

TOWPATH MOORING PLAN FOR THE KENNET & AVON CANAL WEST OF DEVIZES



Canal &
River Trust

LWP Mooring Sub-Group Proposals for implementation

Final Report 25 March 2013

Preamble

The Kennet & Avon Waterway Partnership following local, informal consultation with stakeholders offers these proposals to the boating team of the Canal & River Trust for further consideration by the Navigation Advisory Group

The proposals support the introduction of a pilot voluntary local agreement between the Trust and licence holders in the area between Bath and Devizes.

The proposals do 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. Licence holders who do not opt in to the voluntary agreement would knowingly be bound by standard licensing obligations within this area.

Whilst the Partnership recognises that there will be additional costs associated with the introduction of this voluntary agreement, it has not sought to quantify these costs. Neither do the proposals seek to address concerns over the growth of mooring in this area from people attracted to the Kennet & Avon Canal.

After further advice from the Navigation Advisory Group, consideration should be given to implementing the proposals as a pilot 12 month pilot.

Introduction

The LWP Mooring Sub-Group is a group nominated by LWP at the request of the CRT. The sub-group has met 5 times since Oct 2012 to come up with workable ways of addressing the CRT aims for moorings as defined in August 2012 Draft Mooring Plan :

1. To protect the amenity of the waterway for widest public benefit
2. To improve access to popular visitor moorings by boats being used for leisure and holiday purposes, and to stretches of 'unmoored' water by anglers

3. To provide a means by which boaters without a home mooring currently resident between Bath and Devizes may continue with their chosen lifestyle without the need to move every 14 days.
4. To clarify local guidance and achieve understanding and compliance through effective, positive, communications and support, reducing dependence on requirement for exercise of legal enforcement powers.

In November 2012 the sub-group submitted their report.

Subsequently, having reviewed this report, in December 2012, CRT asked the LWP Sub-Group to consider an additional set of objectives in support of those aims:

1. To refine proposals for visitor mooring signing, including return frequency, so that rules are clear and enforceable
2. To develop reasonable definitions for each neighbourhood between Bath and Devizes and to recommend a criterion for bona fide navigation for this area that is consistent with our Mooring Guidance and with the Bristol County Court judgment of 2010 (BW v. Davies).
3. For the benefit of those long established live-aboard boaters in the area who would find it difficult or impossible to fulfil the clearer bona fide navigation criterion, to design a flexible mooring permit that would legitimise their preferred movement pattern. (For guidance on the parameters of this design, please refer to our headings for community moorings permit terms and conditions)
4. In preparing these proposals, to be mindful of one further objective: namely to minimise the draw on the Trust's financial resources in implementing the plan. Monitoring costs in particular need to be considered in setting maximum stay times (the shorter the maximum period, the more frequent the monitoring activity required). While we are setting no specific objectives for revenue generation, we would like to see some income from the plan to support the costs of compliance monitoring and potentially to contribute to the costs of improving facilities for boaters.
5. To document the scope of consultation that the group has undertaken in developing the proposals. What is the view of the group on the desirable scope of any further consultation?

In coming up with this response, sub-group members (1) have worked hard to engage with a very wide range of interested parties (2) to ascertain their views and gain their support and commitment to adopting guidance that we believe will result in a significant and positive shift in navigation habits.

Summary We have rigorously reviewed the proposals presented by CRT in August 2012, as well as also accommodating an assessment of the additional refinements in January 2013, and have consulted extensively and locally (2) where we have felt appropriate.

From the outset we reached consensus on an open and transparent methodology and way ahead. Notwithstanding the response from CRT in December 2012, which resulted in the refined objectives, we retained consensus

on our approach and recommendations. We have subsequently been taking care to fine-tune our report and ensure due process is achieved and now submit this report for assessment by the LWP.

We recommend the following intelligible, clear and predictable measures to reduce the risk of congestion and assist all boaters to navigate this canal unhindered. Our proposals will enable boaters without a home mooring to continue to follow their chosen lifestyle with dignity and without undue interference. We are confident that these proposals will deliver the intended aims.

We believe it would be helpful and useful for us to monitor the success, or otherwise, of the implementation of these proposals, as they proceed. We recommend that CRT provide regular information to the LWP to enable a viable and objective evaluation of progress to be achieved. This evaluation (again consulting locally, as far as practicable) would provide a full picture of the proposals' impact and identify any key points of learning; as well as assessing whether or not there were sufficient evidence to support the modification of these proposals in a year's time, to further mitigate the risk of congestion.

In anticipation of these measures creating changes to navigation habits, we would wish to ensure that the same principles be applied to the remainder of the K&A Navigations as soon as is practically possible.

