

The Committee received and considered report 4/08 of the Deputy Director (Planning and Community Strategy), which drew attention to a number of enforcement issues at Abingdon Marina. In considering this item, the Committee took into account the statements made by members of the public earlier in the meeting.

The Enforcement Officer advised the Committee that six individual letters of concern had been received between the 9 and 30 April from residents of North Quay, West Quay and Fisherman's Wharf. He commented that the letters reiterated the concerns raised in the report.

The Officer advised that further to the report 32 letters and 2 emails of support for the Marina Operators had been received. He commented that the letters had mainly been from the owners of boats moored in the Marina, however 5 had been received from residents of the Marina houses. He commented that the boat owners had written from their home addresses which ranged from Abingdon to West Wales. He stated that the sentiment of the letters was that boat owners were satisfied with the operation of the Marina. He advised that the boat owners considered that they contributed to the local economy and were generally welcomed by the District Council. He stated that the letters had raised concerns over the nature of the residents monitoring the use of the Marina, accusing them of covert tactics which they considered to be a breach of their privacy. He advised that some of the letters commented that the writers had never witnessed problems with noise coming from boat owners on the Marina.

He stated that the letters which had been received in support of the operators from the residents had expressed the view that the operators were excellent; Abingdon Marina was one of the best in the country for tidiness and that as members of the Abingdon Marina Residents Association they did not hold the same view as those speaking on their behalf at the meeting.

The Committee considered each matter separately as follows;

- (1) Total number of boats moored in the Marina exceeding the agreed number.

One Member commented that it was a shame that a maximum number of boats had not been explicitly stated when the plans had been approved. She advised that the maximum number of moorings had been specified; however it was possible to attach more than one boat to a mooring. She advised that it would be useful to specify an absolute maximum.

Councillor Paul Burton stated that there was a significant amount of algae on the surface of the water in the Marina and was concerned that there was recently evidence of botulism in the water. He suggested that an environmental survey be carried out in respect of the Marina in

order to establish what would be a sustainable level of usage and development.

Officers advised the Committee that an application had been made to vary the terms of the 1998 Section 106 Agreement, and the Committee would have the opportunity to debate the issue when the application came before them. It was being recommended that the decision to take enforcement action should be deferred until that time.

One Member commented that it was beyond the Council's resources to monitor boat numbers on a regular basis. He stated that the recommendation was reasonable. He reminded the Committee that the power to enforce was a right, not a duty and any action must be proportionate and reasonable.

It was proposed by Councillor Angela Lawrence and seconded by Councillor Tony de Vere and by 15 votes to nil it was

RESOLVED

(a) *that the decision on whether to take enforcement action in relation to the number of boats moored at the marina be deferred until the current application to vary the terms of the Section 106 Agreement dated 3 December 1998 has been determined.*

(2) Provision location and use of the 20 overnight moorings

The Enforcement Officer advised that it was anticipated that an application to vary the 1998 Section 106 Agreement in relation to the number and location of overnight moorings would be submitted shortly. It was suggested that the Committee should require the application to be submitted within six weeks of the date of this meeting, in order to ensure that the matter was being addressed.

By 15 votes to nil it was

RESOLVED

(b) *that the decision on whether to take any enforcement action against the lack of overnight moorings be deferred at this time and the owners of the marina be requested to submit a further application to vary the 1998 Section 106 Agreement to address this issue by no later than 6 weeks from the date of this meeting.*

(3) Eight new posts driven into the bed of the Marina

One Member commented that it was a pity that planning permission had not been sought for the posts. The Deputy Director (Planning and Community Strategy) advised that it would be difficult to take enforcement action in respect of the posts because long boats were

perfectly able to moor without them, the posts simply made it easier for the boats to moor. In his view the posts were not visually harmful in their own right, nor did it appear that they harmed the operation of the marina.

By 15 votes to nil it was,

RESOLVED

(c) *that no further action be taken in relation to the eight new mooring posts which have been installed at the northern end of the Marina.*

(4) A moored boat extending beyond the western limit on the Marina application site.

The Enforcement Officer advised that the boat in question was approximately 2-2.3 metres beyond the “blue line” which denoted the western limit of the Marina.

