



## **Conservators of the River Cam**

### **A Paper on Business Planning**

#### **1. Introduction**

A Business Planning Working Group was appointed by the General Purposes Committee in 2020. Its work was hampered, first by the Covid emergency, and then by the retirement of Dr Walker and Professor Richards, who were, respectively, the Chair of the Conservators, and the Chair of the new Working Group. A considerable amount of work was nevertheless done in late 2020 and early 2021 to identify the problems facing the Conservancy, and to consider ways to address them.

A paper prepared by the Working Group was presented to Conservators on the 11<sup>th</sup> May 2021, in which a number of recommendations were made for the restructuring of the Conservancy. These recommendations were agreed by Conservators. Because the recommendations affected Conservancy staff, it was necessary for them to be kept confidential until they had, at least in part, been implemented.

A public announcement about the restructuring was made on the 12<sup>th</sup> October, and this paper is intended to explain the reasons behind the changes.

#### **2. The Conservancy: Functions and Governance**

The Conservancy is a navigation authority. Its primary functions therefore are to maintain the river within its jurisdiction in a navigable state, and to regulate river traffic.

The Mission Statement states that the Conservators:

- *Will maintain the River Cam between Mill Pit and Bottisham in a navigable state to suit the size and number of boats legally entitled to use this stretch of the river.*
- *Will aim to strike a balance between the needs of the various river users, and between them and riparian owners*
- *Will seek to manage the river in a manner sensitive to environmental interests, and ensure compliance with relevant legislation.*

This remains an adequate formulation of the Conservancy's primary role and responsibilities.

In addition to its primary functions, the Conservancy must exercise good governance in accordance with the statutes which govern it. The main statutory

provisions are the River Cam Navigation Act 1851 and the River Cam Conservancy Act 1922. The latter statute repealed much of the 1851 Act, but there are important provisions that continue to apply. Also, the 1922 Act incorporated many provisions of the Commissioners Clauses Act 1847 which are of significance.

The 1922 Act empowers the Conservators to make Byelaws for the better regulation of the river. The current Byelaws were made in 1996. Finally, there are increasing numbers of other general laws and regulations which now apply to the Conservancy and which need to be taken into account; for example, the Health and Safety at Work Acts, General Data Protection Regulations (GDPR), the complexities of employment legislation, and various environmental regulations.

### 3 A Summary of the Issues

#### 3.1 Income and Expenditure

A summary of Conservancy income over the past four years is shown in Table A below:

Table A

	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
	£	£	£	£
<b>Boat Registration Fees</b>	415,784	428,641	478,704	348,999
<b>Rents incl. pontoons and wayleaves</b>	96,664	83,716	60,768	79,601
<b>Event Fees</b>	13,949	10,463	11,413	1,208
<b>Contract Work</b>	2,160	4,920	42,318	40,602
<b>Consent Fees</b>	0	37,390	61,415	73,961
<b>Interest</b>	180	903	1,567	1,488
<b>Other income</b>	12,567	13,442	10,403	14,004
<b>Totals</b>	541,304	579,475	666,588	559,863
<b>Boat Licence fees as %</b>	77%	74%	72%	62%

The information is taken from the audited accounts and shows the income to General Fund. The full audited accounts can be found on the Conservancy website.

As can be seen, there is a heavy dependence on fees derived from the registration of boats. This percentage increases if other boat related income such as pontoon fees and event fees is included. Approximately 60% of boat registration fees come from commercial vessels, principally commercial punts. The Conservancy therefore depends on a narrow sector for a large proportion of its income. This presents a substantial risk to the Conservators, which manifested itself during the last financial year because of the pandemic when there was a significant reduction in the number of boats registered, in particular commercial punts and rowing craft. At the beginning of the previous financial

year (2020/21), there was considerable doubt whether any commercial punts would be registered, and it was forecast that there would be a significant loss. This loss did not materialise because the punting industry was able to commence operations, although at a reduced level, and there was a greater number of registrations than first anticipated.

The consent fees, which are earned from licences under Section 15 of the 1922 Act are volatile in the sense that they are dependent on the works which riparian landowners wish to undertake. The Conservators have recently adopted a robust policy for charging these fees, and charging for Section 15 work is now more efficient than it has been historically. The relatively high recent income, however, has mainly been due to the Chesterton Bridge project by the County Council which is near completion.

