

## **Draft DCO hearing 13 Feb 2019 – Lowestoft Cruising Club**

### **Introduction**

Could I just say that having spent my working life reading and writing scientific papers I can appreciate the task we all have in endeavouring to assimilate the contents of well over 300 detailed documents. While scanning these documents, if I have got my facts wrong, or I have misinterpreted the legal language, or missed a critical revision, do feel free to correct me!

### **Agenda item 4 Articles. b) Article 20.**

We have consistently objected to the applicant's provision in the draft DCO of wide powers to suspend navigation during the construction of the new bridge. We have noted the change in Article 20 with respect to a minimum of a three month notice of closure. This will help Lowestoft Cruising Club members make plans to mitigate the disruption caused by the closure. However, a predicted worst case scenario of a three week summer closure still remains an option, and yet there is nothing in Article 20 that sets a maximum closure time – there is no backstop. Any substantial closure will have a significant adverse impact on the activities of the Lowestoft Cruising Club, and all those marine businesses and boat owners occupying the 400 berths at the western end of Lake Lothing. As I have discussed before, the negative impact of the closure period extends well before and after the actual closure. The Applicant's contractor, BAM Nuttal, is unable at present to determine the duration or seasonal timing of the closure.

In an email dated 28 January to the Inspectorate, we have requested the addition of a paragraph to Article 20 that allows for compensation for the suspension of the public right of navigation, in a similar manner to that accorded to private rights of navigation in Articles 32 and 33. We have not yet noted a response from the Applicants.

If you wish I could read out the paragraph for the benefit of those attending this meeting?

[Article 20. (8). Any person or body (including private members clubs) who suffers loss (including loss of use, loss of access to the sea and loss of income) as a result of interruption to the right of navigation under this article shall be entitled to be paid

compensation by the undertaker, to be determined in case of dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act and all costs incurred in such determination shall be paid by the undertaker.]

**Agenda item 4 Articles. d) Any other matters relating to the Articles.**

We would like to raise two issues, both of which I communicated to the Inspectorate in an email dated 28 January, and both issues have coincidentally been independently commented upon by the Harbour Authority ABP. The two issues are:-

1. The variation or replacement of the **Scheme of Operation** for the new bridge, and
2. The future role of the **Navigation Working Group**.

I am going to discuss these two issues together, as they are closely intertwined.

The implementation of the **Scheme of Operation** for the new bridge is laid out in Part 4. Operational Provisions, **Article 40**, Page 33 and Schedule 14 of the draft DCO, and detailed in Document REP3-033 Scheme of Operation for the new bridge.

The future role of the **Navigation Working Group** is defined in the draft DCO in Part 1 Preliminary. Interpretation. Page 8.

I quote : ““the Navigation Working Group” means the group consulted by the undertaker in relation to its preparation of the preliminary navigation risk assessment and maintained by the undertaker following this Order coming into force for the purposes of article 40 and Schedule 2, as its membership may from time to time be varied by the undertaker;”

Please note there is no direct reference in this interpretation to the Scheme of Operation, only the Navigation Risk Assessment, though I assume the reference to Article 40 is sufficient.

It is clear from recent documentation from ABP that the Harbour Authority has misgivings about the role of the Navigation Working Group, particularly in relation to the Scheme of Operation, and the Navigation Risk Assessment.

The Lowestoft Cruising Club has found the Navigation Working Group to be a valuable means of communication with the Applicants, ABP, and other maritime interests in Lake Lothing. The three meetings held so far have been constructive and informative for all participants, and we have discussed both the Scheme of Operation and the Navigation Risk Assessment. However, Lowestoft Cruising Club has raised the issue of the future role of the Navigation Working Group and its membership. Like ABP, we are unclear to what extent the Navigation Working Group can fully influence the Scheme of Operation. It should be noted that the Applicant has specifically excluded the use of arbitration (Article 59), should there be any disagreements about the Scheme of Operation.

ABP consider that their obligation as the Harbour Authority to consult stakeholders on a regular basis provides the basis for future discussions on bridge operations. Lowestoft Cruising Club participates in the Harbour Stakeholders meetings, which in the past have been on an annual basis. The future operation of the new bridge will require a process of learning by experience as procedures are adopted to ensure the smooth and safe running of the harbour and the road infrastructure. Initially more frequent consultation meetings will be required.

Lowestoft Cruising Club was pleased to see that the Scheme of Operation mirrors that of the opening times of the existing bascule bridge. Clearly flexibility will be required to coordinate the openings of the two bridges to cope with the various scenarios of vessel combinations, while minimising the disruption to road traffic. Lowestoft Cruising Club members also drive cars and are subject to the traffic delays that bridge openings create. We appreciate both sides of the debate about reducing the impact of bridge openings on road traffic, while maintaining the commercial and recreational activities of the harbour users.

Lowestoft Cruising Club is happy to cooperate and participate in both the Navigation Working Group and the Harbour Authority Stakeholders meetings. Our main concern is that the draft DCO provides us with a full and meaningful opportunity to represent the interests of our members in future discussions on the operation of the new bridge. I am not convinced that that objective is fulfilled by the current draft DCO.