

# **BW RESIDENTIAL MOORING POLICY – DRAFT 11 August 2009**

## **Work in progress**

### **A CONTEXT**

#### **The future shape of boating on our waterway network**

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.

#### **Provision of berths for residential use**

4. The canals have always had a resident population, dating back to the first boatmen and their families living and working on the waterways. Clearly the context has changed over the years, but residential boating is a continuing feature of the waterway environment.
5. Whilst there are many different patterns and degrees of living afloat, this policy relates to long-term moorings where the moored boat is used as someone's sole or primary residence, i.e. residential moorings. This use requires planning permission.
6. There is very strong demand, which is growing, from people wanting to live afloat, and is particularly high in a number of locations close to population concentrations. Different levels of facilities appeal to different customers, for economic, lifestyle and social reasons. Whilst sites with full facilities appeal to some customers, there is also demand for 'low-impact living' at sites with fewer facilities.
7. The supply of long-term mooring sites where residency is permitted (i.e. sites where planning permission has been granted for residential use by the Local Planning Authority (LPA)) is very limited (for example around 40 out of BW's 400 long-term mooring sites are designated for residential use). They vary in the range of facilities provided and the location. Urban sites with good facilities are more common, although there are some sites in rural areas, and some have few or no facilities on site.
8. Waterways have a certain capacity for boating and different types of moorings (casual, long-term leisure and residential, plus trade). Some sections are nearing, or have reached, acceptable limits of mooring concentrations. However there are other areas that could comfortably accommodate more moorings. There is a need to achieve an appropriate level and mix of moorings on our network.
9. Despite significant differences between residential moorings and built development, there is no specific national planning policy or procedural guidance. Residential moorings are therefore treated as residential development and subject to the relevant national and local planning policy. Much of our network is in areas where 'bricks and mortar' residential development is constrained or excluded.

10. BW does not have a responsibility to provide housing or affordable moorings. It provides residential moorings, for which it must charge market rates, as part of its commercial moorings business. Fees at residential sites tend to be higher than for leisure moorings, which reflect demand for a mooring where a boat can legitimately be used as a person's main residence, and sometimes higher operational costs.

### **Unauthorised residency at long-term leisure moorings**

*Note that non-compliance with continuous cruiser licence and casual mooring terms are not included in this policy, which focuses on the use of long-term moorings<sup>1</sup>.*

11. As explained above, a mooring for a boat used as someone's sole or primary residence requires planning consent. Therefore a boat occupied as a primary residence at a long-term *leisure* mooring would normally constitute (a) a breach of planning control and therefore (b) a breach of BW's mooring agreement<sup>2</sup> or lease with an operator.
12. A broad estimate of how many boats on BW's directly managed mooring sites may be in use as a primary residence without planning permission is around 1 in 4, giving a total in the order of 1,000. In London and the South East, we believe it may be significantly higher. We have not attempted to estimate the levels at sites operated by others.
13. Where there is a breach of planning control, the Local Planning Authority (LPA) is not necessarily compelled to take action. They usually act if they believe it's expedient to do so (e.g. the breach represents unacceptable development that cannot be properly controlled by conditions, is contrary to policy etc.) In other words they would have refused consent if a planning application had been submitted.
14. If BW knows there is unauthorised residential use (e.g. we receive housing benefit as payment for mooring fees) it does not mean we are committing an offence by permitting the use to continue, but it does mean we are vulnerable to enforcement action. LPA's expect BW, as navigation authority and land-owner of the waterway, to control and regulate activity at mooring sites and they consider us to have an interest in privately-operated as well as our own directly-managed sites when they consider planning enforcement action.
15. There are relatively few cases of enforcement taken by local planning authorities on BW's network – we have seen some 20 enquiries/cases in the last few years, most of which did not progress beyond initial enquiries or resulted in improvements to the site in question, although some required other forms of resolution.
16. Some boaters know they risk enforcement action by living on their boat when it's not permitted; others aren't necessarily aware of all the relevant regulations.
17. Views (e.g. from neighbours, boating customers, other users and our staff) are divided on the issue:
  - The opinion of some is that it's breaking the rules, avoiding council tax and is unfair. Others, however, believe that if the site is tidy and there's no harm being done, it's not a problem and can provide a useful presence.
  - BW's apparent inaction could damage our reputation for enforcing the rules and risks our relationship with LPA's since we are expected to control activity at

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<sup>1</sup> A long-term mooring is the usual base or 'parking space' where a boat is normally kept when it is not cruising.

<sup>2</sup> Condition 8. You must comply with the conditions of any planning permission for the Mooring Site and comply with relevant laws, byelaws, Site Rules and special conditions, including any concerning your private use of land at the Mooring Site.

moorings. However it would be extremely difficult for BW to establish residency and, arguably, it's primarily a matter for the LPA first to confirm a breach of planning and whether enforcement should proceed.

- Enforcement (by BW or the LPA) brings with it a significant risk of simply moving the unauthorised residential use elsewhere on the waterway, or possibly causing homelessness.

## B POLICY

18. 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.

19. BW will assess proposals for new residential moorings in respect of the following four factors:

- a. Online moorings: Our Online Mooring Policy (OLMP)<sup>3</sup> 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).
- 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.

20. 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.

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<sup>3</sup> [insert link](#)

21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.

## **C STRATEGY / IMPLEMENTATION 2009 - 2012**

27. We will encourage and facilitate the creation of residential moorings and the regularisation of residential use at existing leisure moorings in accordance with the above policy.

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28. We will raise the need for clearer planning policy guidance relating to residential moorings in the review of *Waterways for Tomorrow*, and through engagement with DEFRA, DCLG and other government departments.
29. We will encourage local authorities to include residential moorings in their Housing Needs Assessments, and Local Development Frameworks, in consultation with BW and within the context of our four factors (in point seven of the Policy).
30. We will endorse the AINA advisory document "*Residential Use of Waterways*" (due to be published later in 2009) which aims to inform local planning authorities, navigation authorities, mooring providers and residential boaters about relevant matters relating to residential use of waterways.
31. We will develop local mooring strategies in areas of highest demand and boating concentration to include residential and other types of moorings, along with acceptable limits to mooring density, in consultation with LPA's and local stake-holders.
32. We are developing "*British Waterways residential mooring guidelines*" for local authorities, developers and moorings operators, to include information on the differences between residential moorings and built development, and the benefits they can offer. It will include BW's advice on facility provision, site management and other issues. It will include information from our research with the Residential Boat Owners' Association (RBOA) into demand and preferences for mooring locations and facilities, along with details of BW's residential mooring sites.
33. We will develop a clear assessment procedure and a simple application process for BW's permission for new residential mooring sites.
34. We will provide clear information to customers about living on their boat, including the licence and mooring rules, conditions and planning regulations. We encourage the RBOA and other boating organisations to continue their activity in this respect. We will require all new customers taking up a BW leisure mooring to confirm their understanding that if they use a leisure mooring as their primary residence they put themselves at risk of enforcement action.
35. Where necessary, we will make improvements to the maintenance, management and control of BW's long-term leisure and residential mooring sites. We will also review our long-term leisure mooring sites with indications of unauthorised residency where there are concerns about a site's suitability for residential use, for example if it is in an environmentally sensitive location.
36. We will provide guidance to BW staff, particularly our planners, to ensure that there is well-informed dialogue between BW and LPA's relating to residential boating, when the LPA is considering planning enforcement against unauthorised residential use.