

**Confirmed**



Minutes of a Meeting of the **Southwold Harbour Management Committee** held in the Stella Peskett Millennium Hall, on **Thursday, 10 March 2022 at 4:00 PM**

**Members of the Committee present:**

Councillor Maurice Cook, Mr David Gledhill, Mr Alistair MacFarlane, Mr Richard Musgrove, Mr Mike Pickles, Councillor David Ritchie, Councillor Craig Rivett, Councillor Letitia Smith

**Other Members present:**

Councillor David Beavan

**Officers present:** Kerry Blair (Head of Operations), Lara Moore (Partner, Ashfords LLP), Alli Stone (Democratic Services Officer), Nicola Wotton (Deputy Democratic Services Manager)

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**1 Apologies for Absence**

Apologies for absence were received from Councillor James Mallinder and Andrew Jarvis.

The Chairman welcomed Lara Moore from Ashfords LLP to the meeting and the members of the Stakeholder Advisory Group (SAG) who would be invited to ask questions during item four.

**2 Declarations of Interest**

There were no declarations of interest.

**3 Minutes**

**RESOLVED**

That the minutes of the meeting held on the 27 January 2022 be agreed as correct and signed by the Chairman.

**4 Harbour Revision Order**

The Committee received a presentation from Lara Moore on the process and background to a Harbour Revision Order.

Ms Moore advised the meeting that a Harbour Revision Order allowed existing local harbour legislation to be modernised, repealed or for new powers to be added to ensure that harbours could be properly managed by the statutory harbour authority. Any successful application had to pass the 'core test' which was that the Marine Management Organisation would be

*"Satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships"*

Ms Moore explained that for Southwold Harbour the first and last points of the test, concerning the management of the harbour in an efficient and economical manner and in the interest of the recreational use of sea-going ships, would be the key points that would need addressing. Any changes would be judged against the harbour use and lands at present.

Ms Moore explained the timescales and process for application. The application and revised Harbour Order would be drafted, with an accompanying statement of support detailing the provisions and the reasons for inclusion. Local consultation on the application at this stage was not required but was recommended, as local feedback could be incorporated into the submission to the Marine Management Organisation (MMO). Consultation would focus on the effects and impact of the order rather than phrasing.

The application would then be submitted to the MMO and appropriate updates made, following which there would be a formal forty two day public consultation including notices in local newspapers and in the London Gazette. Any comments or objections made during the forty two day consultation period would be received by the legal team overseeing the application who would then look to address the objections or comments through amendments to the Harbour Revision Order.

The amended order would then be examined by the MMO and the Department for Transport and wording of the order confirmed. The Order would then be laid before Parliament.

Ms Moore confirmed that the total timescale for the application was between twelve and eighteen months, with the application currently costing £4,000. Application costs would increase to £9,790 in October 2022 and £15,579 in October 2023, plus advertisement costs in local newspapers and the London Gazette, and legal fees which would be in the region of £25-30,000.

Ms Moore summarised the provisions which could be included in the Harbour Revision Order. Firstly, the Order could place the Harbour Management Committee and Advisory Group on a statutory footing which would prevent them from being disbanded. Harbour funds were already ringfenced under the current Harbour Order, but it was commonplace to modernise this and include a hierarchy for the spending of

funds before they could be added to reserves. An updated order would also require the authority to make up for any short fall in harbour revenue.

Ms Moore confirmed that none of these provisions would be changes for Southwold, but would simply bring the existing legislation up to date.

Further provisions could include ensuring the rating and harbour limits were the same, modernising the definition of vessel, and obtaining Powers of General Direction which would allow the Harbour Authority to update enforcement powers through local consultation without having to go through the Department of Transport. Powers of General Direction could potentially be extended to the shore to allow the Harbour Authority to manage vehicle and pedestrian movements. This was currently not in place at Southwold but was recommended.

Lastly, a Harbour Revision Order could include changes to the Harbour Limits, either by fixing them, extending them, or making them flexible. Currently the Harbour Limits were fixed, and if this was maintained then a new Harbour Order would have to be obtained if new land was purchased for the Harbour. It was generally recommended that the land side limits (from low water up) were flexible, meaning that any land purchased adjacent to the harbour would be covered by harbour regulations. Ms Moore confirmed that protections did apply to prevent the disposal of land that was required for the harbour or that was a source of income for the harbour.

Ms Moore explained the complications of extending the Harbour Limits upriver. Referring back to the core test, if the limits were extended upstream there would need to be careful justification as maintenance of the banks up river were currently not the financial responsibility of the harbour. Should the limits be extended, the harbour would be taking on a great deal of extra liability for infrastructure, and there would be a requirement to demonstrate how this would be funded in practise as it would be the Harbour Authority's statutory duty to carry out and fund maintenance. If this could not be justified, then the Harbour Revision Order would not be successful. Ms Moore recognised that there was a great deal of will from the HMC and the SAG to address issues upstream, but emphasised it would not be simple to extend the limits.

