

Study: River Works Licences for Residential Use

MINUTES of Steering Group meeting, 17 September 2010

PRESENT: From Madge Bailey Associates Madge Bailey, Independent Consultant (MB)
From DVS Richard Whitehill, Steering Group Chair Independent
Consultant (RW)
From PLA Brian Chapman, Head of Finance (BC)
John Ball, Head of Property (JB)
From OPLAC Douglas Kempster, Corporate Affairs (DK)
David Beaumont, Chair of OPLAC (DB)
Peter Banks (PB)
From RBOA Moira Allan (MA)
Rex Walden (RexW)

Alistair Gale, PLA Director of Corporate Affairs, was unable to attend and was represented by his colleague Douglas Kempster. Richard Everitt, PLA Chief Executive, has withdrawn from the Steering Group.

AGENDA ITEM 1, Minutes of the last Steering Group meeting and Terms of Reference

These documents had previously been circulated. They were AGREED with the following amendments:

- **Item 1 of the Minutes of 29 July 2010, Introductions and roles**

RW asked that the information on his experience in valuing marinas given in his introduction should be included in the Minutes. The paragraph will now read:

“Richard Whitehill, Chartered Surveyor, from the Valuation Office Agency, who has been engaged by the PLA on behalf of the Group to act in an advisory capacity to the Study as an independent expert on property and valuation. Richard has expertise valuing marinas.

- **Item 1 of the Minutes of 29 July 2010, heading Planning permission/definition of “residential”**

The following sentence will be added:

“For the purposes of the study the consultant will consider River Works Licences in relation to residential use as a dwelling.”

It was agreed by the Steering Group that this addition does not preclude MB from considering Issue 6 in the Issues for consideration during the study.

- **Item 2 of the Minutes of 29 July 2010, Transparency**

In the first paragraph, the penultimate sentence will now read:

“RexW said that there were points in the journey with MB in arriving at the BW moorings policy that could have caused concern had they become public prematurely and before full debate.”

- **Item 2 of the Minutes of 29 July 2010, Transparency**

DB stated that it was agreed at the meeting that the Minutes would be made public. This was

accepted by the Steering Group, and the sentence will now read:

“The Steering Group Minutes will be made public after having been agreed by all parties at the next meeting, subject to removal of any confidential elements.”

- **Item 2 of the Minutes of 29 July 2010, Transparency**

The final paragraph will now read:

“MB believed that transparency in her conduct of the study would be achieved through interviewing and consulting with a range of people. It was her intention to make a database recording responses and to report comments under categories of people/interested parties rather than named individuals. She believed that houseboat owners would not speak freely if their responses were to be directly attributed. The Chair could audit her database if required.”

- **Item 3 of the Minutes of 29 July 2010, Terms of Reference**

Heading (a) will now read:

“(a) Discussion of Terms of Reference for the Study”

- **Item 3 of the Minutes of 29 July 2010, Terms of Reference**

Under subheading “Item 5” DB requested a clarification of the phrase “taking account of the Act” (referring to the 1968 Port of London Act) and whether it meant that the Study could not go beyond the Act. MB stated that she understood that her remit allowed her to consider options outside the strict terms of the 1968 Act. The Steering Group agreed that the wording in the terms of reference would be left unchanged in the Minutes. BC emphasised that the PLA did not want to raise the expectation of statutory change

- **Item 3 of the Minutes of 29 July 2010, Terms of Reference**

Under subheading “Item 8” the first two sentences will now read:

“OPLAC had suggested an addition to the Terms of Reference stating that the aim of the Study should not be to raise additional revenue. DB explained that the reason for making this suggested alteration. Whilst the OPLAC comment was noted it has not been included in the Terms of Reference.)

- **Item 5 of the Minutes of 29 July 2010, Customer Issues**

DB had understood that multiple occupancy houseboats which were being run as commercial enterprises would not form part of the study. JB explained that, for the purposes of the study, “commercial” implied non-residential use, eg offices. MB felt that all residential houseboats needed to be included. The third sentence of the subheading “Subletting of boats” will now read:

“... it was AGREED that multiple occupation of residential houseboats should be part of the study.”

