

## Representation on behalf of Bembridge Harbour Trust (“BHT”)

DRAFT 4<sup>th</sup> Feb 2019

Application Ref:	<b>TCP/33682, P/01338/18</b>
Location:	Mooring Plots 3 and 4, Embankment Road, Bembridge, Isle Of Wight, PO355NS
Proposal:	The use of the land for the stationing of two houseboats for tourism use and associated operational development (revised description) (re-advertised application)

### Introduction

This representation is submitted on behalf of BHT chiefly for three reasons. Firstly the absence of a Section 106 agreement from the freehold landowner, BHIC as the harbour authority, which has given certain undertakings in this regard. Secondly the unusual description of development, contrasted with the nature of the use in fact proposed. Thirdly the reliance sought to be placed on the recent CLEUD granted relating to 25 houseboats on this length of shoreline. Each of these three matters have important implications as precedents if accepted as submitted. As all three elements include matters of planning law the BHT is making a representation which addresses these legal issues.

### Summary

#### Principle of additional houseboats

Bembridge Harbour Trust (“BHT”) is on record as having no objection to the principle of a number of additional houseboats. In stating this, the BHT took into account Mr Thorpe’s undertakings on behalf of the Harbour Authority to the LPA to secure Harbour improvements through a s106 agreement. Firstly, as land owner, that sale proceeds would be used to fund sewage treatment systems on all older houseboats that currently are without such facility. Secondly, also as land owner, to commit proceeds from houseboat plot sales to much needed maintenance and improvements, specifically listing dredging and repair of the Groyne as examples. This has been promised from proceeds of any houseboats beyond the 25 consented in the CLEUD. (references below).

#### Section 106 Agreement

These repeated pledges, by the SHA the current owner and recipient of sale proceeds that would directly result from a consent, are notably absent in this application. Nor is there any reference to this in the text SHA’s own supporting submission, deferring any such consideration into an uncertain future date and decision. The SHA is a Statutory Body and is expected to, and should be called upon to, honor its promises.

#### Support in principle, subject to the application being amended

BHT are not against the principle change of use of the subject site for the long-term mooring of two houseboats. For holiday accommodation, number of units should be limited due to parking availability. However, this application in applying for “tourism use” is wrong in that it is too open and imprecise in that it would allow uses other than holiday accommodation. This is what the application should be for. The application also mischaracterizes the existing use, harbour use, and is incorrect in seeking to claim support for the proposed use from this. Further the application contains manifest errors on matters of description, fact and planning history. These require correction to allow proper consideration by the LPA.

BHT’s support in principle, in relation to physical implications, subject to any formal consultees views on environmental and ecological issues, which we have not considered. BHT express no view on merits under planning policy.

### **The role of the Statutory Harbour Authority (SHA) as a Statutory Body and land owner**

**The SHA undertook to enter a legal agreement to resolve sewage discharge from older pre 2011 houseboats, and to invest proceeds in harbour improvements such as the groyne and additional dredging.**

Despite undertakings there is no draft s.106 offered by the SHA as land owner with this application. Its promises should be secured in a s106 as pledged by the SHA .

Set out below are a number of references citing the offer made on behalf of the SHA

Mr Thorpe in update on BHIC website 18<sup>th</sup> August 2017:

*“Our planning application [for additional houseboats] is very important to achieve as it **will include the contractual obligation** on the Harbour to design and install in all houseboats that have been moored in the Harbour pre-2011 a **dedicated sewage system** or plant at the Harbour’s cost. This has to be a major benefit to all Harbour users.*”

BHIC commitment in its submission 15<sup>th</sup> November 2017 to the LPA is :

*“On the sale of these newly designated houseboat plots, we have given an undertaking to the local planning authority, **which will be part of a legal agreement**, that any deemed excessive surplus will be reinvested into the Harbour, such as for the groyne or additional dredging.”*

