



Canal &  
River Trust

Keeping people, nature & history connected

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Mr Richard Benyon MP  
Parliamentary Under-Secretary for Natural Environment, Water and Rural Affairs  
DEFRA

Dear Minister

### **Growth and Infrastructure Bill**

As you know Canal & River Trust holds the waterways it cares for in trust on behalf of the nation in perpetuity. That trust arrangement made by the Secretary of State, and the public benefit it now preserves in perpetuity, is something which I know you consider to be a key achievement and outcome of the transfer of the waterway network from British Waterways to the Trust.

The Trust is very concerned that provisions in the Growth & Infrastructure Bill (due to be debated in a Committee of the whole House in the Lords on Tuesday 22<sup>nd</sup> January) put that achievement and benefit at significant risk. Protections currently provided to waterways (whether as statutory undertaker land or as open space) under the planning system are to be removed or severely diluted by the Bill. In particular land of statutory undertakers and most open space is to lose the protection of the special parliamentary procedure where a compulsory purchase proposal is objected to.

The Trust recognises the importance the government places on the growth agenda and the intention behind the provisions of the Bill to remove unnecessary constraints on growth. Nevertheless the Bill does also recognise that certain publicly valued and enjoyed land is, in the event of proposed compulsory acquisition, deserving of higher levels of scrutiny and justification primarily through application of the special parliamentary procedure in cases of unresolved objection.

In particular it is noted that National Trust land held inalienably (including its waterways) will under the provisions of the Bill be afforded a higher threshold of justification and scrutiny in determining compulsory acquisition proposals than would be afforded to the historic Canal & River Trust waterway network. Canal & River Trust considers the waterway land settled on it by Government to be held in perpetuity on behalf of the nation is deserving of equal treatment to that (including waterways) held by the National Trust inalienably.

Canal & River Trust is not seeking outright protection of the historic waterways – it recognises that the public interest in permitting nationally significant developments (which the Bill will extend to business and commercial developments) may outweigh the public interest in

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preserving the waterways and their unique public benefit. Such justification should however be subject to the same threshold and scrutiny as is now thought appropriate for land held by the National Trust inalienably. Both National Trust and Canal & River Trust land have special qualities that are not readily (or at all) preserved by substitution as may be the case for ordinary open space. Nor are historic waterways analogous to the land of other statutory undertakers who are simply providing public utilities (where substitution or re-routing has little impact).

Our understanding is that your Department raised with the Department for Communities and Local Government (DCLG) the position of the Trust not only as a statutory undertaker but as trustee of the Waterways Infrastructure Trust Settlement. Unfortunately we were neither approached about the impact of the proposed changes nor were they brought to our attention. As you can appreciate therefore, this letter is being sent somewhat late in the parliamentary progress of the Bill but not so late that a simple amendment affording the same treatment of the waterways held by Canal & River Trust in trust on behalf of the nation as that of land held by the National Trust inalienably. Anything less would be an exceptionally disappointing dilution of the impact and effectiveness of the Trust Settlement so recently agreed to by the Government.

Given the complexity of the planning legislation proposed for amendment by the Bill, I attach a short explanatory note of the differential treatment proposed by the Bill. I accordingly ask you to urgently press your ministerial colleagues at DCLG to move a modest amendment to the Bill in the Lords providing for such equal treatment. I have also written to Baroness Hanham and Lord de Mauley given their departmental positions in the House of Lords and Eric Pickles. I enclose a copy of the correspondence for your information.

Please do let me know if you have any questions. I look forward to hearing from you at your earliest convenience, given the short time scale we are working to.

Yours sincerely,



P.P. **Tony Hales**  
Chair of Canal & River Trust

[Letter approved by Mr Hales but signed on his behalf whilst abroad on business.]