

Response to the Consultation on Waterway Partnership's Towpath Mooring Plan for the Kennet & Avon Canal west of Devizes

1. Introduction

The Canal & River Trust, and previously British Waterways, have worked extensively with local partners over many years to try to reach an agreed way forward to manage towpath mooring on the Kennet & Avon (K&A) canal between Devizes and Bath.

The large number of moored boats on this section of the canal, complaints about boats moored in one area for long periods of time, and concerns from boaters and other stakeholders about the continued growth in boat numbers, led the Trust to support the development of a local plan for this part of the network, developed by those local to the canal. In the past, the strong and diverse views about how moorings can, and should, be managed has meant that it has not been possible to reach a consensus amongst all interested stakeholders on a way forward. The situation with moored boats has consequently not been addressed effectively.

During the early part of 2013, a sub-group of the K&A Waterways Partnership was formed – with the support of the Canal & River Trust - to look again at the issue. It developed a Towpath Mooring Plan (TMP) that was subsequently published for public consultation in August 2013. The consultation process has indicated support for many aspects of the Partnership's proposal, which aimed to make a difference to the mooring and movement of boats on the canal, initially over a twelve month period. This paper sets out the Trust's considered response, taking into account the views expressed in the consultation, the local input from the Partnership and the wider national context. It sets out the way forward that will be applied from 1 May 2014, and explains the reasoning behind it.

Our detailed response to the individual elements of the Partnership's proposal is documented in Appendix 1.

2. Background to the Partnership plan

The Waterway Partnership formed a sub group to develop their proposal. This comprised representatives with the following interests:

- Leisure boaters (a local boat club officer)
- Local boaters with no home mooring
- Boating trade
- Anglers
- Parish councils
- Wiltshire Council

The group was supported by an independent professional facilitator. Reaching an agreement that would be widely supported by different stakeholders had hitherto not been easy, given the history and sensitivity of the issues, but the sub-group was able to make progress. We

commend all those involved for their hard work.

The consultation document's Preamble states that the Partnership's proposals did "*not seek to interpret the definition of 'continuous cruising' but do seek to establish fair and equitable sharing of the canal within the area and establish a process to enable all users to opt in to an agreement which will support this guiding principle.*"

3. Public response to the consultation

We have published a factual report on the consultation responses received as a separate document.

In summary, the consultation questionnaire responses showed a level of support for many of the individual proposals set out in the Partnership's plan. Although there was some difference in the level of support from boaters with a home mooring and from those who continuously cruise, a majority of respondents to the consultation questionnaire from both these groups gave positive responses to most of the individual questions.

By contrast many of the responses from membership organisations expressed reservations about some aspects of the proposal. Those who submitted a detailed response (including more than 140 local individual responders) tended to show less support and expressed greater scepticism about the proposals than those who had confined their response to the multiple choice questions. Their comments tended to express concern that the totality of the measures proposed would be unlikely to address all the stated aims.

We have discussed the consultations findings with our national Navigation Advisory Group, as well as the K&A Waterways Partnership, to inform the final decisions set out in this paper.

4. Response to the Consultation: Actions

Following the consultation, the Trust has accepted and will implement several aspects of the proposed plan from 1 May. (Full details are set out in the appendix):

- Standardising all visitor mooring maximum stay times at 48 hours/2 days in the area, pending a fuller review of need over the coming year (1), (3);
- Extended stay charges applicable at £25 per day, (2) – see 4.1 below;
- Unpaid extended stay charge debts collected via normal process, not obstructing the renewal of a boat licence (4), (5);
- Local guidance to encourage consideration of anglers need for pegging space and space between boats when mooring up along the towpath. (8), (9) - see 4.2 below;
- Need for clear local mooring guidance (10) (see paragraphs 4.3. - 4.6 for further details) with the following attributes:
 - Fair and consistent approach to handling applications for exceptional overstays (12)
 - Adoption of a "neighbourhoods" schedule to clarify movement requirement after 14 days (13),
 - Move every 14 days or such longer period as is reasonable in the circumstances (14),
 - Moor in different neighbourhoods/ no bridge-hopping (15), (16),
 - A range of movement exceeding 20km (17),
 - Fair consistent enforcement of the 14 day rule (18),
- Further investigation of a 'points' system (similar to that used in driving licences) (22);

- New signage, boundary markers and maps where necessary (24);
- Reporting anonymised overall cruising patterns (26);
- Customer access to own cruising records on request (27);
- Sharing of performance monitoring (28).

