

Response to East Suffolk District Council's Consultation Southwold Harbour

**Prepared and Submitted by
David Palmer, October 2019**

1 Introduction

This response has been based on documents published on-line by East Suffolk District Council on its web page "Southwold Harbour>>East Suffolk District Council" in October 2019, namely:

- Consultation circular
- Memorandum of Understanding
- Minutes of meeting for comments
- Outline Business Case
- Public Consultation Explanatory Document
- Terms of Reference

I have extensive knowledge of the study, planning, construction, operation, maintenance and management of ports and harbours over a period of 50 years as a professional Chartered Civil Engineer:

As a Southwold Town Councillor and Member of the Joint Harbour Lands Committee during the period May 2015 to May 2019 and Technical Advisor to the Blyth Estuary Partnership, I have been involved in the development of both managerial and technical options for ensuring the well being of Southwold Harbour for the past four years.

2 Harbour Management Committee (HMC)

Section 3 of Appendix 1 to the Public Consultation Explanatory Documents proposes that the HMC be comprised of 11 members, 6 of which shall be elected ESDC Cabinet Members nominated by the ESDC Cabinet and 5 non-elected Members co-opted for the skills and expertise that they can bring to the HMC. Section B of Annex 4 to the Draft MoU proposes that "at least one co-opted Member of HMC should be a Member of Southwold Town Council".

This proposed form and composition substantially ignores and undermines the spirit, understanding and accord reached at the public JHLC and WDC/STC meetings in February and March 2019. These and prior meetings recognised the need for near parity between elected Members of ESDC, STC and independent non-elected persons appointed to the HMC. The proposed ratio of 6:1:4 is far from near parity. It is appreciated that ESDC, as the putative "owner" of the SHL, needs to protect its own interests, particularly financial interests, but it can do that anyway at Cabinet level by enshrining in the MoU, the aims and objectives to which the HMC must adhere. These aims and objectives were discussed and agreed by WDC and STC during the consultation period earlier this year, but have not been incorporated in the MoU.

Section 3 of Appendix 1 to the Public Consultation Explanatory Documents also states that the Chair and Vice Chair of the HMC shall be elected Members of the ESDC Cabinet. Why? This just adds a double lock to the control that ESDC has over the HMC and is completely unnecessary. Surely is it not for the HMC to elect its own Chair and Vice Chair based on who it considers to be the most suitable?

In my opinion, the form and composition of the proposed HMC are wholly inappropriate. During formal and informal discussions earlier this year, a variety of preferences were put forward for both the number and ratio of HMC Members, ranging from 2 ESDC:2 STC:2:1 non-elected co-ops (a total of 5) to non-elected Co-opted to 4ESDC:4STC:4 non-elected co-ops (a total of 12). I believe that 5 is too few and 12 is too many and would like to see a maximum of 9 HMC members comprising 3 ESDC: 3 STC: 3 Stakeholders. This would recognise the different (primary) interests of the ESDC (financial resources and potential liabilities), STC (Southwold's community and well-being) and Stakeholders (Harbour operations and maintenance). I recognise that the above use of the word "Stakeholders" in lieu of "non-elected co-opted members" may be contentious. However, in my view the value of local knowledge and experience of regular users of the facilities that the Harbour Lands offer outweighs the risks provided they are carefully selected. Whatever the combination, the HMC should be free to engage specialist non-voting advisers to assist on matters outside the HMC's competence.

I also think that the proposed selection process is an ambiguous muddle and needs re-considering. (See Section 3 of Appendix 1 to the Public Consultation Explanatory Document and Sections B & C of Annex 4 to the MoU). Under these proposal, the elected members of the HMC shall be nominated and appointed by the ESDC Cabinet. This implies that any STC member(s) shall also be nominated and appointed by ESDC Cabinet, notwithstanding that STC members are classed as non-elected co-opted members in Section B1 of Annex 4. This is unacceptable. STC must be allowed to select its own nominations. It is proposed that each non-elected co-opted member will be appointed through an (unspecified) selection assessment process and recommended to the ESDC Cabinet for appointment. Recommended by whom? And should not all prospective candidates, elected or non-elected, ESDC, STC or co-opted, be subject to prior assessment of their "skills, knowledge, experience and commitment on matters including but not limited to the following..." as listed in Section C para 1 of Annex 4 to the MoU. And should not the list specifically include risk, both financial and technical?

3 Works outside the limits of the Harbour Lands

Ashfords' comments regarding "Works outside the harbour limits/Drainage & Flood Defence works" in their Public Consultation Explanatory Document effectively drive a horse and cart through the reassurances ESDC gave the JHC, STC and BEP about the need to incorporate provision for such works in the MoU and the aims and objectives. Ashfords' have taken the view that under current legislation "the statutory harbour authority [ESDC] function and harbour funds are not responsible or indeed authorised to carry out or fund works that are essentially required for flood defence purposes" and that "A Harbour Revision Order application would therefore need to be made to authorise such expenditure and activities if considered appropriate in future. However, there is no guarantee any such application would be successful"

Southwold Harbour Consultation Response

As ESDC, JHC, STC and BEP are all well aware, the Environment Agency has already or is about to cease any repair and maintenance of flood defences upstream of the bailey bridge and will cease to do so downstream of the bailey bridge by 2030. As ESDC, JHC, STC and BEP are also well aware, the hydrodynamic regimes of the harbour and estuary are totally interdependent; if the flood defences fail, so will the harbour. Repair and maintenance of the flood defences upstream of the bailey bridge are needed as a matter of the highest priority in order to safeguard the future well-being of the harbour. Unless either the EA or other such agency can be persuaded to undertake the necessary work within the very near future or an appropriate Harbour Revision Order can be obtained equally quickly which allows such repair and maintenance to be undertaken by SHA (ESDC) then there seems little point in ESDC investing public money in the repairs, improvements and maintenance harbour assets under its jurisdiction.

I do not have solution to this, but it seems to me that the ESDC and HMC ToR and MoU should include a requirement to address this issue as a matter of priority.

David Palmer
31 October 2019

cc: Kerry Blair, ESDC Head of Operations kerry.blair@eastsoffolk.gov.uk
Lesley Beavor, Southwold Town Clerk, townclerk@southwoldtowncouncil.com
Will Windell, Joint Chair JHLC, willshindig@gmail.com

Approved at WPC meeting on 11 November 2019

WPC RESPONSE TO SOUTHWOLD HARBOUR CONSULTATION

East Suffolk District Council is carrying out a consultation on the structure of the Southwold Harbour Management Committee (HMC) that was agreed in May 2019. A document prepared by a legal consultant to East Suffolk has suggested an HMC that consists of 11 members – 6 of which are East Suffolk District Councillors and 5 from outside. Further, they proposed that in the first year, 4 of the 5 external members would be from Southwold Town Council.

Walberswick Parish Council, in agreement with other local Councils and groups, oppose this management structure. It is contrary to the commitment made through the earlier consultation to make the HMC focused on the future of the Harbour and serving the interests of the local community, rather than being driven by the District Council which has, in the past, used its ownership of the Harbour as an income generating asset for Waveney rather than using the monies earned at the Harbour to invest in the needed infrastructure to keep the Harbour functional and in service to the local community.

