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Policing the Bridges and allocation of costs to the Bridge House Estates

OPINION

Introduction

1. This Opinion considers the nature and extent of the City's obligations as to the policing of the City's bridges and the extent to which those costs may be attributed to the Bridge House Estates. It focuses on general policing responsibilities rather than any specific project, although the issue has recently received renewed attention as the result of a project to install river cameras at the bridges. Issues concerning the quantum of any contribution and a Trustee's general duty to act in the best interests of Trust are not dealt with in this Opinion.
2. In order to provide context and to inform interpretation, some historical constitutional background is included. This has however been confined to material which assists in deciding the extent of the obligations and sources of funding rather than providing a broader narrative. After a short account of the history of the 'Watch', each bridge is considered in turn, concluding, in each case, with an assessment of the position under current legislation.

Establishment of Watches and the Bridges

3. In what appears to be a remarkably coordinated national move, the Statute of Winchester 1285 (13 Edw. I), commanded that watch be kept in all cities and towns and that two Constables be chosen in every "Hundred" or "Franchise"; specific to the City, the Statuta Civitatis London, also passed in 1285, regularised watch arrangements so that the gates of London would be shut every night and that the City's twenty-four Wards, would each have six watchmen controlled by an Alderman. This system, where each householder

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took a turn at being an unpaid watchman, remained more or less unchanged until the early 18th century.

4. The first (un-numbered) section of the City of London Police Act 1839 (2 & 3 Vict c.xciv) stated that “the Mayor Aldermen and Commoners of the City of London, in Common Council assembled, are willing and desirous to contribute out the Revenues and Possessions of the Mayor and Commonalty and Citizens of the said City a portion of the expense of the said Police Force”.
5. The Act consolidated and rationalised a system of policing in the City which had evolved from medieval times. The 1839 Act did not create a wholly new body, as by 1832 the “new” Force was effectively in existence in the form that it was to take by statute. It did, however, put it onto a statutory footing as was the case with the Metropolitan Police and other police forces established throughout the country after 1829.
6. The 1839 Act provided by section LVII that the City was required to pay one quarter of the expenses of the City Force from City’s Cash. By section LVIII, the remaining three quarters were to be met by a local police rate. Watching the bridges was accounted for separately and recorded as a reimbursement from the Bridge House Estates before the quantum was calculated. In 1896 the City of London Police Committee reported to the Court of Common Council the three sources of police funding, viz City’s Cash, Bridge House Estates and a local Police rate. At this point, all City Police funding came from the City (in whatever guise) and none came from central Government.

London Bridge

Historical background

7. A bridge across the Thames in approximately the same position as the current structure built in the late 1960s has existed since Roman times.
8. The title of the Corporation to the Bridge House Estates is very ancient and arose before the doctrine of trusts was fully developed. The early conveyances and grants, dating from

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the twelfth century, contain the words ‘to the Proctors’ or ‘Wardens of London Bridge’ or ‘the brethren and sisters of the Chapel on the Bridge’, or more simply ‘to God and the Bridge’.

9. In the minutes of the Court of Common Council for 1 Feb 1817, watch stations are recorded as covering the wards of Bridge, Candlewick, Billingsgate and Dowgate. The same Common Council record shows that the watch house for those 4 wards was at the “Bridge Watch House”. Watch houses, the record continues, were to be open all day and night with patrols every 2 hours. It seems highly probable, especially in light of the strong criticism of the behaviour of various watches and the natural desire on the City’s part to make sure its money was prudently spent, that patrols would cover the full extent of their territory and would, therefore, patrol the whole of the ward - across London Bridge to the southern ward boundary. The contemporary recognition of the boundary of the City as being on its southern side is evidenced by documents of the period; for instance the Robert Morden and Philip Lea map, first published around 1700 and re-issued c1715 and which is particularly detailed, shows the ward boundary on the southern side.