The Chairman invited questions from the HMC and the SAG.

Mr MacFarlane asked if it would be possible to extend the rights of the Harbour Authority without extending statutory obligations. Ms Moore confirmed that this may be possible but it would be unusual as harbours were meant to focus their resources on their own infrastructure. The exact wording if this provision was included would need to be examined by a barrister, which would increase the timescales, cost and complexity of obtaining a Harbour Revision Order. Ms Moore advised that the starting point for the Harbour Revision Order should be to consider what should be included at a minimum to safeguard the future of the current harbour. Anything beyond this would then have to be justified in accordance with the core test.

Mr Musgrove asked if navigation and water limits could be extended without the extending land side limits. Ms Moore explained that this would again be tricky, and should the river banks fail the Harbour Authority would have responsibility for flooding.

Mr Pickles asked whether the MMO would receive increased powers in a Harbour Revision Order, as currently the Harbour Master held more power. Ms Moore confirmed the MMO did automatically have some jurisdiction in the harbour, but any provisions in the current Order which gave the Harbour Authority more powers would be preserved. The legislation would be thoroughly examined to ensure all powers were kept under a revised Order.

The Vice Chairperson of the SAG felt that maximum flexibility in the Harbour Limits would be the best option. The riverbanks upstream should not just be thought of as flood defences, but instead should be thought of as part of the tidal prism and important for the harbour management. If there was a way to give the Harbour Authority rights upstream, but not responsibility, this should be considered to preserve the long-term future of the harbour. Ms Moore agreed that the banks upstream did affect the tidal prism, and the Harbour Authority should do what was necessary to ensure safety and management in the harbour, but this did not necessarily mean that the Harbour Authority should have a statutory responsibility for performing all works on the banks.

The Chairman, Councillor Richie, commented that he felt that for a long-term security for the harbour some management of the areas upstream was important. Ms Moore accepted this but explained that there would be significant hurdles to overcome, for example prioritising the order in which harbour funds would be spent on current harbour structures versus riverbanks. It would be possible to do, but the baseline of what the harbour needed to do to protect the harbour as it was needed to be the starting point.

The Chairperson of the SAG asked if similar issues had arisen in other areas, and if Ms Moore had knowledge of Harbour Limits being extended upstream in this way. Ms Moore confirmed that similar situations had arisen in other areas where other agencies had stopped intervening upstream, but she was not aware of any Harbour Authorities extending their limits and taking on liabilities which would stretch harbour funds even further. Harbour Authorities were required to spend funds on infrastructure to support the safety of navigation in harbour, not to prevent flooding. It would be tricky to justify taking on flood defences upstream and a Harbour Revision Order would not pass if the extension of the harbour limits was based on flood defence. If harbour infrastructure happened to prevent flooding this was acceptable, but it should not be the main motivator. Ms Moore again highlighted the core test that the harbour had to be managed in an economical manner.

Ms Moore stated that those with an interest in the harbour needed to understand that harbour users would have to pay for the maintenance of the harbour lands, and if the harbour lands were extended upstream dues and rates in the harbour could rise significantly to fund the increased financial burden.

An advisory group member stated that if a Harbour Revision Order was proposed without extension upstream it would be met with a great deal of objection. Ms Moore accepted that this was a key issue for the community and that community support was important, but objections based on the harbour limits not extending upstream would not be successful.

An advisory group member asked whether the Harbour Authority could have the right to spend money upstream where breaches had occurred which impacted the safety of the harbour without putting the full responsibility on the Harbour Authority. Ms Moore confirmed that this could be explored as part of the Harbour Revision Order process to enable the HMC to fully understand what the trigger was for the Harbour Authority performing actions upstream as opposed to maintaining the current harbour. Any extension of powers would need to be based on safety and navigation in the current harbour area.

Following a question from the Chairperson of the SAG regarding the ringfencing of funds from the harbour, Ms Moore confirmed that this was already a provision of the Harbour Order and would be transferred to any new Order. As part of a new Harbour Order there would also have to be a hierarchy of spending, with funds first being allocated to maintenance to ensure safety and navigation and ending with funds being allocated to reserves. The point at which money could be spent upstream would need to be carefully considered. Government guidance stated that harbours should be self-funding, and so if there were costs upstream harbour dues may have to be raised to fund it.

An advisory group member asked if income from the Southwold Caravan and Campsite was included in the harbour income. Ms Moore confirmed that it was, and could help justify extending the harbour responsibilities upstream.

An advisory group member asked what responsibilities other organisations and authorities would have in the harbour and upstream if the Harbour Authority's responsibilities were extended. Ms Moore confirmed that existing obligations would be maintained in the current harbour area, but if the Harbour Authority took on additional land or responsibility it would have a statutory responsibility and so other organisations might find it easier to withdraw from any management responsibility.

