

# Minute Item 5

From: "Jon Ody" <[jon@greenboatservices.co.uk](mailto:jon@greenboatservices.co.uk)>

Date: Mon, Jun 12, 2017 at 1:02 PM +0100

Subject: Re: Scrutiny Committee, Monday 12th June, Boat-dwellers

To: Scrutiny Committee

Hi again Andrew, (cc other members of the scrutiny committee)

As the representative for the National Bargee Travellers Association (NBTA) in Oxford, I thought I should follow-up to clarify our specific concerns re Section 2.3 of the Local Plan preferred options ahead of Monday's scrutiny.

[Ref <http://mycouncil.oxford.gov.uk/documents/s36349/Appendix%201%20Preferred%20Options.pdf>]

To start with, the paragraph on waterways under Objectives and Strategy, and the set of options on "Protecting and promoting watercourses" (4(ii) p129), and the entire section of flood-plain development (p111) make no mention at all of residential use of the waterways, despite well-established boat-dwelling communities existing throughout the city. The word 'boat' is used 6 times while the word 'flood' appears 122 times. There is a clear deficiency in being overly focused on only one marine-based topic at the expense of another (equally important) one.

The document states "The affordable housing need in Oxford is so great that all options must be explored for addressing it." (p70) and the options on floodplain development describe how to "enable development to come forward on flood zone ... because of the huge need for development in Oxford and the lack of availability of sites in other locations." (p111). If there is budget available and enough political excuse to develop the floodplain then there must therefore be sufficient budget for the development of both temporary and permanent moorings for use by boat-dwellers.

Using boats as homes is a form of attractive, affordable and environmentally-friendly, and most importantly flood-proof housing for Oxford, in line with many of the principles in the document, however the existing and ongoing use of boats as homes seems to be an afterthought. Oxford is an historic hub (and by 2036 it will probably be a 5-way hub) in the waterways network as well as a popular destination for visiting waterways tourists, and the single best place in Oxfordshire for transient boats to seek shelter and services in the otherwise barren county, however this also seems to have been overlooked in the preferred options document.

With all this in mind I must draw your attention to a very serious and pressing matter.

Section 2.3 states that an assessment of traveller needs was carried out by Oxford and the districts in 2017 (p80). However:

- Section 225 of Housing Act 2004 already incorporates boat-dwellers as part of the periodic assessment of accommodation needs (as per Housing Regulations 2006 Paragraph 2b "all other persons of a nomadic habit of life", clarified in a letter from DCLG to NBTA in April 2009).

- Section 124 of the Housing and Planning Act 2016 amends the Housing Act 1985, section 8, subsection 3, to include: "(b) places on inland waterways where houseboats can be moored"; and also subsection 4 to give the definition: "houseboat" means a boat or similar structure designed or adapted as a place to live."

Therefore it seems that the assessment for the needs of travellers described in 2.3 of the preferred options is somewhat lacking, and that Oxford City Council has neglected to complete the statutory requirements contained within the Section 8 of the Housing Act 1985 (as amended 2016), with specific regard to a significant boat-dwelling community within the city and indeed the county.

Obviously it would be a huge waste of resources all round if this mistake were not addressed prior to the inclusion of this statement as part of the options for the Local Plan, and it would be preferable to discuss it at an early stage rather than having to endure the associated costs of later complaints being elevated to the high court, judicial reviews etc etc.

I will point out that NBTA are experts at assisting local authorities in this assessment of needs, in fact they are identified within the draft guidance issued by DCLG as a representative body for boat-dwellers in the section on 'Existing data sources' (p6).

Which brings me onto the next point.

S2.3(ii) of the local plan preferred options gives 3 options, which roughly translate (to a lay person) to A) maintain the status quo; B) do nothing unless forced to; or C) have no policy. We advise both options B and C are non-compliant and should be removed. Since boat-dwellers are now specifically recognised in primary legislation it seems that option C isn't really viable anyway, since the council must have a policy. But it is the wording of option B that is of most concern.

As stated above, the 2016 amendments to the 1985 Housing Act create a very specific statutory obligation to assess the needs of boat-dwellers, and includes a very specific definition. Option B seems to contradict this, and states that boat-dwellers are not included in the assessment. This is untrue, and it would be unlawful and/or immoral of the Council to proceed with this option in the consultation armed with this knowledge. There is specific clarity on the definition of houseboats contained within the amendments and the needs of boat-dwellers must be assessed by OCC.