Recommendations: Following a review of mooring issues on the western section of the Kennet and Avon Canal the following recommendations are made by the Local Waterways Partnership, Mooring Sub-Group:

- **Visitor Moorings:**
 - o proposals to make adjustments to location and linear length of some VMs are a work-in-progress (3) and we have chosen to leave any decisions about these until a later date. We intend to review these in 12 months time.
 - o continue to be made available free of charge for the first 48 hours(4).
 - o all boats (except hire/hotel boats under hire (5)) are limited to an accrued maximum stay at each VM section of 4 days per calendar month (4).
 - o To assist data checking processes all hire/hotel boats under hire to display an "under-hire" notice.
 - o It has been stated that CRT would wish to levy a service charge, or overstay charge, for all boats who extend their stay at a VM beyond 48 hours. Assuming that CRT have the statutory authority to levy such charges this would be supported as it would help deter overstaying.

- o 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.
 - o pre-payment options would also have the added benefit of improving staff security by reducing the need to collect direct cash payments.
 - o only if these pre-payment options are not achieved, or not available, should invoices be raised.
 - o overstay debts that remain unpaid should be dealt with by normal consumer debt-collection processes/agencies and should be treated separately from licence fees.
 - o renewal of a boat licence is not subject to settlement of overstay debts.
- **The needs of anglers (6) :**
 - o the need for pegging space is included in any local guidance.
 - o 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).
- **Accommodating boaters' existing lifestyles:**
 - o boaters' chosen lifestyles will be best preserved and protected through the clarification and consistent implementation of local guidance.
 - o the proposed Community Moorings (CMs) were not supported (7) . 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.
 - o CM's may be seen as primarily a revenue generator. The actual cost of this would be an overwhelmingly negative social impact, and would result in the wrong message being conveyed when we are trying to establish a new era and ethos of voluntary compliance.
 - o it is proposed that CRT continue to assess the merits of exceptional situations of need, on a case by case basis.
- **Local guidance, communication and compliance:** We recommend a suite of local guidelines below that are intelligible, clear and predictable. When followed in combination these local guidelines will provide boaters with the confidence that they are using the waterways on a fair and equitable basis and that they will not attract enforcement action:
 - o **Defining Place (8) :**

- boaters agree to move to a new place every 14 days, unless it is reasonable in the circumstances to stay longer.
 - boaters agree to vary the places they select to moor, and each time they move they agree not to move back to the place (9) they have just come from (unless they are reversing the direction of travel or momentarily accessing essential services).
 - boaters agree not to “bridge-hop” (10).
 - the table of local Places (11) reflects the local geography and the places have been determined in a consistent fashion and reflect the advice provided by CRT in their extant guidance.
- o **Range of movement** (12) :
- over the period spanning a boat’s annual licence boaters agree to achieve a range of movement that exceeds 20 km.
- o **Communications:**
- 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.
 - we support the provision of new signage, boundary markers and publishing of a towpath mooring map and information leaflets to reflect these proposals.
 - 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....”).
 - 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).
 - we also recommend that individual boaters are provided access to their own navigation records without recourse to Data Protection Act request(s).
 - 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 (13) to the LWP as implementation proceeds.
 - we recommend that both CRT enforcement documentation and published guidance be amended to accommodate the existence of local guidance.
 - we recommend that licence 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 licence period.

- 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”*.
- there is now an obligation for the LWP to ensure that all people likely to be affected by these proposals are genuinely consulted (14) on these proposals.
- we recognize that the product of such genuine consultation may result in the LWP considering further amendment to these proposals via this sub-group.

o **Compliance:**

- 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 (15).
- we understand that regional Mooring Managers are now being recruited. The LWP were not apprised of this highly relevant development in the January 2013 communique, despite the fact that it must have been at an extremely advanced stage at the time. We welcome the initiative nonetheless. Subject to the new posts' terms of reference being suitable we feel this initiative can provide an opportunity for the 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.
- 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.

- CRT must ensure that only boaters who fail to adhere to the guidelines will attract enforcement action.
- 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.
- these proposals will enable CRT enforcement teams to look at economy/efficiency measures, such as frequency and selective focussing of data-checking, which could prove revenue-saving.
- greater self-policing and self-declaration should result in less frequent checking being needed in the longer-term and provide a means of revenue-saving.

Conclusion We believe the proposed schedules are simple, specific, clear and proportionate; they will enable boaters to plan and record their navigation and have confidence that they are complying with their licence conditions. We believe this will have a significant and beneficial impact and achieve the aim of reducing the risk of congestion on the waterway. All boaters who choose to navigate this stretch of canal will now have intelligible, clear, predictable and locally defined guidelines to follow. The strength of these proposals come from the fact that they have been developed and agreed locally through a very extensive process of consultation with relevant groups. This plan is designed to enable, support and encourage the adoption of these guidelines and shift the balance away from the enforcement 'stick' and significantly reduce the cost of enforcement over time. In particular, greater clarity of cruising guidelines based on locally defined terms and improved mechanisms for engaging and communicating with boaters will, we hope, bring about a new and mutually beneficial culture of trust and cooperation between boaters and the Trust's management.

