

Unconfirmed



Minutes of a Meeting of the **Southwold Harbour Lands Joint Committee** held in the Stella Peskett Millenium Hall, Might's Road, Southwold, Suffolk, IP18 6BE, on **Friday, 05 July 2019** at **10:00 AM**

Members of the Committee present:

Councillor Ian Bradbury, Councillor Norman Brooks, Councillor Jessica Jeans, Councillor Michael Ladd, Councillor David Ritchie, Councillor Craig Rivett, Councillor Will Windell

Other Members present:

Councillor David Beavan

Officers present:

K Blair (Head of Operations), A Jarvis (Strategic Director), H Slater (Head of Legal & Democratic Services and Monitoring Officer), D Wyatt (Commercial Lead Lawyer) and N Wotton (Deputy Democratic Services Manager)

Others present:

L Beevor (Southwold Town Clerk), Councillor D Beavan, Councillor S Flunder and Councillor M Rowan-Robinson

1 Election of a Chairman

Mrs Slater, Head of Legal & Democratic Services and Monitoring Officer called for nominations for Chairman of the meeting. It was duly proposed, seconded and

RESOLVED

That Councillor Windell be appointed Chairman for this meeting of the Southwold Harbour Lands Joint Committee.

NOTE: Councillor Windell presided over the rest of the meeting.

2 Election of a Vice-Chairman

The Chairman called for nominations for Vice Chairman of the meeting. It was duly proposed, seconded and following a collective vote it was

RESOLVED

That Councillor Rivett be appointed Vice Chairman of the Southwold Harbour Lands Joint Committee meeting.

3 Apologies for Absence and Substitutions

Apologies for absence were received from Councillor Rudd.

4 Declarations of Interest

Councillor Bradbury declared a Local Non Pecuniary Interest as he was the Secretary of the Blyth Estuary Partnership.

5 Minutes

RESOLVED

That the Minutes of the Southwold Harbour Lands Joint Committee Meeting held on 6 March 2019 be approved as a correct record and signed by the Chairman.

6 Governance of the Southwold Harbour Lands

Mr Blair, Head of Operations, presented the report which contained the proposal to set up a Harbour Management Committee (HMC), which would be responsible for the governance of the Southwold Harbour Lands. It was noted that various governance models had been suggested in the past, including a Trust and a Local Authority Trading Company, however, those models had been rejected following further consultation. An HMC was considered to be the best and most appropriate method for overseeing the day to day arrangements for the Harbour Lands.

The Joint Committee meeting held on 18 December 2018 had formally proposed the HMC model as an alternative to the Trust Model. The meeting had also agreed to undertake a public consultation and this had taken place in January and February 2019. The consultation process had been positive and wide ranging and had included an online survey, various public events, 1 to 1 sessions and drop in sessions. Lots of valuable information had been received from the public consultation and the importance of gathering local views was noted, as well as the need for transparency.

The Joint Committee meeting held on 6 March 2019 had rescinded the 2015 decision to adopt a Trust model, following consideration of the responses to the public consultation. It was also agreed that professional advice should be sought regarding the creation of an HMC and Ashfords Solicitors were duly instructed to provide advice on this matter.

Ashfords had provided draft Terms of Reference (TOR) and a Memorandum of Understanding (MOU) regarding the operation and governance of a future HMC for Southwold. The Joint Committee were asked to consider the covering report, which set out the context of developments so far, as well as the advice received from Ashfords. A proposal was therefore recommended to undertake a further public consultation on the proposed HMC for 2 - 3 months and then another meeting of the Joint Committee would be required to consider the information received. It was noted that Ashfords currently provided advice on ports and harbours nationally and were experts in their field.

Mr Wyatt, Commercial Lead Lawyer, confirmed that the Joint Committee was not being asked to approve the draft constitution contained within the report. The Joint Committee were being asked to consider taking the advice received out to public consultation, in order that the views of the public, interested parties and local residents could be collated and fully considered before the Joint Committee reached a decision on the drafts. It was confirmed that the instructions issued to Ashfords had been carefully detailed, summarising the information that had been received from the public consultation and emphasising the recommendations which had been made by the Joint Committee, so that Ashfords would take these into account when they advised on the constitution for the proposed HMC to improve both the short term and long term governance of the Harbour Lands.

