

Appendix C4: Achieving agreements for canoeing with riparian landowners

Depending on the type of the riparian landowner, the nature of land use and its proximity to the river, various types of canoe agreements and approaches to negotiations can be suggested. Depending on the type of the owner/land occupier, a mixture of the following steps can be taken in order to secure a suitable agreement.

Step 1

In some cases it may be advisable to start the process with a public meeting to inform people about the proposal and the likely implications for different stakeholders. This can be particularly useful in cases where informal canoeing already exists, but requires regulation. However, a meeting dominated by negative comments can be extremely damaging to the chances of achieving the agreement. Thus in most cases it is advisable to start by contacting landowners individually. When first approaching a landowner it is useful where possible to contact them by telephone. Only a brief introduction is necessary at this stage to explain the nature of work and ask to speak in more detail with the most appropriate person. In some cases, that would be the owner or the manager (larger farms or smaller companies), in other cases an officer in a property division (local authorities and larger companies). Sometimes, however, the conversation ends with getting the name or a position of a person to whom to put the enquiry in writing.

Step 2

If a more detailed conversation over the phone can be achieved, this gives an opportunity to exchange information and seek further details. Ownership is not always confirmed and hence the first enquiry should be to clarify ownership and the boundaries of that ownership. If the ownership is recognised it may be then possible to learn about the general position and the attitude that the owners have. However, in some cases landowners will continue to deny that they own the riparian interests in the river (this could be based on a genuine belief about the property situation, or it could be an attempt to deny liability). Little can be done in such cases other than writing to the landowners to say that the agreement will be implemented on the assumption that the riparian owner had given verbal consent to an informal and unsigned licence.

Step 3

Write follow-up letters and depending on the result of the telephone conversation outline the enquiries and the proposals. The key points in the written communication are: confirmation of ownership, request for granting permission for canoeing, proposition of further in-person discussion of a suitable agreement, invitation to reply with any queries. A brief written version of the access offer could be sent with the letter as a means of informing the landowner of the type of agreement envisaged.

Step 4

In-person meetings mostly occur either with owners who wish to formalise an agreement, dedicate their land or have an increased involvement in the scheme or with owners who expressed certain queries and concerns related to canoeing. The concerns are often related to privacy, disturbance or liability issues. There may be a need for several meetings and exchange of information prior to the decision being achieved.

Some of these meetings could involve several landowners if the issues that they have are similar (they may, for example, be neighbours).

Step 5

Securing an agreement which is suitable for each landowner is the final stage. If the owner decides to dedicate their land, this will involve preparation and submission of dedication forms on behalf of the owner. This is done to simplify the procedure for the owners and to ensure that the documentation reaches respective local highway authorities and the Countryside Agency. All future correspondence (e.g. confirmation of dedicated land boundaries) should be directed to the owner. Regardless of the type of agreement achieved, the final canoe trail map and the terms of use and code of conduct need to be forwarded to all landowners and land occupiers.

The following matrix can be used as a guide to the types of agreement various landowners may be likely to respond to/adopt:

Type of Agreement	Land Dedication (under s.16 CROW 2000 Act)	Written Permission	Verbal Permission	Denial of ownership / ownership unknown
Type of landowner				
Local Authority	<input checked="" type="checkbox"/>			
Golf Clubs	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Sport /recreational clubs		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Large businesses	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Property developers			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Small businesses		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Farmers			<input checked="" type="checkbox"/>	
Households			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Overall, the approach to negotiating the agreements and the steps are the same for all identified riparian landowners and occupiers. There are some additional notes to take into consideration when approaching the particular type of owner:

Local Authorities

As a landowner and riparian rights holder the respective local authority (e.g. city council or borough council) has to be approached and proposed the most appropriate type of agreement. Where the ownership is extensive and in-principal support for canoeing has been expressed, land dedication can be negotiated. The process of negotiation, however, is likely to be lengthy due to the lack of logistics for this type of procedures. Firstly, there is a need to understand which department (or departments) may have an interest in the scheme and are hence prepared to take the leading role in promoting the matter. Ongoing liaising with the following departments may be required: Estates, Legal Services, Valuation and Planning, Environmental Services, Public Rights of Way and Highways. It also has to be recognised that local authorities vary in organisational structure and are likely to have different current policy priority areas. The relevance of the scheme therefore needs to be identified and the respective departments targeted.

Liability issues are likely to become a matter of importance. Unlike individual private landowners, local authorities face the need to take on certain responsibilities related to

canoe trail provision. These responsibilities may involve inspection and maintenance of key points, such as access/egress and portages. The paperwork associated with completing dedication forms should also be recognised given the number of land parcels and variability of land uses and interests. One possibility of advancing the procedure of dedication is to suggest a dedication of a single land parcel in order to examine any emerging queries and issues. To date, there is no precedent of land dedication by any local authority with respect to unpowered watercraft on inland water. In case of Mersey, all three metropolitan borough councils continue working towards dedication. If such dedication is achieved for a single case, this may help in other cases and local authorities to go through the process more easily.