Mr Thorpe to Mr Chick 16<sup>th</sup> May 2017 *“From the sale of these new plots, we will then be able to design, supply and **fit sewage plants and systems** in those houseboats that do not have any such systems currently in use”*

Mr Thorpe for BHIC 12<sup>th</sup> July 2017 email to Russell Chick: at 2 f) Confirming all new houseboats must self-fund and *“are required to fit **sewage treatment facilities**. Our proposal will be to fit such **systems** in all houseboats “*

Mr Thorpe goes on to refer to figures provided by Mr Gully that relate to **sewage treatment plants** and their installation : ( email 16<sup>th</sup> May to Mr Chick “Based on figures given to us for the houseboat *Samphire* [Mr J Gully] such an installation costs in the region of £3,750/4,000 plus commercial labour rates and design input, say £5,500 per houseboat plus 15% contingency”. BHT believe this is the correct action in line with these undertakings and not the cheaper holding tanks for foul sewage only , which are not **sewage treatment systems**, but merely holding tanks for only part of the effluent.

Mr Thorpe in update on BHIC website 18<sup>th</sup> August 2017: “Our planning application is very important to achieve as it will include the contractual obligation on the Harbour to design and install in all houseboats that have been moored in the Harbour pre-2011 a **dedicated sewage system** or plant at the Harbour’s cost. This has to be a major benefit to all Harbour users.

Mr Thorpe to Mr Chick 15<sup>th</sup> November 2017 “ It is widely known that post the LDC determination, we will be submitting a planning application for **some new houseboat infill plots that will also include obligations for us to install free of charge sewage or holding treatment plants** to existing houseboats where raw sewage is pumped directly into the Harbour by most of the houseboats – this application has not as yet even been registered by the LPA.”

*On the sale of these newly designated houseboat plots, we have given an undertaking to the local planning authority, **which will be part of a legal agreement**, that any deemed excessive surplus will be reinvested into the Harbour, such as for the groyne or additional dredging.”*

Mr Thorpe in Minute of Bembridge Harbour Advisory Group 6<sup>th</sup> Dec 2018 “MT confirmed that now the long-awaited decision had been promulgated, a follow-on planning application for additional houseboats to include individual sewage treatment systems to be fitted free of charge to the older houseboats would be made in late January/early February.”

Other instances include public statements in the IW County Press, and to the Bembridge Parish Council etc. BHT say it would not be credible for BHIC to claim that this application for two additional plots would not be the subject of the same undertakings to reinvest. This is most recently reinforced by a statement at Bembridge Parish Council planning committee 15<sup>th</sup> January 2019 when speaking in support of the subject application Mr Thorpe stated that “*this will allow us to start dealing with sewage treatment*”.

It appears from the written statement 7<sup>th</sup> Jan 2019 in support of this application that BHIC does not intend to honour that obligation in respect of this application. It states;

*“our next stage is to submit our own planning application for a further five new houseboat plots as well as giving a commitment to install free of charge individual sewage plants or holding tanks to all existing houseboats that currently deposit their sewage directly onto the seabed.”*

There is no basis for not honouring the commitment on this application; these are two houseboats which are additional to those covered by the recent CLEUD, exactly as contemplated by BHIC.

Further it is noted that BHIC proposes a reduction in the financial and ecological value of the pledge is signalled by reducing a commitment to “*sewage treatment*” to provide “*holding tanks*”. In this context please refer to the email of BHIC to Mr. Chick of 16<sup>th</sup> May 2017 referenced above.