Also contained within Option 2.3(ii) B are a couple of questionable statements, while it is absolutely true that "it still cannot be assumed that all need can be met through the provision of permanent moorings" however this does not excuse the council of assessing and ensuring the needs are met for all boat-dwellers, whether or not they prefer to have a permanent mooring. There are many sites in Oxford with potential for residential and transient moorings (and it is noted that nearly a page of the preferred options document is dedicated to the development of flood-plain sites), much of which is owned by Oxford City Council or other authorities, some of which are currently heavily restricted with threatening signage and much of which are

currently impractical, impossible or unsafe to moor at, entirely due to previous legally-dubious City Council initiatives.

As also stated above, the NBTA are exactly the right people to talk to about this assessment. With my previous email on the subject I attached (possibly slightly out of context) a copy of the 'Draft guidance to local housing authorities on the periodical review of housing needs, caravans and houseboats'. I also attached a copy of the NBTA comments regarding the guidance. The NBTA are ready and willing to assist in any policy developments which can accommodate the needs of boat-dwellers in cooperation with all other stakeholders. Consultation is a two-way process though, NBTA have not been approached for their input but will respond accordingly when asked.

The DCLG draft guidance begins with "This document aims to provide advice on how to consider the needs of such people where they differ from those of a settled community.", and it goes on to describe the government's recommended methods for carrying out such an assessment. The guidance is not perfect, and NBTA has submitted it's comments on the guidance to the DCLG (attached). Please don't be put off by the title "Draft". As stated on the document's homepage on Gov.uk "It shows how the government would want local housing authorities to interpret the changes ... should the clause [115 of HL Bill 87] receive Royal Assent." [\[https://www.gov.uk/government/publications/review-of-housing-needs-for-caravans-and-houseboats-draft-guidance\]](https://www.gov.uk/government/publications/review-of-housing-needs-for-caravans-and-houseboats-draft-guidance) - The Housing and Planning Act received Royal Assent on 12th May 2016, and hence the document should be read as being current version of government guidance.

As I asked previously, I hope to highlight these points to the scrutiny committee on Monday, but where I seem to be lacking is an alternative proposal which can be put to the CEB by the scrutineers on Thursday without causing too much disruption to the process. Our immediate impression is that you should recommend the rest of the document should be approved but that section 2.3(ii) requires clarification and correction, but it might be that some simple rephrasing could be recommended to be adopted this week without holding up the wider consultation.

Our preferred recommendations for section 2.3(ii), based on the discussion above, would look something like this:

- Option A seems reasonable and a policy developed using input from the wider local plan consultation would be quite acceptable (provided the consultation process is properly followed). NBTA have no objection to option A being consulted on.
- Option B should be rejected outright as it is non-compliant with primary legislation. The text of the option is incorrect and out-dated.
- Option C should be rejected outright as it is non-compliant with primary legislation. Oxford must have a policy regarding boat-dwellers.

Since this leaves no alternative option to go out to consultation with, we would like to propose an alternative option as a revision to or replacing option B and C (here described as option D).

- Option D (for example):

"Oxford City Council should seek to meet the needs of boat-dwellers guided by a periodical assessment of their accommodation needs, published as part of a Supplementary Planning Document on the use of Oxford's Waterways."

"Legislation has recently changed regarding the definition of 'boat dwellers' and 'houseboats' who should be considered in the wider assessment of traveller's needs, and boat-dwellers are to be included in that assessment. If specific needs are assessed then those needs will be met by a Supplementary Planning Document subject to ongoing consultation (eg via the National Bargee Travellers Association and other key stakeholders). The needs of boat-dwellers are varied and very specific, with many but also many differing from the needs of the general population. It cannot be assumed that all needs can be met through the provision of permanent moorings as many boat-dwellers navigate waterways on a permanent basis and a detailed and flexible approach is required."

With regards to Option D, the NBTA are very knowledgeable around the specifics of the needs of boaters on the Oxford Waterways, and would be willing to work closely in partnership with the council in assessing the needs of boat-dwellers, and in proposing solutions to meet those needs.

Lastly I'd like to congratulate the new chair of the scrutiny committee on their appointment, and to congratulate the Labour members of the committee on their recent successes in the general election under Jeremy Corbyn. I'd like to point out a specific paragraph in the recently published Labour party manifesto "We will end racism and discrimination against Gypsy, Roma and Traveller communities, and protect the right to lead a nomadic way of life." (p112) and I hope all Labour members of the council will continue to support their party's manifesto throughout this government (however short-lived it might be) and help to bring about the realities of the manifesto at a local level and to end the discrimination suffered by boat-dwellers in Oxford over recent years.

