

TITLE: Ely Riverside Mooring Byelaw

Committee: Community & Environment Committee

Date: 21st November 2012.

Author: Julie Cornwell, Partnerships Officer

[M154]

1.0 ISSUE

1.1 To continue the process of improving the management of Ely riverside by the addition of the land at the Cutter Corner, Slipway and end of Willow Walk within the Byelaw (shown at Appendix A) to enable the Mooring Byelaw to be enforced fairly and consistently along the riverfront in Ely by East Cambridgeshire District Council.

2.0 RECOMMENDATIONS

2.1 Members are requested to:

1) Note the results of the consultation on the proposed amendment to the Mooring Byelaw plan.

2) Recommend to Full Council to make the proposed amendments to the Mooring Byelaw (subject to provisional approval from the Secretary of State) as detailed at Appendix B.

3.0 BACKGROUND

3.1 At their meeting on 16th June 2011, the Community and Environment Sub-Committee agreed that the Council should seek adverse possession of two areas know as 'the Slipway' and 'Cutter Corner'. This was to address the fact that these areas of unknown ownership caused particular difficulties when trying to fairly enforce the mooring byelaw and at the time no one was officially responsible for their maintenance.

3.2 Officers consulted with local residents and other interested parties in July 2011, collated statements and submitted an application to the Land Registry in December 2011 for both areas of unknown ownership. These applications were successful and the District Council now owns 'the Cutter Corner' and 'the Slipway' (marked A and B respectively on Appendix A).

3.3 The current byelaw map shows the areas (edged red) where we are able to enforce the Mooring Bye-law (Appendix C). This means that boat owners can

moor for a maximum of 48 hours before they must leave, returning no sooner than 48 hours after they have left.

- 3.4 At their meeting on 16th June, Community and Environment Sub-Committee agreed that if the applications for adverse possession of 'the Cutter Corner' and 'the Slipway' were successful the next stage would be to amend the Mooring Byelaw to include the new areas ECDC now owns. This was to ensure that mooring along the entire river frontage owned or managed by the District Council could be enforced consistently and fairly.
- 3.5 The current byelaw map was in actual fact inaccurate (at the point marked C on Appendix A), as the marked area did not extend to the full length of the land owned by the District Council. The revised map at Appendix B will correct this omission and update with the new areas of ownership if the amended Byelaw is approved by the Secretary of State for Communities and Local Government.
- 3.6 Amendments will also need to be made to the current byelaw map to correct the extent of land covered by the Mooring Byelaw which is not in the control or ownership of the District Council. This is the land to the rear of Standens which was previously leased from the Environment Agency, which we no longer lease as there are no opportunities for mooring. This has resulted in a reduction in the licence fee for Mooring. The other piece of land is situated beyond Ely High Bridge and represents the land leased from the Environment Agency and grants the District Council fishing rights and therefore should not be included within the Mooring Byelaw. Letters were sent to all consultees confirming the removal of these areas on 7th November 2012. Any relevant comments will be verbally reported at this meeting.
- 3.7 At their meeting on 17th July 2012, Community and Environment Committee agreed to consult local residents and interested bodies on the proposed amendment to the Mooring Byelaw plan and to report the responses back to Community and Environment Committee before taking a report to Full Council in accordance with recommendation 2.3 of the 16th June 2011 Community and Environment Sub-Committee report.

4.0 RESULTS OF THE CONSULTATION

- 4.1 The Council received 15 replies to the consultation. A summary of these are attached at Appendix D. There were no objections to the byelaw extending to cover the areas marked 'B' and 'C' on the map (Appendix A). There were 2 objections to the byelaw extending to area 'A' (Cutter Corner). The objections to the byelaw extending to area 'A' were from people that currently moor boats / vessels permanently along this stretch of the river.
- 4.2 Some respondents to the consultation were keen to see the wooden decking area retained for use by small vessels (photograph attached at Appendix E).

There was a feeling that this would add character to the riverside and allow local people to use the area as well as tourists. One respondent (a boat owner) suggested that small vessels be allowed to moor permanently in this area, for an annual fee.

- 4.3 The Respondents to the consultation raised concern around the Council's ability to enforce the mooring byelaw and several suggestions have also been made to improve the quality of life for residents living nearby such as restriction on running engine/generators and a restriction on the use of BBQs and other equipment if it blocks the tow path. These concerns will need to be reviewed when the content of the mooring byelaw is reviewed, as the purpose of this consultation was to gain views on the extent of the mooring byelaw and to consider including areas A, B and C on Appendix A.

