Murphy Associates
Planning.Urban Design.Conservation

SUPPORTING STATEMENT
CERTIFICATE OF LAWFULNESS PROPOSED
IN RELATION TO MOORING 1

ADJ. MOORING 2,
2 RIVERBANK
SHOREHAM-BY-SEA



October/November 2013

CONTENTS

1.0 INTRODUCTION

2.0 SITE AND ITS SURROUNDINGS

3.0 EVIDENCE RELATING TO HOUSEBOAT PRESENCE

4.0 LAWFULNESS OF MOORING 1

5.0 CONCLUSION

1.0 INTRODUCTION

1.1 Murphy Associates has been appointed by Reverend Jessica Aidley and Ms Katie Aidley to progress an application for Certificate of Lawfulness in respect of Mooring 1 that falls within the plot of land owned by Reverend Jessica Aidley.

1.2 Following discussions with the Local Planning Authority and having submitted a separate application for lawfulness in respect of the ancillary relationship between Houseboat Myrtle and Redwood, this application seeks to confirm the lawfulness of Mooring 1. As such this statement presents a case to demonstrate that the mooring with the wreck of the houseboat Resolute exists and has not been abandoned. There would therefore be no impediment in law for the wreck of Resolute to be removed and another boat, such as Redwood making use of Mooring 1.

2.0 SITE AND ITS SURROUNDINGS

2.1 The subject site is addressed as Mooring 1, at 2 Riverbank, Shoreham-by-Sea, West Sussex, is located east of the Brighton Road (A259) and the bridge over the water course that leads to small pool to the south west of the Adur Recreation Ground into which a number of tributaries and ditched drain into. This section of the bridge is locally referred to as the 'Flood Arch'.

2.2 The river is located within the Strategic Gap between Shoreham-by-Sea and Lancing. This gap is intended to prevent the coalescence of the settlements. Aside from the riverbank and land to the south, the riverbed is considered to fall within the countryside.

2.3 Due to the special nature of the riverbed, this area is a designated Site of Special Scientific Interest (SSSI). A nature reserve, which falls under the control of the RSPB, overlaps a lot of the SSSI lands.

2.4 The site is shown in the Title Deed Plan that extends to include part of the muddy foreshore, part of the riverbank and towpath, which is a public footpath, and a section of land beyond the bank to the rear of No. 27 Ormonde Way and Nos 102 -106 Beach Green. A site plan has been submitted to show the locations.

2.5 The plot, the majority of which includes the muddy foreshore, comprises two moorings - Mooring 1 and Mooring 2. As can be seen in Dwg No. 104, there is a clear outline of the wreck of Resolute/Resolution and it is also visible above the watermark. In fact the grassy mound that exists shows the outline of the boat. Mooring 2 is occupied by Houseboat

Myrtle and this is the first boat that comes into view when approaching the moorings from the Norfolk Bridge (A259). Redwood which sits an angle to the riverbank and is clearly seen in conjunction with Myrtle to which it has an ancillary relationship.

2.6 The boundary with the public footpath is open and therefore allows uninterrupted views of the houseboats, unlike other arrangements where the back edge of the public footpath is demarcated with a variety of treatments and paraphernalia. Although historically there were more boats between this plot and the Norfolk Bridge, the Moorings 1 and 2 are the first to be arrived upon when walking along the riverbank.

3.0 EVIDENCE RELATING TO HOUSEBOAT PRESENCE

3.1 This application for lawfulness relates to the use of Mooring 1 which falls within the plot owned by Reverend Jessica Aidley, albeit that her plot is referred to as Mooring 2. The availability of historical information on houseboats along the riverbank is limited. However Historical information on houseboats and their presence on the river has not been an easy task. We have however carried out a reasonable amount research at Hove Library, Shoreham Library, the Marlipins Museum, and West Sussex Records Office. West Sussex County Council Property Services and pursued enquiries with the Port Authority, the Shoreham Houseboats Association. The East Sussex Records Office could not be accessed as they were in the process of moving to new premises.

3.2 It was purchased from Rabota (Shoreham) Ltd who divided the riverbank and muddy flats into plots for sale to individuals. Prior to the sale of the area, West Sussex County Council leased the riverbank in lots to the Shoreham Riverboats Association. No records have been held on individual boats. Contact with the Shoreham Riverboats Association also revealed that there were no records held on the houseboats.

3.3 We are however aware that houseboats are not a new occurrence along the Riverbank before the Shoreham Beach became overridden with chalet dwellings. Of course, the onset of the Second World War led to the mass evacuation of Bungalow Town at Shoreham Beach and the majority of dwellings being raised to the ground. Houseboat owners were also forcibly moved and put elsewhere due to the risk of invasion. Although it is understandable that a number of boats left during the war periods due to the threat of being bombed from the air and sea. Some however, remained in defiance of the Order. After the war, houseboats began to return.

3.4 The Peggy Bailey Postcard Collection, held in the Winton Collection, contains postcards dating from reveals the presence of the Houseboat Miriel. In the distance the single chimney of the first power station, Brighton A, can be seen. Brighton A with the first

phase power station erected in 1906 and was run down and ceased generating in 1976. The footpath and railings leading over the flood arch (retaining walls visible) appear rudimentary and at this stage, the towpath appears to be at its original height. Other key points to note include the fact that the Norfolk Suspension Bridge was first built in 1883, replaced in 1922 by a box girder bridge and then replaced again in 1987 by a concrete box girder bridge. The original footbridge over the River Adur was built in the 1920's. Other houseboats are present and this photograph is likely to be circa early 1920's. See Fig 1.