The draft constitution advised by Ashfords had been included as appendices to the report. The TOR would provide a high level framework for the creation of an HMC and the Memorandum of Understanding set out more detailed provisions. Clarification was provided that the HMC would need to act as the Harbour Authority, as it was essential to comply with Local Government legislation in this respect so that external members could have voting rights. The TOR and MOU would require the HMC to operate in accordance with an approved budget and business plan. It was anticipated that an initial business plan would be created, which might last for approximately 1 year, to enable the day to day working of the HMC and planning for a longer-term business plan. A 5 year business plan would then be created for the HMC, which would be based upon the findings of the Harbour Study, which were expected in or soon after the autumn of this year. This would then enable the preparation of an application for a Harbour Revision Order to address the longer term issues of the Harbour, as well as the day to day operation of the Harbour, including any new provisions to restrict the disposal of property at the Harbour, which had been raised as a concern during the public consultation and recommended by the Joint Committee.

The advice from Ashfords had recommended that the HMC should comprise 11 Members - 6 from East Suffolk Council's Cabinet. The remaining 5 Members would be non-elected external people who would be co-opted onto the HMC, who had the relevant skills and experience which would benefit the HMC. The draft Memorandum of Understanding notes that it is expected that at least one of those 5 external members should be a member of Southwold Town Council. It was anticipated that adverts would be placed advertising the vacancies and a full and robust interview process would then take place for the vacancies, as required by the Ports Good Governance Guidance (PGGG). It was also suggested that the appointments to the non-elected co-opted positions would be staggered, so that there would be no total knowledge loss due to all of those Members being replaced at the same time. The importance of ongoing corporate memory was noted and this approach would improve the ongoing resilience for the HMC. It was recommended that the HMC would meet 6 times per year, which was in accordance with the PGGG.

Councillor Ladd sought clarification regarding paragraph 3.1 of the TOR (on page 43 of the report), where it stated that the 6 elected Members would be appointed by the Cabinet. It was confirmed that the HMC would be performing an Executive Function of the Council, therefore the 6 Members would need to be selected from the Cabinet Members of East Suffolk Cabinet. It noted that the wording was slightly confusing and would benefit from further clarity in this respect.

Councillor Jeans reported that she was concerned by the proposals, as she felt that there were too many Cabinet Members from East Suffolk Council and not enough Members from Southwold Town Council. It was very important the Southwold Town Council was kept involved, as they were able to reflect the views of the local residents. She felt that it was important not to overlook the principles which were agreed in 2014, as partnership working was the strongest thread and was the basis for all of the collective working so far. She was also concerned about the focus and reliance on co-opted Members with technical competence. She felt that the co-opted Members needed to have good judgement and common sense, as high level technical advice and guidance could always be sought from external providers, as required.

Councillor Bradbury raised a point of clarification at this point in the proceedings. He stated that at the last meeting of the Joint Committee, Members of Southwold Town Council and Waveney District Council who were not on the Joint Committee, had been able to speak and ask questions. He reported that there were 3 Members of Southwold Town Council in the public gallery for this meeting and queried whether they would be able to ask questions. The Chairman reported that the 3 Members of Southwold Town Council would be invited to ask questions once the Joint Committee had finished their questions.

Councillor Ritchie stated that he had listened carefully to the concerns raised by Councillor Jeans and he still believed that the proposals drawn up by Ashfords should go out to public consultation as they currently stood, as this would enable all interested parties to view the advice and make suggestions on how the proposals could be improved. This would ensure that the final version of the HMC would be as effective as possible for the future.

Councillor Bradbury stated that he would like to place on record his concerns about the proposals, which he felt were disturbing from a Southwold residents' point of view. He reported that he had also been advised that the draft instructions for Ashfords were sent to Southwold Town Council for their comments on 3 May 2019 and he had not been aware of this happening, which was at the time of the elections and very disappointing and therefore there had been no contribution to the instructions from Southwold Town Council. As such, Southwold Members felt like pawns in the whole process, rather than equal Members. There were also a number of inaccuracies contained within the proposals and he did not feel that the proposals were fit to send out for public consultation at this time. His concerns included the uses of the term 'surplus income' on page 33 of the report, when it had been previously agreed not to use that terminology. Also, the caravan site should not have been referred to as being included with the Harbour Land at all, which would cause significant alarm for many local people. He felt that there needed to be more forensic debate prior to the information going out for public consultation, as many stakeholders would be concerned by these errors and it would result in a lack of faith in the work being undertaken.

The Chairman took the opportunity to clarify that Councillor Bradbury was sharing his own personal views and not those of Southwold Town Council. Councillor Bradbury confirmed that this was correct.

