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The Consultation Team
British Waterways
64 Clarendon Road
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Our Ref: BW Moorings

8th August 2008

Dear Sirs,

MOORINGS CONSULTATION

I am responding on behalf of the Lichfield Branch of IWA to your Public Consultation document on the Tendering Trial of Directly Managed Moorings.

The Inland Waterways Association is a national charity which campaigns for the conservation, use, maintenance, restoration and appropriate development of the inland waterways. The Lichfield Branch of the Association represents over 500 members in part of the West Midlands Region.

Our former Chairman in correspondence with your External Relations Manager in June and July 2007 set out our objections prior to the start of the trial and most of those matters remain of concern.

We have since discussed this issue with many of our members and at committee meetings and our comments on your consultation and suggestions on the best way forward are as attached.

We have chosen not to use your Response Form as we felt it does not help to put artificial numerical values against the pre-selected options and attributes (Question 1). Our answer to Q2 would be 3 or 4 weeks, and to Q3 Essential (5). Q4 and Q5 do not apply to this Representative response.

We hope this will assist you to provide an improved system.

Yours faithfully,

Philip G. Sharpe
Chairman
IWA Lichfield Branch

COMMENTS OF INLAND WATERWAYS ASSOCIATION, LICHFIELD BRANCH ON:
**BRITISH WATERWAYS, PUBLIC CONSULTATION, SUMMER 2008 -
DIRECTLY MANAGED MOORINGS, PRICING AND VACANCY ALLOCATION.**

Introduction.

The imposition of a website based tendering system for the sale of BW towpath mooring permits to the highest bidder and the suspension of waiting lists, without full prior consultation with users or their representative groups, has been controversial and widely condemned. IWA opposed this system in principle as being a blatant attempt to increase mooring prices, favouring the more affluent, unjust to those on limited incomes, and unfair to those on waiting lists. The level of support for IWA's petition against this system demonstrated the widespread distrust of the motivation for this change and concern about it leading to social exclusion, which is contrary to BW's stated ambition to increase the accessibility and use of the waterways.

We therefore welcome this opportunity to comment on the results so far of the tendering trial and on alternative options for future allocation of moorings. We contend that the commercial arguments for a tendering system are false in the absence of a free market and that the social effects are damaging to the future of the waterways. We conclude that there should be a return to a fixed price system, with waiting lists reinstated but more rigorously updated, and with the website technology adapted to advertise those vacancies where there are no waiting lists or no takers from the list.

Moorings Market.

BW say they directly control only 15% of long-term moorings, largely along the towpaths, plus a further 7% end-of-garden sites, but through their subsidiary BWML they also control marinas providing a further 8% of all moorings, a total of 30%. However, through leases, access agreements, profit sharing arrangements and other commercial levers they exercise an overall control on the operation and pricing of all the other private sector moorings. The only moorings truly independent of BW are those on the connected non-BW waterways.

There is also a shortage of approved moorings in many parts of the country, due to planning restrictions, land prices or lack of investment. Although to some extent this is now being tackled through encouragement of new marinas, the current policy is to proportionally reduce by a tenth the supply of the cheaper on-line moorings, which are the subject of this consultation. The current shortfall against demand for towpath and other on-line moorings may therefore get worse as not everyone wishes to or can afford to move into marinas.

Thus, it is wholly incorrect to claim that there is a free market in moorings provision. A free market requires multiple independent suppliers and an unrestricted supply. Furthermore, BW also controls licences for all craft, and will not issue a licence without evidence of an approved mooring, or continuous cruising, and has the power to remove unlicensed craft. It therefore has an obligation to ensure that sufficient moorings are available to accommodate the number of boats that it licenses, with some extra to allow for movement and flexibility. But continuing shortages in many areas coupled with its direct and indirect control of most moorings means that BW is effectively in a monopoly position with regard to the requirement for and provision of moorings for the majority of boats on their waterways.