For individual responses to the 33 elements of the plan please see appendix to this report. The following section expands upon the elements of the response in more detail:

4.1 Visitor moorings

There was support in the consultation for the proposal to make all visitor moorings on the western end of the K&A free for the first 2 days (48 hours), with a £25 extended stay charge for each additional day. There was some concern that a maximum of 4 days in a month at a visitor mooring was too restrictive so from 1 May we will adopt the Partnership's proposal for a maximum but will increase this so that a maximum of 7 days in a month applies. We plan a full review of visitor moorings over the next 12 months, but in the interim, we will introduce the proposed 2 day (48 hour) time limit on all currently designated visitor mooring sites between Bath and Foxhangers. Experience in the South East pilot area is that income from extended stay charges would not justify investment in a pay and display system, we therefore will not implement this, which the Partnership accepts.

4.2 Needs of Anglers

The consultation highlighted some concern that the proposed guidance on leaving space for anglers would reduce the space available mooring. However, we believe that this is still of value to promote consideration of other users of the canal. Hence we will issue communications to boaters urging them to consider the needs of anglers and leave space where possible.

4.3 Clear local mooring guidance

The consultation response showed a majority of respondents to the questionnaire in support of the Partnership's proposal to provide clear and consistent implementation of local mooring guidance.

Whilst the Trust maintains that its Guidance for Boats Without a Home Mooring provides this, it acknowledges the need for a local response to the current situation on the K&A. Hence the Trust will, for an interim 12 month period, not take enforcement action against those boaters without a home mooring on the western end of the K&A (between Bath and Foxhangers) who move their boats in accordance with paragraph 4.5 below.

The purpose of the 12 month period is to enable those boaters without a home mooring based in this area a period of time to regularise their movement so that, after this, they can then comply with the relevant legislation and the Trust's Guidance.

We will consider individual personal circumstances that might reasonably require extended stays of more than 14 days on a case by case basis, responding sympathetically to genuine short term issues.

4.4 'Neighbourhoods'

The Partnership's proposals divide the stretch of the K&A between Bath and Foxhangers into fourteen designated 'neighbourhoods'. This interpretation was largely supported in the consultation, and a boater who adopts a pattern of movement based upon these neighbourhoods – as described in 4.5 - will not face enforcement action over the next 12 months.

4.5 Range of movement for the Interim Arrangement

The Partnership's proposal in the consultation defined a 'range of movement' as "*over the period spanning a boat's annual licence boaters agree to achieve a range of movement that exceeds 20 km.*" Some respondents to the consultation pointed out that the 20km journey from Bath to Semington or further to Foxhangers might be achieved in a day and the return trip in a single weekend. It is clear to the Trust and to the Partnership, and to many of those who responded to the Consultation, that one such return journey of 20km there and 20 km back, taken at some point during the 12 month period, but with little movement otherwise, would not be sufficient and would make little impact on the current situation on the K&A.

Hence the Trust, with the support of the Partnership, has added greater clarity to this. For an interim 12 month period, we will accept that boats which travel over a range of 20km or more on the K&A between Bath and Foxhangers would not be subject to enforcement action, provided that a reasonable period of time is spent at each neighbourhood passed through during the boat's movement within the 20km range travelled (For the avoidance of doubt, boat movements in accordance with this interim arrangement would not fit within the Trust's interpretation of the requirements of continuous cruising for the purposes of section 17(3)(c)(ii) of the British Waterways Act 1995 and it is only for the 12 month period in this limited area that this range of movement would not attract enforcement action). In specific detail the requirement for movement will be:

- Travel between Bath and Foxhangers (and/or back), moving broadly successively between neighbourhoods (A, B, C and so forth)
- Spend no more than 14 days continuously moored at any one neighbourhood
- Spread the time spent moored up evenly between the neighbourhoods passed through within the 20km (or more) range during the 12 month period.

4.6 Compliance and enforcement

The Trust will undertake monitoring and enforcement of towpath mooring rules firmly and fairly in respect of all boats, whether lived on, used for leisure only, or empty. Decisions on enforcement are to be based on objective sightings of boats, and their occupancy status is not recorded. Cases where enforcement needs to be introduced in respect of lack of movement will be prioritised according to distance moved, with formal action being preceded by several warnings, applied fairly and consistently.