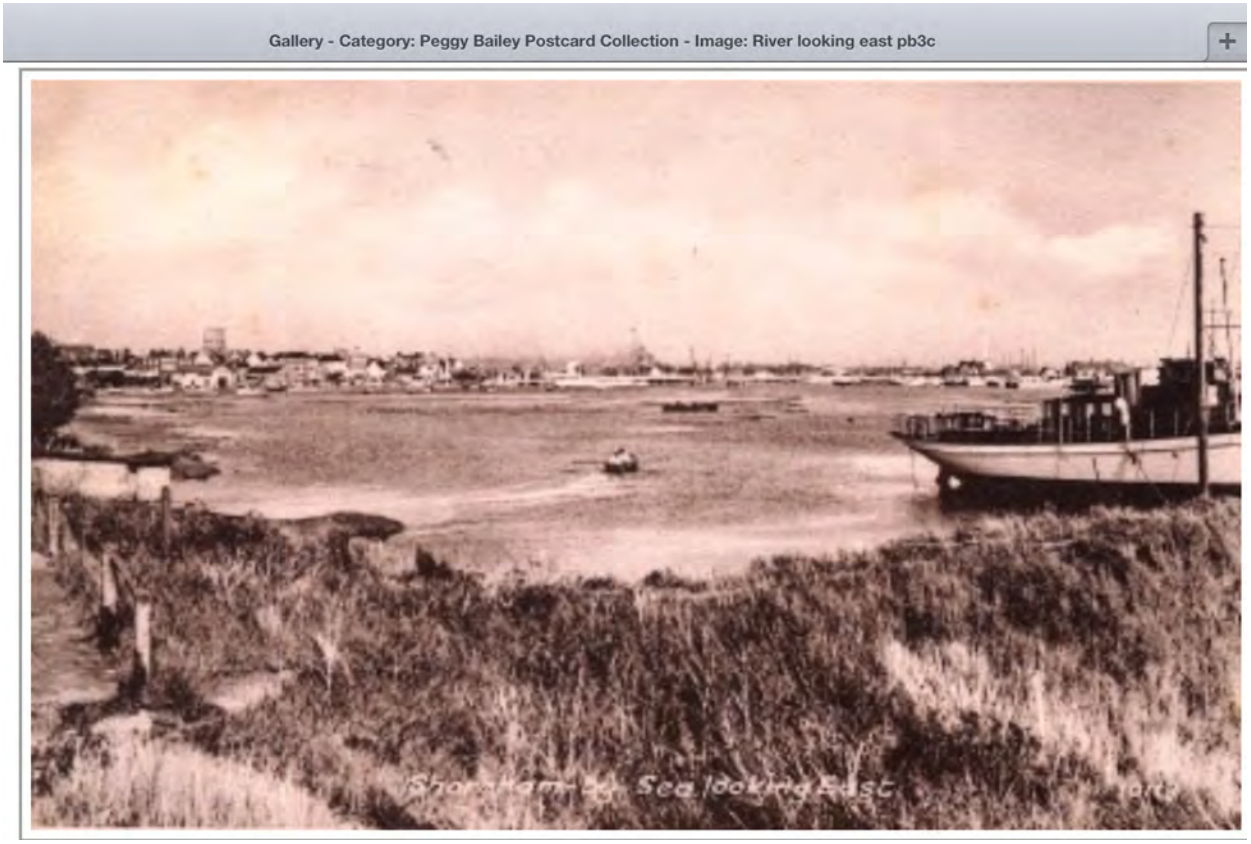


Fig 1. Houseboat Miriel circa 1920s – Source Peggy Bailey Postcard Collection held by the Winton Collection.

3.5 The photograph on the next page (Fig.2) shows the presence of the Houseboat Grey Mullet and Resolute and one other circa1920's. Grey Mullet incidentally returned to the riverbank circa 1955 (Source: Census Entry). In this photograph a number of boats are visible with at least 3 between what appears to be Bellands (perpendicular with the riverbank) - Bellands was later to be replaced by Houseboat Myrtle and its wreck is also visible in the mud flats. Figure 2 below shows numerous boats to the east of Bellands and a few buildings to the Lower Beach. Bungalows are still evident along the shore strip. The Norfolk Bridge has been replaced and is seen as the box girder replacement bridge.



Fig 2. Pre 1920 Image including Bellands, Resolute, Grey Mullet and another
(Source: Sussex University – research projects, historic air photos)

3.6 Fig 3 below corresponds with Fig.2 above and clearly shows three boats between the Flood Arch and Bellands. From these few images it is clear that the Moorings did not start at the marker of Bellands or its replacement Myrtle.



Fig 3 – as above.

3.7 By 1940's and with impact of the War, Fig.3 shows a different picture – very few boats are moored along the riverbank. That to the west and closest to the flood arch is Resolute. This photo also appears in the RAF records and is dated July 1945.



Fig.4 – RAF 1940s aerial photo (Source: Sussex University – research projects, historic air photos)

3.7 The image below was taken in 1949 (Fig. 5). It corresponds with the image at Fig.4 and here Resolute is circled. Further beyond Resolute and bearing in mind that this is just toward the end of the Second World War, a greater number of houseboats are present. It is of note that there are only one or two buildings to the right side of the towpath, one most likely being the Church of the Good Shepherd. Of additional note is the level of the land and the towpath plus the presence of jetties and moorings.

