

To: City Executive Board
Date: 17 March 2016
Report of: Executive Director, Community Services
Title of Report: Oxford waterways Public Spaces Protection Order consultation

Summary and recommendations	
Purpose of report:	To propose consultation on a Public Spaces Protection Order for the principle waterways of Oxford
Key decision:	No
Executive Board Member:	Councillor Dee Sinclair, Crime, Community Safety and Licensing
Corporate Priority:	Strong, Active Communities; Cleaner, Greener Oxford
Policy Framework:	Corporate Enforcement Policy
Recommendation(s): That the City Executive Board resolves to:	
1. Approve consultation on a Public Spaces Protection Order for the principle waterways of Oxford.	

Appendices	
Appendix 1	Supporting evidence
Appendix 2	Draft Waterways Public Spaces Protection Order
Appendix 3	Public Spaces Protection Orders (PSPOs) overview
Appendix 4	Risk register
Appendix 5	Equalities Impact Assessment
Appendix 6	PSPO consultation waterways map

Introduction and background

1. Oxford City Council has been working with interested parties to address problems associated with the waterways for many years. The Unlawfully Moored Boats Enforcement Group (UMBEG) brings together the Council, Police, Environment Agency, Canal and Rivers Trust, colleges and societies who have land on the waterways. The group works together to identify solutions to the problems of illegal mooring, pollution, disputed land ownership and environmental concerns.

2. Evidence collated so far (Appendix 1) suggests that a Waterways Public Spaces Protection Order (PSPO), a draft of which appears in Appendix 2, may be appropriate to address some of these concerns. Public Spaces Protection Orders (PSPOs) provide a means of preventing individuals or groups in a public space from behaving in a way that is having, or is likely to have, a detrimental effect on the quality of life of those in the locality; be persistent or continuing in nature; and be unreasonable. The legal definition of a PSPO can be found in Appendix 3.
3. Other legal remedies have been considered, including Community Protection Notices, trespass action, statutory nuisance provisions within the Environmental Protection Act 1990 and licensing regimes.
4. These remedies can be used at the same time as PSPO powers but are more suited to responding to individual cases, as opposed to preventing behaviours before they arise. They also tend to have higher sanctions such as seizure and remedial order provisions and are more suited to persistent or very serious cases.
5. It may be useful when considering a PSPO to make a comparison with byelaws that set clear standards of behaviour for people who use an area; PSPOs replace any existing byelaw provisions. Byelaws have been used successfully to manage mooring consent in some London boroughs; however, this relies on the land being local authority controlled. Oxford's waterside land ownership is complex with many riparian owners, making a byelaw unworkable.

Overview of the waterways, river and canal banks

6. The waterways affected by the PSPO are principally the navigable water courses in the city including most of the River Thames, River Cherwell and Oxford Canal. In addition a number of smaller water courses have been included: Weirs Mill Stream, Bullstake Stream, Castle Mill Stream, Osney Stream, Fiddler's Island Streams, Sheep Wash Channel and Wolvercote Mill Stream (Appendix 6). They will be defined by a map within the order based on evidence, consultation responses and the risk of displacing the problem to surrounding areas. Ponds, lakes and other similar bodies of water are unlikely to be included. Where there is no obvious boundary for public access, such as a fence line or hedgerow, a five metre boundary from the water's edge will be included in the PSPO area.
7. Whilst not directly related to the issues the PSPO would be addressing, Police crime data provides some insight into the problems experienced by people using or living on the waterways. Between 1 April 2014 and 31 October 2015 there were 95 crimes reported to the Police that took place on or next to the waterways of Oxford. Offences included arson and criminal damage, assault, public order offences, burglary from boats and boat houses and drug related offences.
8. Evidence collated so far centres upon anti-social behaviour associated with the control of dogs, alcohol-related offences, the destruction of habitat and property, mooring without the consent of the owner, noise and smoke pollution, jumping from bridges into the river, blocking the river and canal-side paths, and erecting structures along the river bank. Evidence will continue to be collated during the consultation phase.

Mooring without the consent of the owner

9. Evidence suggests that some boat owners moor their boats against land without the land owner's permission. According to the River Thames Alliance, this is a problem

throughout the length of the Thames. The use of signage describing the length of time boats are permitted i.e. the consent to moor, could address this issue. The consultation process will gather views from the large number of Oxford riparian land owners on this issue.

The control of dogs and alcohol-related disorder

10. The Anti-Social Behaviour, Crime and Policing Act 2014 require the local authority to replace all alcohol Designated Public Places Orders and Dog Control Orders within three years of the Royal assent of that Act. In line with the rest of the city, the draft PSPO proposes that these provisions are included as the evidence suggests that these behaviours are having, or are likely to have, a detrimental effect on the quality of life in the area.

Environmental concerns including the destruction of habitat, noise, smoke and blocking or erecting structures on the river bank

11. The evidence suggests that the river bank gets eroded by boats moored irresponsibly, building up costs for the riparian owners and damaging the wildlife habitat. Wood has been cut down, diesel fumes emitted for long periods of time from stationary vessels and generators, which are not subject to the same standards and tests as road vehicles. Some of the built up areas of the city are covered by Smoke Control Areas, however, the smoke emission restrictions for domestic dwellings do not apply to vessels. There is evidence of mooring lines stretching across footpaths creating a danger for walkers and cyclists, and of the hedgerows being damaged by the storage of property and as a result of structures being erected.

Consultation on the draft Waterways PSPO

12. Consultation would comprise four elements

- On-line questionnaire (hard copy on request) to gain insight into people's experiences of the waterways and their views on the draft waterways PSPO
- Letter to all riparian owners and properties within the immediate vicinity of the waterways, seeking their views on the proposed order
- Letter to all boat dwellers, seeking their views on the proposed order
- Formal consultation with prescribed agencies under the Anti-social Behaviour, Crime and Policing Act 2014.

13. Social media will be used to promote the on-line questionnaire and respond to enquiries. Oxford City Council's website will also have a Frequently Asked Questions section.

14. The consultation will run for seven weeks from Monday 21 March to Friday 6 May.

15. The outcome of the consultation will be reported back to the City Executive Board proposing whether a Public Spaces Protection Order be made for the identified waterways and in so doing setting out how the legal tests have been met.

Financial implications

16. The cost of the consultation is approximately £1000 which will be found from existing budgets.

Legal issues

17. An overview of Part 3, Anti-social Behaviour, Crime and Policing Act 2014 can be found in Appendix 1.

Level of risk

18. A Risk Register is appended at Annex 4.

Equalities impact

19. The Equalities Impact Assessment, attached at Appendix 5, addresses the methods which will be used to ensure consultees are able to respond the consultation.

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Background Papers: None