

**ADVISORY DOCUMENT**

# **RESIDENTIAL USE of INLAND WATERWAYS**



**Association of  
Inland  
Navigation  
Authorities**

**September 2010**

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All AINA members

The Department for Communities and Local Government

The Department for the Environment, Food and Rural Affairs

Inland Waterways Advisory Council

British Marine Federation

## About AINA

The Association of Inland Navigation Authorities (AINA) is the industry body in Great Britain for those authorities with statutory or other legal responsibility for the management and operation of navigable inland waterways for navigation and wider use for public benefit.

AINA's key strategic objectives are to develop, share and promote good practice for waterway management and operation as well as represent the collective views of navigation authorities to Government, regulators and other policy makers and opinion formers.

There are 21 AINA members drawn from the public, private and third sectors. They include British Waterways, the Environment Agency and the Broads Authority, in addition to national park authorities, local government authorities, private canal companies, internal drainage boards and a variety of public and charitable trusts.

Most AINA members are defined as navigation authorities by their own Acts of Parliament (some of them over 250 years old) which regulate the operation of their waterways. Others, such as local government authorities, have inherited the status of navigation authority through various statutes.

Between them, AINA members have responsibility for over 5,500 km of navigable, non-tidal inland waterways which include canals, river navigations and lakes.

### Disclaimer

The content of this document is only intended to provide a general summary of the issues commonly encountered with respect to residential mooring, in the context of relevant current law and policy. It should not be relied upon by individual boaters, moorings operators, navigation authorities or other third parties as definitive legal or other advice, as the circumstances of each particular site will affect its legality and susceptibility to regulatory enforcement. Therefore, independent discussion with the relevant navigation authority and local authority officers or other regulators at an early stage is always recommended.

## Executive summary

The navigable inland waterways of Great Britain are managed by 21 different navigation authorities who are members of The Association of Inland Navigation Authorities (AINA), the three principal ones being British Waterways, the Environment Agency and the Broads Authority. Each navigation authority is responsible for its waterways which differ greatly in environment, heritage, character, principal functions and patterns of use. They also have different statutory responsibilities. Consequently their approach to residential use of waterways differs.

The focus of this document is the use of a vessel for a person's main residence, and the phrase "residential use" should be understood in that sense. Although it is a minor use of inland waterways, residential use is recognised as making a valuable contribution to the multi-functional use and long-term sustainability of the waterway network, particularly on those navigations where it is part of the cultural heritage.

Residential use of waterways is a form of housing and residential boaters are recognised by Government as a specific household group. As such, local authorities should consider this household group within their Strategic Housing Market Assessments (SHMAs) and translate their needs and relevant issues into local planning and housing policies where appropriate.

AINA has produced this advisory document as a tool to help inform local authorities, navigation authorities, mooring providers and residential boaters on relevant matters relating to residential use of waterways.

There is currently a strong demand for residential use of waterways and scarce supply of suitable moorings. This presents challenges and has implications for policy and decision-making as well as waterway management.

Some minority household groups are the subject of specific planning guidance such as Circulars, however, there is no such policy guidance for residential boating. In the absence of specific planning guidance, the need for planning permission for residential use of waterways is assessed within the context of the general principles of planning control. As result there is always the of risk inconsistent planning decisions,

## 1 INTRODUCTION

### 1.1 Purpose and remit of this document

This document has been produced by the Association of Inland Navigation Authorities (AINA) and part funded by Defra (Department for Environment, Food and Rural Affairs) to provide much needed advice regarding residential boating on inland waterways. For the purposes of this document, inland waterways are defined as navigable rivers<sup>1</sup>, operational canals, the Norfolk and Suffolk Broads as well as navigable lakes, inland docks, marinas and reservoirs.

There is currently a strong demand for residential use of waterways and scarce supply of suitable moorings. This presents challenges and has implications for policy and decision-making as well as waterway management and operation. In the absence of specific planning guidance, the need for planning permission for residential use of waterways is assessed within the context of general principles of planning control. As result there is always the of risk inconsistent planning decisions, This advisory document has been produced as a tool to help inform local planning authorities, navigation authorities, mooring providers and residential boaters about relevant matters relating to residential use on water.

The document contains background information on the different types of residential use of waterways, the existing regulatory framework, and Government policy as well as information from the largest navigation authorities; namely British Waterways, the Environment Agency and the Broads Authority. It is intended to guide local planning authorities in formulating policy and in their decision-making. The document also seeks to inform residential boaters and providers of moorings on the existing regulatory framework, consents required and the key policy issues. Although the information and advice within this document applies to the majority of inland waterways in Great Britain, it applies directly to England and Wales only.

### 1.2 Context

Residential use of waterways is a form of housing and residential boaters are a group identified by Government as 'hard to reach household'.<sup>2</sup>

There is currently a strong demand for residential use of waterways and scarce supply of suitable moorings. This demand for residential use presents a challenge for navigation authorities, local authorities and residential boaters. The situation has implications for policy and decision-making as well as waterway management.

### 1.3 Management of the inland waterway network: the navigation authorities

There are over 8,000 kilometres of navigable or formerly navigable inland waterways in Great Britain. The AINA membership comprises 21 different navigation authorities who are responsible for the 5,658km of currently navigable inland waterways in Great Britain. However, the great majority of these waterways are the responsibility of the three largest navigation authorities – British Waterways, the Environment Agency, and the Broads Authority.

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<sup>1</sup> Thames, Severn, Trent, Ouse, Medway, Avon, etc

<sup>2</sup> "Strategic Housing Market Assessments – Practice Guidance", published by the Department for Communities and Local Government (DCLG) in March 2007 to support PPS 3 (Housing), identified those in non-brick and mortar accommodation, such as barges, as an example of 'hard to reach' households (see Chapter 6 on "Housing Requirements of Specific Household Groups").

### **British Waterways**

British Waterways (BW) is a public corporation, responsible for 3,540 km of navigable inland waterways (63% of the total) and is sponsored by Defra in England & Wales and by the Scottish Government in Scotland. British Waterways is primarily funded through revenue from its own activities (trading income from boating and associated commercial activities, together with revenue from a portfolio of endowment property) but also receives grant in aid from the central governments.

British Waterways' operational estate includes canals, navigable rivers, docks, mooring basins and reservoirs. British Waterways has statutory duties to maintain the safety and structural integrity of its (largely man-made) waterway network, water supply, discharges and drainage, waterway management and maintenance operations, including maintaining water levels for navigation purposes.

British Waterways also has statutory duties under the British Waterways Act 1995 to protect and safeguard the natural environment<sup>3</sup>, landscape character and built heritage<sup>4</sup> of waterways as well as to encourage public access to and recreation use of the inland waterways.

British Waterways directly manages 4600 mooring berths at 400 sites across its network, of which, there are some 40 residential mooring sites. Further moorings are provided by other operators.

### **Environment Agency**

The Environment Agency is the environmental regulator for England and Wales and is accountable to Defra and the Welsh Assembly Government. Within its various duties it is also the navigation authority for about 1,162 km of rivers which have a public right of navigation. This equates to 20% of all navigable waterways in Great Britain. It is also the navigation authority for broad rivers in East Anglia and the non-tidal River Thames which, along its 140 miles, accommodates some 24,000 registered vessels. These alone account for about one third of all registered vessel on the Britain's inland waterways. The Agency provides a total of 398 rentable berths at all its moorings sites across its waterways in addition to many short-term moorings (many of the latter being free for specified periods). The Agency is also the Harbour Authority for Rye and Lydney Harbours and the Dee Conservancy.

### **Broads Authority**

The Broads Authority is a special purpose statutory authority and a member of the national parks family. It is the navigation authority for around 200 km of navigable river, canal and broad (lake) waterways in Norfolk and Suffolk around the main rivers of the Bure, Yare and Waveney, which together represent approximately 3% of all navigable waterways in Great Britain. There are about 12,500 vessels registered on the Broads, of which around 1,500 are hire craft. The Broads Authority is also the local planning authority for its 301 km<sup>2</sup> area, a mainly open undeveloped landscape of water, fens, marshes and woodland but also including parts of the waterside fringes of many villages and of Norwich, Great Yarmouth and Lowestoft. Most of the Broads is privately owned, including large tracts belonging to wildlife trusts, the RSPB and National Trust. The Broads Authority itself owns only 155 hectares. The Broads Authority's income comes from two main sources – and annual grant from Defra, and tolls from boats using the Broads. The income from boat tolls is spent wholly on supporting Broads' navigation.

<sup>3</sup> BW's estate includes 800 locally designated nature conservation sites and 100 SSSIs.

<sup>4</sup> BW's estate is the third largest historic estate in the country after the Church of England and The National Trust, with over 500 miles of waterways within conservation areas.

### Other AINA members

The remaining 14% of Britain's navigable inland waterways are managed by 18 other navigation authorities who include national park authorities, local government authorities, internal drainage boards, private canal companies and a variety of public and charitable trusts. However, all of them manage their waterways using a wide range of statutory powers which regulate their operations.

Each of the above navigation authorities has different statutory responsibilities for the management and safe operation of their waterways. However, most navigation authorities are 'statutory undertakers'<sup>5</sup> that benefit from 'permitted development rights' under the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)<sup>6</sup> to carry out certain works on their 'operational land'<sup>7</sup>. The GPDO grants planning permission for the various classes of development set out in Schedule 2 to the Order, subject to any relevant exception, limitation or condition.

Permitted Development Rights pertaining to the respective navigation authorities are shown below in Table 1.

**Table 1. Permitted Development Rights (PDRs) pertaining to the largest navigation authorities**

Permitted development rights of navigation authorities	Town and Country Planning (General Permitted Development) Order 1995
British Waterways	Schedule 2 <b>Part 17</b> (Development by Statutory Undertakers), Classes B, C and D
Environment Agency	Schedule 2 <b>Part 15</b> (Development by the Environment Agency), Class A and <b>Part 17</b> (Development by Statutory Undertakers), Classes B, C and D
Broads Authority	Schedule 2 <b>Part 12</b> (Development by local authorities), <b>Part 17</b> (Development by Statutory Undertakers), Classes B and D, Classes B, C and D

In addition to the above, navigation authorities and others are, where appropriate, able to benefit from general permitted development rights such as those in Part 2 (Minor operations), Part 3 (Changes of Use) and Part 4 (Temporary Buildings and Uses). Part 4 includes the '28 day rule' under which land may be used for any purpose for not more than 28 days in any calendar year, subject to certain limitations.