- **Item 5 of the Minutes of 29 July 2010, Customer Issues**

The final sentence will now read:

“It was AGREED that a form of communication would be sent out ...”

- **Item 6 of the Minutes of 29 July 2010, Work Programme**

The final sentence of the first paragraph will now read:

“... OPLAC’s suggested final three lines adding the public consultation ...”

- **Item 6 of the Minutes of 29 July 2010, Work Programme**

The first sentence of the third paragraph will now read:

“OPLAC had suggested an interim meeting was needed to review research so far ...”

- **Item 7 of the Minutes of 29 July 2010, Interested Parties**

Crown Estate will be added to the list of interested parties and Apollo Duck (which is only a website) will be removed.

Subject to the above amendments, the Minutes were adopted as a true record by RW.

AGENDA ITEM 2, Matters arising

(a) Distribution of Minutes

DB proposed direct distribution of the Minutes to Steering Group members, without going through the Chair first.

RW did not accept this proposal and stated that it was generally accepted correct practice for the Chair to receive the first draft of the Minutes. He ruled that there would be no further discussion of this proposal.

DB asked for his dissent from this ruling to be minuted. He disagreed that it was generally accepted correct practice for the Chair to see the Minutes first.

(b) Item 3 of the Minutes of 29 July 2010, Terms of Reference

MB asked the Steering Group to revisit Item 10 in the *Terms of Reference of the Study*, which reads:

“10. Transparency: All correspondence between the Consultant and any members of, or parties represented by members of, the Steering Group shall be copied to all members of the Steering Group ...”

MB has begun the process of gathering evidence from third parties by talking to the PLA and their agents and so far has not copied all the relevant correspondence to all members of the Steering Group. She asked the Group to reconsider this point as she believed that it was counterproductive, and that she would obtain more information from interviewees if they could speak in confidence. She had used her judgment on the matter as the confidentiality agreement had not yet been signed.

RexW agreed with MB’s assessment, particularly where comments on individuals (eg PLA staff) were made. Residential boaters’ attitudes to the PLA will be a big problem. There is a general attitude of antipathy and feeling threatened.

MB has prepared a brief report on PLA past practices; interviewees were willing to speak freely directly to MB on the understanding that MB would extract the relevant issues and report an

assessment back to the Steering Group rather than the full detail provided. RexW agreed that discussions within the Steering Group should be made public. However, he did not agree that all third party discussions, eg with PLA employees, should be made public.

DB felt that this paragraph in the Terms of Reference should remain unchanged in order to ensure transparency.

He pointed out that all members of the Steering Group would be signing a confidentiality agreement. He did not wish to give the impression of holding secret discussions. RexW stated that public perception of the discussions which were going on could be a problem for OPLAC, particularly if it became known that there were secret documents which OPLAC had not seen. There was a fear among houseboaters that co-operation in the Study would lead to OPLAC becoming friendly towards the PLA and sympathetic to their point of view.

MB believed that, if the option of digesting information and reporting back on key points was rejected, and she was obliged to copy all communications to all members of the Steering Group, she would not get so much information from interviewees. DB felt that this was a price worth paying.

RW ruled that written communications (emails, letters and documents) will need to be copied but telephone and face-to-face conversations do not need to come to everyone on the Steering Group.

MB was happy with this ruling and stated that she would now attempt to achieve retrospective transparency by going back through her correspondence with the PLA and their agents and seeking permission to pass on their comments to the Steering Group. DB agreed and felt that this ruling might reduce the quantity of information, but at the same time might improve its quality. He questioned the reasons why interviewees might not want all members of the Steering Group to know what they have said.

As an example of the necessity for MB to copy correspondence to all members of the Steering Group, DB gave an example of an email dated 16 August 2010 from MB to the PLA commenting on OPLAC's proposed contribution and suggesting amendments to the PLA wording to the joint communication which is to be sent out to River Works Licence holders. DB received a copy of this email, which he believed was sent to him by mistake. JB accepted that the email was not copied to OPLAC. It was an email sent specifically to David Beaumont for his attention by JB's secretary in his absence. After discussion of the sequence of events, RW ruled that it seemed that an email had been sent out in finalised draft form. He felt it was necessary to understand what had happened and move on.