Notes:

1. Ken Oliver Wiltshire County Council, Terry Fell Anglers, Emma Fearnley K&A Trade Association, Richard Wright Local Community, Sandra Fry Boaters with Moorings, Andrew Harry Residential Boaters, Alida Robey facilitator Community Resolve.

2. The Avon Valley Parish Alliance; The Taverners Boat Club Bradford-on-Avon, AWCC S & W Region (including Burghfield Island Boat Club, Cotswold Canal Cruising Club, Pewsey Wharf Boat Club, Somerset Navigators Boat Club, Thrupp Canal Cruising Club and National Assembly); Local Angling Clubs, The Bathampton Angling Association, Local Tackle Shops in Devizes and Trowbridge and the National Angling Trust ; Local representatives of National Association of Boat Owners, Local representative of the Residential Boat Owners Association, the National Bargee Travellers Association, the Kennet and Avon Boaters Action Group, boaters who were former members of the local Mooring Strategy Steering Group; Canal and River Trust Regional Enforcement Operations Team and Head of Boating; Wiltshire County Council; The Kennet and Avon Trade Association (including cycle hire shops, public houses, hire boat companies, local marina operators, local boatyards, local Boat Safety Scheme Examiners and local Inland Waterway Association members), local members of the Association of Pleasure Craft Operators; the Kennet and Avon Canal Trust Council (who have chosen not to state an opinion).

3. Proposals to make adjustments to the location and linear length of some VMs were included in the CRT Draft Mooring Plan in August 2012 and reflected the work of the group that had previously been working on Mooring issues, the Mooring Strategy Sub-Group (MSSG). We have decided not to address these MSSG inspired proposals at this stage and intend to conduct a separate review of these issues in due course. We felt that there were more pressing issues to be tackled at this stage and didn't want to dilute the attention we might otherwise give to these specific MSSG inspired proposals.

4. This will reduce complexity, simplify signage, build in consistency and help support the local economy by encouraging some hire-boaters to explore local towns and villages, although it is anticipated that most hire-boat stays would be for less than 24 hours. We propose that boats (excluding hire/hotel boats under-hire) may stay at a specific section of Visitor Mooring for an accrued maximum of 4 days in each calendar month. This will allow boaters to visit their preferred VMs regularly if they wish, but will encourage them to venture to other VMs they may be less familiar with. The exemption of hire/hotel boats under-hire does reflect the nature of their navigation, but the inclusion of hire/hotel boats not under hire will discourage empty hire boats from being stored on Visitor Moorings.

5. Trading boats: As it is anticipated that new commercial moorings for café boats etc. may soon be established, by the boating trade manager after consultation with the Partnership, no special provision is proposed for roving traders who must comply with the terms and conditions of their specific licences.

6. Angling clubs lease the use of water throughout the length of the plan area. They need to be able to exercise their rights in the locations which are convenient to them, and these might typically be the same places that boats want to moor. One such right is; if fishing pitches are pegged out in advance then boats moving into the area should not moor at that specific location. This is **not** well known in the boating community. The Angling Community have made it clear that, apart from improving awareness and acceptance of the pegging system all they require is assistance to fish where boats are moored prior to pegging out. For this it would help if there were space between boats. Rather than prescribe any specific solution here we recommend engaging with the local boating Community to incorporate these requirements into their voluntary Community Code of Conduct and for it to be accepted over time as normal practice. This practice we believe can tie in well with the emerging need for boaters to leave a fire break between boats in the interest of boat safety and both measures would be suitable for the local boating community to adopt. Finally, Anglers will seek to address their need for additional parking through routine planning process, supported by CRT. Anglers do not support the principle of Community Mooring the main reasons being the loss of large sections of the canal for fishing and what limited parking is available will be blocked to all other canal users for long periods of time.

The Angling Clubs would look to ensure that subject to agreement on this general Mooring Plan

being accepted by the Board of CRT the same principles involved will be applied to the remainder of the K&A canal as soon as is practically possible.