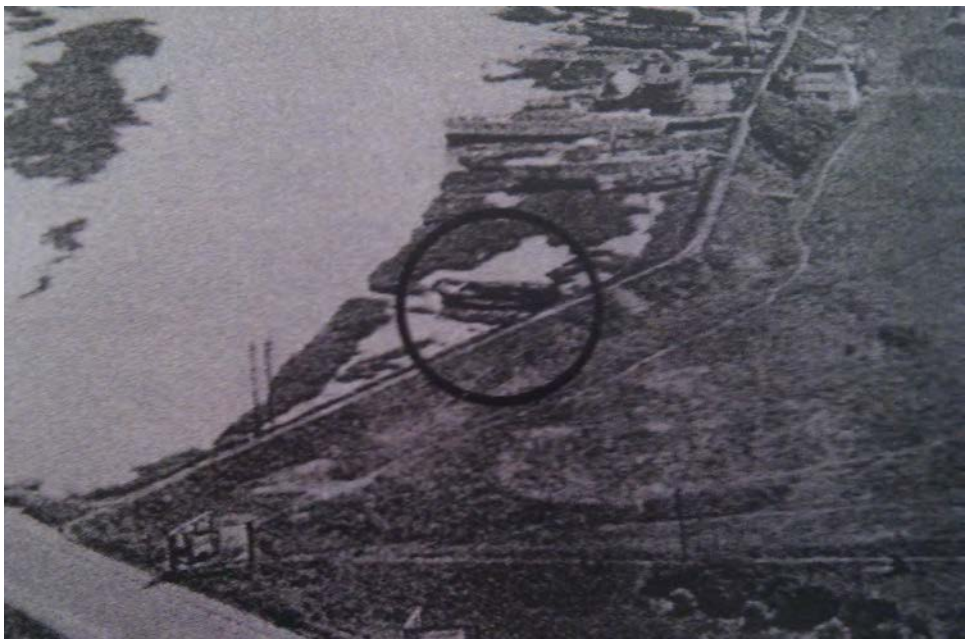


Fig 5 – RAF 1949 image of Resolute (Source: English Heritage Archive)

3.8 When comparing these images with the Land Registry entry and site plan, it is clear that the position of Resolute is within what is now the plot including the riverbank and muddy

foreshore within Rev Jessica Aidley's ownership. The presence of Resolute is also apparent in RAF images in 1941, October 1945.

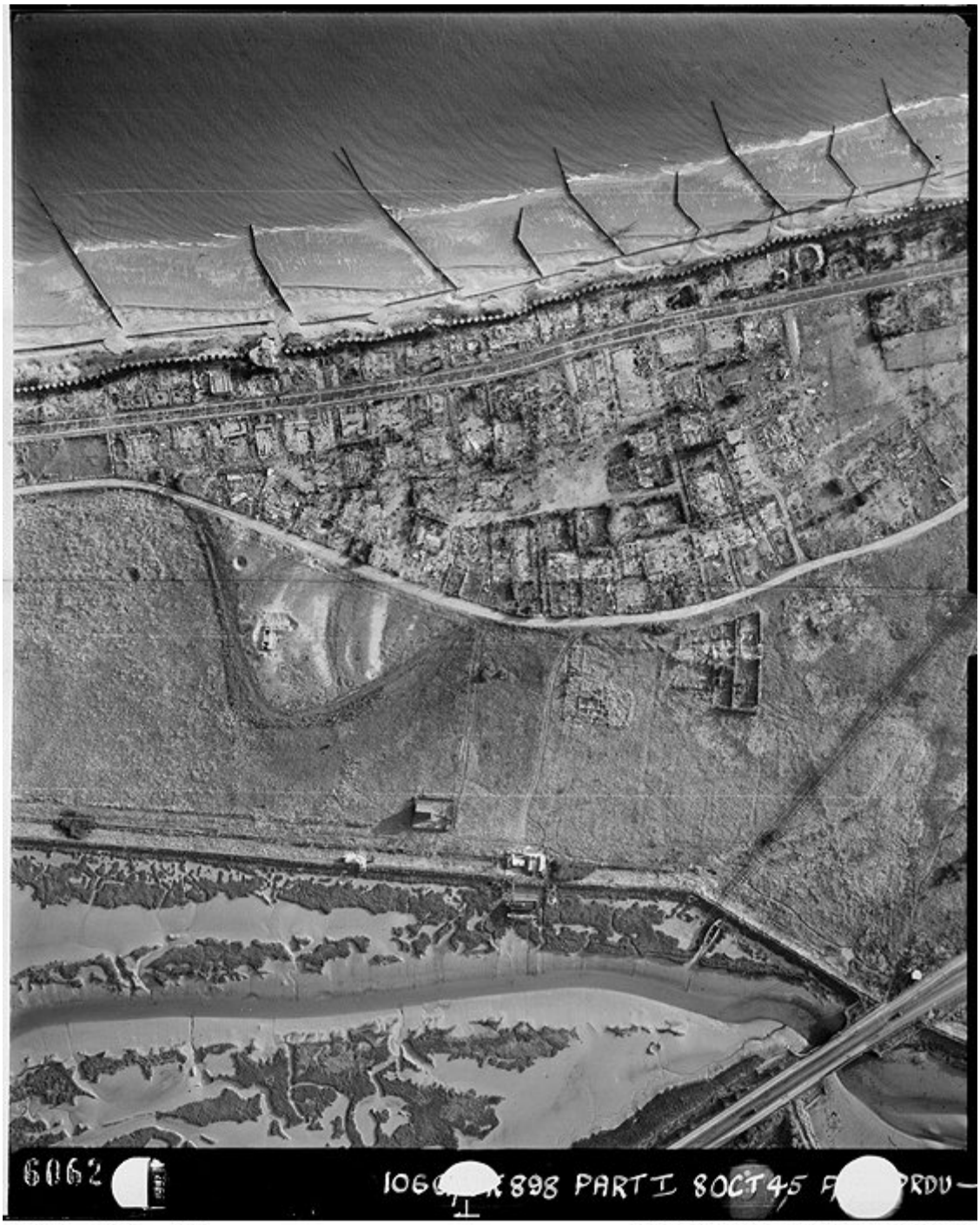


Fig 6– Resolute and one other houseboat to the left is visible with the church in front. Dated 8th October 45 (Source: RAF Images English Heritage Archive). Even its channel through the mud is visible.