5.0 ARGUMENTS/CONCLUSIONS

- 5.1 It is proposed that the Mooring Byelaw is amended to include Areas 'A', 'B' and 'C' and that an application to amend the mooring byelaw is made to this effect to the Secretary of State for Communities and Local Government.
- 5.2 Some respondents during the consultation claimed mooring rights at area A. Should any property have mooring rights along the stretch of riverside that ECDC own then an application would need to be made to the Land Registry with supporting evidence to register these rights. If the applications were successful then these rights would be registered against ECDCs Land Registry title. This would then enable ECDC to exclude from the byelaw vessels owned by the owner of such properties, and thus the byelaw would continue to be applied in a fair and consistent manner and in accordance with the law.
- 5.3 Boat owners without evidenced mooring rights will be subject to the existing mooring time restrictions (if the proposed Mooring Byelaws amendments are approved) in that they will only be able to moor for a maximum of 48 hours before they must leave, returning no sooner than 48 hours after they left.
- 5.4 A structural engineer has assessed the wooden decking area and has advised that the poor construction and dilapidation of the decking make it unviable to repair. The engineers recommendation is to remove the decking and supporting structures completely as a matter of priority. However adaptation of the concrete embankment could allow for small vessels to moor. It therefore proposed that the wooden decking and supporting structures be removed and that mooring rings and edging protection be installed directly to the concrete embankment. In order to treat all boat owners consistently it is proposed that this area is included as part of area 'A' and thus would be covered by the mooring byelaw (i.e. no permanent mooring for small vessels).

5.5 If this Committee agrees with the proposed amendments to Mooring Byelaw and recommends to Full Council to make the proposed amendments then an 'Application for Provisional Approval of Byelaws' will be made to the Secretary of State for Communities and Local Government. The Council is required to explain as part of the provisional approval procedure the nature, location, extent and incidence of the problem and the reasons why the Authority considers byelaws are necessary to combat the nuisance being addressed. The results of the provisional application will be presented to Full Council on 21st February 2013. If the application for provisional approval to the Secretary of State is successful and Full Council approve the making of the amendments to the Mooring Byelaw at that meeting, the Council will proceed to a full application, which involves publishing an advertisement of the proposed amendments to the Mooring Byelaw at least one month prior to making the formal application to the Secretary of State. If this process is successful then it is anticipated that the revised byelaw would be ready for implementation from April 2013. If the application for provisional approval is not successful then the proposed amendments may not be able to be brought into force.

5.6 Should the Council consider charging for mooring as part of a riverside strategy in future, the byelaw may require further amendment.

6.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

6.1 The cost of removing the decking and supporting structures, installing mooring rings and edging protection has been estimated at £3,000 and will be met by the existing Asset Management budget.

6.2 The cost of advertising the amended byelaw would be approximately £180 (plus VAT).

6.3 The cost of 10 new mooring signs would be approximately £800 (plus VAT).

6.4 A new Equality Impact Assessment (INRA) is not required as the Initial Assessment produced for the June 2011 Committee Paper remains valid (copy attached at Appendix F for information).

7.0 APPENDICES

7.1 Appendix A – Map indicating areas to be amended by the Mooring Byelaw.

7.2 Appendix B – Proposed Revised Mooring Byelaw and map.

7.3 Appendix C - Map indicating areas currently enforced by the Mooring Byelaw.

7.4 Appendix D – Summary of Consultation results on Ely Riverside Mooring Byelaw.

7.5 Appendix E - Photograph of the wooden decking area at 'Cutter Corner'.

7.6 Appendix F - INRA

Background Documents

Ely Riverside Report 16th
June 2011 (Community &
Environment Sub-
Committee)

