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HEARING STATEMENT

Elmbridge BC Draft Submission Local Plan

Hearing Statements Stage 2 hearings

Matter 7 Other Housing Matters Q 6.13 Boat Dwellers

1. As I have previously submitted representation ID 1109517 on 18.7.2022 I should like to update this having regard to the Matters, Issues and Questions raised by the EIP Inspector and the response to date from the Council. I am not able to attend the Hearing in person as I do not live locally. I do however make these representations on behalf of clients who have appeals pending in late April 2023 for moorings on the river Thames on land near Cherry Orchard Gardens.

2. In September 2023 the Inspector sought clarification as follows:

22. Paragraph 62 of the Framework sets out that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Furthermore, the Housing Act 1985, as amended by the Housing and Planning Act 2016 requires each housing authority to consider the needs of people residing, amongst other things, in places on inland waterways where houseboats can be moored.

23. I have read both the Boat Dwellers Site Assessment Paper, June 2022 (HOU009) as well as the Boat Dwellers Accommodation Assessment, February 2022 (HOU010). I understand that this evidence has concluded there is a need to accommodate 10 permanent residential moorings over the Plan period. Please could the Council provide the letter to landowners and the responses referred to at paragraphs 4.1 and 4.2 of HOU008. I am also aware that a number of concerns have been raised by representors in relation to the needs' assessment generally and the lack of provision in more general terms. At this stage, I am not clear as to what extent any flexibility has been applied in relation to the land availability assessment search. Having regard to the Inspectorate Procedure Guidance on Local Plan Examinations, I would strongly encourage the Council to pursue a statement of common ground with the relevant representors on this issue prior to the hearing sessions taking place.

3. The Council responded as follows

Houseboats

Elmbridge is the only Council in this area of the River Thames that has undertaken an assessment of need for Boat Dwellers. This assessment did indeed identify a need for 10 licensed permanent moorings. Following the identified need from the accommodation assessment, the Council undertook a site assessment to seek to identify land / moorings that could meet the identified need. As part of this work the Council contacted neighbouring LPAs, Surrey County Council and the Environment Agency who own land along the river. The correspondence sent out is included in appendix 2. The responses received to this letter are summarised in paragraph 4.2 of the site assessment report and the full responses are included in appendix 2 to this letter.

There has been ongoing enforcement action on unauthorised moorings in the borough by both the Council and the Environment Agency. A full update of all the enforcement action can be found on the Council's website¹. Part of the ongoing enforcement action currently being undertaken concerns those who have made representations to the Local Plan. The enforcement action follows an appeal that was dismissed in April 2023 which is referenced in the representation made. A copy of the appeal decision is included in appendix 3. Whilst the Council does understand the benefits of Statements of Common Ground and has entered into numerous with neighbouring authorities and stakeholders, due to the current sensitive circumstances, the Council considers that it is not an appropriate course of action at this time.

4. The Council has chosen not to pursue a Statement of Common Ground with those who have made representations to their draft policy even though an Appeal Inquiry is pending late April for a series of Enforcement Notices served on boat dwellers by the Council with final comments due this week. In addition there have been further developments with the issuing of a Public Space Protection Order issued for Council owned land to prevent boats mooring for more than 24 hours as this is considered 'anti-social' and the EA has pursued 'trespass claims' against boater who stay longer than 24 hours on unauthorised moorings on a 14 mile section of the river Thames where the river bed is registered in the EA name. These developments raise issues in connection with the need to find permanent moorings for boat dwellers.

5. Since my Local Plan comments were submitted I have repeatedly asked ORS who prepared the Boat Dweller Need Assessment to provide details of the moorings identified and surveyed, including their location. They declined to provide this and I was finally told to contact the Council for this information. I emailed the council on 4.12.2023 to request the following:

-plan to identify the river bank surveyed by ORS as the plan in the document is poor and unclear

- plan or list of where moorings were found
- plan or list to identify moorings with a residential use
- plan or list of moorings where the 25 interviews were conducted and list of moorings identified as having a need.