Given that East Suffolk District Council retains the authority to make all spending decisions on the Harbour above £25,000, WPC feels strongly that the HMC should operate as an independent advisory committee to help advise the District Council in taking decisions that ensure the Harbour's future sustainability. Therefore, as had been expected after the previous consultation, we would recommend that the majority of HMC membership NOT be District Councillors, but rather be representative of the local communities that are directly associated with the Harbour. We would propose the following for the 11 member HMC:

- TWO cabinet members from the District Council, one of whom would have the Chairmanship of the Committee. Vice Chair should be selected from amongst the other Committee members.
- THE DISTRICT WARD MEMBER for Southwold
- FOUR Local Council members consisting of ONE EACH from the four local Councils whose boundaries are directly associated with the harbour: That is Southwold, Walberswick, Reydon and Blythburgh
- ONE member from the Blyth Estuary Partnership
- THREE members co-opted from amongst harbour users chosen for particular knowledge and/or with specific technical qualifications related to the Harbour.

In choosing Councillor membership from among the local Councils, attention should be paid to the need for skills in financial management, organisational management, marine or maritime expertise.

In response to the remainder of the consultation questions:

1. How long should members be appointed for? Initially 3 years, with right for reappointment. Over time, reappointment should be staggered so that the HMC retains continuity from year to year.
2. Are their comments on the Business Plan? Consideration of the business plan should be the first priority of the HMC.
3. How can the public be involved? By having a broader based membership of the HMC, as proposed above, there will be good public and user voice. On the other hand, an HMC dominated by the East Suffolk District Council precludes a meaningful public voice.
4. Proposal to have at least one public meeting per year. Yes. Could be done at a time when accounts are made public.
5. How should financial and performance information be made available? Per above. A decision on the content should be an early priority of the HMC.

Lacey Crowe

From: Coral Spence <admin@southwoldtowncouncil.com>
Sent: 19 November 2019 15:10
To: Kerry Blair
Subject: Southwold Harbour Consultation
Attachments: Southwold Harbour Consultation Response.pdf

Hello Kerry

See response attached.

Kind Regards
Coral

Southwold Town Council
Town Hall
Southwold
IP18 6EF

Tel: 01502 722576

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Questions for consultation

In May 2019, Ashfords LLP (Ashfords) were instructed to advise on the appropriate constitution for the proposed Southwold Harbour Management Committee (HMC) to enable governance improvements in line with the key principles in the consultation document from June 2014 and the Ports Good Governance Guidance (PGGG) issued by the Department for Transport.

In June 2019, Ashfords produced an explanatory note and their draft constitution for the HMC, comprising draft Terms of Reference and a draft Memorandum of Understanding, all as published with this circular and available as part of the consultation.

On the basis of these proposals, the Joint Committee is carrying out this consultation. The JC keeps an open mind, but has questions and reservations about the draft constitutional documents produced by Ashfords and will need to consider them carefully, together with the results of this public consultation exercise, when it meets again (probably in November 2019) to decide on the way forward, and may decide to recommend changes.

The results of this consultation will be considered by the Joint Committee before making final recommendations.

Membership

1. The legal advice that we have received is that the HMC is made of 11 external members. ~~Six~~⁴ of these will be East Suffolk Councillors and 5 others will be members from outside the District Council.. *Following the meeting in June, it has been suggested that in the first year ~~four~~² of those external members are Southwold Town Councillors.* Subsequent elections would allow members from outside the

Town council to join the HMC. Do you support this proposal? ~~Yes~~/ No. Free as you format.

comments

- There should be more people connected to Southwold Harbour complex, than councillors
- 4 MAX East Suffolk Cllrs? The committee of 6 East Suffolk Cllrs is too many, it has to be balanced and know the problems of the River
- 3. Harbour Area
- 2. Carewair Park
- 1. Southwold Cllrs
- 1. GLOVED R.N.A.I.

2. How do we ensure that there is a strong local voice on the HMC? Free comments

Have a balanced Committee not all Cllrs

3. What skills and experience do you consider to be important when selecting committee members?

a. Financial management *Exer Suffolk Cllr*

b. Organisational management

2 c. Local authority

3 d. Marine and maritime

e. Leisure user

2 f. Other (Free Comment) *CARAVAN PARK*

The Committee must know the area and problems

4. How long should members be appointed for?

a. One year

Change over should be staggered. not all change together.

b. Two years

c. Three years

d. *Other* *4 yrs*

Priorities

5. Do you have any comments on the priorities in the attached outline Business Plan?

Free Comment

6. Which of these areas do you feel should be a priority for the HMC in the first few years?

1 a. Harbour engineering and protection works?

2 b. Improving facilities for marine users

4 c. Improving facilities for visitors

- 5 d. Improvements to the environment – including the access road.
- 6 e. Promoting the harbour to visitors
- 3 f. Improvements to the caravan site
- g. Other

Meetings and Information

Publicity not computer

7. How can we ensure that the public are involved in meetings? **(Free Comment)**

8. Where should meetings be held? **(Free Comment)** *at Edmunds Hall*

9. The proposal is to hold at least one meeting per year in public. Is this sufficient?

(Free Comment)

10. What financial information should be made available to the public? **(Free comment)** *All.*

11. How would you like to see financial information reported? **(Free Comment)** *@ open meeting with minutes*

12. Should other performance information be made public? **(Free Comment)** *Yes.*



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SOUTHWOLD HARBOUR LANDS
EAST SUFFOLK COUNCIL PROPOSALS FOR A HARBOUR MANAGEMENT COMMITTEE

RESPONSE TO QUESTIONS FOR CONSULTATION OCTOBER 2019 FROM THE SOUTHWOLD AND REYDON SOCIETY REPRESENTING 400 RESIDENTS IN OUR COMMUNITY

Question 1 – membership
Do you support the proposal?

We do not support the proposal for the reasons set out below.

Ashfords LLP (Ashfords) advice to East Suffolk Council (ESC) was that the Harbour Management Committee (HMC) should consist of eleven members, six from ESC Cabinet, and five Co-opted members, of whom at least one should be from Southwold Town Council (STC). This has subsequently been slightly revised to suggest that in the first year, four of the Co-opted members should be from STC.

We do not agree with the suggested constitution of the HMC in either scenario.

Fundamentally, we do not agree with ESC having a majority on the HMC. We know that ESC is anxious that it should have control, but we do not consider that this should be an issue here. ESC's predecessor gave a "categorical" assurance that the harbour lands would never be sold, and we know that income from the harbour lands must be ring-fenced and reinvested in the harbour lands. All members of the HMC must act in the best interests of the harbour. Once on the HMC, they have a duty to act for that body and not to represent their own particular group or interests. Other Local Authorities run HMCs on an equal membership basis, maintaining control through good governance and collaboration. Surely this is the right model with which to proceed. We are sure ESC would not propose to do anything regarding the harbour lands that would be contrary to the interests of harbour representatives and users?

We believe that the argument for equal representation on the HMC is supported by the following:-

- the Municipal Ports Review, the predecessor to the Ports Good Governance Guidance (PGGG), expressly recommended parity of numbers between councillors and independent members
- the PGGG's recommendation is that the HMC should ideally comprise approximately 50% local authority elected members – these do not all have to be councillors, they can be co-opted representatives appointed by the local authority – plus external members who are



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stakeholder representatives or individuals with valuable skills and experience. In this way, you can achieve a HMC with the necessary expertise to successfully run and manage the harbour lands.

