

Appendix A - Planning Appeal Information regarding the Home Mooring of Boats

Appeal Decision

Inquiry held on 12, 13 & 14 December 2006

Site visit made on 14 December 2006

by Christopher J Craig MA(Oxon) MPhil MRTPI
an Inspector appointed by the Secretary of State for
Communities and Local Government

Date 23 Jan 2007

Appeal Ref: APP/E3905/C/06/2019638

Canal Bank, West of Ladies Bridge, Wilcot, Pewsey, Wiltshire SN9 5DP

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by British Waterways against an enforcement notice issued by Kennet District Council.
- The Council's reference is 2004/162.
- The notice was issued on 26 May 2006.
- The breach of planning control as alleged in the notice is the unauthorised use of the land for the mooring of residential barges/boats not in the course of navigation.

The following observations were included in the Inspector's decision letter-

I note that the enforcement notice alleges only an unauthorised change of use and makes no mention of any operational development, which at Ladies Bridge appeared to be limited to simple landing platforms, mooring posts, a small wooden shed and a limited number of electrical link-up points. No evidence has been presented in respect of these and there is no requirement for them to be removed. Whether or not they could be viewed as de minimis in the context of the canal and mooring, what is at issue in this appeal is solely the use for the mooring of boats.

The mooring of boats at places along the banks is a normal activity inherently associated with the use of the canal for the passage of boats. The Council has clearly stated its view that the authorised use of the appeal site includes any incidental mooring in the course of navigation.

I acknowledge that a mooring for 17 boats on a section of hitherto undisturbed canal bank has an impact on the appearance and character of the appeal site. However, narrow boats, whether moving or moored, are intrinsic to the character of the Kennet & Avon Canal.

In my view a home mooring is more akin to parking than a storage use and the constant mooring of a line of boats no more amounts to a change of use of the canal than cars parked on the public highway outside dwellings.

I consider therefore, as a matter of fact and degree, that the on-line home mooring for 17 barges/boats at Ladies Bridge does not amount to a material change of use but is ancillary to the primary use of the canal for navigation. In my view it can be clearly differentiated from an off-line marina which is a more elaborate purpose-built facility clearly involving substantial operational development.

The Inspector later awarded substantial costs against the Kennet District Council.