

# HAMPSHIRE COUNTY COUNCIL

## Report

<b>Committee</b>	River Hamble Harbour Management Committee
<b>Date:</b>	8 June 2018
<b>Title:</b>	Harbour Works Consent Application - Replacement of River Wall at Swanwick Shore Road Car Park
<b>Report From:</b>	Director of Culture, Communities and Business Services

Contact name: Jason Scott or Alison Fowler

Tel: 01489 576387      Email: [jason.scott@hants.gov.uk](mailto:jason.scott@hants.gov.uk)  
[alison.fowler@hants.gov.uk](mailto:alison.fowler@hants.gov.uk)

### 1. Recommendations

- 1.1. That the River Hamble Harbour Management Committee recommends to the River Hamble Harbour Board its approval of Harbour Works Consent for the proposal set out in Section 4 of this report and subject to the following conditions:
  - a. The proposal to the sea wall is to be built in accordance with the details, plans and method set out in Appendix 1a and Appendix 1b.
  - b. The method statement is to be submitted to and approved by the Harbour Master in advance of construction.
  - c. The applicant should ensure that only coatings and treatments that are suitable for use in the marine environment are used in accordance with best environmental practice. All reasonable precautions will be undertaken to ensure no pollutants enter the waterbody.
  - d. All equipment, temporary structures, waste and/or debris associated with the activities are to be removed upon completion of the works.
  - e. The development must be completed within 3 years from the date of the approval granted by the Harbour Board.

### 2. Summary

- 2.1. This report sets out an application for Harbour Works Consent (HWC) made by Marina Projects Limited on behalf of its client Premier Marinas Limited for the replacement of the river wall at Swanwick Shore Road car park, SO31 7EF (SU495 092).

### 3. Background

- 3.1. This application to replace the sea wall forms part of a wider proposal to replace and rectify the failing wall frontage, resurface the car park and improve the dinghy tender storage area in a manner that is yet to be confirmed. It should be noted that the River Hamble Harbour Authority's (RHHA) jurisdiction extends only to high water and so elements of the

proposal behind the sea wall (i.e. car park and tender storage) are not subject to consent from RHHA.

#### **4. Project Description**

- 4.1. The following plans and documents have been provided by the applicant to support this application, and reference must be made to these for a full understanding of the proposal (see Appendix 1):
- Appendix 1a - File Note MP269.7-FN-03.
  - Appendix 1b - Drawing Number 14-2310-102 vP8.

#### **5. Harbour Authority's Responsibilities**

- 5.1. Consent may be granted by the River Hamble Harbour Board permitting harbour works in the River Hamble in accordance with Section 10 of the Southampton Harbour Act 1924 and Section 48 of the Southampton Harbour Act 1949 as amended by the River Hamble Harbour Revision Orders 1969 to 1989. Within the River Hamble Harbour Board's statutory duties lies the responsibility to ensure that all matters concerning navigational safety and responsibilities under the Habitat Regulations are addressed. This area of responsibility includes the proposed development.
- 5.2. Navigational safety issues are addressed through the Port Marine Safety Code and the Harbour's Safety Management System. Specific issues relevant to this particular application are covered within the Harbour Master's comments below.
- 5.3. The River Hamble is part of the Solent European Marine Site and is afforded protection due to its international nature conservation value. The RHHA is a Relevant Authority under the Conservation of Habitats and Species Regulations 2017 as amended, commonly known as the Habitats Regulations. As a Relevant Authority the Harbour Authority has a duty to comply with the requirements of the Habitats Regulations. This means that the RHHA must ensure that, in the exercise of any of its powers or functions, it must have regard to both direct and indirect effects on interest features of the European Marine Site.
- 5.4. As a Section 28G Authority under the Wildlife and Countryside Act 1981 (as amended), the RHHA has a duty to take reasonable steps, consistent with the proper exercise of the Authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
- 5.5. Under the Natural Environment and Rural Communities Act 2006, all public bodies, which include the Harbour Authority as statutory undertakers, have a duty to have regard, so far as is consistent with the proper exercise of their functions, to the purpose of conserving biodiversity.
- 5.6. The Harbour Authority addresses its responsibilities under the environmental regulations through consultation with Hampshire County Council, the Local Borough Councils, the Department for Environment, Food and Rural Affairs, Natural England and the Environment Agency. Additional consultation is undertaken with other organisations as relevant. Specific issues relevant to this particular application are covered within the sections below.

## **6. Consultation Process**

6.1. Subsequent to receipt of the application for Harbour Works Consent the following actions were taken:

- Project details and plans entered on the Harbour Authority's webpage for the online viewing of applications at <https://www.hants.gov.uk/thingstodo/riverhamble/workapplication>
- The plans and details of the application were made available in the Harbour Office for inspection by members of the public.
- Notification email sent to all members of the River Hamble Harbour Management Committee and the River Hamble Harbour Board of the proposed development.
- Email sent to registered interested parties and to members of the Hamble Estuary Partnership informing them of the application and requesting any written comments by the deadline.
- Direct liaison with the Natural England.
- Direct liaison with the Environment Agency.
- Meeting held between Premier Marinas and the Harbour Authority to discuss the former's intent for the site, including any development of the informal boat park area on 25 October 2017.
- Three 1:1 meetings held by the Harbour Master at his office to explain the intent behind the development and the Harbour Authority's involvement in influencing the development at no cost to the Authority.
- Advertisement of the development proposal at four general presentations to groups interested in the River, as well as to the Annual Forum.