I hope that helps to clarify the specific concerns. I continue to look forward to speaking to you later.

Best regards,

Jon Ody BEng(Hons)  
07766546645

# The National Bargee Travellers Association

## About us

The National Bargee Travellers Association (NBTA) is a volunteer organisation formed in 2009 that campaigns and provides advice for itinerant boat dwellers on Britain's inland and coastal waterways. This includes anyone whose home is a boat and who does not have a permanent mooring for their boat with planning permission for residential use.

The NBTA is not a law firm and we do not purport to be lawyers. Our legal resources are provided "as-is" and without warranty or liability.

## What we do

The NBTA is an organisation open to all but is run by and extends a welcome to those who live on their boats and travel, 12 months a year and as part of their lifestyle, in other words not just for the summer and not just for fun. NBTA members have made a choice to live on a boat as opposed to bricks and mortar but this choice is regularly made for them by ever escalating house prices and the oppressive nature of modern life.

Founded in 2009 in the Reading area, the NBTA is seeking to represent the interests of Bargee Travellers far and wide and welcomes participants irrespective of location. The NBTA also welcomes contact from other boating interest groups.

The NBTA seeks to represent the interests of all live aboard boat dwellers – "Bargee Travellers" – in respect to upholding our chosen way of life. Being a Bargee Traveller is not a lifestyle taken on lightly and we seek to ease its additional burdens.

The NBTA seeks to uphold the rights of all Bargee Travellers including recognition as a protected minority group both in law and in society. Following from recognition in law grows a range of rights all too regularly trodden underfoot by local and central Government and the NBTA seeks to see the rights of Bargee Travellers upheld. The NBTA also engages in lobbying central and local Government to improve conditions for Bargee Travellers.

Where a Bargee Traveller suffers a marine trauma the NBTA seeks to assist the member to recover from the trauma. Someone else's trauma today could so easily be one's own trauma tomorrow.

NBTA members may be nomadic but are also members of the local community. A significant number of members are artists and displaying artwork engages with the local community and contributes to the cultural mix that any society represents.

# Statutory Review of Housing Needs for Boat Dwellers in Oxford, Document Pack

Prepared for the Oxford City Canal Partnership by the National Bargee Travellers Association, 7th June 2017

## Contents:

1. Department for Communities and Local Government: Draft guidance to local housing authorities on the periodical review of housing needs: Caravans and Houseboats.  
<https://www.gov.uk/government/publications/review-of-housing-needs-for-caravans-and-houseboats-draft-guidance>
2. NBTA comments on the draft guidance to local housing authorities on the periodical review of housing needs for caravans and houseboats.  
<http://www.bargee-traveller.org.uk/wp-content/uploads/2016/09/NBTA-comments-on-draft-guidance-S124-Housing-and-Planning-Act.pdf>
3. HM Government Cabinet Office Guidance on Consultation Principles.  
<https://www.gov.uk/government/publications/consultation-principles-guidance>
4. About the National Bargee Travellers Association.  
<http://www.bargee-traveller.org.uk/about/>

The NBTA expects to be formally consulted as recommended by the DCLG guidance as part of the statutory assessment by Oxford City Council as a local housing authority into the needs of all houseboat dwellers living on or visiting the waterways within the City of Oxford and will provide a formal opinion as part of that consultation process.

This document pack does not constitute any kind of response to any consultation or formal opinion regarding the state of the Oxford Waterways or of Oxford City Council's treatment of its houseboat dwellers. It is provided as-is without warranty or liability.



Department for  
Communities and  
Local Government

# Draft guidance to local housing authorities on the periodical review of housing needs

Caravans and Houseboats





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# Introduction

The Government is keen to see fairness and transparency in housing with all sections of the community treated equally.

The periodical review of housing needs under section 8 of the Housing Act 1985 is a statutory requirement on local housing authorities. This requires local housing authorities to assess and understand the accommodation needs of people residing or resorting to their district. It includes the duty to consider the needs of people residing in or resorting to a district with respect to sites for caravans and the mooring of houseboats is part of that requirement.

This guidance aims to provide advice on how to consider the needs of such people where they differ from those of the settled community. While we recommend that the basic principles outlined here should be followed, the exact approach will need to be adapted to local circumstances.

