate or effective way to deal with the problem.

3. People visiting Oxford on boats often drink alcohol responsibly and it's normal to sit on the other side of the towpath on a sunny day and enjoy a beer or glass of wine. This does not have a detrimental impact on anyone and is part of normal boating culture. The PSPO as it stands would criminalise this, which I'm sure isn't the welcome that Oxford City Council would wish to extend to visitors to the city.

4. There is a large residential community in Jericho on boats whose only garden is the other side of the towpath. This proposal in the PSPO means that they would be criminalised for having any kind of outdoor social event involving any quantity of alcohol. This is an effect certainly not justified by the restriction proposed in the PSPO, and would interfere with their right to live without arbitrary interference with privacy and home.

My questions to the Executive Board are as follows in relation to the PSPO restrictions regarding both obtaining landowners permission and drinking alcohol near the waterways:

#### QUESTION 1:

How do these two proposals fit with the requirements of the PSPO, particularly the requirements that the behaviour must have a detrimental impact on quality of life (this has not been adequately demonstrated) and that the effect justifies the

restrictions imposed, when in this case the restriction is too broad and covers normal boating activity?

**Response:** PSPOs are designed to be a preventative tool, similar to a bye-law. The consultation process will help to inform the content of a potential PSPO, part of which is to describe how a prohibition would meet the tests set out in the Act.

#### QUESTION 2:

Taking into account the above points, how do you propose to protect boat owners going about their normal and peaceful business from a potential criminal conviction both with mooring and drinking alcohol, as the PSPO falls under criminal law?

**Response:** The consultation will assist in understanding the extent to which boats currently moor on the River Thames for more than 24 hours who have not obtained the express consent of the land owner. It is envisaged that mooring consent would be explicitly given or denied through appropriate signage; that is at the discretion of the land owner. The application of this prohibition will be in response to the withdrawal of consent by the land owner or managing agent, either through relevant signage or the land owner informing the council. Where land ownership cannot be determined, but there is a public footpath, it is proposed that the managing authority can provide consent.

Incorporated in the legislation is the term “reasonable excuse”. PSPO is not enforceable where a person has reasonable excuse to act in a particular way. In regard to alcohol restrictions, the whole of Oxford is already subject to a Designated Public Places Order that restricts the consumption of alcohol if a police officer believes it may lead to anti-social behaviour. The PSPO replaces this existing legislation.

The enforcement of the PSPO would be governed by the council’s Enforcement Policy, available on the Council’s website. It sets out the approach council officers must take when dealing with enforcement situations, requiring them to use the lowest level of intervention appropriate to the circumstances. This is most commonly words of advice. A Frequently Asked Questions leaflet was developed for the city centre PSPO. Over 120 leaflets have been issued since February 1<sup>st</sup>, and no further enforcement action has been necessary.

#### QUESTION 3:

How do you propose to protect boaters from being discriminated against by a prejudiced, vocal and powerful minority, as appears to be happening with this PSPO proposal?

**Response:** All consultation responses will be assessed at the end of the consultation period and if unfounded will be given no weight.

#### QUESTION 4:

How do you propose to protect vulnerable homeless people with alcohol dependency problems from being criminalised by an order that is not within their capacity to comply with?

**Response:** In regard to alcohol restrictions, the whole of Oxford is already subject to a Designated Public Places Order that restricts the consumption of alcohol if a police officer believes it may lead to anti-social behaviour. The PSPO replaces this existing legislation.

The enforcement of the PSPO would be governed by the council's Enforcement Policy, available on the Council's website. It sets out the approach council officers must take when dealing with enforcement situations, requiring them to use the lowest level of intervention appropriate to the circumstances. This is most commonly words of advice. A Frequently Asked Questions leaflet was developed for the city centre PSPO. Over 120 leaflets have been issued since February 1<sup>st</sup>, and no further enforcement action has been necessary.

### **15. Fiona Bradshaw**

Are the City Executive Board going to accept page 10, Appendix 1 as suitable evidence to substantiate the pollution (noise and smoke) issued raised in the PSPO?

**Response:** The consultation period will be used to understanding the extent of the issues contained in the draft PSPO and the views of a wide range of stakeholders.

There is no evidence to endorse that this one photograph constitutes a detrimental effect on the quality of life of those in the locality.

I am writing to the City Executive Board as there is a picture of our home (the narrow boat that has been photographed) at page 10 of Appendix 1. I consider that the photographs at Page 10 misrepresents not only our home, but our immediate boating community and the way that we live on Oxford Canal. I have to say I was very shocked and upset when I saw the photograph in the supporting evidence appendix of the report.

When our wood burning stove has been on low – such as overnight or during the day (whilst we are working) the wood burner will omit a small amount of smoke. When we need to pick the fire up (by the opening up of the vents for a short period) visible smoke from the chimney will occur. Smoke coming from the chimney will also occur when we have to start a new fire. Looking at the photographs at page 10, Appendix 1, given the knowledge of my wood burning stove, I am of the opinion that the photograph of our boat has been taken during one of these periods.

The photographs that are attached to this correspondence illustrates our boat at approximately 4pm on Monday 14th March 2016. Please note that there is a fire present and there are no obvious signs of any smoke coming from the chimney. This, I believe is a more appropriate and realistic representation of our wood burning stove working during the winter period.

I would like to bring to the attention of the City Executive Board that we only burn seasoned wood from sustainable locations within Oxfordshire and have not burnt coal for a number of years. The wood burner we have was purchased 12 months ago and is fully compliant with EU legislation and is 94% efficient. As such we consider that the context that the photograph has been taken misrepresents the pollution concern and as such I respectfully request that the photograph is removed from the report and other supporting evidence submitted in order to substantiate the pollution issue.

We have been moored adjacent to St Edwards School for a number of sporting seasons – (we are adjacent to the all-weather pitches) and to date we have not received a direct complaint from the School. Communication from the School has been received in the past when they have wished to inform the boating community of, for example an event which may have an impact on their neighbours. I would have hoped that if our wood burner was a cause of concern they would have contacted us direct to discuss.