Navigation authorities maintain the channel, locks and structures that enable boats to navigate. Most navigation authorities have powers to require boats to be licensed, or in the case of rivers with public rights of navigation, registered to use their water. Navigation authorities have a varied range of powers to control all those in boats on their waters, particularly in relation to safety.

<sup>5</sup> 'Statutory undertaker' is a term defined in Article 1 of the Town and Country Planning (General Permitted Development) Order 1995 and section 262 of the Town and Country Planning Act 1990.

<sup>6</sup> The Town and Country Planning (General Permitted Development) Order 1995 is a statutory instrument which, by Article 3 and Schedule 2, grants planning permission for certain classes of development. Schedule 2 of the GPDO is divided into 33 parts which are further subdivided into classes. Some of these parts are of general application while others apply only to specified bodies or statutory undertakers, such as waterway undertakings and electricity undertakings. A planning permission granted under the GPDO is commonly referred to as a Permitted Development Right, or 'PDR'.

<sup>7</sup> 'Operational land' is defined in section 263 of the Town and Country Planning Act 1990 as land owned by the statutory undertaker for the purpose of carrying out their undertaking currently or in the future, rather than land owned by third parties or other land owned by statutory undertakers.

#### 1.4 The 'residential use' of vessels or floating structures

There are different types of 'residential use' of floating vessel or structures found on the different waterways and water bodies for which the respective navigation authorities are responsible.

This document focuses on the use of a vessel or floating structure on a waterway as a person's sole or main residence and the phrase 'residential use' should be understood in that sense. Examples of some of the different forms of such use are described in the table below.

Examples of different types of residential use
Where someone lives aboard their vessel (which is capable of navigation), at a designated mooring base (e.g. narrow boats and cruisers). They may occasionally / periodically go cruising and return to the base.
Where someone lives aboard their vessel (which is not capable of navigation), at a designated mooring base (e.g. converted vessel or purpose-built floating structure).
Where someone lives aboard their vessel, which continuously cruises the network, with no designated mooring base (e.g. narrow boats and cruisers).
Where someone lives on their vessel at a designated location in winter but are continuous cruisers in summer (i.e. seasonal cruisers).

The 'residential use' of a vessel or floating structure (i.e. its use as a person's sole or main residence) should be distinguished from the 'leisure/recreational use' of a floating vessel or structure, which may include some element of overnight accommodation (both whilst out cruising and at its mooring base)<sup>8</sup>.

#### 1.5 Different types of vessels and structures in residential use

Examples of different types of vessels or structures in 'residential use' include:

**Conventional vessels** - These are boats that are designed for navigation on the waterway where they are based. Normally they have some form of mechanical propulsion. The majority are cabin cruisers, narrow boats or wide-beam vessel e.g. barges.

**Vessels not capable of navigation** - These include vessels that have been modified (e.g. engines removed and/or interior altered) and vessels that are simply too large to navigate the waterway where they are currently based. Examples are converted Peniche type barges from European waterways, or old hulls with added large superstructures.

**Floating structures not capable of navigation** - These are purpose built 'floating cabin' type structures with no (historic or present-day) connection at all with inland navigation. They are simply accommodation constructed to float on water.

The term '**houseboat**' is usually taken to refer to a static vessel or purpose built floating structure with no form of mechanical propulsion used or designed for use for residential purposes. However this term is also sometimes used to refer to any of the above types of vessel and structures in residential use.

<sup>8</sup> Thus this document is not concerned with overnight occupancy of a vessel whose primary use is for leisure or commercial navigation. For planning purposes, such occupancy of a vessel, even when moored at its 'home' mooring is generally considered to be an incidental or ancillary use of the waterway - see the planning appeal decision in Ladies Bridge, Wilcot, Wiltshire (Appeal ref APP/E3905/C/06/2019638).

## 1.6 Different types of moorings

Moorings may be located on different waterways and water bodies and are broadly categorised as being either on-line (such as along the main navigation, off-side or occasionally towpath side, along the end of gardens or fields), or off-line (such as in lay-bys or basins, marinas, docks, boatyards etc.) At some sites (be they on-line or off-line), vessels moor directly alongside the waterway wall or edge, while pontoons, piers or jetties may be provided at other sites.

Moorings are provided by a number of different operators including navigation authorities, riparian landowners or other third parties.

Moorings fall into a number of broad categories as follows:

**Long-term / home mooring** / mooring base— this is a mooring which comprises the usual 'parking place' for a vessel, from which it may or may not go cruising. 'Home' in this context refers to the base for the vessel and does not imply any 'residential use' of the vessel. This type of mooring will often be allocated to and/or occupied by a single identifiable vessel for a long period (e.g. one year or longer) and may or may not have land based facilities/supplies such as electricity or water.

**Residential mooring** – this is a long-term / mooring base for a vessel or structure with planning permission and navigation authority consent for use as a person's sole or main residence. The vessel may leave the mooring from time to time to go cruising, undergo repair etc. for any period of time.

**Visitor / short-stay mooring** – this type of mooring is specifically designated for boats to stop off or stay at for short periods whilst out cruising, usually for a maximum specified period. This type of mooring is usually occupied by different visiting vessels in succession (not necessarily continuously).

**Casual mooring** – this type of mooring occurs where boats tie up casually anywhere along the towpath or riverbank (except for prohibited areas). Usually there is a general rule (e.g. boat licence condition or by-law) specifying the maximum period for casually mooring in one place (e.g. up to 14 days on waterways owned and managed by British Waterways).



Residential boat on the River Cam



Engineers' Wharf residential moorings, Grand Union Canal, Northolt, London



Ice Wharf residential moorings, Regent's Canal, Kings Cross, London



Residential boat moored on the River Nene, Environment Agency Anglian Region.



Residential boat on the River Cam



Local Agenda 21 residential moorings, Wolvercote, Oxford Canal, Oxford

## 2 THE ROLE OF RESIDENTIAL USE OF WATERWAYS IN THE HOUSING AND INLAND WATERWAYS SECTORS

### 2.1 The multi-functional nature of waterways

The Government's policy document, *Waterways for Tomorrow*<sup>9</sup>, the first national policy document on inland waterways in the last thirty years, recognises the multi-functional nature of waterways. This policy document applies to all navigation authorities in England and Wales.

Although navigation is the primary function of an inland waterway, *Waterways for Tomorrow* wishes to increase the economic, environmental and social benefits offered by the inland waterway network by:

- encouraging the use of the waterways for tourism, leisure, recreation and sporting activities;
- supporting the protection, conservation and enhancement of the waterways' heritage and their built and natural environment, and the use of the waterways as a water and educational resource;
- encouraging the transfer of freight from roads to waterborne transport where practical, economic and environmentally desirable<sup>10</sup>;
- supporting the provision of passenger boat services on the inland waterways, wherever practicable and economic;
- promoting the waterways as a catalyst for urban and rural regeneration;
- encouraging their improvement, development and restoration;
- supporting the development of the inland waterways through the planning system.

Although the residential use of floating vessels or structures is a minor use of inland waterways, it is recognised as making a valuable if small contribution to the multi-functional use and long term sustainability of the waterway network, particularly on those navigations where residential use is part of the cultural heritage.

### 2.2 Numbers of licensed or registered vessels on the inland waterways

There are 88,267 boats which are licensed to navigate the inland waterways operated by the 21 AINA members<sup>11</sup>. However, only a very small proportion of these boats are used by the occupants as their main place of residence.

<sup>9</sup> *Waterways for Tomorrow*, Department of the Environment, Transport and the Regions. June 2000

<sup>10</sup> It should be noted that most freight traffic is found on the tidal inland waterways with freight carrying on the non-tidal system being confined to a few waterways, mainly river navigations. In waterborne freight transport terms, non-commercial waterways have limited potential (AINA "A Strategy for Freight on Britain's Inland Waterways", June 2001) and in certain circumstance freight carriage may conflict with the waterways' roles for leisure, sport and recreation use and as ecosystems.

<sup>11</sup> Numbers of boats on the inland waterways – Report of the 2008 AINA Survey, AINA 2009.

Navigation Authority in AINA Membership	Total number of vessels licensed or registered in 2007
Avon Navigation Trust	1,617
Basingstoke Canal Authority	148
Bridgewater Canal Company	750
Bristol City Council	815
British Waterways	32,604
Broads Authority	12,615
Cardiff Harbour Authority	1,109
Cheshire West & Chester Council	250
Chesterfield Canal Partnership	6
City of York Council	0
Conservators of the River Cam	1,519
Devon County Council	54
Environment Agency	23,426
Essex Waterways Limited	500
Exeter City Council	332
Lake District National Park Authority	5,264
Loch Lomond National Park Authority	5,704
Middle Level Commissioners	341
Neath Canal Navigation Limited	1
Port of London Authority	Not available
The National Trust (Wey Navigations)	1,212
<b>TOTAL</b>	<b>88,267</b>

The 2008 boaters' survey conducted by British Waterways included the question "Is your boat your main residence?" 18% answered yes as main or Monday-Friday residence, and extrapolating this to the (approximately) 30,000 privately licensed boats, British Waterways estimates that approximately 5,400 boats on its waterways are used for residential purposes on its waterways.

The Environment Agency does not routinely collect data on the number of its registered vessels that are used by the occupants as their main place of residence, other than static houseboats. There are 109 static 'houseboats' on Agency waterways. It is considered likely that there are around a further 200 boats or other vessels being used for residential purposes across Agency waterways.

The Broads Authority estimates from observation that less than 50 boats are used by the occupants as their sole or main place of residence. There are also 36 static 'houseboats' within the Broads Authority's administrative area, 16 of which are used as commercial self-catering holiday accommodation.

