

**HAMPSHIRE COUNTY COUNCIL****Report**

<b>Committee</b>	River Hamble Harbour Board
<b>Date:</b>	28 September 2012
<b>Title:</b>	Harbour Works Consent Application – Deacon's Boatyard
<b>Reference:</b>	4257
<b>Report From:</b>	Director of Culture, Communities and Business Services

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## **1. Summary**

- 1.1 This report details the application for Harbour Works Consent to undertake a marina re-build and associated capital dredge at Deacons Boatyard.

## **2. Background**

- 2.1 This application is a modified version of an earlier proposal which already holds Harbour Works Consent, granted on 12 September 2011. That earlier project was also granted relevant permissions from the Marine Management Organisation and the Environment Agency, with associated approval by Natural England. The applicant then applied for planning permission but this was refused by Eastleigh Borough Council. Subsequently, a modified version has been granted planning permission, and has now come forward for Harbour Works Consent Approval. The modifications involve leaving most of the existing 'Y' pontoon in place, with a 12 metre extension at its upstream end, leaving an inner 'access channel' between the remaining section of 'Y' pontoon and the rest of the proposed marina structure.

## **3. Project Description**

- 3.1 Deacons Boatyard is located off Bridge Road, Bursledon, SO31 8AZ. This is on the western bank of the River Hamble, immediately downstream of the A27 road bridge.
- 3.2 The project under consideration consists of a re-build of the existing boatyard and marina facilities to give it a modern layout. The proposed layout will not increase the number of berths available on this site beyond that at present. A capital dredge of approximately 6000 m<sup>3</sup> is also proposed, and this aspect of the project remains unchanged from that which was

granted permission by the Harbour Board in 2011. The dredging will be conducted using a backhoe dredger and the sediment removed will be disposed of at sea.

- 3.3 The following drawings are included within Appendix 1. Drawings are not reproduced to scale and are subject to copyright:

Drawing 10093/25A - shows the existing layout with soundings

Drawing 10093/26 - shows the proposed layout

Drawing 10093/27 - shows the proposed layout over the existing layout

Drawing 10093/28A - shows the proposed layout with dredge area

- 3.4 The applicant's agent, Lymington Technical Services (LTS), has carried out an assessment of the impacts of the proposal upon coastal processes, ecology, navigation, water quality, archaeology and upon the local community in terms of traffic, noise and visual impact. This assessment is included within this report as Appendix 2.

- 3.5 During determination of the previous scheme, the River Hamble Harbour Authority (RHHA) requested an assessment of the hydrodynamic impacts of the dredge. ABP Marine Environmental Research Ltd (ABPmer) carried out an independent assessment. The summary of this assessment is included within the LTS document (p 11 of Appendix 2). No aspect of this part of the project has altered from that previously granted a harbour works consent.

#### **4 Harbour Authority's Responsibilities**

- 4.1 Consent may be granted by the River Hamble Harbour Board permitting harbour works in the River Hamble in accord 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 at Deacons Boatyard.
- 4.2 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.
- 4.3 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 2010, 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 and to ensure that in exercise of

any of its powers or functions to have regard to direct and indirect effects on interest features of the European Marine Site.

- 4.4 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.
- 4.5 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.
- 4.6 The Harbour Authority addresses its responsibilities under the environmental regulations through consultation with Hampshire County Council, the Borough Councils, the Department for Environment, Food and Rural Affairs, Natural England, English Heritage and the Environment Agency. Specific issues relevant to this particular application are covered within the Harbour Master's comments below.

## **5 Harbour Authority Consultation Process**

- 5.1 Subsequent to receipt of the application the following actions were taken:
  - i. Project details and plans entered on the Harbour Authority's new webpage for the online viewing of applications.
  - ii. Notification email sent to all members of the River Hamble Harbour Management Committee and the River Hamble Harbour Board of the proposed development.
  - iii. Email sent to all interested parties informing them of the application and requesting comments by the deadline.
  - iv. The plans and details of the application were made available in the Harbour Office for inspection by members of the public.
  - v. Liaison with the Environment Agency, Natural England, Eastleigh Borough Council and Hampshire County Council's Archaeologist regarding the environmental impacts of the proposal.

## **6 Responses to Harbour Authority Consultation**

- 6.1 The Harbour Authority received 1 response from the public consultation. This is from the River Hamble Mooring Holders' Association (RHMHA) and is provided in Appendix 3.
- 6.2 The Harbour Master sought clarification from LTS on some of the points raised in the consultation response by the RHMHA. This clarification is provided in Appendix 4.