Current Position

10. From the Corporation of London (Bridges) Act 1911 onwards, “the Corporation” has been defined to mean “the Mayor and Commonalty and Citizens of the City of London Trustees of the Bridge House Estates”, recognising the Corporation’s distinct trustee capacity.
11. The current London Bridge was constructed pursuant to the powers contained in the London Bridge Act 1967 (1967 c.1).
12. Section 35(1) of the 1967 Act provides “Whereas the existing London Bridge is wholly within the city and is exempt from all assessments, now it is hereby declared as follows:-
 - (a) the bridge as reconstructed under this Act shall be wholly within the city”...

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13. The obligation on Bridge House Estates to pay for policing on the bridge is set out in s35(1)

“(c) The bridge shall be vested in the Corporation and shall be maintained, repaired, cleansed, lighted and policed at the cost of the rents and profits of the Bridge House Estates”.

14. The term 'policed' used in section 35 of the 1967 Act does not receive further explanation. The Act which authorised the building of the bridge replaced under the powers conferred by the London Bridge Act 1967 - the London Bridge Act 1823 (4 GeoIV c.50) - does, however, provide a greater indication of what the term might be taken as encompassing.

15. Section 93 of the 1824 Act provided for the appointment of the Watch (the advent of the City of London Police then being 15 years distant) in the following terms -

“That the said Mayor, Aldermen and Commons, in Common Council assembled, or such Committee or Committees as aforesaid, are hereby empowered from time to time, if they see Occasion, to appoint such Number of fit and able bodied Men as they shall think proper, to be armed and clothed in such Manner as the said Mayor, Aldermen and Commons, in Common Council assembled, shall direct, to be employed as Watchmen, Guards or Patroles, either on Foot or Horseback, upon the said Bridge, or temporary Bridge (if any), and to appoint any Person or Persons to be Superintendent or Superintendents thereof, and from time to time remove any of the said Superintendents, Watchmen, Guards or Patrole, and to appoint others in their Room, and from time to time to make such Rules, Orders and Regulations for the better governing the Superintendents, Watchmen, Guards or Patrole, and for the watching and guarding the said Bridge, and keeping the Peace thereon, as the said Mayor, Aldermen and Commons, in Common Council assembled, or such Committee or Committees as afore said, shall think proper”.

16. Section 94 set out the duties of the Watch as follows -

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“And be it further enacted, That the Superintendents, Duty Watchmen, Guards and Patroles, shall use their best Endeavours to prevent Fires, Murders, Burglaries, Robberies, Disturbances, Obstructions, Stoppages, Breaches of the Peace and all Outrages, Misdemeanours and Disorders on or near to the said Bridge, and to that End are hereby jointly and severally empowered and required, without further Warrant, to arrest, apprehend and detain in the Watchhouse of the Ward of Bridge, or in any other Watchhouse or convenient Place, (whether provided or appointed by the said Mayor, Aldermen and Commons, in Common Council assembled, or such Committee or Committees as aforesaid, or otherwise,) all Malefactors, Rogues, Vagabonds and other disorderly and suspicious Persons, who shall be found committing any Disorder or Offence, or loitering, wandering or wantonly or negligently obstructing the Passage, or misbehaving themselves, or whom the said Superintendents, Watchmen, Guards and Patroles shall have just cause or reason to suspect of any evil Design, and the Person or Persons so apprehended to convey as soon as conveniently may be, before One or more of the said Aldermen of the said City, to be examined and dealt with according to Law”.

17. It seems clear from the drafting of these sections that the intention was to apply a wide interpretation to the duties of the obligations of those employed as 'Watchmen, Guards or Patroles' both on and near to the Bridge. Accordingly, there are reasonable grounds to assume that the interpretation of the term 'policed' in the 1967 Act should be a broad one. Moreover there would appear no reason to adopt a different approach to interpretation when considering other City Private Acts which refer to the watching or policing of bridges without additional statutory elucidation. (The Law Officers' Opinion of 1874 referred to below acknowledged that there was a general police duty to patrol the bridges, as with other public highway, but pointed to the fact that there was no express relief for the Corporation from its statutory duties to watch the bridges [London, Southwark and Blackfriars], and therefore it was justified in making arrangements to contribute to police expenses in respect of those bridges.) .