- the HMC which Ashfords use as an example of best practice is Cornwall Council Harbours Board. It has an equal number of elected and non-elected members, all of whom have voting rights. Cornwall Council Harbours Board consists of six Councillors and six Independent Board Members, appointed following a skills audit. (In addition, there are four non-voting co-opted members who are stakeholder representatives). The current Independent Board Members are from local businesses, from the Marine Safety Group, and one fisherman/RNLI crew member.
- the PGGG specifically states that no individual can dominate a HMC's decision making, and also that all members must be able to allocate sufficient time to discharge their responsibilities effectively. There must be concern as to whether six members of ESC Cabinet would be able to devote sufficient time to a HMC, given their other responsibilities.
- it meets the overwhelming wishes of the local community, as expressed during the previous consultation exercise. The majority of consultee responses were that any HMC should be made up of a broad range of local people including Southwold Town Councillors and local stakeholders (including the users of the harbour and the caravan site and that WDC should not have a major role. In the words of one consultee "If this proposal puts management into local hands then we are for it". We could find only one response saying that control should not be with a HMC without a veto by WDC on major decisions. The vast majority stressed the importance of local and STC involvement if they were to agree to a HMC.
- equal representation is in compliance with the recommendations of the PGGG

We would suggest that the composition of the HMC should be as follows:

2 ESC, including the Chairman

1 ESC Ward Councillor

1 STC

4 independent members including financial, marine, land owner, business

There should be dispensation for anyone with a pecuniary interest in the Harbour, as with Salcombe HMC.

Question 2 – how do we ensure there is a strong local voice on the HMC?

By ensuring, in accordance with the PGGG, that there is equal representation of local authority members and independent members on the HMC.

We believe that the constitution suggested above would ensure the strong local voice that is so important to the local community.



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If it was felt that more local people should be involved, non-voting co-opted members could be appointed to represent further stakeholder groups (as in the Cornwall example). Alternatively, a separate stakeholder committee could be formed to provide stakeholder views to the HMC – such an advisory group of other stakeholders could assist in decision making.

Question 3 – what skills and experience are important when selecting committee members?

Organisational skills are important, but there should be particular emphasis on marine and maritime skills and financial management, given that the purpose of the HMC is to successfully run, manage, maintain and develop a working harbour and river. It is critical that committee members have experience in running the caravan site, since it provides the majority of the revenue for the harbour lands.

Business planning is also an important skill – the HMC must be savvy in communication and social media skills to ensure the public is kept informed. This will be extremely important if the HMC needs to be raising funds for improvements down the Blyth Estuary. The issue of a business plan for the harbour, caravan park and use of the camping fields is also key.

The representatives from ESC and STC would provide local authority experience.

The Harbour Master would have access to the HMC and be able to give advice.

Harbour users, both business and recreational, plus individuals with experience of the Blyth Estuary should all be included, either on the HMC itself, or on a separate stakeholder committee as envisaged above.

Representatives from statutory authorities, e.g. Environment Agency, would provide valuable skills.

Question 4 – how long should members be appointed for?

d. Other

Three years, but on a rolling programme to ensure continuity of membership to the HMC.

We do not agree with the transition period for independent members, as suggested in the Terms of Reference, as we do not see how this would achieve continuity among these vital members of the HMC who are appointed for their skills and expertise.

Question 5 – do you have any comments on the priorities in the outline Business Plan?



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We would comment on the Business Case Outline as follows:

- it is not accepted that ESC is the 'Corporation' under the 1933 Order, as that would imply that the harbour and harbour undertaking is vested in ESC under the Order. That remains a contentious issue, which is why the question of ownership had been left in abeyance in previous negotiations regarding the harbour lands. If we look at the resolutions that formed the Joint Committee, both WDC and STC acknowledged "that there are various complex historical and current issues that prevent any simple transfer or devolution of Southwold Harbour and its associated lands to any existing or other body". That is as true now as it was in 2014.
- The Business Case refers to financial statements, but none are included in the document. We understand that ESC is in the process of developing a business plan for the caravan site. Further, the results of the model survey on the Harbour and Blyth Estuary, which has been authorised, is critical to establishing what is required.
- the Outline states "Revenue from Southwold Harbour is retained for use in its operation" in accordance with article 39. This is pleasing, as a number of documents have referred only to 'surplus' income being retained for use in the harbour lands, which is not what article 39 says.
- we fundamentally disagree with the statement that the HMC's budget "will be a fairly modest one for day to day matters". The HMC is the body responsible for management of the harbour, and it should have the budget to enable it to perform its functions. Harbour revenues are applied in accordance with article 39 of the 1933 Order, i.e. they are ring-fenced and can only be used for the benefit of the harbour, and they should be managed and applied by the HMC. In accordance with the PGGG, the harbour revenues should be protected in an assured account, and be kept separate, thereby allowing the HMC to both plan for the long term and also to cope with unexpected events where funds are required at short notice. The HMC is best placed to allocate its budget to discharge its functions – this should not be within the power of ESC. The HMC should not be required to seek ESC approval every time it needs to incur expenditure or take action – the whole point is that it is responsible for the operation of the harbour.
- the five year business plan should be updated every twelve months.
- there is no acknowledgement of the "categoric" assurance given by WDC that the harbour lands, including the caravan site, will never be sold and that this is something that would be written into any agreement. It is vital that this categoric assurance, in writing, is given.

Question 6 – which areas should be a priority for the HMC in the first few years?

- a. harbour engineering and protection works, and
- g. other – namely, works to maintain the Blyth Estuary



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There is no point improving facilities for visitors and marine users if the harbour and estuary are not maintained and protected. The maintenance of flood protection in the estuary is vital to the continued viability of the harbour itself. This mutual interdependence was acknowledged by WDC – Mark Bee explained at the public meeting on 6th February 2019 that WDC had commissioned a computer model to assess the scale of investment and what would be required to keep the harbour open to businesses and visitors. In answer to a question regarding the estuary, he stated “this gives an opportunity for investment in the Blyth – need to ensure there is maintenance and the proper programme for all of that estuary”. The survey was to “go all the way back and possibly onto the other side of the A12”. He wanted “to ensure that the harbour is a viable harbour for the next 30-40 years”.

Many of the consultee responses emphasised the need for the Blyth Estuary to be maintained, in order to keep the harbour open.

We were therefore concerned to read Ashford’s advice that it would not be a lawful use of harbour funds “to finance drainage or flood defence works or other improvements to the Blyth Estuary not within the harbour limits or related to the harbour undertaking”.

We believe this interpretation fails to recognise the interdependence of the harbour and the Blyth Estuary, and the necessity to maintain the latter to ensure the viability of the former. The works to the Estuary are “related to the harbour undertaking” because without them, there is a real risk that the harbour undertaking will cease to exist. The sooner the HMC is set up, with a constitution and governance that ensures it is effective, the sooner it can begin to address the vital issue of interdependency.

We do not see, as Ashfords argue, that article 13 of the 1933 Order makes it clear that drainage and flood defence are a separate responsibility to the Statutory Harbour Authority function. Article 13 provides that if the Corporation desires to execute any works within the limits of the Order which may affect the main channel of the River Blyth, they shall give 28 days notice in writing to the East Suffolk Rivers Catchment Board. If anything, does this not suggest that the harbour and the River Blyth are interdependent?

Further, is there not a general duty on a Statutory Harbour Authority to conserve and facilitate the safe use of the port and to keep the harbour open?

Article 12 of the 1933 Order gives the Corporation under the Order power to “maintain alter improve and extend the harbour undertaking and in connection therewith may construct alter and improve embankments walls...and other works and conveniences which may be found necessary”.

Question 7 – how to ensure the public are involved in meetings?



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The PGGG stresses the importance of operating in an open, transparent and accountable way, with a range of information available to stakeholders and with meetings open to the public.

Keep the public informed of the actions and decisions of the HMC through an active website and the use of social media.

Ensure that minutes of HMC meetings, reports and accounts are all readily accessible so that the public can feel informed and be able to understand what is going on in meetings.

Provide a forum for the public to make comments and ask questions.

Publicise meetings properly on the website, in the local press and on social media.

Allow members of the public to speak in meetings.

Question 8 – where should meetings be held?

In a venue large enough to allow the public to attend, in Southwold as we are talking about Southwold Harbour.