JB and BC requested information on OPLAC members. DB stated that approximately 25 licence holders were members, but as some were enclaves, many more individuals were represented. PB stated that his own RWL provided mooring for 7 dwellings. In response to a request from BC for a list of names, DB stated that this would not be provided without their permission because of Data Protection restrictions. RexW agreed.

No change was made to the wording of the paragraph on *Transparency*.

AGENDA ITEM 3, Signing of the confidentiality agreement

RW circulated the confidentiality agreement which was signed by all members of the Steering Group who were present. AG will also need to sign if he will be forming part of the Steering Group in the future.

AGENDA ITEM 4, Notification letter

The communication which is a joint effort by the PLA, OPLAC and Madge Bailey Associates, will be sent to all River Works Licence holders. It was approved with the following changes:

PLA section

- "... predictable procedure for setting fees..." was changed to "... reliable procedure for setting fees ..."
- "... a fair return to the PLA ..." was changed to "... an equitable return to the PLA ..."
- Residential Boat Owners' Association should be correctly punctuated with an apostrophe, which was inserted.

OPLAC section

- A missing quotation mark was inserted in the OPLAC slogan 'Organising PLA customers for a fairer deal'.
- A suggestion from the PLA that the phrase "... and that houseboats will not be priced off the tidal Thames" should be omitted was not accepted by DB, who maintained that OPLAC had the right to use its preferred expression in the its section of the joint communication. The OPLAC contribution was accepted by the meeting with the inclusion of this phrase.
- In the final paragraph, concerning current reviews of River Works Licences being held in abeyance, the word "postponement" was replaced with "delay".

Madge Bailey Associates section

- After the sentence "We are therefore requesting information relating to each site," the following sentence was added: "Please provide as much of the information as you are happy to."

It was AGREED that MB would make these changes and go ahead with the distribution. The communication will be sent out by the PLA and published on the PLA and OPLAC websites, for which MB will send an electronic copy. **ACTION MB**

AGENDA ITEM 5, Issues list

The up-to-date list of *Issues for consideration during the study* was presented to the meeting. The following amendments were agreed.

- **Issue 1**

Under Brief description, entry will now read, “consider relevance.”

- **Issue 2**

Under *Brief description*, entry will now read, “Should the charge reflect the use to which river works are put, and why?”

- **Issue 5**

Under Brief description, entry should read, “If proposals result in significant changes in the fees paid, a proposal on how phasing could be implemented.

- **Issue 7**

Under *Issue*, entry will now read, “Future licence holders vs existing ones.”

Under *Brief description*, entry will now read, “Consider the merits of having different approaches to existing licences vs future licences.”

- **Issue 9**

Under *Brief description*, entry will now read, “Should there be a reduction for those boats grounding?”

- **Issue 10**

Under *Brief description*, entry will now read, “Should there be a differential in fee for single storey and multiple storey boats?”

- **Issue 11**

Consideration of this issue would require defining what a “boat” is. MB explained that she had found how difficult and contentious this was in her time at BW.

- **Issue 12**

RWLs specify dates for review. JB explained that reviews due in 2008 and 2009 are being held in abeyance and the new formula would apply. It was AGREED that this issue would be kept on the list for reference.

- **Issue 13**

The PLA defines “navigation licence” differently from BW or the Environment Agency. JB clarified as follows:

PLA a licensing of works on someone else’s land (eg Crown Estate); a licence to obstruct navigation by placing works in the channel;

BW/EA a licence to navigate.

Under *Brief description*, entry will now read, “Relevance of navigation licence ...”

- **Issue 14**

Under *Brief description*, entry will now read, “Consider the transfer process and any terms.”

- **Issue 15**

Under *Issue*, entry will now read, “Locational factors.”