Councillor Ladd raised concerns about page 43 of the report, section 3.1 of the TOR, as he felt that the HMC would be too heavily weighted in favour of East Suffolk Councillors and that Southwold Town Council was distinctly disadvantaged by the proposals. He felt that it was unfair that Southwold Town Councillors would need to demonstrate their skills and expertise for a place on the HMC as part of the 5 external members, when the East Suffolk Cabinet Members would not need to. He stated that this disparity would need to be addressed, as sensible people, with local knowledge and common sense were required, and technical expertise could be sought, as necessary.

The Vice Chairman reported that lawyers had been charged with providing information and creating these proposals and he suggested that it would be better to take those out to public consultation unchanged, so that the public were able to comment on the legal advice received. However, he agreed that any mistakes should be amended quickly, prior to the public consultation.

Mr Wyatt, Commercial Lawyer, thanked the Joint Committee Members for their comments. He confirmed that East Suffolk Council also had concerns about the proposals received from Ashfords, as elements of the advice had not been as anticipated. It was therefore important that both East Suffolk Council and Southwold Town Council considered the advice carefully, during and in the light of the public consultation process. East Suffolk Council had not specified what it had wanted for the HMC, it had simply presented Ashfords with all of the information and what different stakeholders wanted, so that Ashfords could advise, taking this into account.

Their advice was, essentially, to follow the PGGG, particularly because if the HMC did not comply with the PGGG, it will be difficult to pursue an application for a Harbour Revision Order. A Harbour Revision Order would be needed for the longer-term improvements recommended by the Joint Committee; the Harbour Order of 1933 had not been updated and a Harbour Revision Order would also be needed to make the other changes recommended by the Joint Committee, including any new disposal restriction and any provision, if possible, to enable Harbour monies to be spent outside of the Harbour, if it were for the benefit of the Harbour.

As for the queries about the contents, the expression “surplus income” is used only in the introductory documents and is the expression used in the Joint Committee’s recommendations from 6 March 2019. The reference to the caravan site in the introductory documents was made because that was how the Harbour Lands had been described in all of the reports and some stakeholders would be concerned about any suggestion that the caravan site was not within the area covered by the Harbour Order of 1933. He suggested that it may be helpful to include a note with the consultation documentation to make it clear that both East Suffolk Council and Southwold Town Council have some questions and reservations about the advice that had been provided and that this would be considered during the public consultation process.

Mr Blair, Head of Operations, took the opportunity to provide some clarification that the Harbour Management Committee would be a Committee of the Cabinet, therefore it would have Executive powers and be able to make decisions. If the HMC were not a Committee of the Cabinet, it would not have Executive powers and would only be advisory in nature and be able to make recommendations to the Cabinet for its

consideration. This would lengthen the decision making process and disempower the HMC.

Councillor Jeans confirmed that some elements of the advice provided by Ashfords may be set in stone, some may not, however it was important to work collectively to try and get the best possible outcome. She reported that lawyers did not create the rules, they worked within them and it was important for them to be challenged to come up with better and different solutions to any concerns raised. Ashfords were given a significant amount of information to consider, therefore, it would have been very difficult for them to discover which elements were the most important. Therefore, Councillor Jeans felt that any areas of concern needed to be robustly challenged at an early stage in order to get the best outcome. Councillor Jeans then asked whether it would be possible to go and visit an exemplar HMC to see how it worked and to ask their advice, as it was important to learn as much as possible before final decisions were taken.

Councillor Ladd queried whether the future budget and business plan for the HMC would need to be approved by the HMC or the East Suffolk Council Cabinet? It was confirmed that, while the HMC would make its recommendations as to what should be in the future budgets and business plans, both would need to be approved by the East Suffolk Council Cabinet.

The Vice Chairman confirmed that it was the lawyers role to enable, wherever possible within the constraints of the legislation, and that their advice should be challenged and questioned to make sure that the final version of the HMC would work and fully meet the needs of Southwold Harbour Lands. Councillor Ritchie stated that he fully agreed with that statement.

There being no further questions from the Joint Committee Members, the Chairman stated that he would open up the discussion to the other Councillors present, starting with Councillor Beavan, who was both an East Suffolk Councillor and a Southwold Town Councillor.