Golf clubs

Land ownership by golf clubs along river Mersey is the second largest after the ownership by local authorities. Achieving an agreement with golf clubs therefore was an important part of the canoe access negotiation. Land dedication was proposed to and completed by 4 golf clubs securing canoe agreement along a considerable stretch of the river. Land dedication appears to be a suitable type of agreement for golf clubs for a number of reasons. The extent of landownership by a golf clubs can be significant and the nature of adjoining land use is well established. In case of Mersey, public rights of way (Trans Pennine Trail and other footpaths) run along nearly all golf courses resulting in recognition of likely health and safety issues (balls flying off golf courses and injuring footpath users) and the associated liabilities. One of the major benefits of land dedication under s. 16 of CROW 2000 Act is that the liabilities can be reduced to the level of that to trespasser and there is therefore an apparent reason for golf clubs to consider land dedication. The paperwork is straightforward. The formulation used on Mersey was “relaxation with respect to canoes and kayaks” and dedication referred to “the waterbed and land to the top of the river bank”. If the ownership of the riverbank and the riverbed is not recognised and there is not evidence of other ownership reaching a “no objection” type of agreement can be suggested.

Sport / recreational clubs

Communication with sport clubs, outdoor pursuits groups and owners of recreational grounds is straightforward and efficient due to relevance of canoeing and the proposed canoe trail scheme. The support and agreement is likely to be achieved at early stages. There are opportunities for more integrated and long-term developments, such as shared use of changing facilities and existing car parks as well as provision of access/egress structures.

Large businesses

It is more difficult to reach the right person by a single telephone call for larger companies as their head offices are located elsewhere and there are likely to be divisions and a number of people to assist in defining the ownership status. The communication with this type of companies is likely to be through a more formal written correspondence and enquiries resulting in a written agreement (a formal document or simply a written confirmation of the granted permission). There may be a potential for achieving a more formal agreement (such as land dedication) if the estate of a single company is spread over the stretch of the river and if the company is interested in PR improvement. It is therefore sensible to explore this type of agreement and propose to the owners.

However, the ownership of the waterbed and the banks is not always claimed or confirmed as there may not be an explicit use of the river and which is likely to be fenced off from the estate. If this is the case, if a verbal permission is not obtain and communication is not supported, there should be a provision in the final contact to invite the owner to respond and raise any objections. Otherwise, the permission is assumed to be granted.

Property developers

The likely outcome from communicating with this type of owner is a verbal agreement or “no objection”. This is due to likely lack of interest in the canoeing matter or (as mentioned earlier) unawareness of the ownership of the riparian rights. It has to be noted that where these rights are clear, the communication and understanding of interests is much easier achieved. If the property developer, however, is no longer connected to the identified site (for example, after a residential estate has been sold to a vast number of individual flat owners), identifying the owner and finding contact details may be even more difficult. In some case, contacting a property agent can be helpful. The details of the agencies can be found by observing the location and finding the signs of advertisement. For confidentiality reasons, the agencies will not provide the details of the property owners but should be able to forward the correspondence.

Small businesses

The actual owners are often a single person or a family and can easily be identified and contacted directly. Their position towards granting permissions for canoeing greatly depends on the interest in the river and land adjoining it. In case of Mersey, there were rarely any conflicts apparent that would force the owners to object to canoeing. Furthermore, in many cases there was no awareness of the ownership of the riparian rights (e.g. an industrial property in Stockport or Sale where the property is fenced). The most appropriate type of agreement in this situation is a verbal permission for canoeing along their property. Even if the ownership of the river is recognised by the identified owner the agreement is usually achieved verbally.

Farmers

Obtaining contact details may be difficult for this type of owner. This is because the farmers’ services are not necessarily widely advertised in yellow pages or through on-street signs. This results in writing to them directly without prior telephone contact. Further communication and response can be envisaged as the interests that farmers may have in the land adjoining the river are quite explicit. Meetings in person and discussions are important as there is likely to be a predisposition towards preventing any change to the status quo use and/or access provision. There also may be concerns over likely disturbances from canoeing on grazing stock. Flexibility and understanding of their requirements is necessary, so proposals of temporary permissions would be appropriate as well as reassurance that the canoeists are required to follow a code of conduct with minimal disturbance to the surrounding landscapes and users.