## **Harbour Company undertaking for s.106 contributions for houseboats in addition to those permitted by the CLEUD**

- 1) The SHA are the land owners and have a contract with the applicants to sell conditionally on planning consent being achieved.
- 2) BHT say any mitigation should not include the reduction in recreational moorings as this reduces the vitality of the Harbour. However it may include an improvement in water quality by the installation of sewage treatment plant for older vessels as was undertaken when any additional Houseboats (over the 25 consented in the LDC) were approved.
- 3) Mr Thorpe , acting for the SHA has made pledges to reinvest proceeds from houseboat sales ( beyond the 25 consented in the LDC): The SHA should honour its oft repeated pledges by providing a legal agreement to invest the proper net proceeds into sewage treatment systems for houseboats on site since before 2011 as promised.
- 4) Such proposal should be line with Mr Thorpe’s submissions for sewage **treatment** ... (as he costed for in his 16<sup>th</sup> May 2017 submission) and not for the cheaper, but less ecologically useful treatment of Foul water only ( as now indicated in his letter of 7<sup>th</sup> January referenced above).
- 5) The allocation of funds should be in line with the requirements of the Pier and Harbour Order ( Bembridge Harbour) Confirmation Act 1963 generally and in particular Section 31 i) and ii) which would preclude the removal ( from the SHA ) of £30,000 per plot and 20% of sale price as “profit” as Mr Thorpe previously advised was his intention ( Emails of 16<sup>th</sup> May 2017 to Mr Chick). This will be of value to the harbour and to the community so long as the s.106 provides for accountability for the funds received and amount applied to identified improvements. It cannot be seen from published accounts the extent to which funds from recent sales of houseboat plots have been applied to harbour uses in accordance with the Harbour Act.
- 6) The s.106 should be produced as a unilateral undertaking pursuant to s.106. If the local authority finds that the application is in accordance with policy and that there is no harm from the proposal requiring mitigation, then the s.106 would not form part of the reasoning for granting permission. It would, however, be lawful.
- 7) In the event that the local authority finds that there is any conflict with policy and / or any harm such as ecological, the s.106 agreement may be taken into account as a material factor in weighing up the merits.

### **Other Issues**

BHT considers that the description of proposed development is incorrect, that the characterisation of the existing use, and the relevance of the recent CLEUD, is fundamentally mis-stated in the application. The site boundary, as it makes the proposal potentially undeliverable.

## Proposed Use

- 1) The proposed use as “Tourism use “ is not a planning term, is wide in its possibilities and does not relate to use in The Town and Country Planning (Use Classes) Order 1987 (as amended) . It could easily be argued that uses within A1,A3,A4,C1and C2 can be tourism uses as well as C3. The declared intend of use for short term residential letting is clearly a C3 ,if a restricted one .

The current proposed description **“The use of the land for the stationing of two houseboats for tourism use”** does not take account of the proposed operational development of the foreshore and embankment .

- 2) 1) **The description at Q.5 now been amended to “The use of the land for the stationing of two houseboats for tourism use” This is imprecise and incomplete.**
- 3) BHT had suggested, directly to the applicants that a valid description for the application would be “use of land for the siting of two houseboats for holiday letting and works to the harbour embankment”.
- 4) “Tourism use” is not a defined planning use. According to a telephone conversation with the applicant’s agents described the proposed use is “a restricted C3 use” and it is clearly long term. BHT agree that the proposed use of short term letting is indeed as residential (C3 use).

There are plenty of recent examples of permissions for accommodation in connection with tourism and holiday use are described as just that. A few examples are provided; *Application reference number: P/01365/17 Location: Woodside Bay Holiday Village; “ holiday accommodation”*. *Application reference number: P/00450/15 Mountfield Holiday Park “holiday accommodation”*. *P/01554/10 - TCP/28318/E West Bay Club, Freshwater, “ holiday accommodation”*. *P/00042/16 Norman’s Landing, Seaview “ holiday accommodation”*.

- 5) If minded to grant, the description should first be corrected, and a restriction to use as “sites for 2x single units of residential letting accommodation “or similar should be incorporated into any decision notice.

### **Operational Development**

- 6) Permission is also being sought for the proposed works to the embankment /sea bed, this is not covered in the description. However, officers will clearly be aware that they are being asked to consider the detail of this matter at the same time. And the application should be corrected to reflect this.