Councillor Beavan stated that he was pleased that there had been a good debate so far at the meeting. However, he feared the consultation documents as they currently stood were a backward step and he asked the Joint Committee to reconsider the plan to undertake another public consultation at this time. He felt that the information was based upon an HMC in Cornwall, which covered 10 - 14 separate Harbours, therefore, was it justified to have so many Cabinet Members on the HMC? Southwold Harbour was very small in comparison and really only needed 2 or 3 Cabinet Members on the HMC. Practically, it would prove extremely difficult to get 6 Cabinet Members to attend meetings 6 times per year. There also needed to be much more representation from local people and stakeholders, who have significant local knowledge and experience, who were all willing and able to support the HMC to make it work in the interests of Southwold Harbour. He felt that the current proposals would be very unpopular with local people.

Councillor Beavan stated that the Harbour currently had a business plan that was 6 or 7 years old and had been created by a local person with detailed knowledge of the Harbour. He queried who would be involved in creating the new business plan - would

East Suffolk Council dictate what should be included or would it co-operate with Southwold Town Council and the stakeholders? He also queried why there had to be 6 Cabinet Members on the HMC, as the HMC would have very limited powers and would only be able to make financial decisions up to £24,000 in value - if higher amounts were needed, permission would be required from the East Suffolk Council Cabinet. He felt that a sensible and robust plan was needed and that the proposals required additional work before they were ready to go out to public consultation.

Councillor Rowan-Robinson reported that he was the Mayor of Southwold until May 2019 and he had chaired the 6 March 2019 Joint Committee meeting and 15 March 2019 Simultaneous WDC Cabinet and Southwold Town Council meeting. He felt that there had been significant progress over the last 2 years, which had been characterised by the spirit of co-operation and partnership working. After the meetings, there had been the feelings of harmony and good will and there was the firm belief that Southwold Town Council would be working with East Suffolk Council in a positive and empowering way. The 18 December 2018 meeting had confirmed that stakeholders would be involved and consulted throughout the process and this was the basis for the last public consultation and the two March meetings. However, he felt that had all been forgotten and now it was as though East Suffolk Council were wanting to control everything. The Harbour had a complex history and there was a lot of local knowledge which was in danger of being overlooked. He felt that the current proposals should not be put out for public consultation at this time, as it would receive a strong backlash from the local community. By making the HMC a Committee of the Cabinet, it was ensuring that East Suffolk Council would need to have the balance of power. The HMC needed to be more of a partnership. It was also concerning that East Suffolk Council would oversee the appointment of the 5 other Members on the HMC, which would provide them with even greater control. He stated that Southwold Town Council should have more input into the HMC and that the proposals as they current stood, were like a kick in the teeth and should be rejected.

Councillor Flunder stated that he agreed with the sentiments of the previous two Councillors. He congratulated the Council Officers for convening a meeting when they had stated they would, however, he had substantial concerns about the lack of representation from Southwold Town Council and local residents on the proposed HMC. He also felt that the Blyth Estuary was being overlooked, as it was vital to Southwold Harbour and should therefore be included when considering the future of the Harbour. With regards to the size of the HMC, he felt that 11 Members was too many and the HMC would therefore be ineffective. The Blyth Estuary needed significant investment to stop it from disappearing and the HMC needed to have a real budget in order to be able to undertake the necessary works. It was also unclear at this stage, who would be paying for all of the required legal advice. He stated that the proposals were a backward step and should be revised prior to going out to public consultation. A Project Plan was also required for the creation of the HMC, in order to provide certainty and clarity for all.

Councillor Bradbury took the opportunity to commend the debate which had taken place so far and wanted to seek clarification about whether any stakeholders present at the meeting would be able to speak. The Chairman advised that only Councillors were able to speak at this meeting, in accordance with the East Suffolk Council's Constitution.

Mr Jarvis, Strategic Director, raised concerns about not wanting to lose any momentum and stated that his preference would be for all of the draft proposals received from Ashfords to be circulated as part of the public consultation, in order that all interested parties would be able to comment and make suggestions for improvements. There were certainly elements in the proposals which the Council was not content with and would prefer to be changed. He stated that it was important to circulate the advice from Ashfords as it was received, in order that the public was fully informed. The results of the public consultation would be discussed in detail at a future meeting and he suggested that a representative from Ashfords could be invited to attend, in order to answer questions and provide further advice.

Councillor Jeans suggested that the Council could go back to Ashfords and ask for them to provide a different configuration of the HMC membership, seeing as both East Suffolk Council and Southwold Town Council had valid concerns about the proposals.

