

Cabinet Member Briefing

Leisure Directorate – Overview and Scrutiny
Committee briefing paper – South Dock Marina
Fees and Charges

June 2019

Background

South Dock Marina (SDM) consists of South dock, Greenland dock and the St Georges Wharf boatyard. The docks were converted to a marina and boatyard between 1988 and 1990 by the London Docks Development Corporation (LDDC). The LDDC had a finite life and closed in 1997. Prior to closure all the Urban Development Corporations were required to dispose of their assets either on the open market or transfer to local authorities or special purpose vehicles. The LDDC transferred its assets in Southwark to the council in 1996/1997 including ownership and operational management of SDM.

The marina has 200 berths on floating pontoon jetties 65% (130) of which currently have planning permission to be used for residential purposes. The remaining 70 berths are currently classed as leisure berths. Residential berths may be used for leisure or residential purposes with only 93 currently being used as full time residences. Boats used as a primary residence also pay council tax.

Physical berths are not designated as residential or leisure, that is defined by the licence issued to occupy a particular berth. Differences between Residential and Leisure berths are;

A residential licence permits the licence holder to:

- Live aboard 365 days per year.
- Use the boat and marina as a primary home.
- Use the marina as a mail address.
- Rent their vessel out as agreed with the marina office.

A leisure licence permits the licence holder to:

- Use the vessel all year round.
- Spend a maximum of 90 nights per year on the vessel.

Fees and Charges Setting Process

The Fairer Future Budget Principles are:

- At a time of unprecedented cuts imposed by central government, the budget will continue to prioritise the promises we made in the Fairer Future council plan and will seek to protect services for the most vulnerable.
- We will keep any council tax increase at or below inflation and take into consideration the wider impact of austerity measures on residents and public services in Southwark.
- We will be responsible guardians of public finances and plan ahead by developing a three year balanced budget supported by prudent use of reserves.

The generation of income from fees and charges is an important part of the delivery against the principles above. In relation to the setting of fees and charges the Council's Medium Term Resources Strategy requirements are:

- To maximise external funding opportunities whilst ensuring the continuance of and further investment in key priorities.
- To maximise the council's income generation by seeking income streams in line with council policies and priorities.

- To review discretionary fees and charges annually, and to increase to a level, at a minimum, that is equal to the most appropriate London average (e.g. inner London, family, groupings etc.) except where this conflicts with council policy, would lead to adverse revenue implications or would impact adversely on vulnerable clients.

Fee increases are considered annually in line with the above, with benchmarking information from the nearest comparator and in light of the council's overall budgetary situation.

The British Waterways Marinas Ltd (BWML) at Limehouse and Poplar docks have been used as the primary bench mark as they are the only other marinas in this area with planning permission for residential vessels – this is in line with the MTRS which requires benchmarking with the nearest comparator.

The council is not required to undertake extra public consultation on fees and charges, save that fees are considered annually by cabinet and council assembly and the process is a public one, with the reports published online.

Officers acknowledge concerns raised by berth holders around the annual fee setting process and that they would like to receive greater consultation and certainty around longer term of costs.

Scrutiny of Fees in 2015

In 2014 a decision was taken to have zero increase on berth fees. In 2015 there was a increase in fees based upon benchmarking and the council's budgetary situation and a restructuring of the pricing mechanism was proposed to provide a more understandable framework for the future. A four year discount scheme was implemented for existing berth holders to bring them up to the new rate over the four year period. The fees and charges were subsequently called in by OSC.

Recommendations from OSC

Considerable attention was given in addressing the recommendations put forward by the Overview and Scrutiny Committee (OSC) in September 2015, including seeking of legal advice and a series of engagement meetings held with members of the Berth holders Association. The recommendations from the OSC in 2015 were as follows:

1. *That the cabinet member seeks legal advice to ensure that no breach in competition law has taken place as a result that this decision has been made.*
2. *That the cabinet member gives consideration to a short delay in the implementation of the decision, to allow time for further consultation on the bench marking exercise, to involve the berth holders with a possibility of reviewing the level of charges including looking at another model which covers costs and creates a surplus.*
3. *That the cabinet member publishes the impact assessment and provide the berth holders with all information that has been requested about the process of reaching this decision as appropriate.*
4. *That the cabinet member ensures that the appropriate officers from the housing department are involved in the reengagement.*

The record of decision (Appendix 1) explains how each of these recommendations was addressed at the time. With regards to recommendation 4 a senior housing officer was involved in one of the engagement meetings and at that meeting it became clear that housing colleagues could not contribute anything to the benchmarking process.