Following a comment from an advisory group member on previous repairs to the river banks which harbour users had carried out themselves, Ms Moore agreed that the bank repair did not necessarily need to be expensive, but the Harbour Authority would have to consider other protections in place when doing works and make sure they were carried out correctly. For example there was a Special Protection Area upstream which Natural England had responsibility for. Mr Pickles added that based on past flooding events, care did need to be taken to ensure that land could flood upstream so that harbour businesses did not.

In response to a question from Mr Pickles on what other drivers there were for pursuing a Harbour Revision Order aside from extending harbour lands, Ms Moore confirmed that there was a need for a Harbour Revision Order to update some definitions in the Harbour Order, for Powers of General Direction and to enable further economic development. A Harbour Revision Order would have to be applied for in the near future, and it was sensible to consider everything at this point rather than piece by piece. It was also important that the HMC and SAG were placed on a statutory footing.

Mr Musgrove asked whether there would be a consultation on Powers of General Direction at the same time as the consultation on the Harbour Revision Order. Ms Moore confirmed that these would not be carried out at the same time, but that consultation on Powers of General Direction would be carried out after the Harbour Revision Order had been applied for. Ms Moore also confirmed that Powers of General Direction would override Powers of Harbour Direction.

A member of the advisory group asked whether the phrase 'maintenance or management of harbour in an efficient or economical manner' included in the core test meant that the harbour could fund repairs upstream if changes upstream damaged the safety of the harbour. Ms Moore confirmed that this was not the case currently, and that harbour funds were limited to the areas marked in the Harbour Order. Going forward it might be possible, but the test was based on the harbour now, and part of the process for the Harbour Revision Order would be establishing a baseline of what was needed to protect the harbour.

The Chairman summarised that the HMC and SAG were largely in agreement on the majority of the provisions which would need to be included in a Harbour Revision Order, but that more work would need to be done on the flexibility of the harbour limits and understanding of responsibilities upstream of the harbour.

Councillor Beavan stated that a new harbour order should not prevent spending on banks further upstream to ensure the long-term future of the harbour. Ms Moore recognised that there was a need to find a solution that worked as it was clear that the river banks were important to the harbour.

## 5 **Update from the Harbour Management Committee's Working Groups**

Mr MacFarlane updated the Committee on the Health, Safety and Compliance Working Group. The group had examined existing health and safety documentation and identified as a priority the separation of people and plant, the status of roads and footpaths, and port marine safety. There would also be a general review of marine health and safety and staff resources.

Mr Gledhill asked if the working group had also considered port skills and safety and membership of the British Ports Association. Mr MacFarlane confirmed both of these areas had been considered.

The Head of Operations confirmed that there was a report on health and safety to be considered later in the agenda with more detailed recommendations from the working group. Working groups recommendations would need to be received by the HMC for action to be taken.

The Chairperson of the SAG stated that the Environment Agency were carrying out their own health and safety works in the harbour which would possibly conflict with the plans of the Council. The Head of Operations confirmed that the Environment Agency had been asked to provide an update for the working group so that a middle ground could be sought to keep all users safe. Ms Moore confirmed that this was a common issue for harbours, and a protocol needed to be established to ensure that the Harbour Master was informed of plans and works by other agencies.

Councillor Cook updated the Committee on the Working Harbour Working Group, which focussed on income generation from the harbour. The group had considered navigation issues into the harbour, existing facilities including pontoons and provision of electricity to all moorings, whether any additional facilities were needed, the state of the North Wall of the harbour, the turning point for vessels, and what additional income could be generated through the acquisition of moorings. The group had also considered the condition of the road and what short term solutions could be put in place to protect the road surface.

Councillor Cook confirmed that the group had agreed actions to investigate the installation of a clearwater buoy at the harbour entrance, replace fixed visitor moorings with floating pontoons, investigate options for installing electricity and additional visitor mooring points on south side of the harbour, investigate options to make the north wall useable and to install anodes on the existing structure and to investigate the installation of rock gabions along the harbour road. A formal report would be drawn up for the HMCs next meeting to action these suggestions.

Mr Pickles referred to the installation of a clearwater buoy and suggested that Trinity House would be reluctant to install or maintain one, and as an alternative a transit mark should be installed on land. Mr Musgrove suggested that a port entry light with sectors could also be investigated as an alternative.

The Chairperson of the SAG informed the meeting that the SAG also believed the road to be a priority, and that they had also raised the issue of the crane location on the north dock wall and the repair of the north town slip which was currently unsafe for use.

Mr Gledhill informed the meeting that the Southwold Harbour Investment Programme (SHIP) Working Group would be meeting shortly to meet with Royal Haskoning and consider their report on the harbour.