The other AINA members have very limited recorded data concerning boats used for residential purposes.

### 2.3 People living afloat: a specific household group

People living on their boat as their sole or main place of residence are identified by the Government as an example of a household group. "Strategic Housing Market Assessments – Practice Guidance" by the Department for Communities and Local Government (DCLG) published in March 2007 to support PPS 3, refers to barges used for residential purposes as a different type of accommodation and minority and hard to reach household group, under chapter 6 on "Housing Requirements of Specific Household Groups".

Living afloat contributes towards increased choice in housing types and lifestyle and social inclusion. No comprehensive survey of this household group has been undertaken so it is not possible to establish the actual percentage of the total housing accommodation in England and Wales that this household group represents.

Housing is generally the responsibility of local authorities, whereas navigation authorities have no statutory duties relating to the provision of housing. People living afloat need to be taken into account by local authorities as part of their housing needs assessments, in consultation with navigation authorities. Where the supply of residential moorings is identified as an issue within a particular housing needs assessment, it is important that the associated land use implications are addressed within the statutory development plan as part of the plan preparation and/or review process.

Figure 1 below shows (although not to scale) the conceptual overlap between the housing and waterway sectors.

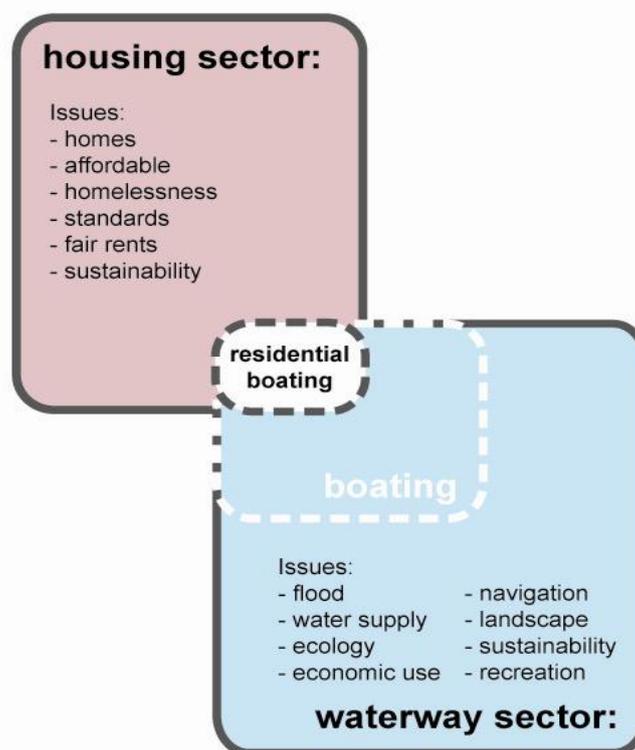


Diagram to show the conceptual overlap between Housing & Waterway Sectors, (not to scale).

## 2.4 Policies of the principal navigation authorities

Navigation authorities do not share the same functions, powers, duties or characteristics. Appendices 1, 2 and 3 aim to summarise the relevant policies and positions of the three largest navigation authorities – British Waterways, the Environment Agency and the Broads Authority respectively with respect to the following:

- The role of the navigation authority in mooring provision;
- The key policies of the respective navigation authority relating to moorings, waterway infrastructure, facilities and services for boats generally;
- Policies relating to residential use of boats on its waterways.

### 3 CONSENTS REQUIRED FOR RESIDENTIAL USE OF WATERWAYS

Mooring providers seeking to introduce online or offline mooring berths for residential use will need to consider whether they have any riparian owner rights and what consents they may be required to obtain. The main considerations are identified below.

- Planning permission;
- Riparian owner rights;
- Flood defence consent;
- Water use consents;
- Navigation authority consent; and
- Other requirements that may be specific to the location of the site.

#### 3.1 Planning permission

The planning system seeks to control the ‘development’ of land. Section 55 of the Town and Country Planning Act 1990 defines the concept of ‘development’ as including the carrying out of building, engineering, mining or other operations in, on over or under land or the making of any material change in the use of any buildings or other land. Section 57 provides that planning permission is required for the carrying out of any ‘development’ of land. Thus the planning system seeks to control both operational development and material changes in the use of land. In this context the courts have held that changing the use of a vessel floating in water could be a material change in the use of land over which the water flows<sup>12</sup>.

There is no existing national planning policy or procedural guidance which specifically relates to residential moorings. Therefore, the need for planning permission for such use is assessed within the context of general principles of planning law, as outlined below.

##### 3.1.1 What requires planning permission?

As stated above, the need for planning permission arises when “development” takes place as defined by the Town and Country Planning Act 1990 and by case law. Development requiring planning permission may comprise:

- **The carrying out of building operations** – This includes the construction of buildings and any other structures or erections and would, for example, include the placing of pontoons and the construction of facility buildings, etc. Such development is likely to require planning permission, except where the development benefits from permitted development rights.
- **The carrying out of engineering or other operations** – This includes engineering works, such as the construction of a marina or a small mooring basin.
- **The carrying out of a material change in the use of land** – to determine whether a change of use is ‘material’ it is necessary to consider both (a) the ‘planning unit’ to which the change applies<sup>13</sup> and (b) whether the nature or character of the use within that planning unit has changed. Indeed, the commencement of a physically separate and distinct use of land may actually create a new planning unit requiring planning permission.

<sup>12</sup> See *Thames Heliport plc v Tower Hamlets LBC* [1997] JPL 448

<sup>13</sup> The criteria for identifying the correct planning unit were set out in *Burdle v Secretary of State for the Environment* [1972] 1 WLR 1207. As to planning units in relation to moorings, see (1) the planning appeal decision in *Ladies Bridge, Wilcot, Wiltshire* (Appeal ref APP/E3905/C/06/2019638) where it was found that the planning unit for a man-made canal was the entire canal (in that case the Kennet and Avon canal) and (2) *Sussex Investments Ltd v Secretary of State for the Environment* [1998] PLCR 164 and the appeal decision in *Temple Pier* (Appeal ref APP/X5990/C/2038830) where the planning unit in relation to the River Thames was taken to be the moorings themselves.

Changes in ancillary or incidental uses of land within an overall planning unit will not normally require planning permission, save where they become the principal use of the planning unit. Thus it is important to consider what is the 'planning unit' to which the use relates and, indeed, whether the use is in fact only ancillary or incidental to the principal use of that planning unit<sup>14</sup>.

### 3.1.2 The need for planning permission for moorings used by vessels or floating structures in residential use

As discussed above, various different types of vessels or floating structures may be in residential use; that is, in use as a person's sole or main residence. The question that arises, however, is whether the mooring of such a vessel requires planning permission as a material change in the use of land. In this context it is worth stressing that planning permission is usually not required where the residential use of a mooring is for no more than 28 days in any calendar year since such temporary use is permitted development under Part 4 of the GPDO<sup>15</sup>.

A number of examples will illustrate the range of issues:

- The use of a long-term mooring on a canal for the storage and/or maintenance of a vessel between cruises will not usually require planning permission as such an activity is ordinarily ancillary or incidental to the use of the canal for navigation<sup>16</sup>. That will be so even if the vessel at the mooring is occasionally used for overnight stays.
- Where, however, a vessel or floating structure (a) does not cruise or is incapable of cruising and (b) is used for residential purposes as a person's sole or main residence, many local planning authorities will regard it as being materially different in nature or character from any previous non-residential use of the planning unit and/or, where appropriate, as having actually created a new planning unit. In such circumstances, it is likely that planning permission will be required for the residential use of the mooring.
- More difficult may be the situation where a vessel is used for residential purposes, as a person's sole or main residence, but does cruise regularly between stays amounting to more than 28 days at its mooring base. Whether there has been a material change of use in the location of the mooring will be a matter of fact and degree having regard to the planning unit and the nature or character of the previous and existing use.

What follows is intended as general guidance as to the 'likely' requirement for planning permission and, where appropriate, an indication of relevant factors to consider. It is to be regarded as general guidance only and, because of the complexity of planning, cannot be relied upon in all circumstances.

<sup>14</sup> See, for example, the planning appeal decision in *Ladies Bridge, Wilcot, Wiltshire* (Appeal ref APP/E3905/C/06/2019638) where it was found that the mooring of leisure boats on the Kennet and Avon Canal did not require planning permission because such use was ancillary to the ordinary use of the canal for navigation.

<sup>15</sup> Unless these permitted development rights have been removed by condition or Article 4 Direction.

<sup>16</sup> See the planning appeal decision in *Ladies Bridge, Wilcot, Wiltshire* (Appeal ref APP/E3905/C/06/2019638).

### Examples of residential use and the *likely* requirement for planning permission

Type of Residential Use Of the Waterway	Likely to need planning permission	Commentary
Residential use of vessel that is capable of navigation <sup>17</sup> but which is moored at a designated mooring base (e.g. narrow boats and cruisers.)	Yes	Planning permission is likely to be required for residential use of the mooring (i.e. the 'land', including that covered by water). Planning permission will not be required for the vessel itself, unless it has become so fixed to the land as to be part of it. Planning permission is unlikely to be required for infrastructure or facilities, such as pontoons, which can be installed by the navigation authorities (or their lessees) on operational land using their respective permitted development rights.
Residential use of vessels that continuously cruise the network with no designated mooring base (e.g. narrow boats and cruisers).	No	No planning permission is required subject to not living at the same mooring location for more than 28 days in any calendar year.
Residential use of vessels at a designated location in winter but continuous cruising in summer (i.e. seasonal cruisers).	On case by case basis	Planning permission may be required for any stay at a mooring longer than 28 days in any calendar year.
Residential use of vessel or other vessel at a designated mooring base, where it is no longer capable of navigation <sup>18</sup>	Yes	Planning permission is likely to be required for residential use of the mooring (i.e. the 'land', including that covered by water). Planning permission will not be required for the vessel or vessel itself, unless it has become so fixed to the land as to be part of it. Planning permission is unlikely to be required for infrastructure or facilities, such as pontoons, which can be installed by the navigation authorities using their respective permitted development rights.
Residential use of purpose-built floating structures <sup>19</sup> which cannot be used for navigation (e.g. floating mobile homes or chalets).	Yes	Planning permission is required for residential use of the mooring (i.e. the 'land' including that covered by water) and for the development of the purpose-built floating structure itself where that has become part of the land.
Holiday use of purpose built floating structures which cannot be used for navigation e.g. floating mobile homes or chalets	On a case by case basis	Planning permission may be required for the purpose built floating structure and potentially for the holiday use if more than 28 days in any calendar year.

