

# **Brentford Waterside Forum**

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**Chairman: Nigel Moore**



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## **Re: LONDON ASSEMBLY INVESTIGATION INTO WATERWAY MOORINGS**

### **WHO WE ARE**

1. The Brentford Waterside Forum has been in operation for over 25 years, involving itself in all matters of waterside importance in the area, conducting dialogue with both developers and Hounslow Council.

2. Organisations represented on the Forum include:

The Butts Society; Inland Waterways Association; The Hollows Association; MSO Marine; Brentford Dock Residents Association; Brentford Community Council; Brentford Marine Services; Holland Gardens Residents Community; Weydock Ltd; Thames & Waterways Stakeholders Forum; Sailing Barge Research; The Island Residents Group; Ferry Quays Residents Association

3. The Forum's Core Values and Objectives are stated as follows:

"The rediscovery of the Waterside in Brentford is putting intense pressure on the water front. There is growing competition for access to the river and canal sides; pressure is mounting to create new economic activities and provide residential development on the waters edge. These pressures jeopardise both existing businesses and the right of Brentford people to access the water, which is part of their heritage. Access to the waterside in Brentford is made possible by the changing economic and commercial use of the water.

4. The role of the Waterside Forum is:

to provide informed comment on proposed developments or changes. Brentford Waterside Forum will work with and through agencies to achieve the following:

- A strategic context for waterside decision making.
- To protect access to the waterside, its infrastructure and the water itself for people to use for recreation, enjoyment and business, emphasising business that need a waterside location to be successful.
- To argue for improvements to the waterside facilities for business, residents and visitors so as to deliver tangible benefits to all the communities of Brentford.
- To seek the protection of the waterside and the water as an ecological resource.

## RESPONSE TO CITY HALL INVESTIGATION ON MOORINGS

- **Overcrowding, congestion and overstaying at moorings and associated facilities and on the waterways**

This has been raised as an issue by CART and BW for decades, and the evidence produced is as scant now as it has ever been.

It is undeniable that greater numbers of boats are populating London, and undoubtedly many are seeking a way to live aboard within 'striking' distance of work and schooling while doing so. It is also undeniable that the availability of moorings –whether residential or not - has diminished due to inappropriate canalside development.. The overall **effect** of this 'overcrowding' however, is not really evident, and conflict has only really flared up in isolated places where land-dwellers in London are sufficiently close to the canal to be irritated by smoke and noise.

There has been huge activity within the waterways authority recently, in conducting 'consultation' exercises designed to address the perceived problem. CART's "SE Visitor Mooring Consultation" has now closed, and their Report on the consultation has just been published.

The rationale for the exercise is published as being due to the growing number of complaints about over-crowded moorings, and yet these complaints appear to have been garnered from the internet discussion forums and/or informal verbal contacts, because the formal written complaints have, despite the proclamations to the contrary, been zero. See the Freedom of Information request response –

[https://www.whatdotheyknow.com/request/south\\_east\\_visitor\\_moorings#incoming-365121](https://www.whatdotheyknow.com/request/south_east_visitor_moorings#incoming-365121)

In short, while there are undoubtedly congestion problems, these are in very localised areas, and the single most popular spot [Little Venice] appears to be regulated effectively enough to ensure visitors always find a place to moor. The situation with the visitor moorings at Brentford, has likewise shown no evidence of congestion, even at busiest summer times – indeed, there are more likely to be boats occupying space for months on end during the winter, when BW/CART charge for so-called "winter moorings", using visitor mooring space for the purpose.

Most of the tensions between boaters would appear to have arisen from the perceived effects of the authority's proposed new restrictive controls, more than from any conflict naturally arising from shortage of space.

- **Issues around mooring rules and enforcement - mooring rights, rules and time limits, and how they are administered and enforced; also the extent and pattern of breaches of overstaying or other breaches of mooring rules.**

This is a vexed topic which the Assembly cannot realistically be expected to unravel; the difficulties [to the extent that these are legitimately encountered] are of long-standing. A taste of the challenges may be illustrated by the NABO response to CART's Consultation Report on the SEVM:

<http://nabo.org.uk/issues/nabo-responses/491-nabos-response-to-se-moorings-consultation>

Three main authorities are enmeshed within whatever problems may be seen as arising from increased boat numbers moored in London:

- a) CART as navigation authority
- b) Local Councils as planning authority, &
- c) The Environment Agency as authority for oversight of environmental issues.

### **CART as Navigation Authority**

The ability to administer and enforce rules, whether present or proposed, was the single most aired query in the course of the consultation. CART's response as to their powers of enforcement are found at:

<http://canalrivertrust.org.uk/media/library/2670.doc>

This sadly dishonest publication does illustrate the problem they face in a) seeking to enforce rules that cannot legally impose, and b) seeking control of enforceable rules by illegitimate pecuniary penalty rather than utilising the straightforward powers they legitimately have.

It would be useful for a sampling of boaters' views to read debate over the CART Consultation Report on the Canalworld Discussion Form –

<http://www.canalworld.net/forums/index.php?showtopic=56548>

### **Rules**

The ability to impose rules is constrained by the statutory framework binding the authority. This framework provides for the authority to create byelaws, statutory instruments and to promote private Parliamentary Acts. All such avenues of obtaining controlling powers have been employed, and yet to date the powers to unilaterally impose such rules on moorings have been restricted to two relevant byelaws [28 & 29] and three statutory provisions [s.18; s.19 & s.21 of the 1995 BW Act. S.20 of that Act expressly limited the application of s.21 to private moorings.]

It is pertinent to note that the powers to impose controls - such as are claimed for them by virtue of the Transport Act 1962 – were denied to them in the final Select Committee stages of the relevant Bill.

A further nail in the coffin is the result of the judgments in *Moore v BWB* both of 2012 & 2013.

### **Penalty charges**

As to penalty charges, their own internal File Notes indicate an acknowledged recognition of “*various complications*”

<https://www.whatdotheyknow.com/request/149404/response/370896/attach/html/2/File%20note%2030%2011%202010.pdf.html>

I have noted the rationale for claiming the legal prohibition on such fines/charges within contributions to the canalworld discussion forum already linked – so will not repeat here.

## **Local Councils as planning authority**

The planning authorities are in no position to monitor &/or control any element under this heading other than ensuring that the permitted uses do not involve a material change of use. Leisure mooring does not require the consent of the LPA; use of moorings for commercial or residential purposes will, however, bring into play the council's relevant powers to control the uses and practices ancillary to those purposes.

## **Environment Agency**

The EA role, as with the LPA, cannot be brought into play against boats except where, potentially, the relevant environmental laws apply. It is evident the smoke regulations do not apply to boats, but I am not clear as to the extent noise control would apply. It might be that even though there are no applicable laws from an environmental viewpoint, the establishing of a statutory nuisance would create an opportunity for relevant enforcement.