## Existing Use

Characterisation of the existing use as **“Harbour and Moorings Use, has been used for houseboats”** in the application form and **“There have been houseboats in these two moorings in the past and the use has not been abandoned, however at the time of writing, there are no**

***houseboats in plots 3 & 4.*** and ***“The existing use of this site has been for the mooring of houseboats”*** in supporting statements are disingenuous.

- 7) The recent CLEUD is crystal clear is ascribing the lawful use of the application site as “Harbour use” . This is the same “Harbour use “ as applies to all of the Harbour land that is not otherwise consented. The arguments used to support houseboat use of the application site , by reference to the CLEUD are disingenuous and prejudicial to the proper consideration of all land in current “Harbour use” both inside and outside the red outline in the CLEUD
- 8) The current Block plan and as Proposed plans are in error and the application site overlaps the adjoining land identified as Plot 2 in the CLEUD for 25 Houseboats which has lawful residential use. The LPA ( and the applicants ) should consider if the scheme applied for is therefore deliverable .

Any failure to maintain the distinction between “Harbour use”, which applies both to the subject site and across the whole Harbour any new long-term uses requiring planning consent, would concern BHT deeply. BHT will forcefully resisted such an error as it would be contrary to good planning and simultaneously prejudicial to the use of the rest Harbour in “Harbour Use” as a whole. BHT hope they are wrong in perceiving such a wrongful blurring of the lines within the statements made by the applicant’s agents in this application.

Errors that are prejudicial to the proper consideration of an application on land in “Harbour use” are prominent in the Application Form itself and in the agent’s, “Planning design Heritage and Access Statements”.

Sadly, despite efforts to secure corrections, we are left to identify the following issues:

### **Other points on the application form:**

**2) The agent’s statement at Q6) on the existing use *“Harbour and Moorings Use, has been used for houseboats”* is incorrect, unsupported and on the evidence presented in the LDC, incorrect.**

The use of the harbour land, including the subject site, was exhaustively explored in the LDC TCP/27560/D, P/00328/16. No houseboat use was established on this land; no evidence was submitted to support any houseboat use on this land and there is not residual shoreside infrastructure, or service connections to suggest such a use ).

The inclusion of *“has been used for houseboats”* is unsupported , if any such historic use did exist it was not to be deemed lawful in the CLEUD. This is particularly concerning when read in conjunction the agent’s supporting statement that *“There have been houseboats in these two moorings in the past and the use has not been abandoned, however at the time of writing, there are no houseboats in plots 3 & 4.”* .We refer to The SHA’s own schedule for mitigation purposes posted 08.04.2008 in support of TCP/27560/B, P/00856/08 confirming the SHA’s view that the sites were vacant and not existing houseboats sites.

Further in answer to *“Is the site currently vacant”?* That answer given is no. In this context that answer is plainly wrong.

Any erroneous assumption that the use as Houseboat moorings is existing would wrongfully prejudice the response of the ecology officer, Natural England, and the Environment Agency.

The agent's comments at Q6) are plainly contradicted at Q7) as if the site were occupied, or in use, some existing materials would exist. Whereas none are indicated.

**3) At Q 8) in answer to: *Is a new or altered pedestrian access proposed to or from the public highway?* The agents advise No.**

The new long leaseholders and users of the two new vessels will require access over non-highway land and onto the adopted highway pavement.

4) At Q 8) in answer to *Is vehicle parking relevant to this proposal?* The correct answer of yes is given as the development will create an addition parking pressure, the sites not being in use currently so do not generate current demand or pressure.

BHT note the officer is reported as having indicated that 1 space per unit may be considered adequate. Also, that Island Roads as Highway Authority have made no adverse comment. This does not align with the direct experience of the houseboat owners, where holiday letting already takes place.

The current description of "tourism use" is loose and could easily include B&B or room letting via Air B&B, recreational training or catering use ( and indeed uses not related to residential use at all). The current owners' no doubt good intentions are not binding. Good practice would require a restriction to 2x single units self-contained holiday letting accommodation. This would make the acceptance of 1 car space per unit more rational.

