

FAO [REDACTED]  
Department for Communities and  
Local Government  
2 NE  
Fry Building  
2 Marsham Street  
Westminster  
London  
SW1P 4DF

My Ref: [REDACTED]

Date: 16th December 2014

Dear Sirs,

**Application for Confirmation of Byelaws**  
**London Borough of Richmond upon Thames Council Byelaws Relating to Mooring**

The Council can confirm that a copy of the sealed byelaws as forwarded were deposited for public inspection at Richmond Council's offices at Civic Centre, 44 York Street, Twickenham, TW1 3BZ and published on the Council's website at the following address: <http://www.richmond.gov.uk/byelaws> and local legislation for a full calendar month following publication of the Notice in the 26 September 2014 edition of the Richmond and Twickenham Times.

Richmond Council now applies to the Department for Communities and Local Government for confirmation of the sealed byelaws. The Council's responses to the objections that were received during the period for making objections are set out below.

Please find enclosed copies of the following documents:

- 2 copies of the sealed byelaws;
- Copy of the Notice published in the 26 September 2014 edition of the Richmond and Twickenham Times;
- Copy of the Council's Equality Impact and Needs Analysis.

**Introduction to Objections**

During the advertisement period, 4 objections were submitted in connection with the proposed mooring byelaws. 3 objections (from the National Bargee Travellers Association, [REDACTED] and an Anonymous Objector) object to the byelaws. The objection from [REDACTED] relates to

the designation of certain areas, arguing that mooring should be prohibited on certain stretches that would otherwise be permitted under the proposed byelaws.

Virtually all of the arguments raised in the objections repeat the points raised previously during the 2012 consultation process or during the subsequent exchange of correspondence with your Department following submission of the application for provisional approval. Your Department is asked to refer to the Council's previous responses as contained in the following documents and correspondence:

- Part B, Application for Provisional Approval of Byelaws dated 13 January 2013 (submitted by letter dated 18 January 2013);
- Letter dated 23 December 2013;
- Letter dated 10 March 2014;
- Letter dated 3 April 2014;
- Email dated 14 April 2014;

### Summary of Objections

#### National Bargee Travellers Association

Many of the points raised by the National Bargee Travellers Association (NBTA) repeat those that were contained in their response dated 5 April 2012 to the Council's consultation exercise. The Council's response to those points is contained in Part B of its Application for Provisional Approval of Byelaws dated 13 January 2013. In summary, the NBTA's recent objections are:

- The byelaws restrict the public right of navigation;
- The byelaws seek to control/prohibit mooring in an emergency;
- Itinerant boat dwellers fall within the definition of "travellers and gypsies" and enjoy protected characteristics;
- The byelaws will result in homelessness and impact upon human rights.

██████████ is the owner of ██████████ which have been continuously moored to Richmond land adjacent to ██████████ for nearly 3 years, and which are openly advertised and rented out to tenants. This land will be restricted to a period of 1 hour mooring if the byelaws take effect. ██████████ submitted 4 emails raising various points in objection to the byelaws. These points can be summarised as follows:

- The byelaws restrict the public right of navigation;
- That there is a lot of riverbank freely available to use for mooring;
- The byelaws seek to control/prohibit mooring in an emergency, during tidal changes, and in times of flood;
- A mooring period of 1 hour is too short;

- Boats moored to the riverbanks bring associated benefits such as increased security and safety for members of the public;
- The Council already has powers (e.g. trespass) to deal with mooring;
- The byelaws will result in homelessness;
- Lack of consultation by Richmond Council with the Port of London Authority and the public;
- Method of publicising the byelaws once in force;
- The problem of persistent mooring will transfer to other boroughs;

#### Anonymous Objector

From the contents of the objection, the Anonymous Objector appears to be a resident of a boat moored without permission to land under the ownership or management of the Council rather than at an authorised permanent mooring. Their grounds of objection can be summarised as:

- They have rights to moor on the land and have purchased boats to live on this section of the river;
- The river is a natural commodity owned by the people of the UK and there is nothing illegal about their boat or where they are living;
- The boats already pay EA licence fees;
- The byelaws will result in eviction and homelessness and will require them to find and pay for private moorings;
- The boat owners clean up the surrounding vicinity;
- The boats have sanitary facilities and running water and do not pollute the River;
- Lack of consultation;
- Fairness and equality and impact on human rights.

Unlike the other objections which oppose the byelaws, [REDACTED] objection relates to the designation of some of the areas where mooring will be permitted. In [REDACTED] opinion, all mooring should be prohibited at the following 3 locations for the following reasons:

- Mooring by Teddington Lock is not required as there are EA operated facilities nearby; that those areas are in the narrowest stretch of river which is also used by canoe, skiff and other clubs; and that no other similarly narrow area will permit 1 hour mooring [REDACTED] refers to Plans 13 to 18, although it should be noted that Teddington Lock is on Plans 14 and 15);
- 24 hour mooring by Garrick's Eyot will prevent boat club users gaining access here (it is believed that [REDACTED] referring to the Car Park adjacent to Bell Hill recreation Ground shown as Points 5 and 6 on Plan 3, not Plans 1 to 16 as stated in the objection);
- 24 hour mooring by Broom Road Recreation Ground will prevent park users from having a view of the river from the park benches; and that it is one of the busiest sections of river for sailing, so navigation needs to be as wide as possible (this should refer to the stretch between Points 13 and 14 on Plan 12, not Plan 7).



## **Richmond Council's Response to the Objections**

The objections have been categorised and will be addressed under the following headings:

- Public Rights of Navigation and Mooring;
- Permitted Mooring Areas and Mooring Times;
- Emergencies, Tides and Floods;
- Homelessness, Human Rights, and the Equality Act 2010;
- Consultation.

### **Public Right of Navigation and Mooring**

The NBTA and [REDACTED] refer to a perceived restriction on the public right of navigation, while the Anonymous Objector argues that they have a right to moor on the land in question.

The Council's position on the public right of navigation on the River Thames has already been extensively stated on pages 6 to 9 of the Application for Provisional Approval of Byelaws, and on page 1 of the letter dated 3 April 2014 and will not be repeated in full, save as to repeat the most salient points.

The banks of a non-tidal river belong to the riparian owners, and where a public right of navigation exists, it does not generally extend to landing or mooring on the banks, unless provided for by statute, custom, or grant. The consent of the riparian owner is therefore required to enable a vessel to land or moor on the riverbank.

The public right of navigation on the non-tidal part of the River Thames is currently governed by section 79 of the Thames Conservancy Act 1932. Subsection 79(1) grants a public right of navigation along the non-tidal Thames. Subsection 79(2) confirms that a right to moor or remain stationary for a reasonable time is also granted as being a part of that public right of navigation. However, subsection 79(2) preserves the rights of riparian owners to prevent mooring or loitering and is not limited to situations where the mooring exceeds what is reasonable.

Although a public right of navigation exists on the non-tidal stretch of the River Thames, the right to moor is limited to mooring in the river and on the river bed. The banks above the water's edge do not form part of the river bed and no express right to moor on the riverbanks has been granted under the 1932 Act.

The question over what period is a reasonable length of time a vessel can be moored whilst exercising the public right of navigation only arises where a boat is moored in the river itself and not to the privately owned riverbanks of a riparian owner.

Boats therefore have no right at all to moor on the riverbanks of the non-tidal Thames (contrary to the assertion of the Anonymous Objector) and the consent of the riparian landowner is required for any vessel to moor on the riparian landowner's riverbank.

With respect to the tidal stretches of the River Thames, the general public right of navigation to pass, repass and moor over the tidal River Thames only applies to the river bed and