- **Any views on steps that responsible bodies could take to address these issues.**

## **Canal and River Trust**

The steps that CART have taken thus far, is revealed in their Report on the SE Visitor Mooring Consultation. A brief overview is provided at:

[http://canalrivertrust.org.uk/about-us/consultations/completed-consultations?utm\\_source=South+East+visitor+mooring+consultation+respondents&utm\\_campaign=8b09bdabdf-SEVisitor\\_Mooring\\_Consultation\\_Report5\\_9\\_2013&utm\\_medium=email&utm\\_term=0\\_5f143bf81a-8b09bdabdf-77817109](http://canalrivertrust.org.uk/about-us/consultations/completed-consultations?utm_source=South+East+visitor+mooring+consultation+respondents&utm_campaign=8b09bdabdf-SEVisitor_Mooring_Consultation_Report5_9_2013&utm_medium=email&utm_term=0_5f143bf81a-8b09bdabdf-77817109)

The full Report with Maps is provided at:

<http://canalrivertrust.org.uk/media/library/3256.pdf>

The steps that can be taken by CART are fairly straightforward, needing only a modicum of common-sense and co-operation. The greatest problem would appear to be the central London interaction between householders and boaters near The Angel, many of which householders have been vociferous in their complaints over noise and air pollution.

However the responsibilities that the navigation authority have in these circumstances is not germane to the perceived problem. Boats are entitled to moor up alongside the towpath there, as much as anywhere else along the towpath. It makes no difference to the householders nearby whether the moorings are full of the same people and boats all the time, or whether they were different people and boats there all the time, and that is the only aspect within a measure of the navigation authority's control.

The concerns and responses of the parties involved are documented within the minutes of the March London User Group meeting –

<http://www.scribd.com/doc/141901697/Spring-2013-UGM>

Insofar as CART have powers to control moorings, these relate to methods of mooring; mooring to non-purpose designed structures, and mooring so as to impede/obstruct the navigation &/or towpath. Boats in any of those 3 categories can be classed as obstructions and moved immediately without notice [under s.8(5) powers of the 1983 Act].

The long term goal of removing boats from the waterways altogether [under s.8(2) of the 1983 Act] is designed to address non-licensed boats. While this is a legitimate aim, it is not one that addresses the concerns of this Report in any meaningful or relevant way. It is a newly favoured method of dealing with boats/owners who have fallen foul of the authority, who have sought to expand on its application with mixed success.

The approach to this ‘solution’ unfortunately bears the hallmarks of an organisation too enamoured of its draconian powers. There is an element of something extremely distasteful in the promotion of the exercise of such powers as **an investment opportunity!**

[see Denise Yelland Report March 2012 -

<https://docs.google.com/viewer?a=v&pid=gmail&attid=0.1&thid=13dea7522320519d&mt=application/pdf&url=https://mail.google.com/mail/?ui%3D2%26ik%3D4b007f8b46%26view%3Datt%26th%3D13dea7522320519d%26attid%3D0.1%26disp%3Dsafe%26zw&sig=AHIEtbSNXSfFNgjKqGhk7o-BJdlsDoGbYQ> - middle of page 2]

It is nonetheless true, as indicated in the Uder Group Minutes linked above, that the authority are correct in recognising that the specific issues arising between land based homes and those on the canal are outwith the authority’s jurisdiction.

### **Environment Agency**

Noise and pollution matters are possibly within Environment Agency control, perhaps overlapping with the Local Borough Councils. As London’s regional manager stated at the March User Group however, burning smoky fuels on boats is exempt from the household restrictions.

The one thing that the Local Planning Authority cannot do, is prohibit moorings at this or any location along the towpath – their control is limited to ensuring that the moored boats are not used for commercial &/or full-time residential purposes [but if the boats are there on a temporary basis as visitors, then they are naturally outside of Council reach in that respect].

Under the circumstances, the policy of respect for neighbours should be impressed on all, and if the sole governable question of noise remains a problem then it is right that this should be policed by the appropriate authorities with monitoring equipment. That would probably be the police.

A general view of boaters view of the exercise can be read from the canalworld online discussion form

<http://www.canalworld.net/forums/index.php?showtopic=56653>

Pertinent discussion on the situation more generally can be read under the topic of CART’s recent Report on the “SE Visitor Mooring Consultation” –

<http://www.canalworld.net/forums/index.php?showtopic=56548>

See also the Freedom of Information requests made on the subject, provided in the links at the end of a pertinent article on narrowboatworld.com –

<http://www.narrowboatworld.com/index.php/news-flash/5781-for-or-against>

### **The London Borough Councils**

Wherever riparian Councils possess suitable land, they should give serious consideration to utilising this for the provision of long term moorings, it being always desirable to minimise if possible the growth of these on the main line of canal.

The responsibility of the Council to provide affordable housing is a driving factor that can over-ride alternative views on prioritising income – a stance that CART refuse to acknowledge. The example of Cambridge, both in attitude; approach; policy, land allocation and financial aims, is one that would be hard to better. It is a shining example of how this whole subject can best be approached, and reading the 2009 Report “*Tales of the Riverbank*” by Phil Back Associates is highly recommended -

<https://www.cambridge.gov.uk/sites/www.cambridge.gov.uk/files/docs/Tales%20from%20the%20Riverbank%20-%20Review%20of%20Moorings.pdf>

As it is the planning authorities with the power of consent to these required uses rather than the navigation authority who should concentrate on maintaining the waterways, it naturally falls to the LPA's to head up provision of increased facilities.

### **SUMMARY**

The key to resolution of most of the perceived problems, whether real or imagined, lies in education and tolerance – applicable to all parties, including the relevant authorities.

Insofar as there is a genuine need for a greater availability of moorings both residential and leisure, the way forward would seem to be best addressed by a concerted effort at non-income based co-operation between both the planning and waterways authorities. Either/both will have suitable sites for development for a range of moorings both online and offline, and the same sort of effort should be put into utilising such sites as is exemplified by the example of the Cambridge Council.

All planning applications for development of canalside land [most especially along offside properties], should be required to pay heed to the Blue Ribbon Network policies of the London Plan, hitherto so thoroughly neglected. It is down to the LPA's to begin applying their powers and obligations in encouraging developers to recognise that all such waterside development plans should genuinely “*start from the water*” and no longer utilise the water merely as a value-enhancing backdrop.

The GLA as an over-arching body is in an excellent position to strongly encourage delivery of such goals, and the proposed GLA report should most definitely take the GLA policies in those respects as the guideline.

Nigel Moore  
Chairman

29th May 2013

# **CANAL & RIVER TRUST**

## **RESPONSE TO LONDON ASSEMBLY INVESTIGATION INTO WATERWAY MOORINGS**

**July 2013**

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### **APPENDICES**

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App.3: Mooring supply – long term home moorings on the Regent's Canal

App.4 (A-N): Mooring supply – long term home moorings on the Regent's Canal, by each km section

Italicised points at the beginning of sections 4-7 re-state the issues that your brief asked us to address.

## **1. About Us**

The Trust was established in July 2012 to take over the responsibilities of the former British Waterways. We are the navigation authority for the waterways we manage, receiving our particular powers and duties in respect of boat licensing and moorings from several parliamentary statutes dated from 1962 (Transport Act) through to 1995<sup>1</sup>.