Contract income has been derived from work undertaken for the Environment Agency in recent years. As can be seen by the comparison with earlier years, the income for the last two financial years was high, and was the result of efforts by the River Manager and navigation team to fill the anticipated shortfall in income. The capacity was available, because river maintenance work was cut back to a bare minimum during the last financial year. Contract work cannot be relied upon as a regular source of income in future years.

Various other ways in which to diversify income have been explored, but there are no obvious alternative income streams. The investment of the proceeds from property sales should, however, provide an additional constant future income source.

Finally, it should be borne in mind that the Conservancy does not receive any public grant, despite the general benefit that the river, and its maintenance, provides to the City of Council, its citizens, and its visitors. It enhances the College buildings and is a major tourist attraction, helping to bring revenue into the City. The cost of maintaining the river can therefore be said to weigh unfairly on those who actually use the river, through the payment of licence fees, without any contribution from, or on behalf of the many others who benefit from it.

A summary of expenditure charged to General Fund over the past four years is as follows:

Table B

	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
	£	£	£	£
<b>Employment Costs</b>	282,692	321,017	347,287	294,095
<b>Repairs and Maintenance</b>	34,141	59,695	67,937	20,645
<b>Vehicle Costs</b>	6,264	7,479	10,082	12,882
<b>Other Running Costs</b>	27,159	51,145	65,253	46,423
<b>Legal and Professional Fees</b>	36,863	35,683	65,596	52,491
<b>Establishment and Finance</b>	32,826	27,343	38,866	33,506

<b>Total</b>	419,945	502,362	595,021	460,042
<b>Employment as % of Total</b>	67%	64%	58%	64%

First, it should be emphasised that the table only contains the operational costs charged to General Fund, and does not include capital expenditure or any provision for replacement of assets. Thus, while operational income in 2021 (£559,863) exceeded operational costs (£460,042) by £99,821, an examination of the audited accounts will show that after the loss on the pension scheme and actual capital expenditure had been taken into account, there was a deficit of £33,584 for the year.

The second point to note is that employment costs make up the most significant element of the expenditure budget. These costs include the costs of payroll, training, and HR.

Thirdly, while operational income has historically exceeded operational expenditure year on year, it has not been to a sufficient extent to build up an adequate repairs and renewals fund to meet necessary capital expenditure. Also, asset maintenance has been inadequate in the past, or simply not undertaken, because of lack of funds, leading to deterioration of plant and of the properties owned by the Conservators. This has been a long-standing problem which has never been satisfactorily addressed and has led to reserves falling to dangerously low levels. This is discussed further below.

Provision also needs to be made to meet the cost of the deficit on the pension fund, as explained below.

Finally, it should be noted that there was a considerable reduction in operational costs in the last financial year (2020/21). As stated above, at the beginning of the year it was feared that the Conservancy was faced with a considerable loss and so everything possible was done to reduce costs, including operating with a reduced staff, keeping river maintenance work to an essential minimum, and deferring any capital expenditure.

### 3.2 Assets and Liabilities

Table C: Audited Balance Sheet at 31<sup>st</sup> March 2021

	2021		2020	
	£	£	£	£
<b>Fixed Assets</b>				
Tangible Assets		858,013		916,426
<b>Current Assets</b>				
Debtors and Prepayments	94,965		106,820	
Cash at bank and in hand	<u>1,392,194</u>		<u>1,238,856</u>	
	<b><u>1,487,159</u></b>		<b><u>1,345,676</u></b>	
<b>Current Liabilities</b>				
Deferred income	95,666		74,817	

Trade Creditors	45,844	4,621
Accruals	61,388	59,204
Other Creditors	<u>13,958</u>	<u>3,147</u>
	<b><u>216,856</u></b>	<b><u>141,789</u></b>
<b>Net Current Assets</b>	<b>1,270,303</b>	<b>1,203,887</b>
<b>Net Assets Excluding Pension Scheme Liabilities</b>	<b>2,128,316</b>	<b>2,120,313</b>
Deferred Benefit Pension Scheme Liability	<u>-282,000</u>	<u>-182,000</u>
<b>Net Assets Including Pension Scheme Liabilities</b>	<b><u>1,846,316</u></b>	<b><u>1,938,313</u></b>
<b>Funds</b>		
General Fund	31,279	64,863
Capital Expenditure Fund	858,013	916,426
Repairs and Renewals Fund	207,024	207,024
Designated Investment Fund	<u>750,000</u>	<u>750,000</u>
	<b><u>1,846,316</u></b>	<b><u>1,938,313</u></b>

The Conservancy has substantial cash resources thanks to the sale of the Conservators' House at Clayhithe and the Jesus Lock House (which was sold during the current financial year). The sale proceeds of the house at Clayhithe are shown in the balance sheet as a designated investment fund. The proceeds of the sale of the Jesus Lock-house can now be added to that fund which presently stands at £1,261,895. Conservators have agreed a policy for investment, and steps are being taken to invest £1,000,000 of the available cash assets.