## **7. Responses to Consultation**

7.1. Natural England's statutory response raised no objection to the proposed development. See Appendix 2 and comments in Section 8 below.

7.2. Sixteen responses were received as a result of the Harbour Authority's public consultation. These responses along with questions and any answers are available for Members to view at the River Hamble Harbour Office. Two were in favour, four were not in favour of the proposal and eight were neutral. Two gave comments only. The principal concerns cited were:

- Questions as to the ownership of the land;
- In relation to the design of the car park;
- With the design of the planned retaining wall;
- With the shape, size, number of billets available, accessibility and control of the formal dinghy park area;
- The provision of other facilities at the site, namely benches and waste facilities;
- Traffic calming along the road approaching the car park.

7.3. All the responses given which relate to the Harbour Authority's statutory and safety responsibilities have been taken into account in the preparation of this report.

## **8. Harbour Master's Comments**

8.1. This section details the aspects of the application relevant to the consideration of Harbour Works Consent. These are the impacts of the proposal on safety and ease of navigation and on the environment, both during construction and once operational.

8.2. This proposal also requires permissions from other authorities (e.g. Local Planning Authority, Environment Agency, Marine Management Organisation). Issues pertaining to their policies and regulations should be addressed with the appropriate organisation.

8.3. The Harbour Master has no concerns from the perspective of navigational safety.

8.4. The only component of this development over which the Harbour Authority has any control is the development of the Harbour Wall. That relates to ensuring that environmental and other legislative requirements are met.

8.5. The Harbour Authority met with the developer in October of 2017 to discuss plans for the redevelopment of the retaining wall and the car parking area and to obtain a sense of any appetite on the part of the developer to improve the area used for the parking of dinghies. At that meeting, the developer heard about the work conducted by a local group in tidying the boat park area and about the support given by Fareham Borough Council in clearing disused tenders and other material from the site. The developer also made clear its willingness to fund an improvement of the dinghy parking area in a manner that matched expectations. The overall plan for the boat park site illustrated is therefore indicative and an opportunity exists to modify the site in a manner that meets consensus. The role of the Harbour Authority remains one of co-ordination.

8.6. Comments received in response to RHHA's public consultation which relate to areas outside RHHA's direct control (including the tender storage area design and layout) have been passed to the applicant's agent for consideration.

8.7. No dredging of sub-tidal or inter-tidal habitat is required for this development, and work will be undertaken from the landside, mindful of the fragility of small areas of saltmarsh near the foot of the wall.

8.8. The proposal is sited adjacent to the boundary of the Solent and Dorset potential Special Protection Area (pSPA) and the River Hamble Saltmarsh and Mudflats Site of Importance for Nature Conservation (SINC). It is 100 metres outside the boundary Solent Maritime Special Area of Conservation (SAC), and 230 metres from the closest boundaries of the Solent & Southampton Water Special Protection Area (SPA), the Solent and Southampton Water Ramsar site and Lincegrove & Hackett's Marsh Site of Special Scientific Interest (SSSI).

- 8.9. Natural England advises that *“providing the works are carried out in strict accordance with the details of the application which has been submitted, it can be concluded that the application will not have a significant effect on any SAC, SPA or Ramsar site, either individually or in combination with other plans or projects.”* It is NE’s view that *“an Appropriate Assessment should not be required”*. NE also advises that the proposal *“is not likely to damage the interest features for which the [SSSI] site has been notified”*.
- 8.10. NE is satisfied that RHHA may grant consent for the proposal, and recommends that conditions at Section 1.1c and 1.1d be added to the consent.
- 8.11. RHHA undertook liaison with the Environment Agency (EA) and the applicant’s agent regarding potential intertidal enhancements to the sea wall. The wall’s position in relation to the tidal range limits opportunities, but the applicant is willing to explore opportunities at this site if they present in future. Natural England welcomed the consideration of enhancements but concurred it had no relevant enhancements to suggest.
- 8.12. If the River Hamble Harbour Board decides to grant permission for this application, subject to the conditions at Section 1.1, it would be adhering to its responsibilities under environmental legislation.

## **9. Strategic Vision**

- 9.1. Before reaching a decision regarding this application, it is important to consider it within the context of the Harbour Board’s Strategic Vision. The non-statutory Strategic Vision ‘seeks to meet the aspirations of all those users who have a stake in the future prosperity of the River Hamble, whether their interests are commercial, recreational or environmental’ but should be read in its entirety before reaching any conclusions with regard to this specific application.

**CORPORATE OR LEGAL INFORMATION:****Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	yes
<b>People in Hampshire live safe, healthy and independent lives:</b>	yes
<b>People in Hampshire enjoy a rich and diverse environment:</b>	yes
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	yes

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**Due regard in this context involves having due regard in particular to:**

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

### **1.2. Equalities Impact Assessment:**

A full Equalities Impact Assessment for the River Hamble Harbour Authority's compliance with the Port Marine Safety Code (including environmental responsibilities) has been carried out and this report does not raise any issues not previously covered by that Assessment.

### **2. Impact on Crime and Disorder:**

2.1. This report does not deal with any issues relating to crime and disorder.

### **3. Climate Change:**

3.1. How does what is being proposed impact on our carbon footprint / energy consumption? The contents of this report have no impact on carbon footprint or energy consumption

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? Not applicable to this report.