In these circumstances the arguments advanced in the consultation document about avoiding unfair competition and needing to establish and follow market prices are entirely spurious. The only

controls on the exercise of BW's monopoly are the willingness of boaters to pay the prevailing level of charges and if they are not satisfied the only recourse they have are the drastic steps of moving away or selling up.

Section 3 of the consultation is predicated on the mistaken belief that there is a market rate out there somewhere that BW must identify and not undercut. The reality is that there is no free market and BW effectively controls the prevailing rate. The definition of market price as equating demand with supply is relevant only in a free market with no limits on supply, but that has not been, is not, and is unlikely to be the case in the near future with moorings.

It is clear that the real motivation for the tendering trial was to force up mooring prices and the statement that "The motive for introducing the tendering trial for allocation of vacancies was to generate information to help us estimate the market price" is about as convincing as the Japanese whalers claim that their motivation is to obtain scientific data and not whale meat.

In any case, running the waterways is not a business in the normal sense of making money and satisfying shareholders. The waterways are a national environmental, social and recreational asset akin to a national park which needs to be administered for the public benefit and not just financially exploited.

Abuse of Monopoly.

It appears to many people that BW have deliberately set out to exploit their monopoly position by raising prices of both licences and moorings by fair means or foul until there is evidence of a reduction in boat numbers offsetting their increased income. This is perhaps not surprising given the severe funding pressures they are now under due to the significantly reduced Government grant, but it is fundamentally misguided. Such a narrowly targeted financial response threatens to undermine many of the hard-won public benefits of recent years, resulting in social exclusion, exclusivity and a damaging perception of boating as a rich man's pastime, leading to a diminution of public and political support for the waterways and even less financial support.

BW's stated vision is to expand the network and increase its use and appreciation, but this is being undermined by their own actions in simultaneously imposing excessive increases in licence fees and by attempting to increase mooring fees through the introduction of competitive tendering. This is being further exacerbated by the imminent major increase in fuel costs and by the current general economic downturn.

The 'independent review' on which this misguided policy appears to be based is too narrow a view of BW's responsibilities to be allowed to distort its priorities in this way. Applying free market principles does not lead to sensible decisions in the absence of a free market. It may be that the best way of finding out what consumers are willing to pay would be to auction everything off to the highest bidders, but we don't sell groceries or insurance or car parking spaces that way. People expect providers of most goods and services to set fixed prices. That is how it works. We are not operating in some middle-eastern bazaar. Auctions are limited to rare things; works of art, antiques or unusual properties, and closed bid tendering is an even less common form of selling. The whole process is unfamiliar and unwelcome to most people and it is no surprise that it has been widely shunned and the number of bids has been generally much lower than the assumed level of demand.

The fact that BW is now, belatedly, undertaking such a comprehensive consultation about alternatives is an indication that the tendering system has failed to function as expected, which is no surprise, given the restricted and faulty market analysis on which it is now revealed to have been based.

Modified Tendering System.

The two suggested modifications to the tendering system are sticking plasters that would not heal a fundamentally unhealthy system. Reducing the vacancy advertising period might reduce occupancy gaps where there is strong demand but in most cases is likely to reduce the number of bids because of people not being aware of the vacancy in time or not having sufficient time to visit the site or respond. The tendering system already suffers widely from low numbers of bids and any further reduction would result in many more moorings not being let, with losses that would greatly outweigh any savings from a few moorings having shorter periods unoccupied. A much better solution would be to identify impending vacancies earlier, offer them to waiting list candidates before they are vacated, and prepare advertising details more quickly.

The other suggestion of a rebate on the top price offered is bizarre. The occurrence of some highly inflated offers is a function of the secrecy of the bidding system, inadequate price comparison information available to bidders, and a few people with more money than sense willing to pay anything to get what they want. BW is clearly embarrassed by these anomalies if it would be willing to forego the consequent windfall profit to give the impression of a better balanced system by artificially capping the price. This completely undermines the argument that market forces will set the right price.

Open Auction System.