The pension fund liability, which is discussed further below, is charged against the General Fund in the accounts, and the amount in 2021 (£282,000) represents the liability to the pension fund while it is in being. The actuarial deficit which is payable on cessation is substantially higher.

The capital expenditure fund of £858,013 represents book value of the Conservancy's fixed assets of freehold property, the two locks, plant, equipment, motor vehicles and fixtures and fittings.

The other two funds, namely the General Fund, and the Repairs and Renewals Fund, represent the Conservancy's operational resources. These are dangerously low. In the Balance Sheet the General Fund stood at £64,863 on the 31<sup>st</sup> March 2020 (up from a nadir of £9,191 the previous year), and is now down at £31,279. The Repairs and Renewals Fund stood at £207,024, up from £50,224 in 2019 by virtue of the capital sum received from the County Council for the Chesterton Bridge and the walkway under it.

The Conservancy needs to be able to make regular transfers to the Repairs and Renewals Fund each year of an amount sufficient to meet future capital expenditure. In the last business plan, it was recommended that reserves should be £600,000 being twice the likely cost of a major capital project. In recent years this has been an aspiration, rather than reality. Reserves have been run down to a dangerously low level, and, as stated above, the Conservancy has

struggled to generate sufficient surplus over operating expenditure to replenish the Repairs and Renewals Fund. Another consequence is that there has been a tendency to cut back on asset maintenance because of lack of resources. This is illustrated by the major cost recently incurred of repairing the Berky, the Conservancy's principal workhorse. The cost of this work was approximately £125,000.

A forecast prepared by the River Manager from work done by the officers shows that, ideally, the Conservancy should be generating a surplus of about £175,000 per annum to be transferred to the Repairs and Renewals Fund. Clearly, with current income expectations, that cannot be achieved, and by not doing so, there is a clear risk to the Conservancy of asset failure because of underfunding. For example, the EA have a rolling ten year cycle for major refurbishment of its locks. The estimate for such a refurbishment is £250,000, which means that £50,000 per annum should be set aside for that purpose for the two locks. Jesus Lock is overdue such a refurbishment.

The Conservancy thus does not generate the income it really needs, and there are no alternative sources of income which are immediately apparent. While this underfunding continues, the Conservancy carries the risk of having to fall back on its investment funds to meet an emergency.

### **3.3 Pension Liability**

Historically, Conservancy staff were enrolled in the Local Government Pension Scheme (LGPS) which is a final salary scheme. More recently appointed staff have been enrolled in the National Employment Savings Trust (NEST) pension scheme. The LGPS is in deficit, and Conservators have for some time faced the problem that when the last employee who was a member retired or left, a substantial payment would become due from the Conservancy to the Scheme.

The Conservators old pension scheme is included in a similar group of quasi-public bodies termed Designated Bodies (e.g. parish councils, drainage boards etc.). This specific pool of employers has 40 separate bodies and, on average, it is in a run off phase (reaching maturity) for these bodies and has fifteen more years left.

Each Designated Body has an identifiable share of the overall scheme's assets and liabilities. There is no cross subsidy by other Designated Body's deficits. At 2nd March 2021, the Conservator's assets were valued at £1.34m and the liabilities at £1.789m giving a deficit of £449,000. The deficit is actuarially calculated, and the calculation is sensitive to underlying economic conditions and therefore fluctuates, only being crystallised when the last member leaves the scheme. There is also a high employer contribution rate.

The Conservancy has thus been facing a substantial liability which would arise on the retirement of the last member of the LGPS. This was a matter of concern to the auditors in 2020, who were only prepared to agree that the Conservancy was a "going concern", and not under threat of insolvency, because of the cash resources available from the sale of the Conservators' house at Clayhithe.

The LGPS is, however, extremely unlikely to demand immediate repayment of the full amount from employers, and recent legislation (September 2020) permits pension schemes to allow repayment of past service deficits over a reasonably period of time. The indications from the LGPS officers are that a request for deferred payment is likely to be favourably received.

