

## **National Bargee Travellers Association**

### **Objection to Amendments to the Smoke Control Area within Cambridge 2025**

#### **General**

This consultation response is from the National Bargee Travellers Association (NBTA), a volunteer organisation formed in 2009 that campaigns and provides advice for Bargee Travellers: 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 the only national organisation in Britain dedicated to upholding and defending the rights of itinerant boat dwellers. The NBTA has over 2,200 members who travel on all the major navigation authorities' waterways and beyond. The NBTA deals with around 200 individual cases each year.

#### **Objections**

The NBTA objects to the Amendments to the Smoke Control Area for the following reasons.

#### **Inadequate time given for consideration and response**

It appears that the consultation runs from 27th January to 20th April 2025, some twelve weeks. The consultation gives insufficient time for proper consideration of the proposals and inadequate time to formulate a response. Twelve weeks is not sufficient for proper consideration of such serious proposals. The duration of this consultation is too short and is not in accordance with good practice. The consequence of a consultation period that is too short is that it disenfranchises those whose views ought to be taken into account. This is the case here, as Bargee Travellers who moor their homes in Cambridge for part of the time may not be in the area during the consultation period and will not have been contacted directly by the Council to take part. Mooring space for Bargee Travellers on the River Cam in Cambridge is extremely scarce. There are only 70 residential mooring licences and these have a waiting list of many years that is currently closed. There is very little unallocated mooring space for Bargee Travellers in Cambridge. There is only space for 8-10 boats for short periods. This means Bargee Travellers are likely to be outside the Cambridge City Council area for the majority of the year. The timescale is severely skewed towards enabling the participation of local housed residents and excluding itinerant boat dwellers.

#### **Failure to target consultation at those most likely to be affected or to take account of the groups that should be consulted**

There are significant barriers that prevent itinerant liveaboard boaters from taking part in local consultations. No information has been provided regarding how the consultation will directly reach boat dwellers, whether itinerant or permanently moored. Although Cambridge City Council has contacted the NBTA, it has not explained what efforts have been made to directly obtain itinerant boat dwellers' opinions and comments on the impact and practicality of bringing moored vessels into the ambit of its Smoke Control Area.

#### **Insufficient reasons provided to permit of intelligent consideration and response to the proposals**

No evidence has been provided that there is a problem with smoke emissions from moored boats in Cambridge. The modelling data from the Smoke Control Area Impact Study 2024 demonstrates that the impact on air quality of including or not including moored boats in the Smoke Control Area is negligible. This means that it is not possible to accurately quantify particulate emissions from the homes of boat dwellers or to evaluate whether they are a problem.

The Council has not provided any information regarding whether it has received complaints from residents about smoke emissions from moored boats on the River Cam within Cambridge.

The lack of data about complaints means there is no clarity regarding whether the proposals are driven by hostility of local housed residents to boat dwellers or whether the proposed Amendments to the Smoke Control Area are likely to be used as a tool to remove boat dwellers from areas where either the local authority or the housed population is opposed to boat dwellers.

No definition has been provided in the consultation of what the Council considers to be a 'significant quantity of smoke from a chimney'. No information has been provided about how smoke emissions from boat chimneys will be measured, in relation to Ringelman Charts or otherwise.

No information has been provided regarding how the Council will ensure that itinerant boat dwellers will be able to tell whether they are entering the proposed Smoke Control Area or not, as these areas are not generally signposted either at the boundaries or elsewhere. Boaters could enter a Smoke Control Area with their stove alight, not knowing that smoke controls are in force or that they have crossed a local authority boundary, and be fined, especially if they have no smokeless fuel on board.

DEFRA Guidance on the application of smoke control areas to moored vessels under the Environment Act 2021 recommends that local authorities should place "clear signs at all entry points on the waterway and any other locations deemed relevant, so that the person in charge of a vessel knows that they are entering a smoke control area". The consultation is therefore not consistent with DEFRA Guidance. Please see Appendix 1 for the text of the Guidance.

No cost benefit analysis or Impact Assessment has been carried out regarding the costs to the Council or the impact of fining people who will typically not be able to pay the fine and may thus be vulnerable to being imprisoned or having their possessions and even their homes seized.