Where boaters are experiencing exceptional hardship we will make reasonable allowances and issue overstay consents for sufficient time for people to resolve their difficulties. Such hardships would not include routine trips to work/ school. We will also involve support agencies where possible and applicable. We do not believe it is workable or appropriate to form a boater panel to consider individual circumstances where boaters state they cannot reasonably move every 14 days. However the number of such cases accepted or rejected will be reported to the Partnership, along with the number of any complaints related to these cases. We do see the merit of involving boaters nationally in reviewing annually our overall approach towards boaters with circumstances that might reasonably result in them having to stay longer than 14 days in any one place. We will consider how best to establish such a process and will continue to work closely with the local Partnership to ensure that any Equalities issues arising on the K&A over the 12 month interim period are being addressed effectively, consistently and fairly.

The proposal for a 'points system' similar to that applying to driving licence penalties was another of the Partnership's proposals. We can see why boaters might find this helpful, and will consider

incorporating the necessary elements within the specification for enhancements to our national boat sighting software currently under development. However, such a scheme would need further consideration and we will discuss this further with the Partnership and nationally with the Advisory Group in the coming months.

4.7 Communications

We have commented in the appendix on the detailed, individual proposals. Clearly it will be essential to communicate the outcome of this long process effectively and clearly. We would like to engage the Partnership in the development of an appropriate communication plan.

5. Conclusion

We believe the plan described above represents a positive and workable way forward that incorporates the bulk of the Partnership's proposal while taking account of the broader national context and also addressing the main concerns of the respondents to the consultation. We hope it also provides a signal to potential future boat owners that 'putting down roots' on the K&A canal in such a small area, and making very little movement is no longer an option, unless a long term mooring is secured. This will enable us to achieve the first of the plan's objectives (protecting the amenity of the waterway for widest public benefit).

We see the way forward based upon a 12 month interim period as set out above.

Understandably, the Partnership wishes to remain actively involved in the progress over the months ahead, and we will review the situation with moorings and boat movements on the canal, and the outcomes achieved to date, at the end of each quarter.

A communication plan will now be prepared and implemented to ensure that all boaters in the area are clear about the measures in place from 1 May and the range of movement/ mooring required over the next 12 months if they are not to face enforcement action. Work on adjusting monitoring systems, updating signage and recruiting and training volunteers where required is being initiated. To give time for this work to be completed the 12 month period will start from 1 May 2014.

Canal & River Trust
13 March 2014

Appendix 1 – Responses to Towpath Mooring Plan proposals.

Responses to Waterway Partnership’s towpath mooring proposals, for the Kennet & Avon Canal west of Devizes, 2013.

(Left hand column are verbatim extracts from the [plan](#))

Visitor moorings

Partnership proposal	CRT response
1. Visitor moorings be free for the first 48hours, then subject to an extended stay charge of £25 for each additional day (Assuming that CRT have the statutory authority to levy such charges this would be supported as it would help deter overstaying)	Accepted There appeared to be sufficient support from the consultation for standardising the stay time at all VMs at 48 hours, with an extended stay charge of £25 for each extra day. This will mean that VMs at Darlington Wharf, Dundas and Seend currently designated as 72 hour, will change to 48 hour.
2. All boats (except hire/hotel boats under hire are limited to an accrued maximum stay at each VM section of 4 days per calendar month	Accepted Taking into account the feedback from the consultation we propose a maximum 7 days in a calendar month on individual visitor mooring, rather than the 4 days suggested in the proposal. Depending on the frequency of monitoring, it might be necessary to re-cast the maximum days per month to a ‘no return within x days’ rule. This is subject to current debate on a national strategy for visitor mooring management.
3. CRT and the Waterways Partnership to undertake a review of VMs over the next 12 months	Accepted Local review of VM designations within the national framework currently being developed for public consultation.
4. Any extended stay charge debts that remain unpaid would be dealt with by normal consumer debt-collection processes separately from licence fees.	Accepted. In line with our current practice of using conventional debt collection process.
5. Unpaid extended stay charge debts would not be a barrier to renewal of boat license.	Accepted
6. To assist data checking processes all hire/hotel boats under hire to display an “under-hire” notice. (Purpose - to help ensure that hire boats not in use by hirers should be more easily identifiable so that if any are moored on visitor moorings our staff could contact the operator and ensure they are moved.)	Not Accepted This appears to be a localised problem for which the proposed solution is disproportionate. We do not see a need for the measure since our staff, as soon as notified, already deal with alerts of this type, contacting any operator concerned move boats away from the mooring. Concerns were raised in the consultation feedback that it might infringe on the privacy of hire boat occupants.