Households

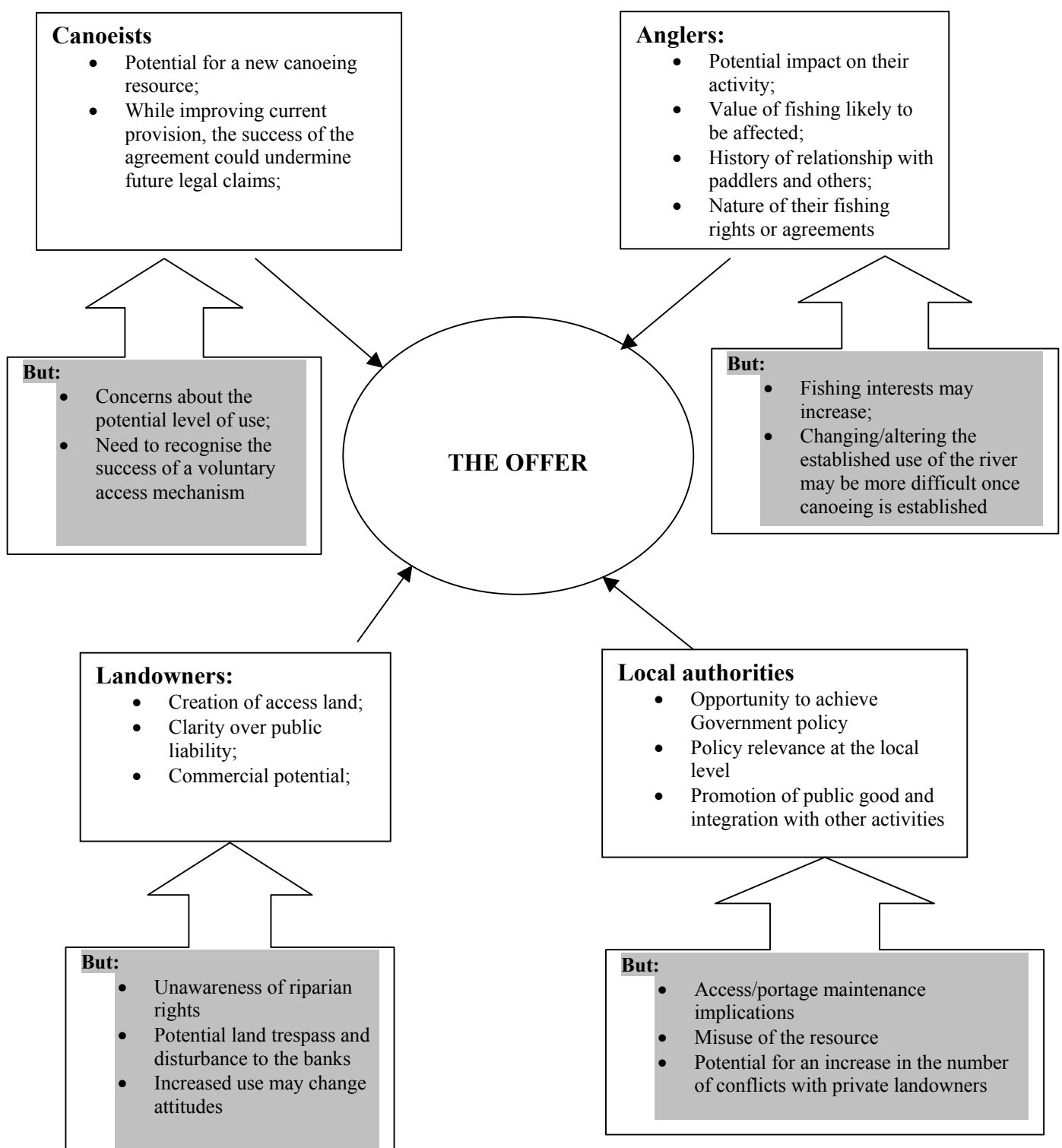
The riparian rights are unlikely to be recognised by individual residential property owners if such properties are separated from the river by public rights of way (footpath or road) or if there are enclosed communal gardens between the property

and the river. If this is the case, the identified households need to be contacted in writing and invited to express their consent or any objections. If the ownership of the waterbed is recognised a verbal permission is the most likely outcome of the negotiation.

Synthesis of Actions and the Access Offer

The synthesis brings together knowledge of the resource and of the landowners and key stakeholders. From the resource side the key features are the types of canoeing to which the river is suited, the lengths over which this can physically occur, and the likely environmental and other constraints that need to be considered. Once this is known, the likely land-ownership structure can be established, together with an assessment of the other interests – especially angling – that could impact on the likelihood of achieving an agreement. These findings can then be summarised in the ‘access offer’ below.

Access Offer Model



As the offer model illustrates, for each major stakeholder there will be positive and negative sides to a canoe access agreement. This is important, for the access champion needs to develop an 'offer', a way forward, that seeks to achieve a positive outcome for all those involved. For anglers, for example, there may be an opportunity to allow canoeing during specific parts of the year in return for priority or exclusive use at other times. While this may be less than canoeists would like, it does offer more canoeing than is presently the case. Landowners seek to benefit from this by being able to maintain fishing rents and, possibly, by providing additional services such as car parking. Equally, they may be able to spread the use of existing resources, if paddling takes place during the fishing closed season. Finally, local authorities should be in the position to benefit through the new or improved recreational provision in the area, as well as having the potential to meet Government delivery targets.