Question 9 – is one meeting per year in public sufficient?

Why not every meeting in public, in the interests of openness and transparency, as Town Council meetings with the opportunity to speak? Why not twelve meetings per year with one AGM held in public also?

Question 10 – what financial information should be made available?

Under the Harbours Act, a local authority statutory harbour authority is required to submit accounts and reports to the DfT in the format required for businesses submitting accounts to Companies House, and these should be available for public inspection. So, commercial style accounts should be produced, in accordance with the PGGG.

Following the practice at Cornwall, an Annual Report should also be made available, which inter alia details the monitoring of the annual budget. Total expenditure, income and contribution to reserves should be clearly laid out.

Question 11 – financial information could be published in the annual report, and on the HMC website.



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Further Comments

Draft Terms of Reference

We are concerned that the draft Terms of Reference (ToR) in their current form are too prescriptive and could restrict the ability of the HMC to carry out its functions in connection with the Southwold Harbour Lands (SHL).

Some particular points of concern are as follows:

1.1 – for the reasons set out in our consultation response, we do not agree with the inclusion of the statement that ESC is the Owner of the SHL.

2.2, 2.3, 2.7 – for the reasons set out in our consultation response, we do not agree with the proposed restrictions on the HMC's powers to manage the financial matters of the SHL. We believe that the HMC is best placed to set charges, approve annual budgets, monitor and vary expenditure as appropriate, monitor the harbour reserve funds and so on.

2.4, 2.5, 2.6 – limiting the ability of the HMC to make decisions regarding assets could adversely restrict the its ability to act effectively as the strategic body for the management of the SHL.

Any provision regarding asset disposal has to be read in conjunction with the express assurance given by both Waveney District Council and Southwold Town Council that no part of the SHL, which includes the caravan site, is to be sold.

2.10 – the HMC should be free to approve and publish plans, including the business plan, and address any issues relating to performance.

3.1 ff. – for the reasons set out in our consultation response, we do not agree with the proposed composition of the HMC.

As the Chair is to be from ESC, we do not believe that the Vice Chair should also be from the same local authority.

Draft Memorandum of Understanding

We cannot comment fully on the draft Memorandum of Understanding (MoU) at present, as a number of important Annex sections are blank.

We do, however, have concerns that the MoU in its current form is unnecessarily prescriptive, going beyond the PGGG suggestion of recommended ground rules for a framework between ESC and the HMC.



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We wonder if, perhaps, this is due to the draft following so closely the MoU of the Cornwall Harbours Board, which is of course responsible for ten different harbours and so is a much larger undertaking.

SHL is a different proposition, and deserves a MoU that reflects its particular circumstances - for example the existence of the caravan site within the SHL that generates a substantial income for the SHL, the interdependence of the Harbour and the Blyth Estuary and so on.

Our major concern at this stage regarding the MoU is that it could limit the ability of the HMC to operate effectively as a result of the restrictions it places on, inter alia, the HMC's powers to determine its budget, its decision making processes and its activities in connection with the SHL.

We feel that a major advantage of a HMC is that it has members with the skills, expertise and experience required to effectively manage the harbour and deliver against the business plan. It needs to be allowed to get on with it. We worry that if too many decisions (such as the setting of harbour charges, the drawing up of policies and plans including the business plan, obtaining specialist services etc.) are all subject to review and determination by Cabinet, it will cause delays and render the HMC less effective. It is, after all, the HMC that is established under the PGGG to govern the SHL.

On a couple of specific points, we take issue with the statement regarding ownership, for the reasons set out in our consultation response, and we reserve the right to comment on the Asset Register, which we hope would be finalised before the HMC is in place since it is a critical element of the MoU.

We would like to see, in connection with the establishment of assured accounts, a specific acknowledgement that all harbour revenues (including revenue from the caravan site) and capital monies are assured, to allow for the maintenance, upkeep and improvement of the SHL, including, if possible, the Blyth Estuary.

Lacey Crowe

From: David Beavan
Sent: 28 November 2019 17:43
To: Kerry Blair; Philip O'Hear
Cc: Windell Will; Ian Bradbury - Southwold Town Council; Town Clerk - Southwold Town Council
Subject: RE: Southwold Harbour

Hello Kerry,
Can you take this as my submission as well as I totally agree with this?
Thanks
David

From: Kerry Blair <Kerry.Blair@eastsuffolk.gov.uk>
Sent: 28 November 2019 15:52
To: Philip O'Hear <ohearp@gmail.com>
Cc: Windell Will <willshindig@gmail.com>; Ian Bradbury - Southwold Town Council <cllrbradbury@southwoldtc.com>; Town Clerk - Southwold Town Council <townclerk@southwoldtowncouncil.com>; David Beavan <David.Beavan@eastsuffolk.gov.uk>
Subject: RE: Southwold Harbour

Thank you, Philip

We will include this submission – as well as the online response – as part of the feedback and recommendations

Regards

Kerry



Kerry Blair | Head of Operations

East Suffolk Council
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East Suffolk Council is a new district authority which, from April 2019, delivers services for the residents, businesses and communities previously served by Suffolk Coastal and Waveney District Councils

From: Philip O'Hear <ohearp@gmail.com>
Sent: 28 November 2019 14:59
To: Kerry Blair <Kerry.Blair@eastsuffolk.gov.uk>
Cc: Windell Will <willshindig@gmail.com>; Ian Bradbury - Southwold Town Council <cllrbradbury@southwoldtc.com>; Town Clerk - Southwold Town Council

<townclerk@southwoldtowncouncil.com>; David Beavan <David.Beavan@eastsoffolk.gov.uk>

Subject: Southwold Harbour

Dear Mr Blair,

Please find attached the response to the current consultation on the Management of Southwold Harbour Lands from the Southwold and Reydon Society which represents some 400 residents in our community. We have followed the questions in your questionnaire but also added further comments. We would be pleased to discuss our concerns and ideas should you wish.

With best wishes

Philip O'Hear
Secretary, Southwold and Reydon Society,
Rowan Croft, Rissemere Lane East, Reydon, Southwold, Suffolk, IP18 6SW
07958 571554

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Lacey Crowe

From: bill@boxtrees.com
Sent: 28 November 2019 20:02
To: Kerry Blair
Subject: Southwold harbour consultation
Attachments: SRS Response to Harbour Consultation Nov 2019 copy.docx; SRS Key Issues in HMC Consultation Nov 2019 copy.docx

Hello Kerry,

We would like to say that we agree with the response from the Southwold and Reydon Society, as detailed in the attached documents.

Best Regards,

Aileen and Bill Irving,
Reydon Grange,
Mardle Road,
Wangford,
Beccles
NR34 8AU

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Lacey Crowe

From: John Huggins <john_huggins@btinternet.com>
Sent: 28 November 2019 20:43
To: Kerry Blair
Subject: Management of Southwold Harbour

Good morning Kerry

Response to Questions for consultation

In May 2019, Ashfords LLP (Ashfords) were instructed to advise on the appropriate constitution for the proposed Southwold Harbour Management Committee (HMC) to enable governance improvements in line with the key principles in the consultation document from June 2014 and the Ports Good Governance Guidance (PGGG) issued by the Department for Transport.

In June 2019, Ashfords produced an explanatory note and their draft constitution for the HMC, comprising draft Terms of Reference and a draft Memorandum of Understanding, all as published with this circular and available as part of the consultation.

On the basis of these proposals, the Joint Committee is carrying out this consultation. The JC keeps an open mind, but has questions and reservations about the draft constitutional documents produced by Ashfords and will need to consider them carefully, together with the results of this public consultation exercise, when it meets again (probably in November 2019) to decide on the way forward, and may decide to recommend changes.