<sup>17</sup> Vessels designed for navigation on the waterway where they are based (refer also to section 1.3 and 1.4).

<sup>18</sup> Vessels that have been modified and as a result have no means navigation on the waterway where they are based (refer also to section 1.3 and 1.4).

<sup>19</sup> Purpose built floating structures (refer also to section 1.3 and 1.4).

Purpose built residential mooring basins	Yes	Planning permission is required for residential use of the 'land' (including that covered by water) and the development of the residential mooring basin itself.
Dedicated moorings for residential use within marinas or boatyard	Yes	New marinas or extensions - the marina developer / operator will need to obtain planning permission for: <ol style="list-style-type: none"> <li>1. construction of the marina or boatyard itself;</li> <li>2. each mooring intended to be used for residential purposes.</li> </ol> Marina or boatyard operators of existing facilities who wish to change moorings currently used by vessel for leisure purposes to moorings to be used by vessel for residential purposes, this amounts to a material change of use requiring planning permission.

### 3.1.3 Need for planning permission for “Change the Use” of the mooring or the type of vessel / structure

From the above principles it can be seen that the following are likely to amount to a material change of use:

- a change in the use of a mooring from use of a vessel for leisure purposes to use of a vessel for residential purposes (that is the vessel being used by the occupants as their sole or main place of residence);
- the replacement of a vessel at a mooring with a purpose built structure, floating or otherwise (e.g. the replacement of a vessel with a pontoon mounted caravan or prefabricated building);
- a change from static houseboats or floating platforms used by the occupants for holiday purposes to being used by the occupants as their main place of residence. (Refer back to section 3.1.2 for further clarification).

However, where planning permission has been granted for the residential use of a mooring (i.e. use as a sole or main residence) and the vessel is replaced by one of similar length and breadth on the mooring, this will not normally constitute development and therefore no new planning permission will be required. On the other hand, if a small residential boat on a residential mooring was replaced by one twice as large, that could prompt the local planning authority to argue that either (i) the size of the planning unit had materially changed or (ii) that the nature and character of the use had changed through ‘intensification’.

Where marina or boatyard operators of existing moorings wish to change the use, as outlined above, this may constitute a material change of use of land requiring planning permission.

### 3.1.4 Control over the appearance of static boats and floating structures

There is the potential for some navigation authorities and/or the mooring operator to set terms and conditions relating to the type and appearance of vessel in the licence and/or mooring agreement.

A local planning authority does not normally have the power to control the design or appearance of moored vessel where no planning permission is required for that mooring, as such vessels are chattels and not part of the land subject to development control. Consequently a vessel may be altered or replaced with an entirely different type without the requirement for planning permission (although the permission of the mooring operator and/or navigation authority may be required).

A local planning authority may be able to control the design or appearance of vessel, however, in circumstances where planning permission *is* required for the mooring. Thus where planning permission is required for the 'residential use' of a mooring the local planning authority may seek to control the design and appearance of the vessel by the imposition of planning conditions.

Local authorities do have powers to control the design and appearance of floating structures, such as houseboats, as planning permission is likely to be required for both the structure itself and the residential use of the mooring.

### 3.1.5 Failure to obtain planning permission: Planning Enforcement

Where there has been a breach of planning control, either by the carrying out of development without planning permission or the carrying out of development in breach of a planning condition, the local planning authority may consider it 'expedient' to commence enforcement proceedings. The relevant powers are set out in Part VII of the Town and Country Planning Act 1990.

A number of parties may become involved in resolving cases of unauthorised residential use of moorings:

- The local planning authority;
- The mooring operator (in some cases, this might be the navigation authority);
- The navigation authority (where there are navigational issues);
- The occupier of the houseboat or floating structure; and
- The local authority as housing and environmental health authority.

The mooring operator should make clear to the occupant, as part of the mooring agreement, the planning designation of the mooring and that they are responsible for complying with local authority planning requirements.

Where a local planning authority has evidence of unauthorised residential use, it may serve a planning enforcement notice upon the owner or occupier of the land and on any other person having an interest in the land, which may include the occupier of the vessel or structure, the mooring operator, the landowner and the navigation authority, requiring the unauthorised use to cease.

Where a local planning authority believes that moorings are being used for residential purposes in breach of planning requirements, it should contact the mooring operator, if necessary through the navigation authority, in order to seek to resolve the issue. The following are the main options:

- **Retrospective planning permission** – The landowner, mooring operator or the owner/occupier of the vessel or structure may decide to apply for a retrospective planning permission.
- **Certificate of Lawful Existing Use or Development** - The landowner, mooring operator or the owner/occupier of the vessel or structure may decide to apply for Certificate of Lawfulness of Existing Use or Development (CLEUD). If sufficient evidence can be provided that the berth has been used continuously for residential purposes for more than ten years, this should allow the local planning authority, or planning inspector on appeal, to issue a CLEUD. Where a CLEUD has been issued the certified use is 'lawful' and therefore immune from enforcement.
- **Enforcement action** – A local planning authority may serve an enforcement notice where it appears there has been a breach of planning control and it considers it 'expedient' to issue the notice, having regard to the development plan and any other material considerations. Thus the authority must (i) be satisfied that the residential use of the mooring amounts to a material change of use of the relevant planning unit and (ii) also consider whether it is necessary to enforce against any breach of planning control. If an enforcement notice is served it will have to specify what 'steps' are required to be taken, or 'activities' are required to cease, in order to remedy the breach. Successful enforcement action may not necessarily be the best solution because in certain circumstances it could result in the following options/consequences for the resident boaters:
  - to cease the residential use and find an alternative residence off the waterways (their vessel may potentially remain at the site and be used for leisure purposes, or may have to be removed);
  - to relocate to alternative moorings with the relevant permissions for residential use (although the availability of such sites is extremely scarce);
  - to relocate to alternative moorings without relevant permissions for residential use. Problems potentially arise for the navigation authority and another local planning authority where boaters simply move on and occupy another mooring creating unauthorised residential use elsewhere;
  - to become a 'continuous cruiser' with no designated mooring base; and/or
  - to cease the residential use and approach the local authority for housing.

### 3.1.6 Facilities and services associated with residential use of waterways

When determining planning applications for residential use of moorings, the local planning authority, in consultation with the navigation authority, should give consideration to boat-related services (e.g. water, sewage, refuse, electricity, parking) and whether they are required, depending upon the location and type of residential mooring site. Some navigation authorities and boating associations provide their own guidance on these issues.

## 3.2 Riparian owner rights

People who own land adjoining a natural watercourse may have certain rights and responsibilities. In legal terms they may be a '**riparian owner**'.

Riparian owner rights have been established in common law for many years. However there are some circumstances in which these rights may be affected by other law. There are activities for which a riparian owner needs permission from a third party – such as the local authority or the navigation authority. Individuals who rent the land need to check and agree with the owner who is to manage these rights and responsibilities.

Riparian rights include:

- A presumption of owning the land (river bed) up to the centre of a natural watercourse – unless it is known to be owned by someone else (as is usually the case for an artificial watercourse such as a canal).
- Water should flow onto the riparian land in its natural quantity and quality.
- The right to protect riparian property from flooding, and land from erosion. However, in most cases this will require Environment Agency Flood Defence consent to agree the plans before work is started, (see 3.9 below).
- There may be a right to fish in the watercourse. Sometimes fishing rights have been sold or leased, so it's important to check and establish whether they are the riparian owners'. However, fishing must be by a legal method and those who fish must have a valid Environment Agency rod licence, unless less than 12 years old.

These rights will be affected by the riparian owners' duty to other riverside landowners, to the rest of the community and to the environment. Before starting any work on or near a watercourse, the riparian owner should submit plans both to the navigation authority and their local authority. The Environment Agency will need to decide whether any Environment Agency consent or licence is required for the works. The local authority will decide whether planning permission is required.

### 3.3 Flood Defence Consent

The Water Resources Act 1991 and associated byelaws require that formal consent is obtained from the Environment Agency for all works in, over, under or adjacent to main rivers<sup>20</sup>. This is to ensure that such activities do not cause or make worse an existing flooding problem, interfere with the Environment Agency's work, and do not adversely affect the local environment, fisheries, wildlife, and flood defences. These consents are referred to as 'flood defence consents'; in the past they were sometimes called 'land drainage consents', after the old legislation that applied.

Potential plans should be discussed with the Environment Agency as early as possible. The Environment Agency will want to see full details of the proposed work at least two months before the intended construction start date. Talking to the Environment Agency early on helps avoid delays and wasted effort. Once preliminary details have been agreed, a full application will be required. The application must be returned with the appropriate fee. Contact details for local Environment Agency offices and details of the charges can be obtained by calling the Environment Agency.

The Environment Agency will not approve works that it considers would harm the environment or would increase flood risk – even if the works appear to be sound from an engineering or structural point of view. The Environment Agency discourages the culverting of watercourses, and promotes 'soft engineering' methods to control erosion. For example, the Environment Agency prefers the use of natural materials such as woven willow spiling or natural planting to limit erosion where practical, rather than steel sheet piles, unless conditions at the location require that piles are used. An appeal procedure is available where the Environment Agency refuses consent and the applicant considers that the consent has been withheld unreasonably. Such appeals are heard by an agreed independent arbitrator.

Work must not be carried out without Environment Agency consent. If it is then the consequences can be expensive. The Environment Agency can reclaim from the developer the cost of whatever action it decides is necessary to remove or alter the work. Or, the Environment Agency can require the developer to put things right. Carrying out works without prior consent or failing to rectify problems may be a criminal offence.