We are among the largest charities in the UK, maintaining the nation's third largest collection of listed structures, as well as museums, archives, navigations and hundreds of important wildlife sites.

Our canals and rivers are a national treasure and a local haven for people and wildlife. It is our job to care for this wonderful legacy – holding it in trust for the nation in perpetuity and giving people a greater role in the running of their local waterways.

Our London operational region covers some 100 miles of waterway extending from Watford and Slough in the west, to Limehouse and Bishops Stortford in the east. It includes the following waterways and London Boroughs.

### **River Lee Navigation:**

- LB Enfield
- LB Waltham Forest
- LB Haringey
- LB Hackney
- LB Tower Hamlets
- LB Newham

### **Docklands:**

- LB Tower Hamlets

### **Regent's Canal:**

- City of Westminster
- LB Camden
- LB Islington
- LB Hackney
- LB Tower Hamlets

### **Grand Union Canal:**

- LB Hillingdon
- LB Ealing
- LB Barnet
- LB Brent
- LB Hounslow
- LB Hammersmith & Fulham
- RB Kensington & Chelsea
- City of Westminster

### **Slough Arm:**

- LB Hillingdon

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<sup>1</sup> We also have byelaw powers but these have not been updated since 1965. Penalties are therefore weak.

## 2. Comment on the GLA's call for evidence

The density of boats moored on our waterways in London is higher than anywhere else on the network so we fully appreciate the reasoning for your call for evidence on this subject and welcome the initiative. We share a common aim of maximising their positive contribution to the capital's social, environmental and economic well-being.

Addressing problems arising from high concentrations of casual mooring along our towpaths was one of the first priorities that our new trustees established in September 2012 and since this date we have been gearing up to do this. British Waterways had previously, in 2011, attempted to establish the principle of mooring plans aimed at reducing pressure on capacity. Boater response was extremely hostile and we recognise the shortcomings in the consultation process adopted. We have put much effort into trying to build greater mutual understanding and trust with the established boating community since that time as a pre-requisite to creating effective local capacity management plans.

The change to charity status and associated reform of the governance structure has opened up much greater opportunity for local involvement in strategic decision making at local level, and it's for this reason that we particularly welcome the London Assembly's investigation into waterway moorings.

We share the views of others that more can be done to improve the current state of affairs, but it is important that the constraints that affect our ability to influence boat numbers and boater behaviour are recognised. We outline these in the first part of our response.

The community engagement work that we have embarked upon has established key themes or areas of work needed for improving harmony on our waterway network in London. They are:

- Understanding capacity
- Communication and engagement with stakeholders
- Reform of management approaches

We have already recruited a dedicated community and boater liaison manager, Sorwar Ahmed, to lead the development of these themes. We have established a community forum of waterways users, interest groups and individuals, known as the Better Relationships on the Waterways in London Group, to help us develop understanding of the issues and to develop solutions in partnership.

Our trustees have made available some further financial resources to enable us to develop and implement solutions and these will yield much greater benefit if combined with resources of partnering agencies. The Assembly's investigation is therefore potentially very timely. We hope very much that it will yield additional insights into the opportunities and add value to our future strategy.

**We ask that the GLA's investigation team arrange a date with us to examine the issues raised in our submission and the other evidence you have received and are examining. We are keen to play a constructive role in the shaping of your conclusions which will help to ensure that these are as useful as they can be.**

We hold substantial data on the demand and supply of moorings, but the short timescale available to us to develop this evidence means that in this submission we have concentrated

on the Regent's Canal, the section of the network that is most relevant to the GLA's investigation. We would be happy to provide further evidence as it becomes available.

### **3. Context and essential background to boat capacity management**

#### ***Legislative background***

As is well known, the original freight carrying function of our waterways was all but finished by the 1970s but despite their deteriorating condition, use by pleasure boats steadily grew. Extensive improvements to the waterways since the 1990s, often linked with urban regeneration, transformed public attitudes so that we now have the vibrant network we enjoy today.

The legislative framework for managing boating on the navigations dates back to the 1960s and 1970s, when such growth in demand was scarcely thought possible. For the waterway elements of the 1962 Transport Act, the priority was to protect navigation and encourage use by boats – this was transformative policy following years of presumption that waterways were no longer of value. Consequently, the statutes we have today contain no provisions refusing consent for a boat licence on the grounds of insufficient capacity.

#### ***Mooring obligations on boaters***

People enjoy the right to put a boat on our waterways, providing that they pay the necessary fee, that the boat meets safety standards and has insurance cover for third party liabilities – and that, unless it is used '*bona fide*' for navigation throughout the period of consent, it must have a home mooring (somewhere where the boat 'can lawfully be kept when not being used for navigation'<sup>2</sup>). People who elect to licence without a home mooring are generally referred to as 'continuous cruisers'. As we will show later in the submission, continuous cruisers account for the majority of boats tied up along the towpaths in London, and their numbers are growing rapidly.

'*Bona fide for navigation*' was not defined in statute so the law requires the Trust to interpret it. This we have done with the help of extensive consultation and the result is mooring guidance (see Appendix 1), which has recently been endorsed in the High Court. The essence of the mooring guidance is that boaters without a home mooring must be engaged in genuine navigation and not stay moored in the same neighbourhood or locality for more than 14 days, or such longer period as is reasonable in the circumstances.

The precise interpretation of the guidance appropriate for our waterways in London is a subject that the GLA's enquiry team might helpfully consider. We are currently drafting a set of maps covering the entirety of our 2,000 mile network which will show our proposed interpretation of 'place'. The draft map for London is expected to be available very shortly – certainly before you conclude your investigation. To be as useful as possible for boaters, the interpretation would include (a) confirming the boundaries between different 'places' ; (b) establishing the minimum number of places that a boater should visit before changing direction; (c) establishing how long this journey in one direction should normally take.

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<sup>2</sup> British Waterways Act 1995

Further information on the types of moorings available, and relevant policies, can be found at <http://canalrivertrust.org.uk/boating/mooring>

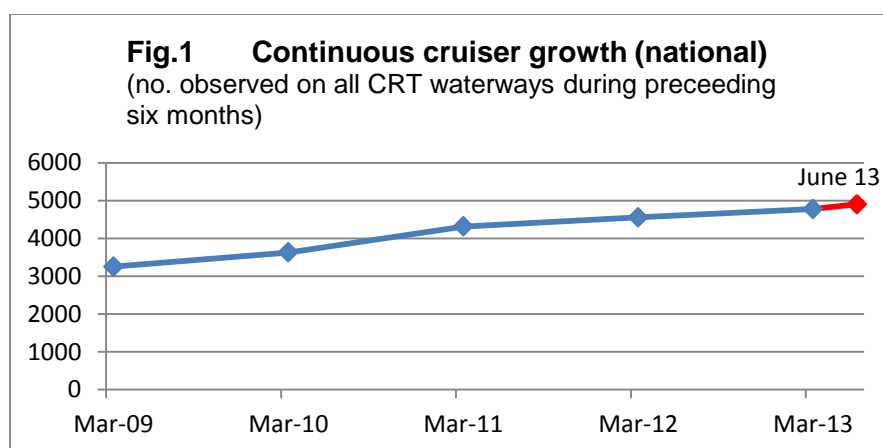
### ***Licence costs***

The average cost of a boat licence is approximately £750 per year (it varies with length of boat), and this fee is the same whether or not the boat has a home mooring. The cost of a home mooring in London ranges from around £4,000 to nearly £10,000 per year for a boat of average length. There is a significant cost advantage therefore to relying on casual towpath moorings, even though security and facilities may be minimal.

