

SUITABLY LOCATED, AND HAVE DUE REGARD TO AMENITY. WHEREVER POSSIBLE, FACILITIES SHOULD BE GENERALLY AVAILABLE TO MEMBERS OF THE PUBLIC, AND SHOULD TAKE ACCOUNT OF THE NEEDS OF ALL CATEGORIES OF USER.

The Authority has, therefore, sought to restrict the use of the Lee Navigation by residential moorings where the moorings and associated land-based facilities are in the Park.

- 3.4 The question of precedent needs to be addressed in relation to residential moorings. A decision to grant planning permission because of special circumstances may nevertheless set a precedent in favour of further or other developments which may cumulatively erode planning principles or policies. In the case of residential moorings, the concern would be that a precedent could be set for other types of residential use or development.

#### 4. PLANNING POLICIES OF RIPARIAN AUTHORITIES

##### 4.1 Epping Forest District Council

The Consultation Draft of the Epping Forest District Plan sets out the concerns of the District about residential moorings.

10.123 The use of moorings for permanent residential development can raise a number of problems in the countryside:-

- (a) the use would be contrary to Green Belt policies intended to restrict new residential development;
- (b) permanent users will bring pressures for other developments (e.g. car parking, storage sheds, etc.) which can detract from the open character of the countryside;
- (c) permanent berths will restrict the use of moorings for leisure and recreational purposes.

H19 THE CREATION OR USE OF MOORINGS FOR PERMANENT RESIDENTIAL ACCOMMODATION WITHIN THE GREEN BELT WILL NORMALLY BE REFUSED PERMISSION.

##### 4.2 East Hertfordshire District Council

In the Local Plan, East Hertfordshire District Council states that individual proposals for houseboats will be considered on their merits, but in view of the mobile nature of these uses, permissions will normally only be granted for temporary periods.

BE13 (1) THE DISTRICT COUNCIL WILL CONSIDER ALL PROPOSALS FOR CARAVANS, HOUSEBOATS, HOTELS/BOARDING HOUSES AND OTHER SPECIAL RESIDENTIAL INSTITUTIONS AS THOUGH THEY WERE FOR A NORMAL RESIDENTIAL BUILDING AND THE POLICIES RELATING TO NEW RESIDENTIAL DEVELOPMENT WILL THEREFORE APPLY.

##### 4.3 London Borough of Enfield

The Unitary Development Plan includes a specific policy on residential moorings:

"The Lee Navigation lies wholly within the Lee Valley Regional Park and

predominantly within the Green Belt. It is also bordered in certain places by Conservation Areas and by other areas of amenity interest. The introduction of permanent residential moorings on that part of the Lee Navigation within the Green Belt would not be in accord with Policy (II) G1. However, the Council recognises that this is a somewhat specialised form of residential development and that the potential number of moorings which could be accommodated on the Lee Navigation is relatively small. The Council will undertake a study with British Waterways and other appropriate public bodies and organisations in order to ascertain the potential need for residential moorings within the Borough and whether there are any potentially suitable locations for the provision of such moorings."

#### 4.4 London Borough of Hackney

The London Borough of Hackney recognizes the demand for adequate and well managed moorings in the Borough. The council is anxious that residential moorings do not conflict with the navigation and recreational uses of the canal and its towing path. The number of boats at any site should not be so great as to have a detrimental affect on amenity. The policy is:-

##### EQ27 RESIDENTIAL MOORINGS

THE COUNCIL MAY PERMIT RESIDENTIAL MOORINGS SUBJECT TO OTHER POLICIES IN THIS PLAN IF IT IS SATISFIED:

- (A) THAT THEY ARE LOCATED ON THE NON-TOWING PATH SIDE OF THE CANAL CLOSE TO AMENITIES AND PUBLIC TRANSPORT;
- (B) THAT ADEQUATE AND MANAGED SERVICE FACILITIES ARE PROVIDED FOR EACH MOORING.

It is worth noting, however, that most of the Lee Navigation that runs through the Borough of Hackney, and lies within the boundaries of the Lee Valley Regional Park, is located within Metropolitan Open Land. Uses which are acceptable in Metropolitan Open Land are limited. The list of uses does not include residential moorings.

