

# HAMPSHIRE COUNTY COUNCIL

## Report

<b>Committee</b>	River Hamble Harbour Management Committee
<b>Date:</b>	15 September 2023
<b>Title:</b>	Harbour Works Consent Application - Quay Wall Refurbishment & Pontoon Works at Riverside Boatyard SO31 1AA
<b>Report From:</b>	Director of Universal Services

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### Purpose of this Report

1. The purpose of this report is to set out an application received by the River Hamble Harbour Authority for its consideration to grant Harbour Works Consent.

### Recommendations

2. **That the River Hamble Harbour Management Committee recommends to the River Hamble Harbour Board to approve Harbour Works Consent for the proposal set out in paragraph 4 of this report and subject to the following conditions:**
  - a. The proposal is to be built in accordance with the details, plans and method set out in paragraph 4.
  - b. The applicant should ensure that only coatings and treatments that are suitable for use in the marine environment are used in accordance with best environmental practice. All reasonable precautions will be undertaken to ensure no pollutants enter the waterbody.
  - c. The applicant should ensure that all equipment, temporary structures, waste and/or debris associated with the licensed activities is/are removed upon completion of the licensed activities.
  - d. Necessary measurements of the new facilities to be made to calculate the new annual rate of Harbour Dues payable by the boatyard.
  - e. The development must be completed within 3 years from the date of the approval granted by the Harbour Board.

## **Executive Summary**

3. This report seeks to:

- Set out an application for Harbour Works Consent made by Foulkes & Son (via its agent Lymington Technical Services) for development at Riverside Boatyard, Blundell Lane, Bursledon, Southampton SO31 1AA.
- Consider the impacts of the proposal on safety and ease of navigation and on the environment of the Hamble Estuary, both during construction and once operational.

## **Project Description**

4. The proposal is for:

- i. the refurbishment of the existing quay wall,
- ii. the installation of a pontoon on the existing concrete slipway,
- iii. two small extensions to existing pontoons (no piling or dredging).

The following documents have been provided by the applicant to support this application, and reference must be made to these for a full understanding of the proposal (see Appendices 1a to 1d):

- Supporting information document (10948 Rpt3C revised June 2023)
- Drawing 10948/2D Location and Quay wall elevation
- Drawing 10948/3C Pontoon Works
- Information for Habitats Regulations Assessment (10948 Rpt 4C Revised June 2023)

## **Harbour Authority's Responsibilities**

5. Consent may be granted by the River Hamble Harbour Board permitting harbour works in the River Hamble in accordance with Section 10 of the Southampton Harbour Act 1924 and Section 48 of the Southampton Harbour Act 1949 as amended by the River Hamble Harbour Revision Orders 1969 to 1989. Within the River Hamble Harbour Board's statutory duties lies the responsibility to ensure that all matters concerning navigational safety and responsibilities under the Habitat Regulations are addressed. This area of responsibility includes the proposed development.
6. Navigational safety issues are addressed through the Port Marine Safety Code and the Harbour's Safety Management System. Specific issues

relevant to this particular application are covered within the Harbour Master's comments below.

7. The River Hamble is part of the Solent European Marine Sites and is afforded protection due to its international nature conservation value. The RHHA is a Relevant Authority under the Conservation of Habitats and Species Regulations 2017 as amended, commonly known as the Habitats Regulations. As a Relevant Authority the Harbour Authority has a duty to comply with the requirements of the Habitats Regulations. This means that the RHHA must ensure that, in the exercise of any of its powers or functions, it must have regard to both direct and indirect effects on interest features of the European Marine Sites.
8. As a Section 28G Authority under the Wildlife and Countryside Act 1981 (as amended), the RHHA has a duty to take reasonable steps, consistent with the proper exercise of the Authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
9. Under the Natural Environment and Rural Communities Act 2006, all public bodies, which include the Harbour Authority as statutory undertakers, have a duty to have regard, so far as is consistent with the proper exercise of their functions, to the purpose of conserving biodiversity.
10. All public bodies such as RHHA are required to make all authorisation and enforcement decisions which are likely to affect the marine areas in accordance with the South Inshore and Offshore Marine Plan which was published in July 2018 by the Marine Management Organisation (MMO). The plan provides a policy framework to shape and inform decisions over how the marine environment is developed, protected and improved over the next 20 years.
11. The Harbour Authority addresses its responsibilities under the environmental regulations through consultation with Hampshire County Council, the Local Borough Councils, the Department for Environment, Food and Rural Affairs, Natural England and the Environment Agency. Additional consultation is undertaken with other organisations as relevant. Specific issues relevant to this particular application are covered within the sections below.