At the engagement meetings with the berth holders an alternative pricing model based on cost-plus recovery was proposed; however no formal proposal or alternative pricing model was provided by the berth holders association.

Fees and charges 2019/20 at SDM

In 2019, the berthing fees were increased by 3.2% on residential berths: an inflationary rise based on the Consumer Price Index (CPI). At the same time, fees were increased by 21% on leisure berths to bring them into line with the residential fee, reflecting the similar level of services provided for both types of berth-holding.

The IDM of 2015 introduced a decreasing discount scheme for existing berth holders who held a berthing licence prior to December 2015. The 2015 fee increase was planned to be effective from the first of 1 Apr 15 but was not implemented until 1 Dec 15. The discount given was 15% in year 1 (2015/16), 10% in year 2 (2016/17), 6% in year 3 (2017/18) and 4% in year 4 (2018/19).

The expiry of that discount scheme on 31 March 2019 adds a further 4% to the fees, and therefore in reality fees have increased by 7.2% for residential and 25% for leisure licences for those berth holders who previously received the discount.

A number of concerns have been raised by some berth holders in response to the increase in berthing fees. Responses to these concerns are below:

Concerns with regards to legalities of setting of Fees and Charges at SDM

The legality of the council's actions relating to fees and charging at SDM; specific to Section 3 (3) and section 4 (2) of the Localism Act 2011 as well as the Local Government Act 2003 was discussed at length during the engagement exercise of 2015/16. Further clarification from legal services in 2019 has been received in order for officers to respond to recent concerns raised by berth holders.

The council delivers a number of services, some statutory and some not statutory – the non statutory services must remain viable and are often required to cover their costs – sometimes the true costs of the service are not contained within the immediate budget of the service but are carried across a larger budgetary area. SDM budgets are based upon a cost recovery model. The cost recovery model for SDM takes into account capital investment, a proportion of divisional and council wide overheads that support the Marina and other appropriate charges.

In order to determine what fees could be fairly applied, to meet the budgetary challenges, a benchmarking process is undertaken. This uses the nearest appropriate comparators and considers the requirement of the MTRS which require us to maximise the council's income generation by seeking income streams in line with council policies and priorities and to increase discretionary fees and charges to a level, at a minimum, that is equal to the most appropriate London average. This is not at odds with the cost recovery model or with the council's approach to budget setting but is a factor taken into account when setting the charges. The annual budget setting process, which includes the setting of fees and charges

and income targets, is reviewed by colleagues in legal and approved by Cabinet and is subject to rigorous governance and scrutiny.

Concerns of leisure license fees being raised to that of residential berth holders

Leisure users have the same access to services as residential users throughout the year. The only difference is the number of nights a leisure user can stay on board which is currently 90. This is the basis upon which the decision was made to bring fees in line. In addition the benchmarking data gathered indicated that raising fees for leisure berth holders would be appropriate.

Those notwithstanding officers are exploring the options for enabling greater flexibility for leisure berth holders and the options to expand the number of residential berths.

Prior to the increase in leisure fees, 47 (of the 70) leisure berth holders were requesting a change to residential status. Since the increase the number has increased to 57 and maybe higher because not all leisure berth holders have been in contact.

Future engagement with berth holders

A meeting was held with the berth holder association on 22nd May. At this meeting it was agreed that it would be helpful to have regular meetings to ensure that the lines of communication are kept open. Officers have set out the fee setting timetable and there is a commitment to consider a fee structure that gives some longer term certainty for berth holders. It would be helpful to have conversations about fees and income at SDM in light of considerations about the long term sustainability of the marina and boatyard. Officers would like the opportunity to engage with berth holders in the form of a project steering group to help shape and steer the next steps of the development of options on the future of the marina and boatyard.

The future of the Marina and Boatyard

The previous proposals for South Dock Marina and the boatyard which included a high rise residential development (22 stories) were dropped in 2017. The council are still in a position where this valuable land and its unique assets are under used and there is an opportunity to explore future options.

We are hoping to put together some broad options to go to Cabinet and then for public consultation later in the year where significant engagement will take place and there will be an opportunity local residents and berth holders to help shape the plans for the future of the marina and boatyard. Further to feedback from the previous scheme the council is not considering a high rise residential block as part of these options.

Appendices:

Appendix 1 Record of decision dated 2 Oct 2015.

Appendix 2 Fees and charges letter Feb 2016.