#### 4.5 London Borough of Haringey

The draft Unitary Development Plan does not include any policies relating to residential moorings. However, the largest grouping of existing moorings is located within the Borough at Tottenham Marsh. British Waterways have lodged an objection to the plan, citing this omission and it is likely that the issue will be addressed at the draft Deposit stage of the Plan process.

#### 4.6 London Borough of Tower Hamlets

The Deposit Draft of the Unitary Development Plan includes the policy:-

##### RESIDENTIAL MOORINGS

HSG24 THE COUNCIL WILL CONSIDER APPLICATIONS FOR PERMANENT AND TEMPORARY RESIDENTIAL MOORING PROVIDING THEY MEET THE REQUIREMENTS OF THE COUNCIL'S POLICIES FOR RIVERSIDE, CANALSIDE AND DOCKSIDE DEVELOPMENTS, SEE POLICIES DEV 44 TO DEV 49.



- 5.41 Opportunities for meeting the demand for well managed residential moorings should be explored. Moorings can provide a low cost housing option and add visual interest to waterways. However, it is necessary to ensure that a basic level of facilities and services are provided for residential moorings and that such moorings do not damage the amenity of adjoining users or cause environmental problems - such as those associated with poor refuse disposal arrangements. Developers are advised to consult British Waterways, Planning Standards 7 and 8 will be applied to all canal side development.

#### 4.7 London Borough of Waltham Forest

No specific policy relating to residential moorings was included in the Draft Unitary Development Plan. However, in response to an objection by British Waterways, the following statement was submitted to the Inspector at the Public Local Inquiry into the UDP:-

"4.2.1 At a meeting of its Land Strategy Committee on 23 September 1992 the following response to these objections was agreed on behalf of the Council.

The Council accepts that houseboats may be able to make a small addition to the residential stock, possibly as 'affordable' housing. However, officers are unaware of any suitable sites for residential moorings in Waltham Forest at present. Should proposals come forward the Council will particularly take into account the following factors re proposed moorings:-

- (a) whether they are visually intrusive and adversely affect the character and amenity of a particular area;
- (b) whether their presence would interfere with access to, recreational use of, or navigation on the waterway;
- (c) that adequate servicing and car parking arrangements can be made without adversely affecting the character and amenity of a particular area; and
- (d) that there are adequate on-shore sanitary facilities.

4.2.2 The Council does not wish to add to this statement in response to these objections."

#### 4.8 London Borough of Broxbourne

No specific policy on residential moorings is included in the Broxbourne Local Plan. However the River Lee is located within Green Belt through the Broxbourne section and any planning application for residential moorings would be adjudged in the light of Green Belt policy. It is likely that such development would be discouraged.

#### 4.9 London Borough of Newham

Policy ENV8 of the Consultation Draft of the UDP states that:-

THE COUNCIL WILL SAFEGUARD THE OPEN CHARACTER OF GREEN BELT AND METROPOLITAN OPEN LAND IN THE BOROUGH, AS LISTED BELOW AND DEFINED ON THE PROPOSALS MAP.

- a) Wanstead Flats
- b) Royal Docks (including 10m around waters edge)

- c) Roding Valley
- d) LEA VALLEY
- e) Beckton Park

2.31 Such land will primarily be retained for open space and recreational purposes. Uses compatible with Metropolitan Open Land designation are:

- public and private open space and playing fields
- nature conservation
- golf courses
- allotments and nursery gardens
- cemeteries and associated crematoria
- agriculture, woodlands and orchards
- **permanently moored vessels orientated towards public enjoyment of the river (see Policy ENV26).**

4.10 The Planning and Compensation Act 1991 introduced a duty to determine any planning application in accordance with the development plan unless material considerations indicate otherwise (S.54A of the Town and Country Planning Act 1990). This amendment to the Town and Country Planning Act 1990 effectively introduces a presumption in favour of the development plan. This places the Park Authority in a dilemma because the policies of the adjoining boroughs/districts range from clear opposition to residential moorings to qualified support. Had there been a clear lead from the District Plans and UDPs, it might have been possible to provide an interpretation of policy. Clearly it is not going to be possible to consolidate these policies into the Park Plan Review.

