

Editorial

David Cross

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Next Spring, *Bowsprit* will celebrate its
50th issue. Any suggestions to celebrate
this occasion apart from the obvious of
making it the last ever issue?

In the meantime, I hope you enjoy
this buoyant version of the *Bowsprit*
and you all enjoy the seasons sailing
and kayaking!

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The Stour Sailing Club
10 Quay Street
Manningtree
Essex CO11 1AU

Telephone: 01206 393 924

For information on the club's facilities,
activities and contacts visit:
www.stoursailingclub.co.uk

Please send your articles and letters to the
editor c/o Stour Sailing Club at the above
address or email:
bowspritssc@hotmail.com

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opinions of the editor or *Bowsprit* nor the Committee of
The Stour Sailing Club. The editor reserves the right to
edit or amend material submitted for publication.

Commodore's Column

Ted Bateman



THE 2005 AGM SAW
several changes to the Committee
line up. Sarah Adie is our new
Vice-Commodore and she carries
out sterling work with the junior sail
training. I am pleased to welcome her
as my second in command.

I would also like to officially welcome
Jim Ensom as the Club Secretary, Jim
has picked up several on-going issues
and the club is reaping the benefit of
Jim's communication skills.

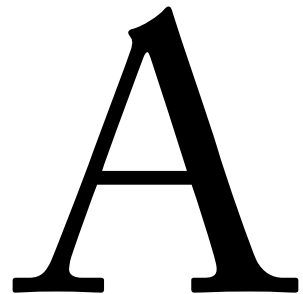
Stour Sailing Club is nothing without
it's members and we are fortunate to
have a membership that willingly
volunteers for the good of the club.
We are especially indebted to those
parents who have given their time and
energy to get the junior section up and
running. Through their efforts we now
have an impressive junior section with
several very able young sailors. It is a
delight to see these youngsters on the
water and we extend a warm welcome
to those parents who would like their
offspring to become involved with
junior sailing.

The club as ever welcomes suggestions
and constructive criticism. The club
email is an excellent way of getting
your message across:
commodore@stoursailingclub.co.uk
or
bowspritssc@hotmail.com

May I take this opportunity to wish you
all fair weather and fine sailing in the
coming season.

Mistley Quay – the legal position

Jim Ensom



AS MEMBERS MAY KNOW, A
dispute has arisen between the yachting
world and Mistley Quay. The company
has been turning away visiting yachts
and has placed notices on the Quay
discouraging mooring. We have now
received advice from the barrister Sir
Patrick Sinclair Bt. who is in Hogarth
Chambers. Sir Patrick has a particular
enthusiasm for obscure and ancient
areas of law in the chancery field and
also for cases involving legal and factual
problems. He has written articles on the
Law of Anchorage and Mooring in The
Conveyancer and Property Lawyer.
He has also written several articles on
anchorage and mooring law and the
nature of the Crown's interest in the sea
bed in the magazine "Sailing Today".
He specialises in conveyancing and all
aspects of land law, including restrictive
covenants, easements, commons, high-
ways, foreshores and ports.

Based on advice from Sir Patrick, we
sent a letter to Mistley Quay on
9 April 2005 asking for some detailed
information:

- We wanted to know their nature of
interest in the Quay – owner or
tenant, with date of purchase;
- We asked them whether they were
informed on lease or purchase that
the Quay was a public Quay and that
it had been so for a number of years;
- We asked them whether they
would now acknowledge it was a
public Quay;
- We also asked if there is something
in their lease of the Quay or in the
Conveyance of the Quay which is...

...inconsistent with the subsistence of public rights over the Quay;

- We asked them for copies of the relevant provisions.

The matter in law is that Mistley Quay could only prove that the public could no longer use the Quay if an Act of Parliament had been passed preventing public access. There isn't one. When they purchased the Quay, they should have been made aware that it was a public Quay and that yachtsmen should be given reasonable access across their land.

Another barrister the club has been in contact with is Edward Irving, who lives across the river from the Quay. He gave us some historical information based on extracts from a book "Orwell Estuary (with Harwich and the Stour)" written by W.G. Arnott published by Norman Adlard & Co Ipswich 1954. The Quay seems to have been built in the 1770-80s by the Rigby family who employed Robert Adam, the architect, for their ventures there. The idea was to make Mistley into a Spa. It seems that the Quay was part of the substantial Mistley Hall estate owned by the Rigbys in the late 18th century. So it was at that time probably a private Quay.

"If it was, says Irving, "then it is probable that the foreshore at Mistley including the land on which the Quay was built was part of an ancient Crown grant of the manor of Mistley to the predecessors of the Rigby family. The predecessors may have been ecclesiastical e.g. the Bishopric of Bury. The current owners of Mistley Quay may be able to claim ownership of the Quay through the successors in title to the Rigby family, or they may claim to be tenants of those successors in title." But, Irving suggests, "Such is the confusion of foreshore ownership at the present time that it is imprudent to accept unquestioningly anyone's claim to be the owner/tenant of a particular area of foreshore. This includes the Crown. Ask for the proof of the pudding."

As an aside, my own investigations



According to recent newspaper reports, Mistley Quay have been quoted as saying that docking for yachts has been denied because of security fears since 9/11.

have found that in 1837 the Court of Chancery decreed that coal, wheat and barley distributed from the profits of the wharfage were to be given to the six poorest villagers in the almshouses. On the sale of Mistley Hall estate, Lot 13 - including part of the Quay - was sold to a Mr Allen of Sudbury. So it appears that the Quay may not have been under single ownership more than a hundred years ago.

In our letter to Mistley Quay, we asked from the proof of the pudding. And it was not forthcoming. They did reply to our letter, on 11 May, but did not give us any answers whatsoever. John R. Jenkins, the Port Manager, said he was disappointed by the tone of our letter but said he would "be in contact again in due course", which of course could mean years. Barrister Edward Irving told us, "we are therefore left to conclude that if the public have had uninterrupted, uncharged use of the Quay for the purpose of landing and

embarking for a substantial period (more than 20 years), there is an argument which is difficult to refute that the public have acquired, by an implied "dedication", a right of access to the sea over the Quay and a right to moor there temporarily for the necessary purposes of their navigation. 'Necessary' could include tidal stranding, overnighting, provisioning, embarkation and disembarkation or short-term repair." Sir Patrick Sinclair concurs.

We have now written to the Quay owners informing them of this position and warning them that we are also writing to every sailing club from here to Holland, the OGA and barge owners. We have also informed "Sailing Today", whose editor has been taking a very close interest in the matter. We will also be contacting Mistley Parish Council and Tendring District Council to inform them of this matter to prevent any errant planning permissions being given.

'Continue to use Mistley Quay, do not be turned away, do not pay. They have no right in law to prevent you.'