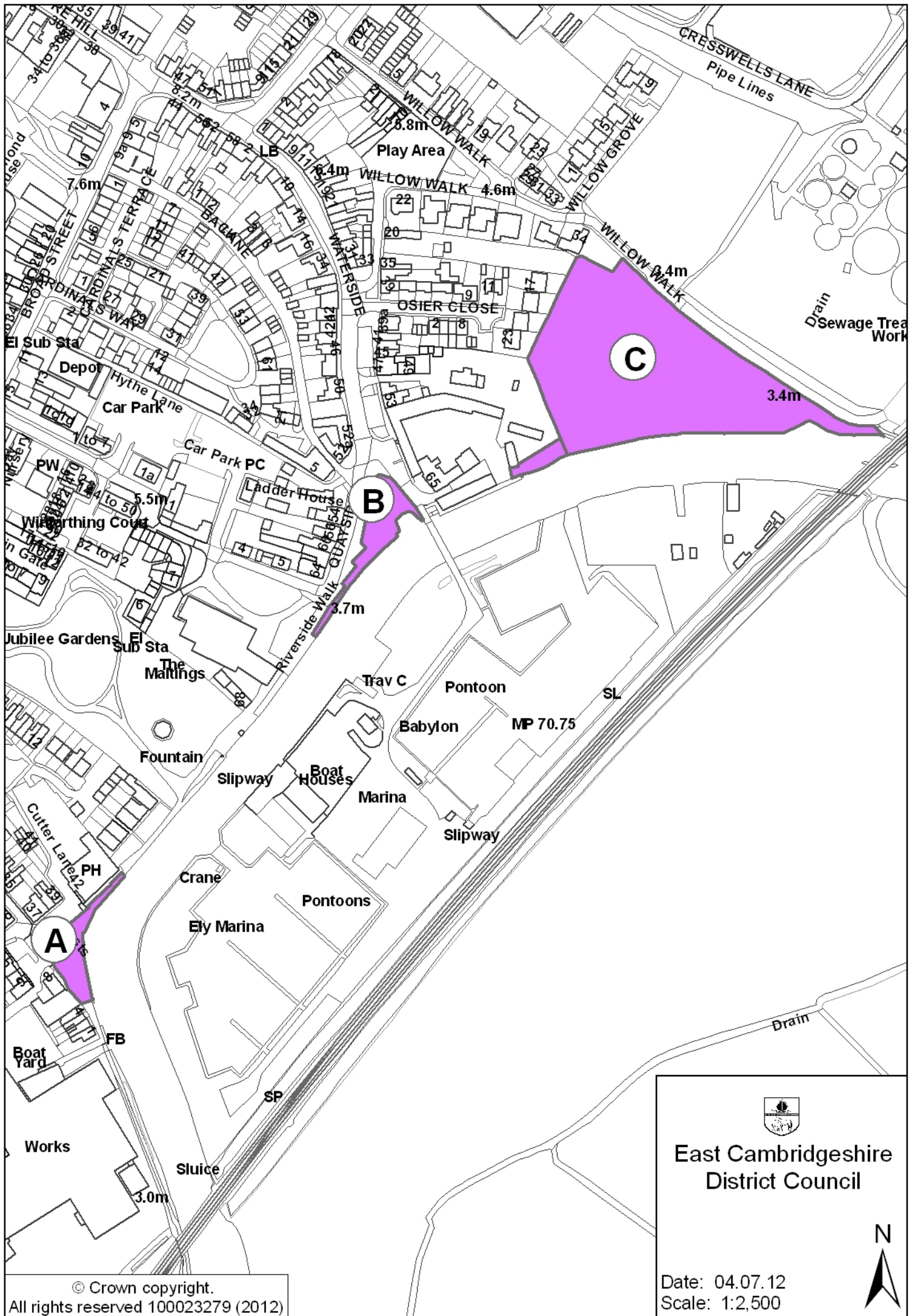
Consultation on amending
Ely Riverside Mooring
Byelaw Report 17th July
2012 (Community &
Environment Committee).

Location

Room 115
The Annexe
The Grange,
Ely

Contact Officer

Julie Cornwell
Partnerships Officer
(01353) 616352
E-mail:
julie.cornwell@eastcambs.gov.uk




East Cambridgeshire
District Council

Date: 04.07.12
 Scale: 1:2,500



© Crown copyright.
 All rights reserved 100023279 (2012)

EAST CAMBRIDGESHIRE DISTRICT COUNCIL

BYELAWS

Made by the Council of East Cambridgeshire District under Section 235 of the Local Government Act 1972 for the good rule and government of the District of East Cambridgeshire and for the prevention and suppression of nuisances.

INTERPRETATION

1. In these byelaws:-

“The Council” means the Council of East Cambridgeshire District

The word “vessel” includes every description of water craft used or capable of being used as a means of transportation on water.

EXTENT

2. These byelaws apply to the moorings owned or controlled by East Cambridgeshire District Council between Ely High Bridge and the Railway Bridge at Willow Walk, Ely as edged in red on the map attached.

MOORING

3. No person shall:
- a. moor a vessel without reasonable excuse for longer than a maximum period of 48 hours except with the prior consent of the Council.
 - b. cause or allow that vessel to return to any area covered by these byelaws within 48 hours after leaving a mooring.
4. No person shall:
- a. while the vessel is mooring at, occupying, or casting off from any such mooring place, intentionally or negligently render insecure the mooring of any other vessel occupying such place.
 - b. moor the vessel in such a position or in such a manner at such mooring place as to cause risk or injury to any other vessel or obstruction to the safe and convenient passage or mooring of any other vessel, or to the safe and convenient embarkation or disembarkation of person therein or therefrom.
 - c. while the vessel is at mooring carry out repairs/refurbishment works to the vessel except in the case of an emergency.
5. No person shall permit a vessel to be moored outside the sanitation disposal facilities provided by the Council except for such reasonable period as is required for the purposes of using those facilities.

WATERSIDE

6. No person shall use the slipway at Waterside, Ely (which forms part of the length of moorings referred to above) for any purpose other than to launch or land a vessel.

SALE OF GOODS OR SERVICES

7. No person shall at or near the moorings, sell, or offer or expose for letting to hire, any commodity, article or service, unless in pursuance of an agreement with the Council.
8. No person shall except in pursuance of an agreement with the Council, use the moorings for the purpose of:-
 - a. the sale or the offering for sale of a vessel
 - b. the maintenance or construction of any vessel or any part thereof