Partnership proposal	CRT response
7. Pre-payment options, including pay and display or phone payment systems, should be introduced as a priority to reduce invoice costs and to minimise on-site enforcement staff costs.	Not Accepted. This lacked strong support in the feedback, and experience in the SE is that boaters don't overstay on sites with a credible extended stay charge system. No income would therefore be generated to offset the costs of the payment system.

The needs of Anglers

Partnership proposal	CRT response
8. The need for pegging space is included in any local guidance.	Accepted.
9. The need for boaters to leave space between boats to accommodate anglers is included in local guidance (as well as for reasons of fire safety).	Accepted. Many respondents to the consultation expressed concern that these proposals would reduce the amount of space available for moorings, when there is already pressure on moorings in many areas. Nevertheless, we believe that respect for the needs of anglers should be included in any local communications and guidance on best practice.

Accommodating boaters' existing lifestyles

Partnership proposal	CRT response
10. Boaters' chosen lifestyles will be best preserved and protected through the clarification and consistent implementation of local guidance.	Accepted. The Trust will not take enforcement against those boats without a home mooring who move their boat in accordance with paragraph 4.5, for a 12 month period
11. The proposed Community Moorings (CMs) were not supported [by the partnership]. Consultation revealed widespread antagonism to the creation of yet another category of boater and suggested that doing so would generate considerable bad feeling towards, and 'ghetto-isation' of, the very group it was intended to support.	Accepted

Partnership proposal	CRT response
12. It is proposed that CRT continue to assess the merits of exceptional situations of need, on a case by case basis.	Accepted. This is our standard practice.

Local guidance, communication and compliance

Defining place

Partnership proposal	CRT response
13. The table of local neighbourhoods reflects the local geography and the neighbourhoods have been determined in a consistent fashion and reflect the advice provided by CRT in their extant guidance.	Accepted for the 12 month period as described in 4.5.
14. Boaters agree to move to a new neighbourhood every 14 days, unless it is reasonable in the circumstances to stay longer.	Accepted for the 12 month period as described in 4.5.
15. Boaters agree to vary the neighbourhoods they select to moor, and each time they move they agree not to move back to the neighbourhoods they have just come from (unless they are reversing the direction of travel or momentarily accessing essential services).	Accepted. This is consistent with existing guidance for boats without home moorings.
16. Boaters agree not to “bridge-hop”.	Accepted. As above

Range of movement

Partnership proposal	CRT response
17. Over the period spanning a boat’s annual license boaters agree to achieve a range of movement that exceeds 20 km.	Accepted. Subject to pattern of movement and mooring as outlined in 4.5

Compliance

Partnership proposal	CRT response
<p>18. We recommend that CRT commence the regular, consistent and fair enforcement of the 14 day rule, applied firmly and fairly to all boats, whether they are lived-on or empty.</p>	<p>Accepted This is our current practice.</p>
<p>19. Local Waterways Partnership to work in conjunction with the new Mooring Manager to convene a panel of experienced and respected local boaters who can impartially assess what is “reasonable in the circumstances” in each case that arises. Boaters who feel they have a genuine cause to extend their stay for more than 14 days should feel confident that the information provided will be dealt with fairly, consistently and in-confidence. We believe that once the panel has been informed the boater should be able to assume that their cause is reasonable in the circumstances, unless they are informed otherwise. If agreement is not forthcoming by the panel then the boater is to be informed and will be expected to move according to the local guidance and the local enforcement team will then similarly be informed. Appeals may be made through existing CRT Complaints procedures.</p>	<p>Not Accepted. We are happy to work with advisory groups of boaters, but to extend their remit into executive areas such as examination of individual cases would face several practical obstacles. However, we are currently reviewing options for enhancing our approach to welfare support. We could also explore with our Navigation Advisory Group whether a small panel to include boaters might have a useful role in retrospectively reviewing our overall approach, using a periodic report of anonymised cases. In the meantime, we already have an established process for considering applications from boaters for reasonable overstays, with no evidence that this is not working fairly.</p>
<p>20. We wish CRT to demonstrate its commitment to not applying enforcement to those boats that adopt local guidance by publicly stating that enforcement action will only be taken against boats that have been shown to have persistently disregarded Local Guidelines.</p>	<p>Accepted. Subject to recognition that enforcement action will still be needed in cases of unlicensed boats and for breaches of licensing terms and conditions, we agree not to enforce against boaters without a home mooring in the specific area during the period of the interim 12 month local arrangement, provided they comply with the terms of the interim arrangement.</p>
<p>21. CRT must ensure that only boaters who fail to adhere to the guidelines will attract enforcement action.</p>	<p>Accepted We agree not to enforce against boaters without a home mooring in the specific area during the period of the interim 12 month local arrangement, provided they comply with the terms of the interim arrangement.</p>
<p>22. The UK Driving license points system is a widely accepted and understood concept. We suggest that a points system based on this concept be introduced (16). This system would provide certainty for boaters of when enforcement action might be taken against them; it would enable boaters to recover from an occasional lapse and also assist CRT to firmly and fairly enforce the rules.</p>	<p>For further Review. We will consider this within the framework of our existing warning letter processes and explore the practicality of including it in current software development work on the mobile boat sightings data system. “Tickets” could be applied if a boat is sighted in the same place after 14 days and enforcement action would be commenced after a predetermined and publicised number of tickets. ‘Expiry’ date of tickets to be discussed.</p>