4) At Q 10) in answer to *Are there trees or hedges on the proposed development site?* The agents answer No. Whilst not a critical matter, this is plainly wrong on inspection and directly *contradicted* in the ARC report at 7.3 "small conifer screen"

5) At Q13) The treatment of sewage is answered as other. We refer to the lost opportunity of installing a Package Treatment Plant. Pump-out of store tanks is expensive and repetitive, and grey water is not processed, BHT see this as a lost opportunity for the applicants and the Harbour. However, a retro fit of a treatment plant in due course is not precluded.

We refer and reference Mr Thorpe's pledged solution of "sewage Treatment Plant"

6) At Q16) The "*Does your proposal include the gain, loss or change of use of residential units?*" the answer given is no. This is incorrect. It is plain that the application is for two units for residential use (which may be restricted to holiday lets).

The application form provides for the applicant to provide more information thus:

*"Answer 'No' to the question below; 2. Download and complete this supplementary information template (PDF); 3. Upload it as a supporting document on this application, using the 'Supplementary information template' document type".*

No such "supplementary information" is available on the website, we assume therefore that the procedure applicable to this application, where **two new residential units are being applied for** has not been followed.

**7) At Q25) Ownership Certificates.** The information is incorrect.

BHT acknowledge that the agents have sought to notify the relevant parties with a qualifying interest in the land. There is however a clear error. Messer Holman and Beckham should have been notified previously as the long lease hold owners of the wrongly identified parking spaces in the original application "Plans Grouped" marked REV A. The carparking spaces identified in "Plans Grouped" as now provided marked REV C. are not subject to leases to Messer Holman and Beckham. (see also comments on Block and Proposed site plans that are significantly inaccurate).

The SHA, acting diligently, would be aware of the wrong information on ownership (As they are the freehold owners of the site and of the surrounding land), and have chosen not to identify this to the LPA in their published submission. Similarly, as directors of BIL (owners of the carpark land).

### **Application site**

The "Block plan" and "Proposed site plan" also appear to incorporate land owned leasehold by a third party, within Plot 2. . This is important in planning terms as the proposed site includes a significant part of a site already identified ,consented and occupied in the Cleud. We note that they are yet to be served notice on this qualifying owner and/or corrections to the submitted plans made. See attached google based and measured survey drawings .

The SHA being freeholder and the landlord of the surrounding plots , is aware of the measured survey drawing attached to the leases of surrounding plots , in particular plots 1 and 2 and thus should be aware that the "Block plan" identifying the site, and the "Proposed Site plan" provided are in error on its North Western boundary and incorporates land already leased to plot 2.

### **Planning Design Heritage and Access Statement.**

Unfortunately, despite requests for corrections, this document has not been superseded by a revised version so as to update and align with the facts and new application form. BHT are therefore left to comment as follows:

We refer directly to Hepburn's supporting statement, we highlight incorrect statements in yellow and respond in italics:

- 9) Hepburns says at **3.0 Planning Position:** "There have been houseboats in these two moorings in the past and the use has not been abandoned, however at the time of writing, there are no houseboats in plots 3 & 4. "

*BHT: This is contrary to the findings of the recent LDC TCP/27560/D, P/00328/16 and does it align with BHIC schedule posted 08.04.2008 in support of TCP/27560/B, P/00856/08 BHIC .*

- 10) "Again, I will stress that this is not an application for a permanent residential use, yet this does mean that this houseboat community is now lawful."

**BHT:** This statement is incorrect: Firstly, the applicant is applying for a residential use (all be it in holidays of undefined length) and secondly it implies these two proposed plots were part of a consent group of houseboats or houseboat plots, this would be a misreading of the LDC decision and officer's justification document. There are just 25 specifically identified houseboats plots that are currently lawful.

