

Basingstoke Canal Joint Management Committee – 18 November 2020**PROCEDURAL MATTERS – PUBLIC QUESTIONS****1. Question submitted by Stuart Lanceman**

I would like the garden license of 12 and 14 Paxton Gardens re-examined as I think a mistake has been made, resulting in me losing about two thirds of my canal frontage.

The problem is the garden licenses go down to a bend in the canal. I always thought I had a garden license that was at an angle which would reflect a reasonable amount of access to the canal in relation to my house/garden width, something which I thought I'd always enjoyed over the last 36 years of residency.

If the garden license for number 14 is deemed to be correct I would lose practically all usable access.

Therefore, I would like both garden licenses to be rewritten to give us a fair amount of land each. I also wonder why I was not consulted when number 14 was granted this licence considering the effect on my enjoyment of the garden. Also the fact that the canal ranger does not think that the new seven foot high fence is not on canal land is quite bizarre, seeing as my garden runs longer than next doors, see land registry SY433095, putting at least two fence lengths of new fence on canal land.

Reply:

Garden licences have been offered to residents adjoining land on the non-towpath side of the Canal since the Canal was purchased by both County Councils in the mid-1970s, and are a hang-over from the way previous private owners managed the Canal.

The County Councils own the Canal for public access under the provisions of the National Parks & Access to the Countryside Act 1949 giving the public the right to wander on foot over the land for quiet recreation. Garden licences give a right to carryout normal garden activities on the land, but offers no form of exclusive possession, tenancy or other right of occupation and are subject to the public's rights. From a technical perspective there is no problem with two garden licences overlapping as they do not offer exclusive possession, although it would not be normal to offer licences on such terms.

Garden Licences have been offered by both owners under varying terms and conditions over the years and are currently administered by the Property Departments in both owning County Councils. Officers have been discussing whether it would be more appropriate for the BCA to administer garden licences for the Canal, due to less resource being available in the both Property teams and a desire to consolidate the widely varying terms of licences issued over a 40 year period. Agreement to do this has been reached in principle, however, a number of technical legal issues have been raised around the issue of such licences and advice is currently being sought from HCC's Legal Service. A paper will be brought to this Committee at a future meeting for consideration once that advice is received. Currently no further garden licences are being issued pending this more comprehensive review.

Some iterations of garden licence terms currently permit licensees to fence against neighbouring properties allowing an unlocked gate or gap for public and staff access, whilst others do not include this provision. The SCC Canal owned land adjoining Paxton Gardens is not a regular shape – there is a difference of opinion between the questioner and his neighbour over the extent of the neighbours' boundary fencing and whether this extends

onto SCC land. This has been examined informally from a distance but will be examined more thoroughly once Covid-19 related restrictions on staff entering private premises for all but essential maintenance purposes lift, separately from the review of garden licences.

There is no obligation for the County Councils to issue any garden licence, nor is there any right to a specific view.

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