

NATIONAL BARGEE TRAVELLERS ASSOCIATION

Response to Chapter 4 (Air Quality) of Mayor's Draft London Environment Strategy

This consultation response is from the National Bargee Travellers Association (NBTA). We are grateful for the opportunity to respond to the Mayor's consultation on the Draft London Environment Strategy.

The NBTA is a volunteer organisation formed in 2009 that campaigns and provides advice for itinerant boat dwellers on Britain's inland and coastal waterways. The term Bargee Traveller includes anyone whose home is a boat and who does not have exclusive use of a permanent mooring for their boat with planning permission for residential use. The NBTA represents individuals who live on boats on UK waterways and who do so without having a permanent residential mooring. Such boaters live in an itinerant fashion, moving regularly from place to place as is either permitted or required under a number of pieces of legislation. The NBTA is the only national organisation in Britain dedicated to upholding and defending the rights of itinerant boat dwellers. The NBTA has members on all the major navigation authorities' waterways and beyond.

The inland waterways in London are managed by three different navigation authorities: Canal & River Trust (CRT); the Port of London Authority (PLA) and the Environment Agency (EA). According to the CRT annual boat count, in 2017 there were 4786 boats on the canals and rivers which CRT manages in London. Some 1880 of these were licensed without a permanent mooring and some 2007 licensed with a permanent mooring. The remainder were in areas (marinas and docks) where a licence is not required;ailable boats; unlicensed boats or boats with a permanent mooring on another navigation authority's waterways. We do not have any accurate statistics for the numbers of boats on waterways under the jurisdiction of the PLA or the EA in London but the overall number of boats may well be similar.

On CRT waterways, boats without a permanent mooring are required by Section 17(3)(c) (ii) of the British Waterways Act 1995 to travel to a different place every 14 days and by a recent CRT enforcement policy imposed in 2015 to travel in a range of at least 20 miles during their licence period, which is normally one year but may have been restricted to 6 months by CRT as a sanction for not travelling far enough. The NBTA believes, based on extensive research into the British Waterways Act 1995, that this additional policy of requiring a 20 mile range is unlawful. The sanction for boats that do not comply with the law and/or with CRT's policy on movement is seizure, removal and either sale or destruction of their homes under Section 8 of the British Waterways Act 1983.

According to the CRT Boat Owners Survey 2017, 49% of boats on CRT waterways in London are used as a permanent home. Many of these boats will be used as homes by boaters without a permanent mooring (the term used by CRT is "home mooring" whether or not a boat is lived on). While there are many reasons for living on a boat, many do so as an affordable way to live in the capital. This includes key workers such as teachers and doctors, as well as people who would otherwise be homeless whose boat is a vital source of stability.

According to the 2016 CRT survey "Who's who on London's boats", 43% of those living on boats live alone; 42% of those living on boats live as part of a cohabiting couple and 12% of those living on boats live as part of a wider family group. Extrapolating these figures, the Mayor's proposals will affect at least 7,600 adults and children living on boats on CRT, PLA

and EA waterways in London.

As people who live, work and travel around London, the boating community would benefit from London having cleaner air and we support this objective. The NBTA is, however, concerned that measures may be taken which have a disproportionate impact on people who live on boats compared with their relatively low impact on air quality. In particular:

Diesel engines

Almost all boats which are used as homes have diesel engines, some of which will be up to 40 years old and a minority much older, dating from the 1930s and earlier. These engines have a dual use. As well as transport they are used for domestic purposes such as heating water (using a calorifier) and generating 12v electricity by charging domestic batteries for lighting, power and water system pumps (water has to be pumped on a boat because there is no gravity feed). A small minority of boats have petrol outboard engines. Boats are permitted by HMRC to use red diesel for propulsion, heating and electricity generation. This is taxed at different rates according to the purpose it is used for. Red diesel is sold by boatyards and by coal and diesel boats trading along the waterways.

We urge the Mayor to take into account the relatively small number of such engines when compared to all diesel engines in London, and the lack of other options when considering policies which would impact boaters using such engines. Charges (akin to the T-charge) which apply to vehicles used for transport would be inappropriate applied to boats which are used as homes.

In many cases engine use can be reduced through installation of solar panels and we would recommend the creation of a small fund to allow boaters to install these rather than any punitive measures. Retro-fitting diesel boat engines with emission reducing technology will be complex and expensive; requiring boats to fit new engines would be financially prohibitive to most boat dwellers given that the cost of a new boat engine is in the region of £6000 to £8000. We would urge the Mayor to act proportionately on this issue.