- 6.3 The proposal lies within the Solent Maritime Special Area of Conservation and 400 metres upstream of Lincegrove and Hacketts Marshes Site of Special Scientific Interest, the Solent and Southampton Water Special Protection Area, and the Solent and Southampton Water Wetland of International Importance. Natural England's advice under the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended) is that the proposal is unlikely to have a significant effect on the nearby designated sites provided vibro piling is used as standard and that the amount of additional lighting on site is minimised. Natural England welcomes the efforts taken by the developer to mitigate for the loss of intertidal mud and enhance the overall quality of the intertidal. Natural England would not like to see any additional development to occur in the area between the existing quay wall and the beginning of the pontoon berths and encourage that continued efforts should be made to preserve and enhance this habitat, as part of wider environmental enhancement aspirations for the Hamble.
- 6.4 The Environment Agency have requested that vibro piling is used as standard and recommended timing restrictions for this (see recommendation ix).
- 6.5 The Hampshire County archaeologist did not raise any concerns.
- 6.6 During determination of the previous application, a copy of the ABPmer Hydrodynamic Assessment and the LTS impact assessment were sent to the Hampshire County Council Chief Engineer (Structures) at his request. Having considered these reports, he felt that the proposed works would not cause any detriment to the foundations of the Bursledon Bridge. As no aspect of the project relating to this has been changed, no repeat consultation has taken place.

## **7 Harbour Master's Comments**

- 7.1 Prior to the granting of Harbour Works Consent for the previous scheme, a comprehensive review of the Harbour Authority's activity based risk assessments was carried out by the Harbour Master and, in response to continuing concerns about safety, an independent risk assessment was carried out by the Harbour Authority's Designated Person (Captain Mark Capon). Both risk assessment processes concluded that the risks could be reduced to As Low As Reasonably Practical (ALARP), as stipulated by the Port Marine Safety Code, through the introduction of some straightforward control measures. These were incorporated into the conditions for the Harbour Works Consent of the original scheme and have been included in the proposed conditions for the modified scheme.
- 7.2 The Harbour Master's comments on the modified scheme therefore focus on the proposed changes to the previously approved layout and their potential to impact on the risks associated with the activities which take place in the area. The activities considered are: berthing and un-berthing,

vessels entering and leaving commercial marinas, kayaking and canoeing, gig racing, rowing, dinghy sailing, river taxi operations, vessels under power encountering difficulties, and yachts under sail.

7.3 For small craft, such as rowing boats, canoes, kayaks and sailing dinghies, the retention of most of the inner 'access channel', protected from larger craft in the main channel, is clearly a positive improvement when compared to the previously consented layout.

7.4 With regard to manoeuvring larger vessels in the area, there are three distinct scenarios which merit consideration, particularly in respect of the proposed 12 metre upstream extension to 'Y' pontoon. Although the 12 metre extension formed part of the previously approved scheme, its impact is different because the new proposal leaves most of the existing inner access channel in place (albeit slightly wider than it is currently) and the implications of this need to be re-assessed. To this end, the Harbour Master and members of his staff have carried out thorough site visits by water at various states of the tide on several days in order to assess the risks at first hand. The three scenarios and the conclusions reached are as follows:

a) Vessels proceeding upstream in the main channel on a flood tide with the intention of turning through 180 degrees, either to proceed down the inner access channel to berth stemming the tide, or to berth stemming the tide on the outer face of 'Y' pontoon. It is assumed that the skippers of these vessels will be marina customers who are broadly familiar with the area. The identified hazards are: collision with fixed structures (including the bridge itself), collision with moored vessels, grounding and collision with other moving vessels (including small craft). In terms of collisions with fixed structures, on a flood tide there is a possibility of being swept onto the bridge structure if the turn is left too late. In terms of collisions with other vessels, there is a possibility of encountering a vessel coming downstream from above the bridge, or encountering a vessel or small craft proceeding upstream in the inner access channel. The key consideration is the potential impact of the 12 metre upstream extension to 'Y' pontoon which reduces the potential turning area by some 22%. Compared with the previously approved scheme, there are likely to be significantly more occasions when vessels require to make this turn, so the likelihood of an incident is greater, but not to the extent that the risk cannot be managed to ALARP by pro-actively alerting Deacon's customers to the possibility.

b) Vessels proceeding upstream in the main channel in situations where the skipper is unfamiliar with the area and needs to execute a 180 degree turn immediately downstream of the A27 bridge without being aware of the existence of the inner access channel. There are potential risks associated with this manoeuvre on both flood and ebb tides. Once again, the identified hazards are collision with fixed

structures (including the bridge itself), collision with moored vessels, grounding, and collision with other moving vessels (including small craft). On a flood tide there is a possibility of being swept onto the bridge structure if the turn is left too late. There is also a possibility of encountering a vessel coming downstream from above the bridge, or encountering a vessel or small craft leaving the inner access channel. There is already a risk associated with this, by virtue of the current layout and because a skipper unfamiliar with the area would not be aware of the inner access channel, there is no difference in respect of this scenario whether considering this new scheme or that which was previously approved. Indeed, the option of escaping down the inner access channel arguably makes the risk lower than was the case under the previously approved scheme.