Blackfriars and Southwark Bridges

Historical Background

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18. Blackfriars Bridge was the second bridge to span the river within the City's boundaries. First built in 1760, the original Blackfriars Bridge was erected pursuant to statutory powers and the current bridge is also a statutory bridge.
19. In its first recital the Blackfriars Bridge Act 1756 (29 GeoII c.86) gives "the City of London in Common Council assembled" the power and authority to build and maintain the bridge. The Act provides that the "mayor, aldermen, and commons, shall also, from and after the said bridge shall be created and made passable... appoint such a number of able-bodies watchmen as they shall judge necessary to be kept upon the bridge for the Safety and Protection of Persons passing over the same". The Act authorises the "mayor, aldermen, and commons, in Common Council assembled" to levy tolls for passage over the bridge. The Act then sets out the toll rates. By way of explanation for the toll, the Act records that repairing, preserving, supporting, making streets, purchasing houses [to be demolished], will amount to a "considerable charge and expense". It goes on to record that the money raised shall "also [be] for repairing, lighting and watching the said bridge".
20. Southwark bridge was not, originally, a City of London Corporation bridge. It was erected in 1815 by a private company. It appears that the City disliked the tolls levied by the private company and in 1864 the City leased the bridge and abolished the private toll.

Current Position

21. The present Blackfriars Bridge was constructed pursuant to the Blackfriars Bridge Act 1863 (26 & 27 Vict c.LXii), section 16 of which provides -

“[The] Bridge shall be maintained, supported, repaired paved, watched lighted, watered and cleansed, out of the rents and profits of the Bridge House Estates, and any funds now applicable to those purposes shall form part of the Bridge House Estates.”

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22. The Corporation of London (Bridges) Act 1911 (2 Geo.V c.cxx) authorised the reconstruction of Southwark Bridge and set out the basis of contributions towards the costs of policing. Section 61 of the Act 1911, states that Southwark Bridge – a ‘new bridge’ under the Act - is to be “policed by the Corporation out of the funds of the Bridge House Estates”. In Southwark Bridge’s case, the pillars on the southern side also seem to be within the City.

Tower Bridge

Historical Background

23. The bridge was built in response to public agitation for cross - river facilities below London Bridge occasioned by a large increase in vehicular traffic in the latter part of the 19th century. The Corporation promoted the Bill to authorise construction of the bridge in 1884 and it was passed in 1885. The bridge was opened in 1894.

24. The costs of policing the bridge featured in Opinions of the Law Officers delivered in 1895 and 1917 referred to further below. The general approach was that there was no obligation on Bridge House Estates to pay for the policing of Tower Bridge. However, there was found to be justification for the “compact” between Bridge House Estates Committee and Police Committee (in respect of the Bridge House Estates contribution to policing the bridges) to include policing costs in respect of Tower Bridge, on the basis of the number of men engaged daily in watching Tower Bridge.

Current position

25. Section 58 of the Corporation of London (Tower Bridge) Act 1885 (48 & 49 Vict. c.cxcv) provides that,

“Subject to the provision of this Act the Corporation may from time to time make such byelaws as they think proper for the opening and shutting of the Tower Bridge and for the regulation and management of the traffic on the Tower Bridge and on so much of the approaches and other works authorised by this Act as the Corporation

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shall therein specifically define as places to which such byelaws shall be applicable and may from time to time alter vary or repeal such byelaws or any of them as they shall think fit so as the same be reduced into writing and be under the common seal of the Corporation and be allowed by the Board of Trade and the Tower Bridge and all places to which such byelaws shall be applicable shall for the purposes of such regulation and management and for the enforcement of such byelaws and for the recovery of any penalties for the breach or non-performance thereof be deemed to be within the city and liberties thereof and the jurisdiction powers authorities rights privileges and duties of justices of the peace and of the police and peace officers of the city shall extend to all such places”