Solid fuel stoves

The majority of boats have solid fuel wood, coal or multi-fuel stoves as their only source of heating. In many cases the stoves also function as a way of heating water and cooking. As the primary source of heat, they are an integral part of most boaters' homes, rather than an aesthetic add-on to an existing central heating system. The impact of any policy which restricted the use of wood burning or solid fuel stoves on boats would be substantial, especially in comparison to the relatively small number of stoves in question. A minority of boats (but especially holiday hire boats) have diesel heaters that are run on the same grade of diesel that is used to power the engine.

Boat dwellers in London vary in their use of wood as a heating fuel. Probably the majority of boat dwellers use both wood and coal in different quantities. Wood is normally needed to light the coal in a stove and for the first ten minutes of burning. Some boat dwellers prefer to use the more expensive smokeless coals whether or not they are in a smoke control zone. Others use semi-smokeless coal or lignite briquettes. Some stoves are designed to burn only wood or only coal. However, the poorest boat dwellers, including those who would otherwise be homeless, rely on salvaging scrap wood to heat their homes. Coal is a significant annual expense for a boat dweller and the lower the boat dweller's income, the less likely they are to be able to use good quality, smokeless coal.

We note that despite London being a smoke control zone, smoky coal is readily available in garages and shops and is cheaper than smokeless brands. Boat dwellers in London obtain coal from a variety of sources including from coal and diesel boats trading along the waterways; these boats do not necessarily trade exclusively in London thus carry a range of stock for use in both smoke control zones and in rural areas.

Bottled gas

The majority of boats use bottled LPG gas for cooking and in some cases for heating water. It is very rare for a boat to use gas for heating, due to the dampness and condensation caused by this source of fuel; the greater risk of carbon monoxide poisoning from gas heaters and the prohibitive cost. Most boats use bottled gas in 13kg bottles or smaller. The cost of buying gas in 13kg bottles is almost double the price per kg compared to buying gas in 47kg bottles which are used in houses where there is no mains gas.

240v electricity

Anecdotally we believe that less than half of boats used as homes are able to use 240v shore power electricity in the limited places where it is available. In order to use shore power, a boat has to be fitted with an auxiliary 240v wiring circuit and alternative connections or plugs for appliances. In some cases, a boat will have a 240v connector to charge the batteries but no other 240v equipment. Shore power is usually only available at purpose built permanent moorings in marinas. A minority of permanent moorings along the line of the waterway have shore power. In London, a few visitor moorings have been fitted with 240v electricity hook-ups. Some boats have inverters to produce 240v electricity independently but using an inverter requires a greater number of batteries and many more engine hours to charge these batteries.

Solar panels and wind generators

Every year, more boat dwellers (and leisure boaters) fit solar panels to generate electricity and reduce the need for running engines. These panels charge the domestic batteries. They can be very effective in the lighter months between April and October. However in winter there is not normally enough daylight to avoid using the engine to charge batteries. In London, the increasing construction of high buildings along the waterways is reducing the locations where solar panels can be used effectively to avoid running engines, especially in the darker months of the year. Although some boaters use wind generators to charge domestic batteries, these are not effective in built-up areas such as London and are thus not practical in the city.

The Boat Safety Scheme and insurance

All boats on CRT and EA waterways are required to have a Boat Safety Scheme (BSS) certificate issued by a registered BSS examiner before they can be licensed. Unlicensed boats can be seized and removed, and/or the owners prosecuted. A BSS certificate lasts for 4 years and certifies that the engine fuel, engine and domestic electricity, batteries and gas systems and solid fuel appliances meet the safety standards prescribed by the scheme. All boats on CRT and EA waterways are also required to have Third Party Liability insurance of at least £2 million as a condition of being licensed.

Use of private road vehicles

The vast majority of boat dwellers in London rely on public transport, cycling and walking to get around. Only a very small minority of boat dwellers in London own or use private road vehicles. In this respect, London's boat dwellers are ahead of the curve in reducing their carbon footprint, making a positive contribution to improving London's air quality.

The Clean Air Acts and boats

The Clean Air Act 1956 was repealed in its entirety by the Clean Air Act 1993. The Clean Air Act 1993 does apply to boats on inland waterways but only under the provisions made in Part VI Section 44 as boats on CRT, PLA and EA waters fall within the definition of "vessels" given in the Clean Air Act 1993 Part VII Section 64.