3.9 Bellands appears in the 8 May 1951 RAF (see Fig 7) image with Resolute to its southwest end. Two other boats are visible to the west. It is also apparent from this image that the number of boats returning to the riverbank has increased over a period of 10 years.



Fig 7– This image has a recorded date of 12 May 1951.
(Source: RAF Images English Heritage Archive)

3.10 Fig 8 is recorded as being May 1957. It is taken from a greater height but shows a greater concentration of houseboats between the Flood Arch and the footbridge. No houses are present immediately to the south of the town path, although the church is visible. Again this image shows Bellands and at least two boats to the northwest moving toward the Flood Arch.



Fig 8– This image has a recorded date of May 1957.
(Source: RAF Images English Heritage Archive)

3.11 Fig. 9 recorded as being taken in May 1958 shown on the next page is not so different from that shown above. The main difference relates to land based development as more dwellings are starting to appear along the section of Beach Green where gardens have their backs to the riverbank. The alignment of the roadway that would become Ormonde Close is apparent.

3.12 Fig.10 provides an image dated March 1961. Bellands is clearly visible. There are also two further boats between it and the Flood Arch. There is now a greater number of dwellings and a regular pattern of built form appearing.

3.13 RAF Images for 1963, 1965 and 1967 respectively *(Source: RAF Images English Heritage Archive)* are not very clear and have not been included but they do show the increasing numbers of houseboats alongside the riverbank. The 1969 image is clearer and shows Bellands plus and possibly two other boats.



Fig 9– This image has a recorded date of May 1958.



Fig 10 - March 1961



Fig 11 – February 1963 (Source: RAF Images English Heritage Archive)

3.14 By 1965 Ormonde Close appears with dwellings apparent. I include this image (Fig.12) for the record to show that the pattern of development is increased on land. The pattern is also visible in the August 1967 RAF image.

3.15 The April 1969 RAF image (See Fig. 13) shows more land-based development. Bellands is visible and possibly other boats toward the Flood Arch. From this period forth, it would appear that Resolute started to fall into disrepair and today is seen as a wreck. Aerial images from 1971 onwards to 1981 are not clear enough to show numbers of boats especially when at low tide. Fig 14 shows an image sourced from the Shoreham Historical Photographs from the 1980s that shows part of Bellands. The position of Resolute is just out of the image. Both are sourced from the RAF records held by English Heritage.



Fig 12- RAF Records April 1965. Ormonde Close is at the top right of the photograph.

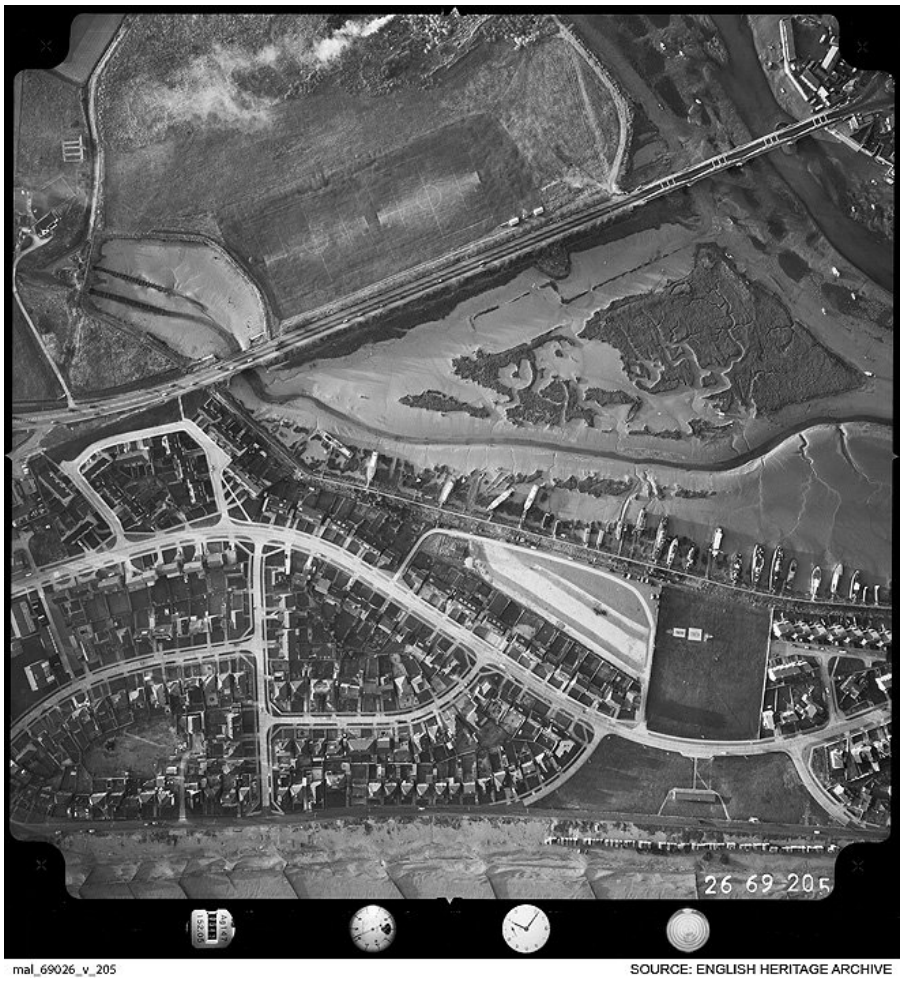


Fig 13 - RAF Records April 1969



Fig 14 – Image taken from Mardyke to Beach Green, Atlantic Court, showing houseboats – 1980s.