<sup>20</sup> On non-main river consents may be required from Internal Drainage Boards under Section 23 of the Land Drainage Act 1991

Flood defence consent only covers the impact of the structure on flood risk and the environment:

- The Environment Agency does not confirm that a proposed structure is of sound design;
- The Environment Agency does not check whether a plan complies with other legislation, such as health and safety;
- The Environment Agency consent does not allow works to be carried out on land or rivers that the applicant does not own. The landowner's permission must also be obtained.

### 3.3.1 Implications of PPS 25 "Development and Flood Risk"

The Government's Planning Policy Statement (PPS) 25 on Development and Flood Risk (December 2006) and the associated Practice Guide (June 2008, revised edition anticipated summer 2009), have implications for navigation authorities and mooring providers in terms of promoting and securing planning permission for marina developments and residential uses on water. PPS 25 highlights the differences in vulnerability to flooding of different land uses and now classifies land uses according to flood risk sensitivity. Certain types of land uses are only permitted within certain flood zone categories.

The water-compatible uses of land are permitted in all the different flood zone categories:

- Docks, marinas & wharves;
- Boat building & repair & compatible facilities requiring waterside location;
- navigation facilities;
- Water based recreation (excluding sleeping accommodation);
- Outdoor sports & recreation & essential facilities such as changing rooms;
- Essential ancillary sleeping or residential accommodation for staff required by uses in this class, subject to a specific warning & evacuation plan;
- Flood control infrastructure;
- Water and sewage transmission infrastructure & pumping stations;
- Life/coastguard stations
- Amenity open space, biodiversity, nature conservation;
- Sand & gravel workings;
- MOD defence installations.

All water compatible development needs to be designed and constructed to remain operational and safe for users in times of flood.

Houseboats and residential moorings are not mentioned specifically in PPS25 and the Practice Guide Companion. Following discussions with the Environment Agency, the DCLG have confirmed that they should be viewed as water compatible development in respect to Table D.2 in PPS25. This would allow residential moorings to be situated in any flood zone. However, the key consideration for any type of residential mooring would be for the developer to demonstrate through a flood risk assessment that both the occupants and the vessel were safe in the event of a flood.

### 3.4 Water use consent

The Environment Agency regulates the use of water removed or abstracted from the environment and where waste water/effluent is released or discharged into any watercourse.

#### (a) Removing water

The removal or abstraction of water from inland surface waters, such as rivers, streams, canals, or groundwater, is regulated by the Environment Agency through an abstraction licensing process.

The Environment Agency regulates abstraction to ensure that water resources are safeguarded and that the environment is not damaged. Unregulated abstraction could lead to water supply shortages, increased river pollution by reducing dilution, damage to wildlife habitats and ultimately to the loss of rivers for all of us to use and enjoy.

Abstraction licenses are required for all abstractions of more than 20 cubic metres a day. As most developments for residential use are unlikely to exceed this daily amount it is likely that no licence will be required. However, if in any doubt, developers should contact the Environment Agency to discuss their needs and to confirm whether or not these will require a licence.

#### (b) Discharging into water

The Environment Agency ensures compliance with a range of water quality standards that are set down in European Directives as well as UK derived standards.

Discharges of toilet waste from vessels to water are unsightly, polluting and for certain waterways can be an offence under regulations and bye-laws. For example under Thames general bye-laws, byelaw 66 makes it an offence to discharge effluent from a boat to open water. Toilet waste should be stored in an onboard tank for pump-out at a designated bank side facility.

Where legislation is absent, in relation to grey water, discharges from boats of grey water for example from sinks and showers directly into the water course is not regulated. Boaters should be encouraged to minimise the amount of chemicals, food waste and other matter in sink waste and to use environmentally-friendly phosphate-free detergents. In particularly environmentally sensitive areas where the concentration of numbers of residential boats is an issue then measures to manage grey water may be required.

BMF in collaboration with RYA and with the support of various Government agencies runs the Green Blue initiative. This promotes environmentally responsible use of the waterways and has issued guidance of its own on the discharge of grey water. Full details of the Green Blue and its guidance can be found at <http://www.thegreenblue.org.uk>

### 3.5 Navigation Authority consent

Consent for residential use of a mooring on a waterway is likely to be required from the relevant navigation authority. Further information on the necessary consent can be found in the appendices for the principal navigation authorities or by contacting them directly.

### 3.6 Other requirements specific to the location of the mooring site

Development at particular mooring sites may raise other considerations requiring separate consent regimes. These should normally be identified by the local authority or the navigation authority. Examples of some issues are given below:

- Listed Building, Conservation Area issues;
- Fisheries;

- Nature conservation;
- Navigational and waterway management issues;
- Health and safety
- Water supply, boat traffic impact

## 4 OTHER ISSUES SPECIFICALLY RELATED TO THE RESIDENTIAL USE OF WATERWAYS

### 4.1 Security of Tenure

Boats, including those used as a residence, are in law defined as chattels and not homes. Their occupants do not therefore have statutory security of tenure. Where they own the land or mooring, their right to moor may be more secure.

As residential boaters do not have statutory security of tenure, there is at present no requirement that, once their licence or mooring agreement expires, it must be renewed. The owner of a vessel used for residential purposes could be left without a mooring at short notice. When taking up a mooring, the vessel owner should check their mooring agreement carefully, particularly the terms relating to the period of the agreement, the notice period and on what basis, if any, the agreement will be renewed.

Purchasers of a vessel to be used for residential purposes should therefore be clear that in almost all cases they are only buying the title of the boat, not the mooring it occupies. This subject has been considered by DCLG<sup>21</sup>.

### 4.2 Council Tax

Council Tax may be applicable to occupiers of residential moorings, although advice on this issue is beyond the scope of this document and reference should be made to the relevant local authority.

### 4.3 The Boat Safety Scheme

The Environment Agency and British Waterways have developed the Boat Safety Scheme and currently require all boats on their waterways with fuel, electrical or gas systems to pass an MOT-type inspection every four years. The inspection includes safety within the boats themselves, e.g. control of risks such as fire, explosion or carbon monoxide poisoning in the majority of cases. The Broads Authority has adopted the Scheme for most vessels in its area of jurisdiction. Other navigation authorities are currently looking at how they too can adopt the scheme within the terms of their own statutes. The BSS is specifically designed to protect third parties against the risk of fire, pollution and explosion.

However, the Boat Safety Scheme does not apply to all waterways or vessels and does not address all of the health and safety issues that might arise at residential moorings.

Static houseboats that are connected to land mains services are in some respects outside the scope of the scheme and AINA has identified a need to clarify the application of land-based building, gas and electrical regulations.

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<sup>21</sup> i) Office of the Deputy Prime Minister, November 2005. Security of Tenure for Residential Boats: Consultation Paper.  
ii) Department for Communities and Local Government, May 2006. Summary of responses to the consultation paper on Security of Tenure for Residential Boats.

## 5 CONCLUSIONS

Living afloat takes many different forms. There is, and has been for some years, strong demand for residential moorings and limited supply of suitable moorings.

The different navigation authorities are responsible for waterways which differ greatly in environment, heritage, character, principal functions and patterns of use. They also have different statutory responsibilities. Consequently their approach to residential use differs.

When considering residential use of waterways, local authorities should consult the relevant navigation authority and take into account their statutory duties and policies.

Residential boaters are a specific household group recognised by Government. As such, local authorities should consider this household group within housing needs assessments and translate their needs and relevant issues into local planning and housing policies where appropriate.

In the absence of specific planning guidance, the need for planning permission for residential use on water is assessed within the context of the law and general principles of planning control. As such, there have been inconsistent planning decisions, resulting in contradictory case law and creating uncertainty for future proposals.

Some minority household groups are the subject of planning guidance such as Circulars, and a similar approach could help to ensure that the relevant issues specific to people living afloat are appropriately addressed by local authorities in both local housing and planning policy making as well as in development control.

## APPENDIX 1

### The role of British Waterways in moorings provision

#### (a) Legal framework

- (1) British Waterways' statutory powers and duties are defined in primary legislation developed in a series of Parliamentary Acts between 1962 and 1995. More recent policies are guided by the Framework Document for British Waterways published by DETR in 1999 (our then sponsoring government department) and *Waterways for Tomorrow*.<sup>22</sup>
- (2) The legislation requires British Waterways to develop the waterways for leisure and recreation. It does not include specific instruction about providing residential moorings or contributing to the nation's housing stock.
- (3) A British Waterways licence is required to keep and use a boat on its waterways. British Waterways may set reasonable terms and conditions for these licences.
- (4) With respect to British Waterways' powers to regulate moorings, British Waterways has the ability to refuse permission for boats to moor for longer than 14 days on canals. British Waterways' powers are more limited on its rivers than on its canals because it generally does not own the riverbed.
- (5) Competition law requires British Waterways to use fair and objective criteria to determine whether mooring in a particular area is acceptable. These criteria relate to navigational safety, water availability, environmental, heritage and potentially other operational considerations. British Waterways will also consider the suitability of a mooring in the context of its mooring policies.
- (6) Mooring along the line of the waterway has been established practice since the canals were built, and mooring for commercial and leisure boats was controlled by the original canal companies prior to nationalisation in 1948. In a 2006 appeal<sup>23</sup> by British Waterways against an enforcement notice issued by Kennet District Council in respect of leisure moorings along the Kennet & Avon Canal, the Inspector found in favour of British Waterways. He confirmed that the long term mooring of boats normally used in navigation (while not in use) is incidental and ancillary to the main use of the canal as a man-made navigation. Control of such mooring is a matter for the navigation authority (as control of parking is a matter for highway authorities) and not a matter of planning control. British Waterways acknowledges that the long-term mooring where a boat is the occupant's main place of residence normally requires planning consent.
- (7) The British Waterways Act, 1995 requires that all boats have a home mooring<sup>24</sup>. The exception is boats used for cruising continuously, not staying in the same place for more than 14 days. Because the Act did not define 'place', British Waterways for practical management purposes defines a continuous cruiser as one making a genuine and progressive journey around the waterway network. Repeated short journeys along the same stretch of waterway and back again do not constitute continuous cruising. British Waterways issues Mooring Guidance for Continuous Cruisers as part of its licence terms and conditions to ensure that boat licence holders are familiar with the requirements.
- (8) British Waterways General Canal Bye-Laws, which apply to nearly all of British Waterways' waterways, prohibit the use of any vessel as a dwelling or houseboat on any canal to which the Bye-Laws apply, without the permission of British Waterways.