Part VI Section 44 of the Clean Air Act 1993 provides for the prohibition of dark smoke emissions from both a boat's chimneys and its engine. The section also allows for the prosecution by a local authority of the person in command or charge of the vessel for an offence under this section.

Dark smoke is defined in Part I Section 3 (1) as "any emissions of smoke seen from a chimney over a period of time that appears darker than the Level 2 (40%) grid in the Ringelman chart series". "Over a period of time" means that a brief temporary emission of dark smoke, for example in order to light a stove, is not an offence under the Clean Air Act 1993.

Although Smoke Control Zones and Smoke Control Orders are made and enforced by local authorities under Part III Section 18 (1), the content of such Smoke Control Zones or Orders has no effect on smoke, grit or dust from vessels covered by Part VI Section 44 of the Act, due to Section 44 (6). The Clean Air Act 1993 does not prohibit the sale of smoky coal from mobile boats.

Response to specific proposals:

Proposal 4.2.2a:

The Mayor will work with government and relevant groups to reduce emissions from activity on London's waterways

Where the Mayor's clean air strategy intends to impact on boats which are used as homes, there must be a robust and transparent evidence base for the costs and benefits of these interventions specifically as they apply to boats used as homes. At present, the draft strategy does not make a clear distinction, stating that "pollutants from vessels and residential boats are small but significant". We are not aware of any rigorous study of the impact of boats which are used as homes on air quality and note that unlike freight or transport boats, many boats used as homes do not move daily and often have renewable sources of power such as solar panels. It is vital that in developing this proposal the Mayor specifically takes account of boats which are used as homes but which do not have permanent moorings.

The majority of boats used as homes in London have diesel engines which are used to generate power both for propulsion and for domestic use (including generating electricity and heating water). Both of these functions are requirements for using a boat as a home without having a permanent mooring and we would encourage the Mayor to take this into account when considering applying any policies related to diesel engines to boats which are used as homes.

It would not be proportionate or possible to expect boaters to replace their engines to run on lower emission fuels due to the significant costs involved. Further to this, the inland waterway network does not have the infrastructure of fuel stations which supply low-emission fuels. As boats move throughout the whole of the UK, for low emission engines to be feasible would require a national (rather than local) strategy. Consequently, we do not think that a tax on diesel boat engines (equivalent to the T-charge) would be fair as boaters do not have other options available and such a charge, aimed at vehicles used primarily for transport, would have a highly damaging impact if applied to boats which are used for homes.

There are positive ways that boaters can seek to reduce, although not eliminate, their engine use. Many boats have solar panels or other forms of generating renewable power despite boats not being eligible for the same subsidies which houses can receive. Many boaters do so out of a desire to be self-sufficient, to lower costs in the long run and to reduce their carbon footprint and would share the Mayor's aspiration to improve London's environment. We think that when considering proposals for boats which are used as homes, the Mayor should take account of this existing alignment of attitudes and should consider the creation of a small fund to enable more boats to install renewable sources of energy.

Proposal 4.3.3c:

The Mayor, working with London's boroughs and other partners, will seek to reduce emissions from wood and other solid fuel burning in London

The majority of boats which are used as homes will contain solid fuel stoves. This is not a recent fashion but is a traditional feature of British narrowboats and barges. These stoves are integral to many boats and are usually the only source of heating as well as being used for heating water and cooking. As a result, any policy which affects how stoves are used on boats could have a significant impact on the lives of those who live on boats and it should not be assumed that other options are readily available. In general, boats do not have gas or electric heaters installed and are not connected to the grid which further reduces viable options. Electric heaters, for example, are very energy intensive and would require 240v electricity to operate which many boats lack (being on a 12v system). A shift to electric heaters therefore could have the unintended consequence of increasing the running of engines to create the electricity to power the heaters. This could easily create a worse outcome in terms of air pollution than the original solid fuel stoves.

Stoves on boats are required to comply with the BSS and therefore have been installed legally and in good faith. Many boat stoves can burn smokeless fuels. We would encourage the Mayor to take this into account when considering his long term strategy on this issue, in particular around a new Clean Air Act.

Stoves on boats constitute a small fraction of the number of stoves in London, however for their users they play a fundamental role in their homes. We do not believe that the benefits in this area would outweigh the significant costs.

The Housing and Planning Act 2016

Section 124 of the Housing and Planning Act 2016 states that local housing authorities in England must, in their periodical reviews of housing need, consider the needs of people "residing in or resorting to their district with respect to the provision of... places on inland

waterways where houseboats can be moored". London Boroughs are therefore required by Section 124 of the Housing and Planning Act 2016 and Section 8 of the Housing Act 1985 to assess and meet the housing needs of all boat dwellers, including Bargee Travellers. See <http://www.legislation.gov.uk/ukpga/2016/22/contents> for the full text.

