

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

<b>Committee</b>	River Hamble Harbour Management Committee
<b>Date:</b>	14 December 2012
<b>Title:</b>	Harbour Works Consent Applications by The Crown Estate
<b>Reference:</b>	4483
<b>Report From:</b>	Director of Culture, Communities and Business Services

**Contact name:** David Evans

**Tel:** 01489 576387

**Email:** david.evans@hants.gov.uk

## 1. Summary

1.1 This report details three applications by The Crown Estate for Harbour Works Consent (HWC) to replace existing mid-stream moorings with continuous mid-stream pontoon moorings in three separate locations:

- 1) Warsash Pool
- 2) Hamble River Sailing Club (HRSC)
- 3) Mercury Gardens

1.2 The proposed design, as well as the safety and environmental issues requiring consideration by the Harbour Authority are very similar in each case, so this report covers all three applications, but with separate recommendations and conditions for each.

1.3 Note that, as a result of responses to The Crown Estate's consultation, all three proposals have been modified from the original application, and are now as follows:

- 1.3.1 Warsash Pool: Reduce the number of pontoons from 3 to 2 by deleting the most northerly pontoon, as shown in the attached plan FA EG-9476.00 2003 P1, and retaining up to eight fore-and-aft moorings within the area.
- 1.3.2 HRSC: Increase the gaps between pontoons from 7.5 metres to 10 metres, as shown in the attached plan FA EG-9476.00 3001 P2.

- 1.3.3 Mercury Gardens: Delete the proposals to relocate pontoons F1- F4 and F5 – F7, and leave in existing position, as shown in the attached plan FA EG-9476.00 4002 P2.

## **2. Background**

2.1 All three of these projects have been developed by The Crown Estate in accordance with the aspirations in the Harbour Authority's Strategic Vision, specifically:

- To recognise the importance of safety for sailing dinghies and other small craft in the harbour and to ensure the preservation of safe areas for these activities.
- To encourage the safe use of the harbour by children.
- To ensure that there is sufficient space for recreational activity and to recognise the need to balance this against demand for an appropriate distribution of moorings and berths so that the full range of activities may take place safely.
- To recognise that optimal use of space may involve the clearing of moorings from specific areas, but to accept that moorings elsewhere will almost certainly need to be reconfigured or expanded to accommodate displaced boats. Where appropriate, to seek the agreement of The Crown Estate to this.

## **3. Project Description**

### **3.1 Warsash Pool**

The proposal is as set out in Appendix 1 (produced by The Crown Estate's consultant, Opus International). This differs from the original plan submitted which included a third pontoon further upstream, but The Crown Estate has chosen to remove this as a result of their own consultation and other comments made to the Harbour Authority. It is also proposed that up to eight fore-and aft moorings will be retained in the area.

### **3.2 Hamble River Sailing Club**

The proposal is as set out in Appendix 2 (produced by The Crown Estate's consultant, Opus International). This differs slightly from the original proposal in that the gaps between the pontoons has been widened from 7.5 metres to 10 metres.

### **3.3 Mercury Gardens**

The proposal is as set out in Appendix 3 (produced by The Crown Estate's consultant, Opus International). This differs slightly from the original

proposal in that the originally proposed re-alignment of pontoon F1 – F4 and the re-location of pontoon F5 – F7 have been deleted.

#### **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 developments.
- 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 Local 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 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 interested parties informing them of the application, the Crown Estate's public exhibition, 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 and Eastleigh Borough Council.
- vi. Following receipt of the proposed variations to the plans as originally submitted, the updated versions were entered on the Harbour Authority website, and a further notification email was sent to interested parties informing them of the changes and inviting comments on the changes only.

## **6 Crown Estate Consultation Process**

- 6.1 Prior to submitting the application, The Crown Estate wrote to all affected mooring holders informing them of the proposals.
- 6.2 On submission of the application The Crown Estate wrote again to all affected mooring holders inviting them to a public exhibition of the proposals.
- 6.3 A further letter was sent to affected mooring holders to inform them of the proposed variations to the Warsash Pool scheme.

## **7 Responses to Consultations**

- 7.1 The Environment Agency has requested that vibro piling be used as standard and recommended timing restrictions to reduce impact on migratory salmonids, namely sea trout (see recommendations).
- 7.2 The proposals lie within or adjacent to important nature conservation sites as described in the application documents. Natural England's view is that it does not believe the proposals will have a 'likely significant effect' or a 'detrimental impact' on these sites subject to vibro piling methodology being used.
- 7.3 Fareham Borough Council (FBC) claim planning jurisdiction to mid-River and so will be determining the Warsash Pool proposal for planning permission. In doing so, it will be considering it against the mooring policies contained within its Local Plan.

- 7.4 Eastleigh Borough Council (EBC) do not require a planning application for the proposals that lie within its jurisdiction (HRSC and Mercury Gardens) so will not assess them against the relevant policies contained within the EBC Local Plan. Because of this, RHHA should be mindful of these policies in determining the HWC application.

Policy 155.OS should have been referenced in the supporting documents for the applications for HRSC and Mercury Gardens as this is the current policy:

*“ The Borough Council will only permit new moorings on the River Hamble provided that the Harbour Authority’s limit of 3261 moorings afloat is not exceeded and they are not located in the restricted areas as shown on the Proposals Map.”*

EBC has advised the RHHA that when applying policy 155.OS the term “new” would not prevent the replacement of existing moorings with new ones provided policy aspirations are not undermined. EBC also advised that the opinion of the Harbour Authority in the interpretation of these policies is a significant material consideration. Policy DM34 (as referenced in the supporting documents for the applications for HRSC and Mercury Gardens) must also be considered but less weight can be applied to this as it has not yet gone through the Local Plan enquiry process.