### ***National growth in boat numbers***

Between 2007 and 2012, there was a 12% increase in total licences across England and Wales for waterways managed by the Trust. During the same period, there was a 37% increase in the number of boats licensed as continuous cruisers (an increase from 3,200 to 4,400).

Continuous cruisers account for 13% of all licences across England and Wales. Overall demand for boat licences has now stabilised – it takes a few years for this market to respond to downturns in macroeconomic activity – but the evidence is that residential use of boats, and therefore demand for residential moorings, is still growing while leisure demand is falling.



### ***Licence enforcement***

Our licence enforcement process revolves around regular sightings of boats throughout the national network. Boat numbers are entered into hand held computers by a team of 'data checkers'. On average, each stretch of waterway is monitored in this way every month, with increased frequency in London, where daily checks are the objective on the Regent's Canal.

As well as ensuring that all unlicensed boats are quickly identified and dealt with, the data enables us to monitor the frequency with which continuous cruisers move. Nationally, analysis suggests that perhaps as many as half of these boats are not moving enough to indicate bona fide navigation. In London, the largest concentration of such continuous cruisers is to be found on the Regent's Canal, where we estimate that there are approximately 250 boats making use of casual moorings and visitor moorings along the towpath.



Our statutory powers enable us to remove a boat from the waterway if it has no licence (consent) to be there. If a boat has a licence but is in breach of the licence conditions (including the requirement to 'bona fide navigate' if it has no home mooring), we give the boater due warning and explain what they must do to remedy the situation. If they fail to put things right, we have little option but to cancel the licence. We then give further notice that the boat will be removed on a particular date. We have an amended process for boats which we know to be the boater's only residence. This involves seeking a court order before we remove the boat and potentially make the boater homeless.

This is the only sanction available to us in respect of a breach in licence terms.

### ***Managing capacity***

The statute referred to above requiring a home mooring or bona fide navigation was passed in 1995 at a time when residential use of boats, particularly in urban areas was just beginning to grow. Resource pressures on British Waterways meant that it was not until the founding of the Trust last year, and a resolution by the new Trustees to address non-compliance with the mooring guidance, that a mission was set to address the consequences of the growth. Growing scarcity of affordable housing in London, coupled with the attraction of residential boating, means that we now have an estimated 250 continuous cruisers living for most of the year on the Regent's Canal. Our sightings analysis suggests that a minority of these could reasonably be assessed as being compliant with the mooring guidance. Greater clarity on local interpretation of the general mooring guidance would be helpful.

In developing strategies for addressing non-compliance, we are mindful of people's housing needs, even though we have no powers or duties to provide housing – and indeed this is not amongst our charitable objects. Having inherited a position in which several hundred people have effectively established their home along London's towpaths, we do not wish to summarily evict them using our statutory powers – this would be unfair in the circumstances, very unpleasant for all, and would also increase the burden on local authority housing departments.

We recognise that some London boaters have financial, medical or other problems that inhibit their compliance with licensing and mooring requirements. We have a live fund raising project to support extension of Workplace Matters/Salvation Army's embryonic Waterways Chaplaincy service, which is proving to be very helpful to both disadvantaged boaters and our enforcement officers in Hertfordshire. The chaplains provide boaters with emotional support, benefits advice and advocacy in relation to housing needs.

The strategies we are now adopting to reduce the growth on 'non compliant' continuous cruising in London start with rigorous enforcement of mooring guidance for newly arriving continuous cruisers – the aim being of course to curb further growth of capacity imbalance. For local residents, already established continuous cruisers and leisure boaters with moorings in the area who feel disadvantaged by the reduction in available towpath space, we are developing community initiatives aimed at reducing nuisance generated by boats to other waterway users and neighbours; promoting investment in affordable residential

moorings which have planning consent<sup>3</sup>. We welcome this capacity review by GLA as, we hope, a catalyst to help build support amongst the boating community for clearer mooring rules which will improve the fairness with which scarce mooring space along the canals is shared between leisure and residential boaters. We recognise that increasingly, boaters on other parts of the network are perceiving London's canals to be 'full' which obviously deters visits. Better visitor moorings management is high on our agenda.

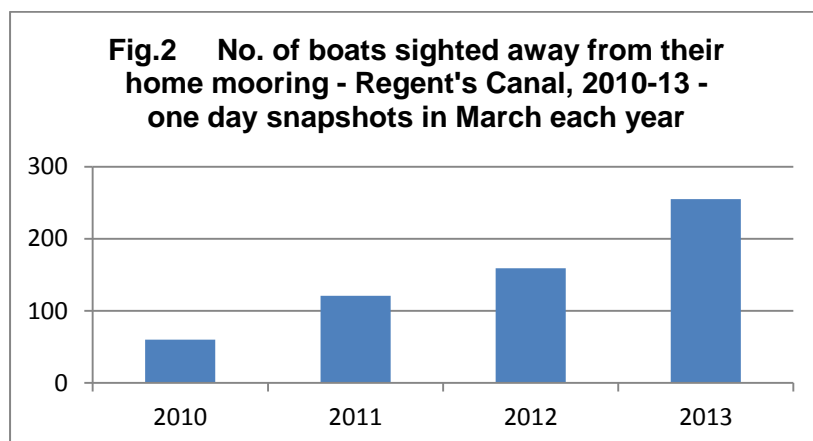
#### 4. Mooring Demand

*Mooring demand - such as numbers (for London if possible) of permanent residential boats, continuous cruisers, mooring occupancy/vacancy rates or other indications; also any recent (past ten years) changes in these figures.*

There is an excess of demand over supply in the London moorings market. This spans both long term and short term mooring, and of course long term residential mooring.

Since 2006, investment in new marinas elsewhere on our network has provided additional capacity which broadly met the increased number of boats when analysed nationally. However, town planning restrictions mean that marinas rarely offer residential berths, and largely because of land costs and scarcity of suitable sites, the geographical pattern of marina development has not matched localised growth in demand for residential boating. This helps explain at least part of the growth in continuous cruising.

The map at Appendix 2 illustrates the growth in the number of boats typically sighted along the Regent's Canal over the past four years. It is a snapshot of the location of boats on the Regent's on a typical day in March, in each of the last four years. The data has been taken from our annual National Boat Check, which represents the most complete data set of boat sightings on the network that is available. Fig.2 below illustrates this growth trend.