3.16 We managed to track an image dating from the 1960s, source unknown which shows another boat closer to the Flood Arch. It cannot be ruled out that this is Resolute due to the angle of the photograph and perspectives not being easily readable.



Fig 15 – View over Ormonde Close. Source unknown.

3.17 Present day images reveal that the wreck of Resolute is still in position. See photos below. In addition, the wreck of Bellands is also visible. Bellands was moved when Myrtle was moved in and replaced it. Fig. 16 below is annotated to show the positions of the houseboats referred to.



Fig 16 – Aerial Image taken prior to Redwood being moved into place. (Source: Google Earth licensed to Murphy Associates). Fig. 17 below contains an overlay of the site plan showing the wreck of Myrtle within the ownership of Rev J Aidley.



3.18 The image below not only shows the site area but also the positions of the wrecks of two boats – Bellands and Resolute – in addition to the houseboats Myrtle and Redwood.



Fig 18 – Aerial Image with the wrecks of houseboats identified as well as current houseboats.

3.19 The photographs below were taken on 31 May 13 and are included as evidence of the presence of the wreck of Myrtle on what can only be Mooring 1.



Fig 19 – part of the wreck of Myrtle can be seen in front of the second porthole of Redwood.

3.20 In Fig 20 the wreck of Resolute becomes more visible as does that of Bellands.



Fig 20 – The upright post marks the location of the wreck of Bellands with that of Resolute in between it and Redwood.



Fig 21 – In this image the frame of the hull can be seen above the water line but is covered with mud and vegetation.



Fig 22 – the outline of the hull of Resolute is more evident including its close proximity to the Riverbank. A greater amount of Bellands is also visible.



Fig 23 – From this aspect the shape of Resolute is identifiable and even more so, its proximity to the riverbank which has been raised in height.

3.21 Only the very lowest parts of Resolute remain in the riverbed and the wreck cannot be relied upon to indicate the dimensions of the boat itself. The boat was approximately 55' long. Her bow was approximately 12' 5" tall and she was bow in to the riverbank. When not floating the deck would have been much higher than the footpath. The distance from the bow to the riverbank would have been approximately 16' (4 metres). Resolute is similar in nature to 'The Strive' Lowestoft Trawler (see Fig 24). Lowestoft trailers are sailing trawlers. Its shape corresponds with the shape of the hull of the wreck in the images provided. It is provides a source of reference for size and dimensions. As can be seen it sits fairy low in the water having a tapered prow and stern. However, there may have been differences in housings on deck especially once converted to a houseboat. Fig. 25 shows the Tollesbury Wreck, a Lowestoft Trawler which shows more of what the hull would have looked like.

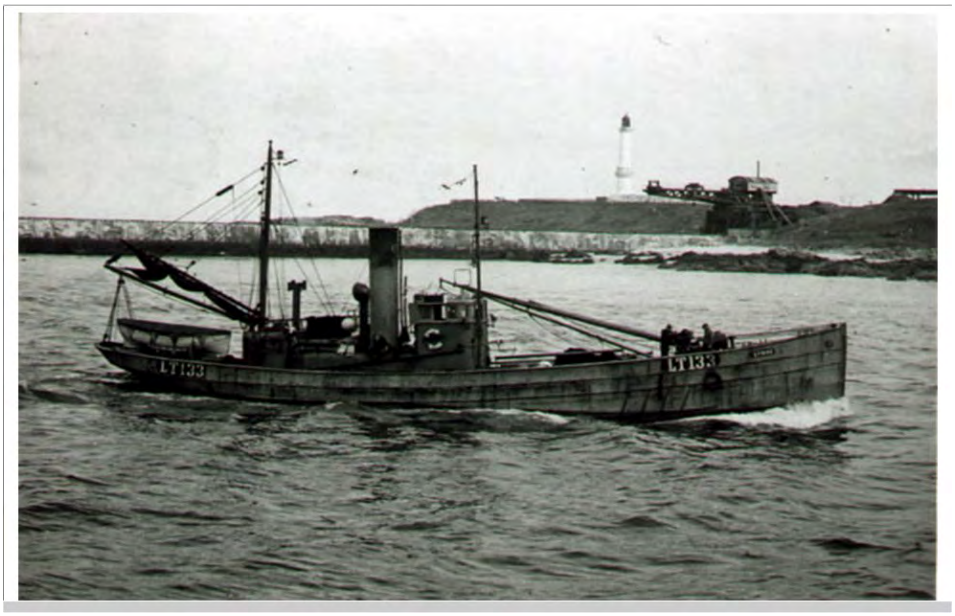


Fig 24 – The Strive – A Lowestoft Trawler Source – Rev Jessica Aidley



Fig 25 – Tollesbury Wreck, Lowestoft Trawler, Source – Flickr

Shoreham Houseboats Website

3.22 From the Shoreham Houseboats Website we have learned that there were at least four boats between Mooring 2 occupied formerly by Bellands and now Myrtle, and the Flood Arch. These included Resolute that replaced Miriel, Grey Mullet and Happy Medium which relocated to what is now named Mooring 9.