The results of this consultation will be considered by the Joint Committee before making final recommendations.

Membership

1. The legal advice that we have received is that the HMC is made of 11 external members. Six of these will be East Suffolk Councillors and 5 others will be members from outside the District Council. **Following the meeting in June, it has been suggested that in the first year four of those external members are Southwold Town Councillors.** Subsequent elections would allow members from outside the Town council to join the HMC. Do you support this proposal? **No. Free comments**

Response 1 The proposal to create a HMC comprising eleven members is frankly absurd.. Southwold Harbour is a comparatively small operation which has been effectively managed for the last five years by a committee of five people; Kerry Blair (WDC) , Councillor Sue/Allen Ian Bradbury(STC) , Councillor Simon Flunder (Vice Chair SHRBUA), Councillor David Beavan (District Councillor), and Graham Hay Davison (Chairman SHRBUA) with the co-operation and active involvement of Peter Simmons/Jerry Hilder (Harbourmaster) and secretarial input from WDC in the form of Lucy Bellingham. This committee has only ever been advisory; bringing to the attention of WDC issues that required addressing for the proper day to day management of the Harbour . Replacing this committee with an HMC of eleven members with six members appointed from the ESC Cabinet , all drawing attendance fees and expenses (to include, on a permanent basis, the committee Chairmen and Vice-Chairman) with five more nominated by ESC appears to exclude any right of STC to have an equal or, for that matter, any representation on the committee.

- 2 How do we ensure that there is a strong local voice on the HMC? **Free comments**

Response 2 A strong local voice can only be provided by STC having the RIGHT to appoint one or more STC Councillor, (or equal and approved), to the committee. As the proposal stands STC have no rights in the matter at all. Once it becomes clear to the eleven appointees that the HMC is purely advisory and has no executive powers whatsoever and members must defer in all matters to the Chairman and Vice-Chairman (both appointed on a permanent basis by ESC) and the whole exercise is completely pointless and geared solely to the objective of ESC in gaining sole control of harbour revenues, interest will wane and attendance at meetings will fall away.

- 3 What skills and experience do you consider to be important when selecting committee members?
 - a. Financial management

- b. Organisational management
- c. Local authority
- d. Marine and maritime
- e. Leisure user
- f. Other (Free Comment)

Response 3f Southwold can provide the following experience in individuals who have expressed a willingness to stand and give the benefit of their experience and wisdom to the Committee in the following fields. :-

Accounting and Financial Management

Riparian Ownership and Business Management

Valuation Surveying and Property Management

Master Mariner, yacht master and ESC Councillor.

Technical Statistician and Surveying of the Estuary

Local Practising Solicitor.

What skills are being offered by the nominated ESC cabinet appointees to the HMC other than the ability to secure public office?

4 How long should members be appointed for?

g One year

h Two years

j Three years

k Other

Response 4 Three years

Priorities

5 Do you have any comments on the priorities in the attached outline Business Plan? Free Comment

Response 5 *The outline business plan is largely a self-vaedictory plagiarism of other people's efforts. The lack of a proper business plan that has been requested from the very beginning of this exercise hinders any proper appreciation of the financial consequences of the ESC proposals leaving them with limitless flexibility and us in the dark. The priorities for the future management of the harbour are well known and have largely been ignored for years. The work of the HMC is only advisory and ESC will simply continue to ignore/defer urgent maintenance as they have with the North Pier fendering which was considered urgent three/four years ago for whatever reason but has been deferred every year including this one. As the HMC is only advisory I can see no improvement in the current proposals.*

6 Which of these areas do you feel should be a priority for the HMC in the first few years?

g. Harbour engineering and protection works?

h. Improving facilities for marine users

i. Improving facilities for visitors

j. Improvements to the environment - including the access road.

k. Promoting the harbour to visitors

l. Improvements to the caravan site

m. Other

Response 6 *Selecting the order in which the foregoing concepts are ordered is just a wish list exercise in the absence of a business plan. Items g and h are obvious priorities, the rest seem to be drafted by one who has lost sight of the fact that this is a harbour and not a theme park*

Meetings and Information

2. How can we ensure that the public are involved in meetings?

(Free Comment)

By making all meetings accessible and audible to the public. Meetings behind closed doors disseminate distrust and resentment.

3. Where should meetings be held?

(Free Comment)

At the Harbour, preferable in the Sailing Club. Holding Harbour meetings off-site is a non-starter if you seek public participation.

4. The proposal is to hold at least one meeting per year in public. Is this sufficient? **(Free Comment)**

Absolutely not.! Meetings must be held on a monthly basis until the backlog of repairs/maintenance is tackled. All meetings must be open to public attendance

5. What financial information should be made available to the public?

(Free comment)

This is public money and the public are entitled to receive financial summaries and ask questions thereupon.

6. How would you like to see financial information reported?

(Free Comment)

Accurately.

7. Should other performance information be made public?

(Free Comment)

Without performance indicators this would be largely meaningless.

Kind regards
John Huggins
56 Hotson Road
Southwold
IP18 6BP

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From: info@gilldavies.co.uk
Sent: 02 December 2019 13:10
To: Kerry Blair
Subject: Harbour consultation

Question 1 – membership

Do you support the proposal?

I do **not** support the proposal for the reasons set out below.

Ashfords LLP (Ashfords) advice to East Suffolk Council (ESC) was that the Harbour Management Committee (HMC) should consist of eleven members, six from ESC Cabinet, and five Co-opted members, of whom at least one should be from Southwold Town Council (STC).

This has subsequently been slightly revised to suggest that in the first year, four of the Co-opted members should be from STC.

I do not agree with the suggested constitution of the HMC in either scenario.

Fundamentally, I do not agree with ESC having a majority on the HMC. We know that ESC is anxious that it should have control, but we do not consider that this should be an issue here. ESC's predecessor gave a "categoric" assurance that the harbour lands would never be sold, and I know that income from the harbour lands must be ring-fenced and reinvested in the harbour lands. All members of the HMC must act in the best interests of the harbour. Once on the HMC, they have a duty to act for that body and not to represent their own particular group or interests. Other Local Authorities run HMCs on an equal membership basis, maintaining control through good governance and collaboration. Surely this is the right model with which to proceed. We are sure ESC would not propose to do anything regarding the harbour lands that would be contrary to the interests of harbour representatives and users?

I believe that the argument for equal representation on the HMC is supported by the following:-

- the Municipal Ports Review, the predecessor to the Ports Good Governance Guidance (PGGG), expressly recommended parity of numbers between councillors and independent members
- the PGGG's recommendation is that the HMC should ideally comprise approximately 50% local authority elected members – these do not all have to be councillors, they can be co-opted representatives appointed by the local authority – plus external members who are stakeholder representatives or individuals with valuable skills and experience. In this way, you can achieve a HMC with the necessary expertise to successfully run and manage the harbour lands.
- the HMC which Ashfords use as an example of best practice is Cornwall Council Harbours Board. It has an equal number of elected and non-elected members, all of whom have voting rights. Cornwall Council Harbours Board consists of six Councillors and six Independent Board Members, appointed following a skills audit. (In addition, there are four non-voting co-opted members who are stakeholder representatives). The current Independent Board Members are from local businesses, from the Marine Safety Group, and one fisherman/RNLI crew member.
- the PGGG specifically states that no individual can dominate a HMC's decision making, and also that all members must be able to allocate sufficient time to discharge their responsibilities effectively. There must be concern as to whether six members of ESC Cabinet would be able to devote sufficient time to a HMC, given their other responsibilities.
- it meets the overwhelming wishes of the local community, as expressed during the previous consultation exercise. The majority of consultee responses were that any HMC should be made up of a broad range of local people including Southwold Town Councillors and local stakeholders (including the users of the harbour and the caravan site and that WDC should not have a major role. In the words of one consultee "If this proposal puts management into local hands then we are for it". We could find only one response saying that control should not be with a HMC

without a veto by WDC on major decisions. The vast majority stressed the importance of local and STC involvement if they were to agree to a HMC.