- **Issue 16**

it was AGREED that this issue would be deleted since they were effectively included under Issue 15

- **Issue 17**

DB explained that houseboat owners were concerned about the use of land comparables e.g. leases for flats in valuing houseboats. RexW felt that estate agents were unable to differentiate and JB stated that estate agents have misrepresented the position by using the terms “leasehold” and “freehold.” RexW said that most solicitors were unwilling to handle the sale or purchase of houseboats, and advised their clients against buying a boat.

RW said that if the terms are the same, there should be no difference in the value whether it is a licence or a lease.

MB questioned the relevance of land-based leases and it was AGREED that this issue would be deleted.

- **Issue 20**

Also relates to land comparables and it was AGREED that this issue would be deleted.

- **Issue 21**

Under *Brief description*, the word “and” will be deleted.

- **Issue 23**

JB stated that the 1968 Act gives the PLA title to the riverbed and therefore entitlement to charge RWL fees. It is open to any houseboat owners to bring a legal action if they wish to challenge this interpretation of the Act.

MB said that it was beyond the scope of her remit to inquire into the PLA’s title. She will assume a valid title where

RWL fees are being charge. RW ruled that discussion of the PLA’s title is not relevant to the Study and that the PLA has a statutory responsibility to licence river works.

It was AGREED that this issue would be deleted.

- **Issue 24**

Under *Brief description*, entry will now read, “Implications for fees where licence holder owns ...”

- **Issue 25**

Under *Brief description*, entry will now read, “Should, or to what extent should, premium payments be taken into account ...”

- **Issue 26**

JB stated that there were three types of houseboat ownership:

- Owner-occupiers making a “lifestyle choice.”
- Second homes, *pieds-à-terre*, cheap accommodation.
- Investment vessels to let out. This category works to the detriment of “traditional” houseboaters

by driving up the costs of living on the river.

PB expressed concern about this classification and the suggestion that houseboat dwellers could be divided into categories. If people have two homes, who is to decide which is their principal residence? If a tenant occupies a boat rather than the owner, it makes no difference to the RWL.

RexW reported that there is a widespread move to proscribe having a boat as a primary residence. Some Planning Officers seem determined to stop it and equate living on a boat with itinerants on land. The RBOA has received complaints about this issue on the Broads and other places on BW. He welcomed the fact that, with this Study, some hard facts about houseboat dwellers would be discovered. He also believed that one of the reasons why someone might want to invest in a boat was that it is simpler to let a boat than a flat.

Under *Issue*, entry will now read, “Multi-occupancy boats.”

Under *Brief description*, entry will now read, “How should multi occupancy boats let by residential landlords be considered?”

- **Issue 30**

Under *Brief description*, entry will now read, “Consider whether costs should be set off ...”

- **Issue 34**

RW ruled that this issue was not relevant to the Study on RWLs and that it would be deleted.

- **Issue 35**

RW ruled that this issue was not relevant to the Study on RWLs and that it would be deleted.

Note that, as Issues 11, 17, 20, 34 and 35 have been deleted, the *List of issues* will be renumbered.

AGENDA ITEM 6, Progress report on research stage

For comparison purposes, MB has researched pricing policy and practice of other UK navigation, tidal river and harbour authorities (papers 1A and 1B circulated in advance to the SG for consideration.). Due to lack of remaining time at the meeting she invited brief comments from the Steering Group. She also handed out an overview the five broad areas of her research, of which this was one. There was time for only a brief discussion as the meeting had overrun. JB requested, and MB agreed to provide, a comparison table which would summarise her notes. MB also agreed to include the River Medway in this spreadsheet. DB commented on the Key Findings that there are some mooring operators not paying BW, he queried Falmouth in point 4 and that point 11 should read “river works” instead of “moorings”.

ACTION MB

NEXT MEETING

It was AGREED that the meeting would end at this point. A fuller discussion of Item 6 and discussion of Items 7, 8 and 9 of the Agenda would be postponed until the next meeting, which was arranged for Friday, 17th December 2010 at 09:45.

Post meeting note – BC and JB cannot make the 17th Dec. MB is awaiting availability from RW and will then contact other members to re-arrange the meeting date. She is also aiming to schedule an extra SG meeting in November.



Chair PLA Riverworks Licence Steering Group

24th November 2010