Port Records

3.23 The Harbours Act came into effect in 1964. Prior to that Byelaws were in place under the auspices of the Harbours, Docks and Piers Act 1847, the Shoreham Harbour Act 1926 and 1949, the Shoreham Harbour Act 1962, and the Shoreham Harbour Revision Order 1978. There were additional Orders dating from 1926 to 2004. However, these relate to the actual workings and operations of the 'port' and channel of navigation, not to the riverbank of the Lower Beach. However the following entry was discovered relating to Bellands, which, for all intents and purposes was sailed to its riverbank position in 1947 as recorded in the RAF aerial images. Resolute on the other hand appears to have been at Mooring 1 since the 1920s having stayed during the war period.

Shoreham Harbour Yacht Dues:
June 1945 – December 1952 (WSRO/SH/12/1/2)

Bellands (N.M.P) 100' – Mrs Hopper (on board)
January 1947 – December 1952 was paying £7 19s. Half yearly

Register of Electors

3.24 The Register of Electors cannot be relied upon as conclusive evidence of the presence of persons and their houseboats. This is due to the fact that it is not uncommon to avoid completing the returns, or the respective persons were absent at the time of completing the roll or the boat/houseboat had left its position only to return some time afterwards. Also and in some instances, houseboat names changed when the boats were replaced. However, the records reveal the following entries between Bellands and the Flood Arch:

1949/50; 1950/51; 1955/56; 1960/61 and 1965/66:

1949/50		
Happy Medium:	Norman & Joan Wildy	1949/50
The Phantom:	Philip & Chloe Steward	1949/50
1950/51		
Happy Medium:	Norman & Joan Wildy	1950/51
The Phantom:	Charles & Alice Frome	1950/51
1955/56		
Grey Mullett:	Joseph & May Parsons	1955/56
1960/61		
Grey Mullett:	Ella Rosewhite	1960/61 &1962/63
Bellands:	Alfred L & Lily Bray Veata Buttery	1962/63

1964/65

Grey Mullet:	Eric & Mollie Lister	1964/65

1965/66

Grey Mullet:	Eric & Mollie Lister	1965/66
Bellands:	John L and Ann E Soudain	1965/66
Bellands:	Alan & Stella Wilkes	ditto

3.25 Years 1951/52 and 1954/55 need further researching. These entries were rechecked against the records held at WSRO and the following entries were revealed.

Extract from Register of Electors 1950

Brighton Road, Beach Green

3274/3275	M.V. "Happy Medium" - Wildy, Joan Audrey & Norman
3276/3277	"The Phantom" – Froome, Alice & Charles
3278/3279	M.L. "Bellands" – Hopper, Doris & Frances
3280/3281/3282 M.Y.	"Clive" – Hastwell, Harry, Mary Ann & Nellie
3283	C John C (Bungalow) – Graham, Dorothy
3284	Houseboat "Gunter" – Wilkie, James

3.26 Both sets of entries have correlations. Therefore it is clear that houseboats Phantom, Happy Medium and Grey Mullet were present between Bellands and the Flood Arch. Gunter is on Mooring 4 (albeit replaced in 2004). Even in the 1950s there appears to be some sharing of jetties or the use of gangways.

Rate Book Entry

3.27 At present existing Council tax records have not been checked but this is to be undertaken and details will be forwarded under separate cover. Although not extensive and would be dependent on whether the boat was present at the time, or unoccupied, the entries for 1952 indicated that Houseboat Miriel was present once again. Although there is no entry for Resolute, the RAF images indicate that it did exist and current photographs reveal its wreck.

Extract from Rate Book for year ending 31 March, 1952 (WSRO/UD/SH/35/4)

Assessment No.	Name	Moorings & site	Rateable Value
V.O. 128	Hampshire, John	"Miriel" Beach Green	£6
V.O. 25	Mrs D & Miss F Hopper	"Bellands" Beach Green	£1
3381	Wilkie, James	C.T. 18 Beach Green	£5
V.O.67	George, G	"Benbow" Beach Green	£6e
3282	George, G W	"Pauline" Beach Green	£5
3274	Wilkie, James	"Gunter" Beach Green	£11
V.O.117	Graham, Richard	Bungalow, Beach Green	£16 13s
3293	Hastwell, Harry	"Clive" Beach Green	£15

Shoreham Works & Planning Committee

3.28 A search of the Minute Books for May 1946 to March 1948 do not necessarily refer to every boat along the riverbank but do indicate that there has been a long history of their presence. Further searches can be progressed by the Minute Books are not ordered or catalogued and make for a time consuming exercise.

Extracts from the Minute Book of the Shoreham Works & Planning Committee
May 1946 – March 1948
(Source: WSRO/UD/SH/3/3/8)

20 June 1946
Water Supply, River Bank – Mr Hastwell applies for permission to take water from the Council's pipes supplying pumping station on Beach – refused.

18 July 1946
Houseboats – The Clerk reported as to the increasing number of houseboats being moored along the riverside, and Committee considered they could cause pollution in the river. The Council should, within the limits of their power, discourage the mooring of these craft.

19 September 1946
A letter dated 23 August received from the Deputy County Planning officer on the subject of Planning Control of naval and other craft moored.

Committee have asked the Clerk to place whole position before U.D.C's Association and Ministry of Town & Country Planning and endeavour to obtain their advice on dealing with problems of planning control, rateable assessment etc. of craft referred to.

21 November 1946
River Craft on River Adur – Clerk reported he had now obtained Counsel's opinion from U.D.C's association on number of points raised in connection with river craft. In this connection a letter dated 15th November had been received from Messrs. Bosley, Legg & Co. on behalf of their clients, Mrs. D. Hopper & Miss F. Hopper – Deferred.*

* *Hoppers are recorded as being the occupants of Bellands.*

19 December 1946
Motor Launch "Bellands" – The Clerk reported he had submitted correspondence from Messrs. Bosley & Co on various matters re. "Bellands" to the Clerk of the County Council together with general question of rivercraft on the Adur and awaiting his observations.