And at: **4.0 Existing and Proposed Use** Hepburns state:

- 11) "The existing use of this site has been for the mooring of houseboats and the surrounding boats are used for residential purposes. The proposed tourism use houseboats will be located within the harbour area, and therefore be in-keeping with the residential uses already in situ. There are no conflicting uses in the vicinity, and the houseboat community setting will add to the visitor's holiday experience"

**BHT:** This is incorrect and contrary to the findings of the recent LDC TCP/27560/D, P/00328/16

- 12) "The recently issued CoL P/00328/16 is for areas numbered 1 – 25 on their plan 14:1977:11D. The plots the subject of this application were not numbered on the approved plan (which had been revised). Importantly, the red line area does however include the application plots. We can therefore say that the lawful use of the moorings and land, is for harbour use.

**BHT:** Firstly, for clarity: It is the two plots now applied for that were not numbered, specifically they were not given any consent beyond "Harbour use".

Secondly: "we can therefore say ....etc" Yes, the land is in Harbour use and this was set out in the recent Cleud application, however this does not imply any special status on the subject area of harbour as it was specifically not given a houseboat related status in the decision.

- 13) "We understand that the CoL raised a number of concerns, especially from third parties and this has taken years for decision to be issued. It must be remembered that this is a planning application and not a CoL, and we are aware that other matters need to be taken into account. However, we are also not attempting to prove a lawful residential use, as this application is for only two houseboats to be used as holiday accommodation. We are essentially seeking the most straightforward route to get these houseboats on site and in use as soon as possible. This is partially due to the considerable investment that has already been made and the need to get the business up and running, but also understandably, the mooring costs for alternative storage pending planning consent."

**BHT:** Text tends to confuse the points, whether intentionally or not. It is non-sensical and appears to seek to establish a precedent. The position is straightforward; it is in the harbour, it doesn't have lawful use as a houseboat plot. The red line of the CLEUD application has no significance. i.e. it does not set this land in "harbour use" apart from the rest of the land across the harbour, all in "Harbour use"

Hepburns are not trying to prove an **existing** residential use is lawful, they are however applying for a residential use as holiday accommodation, a use Mr Hepburn confirmed in a telephone conversation with Mr Gully, is a C3 use subject to a restriction.

## At 5.0 Amount and Density

- 14) The difference between this application and the CoL, is that the Local Planning Authority (LPA) will have control over the number of houseboats to be moored on these two plots. The LPA can also apply conditions accordingly, and the houseboats have been designed and built to take into account the specifics of the plots available here on the Embankment. Concerns have been raised in the CoL regarding the number of boats that could potentially be located on the numbered plots, yet these do not include this application site. As mentioned earlier, the LPA will remain in complete control over the number of houseboats that can be kept in these two plots.

**BHT:** *The first statement misreads the "CoL" [or CLEUD] decision notice, in which the LPA clearly fixed the number of consented Houseboats to 25. The second statement is in disingenuous as there was no such contention in the CLEUD decision. It was clear that the numbered plots could house one houseboat*

## 7.0 Layout, Scale & Mass

- 15) The proposed houseboats will have the benefit of full planning consent if approved, rather than a lawful development certificate. This will in essence give the Isle of Wight Council control over their future alterations. The other benefit is that the design of these two houseboats has been discussed at the early stages with the Planning Department, whilst other residential houseboats have 'evolved' without any involvement by the Council.

**BHT:** *It is not a benefit, it is not even relevant to planning. The houseboats themselves are not landed property, are not attached to the land and not covered by the Town and Country Planning Acts, it is the use of the land for longterm mooring of houseboats ( residential) or indeed mooring of vessels longterm for other use classes, which is controlled.*

## 8.0 Heritage Statement

- 16) The site is within the Bembridge Conservation Area labelled as 'Character Area No. 3 – The Harbour'. The character of the area is defined mainly by the marine uses of the land and water, with Embankment Road forming the link between the two settlements, being a popular walking area, with the houseboats forming an interesting feature on the landscape. Houseboats have been in this location for over a Century, and the number has gradually increased over the years, although it seems from the evidence in the CoL that this is an ever changing situation. The use of hopper barges for the conversion into houseboats is long established, and they offer a re-use of disused boat hulls, as well as bespoke accommodation opportunities.

