

Unconfirmed



Minutes of a Meeting of the **Southwold Harbour Management Committee** held in the Stella Peskett Millenium Hall, on **Thursday, 20 October 2022 at 4:00 PM**

Members of the Committee present:

Councillor Maurice Cook, Mr David Gledhill, Mr Mike Pickles, Councillor David Ritchie, Councillor Mary Rudd, Councillor Letitia Smith

Other Members present:

Councillor David Beavan

Officers present: Kerry Blair (Head of Operations), Sharon Bleese (Coastal Manager, South), Alastair MacFarlane (Southwold and Harbour Assets Manager), Lorraine Rogers (Deputy Chief Finance Officer), Alli Stone (Democratic Services Officer), Nicola Wotton (Deputy Democratic Services Manager)

Others present: Simon Flunder (Chairperson, Stakeholder Advisory Group), Lara Moore (Ashfords LLP)

1 Apologies for Absence

Apologies for absence were received from Richard Musgrove and Councillor Rivett.

The Chairman welcomed Alastair MacFarlane to his first meeting as General Manager of the Harbour Lands and welcomed Lara Moore from Ashfords LLP.

2 Declarations of Interest

There were no Declarations of Interest.

3 Minutes

RESOLVED

That the minutes of the meeting held on 22 September 2022 be agreed as correct and signed by the Chairman.

4 Update on the Harbour Revision Order

The Committee received a presentation from Lara Moore, Ashfords LLP, which provided an update on the Harbour Revision Order (HRO).

Ms Moore provided a brief update on the timescales and status of the HRO. The Order had been submitted mid-September which was earlier than expected due to a new validation process which had been introduced by the Marine Management Organisation (MMO). The HRO had been confirmed as paid on the 26 September. The MMO would be reviewing the order, it would then be cleared for consultation and notices would be published to start the formal consultation period. It was at this point when responses had to be sent to the MMO for consideration. With regards to timing, it was unlikely that this would happen before spring 2023 due to the number of Harbour Revision Orders that had been submitted. Ms Moore emphasised that this would not be a quick process, and she expected it would be finalised in 2024.

Ms Moore summarised the provisions in the Harbour Revision Order that had been submitted to the Marine Management Organisation.

The HRO was a modernisation of the 1933 Harbour Order, and contained all the powers in the current order with some modernisations. It was intended to last a number of decades and a new one should not be needed unless there was a need for a works order.

Ms Moore summarised the provisions in the Order and which articles dealt with each provision. These provisions were contained in most modern HROs and were considered standard. The HRO would place the Harbour Management Committee and Stakeholder Advisory Group on a statutory footing, ringfence Harbour funds and provisions relating to capital monies, provided information on how a short fall in revenue would be made up, ensured the rating and harbour limits were the same, modernised the definition of vessel and grant powers of general direction.

Ms Moore stated that some of the provisions in the HRO went further than in other modernised HROs, especially the provisions which ringfenced reserve funds and capital monies.

With regards to the Harbour limits, the wet side limits were fixed, but the land side would be flexible to allow land to be added/removed without the need for a new Order. Ms Moore noted that two small areas had been removed as they were no longer tidal and not owned by the Council and so were not essential to the Harbour.

Ms Moore highlighted two further additions to the Order. Firstly, there was an amendment which allowed the Council to carry out works upstream where necessary for the maintenance/improvement of the Harbour and facilities. Ms Moore emphasised that this was an unusual provision, and it would not be passed without there being an express link between these works and the proper functioning of the Harbour. It was considered that this was on the edge of what the MMO would consider

appropriate for a Harbour order due to the potential negative impact on Harbour funds and users.

There was also a provision which allowed the Harbour Authority to grant tenancies and dispose of land. Ms Moore emphasised that under the current Order land could be sold, as long as it was sold for market value, and there was currently no requirement for any further tests or protections. The updated powers contained more limits on this power and included tests which required the Harbour Authority to demonstrate that properties were not required for the functioning of the Harbour. Ms Moore stated that this was a standard provision and that she considered this a well-balanced power and that it would not be efficient or economic to remove this. Furthermore, the MMO would be unlikely to support a HRO which did not contain powers to dispose of land when they existed in the previous order. Ms Moore emphasised that without the power to dispose of land, there would be no purpose in having flexible limits and that this would hamper the Harbour's development in the longer term, and it was her advice to the Council, and all involved, that this power should be retained in the HRO.

The Chairman invited the Chairperson of the Advisory Group to comment on this point. Mr Flunder stated that the Stakeholder Advisory Group (SAG) had submitted a note to the Council outlining their position that the SAG should have the option to veto the sale of land.