PENALTY

9. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

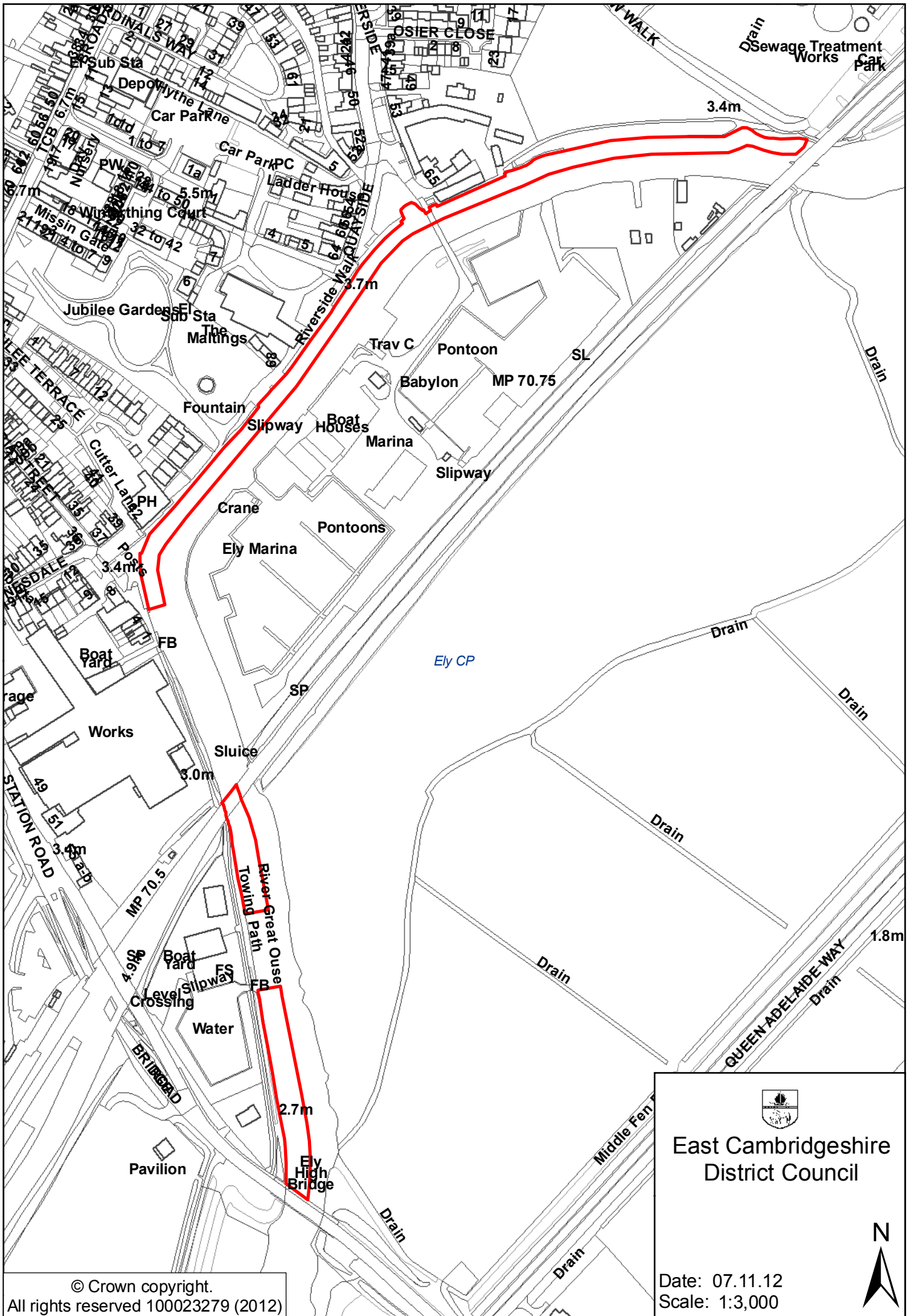
REVOCAATION

10. The byelaws relating to moorings owned and controlled by East Cambridgeshire District Council between Ely High Bridge and the Railway Bridge at Willow Walk, Ely which were made on the 27 April 2001 and confirmed by the Secretary of State on 24 July 2001 are hereby revoked.


The Common Seal of East Cambridgeshire District Council was hereunto affixed this
day of 201

in the presence of:

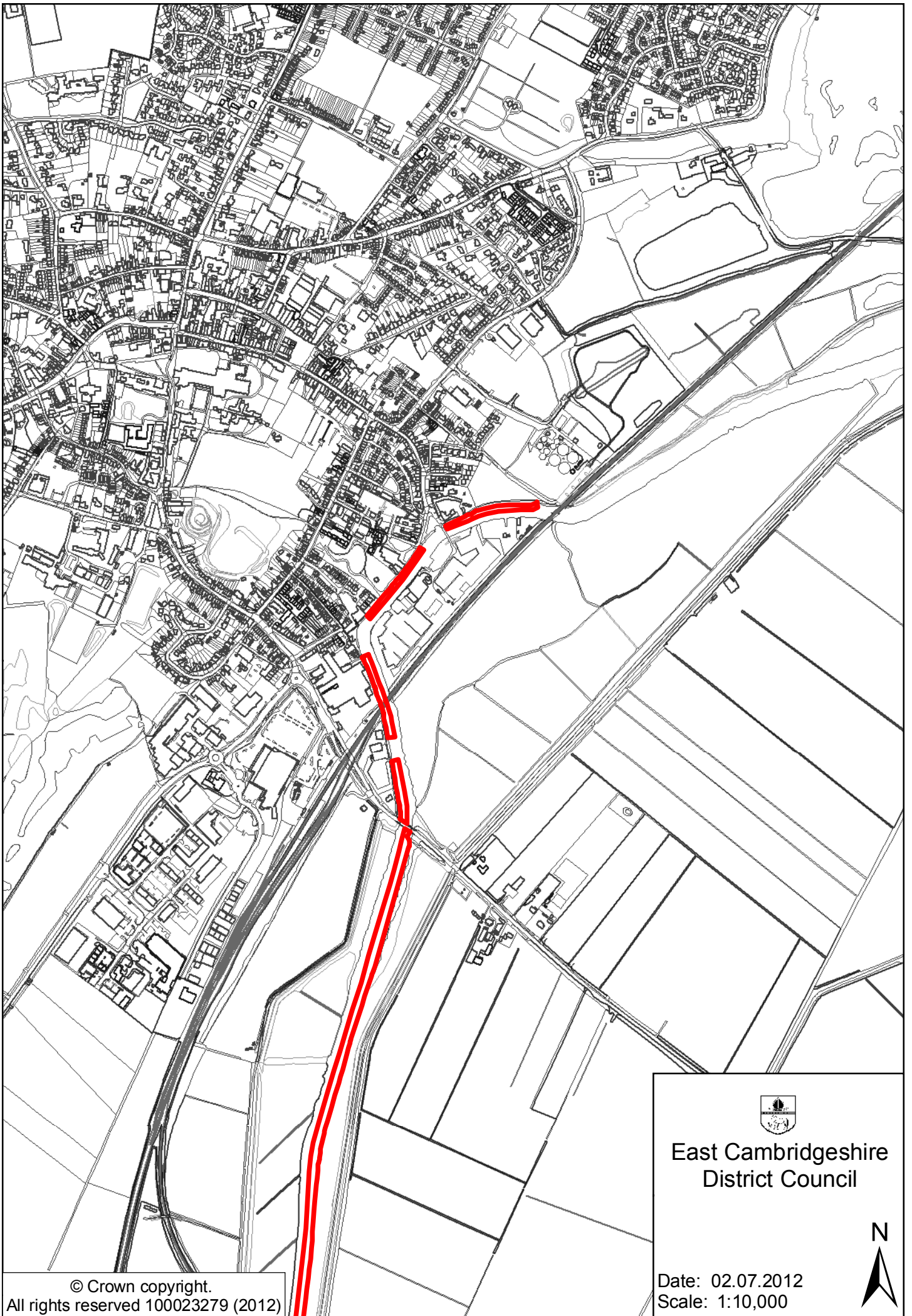
Head of Legal and Democratic Services / Chief Executive / Principal Solicitor




© Crown copyright.
 All rights reserved 100023279 (2012)


**East Cambridgeshire
 District Council**
 Date: 07.11.12
 Scale: 1:3,000






© Crown copyright.
All rights reserved 100023279 (2012)