The sightings represent boats recorded as being on the canal, at a location that is not their home mooring – hence (because the sightings were taken in March when leisure cruising is relatively low), these are likely to be (but not definitively) continuous cruisers. As the data is

<sup>3</sup> Mooring along the towpath does not require planning permission, but use of the land alongside the waterway specifically for residential mooring is generally perceived by local authorities as change of use requiring consent. Residential mooring is classified as a 'sui generis' use in planning law.

from March, a time when many boats are still moored at a temporary winter mooring location, the map does not necessarily show the most popular locations for boats on the Regent's Canal throughout the year. However, it does give an indication of the total numbers of boats that were present on the Regent's, prior to the 'visitor season'.

This chart suggests growth from 60 boats in 2010 to 255 in 2013. It should be noted that the data from 2010 may not be as robust as in subsequent years, as the National Boat Check data collection process has been evolving and improving. We can however be reasonably certain that boat numbers along the waterway away from home moorings have roughly doubled since March 2011.

Similar maps for rest of the London canals network will be available shortly and we will forward these to the Assembly as soon as possible.

## 5. Mooring Supply, mooring rules and enforcement

- *Mooring supply - the numbers of moorings available on London waterways, whether residential moorings, visitor moorings or others; also any recent gains or losses of moorings; and affordability of moorings.*
- *Issues around mooring rules and enforcement - mooring rights, rules and time limits, and how they are administered and enforced; also the extent and pattern of breaches of overstaying or other breaches of mooring rules.*

### **Short term mooring**

Boats may moor up anywhere along the towpath for up to 14 days at a time in a particular place, unless there are authorised signs indicating 'no mooring' or restricted mooring times – for example beside facilities and water points where mooring is only permitted while using the services, or at designated visitor mooring sites where a time limit (in terms of days) will be signed. Visitor mooring signage throughout our waterways in London are in need of review. We plan to work with boater and local community representatives to carry out this exercise over the coming year.

Overstaying on visitor moorings and indeed on towpaths generally is a breach of licence conditions. This applies to boats with home moorings as well as to continuous cruisers and we do not discriminate between these groups in our enforcement process. We have recently increased the frequency with which our data checkers visit visitor moorings in central London and where signage is already clear on this point, we apply a £25 per day extended stay charge. We can do this using our powers under S43 of the 1962 Transport Act. It is a charge for a service, not a fine or penalty.

### **Long term (home) moorings**

Our analysis identifies a total of 25 long-term mooring sites on the Regent's Canal, currently accommodating some 330 boats. These are owned and managed by a variety of private owners and operators, including the Trust, and are located both online along the canal (on the towpath side as well as on the offside) and offline in basins and marinas. Ten of these sites are on Trust land and operated by us. This is illustrated in the map at Appendix 3,

which provides an overview of the sites on the Regent's, with numbers of boats registered at each site<sup>4</sup>. Appendices 4A-4N provide maps showing the location of these mooring sites in each kilometre length of the Regent's Canal.

Ten of these sites are on the Trust's land and are directly managed by us. The remainder are either on private land on the offside of the canal, or offline in basins and marinas and operated by private operators.

Six<sup>5</sup> of the Trust's sites on the Regent's Canal are designated for residential use. We do not keep records of the planning status of moorings operated by third parties.

Looking more widely across our waterways in London, the Trust's records suggest total home mooring capacity of around 2,800 berths on the Grand Union Canal, Paddington Arm, Slough Arm, Regent's Canal, Rivers Lee and Stort and London Docklands. We estimate that there are another (approx.) 4,000 moorings within the local market on waterways not managed by the Trust; these include those located in marinas along the tidal Thames, the non-tidal Thames and the River Wey.

Given the predominantly urban nature of the market area, and high land values, coupled with the prospect of greater profitability from land-based developments, the creation of new large-scale mooring sites continues to be relatively unattractive to landowners and investors. The supply of moorings has not increased greatly. Consequently, demand pressure on moorings, particularly those in central areas, remains very high.

Most of the Trust's London sites are currently at full occupancy. Any vacancies that do arise are advertised via our mooring vacancies auction system <https://www.crtmoorings.com/>. For historic reasons, exceptionally most of our central London mooring customers enjoy the ability to sell their boat with the mooring. This means that vacancies typically only arise if a boater fails to pay for the mooring. On some sites there is evidence of quite substantial sale premiums being achieved by boat owners when a boat is sold with the mooring. These are an indication that the value of the mooring is greater than that being reflected in the annual mooring fee.

## 6. Air & Noise Pollution

- *Air and noise pollution - the environmental effects of engines, generators, stoves etc., including how the rules governing these are applied and enforced.*

Air and noise pollution rules are applied to boats on our waterways through licence terms and conditions, and re-enforced through communication with boaters and signage at mooring sites.

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<sup>4</sup> This data is dependent on boat owners updating us when they change their mooring site. We cannot therefore guarantee high accuracy, but the figures are a reasonable indicator

<sup>5</sup> Sturt's Lock, Andersons Wharf, Abbots Wharf, Cumberland Basin Residential, Ice Wharf Marina, Fife Terrace

The licence conditions state that boats must not cause a nuisance. This applies to all forms of nuisance, however caused. Although nuisance is not defined specifically in the terms, it covers issues such as air pollution (smoke and fumes) and noise pollution (excessively noisy generators, engines, and anti-social behaviour).

Where we receive complaints of nuisance caused by boaters, we issue a warning letter asking the boater to cease the relevant activity. If further evidence arises, we would ultimately have the power to revoke the licence as explained above with the possible consequence of homelessness if the boat was the person's only dwelling. Licence revocation is therefore a last resort and with help from local councils and other stakeholders we aim in coming months to increase persuasive communications with inconsiderate boaters.

## **7. Over-crowding, congestion and over-staying at moorings and associated facilities**

- *Overcrowding, congestion and overstaying at moorings and associated facilities and on the waterways*

### ***Boating Capacity***

The map at Appendix 2, indicating boat sightings on the Regent's Canal, illustrates the distribution of boats on the Canal on a sample day in March over a four-year period. This illustrates the growth in numbers and the popularity of certain mooring locations. In particular, it shows the growth in popularity of casual mooring at Kings Cross (location RE-006), Islington – City Road Basin/Wharf Road and Islington Visitor Moorings (RE-008), Hackney (RE-009), Broadway Market (RE-011) and Victoria Park (RE-012).

The popularity of these locations relate to a number of factors, including proximity to boater facilities such as pump-outs, Elsan facilities, and water points; convenience for local services such as supermarkets, launderettes, pubs and schools; and access to transport networks.

In the context of the growth picture described above, it is clear that we need to improve our understanding and management of capacity constraints. Growth puts pressure on essential boating facilities and on otherwise harmonious relationships between boaters and local residents and between different types of boaters. We are accelerating our work on mapping and analysis in order to illuminate practical solutions and hope that local stakeholders will help in this process. Once we have clear, very local pictures of capacity, possible solutions are likely to include:

- improving and perhaps extending existing visitor moorings and associated signing and stay monitoring.
- identifying suitable locations for creating new residential moorings in sites off the towpath and attracting the necessary investment, ideally from social enterprise.
- waterway works to increase water depth and install mooring rings on currently unmoorable lengths of towpath where it would be appropriate and attractive to

boaters to allow short term mooring. (Mooring demand is of course heavily influenced by proximity to local services and transport networks).