Ms Moore recognised that there were concerns about the potential for things to go wrong with the sale of land and explained what actions would be taken if there were issues with the disposals of assets. Under the new Order, the Council could only dispose of property which was surplus to requirements. In practise the test would be that if an asset (for example the caravan site) was making a good portion of the Harbour's income, it would not be able to be sold as it would severely limit the Harbours ability to generate income. Even if a way round this was found, the Order expressly stated that the monies would have to go to the Harbour and could not be used elsewhere in the district. Any sale could be judicially reviewed on the basis that the decision that led to the sale was unreasonable and contrary to the terms of the Harbour Order. Ms Moore stated that the HRO introduced a provision that the SAG had to be consulted as part of the process to sell land, and if this was not done this could again result in a judicial review. Ms Moore emphasised that the Council did not have to follow the advice of the SAG, and it would not be viable to include a provision to do this, however they did have to consult the group.

Mr Flunder asked where the money would come from to begin a judicial review, as these funds could not be raised for issues in the past. Ms Moore stated that in other areas there were groups who were crowd sourcing or speaking to the Good Law project about funding judicial reviews against other Harbour Authorities.

Ms Moore stated that in her professional opinion it was not a reasonable requirement to have a third party vetoing any decisions, and it was not logical to remove a power which already existed, especially considering the timescales and money required to get a new Harbour Order. Ms Moore stated that the HRO had as many protections as possible in it, far more than had been included in other orders, but there needed to be trust between the groups involved. Whilst the SAG could make objections and ask for a power of veto, she advised that this would not be seen as reasonable by the Marine

Management Organisation. Ms Moore advised that the better way to manage issues was to work on developing a good relationship rather than relying on the Harbour Order.

Councillor Beavan stated that he did not believe that it would be easy to argue that a decision was unreasonable and asked if instead of a power to dispose of any lands there could be a clause which allowed the sale of small amounts of land. Ms Moore stated that as the Harbour already had this power, it would not be viable to remove it and this would not be supported by the Marine Management Organisation. The HRO represented best practise, and was likely to be passed as it was laid out currently. The Chairman stated that whilst there had been issues with trust in the past, this should not result in future users being hamstrung by decisions now.

Mr Pickles stated that regardless of the issue of land sale, the HRO was needed to deal with the issues users and businesses had in the Harbour. Continued argument was more likely to prevent these things from happening and it was better for all involved to have a new Harbour Order which had better protections than currently existed. Ms Moore agreed and stated the provisions in the HRO gave the Harbourmaster and users a number of powers to move forward with their plans to make the Harbour more sustainable, and it was a shame for the process to move backwards over the sale of land.

The General Manager stated that he believed the new Harbour Order provided more protections to stakeholders than currently existed. He hoped that the groups involved would be able to move forward.

The Chairman invited a question from a member of the public who asked whether the safeguards in the HRO would exist if a Unitary Authority was created. Ms Moore stated that the Harbour Authority function would automatically transfer to any new Authority and the Councillor make up of any committee could therefore change. However, the Advisory Group makeup and the co-opted member process would stay the same. As part of the transfer of functions the Shadow Authority would be provided with advice to ensure that they were able to manage the harbour properly, and the co-opted members and advisory group would be a part of this.

A question was asked about the future of Salt and Bus Creek, which had been removed from the Order. Ms Moore confirmed that the Council did not own the land and so could not sell it. It was fairly common for Harbour Authorities to have powers over land which they did not own. Whilst they had powers to enforce what could and could not happen there, they had to consult with landowners. The Head of Operations stated there was no strong feeling on whether these Creeks should be kept in the harbour or not.

The Chairperson of the Advisory Group stated that he was grateful for the clarification from the presentation. He stated that there was still concern about trust and asked why the SAG could not have a veto to prevent a sale happening to help resolve some of these issues. Ms Moore stated that an advisory group could not fetter a statutory organisation, and this would not meet the tests of the Marine Management Organisation. Ms Moore stated that East Suffolk Council was behaving far better than other Councils, and there were other parts of the country where Councils were not

obeying Harbour Orders and were being taken to court as a result. Ms Moore advised that this particular Order had more assurances than any other Order she was preparing at this point, and while stakeholders could push for more assurances they would not be successful, and it would ultimately be a waste of Harbour funds.

Mr Gledhill asked what the status of the Harbour Management Committee would be when the new Harbour Order was in place. Ms Moore stated that the new Order preserved the ability of the Council to hold the executive function and would enable the council to pass decision making powers to the HMC if it wished. However, HMC powers would still be limited by the other laws surrounding Council functions. The HMCs function was to set out to the Council what they should be doing and provide an extra layer of scrutiny.

5 Projects identified by the Working Harbour Working Group

The committee received report **ES/1316** which summarised proposals which had been made for potential improvements to the harbour.

The General Manager introduced the report, six areas had been put forward by the working group and officers had visited the harbour to further understand requirements.

Works concerning staging would take longer than expected due to the need to dredge parts of the river and existing structures on the riverbed and banks. A shorter-term solution of heavy-duty pontoon moorings had been suggested, this had been discussed with fishermen and was felt to be a reasonable solution.