26. The Corporation of London (Blackfriars and other Bridges) Act 1906 (6 EdwVII c.clxxx) confirms that Tower Bridge is to be treated as being within the City for the purposes of policing and the criminal law.
27. These Acts do not explicitly state that the City Corporation is to underwrite the costs of policing Tower Bridge. They do, however, make clear the City’s regulatory responsibilities under byelaws and for the jurisdiction of the City’s police and Justices of the Peace.
28. Section 65 of the Act also provides for the application of the rents and profits of the Bridge House Estates to the in the “maintenance and support” of Tower Bridge as is the case for (in varying terminology) the other City bridges. The supplementary Royal Charter governing the Bridge House Estates granted in 1957 (which enlarged the Corporation's purchase and investment powers as Trustees of the Bridge House Estates) did not distinguish the Tower Bridge Act 1885 from the principal Acts governing the other bridges.
29. Since the passage of the Act it appears that Bridge House Estate’s responsibility for “maintenance and support” of Tower Bridge has been taken to include responsibility for meeting the expenditure of policing the bridge where this is justified by the extent of the policing resource sought in respect of the bridge.

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30. This assumption of responsibility is consistent with the approach taken by the Law Officers when advising on the policing of the Bridges. In the opinions in 1895 and 1917 referred to at para 23 above, the Law Officers expressed the obligation as a 'compact' between the (then) Bridge House Estates Committee and the Police committee by which the former was to contribute an annual sum to policing costs. The actual sum was a matter for negotiation between them. However, different approaches appears to have been adopted between London Bridge, Blackfriars Bridge and Southwark Bridge (subject to statutory duties in respect of watching or policing the bridges), and Tower Bridge (where there is no such express duty, and the expenditure was based upon the specific [additional] police resource requested).

The Millennium Bridge

Historical background

31. This bridge is unlike the other City bridges in not being a construction initiated by the Corporation or governed by a City Private Act. The responsibility for the Bridge was conferred by The Charities (Bridge House Estates) Order 2001 (SI 2001 No 4017) made by the Charity Commission. The Commission obtained locus as the result of the cy-pres scheme authorised by The Charities (The Bridge House Estates) Order 1995 (SI 1995 No 1047).

Current position

32. The 2001 Order adds the Millennium and describes its object (in the appendix) as to enable the Charity to “own and maintain” it. No further guidance on interpretation is given. The Order refers (in paragraph 2 of the scheme set out in the appendix) to the “ownership and maintenance” of the other City Bridges “as provided for in the subsisting trusts”. The opening paragraph of the Scheme set out in the appendix states the Bridge House Estates as being regulated by (inter alia) the Private Acts currently governing each bridge. This appears to infer that “own and maintain” is to be taken as encompassing the rights and obligations contained in those Acts, being the Acts by which the Charity is

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regulated. It therefore appears that “own and maintain” as used in the Order is to be construed broadly. If so, it may be taken as including reference to policing.

Conclusion

33. The private acts governing London Bridge, Blackfriars Bridge and Southwark Bridge make it clear that an obligation to fund the policing of the bridges is cast on the Bridge House Estates. In respect of Tower Bridge, although there is no overt reference to an obligation on the Bridge House Estates to fund the watching or policing of the bridge, a case can be made that certain police resource attributable to policing Tower Bridge may be funded by Bridge House Estates. This can be inferred from the reference to the “maintenance and support” of the bridge by the Bridge House Estates provided for by section 65 of the Act (para 28 above). Such an approach seems to be taken by the SI 2004 No. 4017 in dealing with the Millennium Bridge (para 31 above).

34. Alternatively, were that interpretation found wanting, the general trustee duty to maintain trust property may be sufficient to provide locus in respect of Tower Bridge (and the Millennium Bridge). In any event, there would seem to be insufficient reason to depart from the previous Opinions of the Law Officers in supporting the view that the obligation cast on the Bridge House Estates may extend to the costs of policing the bridges, and describing the arrangements for meeting them from the Estates as being in the nature of a “compact” as referred to in para 30 of this Opinion.

35. In relation to the other City Bridges, it is clear that an obligation to fund the policing of the bridges arises by statute.

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