One Member commented that if enforcement action was not taken in this case, it might be difficult to prevent other boats from extending even further over the limit. Officers stated that each case needed to be judged on its own merits. They advised that any appeal against a decision to enforce was likely to be successful, given the transient nature of boats.

One Member commented that given the wording of the Section 106 Agreement, it was irrelevant where the boat was as it referred only to the “mooring”, which was well within the western limit.

By 15 votes to nil, it was

RESOLVED

(d) *that in this particular case no further action be taken against the mooring of the boat “Heron Island” when on mooring/berth number 93 on the Western end of the northern arm of the Marina.*

(5) Breach of Condition regarding repair and improvement of the access road.

The Enforcement Officer showed the Committee photographs of the road and advised that a meeting had recently been held between himself, the Marina Operators, the Highway Authority representative and representatives from the Environment Agency. He stated that the Highway Authority had pointed out potholes in the access road which had now been satisfactorily filled. He advised that the standard required of this road was lower than on a public highway and that the

Highway Authority were satisfied and would be writing to confirm that the road was up to standard shortly.

By 15 votes to nil, it was

RESOLVED

(e) *that no action be taken in respect of the repair and improvement of the access road, subject to confirmation from the Highway Authority.*

(6) Breach of the condition regarding the provision of reed bed protection buoys.

The Enforcement Officer showed the Committee photographs of the position of the reed protection buoys in question. He advised that an email had been received from the Environment Agency following its visit to the site. He reported that the Agency had confirmed that it was content with the position of the buoys, but that it would be even better if they could be sited further away from the bank.

By 15 Votes to nil it was,

RESOLVED

(f) *that no action be taken in respect of the reed protection buoys and that Officers be requested to contact the Marina operators to advise that whilst the Environment Agency is content, it would be even better if the buoys could be moved further away from the edge of the land.*

(7) Storage of small touring caravan and box trailer in the secure compound.

The Enforcement Officer advised that the small touring caravan had now been removed and therefore the Committee should only have regard to the box trailer. The Committee was shown photographs of the site and noted that the Operators used the trailer for storage. The Enforcement Officer reported that the Operator considered that it was parked within a trailer park, which did not specify boat trailers only, and therefore the box trailer was acceptable.

The Committee noted that the box trailer could be seen from the footpath. One Member questioned when planning permission was required for such storage facilities. The Officers explained that a permanent structure would require planning permission; however the trailer with wheels attached suggested that it was transportable and therefore no planning permission was required.

One Member commented that although the description of the parking area made reference to trailers, it was clear that this trailer was not a

temporary feature. He considered that the Operators ought to design a more appropriate building for storage and apply for planning permission.

Another Member pointed paragraph 13 of the Section 106 Agreement, entitled "Car Park", which made provision for the parking of trailers at all times, which the Officers undertook to consider.

By 12 votes to 2 with 1 abstention, it was

RESOLVED

(g) that authority be delegated to the Deputy Director (Planning and Community Strategy) in consultation with the Chair and Vice Chair, to take enforcement action against Builders Ede Ltd. Abingdon Boat Marina, South Quay, Abingdon to remove the box trailer, if considered necessary, Officers having first investigated the terms of the Section 106 Agreement.

(8) Permanent Residential Moorings

The Enforcement Officer advised the Committee that some residents had raised concerns with respect to residential use of boats in the Marina. He explained that the definition of what constituted residential use was at odds with the residents view. He advised that he had monitored the Marina over a period of weeks and he had not witnessed anything which led him to believe that boats were being used for residential purposes.

One Member reminded the Committee that the Operator had claimed that he had land based addresses for all of the boat owners who were registered at the Marina which would suggest that the boat owners were not using their boats for residential purposes.

The Deputy Director (Planning and Community Strategy) advised that enforcement action should be taken where someone was using their boat as a primary place of residence, however in this case there was little evidence to suggest that any of the Marina users were doing so and further investigation would be required.

By 15 votes to nil it was

RESOLVED

(h) that authority be delegated to the Deputy Director (Planning and Community Strategy) in consultation with the Chair and/or Vice Chair of the Committee to take against Builders Ede Ltd. Abingdon Boat Marina, South Quay, Abingdon and any individual(s) residing on a boat if it is established that any boat(s) in the marina (apart from the Marina Manager's boat) are

being used as an individual's sole or a principal place of residence.