East Cambridgeshire
District Council

Date: 02.07.2012
Scale: 1:10,000

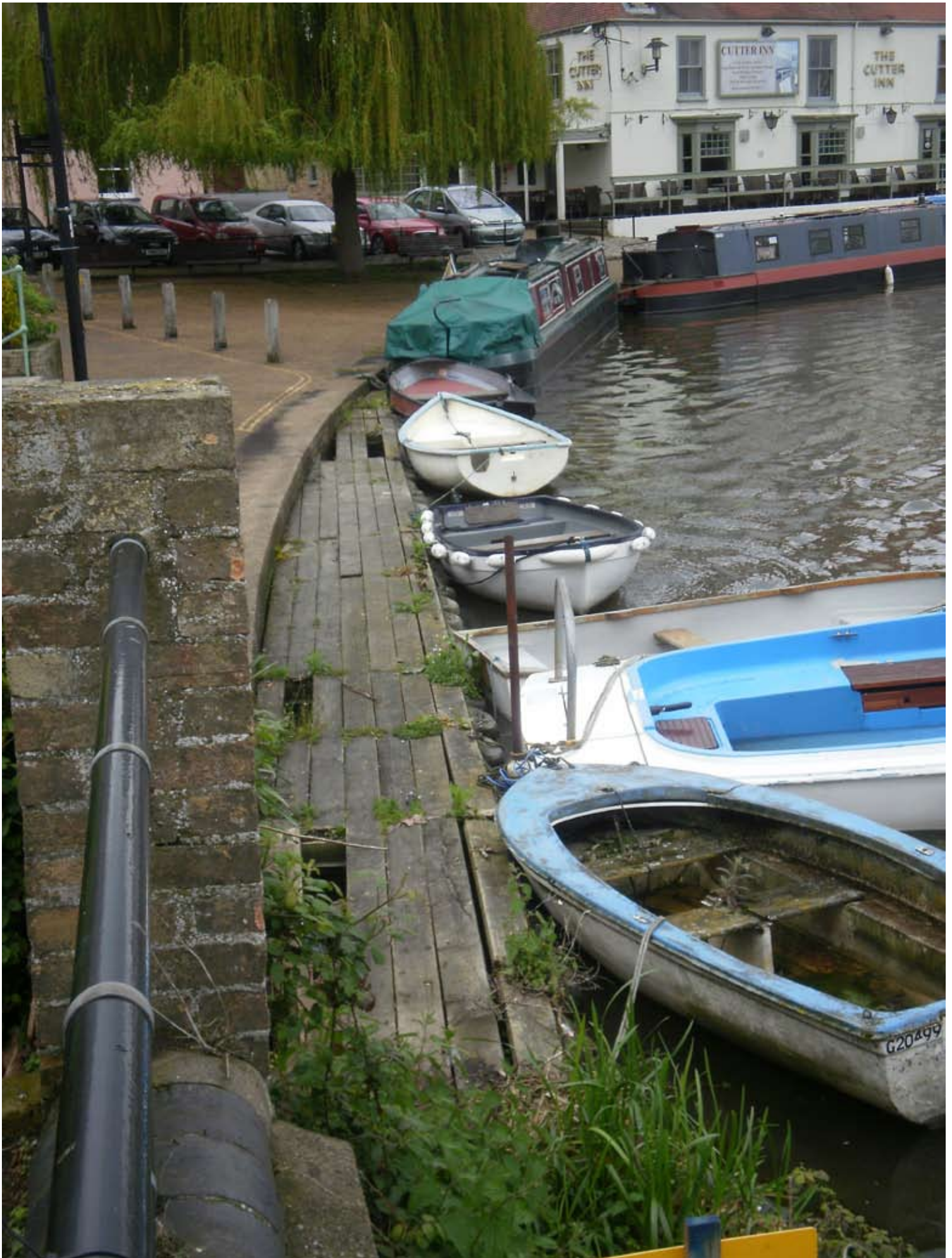


Appendix D

Results from Ely Riverside Mooring Byelaw Consultation

Respondant Name	In support? Y/N?	Comment	Summary of Action Taken and further action required
Respondent 1	Y	Thinks the inclusion of areas A,B & C is sensible.	e-mail response sent on 14/08/12 to acknowledge his support for the proposals.
Respondent 2	Y	Very positive and in support of proposals. Would like the wooden decking to be repaired so general public can launch small boats or fish there.	Phoned and had a conversation to ascertain respondent's views.
Cambs County Council	Y	No objections to inclusion of areas A,B & C but wished to draw attention to the fact that area A and part/s of areas B & C do form part of the public highway. Therefore any any physical alterations or installation of any apparatus would require consultation with the Highway Authority.	E-mailed acknowledgment on 02/08/12
Respondent 3		Respondent 3 has moored a 10ft rowing dinghy off the wooden mooring stage in front of the Boat House restaurant for many years, alongside four other 10/12ft craft. Respondent 3's dinghy is registered with the Environment Agency. Respondent 3 stated that the mooring of such small vessels adds to the character of the riverside and "breaks up" the monotonous rows of pleasure crafts and narrow-boats. Respondent 3's opinion is that a short run of bank along the Riverside should be set aside for the permanent mooring of small dinghies owned by local Ely residents. Respondent 3 asks that consideration is given to setting aside a 25ft run of bank at the very southern edge of area A in front of the Boathouse for the mooring of dinghies on a permanent basis. It was suggested that they are moored stern on to the bank and that the Council charges an annual mooring fee of say c.£125-£150 per year.	E-mailed acknowledgement on 02/08/12
Respondent 4	Y	Respondent 4 stated that it all looks common sense but requested that the parking in the areas were looked at. Outside the Cutter there are spaces for about 6 cars - with no time restrictions, so people park all day, probably commuters. Those should be 2 or 3 hours max. in line with the ECDC car parks and for disabled only. Either way it needs to be monitored. Do not bother to reply.	No reply. E-mail sent to Street Scene at Cambs County Highways on 01/10/12 regarding use of parking spaces.
Respondent 5	Y	Respondent 5 supports the Council's suggestion regarding incorporating areas A,B and C on the enclosed map. There is a caveat, however, as Respondent 5 considers that the bye laws do require updating and should cover: 1) 8pm-8am restriction on running engines/generators. 2) Fine for mooring over the free period, £25 per day seems to be the norm. 3) An extension of the local authority (alcohol consumption in a designated public place) regulations 2007 currently in place in Jubilee gardens, to cover this area, preventing ASB. 4) Comment to restrict the use of BBQs, particularly on the narrow towpath past the Cutter, toward Jubilee Gardens. This is both a fire hazard and hazard to people walking in this area; Respondent 6 has seen the towpath completely blocked by boaters cooking their suppoer before now, with passers by having to walk on the banking to get past. 5) Dog fouling. Points 1 & 3 are particularly important as noise is considerably amplified when near to water as it tends to be reflected upwards. Add to point 4. the continual use of the towpath by riding cyclists (against the signs warning them not to), and this increase the hazard	No reply. These points will be dealt with separately as part of the wider Riverside review
Respondent 6	Y	Respondent 6 stated that the plans look fine.	No reply.
City of Ely Council	Y	Your letter dated the 1st August regarding Ely Riverside Mooring Byelaw was considered at the Full Council of the City of Ely Council this evening. Members fully supported the inclusion of these three additional areas, 'The Cutter Corner', 'The Slipway' and land adjacent to the Fisherman's car park to be included in the Mooring Bylaw. However, they did request that the byelaw should ensure that it includes the power to move boats if they overstay the 48 hours. Currently, you are able to issue a fine for this, but it does not allow you take any further action. Members felt it was very important that this be included and the byelaw be enforced.	Acknowledgement sent on 21/08/12 - and further response clarifying our enforcement process sent on 01/10/12.
Respondent 7	No indication either way	Respondent 7 suggested that some thought should be given to the signage along the river. The signs at present are too few and too wordy - people do not read them fully so do not see the 48 hour restriction. [attached colour photos of other signs which are much clearer]	Phoned to thank for the colour images on 24/09/12. Response handed to Project Officer to consider when choosing signage.
Respondent 8	Y	Respondent 8 supports the inclusion of the new areas A, B and C within the current 48hr visitor moorings in Ely - but would suggest that during the winter period, there could be 14 day moorings at Lavender Green. Respondent 8 hopes that the restrictions are monitored by ECDC and overstay offenders are moved on more speedily. Respondent 8 also raised concerns that the current Bylaws do not currently protect local residents and would like to see the inclusion of the following: 1. To minimise Noise Nuisance: a. Restriction on generators running on boats early morning and late night - 8 pm to 8 am would be fair (currently, there is no redress of this outside of office hours) b. Extension of the alcohol consumption in a designated public place - to avoid late night, drunken boat parties and abusive behaviour. c. No repairs to be allowed 2. To minimise Odour Nuisance: a. No BBQs. b. Use of smoke free fuel only 3. To ensure Health and Safety is paramount: a. Nothing to be placed on the public footpath/towpath between The Maltings and The Cutter - currently people put out tables and chairs, BBQs, dog baskets on the pathway - which reduces an already narrow public pathway. b. Boat must	Responded by e-mail on 24/09/12. Forwarded onto the Town Centre Ranger and the Protects Officer. The Town Centre Ranger responded that the changes would need to be made to the Mooring Byelaw to enable Officers to enforce them. The moorings are monitored daily, and where possible, letters are delivered in an attempt to move on the offending vessels. The problem being, they usually return after 48hrs away, and the process has to start all over again".

