NOTE TO UMBEG – UNLAWFUL MOORINGS BYELAWS

Section 235 of the Local Government Act 1972 (the 1972 Act) provide for the making of byelaws for the purposes of good rule and government and for the prevention and suppression of nuisances.

Under the 1972 Act Oxford City Council (the Council) would seek to make a byelaw prohibiting the mooring of boats/craft to land owned and managed by the Council.

Any person offending against the byelaws would be liable on summary conviction (that’s conviction by a Magistrates’ Court) to a fine not exceeding £500.

Prior to being confirmed byelaws require the approval of the Department for Communities and Local Government (DCLG). The Council is also obliged to follow the procedure (for making byelaws) set out in section 236 of the 1972 Act. Section 236 sets out the steps to be taken prior to the byelaws being confirmed by the DCLG.

Perhaps not surprisingly there are no model byelaws which cover the unlawful mooring of boats. That said Richmond Upon Thames Council (RUTC) has produced a set of byelaws which are about to be submitted to the DCLG for approval.

Discussions with colleagues at RUTC reveal that they undertook a period of public consultation prior to drafting their byelaws. They also spent a considerable amount of time in mapping and identifying the parcels of land in their ownership and management. The land in question is identified in a schedule to the byelaws which quotes a grid reference, a set of coordinates, a general description and a map number.

It should be noted RUTC byelaws create an offence similar to that described above. They do not explicitly require a boat/craft to be moved. The byelaws would be enforced by means of prosecution. It should also be noted that on conviction the court would not have the power to require the boat/craft to be removed from the land.

In addition to the possibility of a byelaw RUTC also have the right as a land owner to take action for trespass through the county court.

To date it has taken nearly 2 years for RUTC to reach their current position. Subject to final approval by the DCLG their byelaws could be confirmed in 2014.

It would be possible for the Council to develop byelaws of its own using the RUTC as a model. RUTC hope to have DCLG approval by early 2014.

The Council’s current byelaw provision only applies to those parks, recreation grounds and open spaces listed in the schedule therein. These byelaws do not specifically prohibit unlawful mooring.

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