

Draft Mooring Management Plan for the River Lee, Stort and Hertford Canal, dated 15th February 2011.

This is the response to the consultation by the **National Association of Boat Owners**. (NABO).

NABO Contact: D Fletcher Chair.

NABO thanks you for the opportunity to respond to this local consultation. NABO attaches great importance to all mooring strategies as they have a significant impact on all styles of boating and the enjoyment of the waterway.

Taking the questions put in the consultation we respond as follows.

1. What is your view on current levels of boating and mooring in the plan area?

NABO agrees that there are some parts of the waterway that are congested and that there is limited availability of mooring for local leisure and visitor cruising. This is popularly attributed to live aboard continuous moorers, but no evidence is available in the consultation to support this assertion. NABO's experience elsewhere is that another significant contributor to moorings blockage is simple canal side storage of boats, because enforcement has not been effective. Regardless of the reason, there is the need for specific high quality data to be made available to identify the problem.

Statements like "*We have seen a large increase in people who use their boats as Continuous Cruisers but simply move between a few locations*" and that "*Some 160 or so boaters reside on these waterways and depend exclusively on towpath moorings for their stops; they tend to be concentrated in several locations*" should be justified with data and linked to the enforcement data and categories.

There will always be some element of denial over the issues; but there is a need to keep some level of proportion over mooring problems in congested areas, and clear identification of the issues is a key factor in getting a consensus for a solution.

So, in the case of the Lee, the hot spots need to be specifically identified and numbers of boats with issues stated. It is reported that the actual areas of congestion are few. It would be useful and economic in enforcement if these were identified. It is not currently clear if the problem is too many boats, too many boats not moving or just not enough time limited mooring.

NABO acknowledges that it does not have credible data for the Lee area and welcomes the initiative of local boaters to gather this. NABO requests that BW carefully considers contributing to this body of information.

NABO very much regrets the lack of residential moorings in the area and particularly in the new marina at Royston.

We support the initiative to regularise offside moorings within the guidelines, to preserve the supply.

We note that there are offline parts of the waterway that do not belong to BW. We would support any initiative to develop moorings in these areas.

2. What effect does the current level of boating and mooring have on enjoyment of the canal?

NABO has never received complaints from members about this waterway. This is contrast to the K and A, the Southern GU and the Southern Oxford which attract comment from time to time.

3. In general what are your views on the proposals for managing moorings?

NABO supports all the enforcement issues on 14 day and lesser period moorings and for unauthorised offside moorings, together with any necessary cost to make these happen. In the context that past enforcement has not been applied, NABO is supportive of a limited period of transition arrangements as new guidance is introduced.

NABO is pleased that Roving Mooring Permits will not be introduced.

NABO supports the current XYZ guidance and the use of neighbourhoods. Many boaters recognise the 'parish' definition of neighbourhood (perhaps one or two miles) and it has wide acceptance as a reasonable minimum distance to move. NABO would prefer to retain the Parish definition of place, and prefers ABC etc. as the terminology rather than XYZ (which implies nothing after Z).

The use of the proposed 'super neighbourhoods' as a definition of 'place' in the proposals is not supported, although the limited number proposed (say 6 miles in length) may be attractive from the point of view of simple administration. It would be open to legal challenge as an unreasonable interpretation, as also would be a new period, and undefined in law, of 61 days.

Although it is implied in the proposals that bona fide navigation on this limited section of the waterways is possible (i.e. 'continuous cruising'), the imposition of 61 days per neighbourhood and an equal annual stay in each neighbourhood is somewhat draconian. The downside of setting inflexible rules based on super neighbourhoods is that they can conflict with individuals' reasonable actions and styles. They may also unintentionally infringe individuals' legal rights. Neither is it certain that such rules will inevitably provide a solution to (the under defined) problem. When trying to come up with a workable pattern of rules, there needs to be a clear view on the issues, to avoid unintended consequences.

In order to provide assistance to boaters and make enforcement results more predictable, we suggest that examples of what is bona fide cruising and examples of what is not bona fide cruising on these waters, based on BW's body of evidence and successful court cases, should be distributed to boaters organisations for comment and subsequently published. NABO would be very happy to contribute to this.

NABO suggests that '*No return*' has to be taken in the context of overall movement. A boater who returns but whose normal pattern is over many regions and miles has to be taken in a different context than one which is local, repetitive and based on the minimum movement. So NABO is not in favour of blanket no return rules, rather an emphasis on a minimum extent of movement.

NABO concludes from the proposals that BW have decided that it is possible to comply with the continuous Cruising guidelines without leaving this waterway of less than 30 miles in length. We are uncomfortable with this short length as a benchmark for general use on the waterways to demonstrate bona fide navigation. It is possible to cover this full length in a matter of a few days, and this will have the potential for dispute over cruising patterns and sightings. However, we recognise that special licensing circumstances on the Lee and specific local rules may be necessary.

