

Abandoned Waterways Bill

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Make provision about the protection of abandoned inland waterways; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Duties of local planning authorities

1 Definition of “abandoned waterway”

- (1) For the purposes of this Act, an “abandoned waterway” is—
- (a) any canal or inland waterway that is no longer navigable by a boat for whatever reason; and 5
 - (b) any works, lands or premises used in connection with such canal or inland navigation necessary for its effective operation, including—
 - (i) locks,
 - (ii) towpaths,
 - (iii) associated earthworks, embankments and cuttings, 10
 - (iv) associated reservoirs and feeder channels,
 - (v) associated land necessary for vehicular access,
 - (vi) bridges, tunnels and aqueducts, and
 - (vii) ancillary buildings and wharves.

2 Planning applications relevant to abandoned waterways 15

- (1) This section applies to any application for planning permission for any development of land which, in the opinion of the local planning authority, might affect an abandoned waterway.
- (2) In determining applications to which this section applies, a local planning authority must have regard to the safeguarding of opportunities for the restoration of abandoned waterways. 20

- (3) In carrying out its duty under subsection (1), a local planning authority must have particular regard to –
- (a) whether the proposed development would enhance or diminish the likelihood of the abandoned waterway’s future restoration;
 - (b) the impact of the proposed development on the cost of any future restoration of the inland waterway; and
 - (c) the need to ensure that no development is permitted in the vicinity of the inland waterway that would effectively obstruct its future restoration.
- (4) In determining applications pursuant to subsection (1), a local planning authority shall consult such of the following persons as it considers relevant –
- (a) British Waterways;
 - (b) the Environment Agency;
 - (c) the Broads Authority;
 - (d) English Heritage (in relation to England) or CADW (in relation to Wales);
 - (e) any other local planning authority who have an interest in the relevant inland waterway; and
 - (f) any local, regional or national organisation concerned with the preservation or restoration of inland waterways.
- (5) When it has determined an application under this section, a local planning authority shall –
- (a) inform all persons consulted in pursuance of subsection (4), and
 - (b) publish its decision in such manner as it sees fit.
- 3 Planning applications relevant to alternative routes of abandoned waterways**
- (1) This section applies to any application for planning permission –
- (a) to which section 2 applies, and
 - (b) where the abandoned waterway was built before 1945 and is no longer navigable owing to the subsequent construction of a permanent barrier along any part of its course.
- (2) In determining applications to which this section applies, a local planning authority must –
- (a) comply with the requirements of section 2, and
 - (b) ensure that any development would not obstruct the future restoration of an abandoned waterway that involved the use of land not previously part of that inland waterway’s course.

Guidance and appeals

4 Guidance

- (1) The Secretary of State may issue guidance from time to time about matters to be taken into account in determining applications to which section 2 applies.
- (2) Local planning authorities shall have regard to any guidance issued under subsection (1).

- (3) In preparing a draft of any guidance, the Secretary of State shall consult such persons as he considers appropriate.
- (4) Where the Secretary of State proposes to issue any guidance, he shall publish a draft of it, consider any representations that are made to him about the draft and, if he thinks it appropriate, modify his proposals in the light of any of those representations. 5
- (5) The Secretary of State may –
- (a) from time to time revise the whole or part of any guidance and re-issue it; and
 - (b) revoke any guidance. 10

5 Right to appeal against grant of planning permission

- (1) Where a local planning authority grants an application for planning permission to which section 2 applies, or grants it subject to conditions, a person listed in subsection (2) may appeal to the Secretary of State.
- (2) Those persons are – 15
- (a) British Waterways;
 - (b) the Environment Agency;
 - (c) the Broads Authority; and
 - (d) any local, regional or national organisation concerned with the preservation or restoration of inland waterways. 20
- (3) No appeal against a decision may be made under subsection (1) more than 28 days after the publication of the local planning authority’s decision pursuant to section 2(5).

Miscellaneous and final provisions

6 Interpretation 25

In this Act –

- “boat” means a narrow boat, barge or other like craft used for transferring or transporting goods or persons on an inland waterway, or other like craft;
- “development” has the meaning given by section 55 of the Town and Country Planning Act 1990 (c. 8); 30
- “local planning authority” has the meaning given by section 1 of the Town and Country Planning Act 1990;
- “permanent barrier” means a barrier which prevents the navigation by any craft of the established course of an abandoned waterway; 35
- “planning permission” has the meaning given by section 57 of the Town and Country Planning Act 1990;

7 Expenses

There shall be paid out of money provided by Parliament –

- (a) any expenditure incurred by the Secretary of State by virtue of this Act; and 40
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

8 Short title, commencement and extent

- (1) This Act may be cited as the Abandoned Waterways Act 2006.
- (2) This Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act extends to England and Wales only.

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To make provision about the protection of abandoned inland waterways; and for connected purposes.

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