Moving to an open auction system may have marginal advantages over tendering in that it would remove one of the barriers to participation; uncertainty as to what to bid. Boaters do not generally have access to sufficient information on prices of comparable moorings with similar facilities or in the same area. It is only BW and the larger private marina providers that have the information on which to base a competitive price. If BW's contention in justifying the system is that they need more information, then how can they expect individuals to be able to estimate appropriate fees? But whilst an open auction may encourage more bids and with a lesser spread of prices, resulting in fewer anomalously high or low outcomes, it would do nothing to address the fundamental issues of acceptability, fairness, social exclusion and public support. BW can not run the waterways themselves with the same commercial selfishness that it runs its non-heritage property investments.

Social Exclusion.

BW has previously dismissed arguments about fairness and social exclusion but they can no longer ignore the extent and strength of feeling about this as the feedback recorded in the appendices overwhelmingly demonstrates. There is a dichotomy between BW's commercial property operations which are there purely for financial support and their main function of maintaining and improving a national linear park for its heritage, amenity, recreation, wildlife, tourism and regeneration benefits. There seems to have been an inappropriate spill-over of hard-headed commercial business attitudes into what was the more customer focused area of providing the necessary facilities for boats at affordable prices in the best overall interests of the waterways. BW does have social responsibilities and needs to recognise these or it will forfeit much of the goodwill that it has earned in recent years, and without customer goodwill no business can prosper.

The age profile of boat owners and to some extent hirers is already heavily skewed towards the over 50s with a high proportion of retired people. Increasing costs well ahead of inflation will discourage take-up and continuation of boating in all groups but particularly impacts on those on fixed or limited incomes. There has been a healthy increase in boat numbers in recent years but the combined financial pressures of the general economic recession, impending diesel fuel tax rises, excessive licence fee increases and now the overpricing of moorings through tendering together threaten to reverse this growth. Boating customers rightly carry a significant part of the costs of

running the waterways but it is becoming disproportionate especially considering that the much larger numbers of towpath walkers, cyclists, anglers, and those that benefit from drainage and enhanced property values contribute nothing directly.

Auctioning off moorings to the wealthiest customers and using these inflated bids to force up prices generally will make boating more exclusive and less attractive to retired people on fixed pensions, but also to young people with limited resources and families with other demands on their income. There is already a perception amongst some that boating is a rich persons sport and reinforcing that can only give politicians more excuse to further limit support for the waterways from the public purse. That is not a viable way forward, indeed we need to go in the opposite direction and encourage greater participation through lower cost boating options. The continuing availability of moorings with basic facilities at lower cost is an essential counterpoint to the profusion of luxuriously appointed new marinas with premium prices.

Waiting Lists.

Many customers rightly feel aggrieved by the suspension, and effectively the abolition, of waiting lists. Having been patiently waiting their turn, in some cases for years, for the opportunity to move to a mooring location that suits their particular circumstances they then find that the next vacancy is allocated to somebody else on the basis of their being more wealthy. This sense of grievance comes through strongly in the earlier feedback and must become the driver for a fairer system.

It is appreciated that there are problems with waiting lists. Some people remain on a list long after they have found another mooring, moved to a different area, sold their boat, or even died ! Also, people can be on several lists, quite legitimately if there are several mooring sites in an area that would fit their requirements and they are happy to take the first that becomes available. Other people on waiting lists already have a mooring but would like to move to another site if it becomes available. Another factor which limits the take-up of moorings when offered to people on the list is the length of the available space, which needs to be both no shorter than and, for economy, not much longer than their boat. All these factors mean that the number of boats apparently on waiting lists for many sites is much bigger than the actual demand and that the overall shortfall of moorings is therefore very much less than the aggregate of all the lists.

Misunderstanding, or wilful misinterpretation, of this situation leads to the claim in the consultation document that “The existence of the waiting list was evidence of potential excess demand and ... evidence that the published price was below the market price.” This is fundamentally wrong. The existence of a waiting list proves no such thing since excess demand is often more apparent than real, and even where there is a shortfall the concept of a market price is illusory in the absence of a free market, as explained above.

The answer to these issues is not to abolish waiting lists but to maintain them better and to make them more intelligent. The lists should be centrally co-ordinated, be regularly updated, and include all relevant information. People on the list should be required to reconfirm their status every 6 months or be removed, should be allowed to be on no more than 3 lists at any one time, and the length of mooring and any facilities restrictions that may cause them to turn down particular spaces should be recorded. If they reject an offer on price that otherwise meets their recorded requirements, or fail to respond, this should be logged and after 3 such rejections or non-responses, on any of their lists, they should be removed from all those lists. This more rigorous administration of waiting lists would soon eliminate any unnecessary lists and for those remaining it would reduce the apparent mismatch between supply and demand and allow a more reliable estimate of any real shortfall to help inform the setting of appropriate prices.

Only if, and when, all those on a waiting list decline the offer, should a vacancy be publicly advertised for sale. At that stage the fixed price being asked may need to be reviewed and possibly reduced to take account of the limited interest shown by the most likely customers at the previous set price. Feedback in terms of the number of offers then received will inform future price setting. If no offers are received it will require either a time extension or a further price reduction to achieve a sale, whereas multiple responses may justify a higher price for a similar vacancy in future.

Website Advertising.

Leaving aside the principle of blind tendering, the website based computerised system for advertising mooring vacancies does have a number of good features. For those with broadband internet, it is easy to access and easy to use and provides comprehensive detailed information on the mooring sites which is readily kept up-to-date. The photographs help give a good feel for the location, although everybody should be advised to visit the particular site before making an offer. As a way of advertising vacancies more widely it is a well designed and effective system, and with internet use continually growing it provides a very good way of disseminating all the relevant information. Of course, as not everybody has internet access, particularly when cruising, it is essential to have the alternative postal notification system which has also been provided.

If the tendering part of the system were replaced by a fixed price contract then the bulk of the software development could continue to be beneficially used.

However, one aspect that needs improvement if it is retained is the treatment of multiple vacancies of the same length at the same site. At present these are advertised separately which causes all sorts of problems; for BW in timing their release, and for users a dilemma about needing to make multiple applications for the same requirement. The solution, surely, is to modify the system to show the number of identical vacancies available under the one entry and to allocate them to that number of applicants. In other words, 2 identical vacancies would go to the 2 highest bidders or, if our recommendation is followed, to the first 2 applicants at the fixed price.

To give postal applicants a fair chance against speedier internet bidders with a first come, first served system it may be necessary to set a date for bid assessment and if more valid bids are received than the number of vacancies then to use some kind of random selection process as suggested.

Conclusions.

We have examined the commercial arguments for a tendering system for moorings and found them to be based on false assumptions and assertions. There is no free market in the provision of this basic boating requirement and can never be whilst the main navigation authority both directly controls a third of the provision and indirectly controls most of the remainder. We concur with the overwhelming opinion of users that abandonment of waiting lists and introduction of competitive tendering is unfair and unjust and the social effects are damaging to the future of the waterways. We argue that BW has, and should recognise, its social responsibilities and achieve a better balance of these with its commercial needs. We conclude that there should be a return to a fixed price system, with waiting lists reinstated but more rigorously updated. Where there are no waiting lists, or all those on the list have declined the offer, the vacancies should then be offered on a first come, first served basis using the website technology adapted to advertise vacancies at an appropriate fixed price.

These conclusions fit with none of the pre-selected alternatives, but combine the best features of the first and last, waiting lists followed by fixed price with lottery. We are wholly opposed to continuation of the closed tender system and consider the modified tendering proposals irrational.

Whilst an open auction system would be marginally better in operation, it would have the same adverse social impacts as the tender trial.

We hope this response will assist BW in making the correct judgement about the best way forward for pricing and allocating vacancies for their directly managed moorings.

IWA Lichfield Branch
8/8/08