23 January 1947
Rivercraft on River Adur – With reference to previous reports and Counsel's opinion – a letter dated 16th January had been received fro the Clerk for the County Council supporting opinion given by Counsel on various aspects of question of control of rivercraft, from which it would appear that effective control can only be acquired by a Local Act of Parliament to seek necessary powers. No recommendations to make.

20 February 1947
Water Supply to Houseboats – Letter received from Brighton Corporation Waterworks on proposal to supply certain houseboats on South bank of river at owners' expense.

24 April 1947
Water supply to M.L. "Bellands" – The Clerk reported regarding to publicity in the National Press on this matter and read letter from a Capt. E Machon. A letter dated 12th April received from Messrs. Bosley & Co. on behalf of Mrs. & Miss Hopper, repeating request to Council's water pipes in order to supply M.L. "Bellands."

Committee recommended that owners of other houseboats be approached with a view to the laying of 1 ½" i.d. water service pipe. Also recommended the Council to express its willingness to participate in such arrangements.

22 May 1947
Water Supply: M.L. "Bellands" – Surveyor reported an approach had been made my Mrs. Hopper to take water supply from the Beach Pumping Station to M.L. Bellands, pending the installation of the proposed new pipe after negotiations with other boat owners in this vicinity.

Recommended to grant for six months only, subject to the periods of supply being at Council's convenience and at Mrs. Hopper's expense and subject to termination arrangements on either side.

18 December 1947
Application made by occupier of houseboat "Adelaide" for collection of refuse – Recommended that arrangements be made for collection from houseboats providing refuse is brought to a point immediately adjoining collection vehicle's normal route.

Additional Information

3.29 As a result of a visit to the Worthing Reference Library, Local Studies Section in mid October 2013, the following notes have been extracted from a book entitled 'Retired on the River – The Houseboats of Shoreham' published by the British Armed Forces Small Craft Historical Group 3rd Edition 2006, Authors – Simons, Philip & Hall, Nick. Philip Simons gives his address as 25, Greenways, Highlands Road, Portslade, Brighton BN41 2BS. I refer specifically to the reference against Mooring No.1 in the text:

'The Recollections of Anthony B. Cooke'

'When we first came to the moorings they were owned be a Mr. Easter, who would not give boat-owners a freehold. 'Gunter' was the exception, owning its freehold. Annual rent was £12 per year. When Mr. Easter died a compulsory purchase order was made by West Sussex County Council and a compulsory eviction notice was served. The Boat Owners Association was formed and a legal battle fought and won.'

The same book also lists the boats that have been moored at each mooring and against No.1 it reads:

' Not used on a regular basis as a mooring, but between "Bellands" and the road there have been four recorded vessels in the early '50s. Possibly all were there at the same time, alongside each other.

*1950-1953? **'Miriel'** (ex Avis). Composite Screw Steam Yacht built 1898 by Camper & Nicholson, Gosport. She was at the Sussex Marine Club in 1955/6. She was rumoured to have been towed to the Isle of Wight.*

*1953-1966 **'Grey Mullet'.** Possibly a double-ended Breton Crabber*

*1953-1955 **'Iris'.** 71 ½ ft. BPB MGB MTB "133"/"452" (1955 went to Littlehampton and was burnt there 1/90*

*1920's – WWII **Resolution** Fishing boat built 1890 at Lowestoft Regd. Shoreham 1914-1916. Double ended bottom and lower frames still visible today*

*'**Happy Medium'**, now on No. 9 appears to have been nearer to this position in 1949/51 according to the Electoral Registers*

*A boat called '**The Phantom'** also appears to have been near here 1949/51, according to the Electoral Registers*

*"**Sea Cottage**" was, but is no longer visible, but "Bellands" still visible, where they were BU and burnt.'*

3.30 It is clear from the above evidence that there were boats between Bellands and the road and Flood Arch. Indeed, the reference to 'Resolute' or as sometimes called 'Resolution' is considered to be important, especially as its wreck is still at Mooring 1. It is also worth noting that it is stated ' *not used on a regular basis'.* However it is consistently visible in the RAF images.

4.0 LAWFULNESS OF MOORING 1

4.1 Section 191 of The Town and Country Planning Act 1990 allows applicant to submit an application to ascertain whether (a) any existing use of buildings or other land is lawful; (b) any operations that have been carried out in, on or under land are lawful. However in planning law a houseboat is not a building. It does not fall within the definition of development according to Section 55 (1) of the Town and Country Planning Act 1990. Houseboats are chattels. Having the legal status of a 'chattel' a houseboat cannot therefore be considered as a building for purposes of the 1990 Act, Section 55 (2) (d) and the need to justify the presence of a houseboat would not be the subject of a Certificate of Lawful Existing Development. In this case it is the need to justify the existence of Mooring 1.

4.2 It has been argued that the use of the riverbank as a mooring falls under the control of planning law as it constitutes a material change of use under Section 55 (1) of the Town and Country Planning Act 1990. For that matter, if a boat uses a removable gangway to access land, then it cannot be said that the placing of a gangway which is a removable walkway, normally comprising an arrangement of planks for crossing from a boat to land, falls within the definition of development. It has however been argued that if a boat is continually in one position that this also constitutes a change of use but this is not contended to be correct in case law.

4.3 Under normal circumstances an Applicant would be required to present evidence of a change of use having occurred for a period of 10 years prior to the date of the submission of the formal application of lawfulness, Section 171B (3) of 1990 Act refers.