### **Breach of Climate Change Act 2008**

There is no evident calculation in the consultation as to the carbon cost of transportation of the fuels that will be permitted under the proposed Amendment to the Smoke Control Order. All fuels allowed under the proposal are fossil fuels with obvious carbon costs, except for kiln dried wood, which requires huge amounts of wood to be burned to fuel the kilns, and the vast majority of kiln dried wood is supplied from Baltic states with the accompanying shipping fuel costs. It is clear under the Climate Change Act 2008 that these calculations must be shown.

### **Disproportionate impact compared to population**

The estimated percentage of boat dwellers in the overall population of England and Wales is between 0.05% and 0.1% (from the Office for National Statistics 2021 Census data). This suggests that the level of smoke emissions from moored boats is *de minimis* compared to the domestic, industrial and transport emissions from the rest of the population of Cambridge. There are only 70 residential mooring licences in Cambridge and these have a waiting list of many years that is currently closed. There is very little unallocated mooring space for Bargee Travellers in Cambridge. There is only space for 8-10 boats for short periods. This makes a total of around 80 boats in Cambridge at any given time. Given the extremely small size of the boat dweller population, it is therefore disproportionate to include moored vessels in the Smoke Control Area.

The Rules of the Cambridge City Council Residential Mooring Licence include a prohibition on emitting smoke from a chimney other than while lighting up, and a requirement to use smokeless fuels. The Terms and Conditions of the Residential Mooring Licence include a prohibition on creating a nuisance by smoke. The proposed Amendments to the Smoke Control Area within Cambridge are therefore superfluous given that the Council already has a mechanism to enforce smoke control requirements via the Residential Mooring Licence. Imposing the inclusion of moored vessels in the Smoke Control Area in addition to the terms of the Residential Mooring Licence to capture the remaining 8-10 visiting boats would be heavy handed in the extreme.

### **Significant adverse impact on boat dwellers**

The proposed Amendments to the Smoke Control Area will have a severe adverse effect on the quality of life of boat dwellers, especially Bargee Travellers: people who live on their boats without a permanent mooring. This is likely to penalise and punish people for the simple act of heating their homes, and in some cases for cooking and heating water. These are essential domestic activities without which people's homes are uninhabitable.

Bargee Travellers are on some of the lowest incomes in the population, and many boat dwellers were simply unable to obtain the Government's Energy Bills Support Scheme and Alternative Fuels payments of £400 and £200 in 2022 and 2023. This means that many simply cannot afford to heat their homes using smokeless fuels, kiln dried wood and/or DEFRA-approved stoves. Grants towards replacing stoves with DEFRA-approved stoves are only available to boat dwellers with permanent moorings of more than 6 months duration. These grants are not available to Bargee Travellers, which further disadvantages them.

Smokeless coal and kiln dried wood are the most expensive forms of solid fuel. At present due to the steep increases in the price of all solid fuels, many boat dwellers have resorted to burning fallen or scrap wood or even old clothes to keep warm. Some boat dwellers have always heated their homes using scrap or fallen wood because that is all they can afford.

### **No Equality Impact Assessment or welfare assessment carried out**

The Council is bound by the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires public authorities to have due regard to a number of equality considerations when exercising their functions. However, the Council has not provided an Equality Impact Assessment of the effect of the proposed Amendments to the Smoke Control Area with this consultation. This means that insufficient evidence has been

provided regarding the impact of the proposals on boat dwellers and Bargee Travellers who have protected characteristics such as disability, old age or pregnancy, which may mean that they need to stay within the local authority boundary for longer in order to access medical and other services. In these cases the proposed application of the Smoke Control Area to moored vessels would have a greater impact on their ability to live in their homes.

The absence of an Equality Impact Assessment means that the needs of vulnerable groups, such as boat dwellers on low incomes, or who have mental health issues or physical disabilities, have not been properly considered.

The Council has not presented any evidence that it has carried out a welfare assessment regarding the proposed Amendments to the Smoke Control Area, or an assessment of the impact of the proposal on the number of boat dwellers who may as a consequence seek support from the Council's Household Support Fund or otherwise under SI the Regulatory Reform (Housing Assistance) (England and Wales) Order SI 2002/1860. Therefore insufficient information has been provided, contrary to the Government's Consultation Principles.

### **Article 8 ECHR**

No account has been taken of the right to respect for private, family life and home under Article 8 of the European Convention on Human Rights (ECHR). The proposed Amendments to the Smoke Control Area would penalise boat dwellers for the simple act of heating their homes, cooking and heating water. Unlike houses and flats, most boats do not have any gas or electric heating. The solid fuel stove is, for the vast majority of boat dwellers, the only way of heating their homes and for some also the only way to cook and heat water. Without solid fuel stoves, boat dwellers' homes would effectively become uninhabitable. This is a grossly disproportionate proposal and would violate the rights of boat dwellers to respect for their home under Article 8. The fines of £300 to £1000 would impoverish Bargee Travellers, who are typically on the lowest incomes.