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<sup>22</sup> Refer to section 2.1

<sup>23</sup> Planning appeal decision Ladies Bridge, Wilcot, Wiltshire (Appeal ref APP/E3905/C/06/2019638)

<sup>24</sup> the usual 'parking place' where the boat may lawfully be kept when not being used for cruising. 'Home' in this context refers to the base for the vessel and does not imply any 'residential use' of the vessel.

**(b) Summary of moorings provision on British Waterways (BW) network**

The great majority of moorings on the British Waterways' network fall within the following categories:

Mooring category	Description
Directly managed BW mooring	Long-term moorings, owned and managed directly by BW.
End of garden mooring	BW owns the water space but not the land access to the mooring - the boat is moored against the boat owner's property. BW mooring permit required.
Private mooring subject to BW customer mooring permits	BW owns the water space but not the land access to the mooring. Landowner has agreed for a number of boats to be moored alongside their land. BW mooring permit required.
Offside private mooring subject to BW agreement with landowner	BW owns the water space but not the land access to the mooring. BW does not collect fees from individual mooring customers but from the landowner via a mooring agreement.
BW owned, leased out site	BW owns the water space and land associated with the mooring but has leased the operation of the site to a third party. BWML marinas fall into this category.
Private mooring subject to network access or connection agreement (whether or not actually in place) unless on river navigation	Moorings where both land and water space is owned and operated by a third party. A BW Network Access or Connection Agreement is required to connect to BW's network, except on certain river navigations.
BW visitor moorings	Designated visitor mooring sites managed by BW. Mooring permit required when offered as a Winter Mooring.
Third party visitor moorings	These are visitor mooring sites managed by a third party.
BW service moorings (mooring only while filling with water or disposing refuse, elsan etc)	Short term moorings, managed by BW, which are only available for use while using adjacent service facilities e.g. pump out or water point.
Third party service mooring	Short term moorings, managed by third parties, which are only available for use while using adjacent service facilities e.g. pump out or water point.

**(c) Summary of British Waterways' Mooring Policies**

British Waterways has a range of policies relating to boating, facilities and moorings, and has developed policy on residential moorings (see next section).

British Waterways' policies and the details of our boat licence and mooring agreements can be found on our consumer and corporate websites. Moorings information is on [waterscape.com](http://www.waterscape.com) at <http://www.waterscape.com/things-to-do/boating/moorings> which also includes 'useful downloads' linked from that page. Licensing information is at <http://www.britishwaterways.co.uk/license-it>.

**The context and general principles of British Waterways' mooring strategies**

1. Our aim is to ensure that our waterways thrive as working navigations, vibrant with boat movement, thus preserving the very essence of their character. We must provide a network that supports different types of boating activity and respond sensibly to the demands and challenges of the different patterns of water use.
2. In recent years we have seen strong growth in boating including a significant increase in people living on their boats. If local concentrations of residential boats become very high, the character, feel and appeal of the waterway to others could be altered.

3. We must plan and manage the water-space to ensure an appropriate and healthy mix of uses and do our best to meet the aspirations of the broad range of waterway and towpath users, along with local communities.
4. The supply of long term moorings should offer a good range of customer choice. British Waterways recognises demand from boaters for differing types of mooring, from simple 'no frills' online sites to fully serviced offline marinas. We foster healthy competition within the moorings market.
5. British Waterways actively encourages increased investment in moorings to address the shortage and increasing demand for moorings for both leisure and residential use. Our policies include criteria specifying where new mooring provision is acceptable.
6. We expect all of our boaters to support the long-term sustainability of our waterways and help preserve their special character. We will promote the principles of sustainable boating and encourage boaters to minimise their impact on the waterways and thus reduce their demand on British Waterways' resources for the upkeep of the waterways.

### British Waterways' Online Mooring Policy 2007<sup>25</sup>

1. In this policy, British Waterways is committed to reducing the number of online<sup>26</sup> moorings in places where they detract from the use and enjoyment of the waterways and/or when demand for them falls as a result of new offline provision, according to the procedure specified. Any new online moorings must be able to satisfy the exception criteria specified in the policy.
2. British Waterways also encourages provision of off-line moorings, primarily through third party investment to provide a wide choice of moorings throughout the network to meet the boaters' needs.

At the time of publishing this document, British Waterways is reviewing its management of online short-term and casual moorings<sup>27</sup> on its network, along with the location of different moorings.

### Residential Mooring Policy

At the time of publishing this document, British Waterways is consulting publicly on its draft residential mooring policy, details of which can be found at <http://www.britishwaterways.co.uk/listening-to-you/consultations-and-reviews/current-consultations>. The draft residential mooring policy is below; the full consultation document includes the context for the policy and the strategy for its implementation.

1. BW welcomes residential boats on its waterways at suitably located and well-managed long-term mooring sites. Residential boating adds life and vibrancy to the waterway scene, can provide a human presence and sense of security for all users and generates an important contribution to waterway upkeep and local economies.
2. BW will assess proposals for new residential moorings in respect of the following four factors:
  - a. Online moorings: Our Online Mooring Policy (OLMP) generally restricts the establishment of new moorings along the line of the canal in order to prevent unacceptably high concentrations of moorings and encourage development of offline moorings. The policy lists exemption criteria, which online residential mooring proposals must be able to satisfy.
  - b. Alongside the towpath: new residential moorings will not normally be acceptable alongside the towpath, unless there is an exceptional case for consideration (for example where there is a suitable alternative pedestrian route or where there is a need to retain an existing leisure mooring site along the towpath which has established residential use and no alternative can be found).

<sup>25</sup> <http://www.britishwaterways.co.uk/onlinemooringpol>

<sup>26</sup> Online moorings are those situated along the main line of the waterway

<sup>27</sup> Refer to section 1.6 for definitions of moorings

- c. Local mooring strategies: these will be produced in areas of highest demand and boating concentration and take account of the densities and different types of local mooring provision, other use of the water-space and land uses, among other things. They will identify areas where there is scope for expansion (or need for reduction) in boat numbers and for different types of mooring provision. The strategy will set the context for judging whether a residential mooring is acceptable. Where a local mooring strategy is not in place, the proposal for a residential mooring will be reviewed against the general principles.
- d. All proposals for residential moorings will be subject to a range of assessments to highlight any water resource, environment, heritage, operational, safety and other issues. These appraisals may determine that a site is unsuitable, or may identify restrictions or mitigation to address sensitivities.

Any proposals for new residential moorings would also be subject to planning permission being obtained from the Local Planning Authority (LPA) and possibly consents from other agencies, depending on the location and type of proposal.

3. We encourage the creation of residential moorings by BW and others that are satisfactory in respect of the four factors above. In order to meet the diverse demand, there should be a broad range of supply, from simple low-impact sites to fully-serviced moorings.
4. We seek more appropriate recognition of residential moorings in national and local government policy and guidance, particularly within the planning and housing sectors, and encourage more informed consideration by local authorities. The differences between residential moorings and built development should be recognised and treated more appropriately.
5. The operation, maintenance and repair of our network must always take precedence over residential boaters and other users. However when we are undertaking works, and during our normal operations, we will consider and endeavour to respect the reasonable needs of residential boaters.
6. BW will require vessels at new residential moorings to possess the recognisable attributes of a boat and be capable of navigation – static floating structures will not be acceptable. The only exception is well-designed and constructed static floating structures (or similar) that may be suitable in large scale, urban, modern, offline settings and BW will consider their suitability on a case-by-case basis; we may request a phased salvage bond where it is reasonable to do so. All residential boats (and static floating structures where permitted) must have a suitable sewage-holding facility.
7. We acknowledge that unauthorised residential use at long-term leisure moorings is contrary to planning control and potentially a breach of BW's mooring agreement or lease. However, it is very difficult to establish conclusively. Planning control is primarily a matter for a Local Planning Authority. It is for that authority to establish that a mooring is being used as a primary residence, and whether planning enforcement is necessary. When approached by a Local Planning Authority in respect of a particular site or boat, British Waterways will :
  - a. assess the site to see if it satisfies our four factors for a suitable residential mooring;
  - b. if it is suitable, we may seek to regularise the residential use with the LPA;
  - c. if it is unsuitable (e.g. contrary to local mooring strategy, environmental impact, safety grounds) or it fails the regularisation of residential use, we will explore options for ceasing the residential use at the site with the LPA and the boaters concerned.
8. We will also conduct steps a, b and c above at any of our long-term leisure mooring sites where there are indications of unauthorised residency and concerns about a site's suitability for residential use, for example if it is in an environmentally sensitive location.
9. Boating customers should be fully aware of all relevant issues and regulations relating to living on their boat. They should understand that by living on their boat at a long-term leisure mooring, they risk enforcement action by the LPA and by BW. Issues relating to the boat, use of the mooring site and residency should be clearly defined in the mooring agreement between the site operator and customer.

### Regulation of residential use

The mooring permit between the mooring operator and the occupier of the berth or the mooring agreement (licence) between British Waterways and the mooring operator should include a term requiring the boater to comply with any applicable bye-laws, the conditions of any planning permission and other relevant laws. Where unauthorised residential use is proven, this would usually constitute a breach of contract; British Waterways or the mooring operator would usually have the right to terminate the agreement.

The issue of residency without the necessary planning permission is primarily a matter for the local planning authority.

Refer to point seven of the draft Residential Mooring Policy above for British Waterways' position on this issue.

## APPENDIX 2

### The role of the Environment Agency in moorings provision

Environment Agency mooring provisions differ across its waterways and reflect the historic predecessor bodies and empowering legal framework provided to them.