- equal representation is in compliance with the recommendations of the PGGG

I would suggest that the composition of the HMC should be as follows:

2 ESC, including the Chairman

1 ESC Ward Councillor

1 STC

4 independent members including financial, marine, land owner, business

There should be dispensation for anyone with a pecuniary interest in the Harbour, as with Salcombe HMC.

Question 2 – how do we ensure there is a strong local voice on the HMC?

By ensuring, in accordance with the PGGG, that there is equal representation of local authority members and independent members on the HMC.

I believe that the constitution suggested above would ensure the strong local voice that is so important to the local community.

If it was felt that more local people should be involved, non-voting co-opted members could be appointed to represent further stakeholder groups (as in the Cornwall example). Alternatively, a separate stakeholder committee could be formed to provide stakeholder views to the HMC – such an advisory group of other stakeholders could assist in decision making.

Question 3 – what skills and experience are important when selecting committee members?

Organisational skills are important, but there should be particular emphasis on marine and maritime skills and financial management, given that the purpose of the HMC is to successfully run, manage, maintain and develop a working harbour and river. It is critical that committee members have experience in running the caravan site, since it provides the majority of the revenue for the harbour lands.

Business planning is also an important skill – the HMC must be savvy in communication and social media skills to ensure the public is kept informed. This will be extremely important if the HMC needs to be raising funds for improvements down the Blyth Estuary. The issue of a business plan for the harbour, caravan park and use of the camping fields is also key.

The representatives from ESC and STC would provide local authority experience.

The Harbour Master would have access to the HMC and be able to give advice

Harbour users, both business and recreational, plus individuals with experience of the Blyth Estuary should all be included, either on the HMC itself, or on a separate stakeholder committee as envisaged above.

Representatives from statutory authorities, e.g. Environment Agency, would provide valuable skills.

Question 4 – how long should members be appointed for?

1. Other

Three years, but on a rolling programme to ensure continuity of membership to the HMC.

I do not agree with the transition period for independent members, as suggested in the Terms of Reference, as I do not see how this would achieve continuity among these vital members of the HMC who are appointed for their skills and expertise.

Question 5 – do you have any comments on the priorities in the outline Business Plan?

I would comment on the Business Case Outline as follows:

- it is not accepted that ESC is the 'Corporation' under the 1933 Order, as that would imply that the harbour and harbour undertaking is vested in ESC under the Order. That remains a contentious issue, which is why the question of ownership had been left in abeyance in previous negotiations regarding the harbour lands. If we look at the resolutions that formed the Joint Committee, both WDC and STC acknowledged "that there are various complex historical and current issues that prevent any simple transfer or devolution of Southwold Harbour and its associated lands to any existing or other body". That is as true now as it was in 2014.
- The Business Case refers to financial statements, but none are included in the document. We understand that ESC is in the process of developing a business plan for the caravan site. Further, the results of the model survey on the Harbour and Blyth Estuary, which has been authorised, is critical to establishing what is required.
- the Outline states "Revenue from Southwold Harbour is retained for use in its operation" in accordance with article 39. This is pleasing, as a number of documents have referred only to 'surplus' income being retained for use in the harbour lands, which is not what article 39 says.
- we fundamentally disagree with the statement that the HMC's budget "will be a fairly modest one for day to day matters". The HMC is the body responsible for management of the harbour, and it should have the budget to enable it to perform its functions. Harbour revenues are applied in accordance with article 39 of the 1933 Order, i.e. they are ring-fenced and can only be used for the benefit of the harbour, and they should be managed and applied by the HMC. In accordance with the PGGG, the harbour revenues should be protected in an assured account, and be kept separate, thereby allowing the HMC to both plan for the long term and also to cope with unexpected events where funds are required at short notice. The HMC is best placed to allocate its budget to discharge its functions – this should not be within the power of ESC. The HMC should not be required to seek ESC approval every time it needs to incur expenditure or take action – the whole point is that it is responsible for the operation of the harbour.
- the five year business plan should be updated every twelve months.
- there is no acknowledgement of the "categoric" assurance given by WDC that the harbour lands, including the caravan site, will never be sold and that this is something that would be written into any agreement. It is vital that this categoric assurance, in writing, is given.

Question 6 – which areas should be a priority for the HMC in the first few years?

1. harbour engineering and protection works, and
2. other – namely, works to maintain the Blyth Estuary

There is no point improving facilities for visitors and marine users if the harbour and estuary are not maintained and protected. The maintenance of flood protection in the estuary is vital to the continued viability of the harbour itself. This mutual interdependence was acknowledged by WDC – Mark Bee explained at the public meeting on 6th February 2019 that WDC had commissioned a computer model to assess the scale of investment and what would be required to keep the harbour open to businesses and visitors. In answer to a question regarding the estuary, he stated “this gives an opportunity for investment in the Blyth – need to ensure there is maintenance and the proper programme for all of that estuary”. The survey was to “go all the way back and possibly onto the other side of the A12”. He wanted “to ensure that the harbour is a viable harbour for the next 30-40 years”.

Many of the consultee responses emphasised the need for the Blyth Estuary to be maintained, in order to keep the harbour open.

I am therefore concerned to read Ashford’s advice that it would not be a lawful use of harbour funds “to finance drainage or flood defence works or other improvements to the Blyth Estuary not within the harbour limits or related to the harbour undertaking”.

I believe this interpretation fails to recognise the interdependence of the harbour and the Blyth Estuary, and the necessity to maintain the latter to ensure the viability of the former. The works to the Estuary are “related to the harbour undertaking” because without them, there is a real risk that the harbour undertaking will cease to exist. The sooner the HMC is set up, with a constitution and governance that ensures it is effective, the sooner it can begin to address the vital issue of interdependency.

I do not see, as Ashfords argue, that article 13 of the 1933 Order makes it clear that drainage and flood defence are a separate responsibility to the Statutory Harbour Authority function. Article 13 provides that if the Corporation desires to execute any works within the limits of the Order which may affect the main channel of the River Blyth, they shall give 28 days notice in writing to the East Suffolk Rivers Catchment Board. If anything, does this not suggest that the harbour and the River Blyth are interdependent?

Further, is there not a general duty on a Statutory Harbour Authority to conserve and facilitate the safe use of the port and to keep the harbour open?

Article 12 of the 1933 Order gives the Corporation under the Order power to “maintain alter improve and extend the harbour undertaking and in connection therewith may construct alter and improve embankments walls...and other works and conveniences which may be found necessary”.

Question 7 – how to ensure the public are involved in meetings?

The PGGG stresses the importance of operating in an open, transparent and accountable way, with a range of information available to stakeholders and with meetings open to the public.

Keep the public informed of the actions and decisions of the HMC through an active website and the use of social media.

Ensure that minutes of HMC meetings, reports and accounts are all readily accessible so that the public can feel informed and be able to understand what is going on in meetings.

Provide a forum for the public to make comments and ask questions.

Publicise meetings properly on the website, in the local press and on social media.

Allow members of the public to speak in meetings.

Question 8 – where should meetings be held?

In a venue large enough to allow the public to attend, in Southwold as we are talking about Southwold Harbour.

Question 9 – is one meeting per year in public sufficient?

Why not every meeting in public, in the interests of openness and transparency, as Town Council meetings with the opportunity to speak? Why not twelve meetings per year with one AGM held in public also?