### **Consultation process**

12. Subsequent to receipt of the application for Harbour Works Consent the following actions were taken:
  - Project details and plans entered on the Harbour Authority's webpage for the online viewing of applications at <https://www.hants.gov.uk/thingstodo/riverhamble/worksapplication>
  - The plans and details of the application were made available in the Harbour Office for inspection by members of the public.

- Notification email sent to all members of the River Hamble Harbour Management Committee and the River Hamble Harbour Board of the proposed development.
- Email sent to registered interested parties and to members of the Hamble Estuary Partnership informing them of the application and requesting any written comments by the deadline.
- Direct liaison with Natural England.

## **Responses to Consultation**

13. Natural England's statutory response raised no objection to the proposed development.
14. No other were received as a result of the Harbour Authority's public consultation.

## **Harbour Master's Comments**

15. This section details the aspects of the application relevant to the consideration of Harbour Works Consent. These are the impacts of the proposal on safety and ease of navigation and on the environment, both during construction and once operational.
16. This proposal also requires permissions from other authorities (e.g. Local Planning Authority, Environment Agency, Marine Management Organisation). Issues pertaining to their policies and regulations should be addressed with the appropriate organisation.
17. The proposed slipway pontoon sits on private land. The North Eastern extension pontoons will occupy an area of RHHA's riverbed lease from The Crown Estate. There will be a requirement for extraction from that lease.
18. The proposed new pontoon arrangements attract no concerns from the perspective of navigational safety. Both elements are inshore and away from the Main Channel. The impact of additional vessels which may be berthed means that the small area in question will have an insignificant impact on local traffic levels.
19. The additional meterage is to be assessed and captured in accordance with the relevant Code of Practice in order to calculate the Harbour Dues payable.
20. There is no requirement for additional aids to navigation.
21. No piling and no dredging of sub-tidal or inter-tidal habitat is required for this development.

22. The ongoing, post-construction activities resulting from the development (i.e. vessel movement and marina berthing) are consistent with those already associated with the site and surrounding areas of the Hamble estuary.
23. The proposed works are located:
  - a) within the Solent and Dorset Coast Special Protection Area (SPA).
  - b) 20 metres outside the boundary of the Solent Maritime Special Area of Conservation (SAC).
  - c) Over 600 metres from the Solent and Southampton Water SPA and Ramsar site, and from Lincegrove and Hackett's Marshes Site of Special Scientific Interest (SSSI) and Upper Hamble Estuary and Woods SSSI.
24. As a Competent Authority under the Habitat Regulations, RHHA (and, similarly, the MMO) has undertaken an assessment of the potential impacts of the proposal on the designated sites. RHHA has adopted the Habitats Regulations Assessment and subsequent Appropriate Assessment undertaken by the MMO, and concluded that:
  - i. That the proposed project will not have a likely significant effect on the features of the Solent and Southampton Water Special Protection Area and Ramsar nor on the Solent Maritime Special Area of Conservation (SAC). This is because works will take place outside the boundary of the Solent and Southampton Water SPA/Ramsar and Solent Maritime SAC with no impact pathway to the designated features of these sites. The quay wall work and the slipway pontoon extension will occur within the Solent and Dorset Coast SPA, but are located in the intertidal zone and as such will not permanently impact the supporting habitat of 'water column'.
  - ii. The upstream pontoon extension is within the Solent and Dorset Coast SPA as it will float on the surface of 17m<sup>2</sup> of the water column feature of the designated site, but this will not have an adverse effect on the integrity of the site. The methodology used will not produce vibrations or impact noise of significance which could disturb SPA birds.
  - iii. That the proposed project will not have an adverse effect on the Solent Maritime SAC, Solent and Southampton Water SPA/Ramsar or on the Solent and Dorset Coast SPA, either alone or in-combination with other plans/projects.
25. In addition, it is concluded that the proposal is not likely to damage any of the flora, fauna or geological or physiographical features for which the SSSI sites are designated.
26. RHHA consulted Natural England on the conclusions above. NE's response confirmed that:
  - *"Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given."*

- *Natural England note that River Hamble Harbour Authority intends to adopt the HRA produced by the Marine Management Organisation (a shadow HRA) to inform their decision on this case and so have no further comments to make”.*

27. If the River Hamble Harbour Board decides to grant permission for this application, subject to the conditions in paragraph 2, it would be adhering to its responsibilities under environmental legislation.

### **Strategic Vision**

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

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

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

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

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

DocumentLocation

None

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

- The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:
  - Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

- Equalities Impact Assessment:

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

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

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

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

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



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