#### 1. Legal Framework

- (a) The Environment Act 1995 transferred the duties and powers of predecessor navigation authorities to the Environment Agency. The Act provides general provisions for the Environment Agency to promote use of land and water for recreational purposes to the extent that the organisation considers desirable. The Act requires that the Environment Agency takes account the effect of any proposed activity upon freedom of access to land and water and provides a duty upon the Environment Agency to take steps that are reasonably practicable to make its land and water available for recreational use. The Act also provides the ability for the Environment Agency to charge for the use of any recreational facilities it provides.
- (b) For the non-tidal Thames, the majority of the legal framework is laid down within the Thames Conservancy Act 1932 (TCA1932). This has been supplemented and amended by a number of further Acts and byelaws. The legislation for Thames moorings is the most extensive for the Environment Agency waterways. An overview of the requirements is given in (b) below.
- (c) For the Medway, the majority of the legal framework is set down in the Upper Medway Navigation and Conservancy Act 1911, (UMNCA), supplemented by byelaws and the Southern Water Authority Act (1982).
- (d) For the Anglian waterways, the legal framework is set down in the Anglian Water Authority Act 1977 and supplementary recreational waterways byelaws (1979; 1980; 1981).
- (e) With the current exception of craft on the Wye, all craft used and kept on other Environment Agency waterways are required to be registered. The terms and conditions for Environment Agency registrations tend to be defined by the legislation.
- (f) The legislation provides the public with statutory rights to navigate in vessels over the full width of the Environment Agency Waterways, including in bays, creeks and side channels. However, within this the Environment Agency maintains a navigable channel to published depths. The Environment Agency does not assure a navigable depth outside of this channel.
- (g) The legal framework for the non-tidal Thames provides for the regulation of moorings through the licensing of riverworks such as for moorings piles and landing stages (S60, TCA1932.). Similar provisions are made for the Medway, (UMNCA 1911 (S77 & S79)). In considering whether to permit a mooring installation the Environment Agency considers the potential impact of the structure upon the public right of navigation and flood risk management.
- (h) Although there are no similar provisions for the Anglian Waterways, the Environment Agency requires a flood defence consent, (see 2.5.4), to be obtained for any structure in or on the banks of a main river for flood prevention purposes, (Water Resources Act 1991 (S109)). This provision applies to all Environment Agency waterways and also all other main river navigations. This provides a degree of regulation of moorings on the Anglian Waterways.
- (i) The Environment Agency also has the ability to permit or otherwise the use of its waterside property for mooring. The Environment Agency considers its full range of national and European duties in deciding such use, remaining mindful of its duty to take reasonable steps to enable recreational use and to protect the public right of navigation on its own waterways.
- (j) The Environment Agency legislation differentiates houseboats and provides registration requirements for them, but does not distinguish residential use of other craft types.

## 2. Non-tidal Thames mooring regulation

- (a) Mooring regulation on parts of the non tidal Thames dates back to 1197, when the City of London purchased most of the river up to Staines from the Crown. The first statutory riverworks licenses were introduced in Thames Conservancy Act 1857.
- (b) To protect the public interest, successive Thames Conservancy Acts have declared it unlawful for any person to install private structures in the public river without a licence from the navigation authority. The navigation authority, (now Environment Agency), has the discretion as to whether or not to grant a licence and all of the following considerations and policies are nowadays taken into account when deciding on any application for, or renewal of, a licence.
- (c) Section 60 (TC Act 1932) empowers the Environment Agency to licence riverworks [including bankworks] in three categories:
  - Structures in-river immediately in front of the applicant's land;
  - Structures cantilevered, recessed or offshore;
  - Structures for public landing places.
- (d) All river works licences are issued on a personal, non-assignable basis, a fresh licence is needed by any new owner wishing to retain riverworks held on licence by their predecessor.
- (e) To consider each new river works proposal the Environment Agency requires the receipt of an application and design plan. The Environment Agency looks at these to consider:
  - Whether the design and encroachment are the minimum reasonably necessary to facilitate the intended use;
  - Whether any potential impact upon flood risk and ecology is acceptable and where possible appropriately mitigated or compensated through licence conditions where required;
  - Whether any environmental enhancement is considered necessary.
- (f) Given that any private landing stage or mooring pile in the public waterway is an essentially temporary licensable facility and ought not to be constructed as a permanent obstruction of public water space, the Environment Agency will resist designs for river works that cannot be easily removed, such as solid concrete structures.
- (g) Moorings at private domestic frontages are required to be parallel with the bankline, as close to the inshore as possible, allow neighbours clear navigable access to their frontages and are only to be used for mooring private pleasure craft that belong to the occupier of the property.
- (h) Boatyards providing services to passing river traffic are permitted to provide finger berth moorings, subject to acceptable impacts, mitigation and compensation for navigation, flood risk and ecological interests. Extensions to existing on line commercial moorings will generally be resisted by the Environment Agency unless suitable reciprocal gains for the waterway, such as public landing rights or additional services, are provided.
- (i) Where a boatyard ceases to provide services to river traffic, the Environment Agency will presume to discontinue the moorings river works licence so as to restore the public water space.

## 3. Medway Mooring regulation

- (a) Mooring on the Medway waterway is regulated under the Upper Medway Navigation and Conservancy Act 1911. This Act, (Section 77) makes it unlawful for anyone to erect, build or make any embankment or any erection building or work in or upon the bed or banks of the Upper Medway or to drive any piles therein without the permission of the Authority (Environment Agency),

- (b) Moorings can be constructed under an Environment Agency licence (Section 79) for which an appropriate payment may be required. The legislation and licensing process enable the Environment Agency to consider where any pier or landing place is located and its design such that it provides the greatest benefit to the public and least obstruction to navigation. The driving of piles and formation of dwarf wharves are similarly licensable under this legislation.

#### 4. Summary of moorings provision on Environment Agency (EA) waterways

Moorings on the EA network fall within the following categories:

Mooring category	Description
Directly managed Environment Agency mooring	Long term "permanent" moorings, owned and managed directly by the Environment Agency. Annually rentable with presumption of renewal.
End of garden mooring	The Environment Agency owns the water space but not the land access to the mooring - the boat is moored against the boat owner's property. Mooring is for the exclusive use of the owner/occupiers craft and cannot be used by other parties. Mooring is parallel to bankline. Environment Agency accommodation licence is required for any landing stage or other riverworks. All riverworks licences are personal and non-assignable in the event of change of riverbank ownership. New riverbank owner must apply for fresh personal licence.
Boatyard moorings subject to Environment Agency accommodation licence	The Environment Agency controls the water space but not the land access to the mooring. Boatyard licensed to maintain an agreed layout of moorings riverworks provision tied to the boatyard offering services to river traffic. Licence agreement runs from year to year until terminated by either party.
Private mooring subject to Environment Agency agreement with landowner	The Environment Agency owns the water space but not the land access to the mooring. The Environment Agency establishes an integrated time bound lease for use of the water space.
Environment Agency owned, leased out site	The Environment Agency owns the water space and land associated with the mooring but has leased the operation of the site to a 3 <sup>rd</sup> . Limited instances of this occurring due to operational restrictions upon Environment Agency land ownership.
Environment Agency short stay moorings	Designated mooring, generally at lock sites managed by the Environment Agency. Overnight Mooring permit required, obtainable from lock keeper. Some moorings have adjacent services provided such as power hook up.
3 <sup>rd</sup> party short stay moorings	Generally payable overnight moorings at third party sites, (open farmland, boatyards and offline marina's), made available through licensing conditions. Some with adjacent service provisions.
Environment Agency short stay free moorings	Designated, generally bankside moorings, managed by the Environment Agency but free for boaters to use for up to a specified period (generally 24 or 48 hrs).
Environment Agency Service moorings (mooring only while filling with water or disposing refuse, elsan etc)	Short term moorings, managed by the Environment Agency, which are only available for use while using adjacent service facilities e.g. pump out or water point
S4 3rd party service mooring	Short term moorings, managed by 3 <sup>rd</sup> parties, which are only available for use while using adjacent service facilities e.g. pump out or water point

## 5. Environment Agency Consideration of Residential Use

The Environment Act 1995, which sets the statutory functions and duties of the Environment Agency, includes a provision for recreational use of water but not housing. The Environment Agency is a statutory consultee to the Local Planning Authorities and provides advice, guidance and recommendations to them on planning applications. In considering any residential use of craft on its waterways, the Environment Agency's primary considerations are the effects upon flood risk, the impact on the environment, and the degree of obstruction to public navigation.

To enable its consideration of flood risk the Environment Agency will require that the developer provides a flood risk assessment. The Environment Agency may object to planning applications where this risk assessment does not demonstrate that the development and its occupants/users will be safe for the lifetime of the development, does not increase flood risk elsewhere and does not seek to reduce risk overall.

In considering any potential impact by a proposed development on the environment, the Environment Agency may seek appropriate mitigation and compensation for any unavoidable impacts. The Environment Agency may also seek to secure environmental enhancements through the planning process.

The degree of obstruction posed by any proposed in-stream development on an Environment Agency waterway is a key consideration. In responding to applications the Environment Agency may seek changes to the design and layout of moorings to reduce the degree of obstruction they cause to public navigation.

The Environment Agency will also advise the planning authority on whether the design of any residential use is in keeping with the amenity of its waterway and the intended location.

The Environment Agency advises the Local Planning Authority on residential use based upon the merits of each application. The Environment Agency reports breaches of planning requirements, when identified, to the Local Planning Authority for their investigation.

The Environment Agency normally does not permit residential use of boats on its own recreational moorings sites.

A small but growing number of residential craft are known to constantly cruise the Environment Agency's waterways. Whilst the Environment Agency does not encourage this use, it can only regulate it where another offence is committed that would reasonably warrant the revocation of the craft's registration. In practice these instances are few, with the majority of issues relating to those craft that overstay on the Environment Agency's free moorings.