It is not clear whether all the 6 proposed 'super neighbourhoods' can support cruising boats with facilities such as moorings, services and security. It should not be suggested that live aboard boaters moor in areas that are not provided with services. Neighbourhoods also need to be relevant for navigation and should be defined with the use of waterway feature such as locks, bridges etc. Car parking is very important to some groups of boaters and it has considerable bearing on where they moor. Personal transport is a way in which boaters can facilitate genuine bona fide navigation whilst working etc. Accepting that it is not BW's responsibility to provide this, finding a solution would achieve significant good will, encourage a desired behaviour, and perhaps raise some revenue.

NABO is of the view that leisure moorings and winter moorings can play a part in live aboard boating without requiring local authority planning permission so long as some minimum movement takes place. We would support some flexibility in the use of leisure moorings.

NABO is concerned over the validity of the presumption that boaters will readily pay ad hoc mooring charges and that this will self-fund the administrative costs of a mooring scheme. We do not object to significant charges being made for overstaying on time limited moorings; working towards ways of paying by agents, phone or the internet are supported. But we doubt that this will raise enough money to be self-funding. We welcome the commitment to enforce the plan with daily towpath observations.

NABO notes that there are impacts on boats with home moorings, targeted we understand at those with a mooring of convenience. We are unhappy with the loose wording in the plan,

(see below) and suggest that this is not pursued at this time. NABO has not seen any data to indicate that this is a significant issue at this time and there would be no gain from further subjective rules when part time use of leisure moorings may help to provide some workable solution.

NABO objects to the introduction of 7 day blanket moorings on most of the waterway. When moorings are restricted it is important that there is a mix of visitor moorings of different 24/48/72 hour periods available for all boats with or without a home mooring, visitors and hire boats. 7 day mooring just legitimises blocking for a significant percentage of the boaters on the river. It is not acceptable for BW to say that it is not possible to manage anything less than 7 days. BW in undertakings has agreed to provide a mix of moorings with different durations. In areas where moorings are sought after for overnight stays by leisure moorers, but are often occupied by other groups, then consideration should be given to making these 48 hours.

The extent of any penalty must be clearly spelt out. If a boater does not comply with the new guidance and does not pay, will the only sanction be credit control or will BW use powers under the 83/95 Acts? There is a need to be clear. Similarly if a boater complies and pays overstaying charges, will he be deemed to satisfy BW for the purpose of 95 Act s17? There is a need to say so.

NABO regrets the lack of a published Impact Assessment under the Equality Act 2010. This should be completed and must include equality and diversity issues, and specifically address the issues of live aboard boaters who have local connections such as work, schools, of other commitments. The admitted long term lack of enforcement by BW will now have consequences and this should be recognised and addressed. The reality is also that the draft proposals may result in families being displaced from the waterways, and this cannot be ignored.

We make the following specific comments:

Page 1 Paragraph 3, 3rd sentence. “..... spirit of the 1995 Act” - BW are required to comply with the act and not just behave within the spirit, for which there is no definition available.

Page 2 paragraph 1 – The word “legitimate” should be removed as it provocatively implies that residential living aboard is illegitimate.

Page 4 bullets a) b) c) d) and foot note 3 - We do not regard these as a reasonable interpretation of the 1995 Act.

Page 5 paragraph 1 1st sentence - The word “regularly” is undefined. - What is intended by this adjective and what will happen if the boater disagrees and under what powers?

Page 5 paragraph 1 2nd sentence The word “rarely” is undefined. - What is intended by this adjective and what will happen if the boater disagrees and under what powers?

Page 5 2.4 e) - In the event of non-payment, do BW intend to remove the licence?

4. How will you be affected by the proposals?

NABO regard this consultation as **very** important nationally. The confined area and localism provide a good opportunity to trial new guidelines.

5. Do you have any practical suggestions to make implementation easier?

We welcome the initiative by local boaters to talk together about self-management and codes of conduct and would encourage BW to embrace this concept and generate examples of bona fide navigation.

Good enforcement is key. It is painful from the cost point of view, but it has to be done. NABO would encourage simple enforcement throughout this summer of the 14 day rule together with XYZ, and on 24/48 hour moorings whilst further consultation takes place.

We suggest that a facilities survey is carried out to map locations of water points, sanitary stations, refuse points, car parking areas, together with a general 'condition' survey of the recognised visitor's moorings. Subsequently, BW should consider whether moorings and services can be improved with modest cost and encouraging boaters to undertake the work as has been successful elsewhere on the system. Provision of additional visitor moorings at key locations and additional low cost 'lay-by' mooring spaces for those who do not wish to incur the expense of a formal marina but who wish to be in a more secure mooring than online would go a long way to reducing the incidences of congestion. Car parking could be a significant benefit and draw to some, and an opportunity for land owners.

NABO looks forward to a review of the Court case in Bristol to understand what implications this has for interpretation of bona fide navigation.

10.05.11