- possibly creating a new type of mooring permit for established continuous cruisers unable to comply with movement requirements<sup>6</sup>.
- addressing needs for additional boater facilities (water, sewage and refuse disposal).

## 8. Steps that responsible bodies could take to address these issues

- *Any views on steps that responsible bodies could take to address these issues.*

We are currently:

- Analysing the capacity of the London canals network.
- Promoting the provision of new residential moorings in proposed new developments on canal-side sites.
- Reviewing the potential for new mooring sites, including affordable moorings, across the London canals network with a view to working with community organisations to bring forward proposals.
- Exploring ways to address the issue of continuous cruisers who are unable to comply with the cruising guidance for boats without a home mooring, e.g. through new forms of mooring permit.
- Addressing demand for mooring space, especially in popular locations, by applying enforcement resources to data collection (boat sightings) and enforcement patrols to tackling over-staying at moorings.
- Working with partner agencies to develop an integrated approach to tackling air and noise pollution and the management of anti-social behaviour (including a cross-borough approach with Environmental Health, ASB teams, and the Police).
- Working to secure additional resources to focus on improving compliance with licence terms and conditions in relation to nuisance (anti-social behaviour and noise and smoke pollution).
- Working with user groups to develop partnership approaches to information and guidance for boaters on finding suitable moorings, accessing services and facilities, and operating a boat safely and with consideration for other waterways users and nearby residential communities.

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<sup>6</sup> For example, on the western fringe of the Greater London area at Uxbridge, responding to demand from established local boaters, we are developing a pilot initiative to offer 'roving mooring permits' to continuous cruisers who cannot reasonably comply with the mooring guidance for boats without a home mooring.



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The Mayor for London and London Boroughs could:

- Provide support, training and funding to enable boaters to make a transition to greener technologies (e.g. solar panels for heating and power, more efficient stoves, better quality and quieter generators).
- Provide policy support for the provision of more mooring space, and residential moorings in particular.
- Work in partnership with the Trust, and with third parties, to provide refuse and recycling facilities off the towpath (due to limited space and access for collection on the towpath).
- Provide support and funding for information and signage to raise awareness of cycling and public transport options at various under-used locations on the canal network in London.
- Provide support and funding for initiatives to raise awareness of the practicalities and regulatory requirements involved in live-aboard boating.
- Provide support and funding for initiatives to assist vulnerable live-aboard boaters who are face multiple social and economic disadvantages, e.g. through targeted benefits, housing and social services advice such as the Waterways Chaplaincy service.

**Sally Ash, Head of Boating**

**Sorwar Ahmed, Community & Boater Liaison Manager**

**Canal & River Trust**

**July 2013**

## **APPENDICES**

See documents attached separately.

## **GUIDANCE FOR BOATERS WITHOUT A HOME MOORING**

If a boat is licensed without a home mooring<sup>1</sup> it must move on a regular basis. This Guidance<sup>2</sup> seeks to explain in day to day terms the nature of the movement that must take place.

There are three key legal<sup>3</sup> requirements:-

the boat must genuinely be used for navigation throughout the period of the licence.

unless a shorter time is specified by notice the boat must not stay in the same place for more than 14 days (or such longer period as is reasonable in the circumstances); and

it is the responsibility of the boater to satisfy the Trust that the above requirements are and will continue to be met.

### **“Navigation”**

The law requires that the boat “will be bona fide used for navigation throughout the period of [the licence]”.

‘Bona fide’ is Latin for “with good faith” and is used by lawyers to mean ‘sincerely’ or ‘genuinely’.

‘Navigation’ in this context means travelling on water involving movement in passage or transit.<sup>4</sup>

Therefore, subject to stops of permitted duration, those using a boat licensed for continuous cruising must genuinely be moving, in passage or in transit throughout the period of the licence.

Importantly, short trips within the same neighbourhood, and shuttling backwards and forwards along a small part of the network do NOT meet the legal requirement for navigation throughout the period of the licence.<sup>5</sup>

The terms ‘cruise’ and ‘cruising’ are used in this guidance to mean using a boat bona fide for navigation.

### **“Place”**

The law requires that stops during such cruising should not be “in any one place for more than 14 days”.

“Place” in this context means a neighbourhood or locality, NOT simply a particular mooring site or position<sup>6</sup>.

Therefore to remain in the same neighbourhood for more than 14 days is not permitted. The necessary movement from one neighbourhood to another can be done in one step or by short gradual steps. What the law requires is that, if 14 days ago the boat was in neighbourhood A, by day 15 it must be in neighbourhood B or further afield. Thereafter, the next movement must be at least to neighbourhood C, and not back to neighbourhood A (with obvious exceptions such as reaching the end of a terminal waterway or reversing the direction of travel in the course of a genuine cruise).

What constitutes a ‘neighbourhood’ will vary from area to area – on a rural waterway a village or hamlet may be a neighbourhood and on an urban waterway a suburb or district within a town or city may be a neighbourhood. A sensible and pragmatic judgement needs to be made.

It is not possible (nor appropriate) to specify distances that need to be travelled, since in densely populated areas different neighbourhoods will adjoin each other and in sparsely populated areas they

may be far apart (in which case uninhabited areas between neighbourhoods will in themselves usually be a locality and also a “place”).

Exact precision is not required or expected – what is required is that the boat is used for a genuine cruise.

#### **“14 days or such longer period as is reasonable in the circumstances”**

Circumstances where it is reasonable to stay in one neighbourhood or locality for longer than 14 days are where further movement is prevented by causes outside the reasonable control of the boater.

Examples include temporary mechanical breakdown preventing cruising until repairs are complete, emergency navigation stoppage, impassable ice or serious illness (for which medical evidence may be required).

Such reasons should be made known immediately to local Trust enforcement staff with a request to authorise a longer stay at the mooring site or nearby. The circumstances will be reviewed regularly and reasonable steps (where possible) must be taken to remedy the cause of the longer stay – eg repairs put in hand where breakdown is the cause.

Where difficulties persist and the boater is unable to continue the cruise, the Trust reserves the right to charge mooring fees and to require the boat to be moved away from popular temporary or visitor moorings until the cruise can recommence.

Unacceptable reasons for staying longer than 14 days in a neighbourhood or locality are a need to stay within commuting distance of a place of work or of study (e.g. a school or college).

#### **Boater’s Responsibility**

The law requires the boater to satisfy the Trust that the bona fide navigation requirement is and will be met. It is not for the Trust to prove that the requirement has not been met. This is best done by keeping a cruising log, though this is not a compulsory requirement. If however, the Trust has a clear impression that there has been limited movement insufficient to meet the legal requirements, it can ask for more information to be satisfied in accordance with the law. Failure or inability to provide that information may result in further action being taken, but only after fair warning<sup>7</sup>.

#### **Summary of Guidance for Boats without a home mooring**

- **Boats without a home mooring must be engaged in genuine navigation throughout the period of the licence.**
- **They must not stay moored in the same neighbourhood or locality for more than 14 days.**
- **It is the boater’s responsibility to satisfy the Trust that they meet these requirements.**

#### **NOTES**

<sup>1</sup> ‘Home Mooring’ is “a place where the vessel can reasonably be kept and may lawfully be left”.