The Council has failed to respond to this email with this information. It is not known if this is because they do not have it, in which case one might wonder why they have not requested this information to make sense of the report, or, if they are simply not willing to make this available. I struggle to understand how any one is supposed to understand, check and verify the findings of the ORS report without this most basic of information. This kind of information is routinely provided in Gypsy Traveller need assessments carried out by ORS and the guidance for boat dwellers is very similar.

6. It is clear from the Site Assessment consultation letters provided to the Inspector that the Council limited their site assessment search to a desk based study of land owned by other public bodies and gave others very little time to respond. They failed to contact private landowners/ commercial operators with river frontage plots, marinas or boatyards. They failed to survey their own 8 mile river frontage on the northern boundary of the Borough for suitable sites. They failed to explain why moorings for leisure use (on line or in marinas) could not have been used at least in the short term. I have seen no guidance on what would make a suitable permanent residential mooring or list of criteria against which any proposal would be assessed. There was no call for sites. Many boats are moored permanently by riparian owners with land adjoining the river. They only enquired if other public bodies had land available for 10 permanent residential moorings. It is possible that land might exist for a smaller number of moorings. Having decided there was no public land available they failed to reconsider the suitability of the moorings they consider to be unauthorised including the purpose built Old Reservoir Wharf which was built for the mooring of boats to serve the reservoirs at West Moseley, a use that is no longer required, and where several boats have been moored for residential purposes for in excess of 10 years.

7. In the Schedule of Matters, issues and Questions for Stage 2 of the Examination published 7.2.24 Inspector C Masters has listed the following statement:

6.13 In relation to Houseboats, the evidence has identified the need for 10 licensed permanent moorings. The Council have stated they are unable to accommodate this need. In light of this, is the Plan positively prepared in this regard and is it consistent with national policy?

The matter is due to be discussed at a hearing on 2 May 2024.

8. I consider that the Inspector is right to question if the Plan is positively prepared and effective. It is most certainly is not consistent with national policy as it fails to address a housing need identified in the Borough and the Council is pursuing enforcement action to evict individuals who have lived on their boats on unregistered land for, in some cases, well in excess of 10 years. The Council left the assessment of need and search for residential moorings to the last minute and then carried out what could only be described as a very basic assessment of potential sites. The Boat Dwellers Site Assessment Paper dated June 2022 EBC report was that they waited until May 2022 and, until after the Council had approved the draft Local Plan for Reg 19 consultation, to consider what land might be available to meet the need that was not identified until February 2022 report. The subsequent Site Assessment paper was published when the Reg 19 representation stage of the Local Plan opened. This offered little chance for comment.

9. In respect of EBC owned land the report states as follows
'Unaware of any sites along the navigable rivers which the council owns and which could be suitable for permanent residential mooring sites'.
Yet we are not told what would make a suitable permanent residential mooring and what the Council is looking for.

10. There was no mention of how much land the Council own along the river frontage, where it is, how it is used and why it would not be suitable for permanent residential mooring sites. No plans were provided to identify this land or the fact much of it was already being used for the mooring of boats. There was no mention of the efforts the Council had taken to stop long stay boaters from using land they own.

11. The Council has since published a Public Space Protection Order which declares overstaying boats as 'anti social' and is aimed at preventing boats from mooring for

longer than 24 hours in order to ensure that adequate space is available for temporary moorings for up to 24 hours. This study has revealed that EBC own and control at least 5 areas of river frontage as follows:

230 m Ditton reach and City Wharf

150m Albany Reach

250m Cigarette Island/ River Ember and Hampton Court Bridge landing stage

100m Cowey Sale

50m Hurst Park

This gives a total of 780m of river frontage. These areas are all considered to be suitable for moorings for boats in navigation on the Thames but EBC only want to make this land available for short stay / overnight moorings. They fail to explain why land suitable for mooring boats 24/7 throughout the year would not be suitable for those seeking a permanent mooring.

12. I have seen no assessment of the need for short stay moorings, although it is fair to say that others agree there is a need for such moorings for tourists/ recreational users. But it is not clear why all of the Council owned land needs to be retained to meet an as yet unquantified/ unknown need when there is a known and modest need for permanent residential moorings which would require less than 200m of river frontage if one assumed that each residential boat is less than 20m in length. This would still leave almost 600m of river frontage for short stay moorings.