### **3.4 River Maintenance**

The Conservancy is responsible for maintaining the river between the Mill Pit and Bottisham Lock, a distance of approximately 7 ½ miles (12 km), which includes two locks. In addition the Conservancy owns the Halingway which runs from Chesterton to Clayhithe. Historically, the Conservancy has carried out its own maintenance work with an employed river crew and its own plant.

While the Conservancy is responsible for a relatively short stretch of navigable waterway, it needs a higher level of maintenance than some other rivers because of the intensity of its use by a multiplicity of different craft. It is also necessary to employ a range of mechanical plant, both floating and land-based which is expensive to maintain.

The in-house maintenance system had a number of disadvantages and risks, including:

- (a) The river crew was under-resourced and could not function effectively without the River Manager working as a member of the team. The small number of available staff created problems in rostering, particularly to cover holidays, sickness, 24 hour call out, and the need for two-man working in many situations.
- (b) There was an urgent need to train up replacements.
- (c) The work demands are seasonal, which means that men and plant were under-utilised at certain times.
- (d) Management of health and safety for an operational team is onerous for a small organisation such as the Conservators, and has been a considerable issue in the past. Under the most recent River Manager, health and safety management and compliance has been brought under control. Maintaining an effective and compliant health and safety regime has a significant cost, both in terms of expense and management resources.

The cost of employing staff has increased over the years, particularly because of indirect on-costs, for example for meeting the requirements of training, and health and safety. Overall, the in-house structure for river maintenance carried some high risks and is expensive.

### **3.5 Governance and Staffing Structure**

The governing body (the Board) consists of thirteen appointed Conservators who meet quarterly. One of the Conservators is elected Chair at the January meeting. A Deputy Chair is customarily also elected, although not required by statute.

The Commissioners Clauses Act 1847 empowers the Conservators to appoint committees. At present there are two, namely the General Purposes Committee and the Regulatory Committee.

There are two statutory offices, those of Clerk and Control Officer. There are very few powers and duties of the Clerk specified in the statutes, and the role is mainly defined by the customary role of a clerk to a statutory body, in particular in convening meetings, keeping minutes and overseeing the governance of the organisation. The Control Officer is a creation of the Byelaws, and has general responsibility for managing the river and conduct of people and vessels on it.

In general, statutory powers vest in the Conservators. It is customary for powers to be delegated to the Chair, Deputy Chair and Officers annually at the January meeting. There are limitations to the extent to which powers can be delegated and these limitations were the subject of a detailed judgement of the High Court in 2014 (*Noon v Matthews and Ors*)

In 2006, the Conservators decided to appoint a "River Manager". This appointment followed the retirement of a partner in an Ely firm of solicitors who had acted as Clerk and Control Officer, and whose staff had managed the Conservancy's affairs. "River Manager" was a portfolio title embodying that of General Manager for the Conservancy to manage its affairs including maintenance of the river, as well as Clerk and Control Officer.

It has become increasingly clear that the role of River Manager is not sustainable. Frequent turnover in appointments to the role in recent years could be taken as evidence of this. The workload is considerable, and the demands can be stressful. Also, the post demands a wide range and variety of skills (quasi-legal, organisational, diplomatic, strategic, practical, and engineering). Because of the small staff, it is difficult for there to be effective delegation.

A particular problem has been to fulfil the Clerk's role, in particular the need for the officers and staff to service the Board and the Committees, by arranging the meetings, preparing agendas and papers, and writing minutes. These activities impose a significant workload, often when other demands on time are high. There are also other functions which one would associate with the role of a Clerk which are not satisfactorily fulfilled because of a lack of time and skillset among the existing staff.

#### **4 The Outsourcing Proposal**

When the last River Manager was first appointed, he was asked to explore whether it would be feasible to outsource the river maintenance. From enquiries he made of outside contractors at that time, there was no-one prepared to offer services of a range, and at a price, which made this a feasible option.

Last year, the River Manager put forward a proposal that the work at present undertaken by the Conservancy river crew be outsourced to a company which he would form, which would take on the existing river crew as its employees, and which would carry out a comprehensive schedule of work under a detailed Service Level Agreement (SLA). The contract would be "labour only", with the



contractor using the Conservancy's operational plant which would be maintained by the contractor as part of the SLA, and would operate from the Conservancy's workshop at Clayhithe.