- c) Vessels departing the marina and proceeding upstream in the inner access channel prior to executing a 180 degree turn into the main channel in the area immediately downstream of the A27 bridge. There are potential hazards associated with this manoeuvre on both flood and ebb tides. Again, the identified hazards are collision with fixed structures (including the bridge itself), collision with moored vessels, grounding, and collision with other moving vessels (including small craft). On a flood tide there is a possibility of being swept onto the bridge structure if the turn is left too late. There is also a possibility of encountering a vessel or small craft coming downstream from above the bridge which may be proceeding at up to 5 - 7 knots over the ground on an ebb tide (which runs at up to twice the rate of the flood tide under the bridge). Many of these possibilities already exist with the current layout and the only significant variation is the 12 metre extension to the 'Y' pontoon. On an ebb tide, when the speed over the ground of a vessel coming downstream will be at its greatest, a vessel wishing to leave the inner access channel and turn into the main channel can stem the tide and hold station whilst awaiting a safe opportunity to turn. Sight lines upstream are not good, but careful observation during the site visit ascertained that movement of vessels coming downstream can be easily detected. Further, the sight lines from any vessel coming downstream towards the bridge are surprisingly good and it is fairly easy to see the upstream end of the inner channel from a number of locations before committing to a transit of the bridge. On a flood tide, there is a possibility that a vessel leaving the inner access channel will be swept upstream and run ground on the shallows near the slipway, or collide with the bridge. The 12 metre extension to the 'Y' pontoon will slightly increase these risks, but not to a level which cannot be managed to ALARP by proactively alerting Deacon's customers to the possibility.

- 7.5 Planning permission has already been obtained for this project. Licences from both the Marine Management Organisation and the Environment Agency were obtained for the earlier proposal, but are yet to be updated regarding the modified layout.

7.6 This proposal does not require a statutory Environmental Impact Assessment (EIA) under the Marine Works (Environmental Impact Assessment) Regulations 2007 as amended.

## 8. Recommendation

### 8.1 It is recommended that the River Hamble Harbour Board grants Harbour Works Consent for the proposed works at Deacons with the following conditions:

- i) The Marina operator is to issue clear written instructions to all berth holders regarding the Marina's safety requirements and the risks associated with turning at the upstream end of the 'Y' pontoon, to be re-iterated in the Deacons Marina Visitors' Guide.
- ii) The speed limit within the Marina should be dead slow and the Marina safety requirements must stipulate that all vessels, upon exiting the marina, are to give way to vessels using the main channel of the River. Warning signs, at least 1.5 metres wide and 1.0 metres high, are to be placed at each exit to that effect, at the developer's expense, prior to the first vessels occupying the new layout.
- iii) Vessels berthed on the Marina hammerheads must not be so high-sided that they unsafely obstruct visibility, and individual vessels must not exceed half the total length of the hammerhead berths.
- iv) No rafting of vessels on the hammerhead berths or main channel side of 'Y' pontoon, and no vessels with a maximum beam of more than 3.8 metres to be berthed on the hammerhead or on 'Y' pontoon berths on the main channel side.
- v) Fixed and flashing navigation lights to be fitted on the hammerheads and 'Y' pontoon, as specified by Trinity House.
- vi) Prominent signs, at least 1.5 metres wide and 1.0 metre high, are to be erected on the upstream side of the A27 bridge and at the downstream end of the Z piles, at the developer's expense, worded as follows: "Beware of vessels leaving the Marina". Detailed design and exact locations to be agreed with the Harbour Master before commencement of the works to the pontoons.
- vii) Details of the proposed lighting, both during construction and once operational, should be submitted to and approved by the Harbour Master prior to construction commencing.
- viii) Removal of inshore berthing as indicated in drawings 10093/26 and 10093/27.
- ix) A vibro piling methodology is to be used as standard with percussive piling only used if needed to drive piles to their design depth. Piling works to occur between 30 November and 31 March. Works can commence between 16 September and 30 November but must stop if

the Environment Agency informs the Harbour Master that the autumn salmon run has commenced.

- x) Dredging to only occur between 16 September and 31 March. Any movement of the dredge barge must be cleared with the Harbour Office on VHF Channel 68. Should the barge or any other plan be required to move outside Harbour Office hours, an 'All Ships' broadcast call must be made on VHF Channel 68 to advise other river users of the move. Excess spoil must not be washed off the barge while the barge is in transit. Spoil disposed of in this manner may affect the navigation channel, water quality and the oyster beds which lay from Stone Pier Yard to the beacon No. 1 at the entrance to the harbour.
- xi) Sufficient Tier 1 oil pollution response booming must be held to completely encircle the plant equipment being used.
- xii) Should there be an incident outside Harbour Office hours and the Harbour Master is not contactable, the Coastguard should be contacted. The Coastguard hold all contact details if required in an emergency.
- xiii) All relevant consents are to be obtained prior to commencement of the works, and a copy of each consent lodged with the Harbour Office.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	no
Corporate Improvement plan link number (if appropriate):	

**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.)**

Document

Location

None

**IMPACT ASSESSMENTS:**

**1. Equalities Impact Assessment:**

- 1.1 A full Equalities Impact Assessment for the River Hamble Harbour Authority's compliance with the Port Marine Safety Code 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 Nil

**3. Climate Change:**

- a) 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
- b) 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.