<sup>2</sup> This Guidance does not have the force of law but seeks to interpret the law as set out in s.17 British Waterways Act 1995. The language of the Act is generic and, as with all statutes, requires interpretation. The Guidance is based on professional legal advice, including from Leading Counsel, and is believed by the Trust to reflect the correct legal interpretation of the Statute. The Guidelines issued in 2008 were considered by the court in the case of *British Waterways v Davies* in the Bristol County Court. The Judge expressly found that Mr Davies’ movement of his vessel every 14 days (whilst remaining on the same approximate 10 mile stretch of canal between Bath and Bradford on Avon) was not bona fide use of the vessel for navigation. These Guidelines have been updated and refined in the light of that Judgment.

<sup>3</sup> Section 17(3)(c) British Waterways Act 1995 states that BW may refuse a licence (“relevant consent”) unless (i) BW is satisfied the relevant vessel has a home mooring or: “(ii) the applicant for the relevant consent satisfies the Board that the vessel to which the application relates will be used bona fide for navigation throughout the period

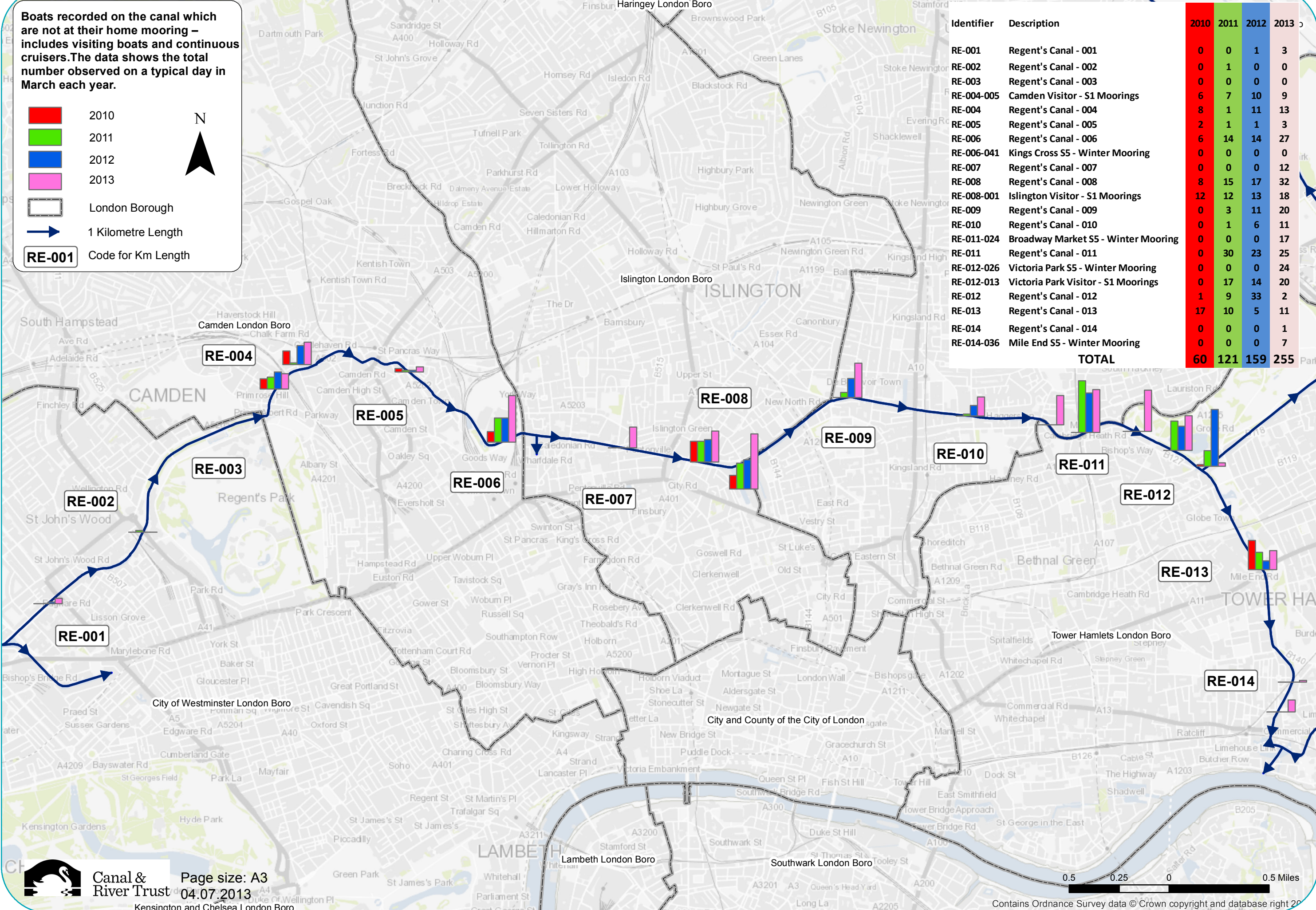
for which the consent is valid without remaining continuously in any one place for more than 14 days or such longer period as is reasonable in the circumstances.”

<sup>4</sup> British Waterways places reliance on the meaning given to the word “navigation” in the case of *Crown Estate Commissioners v Fairlie Yacht Slip Limited*. Whilst a decision of the Scottish courts, the English courts can, and have, taken the views of the Scottish Judge into account. In that case the basic concept and essential notion of the word “navigation” was said to be “passage or transit”, the underlying concept being one of movement.