The Head of Operations informed the Committee that the Head of Asset Management who had been leading the Caravan Site Working Group had left the Council, and that the Southwold Harbour Asset Manager would be taking the lead on this group when they were in place.

*N.B. During the discussions on this item there was a short adjournment, at the discretion of the Chairman, between 5.47pm and 5.52pm.*

## 6

### Arrangements for the Stakeholder Advisory Group

The Committee received report **ES/1077**. Councillor Cook introduced the report, which summarised the discussions which had taken place at the first meeting of the Stakeholder Advisory Group on the role between the SAG and the HMC. There needed to be meaningful dialogue between the HMC and SAG to allow issues to be raised and to ensure all viewpoints were heard and considered.

There being no questions, on the proposal of Councillor Cook and seconded by Mr Gledhill it was by a unanimous vote

**RESOLVED**

That the Harbour Management Committee (HMC) agreed:

1. That the Stakeholder Advisory Group (SAG) would receive a copy of the Harbour Management Committee (HMC) public papers, when they are published or possibly still in draft format.
2. That the meetings of the SAG be timetabled to enable them sufficient time to consider future reports of the HMC and be able to provide comments to the Chairperson of the SAG, to enable them to feedback to the HMC.
3. That the Chairperson of the SAG be invited to speak on all items of business considered by the HMC in the public domain at their meetings, in order to share any comments and recommendations from the SAG.
4. That members of the SAG can be invited to attend one of the HMC Working Groups, as appropriate, at the invitation of the Working Group Chairman.

**7      Update from the Stakeholder Advisory Group**

The Committee received an update on the recent meetings of the Stakeholder Advisory Group from the Chairperson.

The Chairperson reported that the SAG felt that the processes currently in place were working and that the level of transparency was appreciated. Some members of the SAG were receiving a presentation on the Royal Haskoning report, and the Chairperson asked that these members continue to be involved at the next stage of the report.

The Chairperson reported that there was some uncertainty from the caravan site representatives regarding the next steps for projects on the site, and asked that an update be sent to the caravan owners to reassure them. Councillor Smith, the Chair of the Caravan Site Working Group, confirmed that this was the intention but staff changes had slowed momentum. As soon as staff were in place work would speed up again.

The Chairman thanked the SAG for their comments.

**8      Urgent Item of Business - Appointment to the Stakeholder Advisory Group**

The Committee received report **ES/1091**, the purpose of which was to appoint an additional member onto the Stakeholder Advisory Group.

The Chairman informed the Committee that there were three vacancies on the SAG, one for a representative for the Charter Boat Associations in the harbour including both dive and fishing charters, an additional representative for the interests of shoreside traders/businesses close to the harbour and a representative from Blythburgh Parish Council. David Beavan had applied for the Charter Boats Association vacancy, his knowledge was considered an asset to the group and would ensure that all stakeholders were represented at SAG meetings.

There being no questions, on the proposal of Councillor Ritchie, seconded by Councillor Cook it was by a unanimous vote

**RESOLVED**

That David Beavan be appointed to the Stakeholder Advisory Group to represent the Charter Boat Associations in the harbour, including both dive and fishing charters, with immediate effect.

**9 Health and Safety Update**

The Committee received report **ES/1076** on Health and Safety in Southwold Harbour.

The Head of Operations introduced the report, and thanked the co-opted members for their feedback in this area which had increased the Council's understanding of the areas of work in the harbour. Health and safety was managed by the corporate health and safety team and was the responsibility of the Harbour Master. The ties between the two could be strengthened and this was part of the rationale behind the introduction of the Southwold Harbour and Asset Manager post.

The Head of Operations confirmed that the recommendations from the working groups had been taken on board to ensure that the necessary skills and training would be in place to support the harbour team. The Health, Safety and Compliance Working Group had also recommended the recruitment of a designated person and a full review of all risk assessments for all assets. This review was being done as part of a larger piece of work within the Council and the Harbour had been prioritised.

There being no questions, on the proposal of Councillor Rivett and seconded by Councillor Smith it was by a unanimous vote

**RESOLVED**

That the Harbour Management Committee note the content of the report.

**10 Southwold Harbour Management Committee's Forward Work Programme**

The Committee considered the forward work programme.

The Head of Operations asked that a caravan site update and a report on short term improvements as identified by the Working Harbour Working Group be added to the agenda for May.

It was also agreed that the Southwold Harbour and Asset Manager be invited to the first HMC meeting after they had been appointed.

**11 Date of Next Meeting**

It was noted that the next meeting would be held on 5 May 2022 at 4pm.

Additional meeting dates of 22 September and 3 November were agreed.

**12      Exempt/Confidential Items**

**RESOLVED**

That under Section 100A(4) of the Local Government Act 1972 (as amended) the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Act.

**13      Exempt Minutes**

- Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The meeting concluded at 6.42 pm.

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Chairman