## 5. LEGAL ISSUES

- 5.1 The Park Authority's legal adviser has considered whether or not the provision of these facilities falls within the powers of the Authority and whether a policy which resulted in the granting of planning permission for residential moorings would create a precedent for other forms of development.
- 5.2 The first consideration is whether or not the provision of residential moorings falls within the general duty of the Authority as set out in Section 12 of the Park Act 1966. The opinion given is that provision of these facilities does not fall within the general powers of the Authority.
- 5.3 Section 13(1)(f) of the Park Act 1966 permits the provision of 'parking, mooring and landing places and means of access thereto and egress therefrom' and Section 13(1)(h) permits the provision (inter-alia) of caravans and 'other dwellings'. However, the legal advice received is that these ancillary powers relate to temporary or recreational uses only. Moreover the whole of Section 13 is subject to an implied condition that the exercise of the ancillary powers is for one of the purposes or general duties established or set out within Section 12.
- 5.4 The advice given is that the provision of residential moorings does not assist in the development or improvement of the Park as a place for the occupation of leisure, recreation, sport, games or amusements.
- 5.5 However, it is not to say that the Authority must necessarily object to the provision of residential moorings provided that they do not interfere with the Authority's own proposals. Further, the Authority might in some circumstances legitimately provide such facilities itself, provided that the residential element was secondary to a main recreational or leisure purpose.
- 5.6 On the question of precedent the legal advice is that precedent could affect the



Authority in one of three ways:-

- (a) the acceptance of the principle of residential moorings may make it very difficult for the Authority to maintain an objection to any specific sites chosen by British Waterways, particularly if British Waterways decided to increase the number of moorings at a future date;
- (b) there is no reason why residential moorings should be limited to British Waterways official sites. This raises the possibility of additional unplanned and unregulated sites being established elsewhere in the Park;
- (c) the moorings under discussion, because of their residential element, might in planning terms be compared with gypsy or traveller encampments, or winter quarters for travelling showmen people. If the Authority agreed to residential moorings, it could not be denied that the provision of 'residential sites' had been permitted on the grounds of need and lack of alternative sites. This argument could be advanced for provision of travellers' accommodation, and winter quarters for travelling show people.

5.7 The situation has been complicated by the recent planning appeal decision in South Bucks District Council v High Line Yachting Ltd. where the inspector differentiated between residential narrowboats and houseboats.

## 6. SOUTH BUCKS DISTRICT COUNCIL v HIGH LINE YACHTING LTD

6.1 The recent decision of the Secretary of State for the Environment in the case of South Bucks District Council v High Line Yachting Ltd. concerned the failure of the District Council to issue a decision on a proposal to construct moorings for 40 residential narrowboats.

6.2 In his report to the Secretary of State, the Inspector made the following statement on residential narrowboats:-

There is a distinction between residential narrowboats and houseboats. The latter are designed exclusively for residential occupation, rather than for cruising and frequently lack any form of motive power. However, a residential narrowboat is indistinguishable in appearance from a cruising narrowboat. The great majority of owners will be likely to use them also for weekend cruising and longer holiday outings. It would be a requirement of the company that all be equipped with suitable engines, and, in any event, British Waterways insist that all such boats be navigable. For this reason, particular moorings would not necessarily be allocated to each boat on a permanent basis, and the residential boats would be mixed with those used solely for cruising. Water and electric supplies, as well as low wattage lighting, would be provided but these services are essential now, irrespective of whether the boats are residential or cruising."