4.4 Resolute was and has been in its present position since the 1920s through to the present day – apart a possible occasion as referred to in 'Retired on the River – The Houseboats of Shoreham'. The RAF images clearly show Resolute in position then it can only be that this comment was in relation to other boats.

4.5 Therefore, it is our contention that the whether Resolute is a wreck or not, it exists and has been in existence in this location for a considerable length of time. It would therefore follow that the mooring has been in use well beyond the minimum requirement of 10 years. It is therefore permanent and thus there can be no dispute that the Mooring is lawful and has not been abandoned. A mooring does not need to include a jetty to constitute a mooring and a wreckage of a boat once moored does not mean that the mooring no longer exists. It cannot therefore be contended that it has been 'abandoned'.

4.6 Prior to the towpath being raised, a gangplank was used with an extra 6'6" (2 metres) to allow for the highest tides. After raising of the towpath about 20 years ago, the gangplank would only have abutted it. A jetty cannot be ruled out as there are raised mounds of vegetation, parallel and on each side of Resolute which more than often are associated with some form of structure.

4.7 The Fische case (APP/Y3805/C/04/1146607) is quite important as it was found that the lawful use of a site is as a houseboat mooring. Therefore and having regard to the fact that the entire stretch of the riverbank within Jessica Aidley's plot is a mooring it is contended that with the evidence of Resolute being present that Mooring 1 is therefore lawful. Evidence shows that Rev'd Jessica Aidleys plot contains two moorings.

4.8 In the application relating to the ancillary nature of Redwood, reference was made to the Appeal Ref: T/APP/E9505/C/98/1014232; 1014373 & 76 - Riverside Moorings, Riverside, Hoveton, Norwich. It is considered that this appeal decision is also relevant to the existence of Mooring 1. In the Hoveton case, the Inspector acknowledged the fact that moorings at the River Bure had been in existence since 1938, predating the appointed day for the Town and Country Planning Act 1947, 1st July 1948. This fact corresponds with the situation as Lower Beach but there are indications of an earlier presence. As with Hoveton, there was no restrictions, seasonally, or limitations relating to the use of the riverbank. It is of note that in Paragraph 3 of the decision letter, it is acknowledged that '*the primary reason for mooring boats it to provide them with a secure base attached to the land when they are not being navigated.'* Resolute, a wreck of not, has and is attached to the riverbank. In paragraph 8, the Inspector repeats reference to the existence of moorings on 1 July 1948 and the fact that as the primary function of the River Bure basin remained for the mooring of boots then the lawful use of the site is for the mooring of boats.

4.9 The case of Canal Bank, West of Ladies Bridge, Wilcott, Pewsey, Wiltshire SN9 5DP, Appeal Reference APP/E3905/C/06/20199613 is also relevant. An inspector quashed an enforcement notice against the alleged breach for *'the unauthorised use of the land for the mooring of residential barges/boats not in the course of navigation'.* The Inspector

agreed with British Waterways that the entire length of the Kennett and Avon canal should be considered as a single planning unit in determining whether the siting of houseboats along its length constituted a material change in the use of the site. In his opinion the mooring of boats along its length was a normal activity inherently associated with the primary use involving the passage of boats. He held that the mooring of 17 canal boats on the bank was more akin to parking a car on the public highway outside a dwellinghouse.

4.10 It cannot be disputed that the use of this section of the riverbank in Shoreham has a long association with the mooring of both navigable and non-navigable houseboats prior to the first planning act. And the given the fact that the aerial images show that there was a consistent return of boats and houseboats to the riverbank after the 2nd WW. Resolute did not leave, apart from on one or two occasions. Whether it was occupied or not, intact or in a ruinous state, it existed and could be compared to a car in car parking space – the difference being that motor vehicles on the highway are controlled in so far as they are required to be taxed and insurance. Another way of considering the comparison between car parking spaces and moorings is when consideration if a car park ceases to be an area for the parking of cars if there are no parked cars.

4.11 To illustrate this point further, attention is drawn to Thames Heliports Plc v London Borough of Tower Hamlets [1997] 74 P. & C.R. 164 it was held that one must ask: *"has anything changed on the land which is capable of being material from an environmental point of view?"* The Inspector considered vessels (houseboats) are the equivalent of helicopters. From this it can be deduced that moorings are equivalent to a helipad. And it would follow that a helipad would not lose it use should there be no helicopter sitting on it.

5.0 CONCLUSION

5.1 Bearing in mind that the entire extent of the riverbank falling within the ownership of Rev'd Jessica Aidley is a mooring, it is contended that sufficient evidence and facts have been presented to prove beyond any doubt that the Mooring 1 exists and has always existed. The fact that Resolute is wreck does not remove the presence of the Mooring when one considers that the rationale that a helipad does not cease to be a helipad if there is no helicopter sitting on it or for that matter, a car parking does not cease to be a car park if not cars are parked in it. As the entirety of the riverbank between the footbridge and the Flood Arch has been used pre the enactment of the Town and Country Act 1947, there can be no doubt that Mooring 1 is lawful whether there is a fully functioning houseboat or wreck of a boat occupying it.

5.2 A separate application for lawfulness has been submitted in respect of the ancillary relationship between Redwood and Myrtle. It is appreciate that the LPA would want to consider both applications at the same time. It should however be noted that although relating to the same area of land within the ownership of the Rev'd Jessica Aidley that they are in fact, different issues.

5.3 The presence of Mooring 1 is factual and evidence based and proves beyond any doubt that Rev'd Jessica Aidley's site has two lawful moorings.

5.4 The LPA are therefore requested to concur with these findings and issue a Certificate of Lawfulness for Mooring 1. Should any queries arise or further discussion is required, the LPA are invited to contact the agent to arrange a meeting.