Mr Pickles asked if heavy duty moorings could be installed only in the area used by fisherman to reduce costs, and if moorings could be shifted slightly to separate fishing and visitor vessels as the two sometimes conflicted. The General Manager confirmed that he had asked for two costs, one for heavy duty and one for a mix, but policing would be required to ensure they were used properly

The General Manager was waiting for costings on extending power to all moorings and to the whole south bank, either using the bridge or going under the river. As a short-term solution solar lights for staging was being looked at to make stages safer. There had been a suggestion about extending power from Walberswick rather than Southwold and this was being considered as well.

With regards to moving moorings and the turning circle, there was a difference of opinion on this by local users, but it needed to be looked at further to determine what the right position was.

There had been several suggestions to improve the road surface, including low level gabions, tarmacking and hexi material. The General Manager felt that despite local opinion blacktop would be viable for parts of the road, although it would need to be used sensibly so that there were not issues with speeding and so that it did not ruin the feel of the harbour.

Around the caravan and campsite, a suggestion had been made about using the 'third' field for camping in the summer. As a separate road entrance was not available, campervans would have to be bought in past static caravans which was unusual, and this would need to be managed. Discussions were ongoing about the lease of the field.

Councillor Cook stated that he welcomed the suggestion of solar power on moorings for safety but asked that power and water were still explored to increase visitor facilities. The General Manager confirmed that they had not been discounted but would potentially be trickier than previously thought and updates would be provided to the working group.

On the proposition of Councillor Cook, seconded by Mr Pickles it was by a unanimous vote

RESOLVED

That the Harbour Management committee approve ongoing work relating to the projects identified by the working group.

6 Mid-Year Budget Monitoring Report 2022/23

The committee received report **ES/1317** which provided an update on the mid-year position for the Harbour against budget.

Councillor Cook introduced the report and noted that the format had been updated to provide more detail and clarity on the items in the budget and spending of funds.

With regards to income and expenditure in the Harbour, there was a surplus of £18,000 against the budget for the year to September. Some of this had been received in advance of the second half of the year, and the actual position was in line with the budget. On the Caravan and Campsite the overall net position was a deficit of £44,000 against budget for the year to September, due to income being less than budgeted for.

The Chairperson of the Advisory Group thanked the Committee for making the budget clearer for those outside the Council to understand. He asked if last year's budget could be provided as a comparison, and if the recharges shown in this report were realistic. With regard to the caravan park, it was disappointing about the number of empty spaces, and the Chairperson asked whether anything could be done in the short term to increase revenue.

Councillor Cook stated that accounts were available publicly on the Council's website. With regards to recharges these were being reviewed as some figures seemed too large and others too low, this would be reported on in due course. Discussions on redevelopment of the caravan site were ongoing, while it would be necessary to have some vacant spaces to enable works, but use of these spaces could be maximised in the meantime.

There being no further questions, on the proposition of Councillor Cook, seconded by Councillor Smith it was by a unanimous vote

RESOLVED

That the Harbour Management Committee, having noted the Mid-Year Budget Monitoring Report 2022/23 recommend this to Cabinet.

7 Update from the Committee's Working Groups

The Chairman invited updates from the Committee's working groups.

The Caravan and Campsite working group had met this week, and a consultation would be starting soon on the redevelopment of the site.

The compliance working group had met at the Harbour to discuss issues and had made a number of suggestions for improvement around pedestrian and car safety, car parking, lease arrangements and boat movements.

The General Manager stated that it had become clear that the Harbour Road was a restricted byway and as such was not open to all traffic, only those who had businesses in the harbour had a right to use it, but this could only be enforced by the police.

Mr Pickles asked if a definitive statement on what could and could not happen on the road could be sent round so businesses were clear on what could be done. Ms Moore added that the Harbour Revision Order would give additional powers to enforce in this area.

The General Manager emphasised the need to ensure businesses had the tools to work in the Harbour safely, and one of the most important ways to do this was to separate pedestrians from equipment. Whilst cars and speeding were dangerous, boat movements were also dangerous and both issues needed to be addressed. A paper on the suggestions of the compliance group would be brought to the Committee in due course.

8 Update from the Stakeholder Advisory Group

The Chairperson of the Advisory Group stated that many of the issues they had raised had been discussed earlier in the meeting, and the group would review this again based on the information from today's meeting.

The Chairperson asked if there could be an update from Royal HaskoningDHV following their report at the last HMC meeting. The Council were also waiting for the results of the report, and as soon as it was available it would be sent round.

9 Work Programme

The Committee considered their forward work programme.

Mr Pickles asked if a paper could be brought to the Committee on facilities for Harbour visitors.

10 Date of Next Meetings

The dates of the next meetings were noted as 24 November 2022, 12 January 2023 and 9 March 2023.

The meeting concluded at 5.58 pm

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Chairman