### **Conclusion**

The proposed Amendments to the Smoke Control Area will have a disproportionate adverse impact on boat dwellers, thus violating their rights under Article 8 ECHR and the Equality Act 2010. There is a danger that, if implemented, the proposed Amendments to the Smoke Control Area may be used as a tool to remove boat dwellers from the local authority area. Moored boats should therefore not be included in the Smoke Control Area.

The consultation does not meet criteria in the Government Consultation Principles 2018; in *R v Brent LBC ex parte Gunning* [1986] 84 LGR 168. In addition, the consultation has failed to carry out an Equality Impact Assessment on the proposal and has failed to consider the DEFRA Guidance on the application of smoke control areas to moored vessels under the Environment Act 2021.

The consultation is therefore flawed and thus challengeable by way of Judicial Review. For the reasons stated above, the proposed Amendments to the Smoke Control Area should not be implemented.

**National Bargee Travellers Association**  
**April 2025**

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## Appendix 1

### **DEFRA Guidance to Local Authorities on the Application of Smoke Control Areas to Moored Vessels under the Environment Act 2021**

The following guidance is intended to set out best practice for the application of smoke control area rules to vessels which are moored.

A smoke control area is an area where people and businesses must not:

- emit a substantial amount of smoke from a chimney
  - buy or sell unauthorised fuel for use in a smoke control area unless it is used in an 'exempt' appliance (appliances which are approved for use in smoke control areas)
- Local authorities can take enforcement action if they consider a smoke emission to be substantial. Please visit Smoke control area enforcement by local authorities in England - GOV.UK ([www.gov.uk](http://www.gov.uk)) for more information on smoke control area enforcement.

How to include moored vessels in your smoke control area

If you wish to include moored vessels in the scope of your smoke control area rules, you must change your smoke control order. Please refer to separate guidance on creating, changing, or revoking an SCA.

You must consult with the public before you can apply the smoke control area rules to vessels which are moored.

You should ensure that your consultation is conducted in a way that is as inclusive as possible, ensuring that boat owners and occupiers who will be affected have an opportunity to respond. You should consider:

- itinerant boat owners and occupiers, who may not spend a long time in a particular local authority area. They may not have regular access to a postal address or be able to use the internet easily
- vulnerable groups, such as boat owners and occupiers on low incomes, those with mental health issues or physical disabilities
- carefully consider all responses and evidence from all those who may be affected by the inclusion of moored vessels, including boat owners and occupiers and other local residents

During the consultation period, you may wish to engage with organisations that represent boat owners and occupiers and/or have expertise in solid fuel burning. The following organisations may be considered:

- The National Bargee Travellers Association
- Navigation authorities such as Canal & River Trust, Environment Agency, and any other relevant organisation for your area
- HETAS

- Solid Fuel Association (SIA)
- The Boat Safety Scheme

We recommend that you engage with any navigation authorities that manage waterways within the local authority area in order to communicate information about the consultation to boat licence holders.

Signposting of smoke control areas that include moored vessels

Once you have included moored vessels in the scope of a smoke control area, we recommend that you have clear signs at all entry points on the waterway and any other locations deemed relevant, so that the person in charge of a vessel knows that they are entering a smoke control area.

Signposting of the boundaries of smoke control areas should also inform those on boats of their rights and responsibilities within smoke control areas, including that they may:

- emit smoke emissions to propel their vessels or generate electricity,
  - use kindling to light stoves,
  - use existing stoves provided that only authorised fuel is burnt, and
  - burn dry wood (ready to burn) if a Defra exempt appliance is used.
- not emit a substantial amount of smoke from a chimney.

Communications to moored vessels suspected of breaching smoke control area rules

We recommend that communications to specific moored vessels alleging breach of the rules follow standard wording recommended by DEFRA\* and include the following:

- An explanation of the different and escalating stages in the enforcement process
- How to appeal against a warning notice, a notice of intent and a financial penalty

\* <https://www.gov.uk/government/publications/smoke-control-area-enforcement-local-authorities-in-england/smoke-control-area-enforcement-by-local-authorities-in-england#enforcing-smoke-emission-rules>