

# HAMPSHIRE COUNTY COUNCIL

## Report

<b>Committee</b>	River Hamble Harbour Board
<b>Date:</b>	13 July 2018
<b>Title:</b>	Harbour Works Consent Application – Brooklands Quay Mooring Buoy Relocation
<b>Report From:</b>	Director of Culture, Communities and Business Services

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### 1. Recommendation

- 1.1. That the River Hamble Harbour Board approve Harbour Works Consent for the proposal set out in Section 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 submitted as set out in Appendix 1a and Appendix 1b, with the exception that the proposed mooring location is to be moved inshore so that it is located outside of the Solent Maritime Special Area of Conservation.
  - b. The final design of the mooring arrangement, location and the method statement for installation are to be submitted to and approved by the Harbour Master in advance of construction.
  - c. The maximum length overall of the vessel to be moored is to be 13 metres.
  - d. The existing mooring buoys located on the intertidal area within the creek are to be removed prior to installation of the new buoys.
  - e. All equipment, temporary structures, waste and/or debris associated with the licensed activities are to be removed upon completion of the licensed activities.
  - f. Harbour Dues to be payable on any vessel occupying the mooring.
  - g. The development must be completed within 3 years from the date of the approval granted by the Harbour Board.

### 2. Summary

- 2.1. This report sets out an application for Harbour Works Consent (HWC) made by Marina Projects Limited on behalf of its client, Mr Van Gelder, for the relocation of private mooring buoys at Brooklands Quay, Sarisbury Green, SO31 7EF (SU 493 088).

### **3. Background**

- 3.1. Brooklands Quay, a private waterside property, has four mooring buoys sited within its creek that are used to securely moor private vessels. These are tidal moorings only accessible during high water periods, with vessels taking the ground and drying out at all other states of tide. The property owner wishes to relocate two of these mooring buoys from the current position and site them adjacent to the private slipway and navigation pile. This will increase the useable access window. The buoys will remain within the land ownership boundary of the property. The remaining two buoys in the creek will be removed along with associated ground tackle.

### **4. Project Description**

- 4.1. The following plans and 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 Appendix 1):
  - Appendix 1a – File Note MP282\_FN\_01
  - Appendix 1b – Drawing No. MP282-01-P-200

### **5. Harbour Authority's Responsibilities**

- 5.1. 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.
- 5.2. 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.
- 5.3. The River Hamble is part of the Solent European Marine Site 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 Site.
- 5.4. 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.
- 5.5. 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.

- 5.6. 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.

## **6. Consultation Process**

- 6.1. 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 the Natural England.

## **7. Responses to Consultation**

- 7.1. Natural England's statutory response to the proposed development is at Appendix 2. It raises concern regarding the location within the SAC boundary. See Section 8 below for comments and Section 1 for a condition to address this.
- 7.2. Two responses were received as a result of the Harbour Authority's public consultation. Neither response objected. One of these suggested this is a pragmatic and a reasonable expectation of enhancing the mooring use. It acknowledged that if the moorings nearer the shore are relinquished, this leaves potential for enhanced value of this habitat.

## **8. Harbour Master's Comments**

- 8.1. 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.
- 8.2. This proposal also requires permissions from other authorities (e.g. Local Planning Authority). Issues pertaining to their policies and regulations should be addressed with the appropriate organisation.
- 8.3. The proposal sits along the Mean Low Water Springs depth contour, to the North East of a port hand Aid to Navigation marking the riverward extension

of an existing slipway that is also owned by the applicant. The mooring does not block access to adjacent berths at Universal Marina. The Harbour Master advised the applicant to discuss the proposal with Universal Marina in advance of making his application and it is the understanding of this office that no objection has been made. The Harbour Master has no concerns regarding the mooring's location with regard to navigational safety.

- 8.4. The mooring is intended for a 10.5m Rigid Inflatable Boat owned by the applicant. The mooring maximum length at this mooring will be 13m. The tidal range at Springs is around 4 metres and the height of risers from the ground tackle must be taken into consideration when considering the proximity of the westernmost riser in order to ensure that it or the moored craft does not interact with or damage the Aid to Navigation.
- 8.5. The proposal is located within a Fareham Borough Council (FBC) Mooring Restriction Area (MRA) as defined in FBC's adopted Local Plan and in the draft Local Plan 2036. This is a factor that will be considered by FBC when it determines the required planning application. Whilst this is not a policy of the Harbour Authority, it is worth noting that the policy (DSP54) states that *"Within the Mooring Restriction Areas the replacement or relocation of existing moorings will only be permitted where there are no alternative locations outside these areas and the proposal will improve navigation and the overall appearance of the area."* It is the view of the Harbour Master that the application is consistent with the aspirations of this policy, however, it will be for FBC to make that decision.
- 8.6. The proposal is sited just within the boundary of the Solent Maritime Special Area of Conservation (SAC). It is also within the Solent and Dorset potential Special Protection Area (pSPA) and the River Hamble Saltmarsh and Mudflats Site of Importance for Nature Conservation (SINC). It is 150 metres from the closest boundaries of the Solent & Southampton Water Special Protection Area (SPA), the Solent and Southampton Water Ramsar site and Lincegrove & Hackett's Marsh Site of Special Scientific Interest (SSSI).
- 8.7. No dredging of sub-tidal or inter-tidal habitat is required for this development.
- 8.8. The applicant proposes to remove the remaining 2 mooring buoys located on the intertidal area within the creek. This will free up this area from mooring tackle and from disturbance.
- 8.9. Natural England's (NE) consultation response is provided at Appendix 2. It advises *"that the location of the two relocated moorings is moved closer to shore to prevent the moorings and associated footprint falling within the Solent Maritime SAC. If the moorings are relocated outside the SAC boundary, it can be excluded that the application will have a significant effect on any SAC or SPA site, either individually or in combination with other plans or projects. Natural England welcomes that if the moorings are relocated within the intertidal, outside the SAC, and the two remaining moorings are removed, there will be an improvement in the quality of the mudflat habitat present and a biodiversity net gain"*.
- 8.10. If the River Hamble Harbour Board decides to grant permission for this application, subject to the conditions at Section 1, it would be adhering to its responsibilities under environmental legislation.

## **9. Strategic Vision**

- 9.1. 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**

1.1. 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.

### **1.2. 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:**

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

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

3.1. 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

3.2. 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.