7. The proposed Community Moorings were not supported, except by some local householders. We strongly believe that the CMs would over-complicate what is a simple solution in this Mooring plan and are contrary to CRT Policy on the prioritisation in the development of off-line moorings over on-line moorings. These Community Mooring permits are seen as regressive and divisive and would deny access to all boaters, and anglers, to large tracts of the towpath and create sections of canal where there were permanent lines of boats moored. We believe these permits would increase congestion on the waterway and may be a source of conflict across the boating community. Given the lack of local support for the proposal, and that the inherent restrictions and complexity, and presumably cost of implementation, would far outweigh any proposed benefits. We do not support this initiative. We do acknowledge that the projected income from this form of licence will not be realised but we were uncomfortable with the proposal that a specific group of boaters were being asked to finance the overall cost of enforcement through these restrictive licences. We do however anticipate that adoption of the proposals elsewhere in this document will reduce that pressure.

8. It is our intention actively to encourage onward movement whilst not being overly prescriptive and we have defined a clear baseline from which to operate and to enable objective evaluation. We expect that boaters will normally move from Place A to Place B or beyond, and not immediately return to Place A (see note 10 below) but proceed at least to Place C and then Place D and onwards, though they are of course at liberty to reverse their direction of travel to suit their navigation requirements as well as to access essential services. We have given the matter considerable thought and believe these proposals, when implemented fully, will provide an integrated set of guidelines that are flexible and will actually result in widespread, voluntary compliance and drastically reduce recourse to expensive legal action. We do not feel it is possible, at this stage to be any more specific, nor any more prescriptive.

9. We have used the term "Place" throughout this report to reflect the prominence of the term at Note 14. For the purpose of providing clarity though this term "Place" may, we feel, be interchanged with the terms "Neighbourhood" or "Location".

10. Bridge hopping is a term used to describe when a boat moves from one place to another adjacent to it and then back to the same place. It is felt that this pattern of navigation is neither fair nor equitable and is discouraged on this basis.

11. Table of Places:

Place	Western limit	Eastern limit
Eastern Bath	Bath Top Lock	Candys Bridge (Br.184)
Bathampton	Candys Bridge (Br.184)	Bathampton Swing Bridge (Br.182)
Claverton	Bathampton Swing Bridge (Br.182)	Millbrook Swing Bridge (Br. 178)
Dundas	Millbrook Swing Bridge (Br. 178)	Limpley Stoke Bridge (Br. 175)
Muirhill	Limpley Stoke Bridge (Br. 175)	Elbow Bridge (Br. 174)
Avoncliffe	Elbow Bridge (Br. 174)	Meadows Bridge (Br.173a)
Bradford on Avon	Meadows Bridge (Br.173a)	Beehive Bridge (Br. 170)

Widbrook	Beehive Bridge (Br. 170)	Widbrook Bridge (Br.169)
Hilperton	Widbrook Bridge (Br.169)	Staverton Bridge(Br. 166)
Whaddon	Staverton Bridge (Br. 166)	Semington Swing Bridge (Br. Xxx)
Semington	Semington Swing Bridge (Br. Xxx)	Park Farm Bridge (Br. Xxx)
Seend Cleeve	Park Farm Bridge (Br. Xxx)	Seend Top Lock
Sells Green	Seend Top Lock	Martinslade Feeder
Foxhangers	Martinslade Feeder	Lock 44

12. CRT Draft Mooring Plan August 2012 initially introduced the concept of a range of 12.5 miles (20km). Whilst we have adopted this figure in a slightly different context we feel this has helped us define another element within the whole suite of proposals that, when implemented in unison, will help encourage new navigation habits by boaters.

13. In order to achieve ongoing and objective evaluation and working with CRT Partners the LWP will now need to define their information needs in this regard.

14. It is widely accepted that if a properly conducted consultation is undertaken it is far more likely that the end product will be accepted and thus succeed. We believe it is imperative that a genuine consultation now take place, preferably by an impartial lead with external assistance. We would welcome being involved in this consultation in an advisory capacity as appropriate eg: helping to define questions and/or assessing responses. The obvious Reference is The Code of Practice on Consultation 17 July 2008 Dept for Business, Info and Skills.

15. British Waterways Act, Section 17(3) C, ii specifically prohibits boats from remaining in one place for more than 14 days (unless it is reasonable in the circumstances).

16. Much like drivers of road vehicles in the UK we accept that boaters will suffer from the occasional lapse in their pursuit of complying with local guidelines. We recommend that this be acknowledged within CRT processes that precede enforcement action. Currently drivers on the UK roads attract 3 points for a misdemeanor and when they reach 12 points they will often forfeit their licence for a period of time and will be unable to drive. If drivers reach 6 or 9 points then the pressure is on and they more often than not take care to avoid breaking the rules. Additionally, if drivers keep a clean sheet for 4 years then the slate is wiped clean and they then start on zero points again. This is a tried and tested system, it is neither novel nor contentious and it is widely understood and accepted by the UK public. We recommend that all these aspects be duplicated in the CRT boat licensing/enforcement system to further reduce the reliance on complicated and heavy handed enforcement notices and the expense of subsequent legal action.