Question 10 – what financial information should be made available?

Under the Harbours Act, a local authority statutory harbour authority is required to submit accounts and reports to the DfT in the format required for businesses submitting accounts to Companies House, and these should be available for public inspection. So, commercial style accounts should be produced, in accordance with the PGGG.

Following the practice at Cornwall, an Annual Report should also be made available, which inter alia details the monitoring of the annual budget. Total expenditure, income and contribution to reserves should be clearly laid out.

Question 11 – financial information could be published in the annual report, and on the HMC website.

Further Comments

Draft Terms of Reference

I am concerned that the draft Terms of Reference (ToR) in their current form are too prescriptive and could restrict the ability of the HMC to carry out its functions in connection with the Southwold Harbour Lands (SHL).

Some particular points of concern are as follows:

1.1 – for the reasons set out in our consultation response, I do not agree with the inclusion of the statement that ESC is the Owner of the SHL.

2.2, 2.3, 2.7 – for the reasons set out in our consultation response, we do not agree with the proposed restrictions on the HMC's powers to manage the financial matters of the SHL.

I believe that the HMC is best placed to set charges, approve annual budgets, monitor and vary expenditure as appropriate, monitor the harbour reserve funds and so on.

2.4, 2.5, 2.6 – limiting the ability of the HMC to make decisions regarding assets could adversely restrict its ability to act effectively as the strategic body for the management of the SHL.

Any provision regarding asset disposal has to be read in conjunction with the express assurance given by both Waveney District Council and Southwold Town Council that no part of the SHL, which includes the caravan site, is to be sold.

2.10 – the HMC should be free to approve and publish plans, including the business plan, and address any issues relating to performance.

3.1 ff. – for the reasons set out in our consultation response, I do not agree with the proposed composition of the HMC.

As the Chair is to be from ESC, I do not believe that the Vice Chair should also be from the same local authority.

Draft Memorandum of Understanding

I cannot comment fully on the draft Memorandum of Understanding (MoU) at present, as a number of important Annex sections are blank.

I do, however, have concerns that the MoU in its current form is unnecessarily prescriptive, going beyond the PGGG suggestion of recommended ground rules for a framework between ESC and the HMC.

I wonder if, perhaps, this is due to the draft following so closely the MoU of the Cornwall Harbours Board, which is of course responsible for ten different harbours and so is a much larger undertaking.

SHL is a different proposition, and deserves a MoU that reflects its particular circumstances - for example the existence of the caravan site within the SHL that generates a substantial income for the SHL, the interdependence of the Harbour and the Blyth Estuary and so on.

Our major concern at this stage regarding the MoU is that it could limit the ability of the HMC to operate effectively as a result of the restrictions it places on, inter alia, the HMC's powers to determine its budget, its decision making processes and its activities in connection with the SHL.

I feel that a major advantage of a HMC is that it has members with the skills, expertise and experience required to effectively manage the harbour and deliver against the business plan. It needs to be allowed to get on with it. We worry that if too many decisions (such as the setting of harbour charges, the drawing up of policies and plans including the business plan, obtaining specialist services etc.) are all subject to review and determination by Cabinet, it will cause delays and render the HMC less effective. It is, after all, the HMC that is established under the PGGG to govern the SHL.

On a couple of specific points, we take issue with the statement regarding ownership, for the reasons set out in our consultation response, and we reserve the right to comment on the Asset Register, which we hope would be finalised before the HMC is in place since it is a critical element of the MoU.

I would like to see, in connection with the establishment of assured accounts, a specific acknowledgement that all harbour revenues (including revenue from the caravan site) and capital monies are assured, to allow for the maintenance, upkeep and improvement of the SHL, including, if possible, the Blyth Estuary.

Kind regards, Gill Davies

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Lacey Crowe

From: Lesley Beevor <townclerk@southwoldtowncouncil.com>
Sent: 04 December 2019 12:16
To: Kerry Blair
Subject: harbour consultation response - SHPSG response to the SHMC questionnaire

Slight correction to the original I sent you last Wednesday under membership paragraph four extra sentence added at the end.

Please find below, the Southwold Haven Port Stakeholders Group submission to the online consultation regarding the proposed formation of the Southwold Harbour Management Committee for consideration by the Southwold Harbour Lands Joint Committee. I have submitted the Group's response online but it is perforce anonymous and was not fully comprehensive in terms of our submission.

Would you be so kind as to circulate this email to the four STC Members of the SHLJC, Cllrs Bradbury, Jeans, Windell and Ladd? Thanking you in anticipation.

Best regards

Bill Steele, Chair SHPSG

SHPSG RESPONSE TO THE STC/ESC QUESTIONNAIRE ON THE FORMATION OF THE SHMC.

1) Membership.

- >
- > Make up of the HMC: The Southwold Haven Port Stakeholders Group is recommending one Councillor from STC, one ward councillor, two Councillors from ESC (one elected as Chair), with four independents. Independents to apply to STC/ESC and be chosen by STC after a relevant skills audit and CRB check. The four independents must be given dispensation for any conflict of interest.
- >
- > The composition of the Committee to be written into the MOU.
- >
- > The above selection process would ensure a strong local voice on the Committee and the relevant skills and experience required would be ensured by the selection of the appropriate independent members.
- >
- > Members appointment period should be three years, with an initial formula allowing some members to be appointed for one year, some for two years and some for three years. Subsequent elected members to be appointed for three years. Retiring Members to be eligible for re election.

> 2) Priorities.

- >
- > To be written into the MOU.
- >
- > A. The Harbour Lands, including the Caravan Site, Will never be sold. This point to be ratified by ESC.
- >
- > B. Seek a variation to the 1933 Southwold Harbour Order to include the Harbour Lands and River Blyth up to the A12 in order to ensure that all monies generated from the Harbour Lands be ringfenced, as required by Article 39 of the Harbour Order, for maintenance and repair of not only the Harbour Lands but the river as well. (No river, no harbour).
- >
- > C. All proposals to be compatible with the PGGG, parts A and C.
- >

- > D. Committee members to be given the power to appoint advisors.
- >
- > E. Formulation of a business case. Members must be allowed some executive powers in order to spend money. The proposed Committee must not be advisory only.
- >
- > A five year business plan to be promulgated initially, with an annual update.
- >
- > Priority areas for the first five years to include engineering and protection works, with special priority being given to the maintenance of the river, ie. remedial works on the flood protection walls at low points within the first year. (No river, no Harbour).
- >
- > 3 Meetings and information.
- >
- > The HMC should meet monthly with at least two meetings a year to be held in public to allow the public to comment, ask questions and make suggestions to the Committee for consideration.
- >
- > Meetings should be held at the Harbour.
- >
- > Accounts of the SHMC to be submitted annually to the DfT and made public.
- >
- > Signed:

- > Bill Steele, Chair Southwold Haven Port Stakeholders Group (SHPSG)
- >
- > Alan Tong, Vice Chair SHPSG
- >
- > John Wallace, Secretary SHPSG
- >
- > Simon Flunder, Treasurer SHPSG
- >
- > Archer Ginn, Committee member SHPSG
- >
- > Richard Steward, Committee member SHPSG, member Southwold Harbour and River Blyth Users Association, technical advisor Blyth Estuary Partnership.
- >
- > Graham Hay Davison, Membership Secretary SHPSG, Honorary Chair River Blyth Navigation Association
- >
- > Judy Hay Davison, Committee member SHPSG.
- >
- > David Beavan, Committee member SHPSG.