Councillor Rivett took the opportunity to confirm that East Suffolk Council were very keen to make the HMC a success and he queried whether 6 meetings per year for the HMC would be sufficient, given the amount of work they were required to do. He stated that he did not want to delay the public consultation and, in the interests of openness and transparency, he believed it was important to circulate the proposals from Ashfords in their current form, so that all interested parties would be able to comment and make suggestions for improvements. This would ensure that there was a real consultation rather than just a ratification. He also agreed that inviting Ashfords to the next meeting to explain the proposals and answer any questions would be very beneficial.

Councillor Brooks stated that this was his first meeting of the Joint Committee and he had listened to all the debate with interest. He felt that it was important to take the proposals out to public consultation, in order that they could be thoroughly discussed and debated in full and the results would be used to inform the structure of the HMC.

Councillor Ritchie agreed that there had been many good points raised during these discussions and he believed that taking the proposals out to public consultation, with a form of qualification expressing the views of this meeting, would be beneficial. Mr Jarvis, Strategic Director, stated that a document giving some context around the discussions of this meeting could be provided. Councillor Ritchie stated that he agreed with Councillor Rowan-Robinson, in that he did not wish there to be a backwards step in terms of progress, given the length of time it had taken to get to this point. He also agreed with Councillor Flunder, that the Blyth Estuary was extremely important and required major works, following the withdrawal of the Environment Agency.

Mr Blair, Head of Operations, reported that there had been significant concerns raised prior to the previous public consultation, which had taken place during January and February 2019. However, that public consultation had turned out to be extremely positive and well received. He hoped that there would be a similar response in respect of the next public consultation exercise.

Councillor Bradbury stated that he could not vote for the recommendations as they currently stood, as he felt that the proposals were incoherent and required significant

work, including the correction of errors already highlighted during this meeting.

Councillor Ladd reiterated that paragraph 3.1 of the TOR (on page 43) required further explanation and work, as this was the section that was most controversial. He agreed with Councillor Rivett that the public consultation should take place shortly, in order that momentum was not lost. The results of the public consultation would then provide a mandate to move forwards with the HMC.

Mr Jarvis, Strategic Director, confirmed that an additional document would be created to supplement the public consultation, setting out the context for the consultation. He suggested that officers would draft the wording and would then seek approval from the Chairman and Vice Chairman of the Joint Committee, outlining the concerns of both East Suffolk Council and Southwold Town Council regarding the advice received.

All Councillors present were content with this approach and the Chairman of the Joint Committee agreed to adjourn the meeting for 5 minutes, in order for officers to amend the wording of the recommendation within the report, to accommodate this.

The meeting was therefore adjourned from 11.10 am to 11.15 am.

The Chairman then re-convened the meeting.

Mrs Slater, Head of Legal & Democratic Services and Monitoring Officer, drew Members attention to page 20 of the report, which contained the recommendations. She stated that it was proposed to add additional wording to recommendation 2(i) only, adding in the words '...a consultation circular setting out the context, which has been approved by the Chairman and Vice Chairman of the Joint Committee...' after the word website. There followed further discussions and it was confirmed that the Chairman and Vice Chairman would also consult with their fellow Joint Committee Members and the additional wording was therefore added: '...after discussions with their respective Joint Committee Members.' Recommendation 2(i) would therefore read as follows:

(i) publishing on the East Suffolk Council website a consultation circular setting out the context, which has been approved by the Chairman and Vice Chairman of the Joint Committee after discussions with their respective Joint Committee Members, the explanatory note (as produced at Appendix B to the Report) and the draft Harbour Management Committee constitution (as produced at Appendices C and D to the Report) from Ashfords LLP;

Those present confirmed they were content with the change in wording and it was duly moved and second and

RESOLVED

That the Joint Committee resolves to:

1. Note the report dated 24 June 2019 to the Joint Committee (Report) and appendices;
2. Arrange a further consultation exercise by:

- (i) publishing on the East Suffolk Council website a consultation circular setting out the context, which has been approved by the Chairman and Vice Chairman of the Joint Committee after discussions with their respective Joint Committee Members, the explanatory note (as produced at Appendix B to the Report) and the draft Harbour Management Committee constitution (as produced at Appendices C and D to the Report) from Ashfords LLP;
 - (ii) inviting any new written representations by e-mail by a suitable date, making it clear that there is no need to repeat representations made in the previous consultation exercise because those will continue to inform future planning; and
 - (iii) arranging a public event at a suitable location in Southwold, to enable stakeholders to make representations and ask questions in person if they prefer.
3. Meet again after an appropriate period to decide the way forward, taking into account the results of that consultation exercise.

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Chairman