On 11th March 2016 the Secretary of State for Communities (DCLG) issued guidance to go alongside Section 124 of the 2016 Housing and Planning Act. On 11th November 2017 Helen Higgins for DCLG stated in writing to the NBTA that: "... the published draft guidance [of 11-3-2016 is] the current version" and on 21-6-2017 she confirmed this on behalf of the Director General. The Guidance therefore has effect.

This means that any assessment of the housing needs of boat dwellers in London must include provisions for Bargee Travellers / boat dwellers without a permanent mooring, as well as provisions for residential moorings. The NBTA believe that this should include the provision of facilities such as potable water, sewage disposal and rubbish disposal, but it could also include the provision of 240v electricity facilities for boats without a permanent mooring.

The Labour Party Manifesto 2017

We note that the Mayor of London is a Labour mayor. Page 112 of the Labour Party Manifesto dated 12th May 2017 states:

"We will end racism and discrimination against Gypsy, Roma and Traveller communities, and protect the right to lead a nomadic way of life."

Rendering uninhabitable the homes of up to 7600 boat dwellers, of whom around half are nomadic Bargee Travellers, and bringing criminal charges against them for merely heating and lighting their homes, would directly conflict with the Labour Party Manifesto.

Relevance of the Mayor of London's Housing Strategy and Diversity and Inclusion vision

The Mayor of London's Housing Strategy includes proposals to significantly increase the number of affordable homes built in London; proposals to meet London's diverse housing needs including proposals for investing in specialist and supported housing; tackling homelessness and helping rough sleepers including proposals for preventing homelessness,

The Mayor of London's Diversity and Inclusion vision includes the following:

"Priority outcome 1.1 Affordable, accessible decent homes: there are not enough pitches for London's Gypsy, Roma and Traveller communities; reduction of household energy bills and alleviation of fuel poverty in some of London's more deprived communities; reducing homelessness and rough sleeping must be a priority in our city (pp11-12)".

"2. A great place to grow up: children should be able to grow up in safe communities, and in households that can afford everyday essentials like healthy food and keeping their home warm". (p17).

Rendering uninhabitable the homes of up to 7600 boat dwellers, of whom around half are itinerant Bargee Travellers and the majority are on low incomes and cannot afford to live

on land in London even if they claim welfare benefits, and bringing criminal charges against them for heating and lighting their homes, would conflict with the above aspects of the Mayor's Housing Strategy and Diversity and Inclusion vision and would destroy a strong, interdependent, financially self-sufficient community, many of whom are key workers. We do not believe that the Mayor would intend this to happen as a consequence of his Clean Air Strategy.

Conclusion

Taken together, proposals 4.2.2a and 4.3.3c could have the effect of making the homes of at least 7600 people uninhabitable due to an inability to heat and light their homes, and could make it impossible for around half of these boat dwellers to travel with the frequency specified by law (or at all) and in the range currently required by CRT, leading to enforcement and court action to seize, remove, sell and/or destroy their homes. The consequent sudden increase in homelessness would be a burden on London's already stretched housing resources and would mean that thousands of people would be forced into claiming welfare benefits to cover the cost of moving on to land, who previously constituted a financially self-sufficient, strong community.

The implied criminalisation of the ordinary domestic activities of boat dwellers, such as heating and lighting their homes for non-compliance with the measures in proposals 4.2.2a and 4.3.3c and the financial penalties for this, or alternatively if complying with the above measures, the homelessness resulting from the consequent inability to comply with Section 17(3)(c)(ii) of the British Waterways Act 1995, would be a completely disproportionate and unjust unintended consequence that would violate the rights of boat dwellers under Article 8 of the European Convention on Human Rights. We would hope that the Mayor would think again about how the proposed London Environment Strategy can be genuinely inclusive of Bargee Travellers and minority communities such as London's estimated 7600 boat dwellers.

We welcome the fact that the Mayor recognises that there are "specific challenges for river and canal vessels" and his commitment to working with all relevant parties to ensure that the strategy is both proportionate and possible. As the only body representing boats used as homes but without permanent moorings, the NBTAs would welcome the opportunity to meet with the Mayor's office since the majority of boat dwellers in London will fall into this category. We are also happy to offer technical and legal advice on further draft policies and proposals.

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