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Lacey Crowe

From: Janet Pearce <janetpearce77@gmail.com>
Sent: 04 December 2019 16:04
To: Kerry Blair
Subject: Comments on East Suffolk Council's (ESC) proposals for the Management of Southwold Harbour

Dear Mr Blair

Having read all I could about these proposals and having considered deeply the implications of the proposals, please find below my thoughts on the questions.

Question 1 – membership

Do you support the proposal?

I do not support the proposal for the reasons set out below.

Ashfords LLP (Ashfords) advice to East Suffolk Council (ESC) was that the Harbour Management Committee (HMC) should consist of eleven members, six from ESC Cabinet, and five Co-opted members, of whom at least one should be from Southwold Town Council (STC).

This has subsequently been slightly revised to suggest that in the first year, four of the Co-opted members should be from STC.

I do not agree with the suggested constitution of the HMC in either scenario.

Fundamentally, I do not agree with ESC having a majority on the HMC. I know that ESC is anxious that it should have control, but I do not consider that this should be an issue here.

ESC's predecessor gave a "categorical" assurance that the harbour lands **would never be sold** and I know that income from the harbour lands must be ring-fenced and reinvested in the harbour lands. All members of the HMC must act in the best interests of the harbour. Once on the HMC, they have a **duty to act for that body** and not to represent their own particular group or interests. Other Local Authorities run HMCs on an equal membership basis, maintaining control through good governance and collaboration. Surely this is the right model with which to proceed. I am sure ESC would not propose to do anything regarding the harbour lands that would be contrary to the interests of harbour representatives and users?

I believe that the argument for equal representation on the HMC is supported by the following:-

- the Municipal Ports Review, the predecessor to the Ports Good Governance Guidance (PGGG), expressly recommended parity of numbers between councillors and independent members
- the PGGG's recommendation is that the HMC should ideally comprise approximately 50% local authority elected members – these do not all have to be councillors, they can be co-opted representatives appointed by the local authority – plus external members who are stakeholder representatives or individuals with valuable skills and experience. In this way, you can achieve a HMC with the necessary expertise to successfully run and manage the harbour lands.
- the HMC which Ashfords use as an example of best practice is Cornwall Council Harbours Board. It has an equal number of elected and non-elected members, all of whom have voting rights. Cornwall Council Harbours Board consists of six Councillors and six Independent Board Members, appointed following a skills audit. (In addition, there are four non-voting co-opted members who are stakeholder representatives). The current Independent Board Members are from local businesses, from the Marine Safety Group, and one fisherman/RNLI crew member.
- the PGGG specifically states that no individual can dominate a HMC's decision making, and also that all members must be able to allocate sufficient time to discharge their responsibilities effectively. There must be concern as to whether six members of ESC Cabinet

would be able to devote sufficient time to a HMC, given their other responsibilities.

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Further, is there not a general duty on a Statutory Harbour Authority to conserve and facilitate the safe use of the port and to keep the harbour open?

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Some particular points of concern are as follows:

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2.2, 2.3, 2.7 – for the reasons set out in our consultation response, I do not agree with the proposed restrictions on the HMC's powers to manage the financial matters of the SHL.

I believe that the HMC is best placed to set charges, approve annual budgets, monitor and vary expenditure as appropriate, monitor the harbour reserve funds and so on.

2.4, 2.5, 2.6 – limiting the ability of the HMC to make decisions regarding assets could adversely restrict its ability to act effectively as the strategic body for the management of the SHL.

Any provision regarding asset disposal has to be read in conjunction with the express assurance given by both Waveney District Council and Southwold Town Council that **no part of the SHL, which includes the caravan site, is to be sold.**

2.10 – the HMC should be free to approve and publish plans, including the business plan, and address any issues relating to performance.

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SHL is a different proposition, and deserves a MoU that reflects its particular circumstances - for example the existence of the caravan site within the SHL that generates a substantial income for the SHL, the interdependence of the Harbour and the Blyth Estuary and so on.

My major concern at this stage regarding the MoU is that it could limit the ability of the HMC to operate effectively as a result of the restrictions it places on, inter alia, the HMC's powers to determine its budget, its decision making processes and its activities in connection with the SHL.

I feel that a major advantage of a HMC is that it has members with the skills, expertise and experience required to effectively manage the harbour and deliver against the business plan. It needs to be allowed to get on with it. We worry that if too many decisions (such as the setting of harbour charges, the drawing up of policies and plans including the business plan, obtaining specialist services etc.) are all subject to review and determination by Cabinet, it will cause delays and render the HMC less effective. It is, after all, the HMC that is established under the PGGG to govern the SHL.

On a couple of specific points, I take issue with the statement regarding ownership, for the reasons set out in our consultation response, and I reserve the right to comment on the Asset Register, which we hope would be finalised before the HMC is in place since it is a critical element of the MoU.

I would like to see, in connection with the establishment of assured accounts, a specific acknowledgement that all harbour revenues (including revenue from the caravan site) and capital monies are assured, to allow for the maintenance, upkeep and improvement of the SHL, including, if possible, the Blyth Estuary.

I look forward to your response

Yours sincerely
Janet Pearce

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Lacey Crowe

From: Gill Davies <info@gilldavies.co.uk>
Sent: 04 December 2019 16:24
To: Kerry Blair
Subject: Proposal

Dear Kerry Blair

Having read all I could about these proposals and having considered deeply the implications of the proposals, please find below my thoughts on the questions.

Question 1 – membership

Do you support the proposal?

I do not support the proposal for the reasons set out below.

Ashfords LLP (Ashfords) advice to East Suffolk Council (ESC) was that the Harbour Management Committee (HMC) should consist of eleven members, six from ESC Cabinet, and five Co-opted members, of whom at least one should be from Southwold Town Council (STC).

This has subsequently been slightly revised to suggest that in the first year, four of the Co-opted members should be from STC.

I do not agree with the suggested constitution of the HMC in either scenario.

Fundamentally, I do not agree with ESC having a majority on the HMC. I know that ESC is anxious that it should have control, but I do not consider that this should be an issue here.

ESC's predecessor gave a "categoric" assurance that the harbour lands **would never be sold** and I know that income from the harbour lands must be ring-fenced and reinvested in the harbour lands. All members of the HMC must act in the best interests of the harbour. Once on the HMC, they have a **duty to act for that body** and not to represent their own particular group or interests. Other Local Authorities run HMCs on an equal membership basis, maintaining control through good governance and collaboration. Surely this is the right model with which to proceed. I am sure ESC would not propose to do anything regarding the harbour lands that would be contrary to the interests of harbour representatives and users?

I believe that the argument for equal representation on the HMC is supported by the following:-

- the Municipal Ports Review, the predecessor to the Ports Good Governance Guidance (PGGG), expressly recommended parity of numbers between councillors and independent members
- the PGGG's recommendation is that the HMC should ideally comprise approximately 50% local authority elected members – these do not all have to be councillors, they can be co-opted representatives appointed by the local authority – plus external members who are stakeholder representatives or individuals with valuable skills and experience. In this way, you can achieve a HMC with the necessary expertise to successfully run and manage the harbour lands.
- the HMC which Ashfords use as an example of best practice is Cornwall Council Harbours Board. It has an equal number of elected and non-elected members, all of whom have voting rights. Cornwall Council Harbours Board consists of six Councillors and six Independent Board Members, appointed following a skills audit. (In addition, there are four non-voting co-opted members who are stakeholder representatives). The current Independent Board Members are from local businesses, from the Marine Safety Group, and one fisherman/RNLI crew member.
- the PGGG specifically states that no individual can dominate a HMC's decision making, and also that all members must be able to allocate sufficient time to discharge their responsibilities effectively. There must be concern as to whether six members of ESC Cabinet would be able to devote sufficient time to a HMC, given their other responsibilities.

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