6.3 With regard to the fact that the site was in the Green Belt, the Inspector did not consider that it would be harmful to Green Belt objectives:-

"...it remains necessary to judge what harm to the objectives of Green Belt policy would be done by allowing such development. A particularly important point in such an assessment is that the residential narrowboats which would result from this proposal will be indistinguishable from cruising narrowboats (on my inspection, I was unable to detect which 3 of the moored narrowboats were residential craft). Presumably, the residential boats would tend to be moored for longer periods of time, but, evidently, it is usual for them to be also used as cruising craft by their owners (and it will be required that they have engines and be navigable). This provides a significant distinction between residential narrowboats and other residential structures of a permanently fixed type, for example, houses, 'mobile homes' and

houseboats. In my opinion, these narrowboats, which seem to be generally of traditional design and appearance are features which are entirely acceptable in a rural landscape. In every sense, narrowboats are inextricably linked to a canal, wherever there is a canal, one can expect to see narrowboats. Thus, it does not seem to me that the presence of narrowboats along this further stretch of the Slough Arm would be perceived as an alien feature within this generally rural part of the Green Belt; on the contrary, they would be attractive features that one would expect to find in a rural area where there is a canal".

- 6.4 With regard to the the issue of canalside services which would be provided for the boats such as water, electricity points, and lighting. He felt that these would be largely obscured by the boats themselves from the most likely public view, from the towpath, and that this aspect was not objectionable from the Green Belt point of view.
- 6.5 It is also worth noting that the site is located within the Colne Valley Park. The Inspector did not consider that the proposal was at odds with the recreational policies of the Park.
- 6.6 The Inspector recommended that the appeal with respect to the narrowboats should be allowed. The Secretary of State agreed with the Inspector's recommendation. In particular he did not believe that the residential narrowboats would have any significantly harmful effect on the functions of the Green Belt. The Secretary of State concurred with the Inspector's view that the moorings are clearly linked to the recreational and tourist functions of the canal and that they were not in conflict with the overall objectives of the Colne Valley Park and that any disbenefits to the Park arising from the proposals would be outweighed by their:-
- "contribution to the general strategy and objectives of the (Colne Valley) Park".
- 6.7 The Department of Environment were consulted on the issue of residential moorings. Specific advice was sought on the Department's attitude to residential moorings in the light of the South Bucks District Council v High Line Yachting decision. Unfortunately, the response received was not very helpful.

## 7. POLICY ISSUES

- 7.1 If a decision is taken by the Authority to treat residential moorings as an exception to the residential policy, on the basis that boats are both mobile and have a recreational component, then it will be necessary to adopt an appropriate policy which could be included in the review of the Park Plan. This would also form the basis for the Park's response to policies contained in riparian authority's Unitary Development Plans.
- 7.2 A number of issues would need to be addressed by any policy adopted by the Park. These issues include:
- a) proper management arrangements.
  - b) facilities for sanitation and waste disposal.
  - c) water supply.
  - d) storage.
  - e) car parking and access for service vehicles.
  - f) compliance with British Waterways licensing standards.
  - g) compatibility with other canal users.
  - h) location on the non towing path side of the canal.
  - i) promixity to amenities and transport.
  - j) no loss of public access to, or recreational enjoyment of any Park facility.



A list of requirements which address these issues is shown at Appendix A.

## 8. ENFORCEMENT ISSUES

- 8.1 British Waterways national strategy sets out to provide permanent, well managed, sites for residential moorings for boats which meet the necessary standards. This would then enable British Waterways to clear the waterways of derelict and unauthorised boats.
- 8.2 It is difficult to assess the likely effectiveness of the enforcement policy, although some boats have been moved from the Grand Union Canal. It is perhaps worth noting that the Park Act, Section 38 enables the Authority to control and, if necessary, give notice to owners to remove a boat if it is in such a condition "as to be seriously injurious to that part of the waterway", where the waterway is under the control of the Authority. As far as Officers are aware, there are no waterways under the control of the Authority.

## 9. POLICY OPTIONS

- 9.1 There are three possible routes which the Authority could take on this issue:-
- (a) Permit residential moorings within the boundaries of the Park subject to the requirements set out in Appendix A.
  - (b) Reject residential moorings as being primarily residential in nature and therefore contrary to Park Plan policies.
  - (c) Permit residential moorings but only in off channel situations, adjacent to existing centres, i.e. marinas.