Cambs County Council	Y	<p>I have enclosed a copy of the map from ECDC where I have outlined the existing recorded Public Rights of Way in the area. As you can see Public Footpath No 36, Ely runs between areas A and B. Assuming that the full width and length of this footpath remains, it does not appear that it will be affected by the proposed application and therefore we have no objections. However, I am aware if an unrecorded path which is widely used by the public and runs across area C. Although it is not legally recorded you should be aware of its public use. Should planning permission be granted, I would request that the points are included as informatives: 1) Public Footpath No 36, Ely must remain open and unobstructed at all times (it is an offence under S 137 of the Highways Act 1980 to obstruct a public footpath). 2) It is an offence under S 34 of the Road Traffic Act 1988 to drive on a public footpath without lawful authority. 3) No alteration to the footpath's surface is permitted without our consent (it is an offence to damage the surface of a public footpath under S1 of the Criminal Damage Act 1971). If any works are likely to affect the public footpath, these should be agreed.</p>	<p>E-mailed to confirm receipt and that we have noted the points raised. No further action is required at this point.</p>
Respondent 9	No	<p>Respondent 9 has moored their narrow boat outside their property for the last 13 years. Respondent 9 wrote in June 1999 to ECDC to discuss the possibility of mooring outside the house, and the District Solicitor at the time replied that the Council did not own these particular moorings, so the 48 hour Mooring Byelaw did not apply to us. Later, when the Byelaws were strengthened and enforced, a letter was written for clarification, and the District Solicitor confirmed that the situation remained unchanged. Respondent 9 notes that on the current copy of the Byelaws, paragraph 3 section (a) mentions "prior consent of the Council" and wonders if their arrangements will still hold in the future, and if not, if this could be negotiated. Respondent 9 stated that they had considered applying to Land Registry for mooring rights attached to the house, but the existing arrangements worked well, and they never had any objection to other boaters mooring alongside or using the space whilst the Respondent was away. Respondent 9 further commented that their vessel has been a feature of Annesdale Quay, and has appeared in several magazine articles and postcards, even on the cover of a local history book.</p>	<p>Response sent on 02/10/12 stating that the Council intends to enforce the byelaw fairly and consistently and that we note their intention to apply for mooring rights with the Land Registry. We also requested that they keep us informed of the outcome of the application to enable us to enforce the Byelaw appropriately.</p>
Respondent 10	No	<p>Respondent 10 stated that their property has enjoyed mooring rights allocated to their property since the 1960s when the Appleyard Estate was formerly dissolved and broken up. The late Edwin Appleyard Esq had registered mooring rights along the entire Annesdale Quayside. Respondent 10 stated that their family have enjoyed mooring rights since 1966. Respondent 10 stated that they are currently engaging with the Land Registry on this matter; and in the process of lodging with them an entitlement and modification to our Title to reflect this mooring right. Respondent 10 objected to the current 48-hour mooring restrictions that ECDC plan to enforce along the Annesdale Quayside.</p>	<p>Response sent by e-mail on 09/10/12.</p>
Great Ouse Boating Association Ltd	Y	<p>We broadly agree with the byelaws as they stand and also agree that including areas A,B and C will enable a consistent and fairer system to operate. Our concern is the enforcement of the byelaws. Does the Council have enough resources with the power to enforce them? One other point we would like considered is who has priority on the mooring, fishermen or moorers. This problem causes considerable friction between the two groups. On GOBA and Environmental Agency 48 hour moorings boaters have priority and we would like to see this in the byelaws.</p>	<p>Acknowledgement e-mail sent on 01/10/12. Also attached fishing/mooring priority guidance note.</p>