An understanding of the need for caravan sites and moorings for houseboats is essential to make properly planned provision and avoid the problems associated with ad-hoc or unauthorised provision. A comprehensive consideration of needs and strategy to meet the need identified will greatly strengthen the ability of local authorities to respond swiftly and firmly to inappropriate unauthorised developments and encampments.

## Who should use the guidance?

The guidance is provided for those within local housing authorities who have responsibility for undertaking, arranging or commissioning the accommodation needs assessments.

## Assessing the need for caravans and houseboats

When considering the need for caravans and houseboats local authorities will need to include the needs of a variety of residents in differing circumstances, for example:

Caravan and houseboat dwelling households:

- who have no authorised site anywhere on which to reside;
- whose existing site accommodation is overcrowded or unsuitable, but who are unable to obtain larger or more suitable accommodation;
- who contain suppressed households who are unable to set up separate family units and
- who are unable to access a place on an authorised site, or obtain or afford land to develop on.

Bricks and mortar dwelling households:

- Whose existing accommodation is overcrowded or unsuitable ('unsuitable' in this context can include unsuitability by virtue of a person's cultural preference not to live in bricks-and-mortar accommodation).

## Are there particular groups who have a need for caravans and houseboats?

This guidance is concerned with all those who have a need to live in a caravan or houseboat whatever their race or origin. It includes, but is not restricted to, bargees, Romany Gypsies, Irish and Scottish Travellers, new-age travellers and travelling show people.

Romany Gypsies and Scottish and Irish Travellers are recognised ethnic groups who have needs relevant to their ethnicity and culture, and all the duties on public bodies under the Equalities Act 2010, Human Rights Act 1998 and relevant case law apply.

## How will assessing the needs of particular groups differ from the needs of the rest of the community?

The needs of those residing in caravans and houseboats may differ from the rest of the population because of:

- their nomadic or semi-nomadic pattern of life;
- their preference for caravan and houseboat-dwelling;
- movement between bricks-and-mortar housing and caravans or houseboats;
- their presence on unauthorised encampments or developments.

Mobility between areas may have implications for carrying out an assessment. Local authorities will need to consider:

- co-operating across boundaries both in carrying out assessments and delivering solutions;
- the timing of the accommodation needs assessment;
- different data sources .

Travelling show people also have different accommodation needs. Account should be taken of the need for storage and maintenance of equipment as well as accommodation. The transient nature of many travelling show people should be considered.

# Carrying out the Accommodation Needs Assessment

## Engagement

We strongly recommend close engagement with the community throughout the whole process. Many members of these communities are hard to reach and have poor levels of literacy.

It is important therefore that the purpose of the work is fully explained to travelling communities before the assessment begins. A community liaison group could be formed for this purpose, with the help of representatives or a steering group, which could also provide advice on other matters, including the conduct of the assessment itself. They could also help interpret and comment on the results emerging from the assessment, the conduct of a specialist survey where undertaken, and generally help encourage greater trust and community buy-in for the overall process.

## Existing data sources

The data available for those residing in caravans and houseboats may not be readily available in other data sources for the rest of the community. The following may assist local housing authorities in identifying caravans and houseboats:

- Caravan count data maintained by the Department for Communities and Local Government – eg number of caravans and the types of site on which they are located
- Site management information – e.g. site waiting lists; pitch turnover; length of licenses; transfer applications; mooring licenses.
- Information on private authorised sites and moorings – numbers permitted on each site; type of planning permission; restrictions on occupancy
- Information from recent applications, whether successful or unsuccessful, or enforcement action
- Data from other service providers – e.g. health and education
- Information gathered by traveller groups or representative bodies e.g. the Showmen's Guild, the Traveller Movement, or National Bargee Travellers Association.
- Data from surveys of accommodation needs.

## Conducting a specialist survey

A crucial objective of the survey process is to identify and interpret those aspects of caravan and houseboat accommodation need that are less well understood. This can often manifest itself in the case of unauthorised and private authorised sites and bricks-and-mortar housing. Special effort may be needed to ensure that a similar amount of evidence is available as for local authority owned sites for which more information may already be available. This may imply higher percentage sample size coverage.

We therefore recommend that the local housing authority or partnership conduct a specialist survey and / or qualitative research to obtain further more detailed information.

## Making use of the Accommodation Needs Assessment

### Current need

The data collected through the accommodation needs assessment process should enable the local housing authority or partnership to derive overall figures by which to identify accurately the current levels of households and the accommodation needs for caravans and houseboats existing in their area.