## 10. CONCLUSION

- 10.1 Residential moorings are clearly a residential use and are therefore, on the face of it, contrary to the Park's stated policies. However, boats are part of the river scene and can add colour and life to the waterside without spoiling the environment if appropriately located. British Waterways have established the need for authorised residential moorings and have adopted a considered strategy for tackling the problem on the Lee Navigation.
- 10.2 The recent decision of the Secretary of State indicates support for the view that residential narrowboats have a recreational function and are considered an appropriate use in the Green Belt. Acceptance of permanent residential moorings as an appropriate use within the Park would open up the opportunity to regularise the current unsatisfactory situation.
- 10.3 Thus, residential moorings are 'development', but may be accepted by some planning authorities. On balance, it is proposed that the Authority should oppose their establishment but acknowledge that where planning permission is granted, the criteria set out in Appendix A should be met.

## 11. RECOMMENDATIONS

THAT

- 1) the Authority oppose the establishment of residential moorings within the boundaries of the Park but would not raise objection to any proposal for residential moorings where such a proposal was in accordance with the

adopted policies of the local planning authority, as set out in their Unitary Development Plan or District Plan, provided such a proposal met the criteria set out in Appendix A to this report, and did not conflict with existing Park Plan policies and proposals;

- 2) this report provides the basis for consultation with all local planning authorities adjoining the Park, together with the counties of Hertfordshire and Essex, and the London Planning Advisory Committee.

R. Wright

Background Papers

Letter from British Waterways re Houseboat Moorings, dated 22nd January, 1993.  
Inspector's decision letter South Bucks D.C. and High Line Yachting Ltd., June 1990.  
Secretary of State's decision letter re Appeal by High Line Yachting Ltd. dated 9th October 1990.  
Letter from Breeze & Wyles re Houseboat Moorings, dated 4th February, 1993.



## RESIDENTIAL MOORINGS CRITERIA

### 1. BOATS

The vessels must comply with the licensing and boat standards laid down by British Waterways.

### 2. MOORINGS

- a) Moorings should be located off the waterway, in a marina or a basin, or in exceptional circumstances where residential narrow boats are proposed (subject to a planning obligation) on the non towing side of the waterway, close to amenities and public transport.
- b) Moorings should be located at sites adjoining built up areas along the waterway, and not on totally rural or open stretches, where they would be incongruous.
- c) Moorings should be located adjacent to existing centres of activity. The Authority will view critically any proposals which require new built development.
- d) Moorings should be located so that they do not interfere with other users of the waterway, or use of the bank or towpath.
- e) The number and density of boats at any point should not be so great that they act as a barrier separating people on the bank from the waterway, or exert a detrimental effect on the waterway scene.
- f) Storage sheds on the banks of the waterway will not normally be allowed.
- g) Moorings should not be occupied for a period of 28 days in aggregate in any one calendar year.

### 3. MANAGEMENT

Management of the moorings should preferably be 'on site', and must ensure that adequate and properly supervised facilities are provided.

### 4. FACILITIES FOR SANITATION

At least one of the following should be available on each mooring site:

- a) Chemical toilet disposal point.
- b) Holding tank pump out service.
- c) Direct link to main drainage.

### 5. WATER

Standpipes providing drinking water for each boat should be provided, with all pipework installed in accordance with the requirements of Thames Water Utilities bye-laws.

6. **ELECTRICITY**

Mains electricity should be available at each site. The whole of the electrical installation must be in accordance with British Standard B.S.7671 (16th Edition I.E.E. Regulations.).

7. **REFUSE DISPOSAL**

Adequate provision is to be made for the disposal of refuse and waste.

8. **CAR PARKING AND VEHICLE ACCESS**

- a) An adequate number of car parking spaces should be provided with at least one space designated for each moored boat, and should be appropriately screened to minimise the visual impact of the development.
- b) Vehicle access should be made as close to the mooring as possible for emergency vehicles, but not in such a manner that would adversely affect the amenity of the canal.



Thank you for evaluating Wondershare PDF Splitter.

A watermark is added at the end of each output PDF file.

To remove the watermark, you need to purchase the software from

<http://store.wondershare.com/shop/buy/buy-pdf-splitter.html>