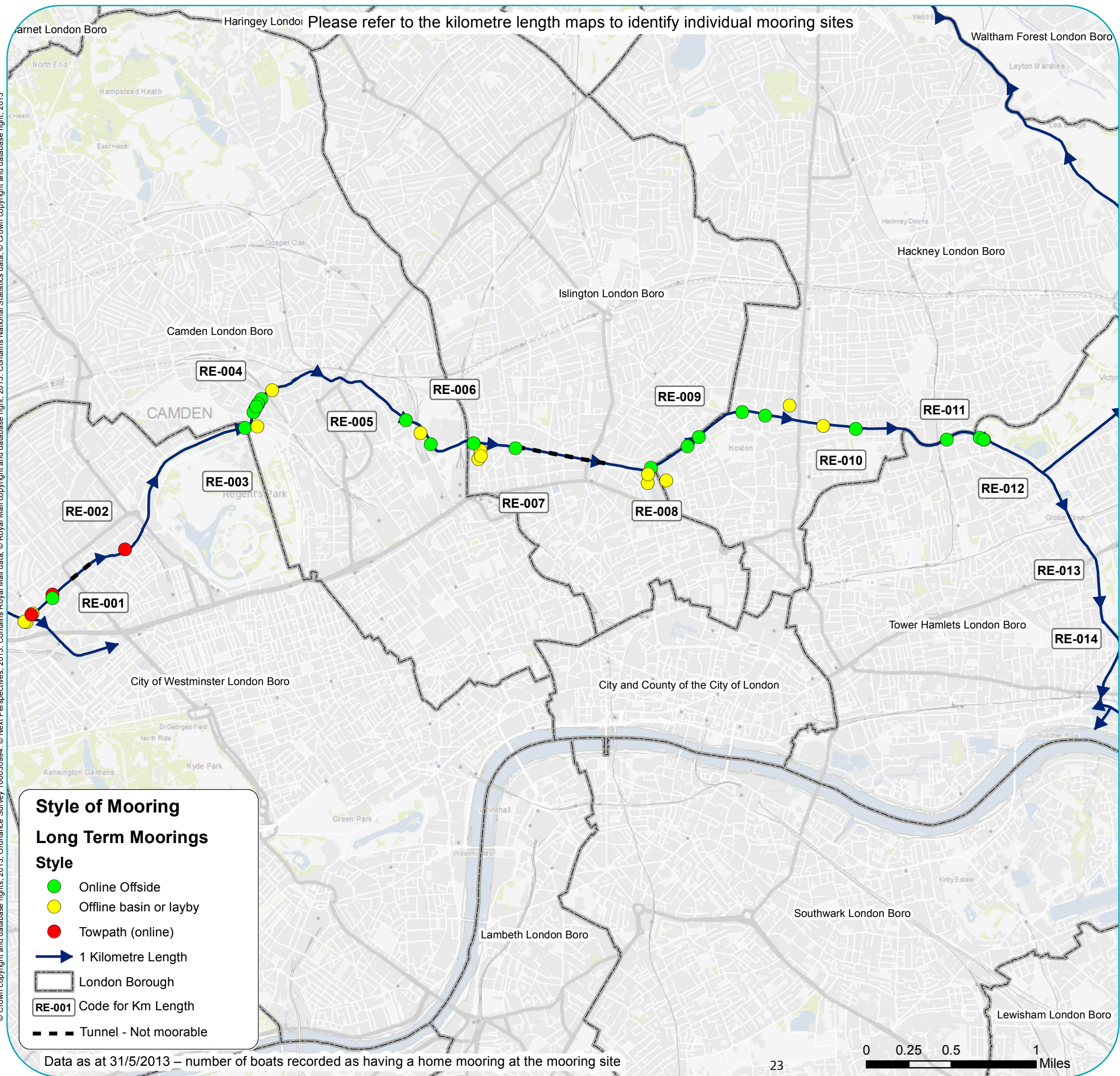
<sup>5</sup> The Judge in the case of *British Waterways v Davies* referred to in Note 1 above expressly confirmed that moving a vessel every 14 days on a 10 mile stretch of canal between Bath and Bradford on Avon was NOT use of the vessel bona fide for navigation.

<sup>6</sup> The Shorter Oxford Dictionary gives some 8 separate principal meanings for the noun ‘place’. Therefore the rules of legal interpretation require the meaning that most appropriately fits the context to be used. Since ‘navigation’ means travelling by water and ‘travel’ means a journey of some distance, the word ‘place’ in this context is used by the Act to mean an “area inhabited or frequented by people, as a city, town, a village etc” (meaning 4b in the Shorter Oxford Dictionary).

<sup>7</sup> Enforcement of the legal requirements will be based on observations by the Trust. If initial observations indicate insufficient movement to meet the legal requirements, the boater(s) will be advised why the observed movement is considered insufficient and be asked to keep adequate evidence of future movements. Failure then to meet the movement requirements, or to provide evidence of sufficient movement when requested by the Trust, can be treated as a failure to comply with s.17 of the 1995 Act. After fair warning the boat licence may then be terminated (or renewal refused). Unlicensed boats must be removed from Trust waters, failing which the Trust has power to remove them at the owners cost.



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# Long Term Home Moorings Regents Canal Overview Map

Unique ID	Description	Style	No. of Boats
RE-001-025	Waterside Cafe - L4 Mooring	Offline basin or layby	1
RE-001-024	Waterbus Little Venice - L4 mooring	Offline basin or layby	5
RE-001-001	Little Venice Pool - L1 Moorings	Towpath (online)	7
RE-001-028	Puppet Barge Little Venice - L5 Mooring	Offline basin or layby	1
RE-001-011	Maida Avenue - L1 Moorings	Online Offside	19
RE-001-007	Blomfield Road - L1 Moorings	Towpath (online)	42
RE-002-003	Lisson Grove - L1 Moorings	Towpath (online)	52
RE-004-001	Cumberland Basin Non Res - L1 Moorings	Online Offside	13
RE-004-036	Cumberland Basin Res - L1 Moorings	Offline basin or layby	5
RE-004-055	Regents Park Rd (34) - L2 Mooring	Online Offside	1
RE-004-037	St Marks Crescent (No 13) - L2 Mooring	Online Offside	1
RE-004-056	10 St Marks Crescent - L2 Mooring	Online Offside	1
RE-004-007	St Marks Crescent (Minns) - L2 Mooring	Online Offside	1
RE-004-035	St Marks Crescent (No 5) - L2 Mooring	Online Offside	1
RE-004-034	Gloucester Road - L2 Mooring	Online Offside	1
RE-004-038	Pirate Castle - L4 Mooring	Offline basin or layby	2
RE-005-012	Granary Wharf - L4 Mooring	Online Offside	2
RE-006-002	St Pancras Basin - L5 moorings	Offline basin or layby	75
RE-006-004	Camley St Natural Pk - L3 Mooring	Online Offside	3
RE-006-038	Camden C&NB Assoc L2 Mooring	Online Offside	1
RE-006-021	Ice Wharf Marina - L1 Moorings	Offline basin or layby	23
RE-006-024	London Canal Museum - L4 Moorings	Offline basin or layby	3
RE-006-022	Battlebridge Basin - L5 Moorings	Offline basin or layby	21
RE-007-002	Fife Terrace - L1 Moorings	Online Offside	4
RE-008-028	City Road Basin - L5 Mooring	Offline basin or layby	1
RE-008-027	Islington Boat Club - L5 Mooring	Offline basin or layby	5
RE-008-009	Wharf Road Islington - L1 Moorings	Online Offside	2
RE-008-011	Wenlock Basin - L5 moorings	Offline basin or layby	3
RE-008-014	Eagle Wharf Marina - L5 moorings	Online Offside	12
RE-009-001	Sturts Lock - Res - L1 Moorings	Online Offside	5
RE-009-014	Rosemary Works L3 Mooring	Online Offside	2
RE-009-015	52 Whitmore Road - L2 Mooring	Online Offside	1
RE-009-007	Kingsland Basin - L6 Moorings	Offline basin or layby	3
RE-010-016	Laburnum Boat Club - L6 Mooring	Offline basin or layby	3
RE-010-020	15 Gloucester Sq - L2 Mooring	Online Offside	1
RE-011-022	Vyner Street - L3 Mooring	Online Offside	1
RE-011-023	Belmont Wharf - L3 Mooring	Online Offside	1
RE-011-010	Sewardstone Road (172) L2 Moorings	Online Offside	1
RE-011-012	Sewardstone Road - L2 Mooring	Online Offside	1
TOTAL			327