Communications

Partnership proposal	CRT response
23. A widely published local consensus carries with it an authority of its own and boaters are to be encouraged to observe all such locally-approved guidance.	Accepted. Local arrangements which have strong support from a large number of boaters is a potentially powerful influence on behavior. We will prepare and implement a communication plan to ensure that boaters are informed about the 12 month local plan.
24. We support the provision of new signage, boundary markers and publishing of a towpath mooring map and information leaflets to reflect these proposals.	Accepted
25. We wish to build public confidence and, although we recognize this may prove controversial, we encourage boaters to self-declare their intentions with notices posted on their boats; for example an anticipated next move date (“next move before....”).	Not Accepted. Although this might have value in some instances, we would prefer to see such practice evolve in a less formal way. The consultation feedback showed strong opposition to boaters being requested to display their navigation/next move intentions and it would therefore risk undermining respect for the proposals as a whole.
26. To provide the public with the assurance that boats are moving according to the guidelines we recommend that anonymised CRT cruising records be made available to the public without recourse to Freedom Of Information Act request(s).	Accepted. We could publish a short anonymised summary on a quarterly basis. . We will develop a prototype for consideration by boaters/Partnership. (Note – it is never necessary to cite FOI when requesting information. Our costs are reduced if requests are submitted directly to the department manager, in this case Enforcement Operations Manager.)
27. We also recommend that individual boaters are provided access to their own navigation records without recourse to Data Protection Act request(s).	Accepted. Individual boaters already have access to these. An email or telephone request to our customer services team is all that’s required.
28. In order for the LWP to effectively evaluate progress of implementation, and to determine whether it is appropriate to consider revision of these guidelines, it is imperative that CRT provide regular relevant information to the LWP as implementation proceeds.	Accepted. We are happy to share and review the results of the interim arrangement with the Waterway Partnership quarterly.
29. We recommend that both CRT enforcement documentation and published guidance be amended to accommodate the existence of local guidance.	Accepted. We will ensure that those potentially affected boaters are made fully aware of the interim arrangement through local communication. However in implementing the plan, it would not be practical or reasonable to alter all national documentation.

<p>30. We recommend that license renewal forms be amended to incorporate a tick box that records that the boater has read and understood local guidance that will apply to them over the forthcoming license period.</p>	<p>Not Accepted. This is not necessary in the context of an interim 12 month period.</p>
<p>31. We recommend that licence renewal forms be amended to incorporate an additional tick box that enables the boater to confirm that "I understand that it is quite possible that my boat movements may attract enforcement action if I do not adhere to local guidelines".</p>	<p>Not Accepted. As above. However we are constantly reviewing all our boat licensing documentation and communications to see how we can strengthen boater understanding of rules, both national and local.</p>
<p>32. There is now an obligation for the LWP to ensure that all people likely to be affected by these proposals are genuinely consulted on these proposals.</p>	<p>Accepted. This has now happened.</p>
<p>33. We recognize that the product of such genuine consultation may result in the LWP considering further amendment to these proposals via this sub-group.</p>	<p>Accepted.</p>