The Environment Agency does not define the services that should be provided to residential craft. Although through the planning and river works licensing systems it will seek to ensure that appropriate refuse and sewage disposal provisions are in place. Service provisions to the Environment Agency's own non-residential moorings tend to be determined by the ease of supply. These provisions are greater on the non-tidal Thames, where water, refuse disposal, electricity, sewage pump outs may each be available.

## 6. Environment Agency Regulation of Residential Use

The Environment Agency is a Statutory Consultee for Planning Authorities on planning and development consents that impact upon the Environment. As such the Environment Agency may comment upon any planning application for the provision of residential moorings, and not just those on its own navigations.

In addition to this consultee role, the Environment Agency also regulates all developments adjacent to watercourses and use of water through a number of other consents, including those for flood defence and water use which are outlined in the main document.

## APPENDIX 3

### The role of the Broads Authority in moorings provision

#### (a) Legal Framework

The Broads Authority is a special statutory authority established by the Norfolk and Suffolk Broads Act 1988 with the specified purposes of:

- (a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
- (c) protecting the interests of navigation.

In discharging its functions the Authority must also have regard to:

- (a) the national importance of the Broads as an area of natural beauty and one which affords opportunities for open-air recreation;
- (b) the desirability of protecting the natural resources of the Broads from damage; and
- (c) the needs of agriculture and forestry and the economic and social interests of those who live or work in the Broads.

The Authority has a number of navigation powers under the 1988 Act, including to:

- provide moorings;
- control by licence any works or dredging within or adjoining the waterways;
- require the repair of landing places, embankments and private moorings which become a potential danger to users of the waterways;
- remove sunken, stranded and abandoned vessels;
- maintain, improve and dredge the broads waterways;
- operate a vessel registration service;
- levy tolls on users of the Broads waterways (the proceeds of which may be used only for navigation purposes);
- make byelaws for the good management of the waterways (e.g. for regulating the provision and use of moorings).

These navigation powers are expected to be strengthened and supplemented by the Broads Bill currently (2009) passing through parliament.

All boats on the Broads are required to pay a toll - the income is spent on essential works such as dredging, bank protection and renewing quay-headings. Annual tolls are available for vessels kept or used in the navigation area for more than 28 days in any tolls year. Short visit tolls are available for periods of up to 28 days within any tolls year.

Every vessel kept in the Broads area for more than 28 days must be registered with the Broads Authority; registration is free.

The Norfolk and Suffolk Broads Act 1988 requires under Section 11 that **no person shall construct**, alter, renew or extend **any works, or undertake any dredging**, within or adjacent to the navigation area unless:

- (a) Neither the works in question nor the manner in which it is to be carried out will interfere with navigation in any part of the navigation area or of the Haven or be likely to do so; or
- (b) That person –
  1. **Holds a licence** under this section authorising the work (a **'works licence'**);
  2. Complies with the conditions (if any) attached to the works licence; and
  3. Carries out the work in accordance with the approved plans, sections and particulars

A Notice to Mariners is required as stated in the Norfolk and Suffolk Broads Act 1988, whenever anyone undertakes works that may significantly affect the navigation, for example creating severe height or width restriction or the need for a river closure.

Anything affecting the navigation requires a minimum of 35 days' written notice to allow the Broads Authority time to publish details in a local newspaper as required under the Act.

Advice regarding undertaking works within the navigation area is published in the Authority's Navigation Works Guidance document. The document covers advice on legislation, practical health and safety advice and highlights other possible considerations.

The Authority has various powers under the Act and its bye-laws to remove any vessel or installation obstructing the navigation.

#### Maintenance

The Broads Authority and its contractors carry out maintenance dredging on a routine basis with two main objectives: securing a reasonable navigation depth for users, and restoring degraded or shallowed waterbodies to improve the aquatic habitat water quality.

To understand the scale of and overall need for sediment management, waterway specifications have been developed. These have recently been used to set targets and to aid in prioritising expenditure. Targets include physical elements such as channel width and depth, as defined in consultation with users, and also cover environmental quality standards such as contaminant levels, nutrient content and sufficient depth for aquatic life.

#### Enforcement: navigation

The work of the Broads Authority's navigation rangers is one of the most effective methods of managing the Broads navigation. As well as enforcing speed limits and making sure that boats navigate properly, navigation rangers play a vital role in educating people about important navigation issues.

They assist people in relation to day to day general issues, including safety procedures and tidal conditions, and they advise on planning issues. They liaise with the local police and other emergency services and respond to issues concerning pollution and oil spills.

#### **(b) Character of the Broads**

The Broads area extends to around 300 square kilometres and has nearly 6,000 residents. In 2001 there were 2,553 resident households in the Broads Authority executive area plus 466 houses classed as holiday homes or second residences. It is a primarily rural area including parts of both Norfolk and Suffolk and six different local council areas.

There are no major settlements fully within the Broads area, but parts of many villages and small towns, together with the waterside fringes of Norwich, Great Yarmouth, and Lowestoft do fall within its boundary.

There is a shortage of affordable housing in rural areas in and around the Broads. The high cost of housing may impact upon the economy of the Broads and particularly affects those working in traditional trades such as agriculture and boat manufacture. Reed and sedge cutters have also identified that proximity to their reed and sedge beds is important.

The Broads Authority boundary is tightly drawn around the flood plains and lower reaches of three main rivers – the Bure, Yare and Waveney. Most of the Broads is privately owned, including large tracts belonging to wildlife trusts, the RSPB and National Trust. The Authority itself owns only 155ha.

The Broads is considered to be the UK's premier wetland and is part of a global network of protected landscapes. It has a mostly undeveloped landscape of water, fens, marshes and woodland. The only coastal strip (2.7km long at Winterton) is also part of the North Norfolk Coast Area of Outstanding Natural Beauty. The extensive inland waterway system of the Broads, comprising around 200km of navigable rivers and lakes, or broads, is not only ecologically important but a major attraction for recreational users.

As well as having equivalent status to a National Park, the Broads has 28 Sites of Special Scientific Interest (SSSIs) and eight National Nature Reserves, and much of this area has been classified into 18 Special Areas of Conservation.

The Broads contains a mosaic of habitats that gives the area a high conservation value. The wetlands are essentially a freshwater system, becoming more brackish towards the coast. As well as rivers, estuaries and broads, there are fens, carr woodland and grazing marshes. The 28 SSSIs cover about a quarter of the Broads, and one-third of these sites are also designated as National Nature Reserves.

### (c) **Town and Country Planning**

The Broads Authority is the local planning authority for the Broads area and as such is responsible for controlling most forms of development within the Broads and for preparing local planning policies. While the Authority has a planning function, it is not a local authority and does not have all the other functions of local councils. Unlike district councils, the Broads Authority is not a housing authority, and has no direct responsibilities for housing and homelessness. The general availability and distribution of housing is, though, a planning matter, and as local planning authority the Broads Authority has a role in relation to this.

National Planning Policy Statements and guidance set out planning principles on a wide range of land-use issues, from housing to flood risk, economic development to natural conservation. Planning Policy Statement 7 – Sustainable Development in Rural Areas gives the same protection in planning terms to the Broads as the national parks in England.

The starting point for the determination of planning applications is the development plan for the area. For the Broads this currently consists of the East of England Regional Spatial Strategy (also known as the East of England Plan) and the 2007 Broads Core Strategy. (For a temporary period only, it also includes some remaining 'saved' policies of the Norfolk and Suffolk County Structure Plans and 1997 Broads Local Plan.)

Taken together these policies might be summarised as:

- According a very high priority to protection and enhancement of the landscape, natural and historical environment, recreation and navigation;
- A cautious approach to further development;
- Limiting new residential development, and generally focusing it on the built up parts of settlements with facilities and public transport links;
- Promoting high standards of design and sensitivity to location;
- Adapting to climate change and improving sustainability.

#### d) Current policy on houseboats and boats used as permanent dwellings

Current planning policy does not permit further residential use of vessels or further houseboats on the Broads (where these constitute development requiring planning permission), but this approach is currently under review.

The current policy was adopted as part of the 1997 Broads Local Plan and has been operated since. The main justification for this policy was that the appearance of houseboats and residential craft, together with the associated use of the river bank, can be damaging to the character and appearance of the Broads. The policy also seeks the removal of existing houseboats and craft use for residential purposes where they have a significant adverse effect on the landscape or built environment, though in practice the opportunities for this are limited.

The policy is currently (2009) under review as part of a new Development Policies document for the Broads local development framework, and has proved a controversial matter. A replacement policy, which must be consistent with the Regional Spatial Strategy and Core Strategy mentioned above, is expected to be adopted during 2010.

#### (e) Summary of Moorings Provision on the Broads Waterways

Mooring category	Description
<b>SHORT TERM MOORINGS</b>	
Directly managed Broads Authority mooring	<p>Short term moorings, generally with visits restricted to 24 hours at a time and arranged parallel to bank, including</p> <ul style="list-style-type: none"> <li>• Wild - remote, no facilities or shore access (12%,)</li> <li>• Rural – no facilities, but link to footpath network (34%)</li> <li>• Country Park – usually adjacent to village, open space, easy access, some facilities (44%)</li> <li>• Urban – central village location, shop/pub, easy access, some facilities (6%)</li> <li>• Flagship – all facilities (4%)</li> </ul> <p>Land often privately owned &amp; leased to BA. BA provided infrastructure. Often privately owned land leased to BA, with BA provided infrastructure.</p>
3 <sup>rd</sup> party short stay moorings	Generally payable overnight moorings at third party sites, (boatyards, pubs, district and parish councils, etc). Some with adjacent service provisions.
Private service mooring	Short term moorings, managed by boatyards. Some payable, some available only for use while using adjacent service facilities e.g. pump out or water point, and some available on a reciprocal basis to associate boatyards' hire-craft.

**LONG TERM MOORINGS**

End of garden mooring	The boat is moored against the boat owner's property and over the river bed in their ownership. Mooring is generally parallel to bankline.
Boatyard/ commercial or parish council moorings within a mooring basin or on the river or in a broad.	Private landowners, district or parish council own the water space, and the land access to the mooring. Moorings may be stern on, set into the bank, or against pontoons.

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