13. EBC fail to explain why year-round use for moorings would give rise to issues any different to a permanent mooring or why they would be of a different character. Boats used in navigation are not substantially larger or different in appearance to the residential boats identified in the 2022 Need Assessment. As the ORS need assessment reports, it is very difficult to determine the use to which a boat based on its appearance and size. Nor is it clear how permanent moorings would give rise to any greater concern with littering, noise and the quality of life of those in the locality, than the constant turnover of boats on temporary moorings.

14. The Ditton Reach/ City Wharf location is just upstream from Thames Ditton marina where in 2017 a Lawful Development Certificate was granted for a 400m section of river frontage for residential moorings. The river frontages at Albany Reach, Cigarette

Island/ Hampton Court Bridge and Hurst Park are just a short distance from the appeal sites at West Moseley. Cigarette Island is so named after a houseboat that used to moor here and is now a public park. Cowey Sale at Walton is on the other side of Walton Bridge from the large marina at Shepperton on the north bank of the river Thames in Spelthorne district so is still on a section of river well used by boaters.

15 Owners of some boats used residentially on land issued with enforcement notices are currently making do with moorings that in many ways are no different to the facilities provided with the temporary moorings on land owned by EBC. They have no mains services, no on site parking and no litter bins. Some boats are simply moored up against an informal river bank with no purpose built wharf or mooring rings. The PSPO report makes no mention of the need for any operational development or permissions required for the continued use of this land as moorings. Indeed, the thrust of the Council's case is that if current overstayers are stopped from mooring on these frontages, the land would be available for those in navigations/ tourists/ recreation users.

16. The Inspector should be aware that the EA own some 14m of the river bed of the river Thames and this includes the section in Elmbridge. They are pursuing trespass action against a small selection of boats moored on unregistered land and initially sought to exclude them from mooring for periods longer than 24 hours on any section of the river bed that they own. The initial judgment appears to attack some 28 boats, many of which have been moored in their current positions for many years and some are occupied residentially. If this is agreed, it is unclear what the implications could be for others with boats moored for anything longer than 24 hours on sections of the riverbed owned by the EA. This could increase the need for permanent authorised moorings for both residential and pleasure use, but in the absence of background detail in the Boat Dwellers Need Assessment and knowledge of which parts of the river bank/ islands/ marinas were surveyed and where boat dwellers were identified and surveyed, it is difficult to know the full implications for live-aboard boat owners.

17. Faced with a shortage of housing coupled with an affordability issue that is especially acute in places like Elmbridge, a few people have tried to find their own solution to the housing crisis by living on boats on the river Thames at no cost to the public purse. This can be considered an attractive option where households are looking

to decrease housing and overall living costs whilst living a lifestyle that is different and enhances one's connection with nature, yet still provides good access to day to day services and facilities such as shops, places of employment, education and health facilities. Residential moorings contribute to increasing diversity of homes within the Borough. Residents can provide valuable assistance to other river users and aid security for users of the towpath.

18. I would urge the Inspector to ask EBC to provide the information we need to make sense of and better understand the 2022 Boat Dwellers Need Assessment. The lack of co operation is troubling. It is hard to see how the public can be expected to engage with the plan making process and make meaningful comments and suggestions if the Council is unwilling to make background evidence available and respond to requests for this information. The Council should also be asked to take a more flexible approach to the site assessment, as recommended by the Inspector, explain what is required for a permanent mooring, broaden the search to include leisure moorings and consider why moorings, suitable for a small number of permanent residential boaters, that would be accessible, affordable and available could not be found either on land owned and controlled by the Council where the use is historic and established, or on the land currently being used by those issued with Enforcement Notices. EBC should be asked to explain why land they own on the river frontage and claim is needed to meet an as yet unquantified need for those in navigation, could not be used to meet the identified need for permanent residential moorings and why they consider this land would be any better than the land currently being used by those living on their boats in the borough. Finally the implications of the EA Possession Order needs to be considered as this seeks to criminalise moorings for longer than 24 hours on its riverbed, challenges the right of riparian owners and has implications for 'unauthorised' moorings on unregistered land alongside the river which has up until now been relied on by those who do not have and can not afford permanent private moorings.

Appendices

PSPO Cabinet report Feb 2024

PSPO order with Plans of the land owned by EBC