It should be possible to identify:

- the number of households that have or are likely to have a specific need to be addressed, either immediately, or in the foreseeable future;
- a broad indication of where there is a demand for additional pitches or moorings;
- the level and types of accommodation required for this need to be suitably addressed (e.g. socially rented / private site provision, transit sites or stopping places, bricks-and-mortar housing);
- the level of unauthorised development, which, if planning permission is not approved, is likely to swell the scale of need.

### Future Need

It should be possible to identify:

- the intentions of those households planning to move, which may free up spare pitch, mooring or bricks-and-mortar capacity;
- the likely rate of household formation and annual population increase;
- travelling patterns of particular groups within the survey area and in and out of surrounding areas.

## How to use the outcome of the assessment

Once the accommodation needs assessment has been completed, the local housing authority will need to begin considering how to meet the accommodation needs identified in the assessment. Needs can be met in a variety of ways, through the socially rented or commercially rented sectors (be it for sites or bricks-and-mortar accommodation), or through private ownership of sites or bricks-and-mortar housing, moorings and houseboats. The assessment will provide the data on which decisions about the appropriate mix of provision can be made.

The local housing authority will need to disseminate the results of the accommodation needs assessment to all relevant people and departments within the local authority (including planning colleagues) and partner organisations (such as other social landlords), and begin the process of facilitating or providing the necessary provision. This could for example require the identification of land for sites, or the allocation of tenancies in existing properties. As with the assessment itself, it will be important to involve the right people at a sufficiently high level to drive the agenda forward.

**A. Consultations should be clear and concise**

Use plain English and avoid acronyms. Be clear what questions you are asking and limit the number of questions to those that are necessary. Make them easy to understand and easy to answer. Avoid lengthy documents when possible and consider merging those on related topics.

**B. Consultations should have a purpose**

Do not consult for the sake of it. Ask departmental lawyers whether you have a legal duty to consult. Take consultation responses into account when taking policy forward. Consult about policies or implementation plans when the development of the policies or plans is at a formative stage. Do not ask questions about issues on which you already have a final view.

**C. Consultations should be informative**

Give enough information to ensure that those consulted understand the issues and can give informed responses. Include validated assessments of the costs and benefits of the options being considered when possible; this might be required where proposals have an impact on business or the voluntary sector.

**D. Consultations are only part of a process of engagement**

Consider whether informal iterative consultation is appropriate, using new digital tools and open, collaborative approaches. Consultation is not just about formal documents and responses. It is an on-going process.

**E. Consultations should last for a proportionate amount of time**

Judge the length of the consultation on the basis of legal advice and taking into account the nature and impact of the proposal. Consulting for too long will unnecessarily delay policy development. Consulting too quickly will not give enough time for consideration and will reduce the quality of responses.

**F. Consultations should be targeted**

Consider the full range of people, business and voluntary bodies affected by the policy, and whether representative groups exist. Consider targeting specific groups if appropriate. Ensure they are aware of the consultation and can access it. Consider how to tailor consultation to the needs and preferences of particular groups, such as older people, younger people or people with disabilities that may not respond to traditional consultation methods.

**G. Consultations should take account of the groups being consulted**

Consult stakeholders in a way that suits them. Charities may need more time to respond than businesses, for example. When the consultation spans all or part of a holiday period, consider how this may affect consultation and take appropriate mitigating action.

**H. Consultations should be agreed before publication**

Seek collective agreement before publishing a written consultation, particularly when consulting on new policy proposals. Consultations should be published on gov.uk.

**I. Consultation should facilitate scrutiny**



Publish any response on the same page on gov.uk as the original consultation, and ensure it is clear when the government has responded to the consultation. Explain the responses that have been received from consultees and how these have informed the policy. State how many responses have been received.

**J. Government responses to consultations should be published in a timely fashion**

Publish responses within 12 weeks of the consultation or provide an explanation why this is not possible. Where consultation concerns a statutory instrument publish responses before or at the same time as the instrument is laid, except in exceptional circumstances. Allow appropriate time between closing the consultation and implementing policy or legislation.

**K. Consultation exercises should not generally be launched during local or national election periods.**

If exceptional circumstances make a consultation absolutely essential (for example, for safeguarding public health), departments should seek advice from the Propriety and Ethics team in the Cabinet Office.

This document does not have legal force and is subject to statutory and other legal requirements.

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