Impact and Needs/Requirements Assessment (INRA)

Initial Screening

Initial screening needs to take place for all new policies, strategies, procedures and functions. This stage must be completed at the earliest opportunity to determine whether it is necessary to undertake an INRA for this activity.

Name of Policy, Strategy or Function:	Report going to Community & Env. Sub-Committee Applying for adverse possession of 2 areas of unknown ownership along Ely Riverside and subsequent amendment to the Mooring By-law.
Lead Officer (responsible for assessment):	Julie Cornwell
Department:	Community & Leisure
Others Involved in the Assessment (i.e. peer review, external challenge):	Sarah Burns (as peer reviewer)
Date Initial Screening Completed:	My 24 th 2011.

(a) What is the activity trying to achieve? i.e. what are its aims and objectives? Is it affected by external drivers for change?

<p>The management of the Ely Riverside has come under scrutiny due to an approach by the City of Ely Council who is interested in seeking delegated services associated with this area. The land in 'unknown ownership' along the riverside causes difficulties in adopting a consistent approach to enforcing the mooring bylaw and maintaining the riverside to a high standard. This would make it problematical to delegate services to another council.</p> <p>Enforcing the mooring bye-law is becoming increasingly difficult as boat owners challenge why the Council is enforcing areas not within their ownership or management. This could be remedied if the Council were to obtain adverse possession from the Land Registry and were also able to amend the mooring bylaw.</p> <p>The wooded decking along the 'Cutter Corner' requires some maintenance as several planks are rotting or missing. In the past some repairs have been carried out by the District Council, despite the fact that we do not own this land. Similarly, the slipway is maintained by the Council as necessary to ensure that the trees and shrubs are pruned. If an application for adverse possession were successful, the Council would have clear ownership rights from the 'Cutter Corner' to Lavender Green (with the exception of a small area in private ownership).</p> <p>The Council will not be in a position to hand over a comprehensive package of services to the City of Ely Council unless the areas of unknown ownership are addressed. If the applications for adverse possession were successful, the management of the riverside would be more comprehensive and the bylaw easier to enforce fairly, regardless of whether the service is delegated to another Council.</p>

(b) Who are its main beneficiaries? i.e. who will be affected by the policy and the way the service is delivered?

Boat owners using the riverside will be treated more fairly. Any resident or tourist visiting the riverside would benefit from improved management of the area. The proposed changes would no impact on the grounds listed below.

(c) Does this activity have the potential to cause an impact (positive, negative or neutral) on different groups in the community, on the grounds of: (please tick all that apply):

Ethnicity	<input type="checkbox"/>	Age	<input type="checkbox"/>
Gender	<input type="checkbox"/>	Religion and Belief	<input type="checkbox"/>
Disability	<input type="checkbox"/>	Sexuality	<input type="checkbox"/>

Please explain any impact identified:

The impact is positive on all groups in the community as the bye-law would be applied consistently and issues such as maintenance and environmental improvements will potentially receive greater attention.

(d) If you have identified an adverse impact, does it disadvantage or discriminate unfairly against any of the groups in a way that is unlawful? This is more likely to occur in services that are customer facing, particularly where judgements need to be made by Council staff about access or entitlement to services or opportunities. **YES/NO**

(e) What Information or background data is currently available to assist with making the judgements above?

On-going issues reported by the team enforcing the bye-law have suggested that it needs reviewing and key aspects made clearer. There have also been several attempts in the past to seek a resolution to the issues around both the slipway and the Cutter Corner. Documentation is held with the Community and Leisure Team and Legal Services.

If the answer to question (d) is **YES**, then it is necessary to proceed with a full equality impact assessment. If the answer is **NO**, then this judgement and your response to the above questions will need to be countersigned by your Head of Service/Executive Director, and then referred to the Council's Equal Opportunities Working Group (EOWG) for scrutiny and verification. Please forward completed and signed forms to Nicole Pema, Principal HR Officer.

Signatures:

Completing Officer: _____ **Date:** _____

Executive Director/ _____

Head of Service:

Date:
