

## **Summary: Pre Meeting Boater's Meeting**

### **Kanda: from Kennet and Avon Canal**

<http://kanda.boatingcommunity.org.uk/>

### **Lobby different groups of people:**

**Boating organisations:** eg RBOA (can join, they will help your case). They can give legal help. (eg. Section 8 and Enforcement Issues)

**Travellers Associations/Squatters:** have a lot of information - Travellers Advice Team (based in Birmingham)

**Different Local Authorities:** The boat community is self-sufficient. It is less reliant on benefits than other parts of the community. This is why Local Authorities will be more inclined to support them (because they don't want people on benefits).

**Housing Officers/Heads of Housing and Equality:** Issues of Education and Equality are the council's business.

### **MPs/Local councillors**

**Churches/Religious leaders/ Parish Councillors:** we found them very supportive.

**Local Schools:** Try to emphasise the impact these proposals will have on the children who are at school. If you try to comply with these new regulations, then you will have to take your children out of school. They would be horrified if they knew that your children had to leave school to comply with the new proposals.

**Environmental Groups:** More moving means a lot more pollution and a lot of water wastage as boats go through the locks. This will be a problem particularly in summer. Local groups may be interested in supporting us.

**Steering Groups:** Try to get on them

### **Laws:**

BW has statutory law but they are just not using it. This is irresponsible.

**BW Act 1995:** The new proposals will also violate section 8. By implementing the new proposals BW are setting conditions above the conditions outlined in the BW Act 1995.

**K Rules (spelling???)**: states the BW Act 1995 is a private not public Act. This means that any interpretation must be done to favour the voter and not BW.

**Human Rights Act:** states that we all have – respect for one's home, right to education, right to peaceful enjoyment of one's possessions (ie. No harassment from BW).

**Housing Act - Section 225:** states that they must assess the needs of travellers for accommodation.

**Equalities Act:** means that public authorities (or public bodies???) are bound by this act. It means that they have to carry out an Equality Assessment and this must also include human rights. We have got guidance about how to carry out an Equality Assessment.

**???** Act 1986: This states what **should be** included in a consultation.

**The Freedom of Information Act:** can request information from certain people, such as correspondence between them and BW.

### **Nick – Lawyer**

This is when a public sector has behaved unlawfully. A Judicial Review is basically asking the judge to stop the process.

You could issue a Judicial Review based on:

The proposals are riddled with Human Rights issues.

The lack of time – warning about the consultation and the length of the consultation

The language used in the consultation suggests it is a ‘done deal’

The consultation therefore does not follow the 1986 Act of how a consultation should be conducted

Article 8 (BW Act 1995)

The reasons for developing the proposals suggest there is a problem, when there isn’t a problem. Or problems mentioned are not addressed by the proposals.

### **Proposals:**

1. Form one cohesive group (name to be decided at a later point)
2. Attend the Tuesday meeting and put our points forward regarding everything we have discussed in the meeting. Discuss after the Tuesday meeting if people want to serve a Judicial Review at the Wednesday meeting
- 3.

### **Pre Consultation Boater’s Meeting**

**26<sup>th</sup> February 2011**

**St Michael and All Angels Church Hall. Lavender Grove. London E8.**

Panda from the Kennet and Avon canal has come to explain what they did at this stage of the process. We had consultation on local mooring strategies. You can find this on our own website. <http://kanda.boatingcommunity.org.uk>

My advice to you is “NEVER GIVE UP”.

Firstly, we started lobbying people and started making alliances with different groups. RBOA, NAAB (spelling??) It might be useful for a few people to join these organisations – to get help fighting your own case. If you are a member you are entitled to go to all their meetings. They are quite conservative in some ways, but they will be in agreement with what you want.

RBOA – got legal advice from barristers. They said it would be illegal for BW to enforce the Continuous Cruising guidelines. That is an example of how RBOA can help. Section 8 and Enforcement issues.

Secondly, we got advice from housing offices, local authorities. We had meetings with parish councils who we thought were working with BW to get rid of some of the boaters. We managed to change their opinions. We also lobbied local MPs. Contact your local councillors, also the Heads of Equality and Housing, speak to council staff on Equality and Housing. Contact different authorities.

The case we put forward was that WE ARE OBEYING THE LAW. BW 1995 Act says that we are allowed to cruise. The important thing is that if you are law abiding boaters, we are using our rights within the law. The new proposals are not within the law and they were threatening to terminate licences, for people who were not on a progressive journey.

### **The proposals in the consultation**

There are other elements of the law which you need to know.

One obscure law – K Rules (spelling???) states that the BW Act is private not public – means that any interpretation must be done to favour the voter and not BW.

It is legal to live on your boat.

The choice for many people was staying on the boat **or** staying in our jobs or schools and near our health care.

If the choice is that you will become homeless – this is a cost to the local council that they will want to avoid.

If people stay on their boats but can't comply (section 8) BW say that they can terminate your licence. If you get section 8 – you lose your job, home, etc. This is disproportionate reaction for a set of rules that are not justified in the first place.

Human Rights Act states that we all have – respect for one's home, right to education, right to peaceful enjoyment of one's possessions (ie. No harassment from BW).

We also pointed out to Local Authorities that people who lived on boats could look at Section 225 of the Housing Act – which states that they must assess the needs of travellers for accommodation. We made the case that our needs were for BW to stop harassing us and stay within the law. Wiltshire and Bath – have not included boaters in their new Housing Act policies, we are contesting this.

BW does not enforce the rules that are already in place. These rules are also enforced inconsistently. They say this is because it is not financially viable to enforce the 14 day rule, they do not have the finances to do this.

It is irresponsible for BW NOT to use the statutory power that is available to them.

River Lee proposal – it has a disproportionate effect on people who don't have a mooring. The Equalities Act, means that public authorities are bound by this act. It means that they have to carry

out an Equality Assessment and this must also include human rights. We have got guidance about how to carry out an Equality Assessment.

The new proposals will also violate section 8. By implementing the new proposals BW are setting conditions above the conditions outlined in the BW Act 1995.

The boat community is self-sufficient. It is less reliant on benefits that other parts of the community. This is why Local Authorities will be more inclined to support them (because they don't want them on benefits).

Try to emphasise the impact these proposals will have on the children who are at school. If you try to comply with these new regulations, then you will have to take your children out of school.

That is who we lobbied and what we said. This is situation in Kennet and Avon is still on-going. Not sure if you have Parish councillors in London. Parish Councillors are an extension of local government in rural areas. It is important to lobby churches – we have had support from these. Also the primary schools were supportive, they would be horrified if they knew that your children had to leave school to comply with the new proposals.

### **The timescale in Kennet and Avon**

June 2009 - about 150 boaters received letters threatening the termination of their licences.

July 2009 – first boaters meeting.

November 2009 - First consultation

For about 1½ years ago most people thought it was best to keep their heads down – this was the attitude, people were afraid of fighting back as they weren't sure what the consequences would be. Now that's all changed – people realise that it is important to fight back, meetings can supply a lot of information. Between us as a group we found out a lot of information.

Consultation – we spent a lot of time going through it. We had two meetings – a lot of people filled in the response forms. We collected them and sent them to BW. You must write stuff in your own words, as responses can be dismissed if they are identical. Get as many other people to respond, family members, can also support, giving reasons why they are not happy that you are in the situation you are in.

We really want to share what we did, to help train other people and assist in the best was possible.

Question: What is the outcome?

It is still on-going – as a result of the consultations – we responded to the consultations – we went to the council had various meetings with them. Wiltshire council was not at all happy with what BW was doing with the proposals. When it comes to issues such as Equality and Education it is the council's business.

The meetings had a variety of different boaters, they decided that BW **had** statutory power but they were not just not using it.

Steering groups – it was a fight for live-aboards to get onto the group. Initially BW said that they would be included then they decided not to include them. Eventually I was asked to go on the panel and we ended up with two representatives on the steering group. There was also the RBOA representative and Nick from (?) organisation. Most members were saying the same things.

Initially the meetings were full of conflict mainly because it was chaired by Sally Ash who wanted to force through the proposals.

One of the turning points in the process happened when one person proposed how BW could solve the problem (even though we didn't agree with the problem!). He made a presentation on how BW could use existing legislation to enforce the 14 day law. Some of the ideas were good.

We could still be in the situation where we need to take more action.

It is also important to work with Travellers Associations and squatters.

You can read the minutes in the last few meetings we've had from our website.

Being organised is really important. Have a big team – people have different skills – make sure there are enough people available to go to council meetings. Some people may be able to put up websites. Of course it is really important to keep communication open.

Direct Action – occupying BW headquarters!!

Nick will talk about the legal aspects.

If individual voters are facing any legal action – the Travellers Advice Team (based in Birmingham) may be able to help.

### **Nick - Lawyer**

We've been working on a lot of stuff – hopefully it will be helpful. This is your fight, we can support, but this really must come from you. If I stood up and said something on your behalf, it wouldn't have the same impact.

**Judicial Review** – it is a difficult subject.

This is when a public sector has behaved unlawfully. A Judicial Review is basically asking the judge to stop the process.

### **Several stages**

1. Permission stage – we request permission
2. Paper stage – normal the judge refuses at this stage
3. Hearing stage – when you explain why the court should spend time on this
4. Letter before claim – this says 'we are going to sue you unless you do something'. This gives the public sector body and opportunity to change their plans

I think it could go to Judicial Review – because of article 8.

The language used in the consultation suggests that BW have the attitude that this is what we are going to do. Because of that it could be up for Judicial Review.

Human rights – the proposals are riddled with Human Rights issues.

Consultation process is flawed because it is 'a done deal.'

Guidelines for the running of Consultations. They apply to public sector bodies. But BW says that they are not a public sector body, instead they are a quango.

An act in 1986 stated that a consultation must contain –

The policy making needs to be in the formative stages

There must be sufficient reasons for making the policy

People must be able to consider the proposals and have enough time to do this

Production of the proposals must be considered...???

In my opinion – it seems like a done deal – because this seems to have been written up in September (between Lea Valley and BW).

The Freedom of Information Act means that we could requisition documentation from Lea Valley Park. They have provided their correspondence with BW.

From this documentation we can see that Lea Valley Park and BW seem to have drafted this up last September without consultation with the wider public.

#### **BW's reasons for why the new policy is being developed**

1. Overcrowding – if there is movement BW suggest that this problem will disappear
2. Licence evasion
3. Property spilling onto the tow path
4. Overstaying – BW not using their statutory law
5. Illegal and squatted mooring – that is nothing to do with boaters (it's between BW and the landowner)
6. ????

We have not enough warning of the consultation – also the length of the consultation is not legal.

If we did issue them a Judicial Review letter on Tuesday, then they would have to go back and start the consultation process again.

In my mind, there does not seem to be a problem. No reason to develop new policies.

Once the letter is served an application for injunction is filed it at the same time.

#### **The rest of what Nick said was inaudible.**

Comment: I think issuing a Judicial Review would be a very strong intelligent opening gambit.

Comment: (from lawyer) Perhaps we should not issue a JR, they are very expensive if you lose. Perhaps we should raise the issues regarding homelessness, education and health care now. I don't

think delaying it will help. If at the next stage the consultation is not meaningful then you can take other action (Judicial Review)

Comment: But this consultation is not lawful. It does not comply with any of the guidelines set out by the Government. (There is a copy of this code of conduct on BW's own website, which they have said they followed).

Comment: Can we go to the first meeting consult and give them the reasonable points of view.

Comment: The timescale was very short. February 18<sup>th</sup> the information came out on BW's website. April 1<sup>st</sup> is when the consultation ends. This is not legal.

Comment: It seems BW is under pressure to clear all the boaters out of the Olympic zone.

Comment: Delaying the consultation it would put them under great pressure as they do not have a lot of staff.

Comment: We could be reasonable at the first meeting and serve the JR in the second meeting.

Comment: I have no faith in the consultation, I think it is a sham, we should go in all guns blazing.

Comment: We have to think about how we are being perceived. It think it is best not to slap them with a Judicial Review straight away.

Comment: Issuing a Judicial Review does not have to be seen as negative. It will allow people extra time to organise themselves and consult legal advice, so it could be seen as a positive act.

Comment: We all need to write our own stories and views and we need to do a lot of work from now until the meeting.

Comment: There are around 2,000 boats coming for the Olympics, we can choose to help them manage it.

Comment: Why are BW picking on Continuous Cruisers?

Comment: It is because BW have nothing to do with housing, they focus on tourists.

Comment: There is a huge pressure on BW to sort out something for the Olympics.

### **Proposals:**

1. Form one cohesive group (name to be decided at a later point)
2. Attend the Tuesday meeting and put our points forward regarding everything we have discussed in the meeting. Discuss after the Tuesday meeting if people want to serve a Judicial Review at the Wednesday meeting.

Both proposals agreed.