**BHT:** *Firstly, no evidence has been provided to support that contention that long term house boats have been located within the application site, secondly the CLEUD fixed the number that were lawful and identified their plots, any new land use clearly requires an application for change of use of land.*

These houseboats have been designed specifically for the location within Bembridge Harbour and for these two adjacent plots. When the project started, the applicants were initially assuming the plots would be included within the CoL, yet more recently, this was revised. The red line on the CoL as issued, does however accept that the lawful use of this area is for 'harbour use'. As such, the positioning of these two houseboats in these plots is wholly in-keeping with the character and context of the Conservation Area. The introduction of these new houseboats will help 'lift' the

appearance of the street scene and will not appear cramped, due to the distances between the proposed houseboats.

**BHT:** *Quote the Conservation area policy and justification: "BNDP.D.5 - Houseboats New development along the harbour wall in connection with the existing houseboats will be expected to protect, maintain or enhance the existing character. Roadside fencing will be restricted to a maximum height of one metre.*

BNDP.D.5 - Reasoned Justification The houseboats along the Embankment are a feature of Bembridge with interspaced views of the Harbour. The increasing level of domestic paraphernalia associated with the residential use of the houseboats is beginning to adversely impact on the visual amenities of the locality and erode the Harbour views. Policy BNDP.D.5 will promote and protect the views from the Embankment in order that they may be retained and maintained for all to enjoy and to conserve the character of the Embankment."

**BHT** stress "promote and protect the views from the embankment". There would be a clear dilution of views of the Harbour as the new vessels would obstruct. However, BHT acknowledge that in this particular case of some 50% max of the gap being filled by floating vessels and that the applicants have given the impacts some considerable thought .

The red line on the CoL as issued, does however accept that the lawful use of this area is for 'harbour use'. As such, the positioning of these two houseboats in these plots is wholly in-keeping with the character and context of the Conservation Area.

**BHT:** *The CLEUD did not make any judgement on the character of the area, as it considered the facts of evidence only. The officer explained that "Harbour use" was not considered to include long-term siting of vessels for whatever use and was clear that the LPA did not consider "harbour use" to include the long-term siting of residential houseboats such as those proposed.*

**BHT** The Conservation area covers a large area of the undeveloped harbour over which "Harbour use" applies , as indeed it does for all areas not otherwise specifically consented for other uses. The Agent's conclusion that the proposed use "is wholly in-keeping" solely because it is in use as part of the harbour is incorrect. As the applicant illustrates with reference to residential paraphernalia in his view causing harm to the conservation area, it is not the use alone which is determinative of effect on the conservation area. Further, he is applying for planning permission for something other than the lawful "Harbour use". Officers will no doubt form their own view on impact.

### **Ecology**

The ecological statement by ARC takes the existing disturbed and graded harbour bed as the "existing" status as the basis for comparing the effect of adding a houseboat to the site. However some works were recently carried out on the subject site, using a digger to grade and dig into the embankment which may have caused degradation of the ecological value of the site. It is understood that these works were carried out without consultation or any approval required from the MMA or EA. Writing for the SHA, Mr Thorpe stated that he had arranged the works. (27.09.2018 email to Mr Watson owner of plot 2). Such action should not be used to advantage when assessing the impacts of the addition of a houseboat.

### **Conclusion**

BHT make this submission in the hope and expectation that the applicants can be encouraged to amend their application to make it correct and in a form that is lawful and effective. Subject to this BHT do not object to the principle of change of use of the land from “Harbour use “to “The use of the land for the stationing of two houseboats for holiday accommodation “ with a condition limiting the use of each houseboat as a single unit of accommodation and one parking space.

**Oliver Goodwin**  
**Consultant Barrister**

**Keystone Law**