The River Manager's proposal was given detailed consideration by the Working Group. Two alternative models were developed, one retaining the river maintenance in-house, and the other outsourcing the work as proposed by the River Manager. The Business Manager prepared five year financial forecasts for the two models which were scrutinised by the Conservators' accountants to ensure that they complied with standard accounting principles. The forecasts showed that the outsourcing model would achieve a considerable saving in costs over retaining river maintenance in-house. Quotes were sought from other contractors, to ensure that the outsourcing proposal was commercially competitive. No-one could be found prepared to undertake the range of services under the proposal, or even a limited range of services at a competitive cost.

## **5 Appointment of a Clerk**

The Working Group recommended the separate appointment of a Clerk whichever Model should be adopted, in order to ease the burden on the officers and staff. It was proposed that the role of Clerk should be a salaried but part-time role reporting to the Chair. In addition to responsibility for the management of meetings, the Clerk would be the officer principally responsible for regulatory compliance, and the management of policies and codes of practice. The role could also include producing standard contract documents for the Conservancy. The expense of employing a Clerk should be partly offset by a reduction in legal and professional expenses.

The Commissioners Clauses Act provides that the same person shall not be appointed to the office of both Clerk and Treasurer, and while there is no formal appointment of a "Treasurer", that role has in practice vested in the River Manager, and it is right that it should be separated to comply with the Act.

## **6 Consideration of the two Models**

As stated above, the forecasts showed that a significant cost saving could be achieved by adopting the outsourcing model because of the reduction in labour costs. The Working Group also carried out an exhaustive review of the merits and demerits of adopting the outsourcing proposal, including the risks involved (such as that consequent on the Conservators relinquishing any in-house capability for maintaining the river). It was recognised that a detailed service level agreement would be needed, and that it would have to be effectively managed. It was also recognised that more active participation by Conservators would be needed than has been the case in the past.

Overall, it was considered that the clear advantages of outsourcing, in particular the saving in costs, outweighed any perceived disadvantages, and the Working Group recommended that Conservators adopt the outsourcing proposal.

## **7 Decision of Conservators and Implementation**

At their meeting on the 11<sup>th</sup> May, Conservators accepted the Working Group's recommendations, namely to adopt the outsourcing proposal and the new staff structure to accompany it, and to employ a part-time Clerk. The Working Group and General Purposes Committee were authorised to implement those decisions.

On the 9<sup>th</sup> October, a Service Agreement was entered into with the new company, River and Rural Ltd. The Conservancy's workshop and yard have been leased to the company. On the same date, the River Manager ceased employment with the Conservators, as did the two navigation officers, who will both join the company. Essentially therefore, river maintenance will be carried on by the same people, using the same plant, but under a different structure.

The Service Agreement with River and Rural Ltd is a lengthy document, setting out in detail the services to be provided by the company. It provides the terms on which vessels, vehicles and equipment will be made available for use by the company, including the terms on which they can be used by the company on other contracts. The vessels, vehicles and equipment will remain the property of Conservators, but the company will be responsible for maintenance. The Conservators will be responsible for providing replacements when necessary. There are detailed provisions for oversight of the contract, and for the rectification of defective work. The Contract is intended to be long-lasting, and has a term of 20 years, with "break" provisions for termination on the 10<sup>th</sup> or 15<sup>th</sup> anniversaries.

The former Business and Operations Manager, Ms Helen Cleary, has become the senior employed officer of the Conservancy under new terms and conditions of employment, with the new job title of Chief Executive Officer. Two Licensing and Finance Officers will report to her, as will a Patrol Officer who is to be recruited, and who will fulfil the role of Control Officer and will have other duties, including the functions previously carried out by the Bailiff. A part-time Clerk will also be recruited, who will report to the Chair of the Conservators.

It was recognised that there is a need for a handover from the River Manager, in particular until the new Patrol Office and Clerk have been recruited, and a six month consultancy agreement has been entered into with Mr Tom Larnach, who will continue to fulfil the roles of Clerk and Control Officer, and also to undertake various other tasks to support the new management team until it is fully in place.

## **8 Conclusion**

The structural changes are designed to reduce costs, and increase the efficiency of the Conservancy. Budgets have been prepared which take into account the changes, and also the need to fund the payment of the pension deficit over a number of years, without spending the investment income, and to create a surplus to meet future capital costs. The registration fee increases, which are the subject of the current consultation, were the minimum considered necessary to safeguard the future of the Conservancy, and to enable it to carry out its statutory functions.