- 7.5 There were 45 responses from interested parties to our initial notification of an application for Harbour Works Consent and The Crown Estate’s exhibition. These responses are summarised in Appendix 4. As shown, some respondents were broadly supportive of the scheme(s) whilst others were broadly opposed. Those opposed to the scheme(s) referred to a potential increase in mooring costs, reduction in the number of ‘affordable moorings’, ease and safety of navigation, and visual impact. The Crown Estate received a number of direct replies to its letters to affected mooring holders, and numerous comments at the public exhibition. As a result of these replies and comments, and feedback received by the Harbour Authority, The Crown Estate chose to modify all three proposals, as indicated above and in the attached plans. Many of the concerns expressed in these responses have been addressed, in part, through the revisions detailed in paragraph 3.
- 7.6 A further 12 responses were received regarding the proposed revisions to the schemes. These are summarised in Appendix 5.
- 7.7 Copies of all written comments received by RHHA are available for viewing in the Harbour Office by prior appointment.

## **8 Harbour Master’s Comments**

- 8.1 These proposals will be subject to permissions from the Marine Management Organisation and The Environment Agency. The Warsash Pool proposal will require planning permission from Fareham Borough

Council.

8.2 In terms of navigational safety and ease of navigation, comments on each of the proposals are as follows:

8.3 Warsash Pool

The area currently occupied by the fore-and-aft moorings in Warsash Pool is a popular dinghy sailing area and this proposal is a positive response to those who have requested that the area be cleared of moorings to make dinghy sailing easier and safer. The proposal will result in the clearance of most fore-and-aft moorings from a large area, making it much more suitable for dinghy racing and youth training (around High Water) than it is at present. This is because most of the 'obstructions' caused by the moored boats will be removed, largely eliminating the risks of entanglement and collisions which currently exist. Furthermore, the existing westerly trot of fore-and-aft moorings tend to drift into the main channel, constricting its width, particularly when an ebb tide coincides with a strong easterly wind. This proposal will overcome this issue. The proposal will also significantly reduce the current problem of vessels becoming entangled with the pick-up lines between fore-and aft mooring buoys which often requires the services of a diver to resolve the problem. Harbour Authority staff devote a disproportionate amount of time dealing with moorings and vessels in this area when they drag and tangle their moorings. The current tangled and mis-aligned state of many of the ground chains and sinkers in this area means that, at the very least, a significant re-alignment of the moorings in this area will be required if this proposal is not approved. This would necessarily be at the expense of individual mooring holders who are responsible for the provision of their own mooring tackle. This proposal largely overcomes that requirement. The revised proposal will ensure that sight lines and routes between Hamble Jetty and the Warsash Ferry Hard are actually improved when compared with the current situation, thus overcoming a number of the objections received. The exposed position of boats on the downstream end of the outer fore-and aft mooring trot is also a concern, particularly at night. It is therefore recommended that the conditions for this proposal, if approved, should include a requirement that both ends of the westerly pontoon be lit with appropriate navigation lights at the developer's expense (Recommendation 9.1). A number of comments have been received regarding the initial proposal, pointing out that there are insufficient gaps in the pontoons to allow dinghies and small keel boats under sail to 'escape' from the main channel. The deletion of one of the pontoons goes some way towards dealing with these concerns. The remaining pontoon, at 108 metres in length, is much shorter than continuous pontoons elsewhere on the River and is unlikely to cause problems in this location.

#### 8.4 Hamble River Sailing Club

This proposal lies within a Mooring Restricted Area and, because it involves the replacement of existing moorings, it complies with Eastleigh Borough Council approved policies (see 7.4 above). The gap between the downstream end of the proposed pontoons and the upstream end of B pontoon remains as it is at present, thus preserving access to the secondary channel. Gaps between the three proposed pontoons were shown on the original drawings as 7.5 metres but these have now been increased to 10 metres as a result of consultation responses. This will allow greater ease of access to the moorings further inshore, and allow sailing dinghies and small keelboats more room to escape from the main channel if required.

#### 8.5 Mercury Gardens

This proposal does not lie within a Moorings Restricted Area, so there is no restriction on new moorings other than the overall cap of 3261, which has yet to be reached. Fore-and-aft moorings in this area are prone to drift into the main channel, constricting its width, particular when there are strong westerly winds at, or near, low water. This proposal entirely resolves this problem. The removal of the 'dog-leg' in the G-Piles and moorings as currently configured makes the alignment of the main channel clearer without any adverse impact on overall channel width. Further, the proposal widens the gap between the G-Piles and the XOD pontoon (F1 – F4), allowing the XODs, which do not have engines, more room for manoeuvre under sail. Large yachts requiring access to the hammerhead at Hamble Yacht Services will have slightly less room to manoeuvre than at present, but this is not considered to be a significant safety issue.

### 9. Recommendations

#### 9.1 It is recommended that the River Hamble Harbour Management Committee advises the Harbour Board to grant Harbour Works Consent for the proposal at Warsash Pool by The Crown Estate with the following conditions:

- 9.1.1 A flashing green solar powered navigation light shall be installed at each end of the westerly pontoon of the Warsash Pool project, at the developer's ongoing expense (subject to Trinity House specification and approval).
- 9.1.2 Moorings as indicated in drawing FA EG-9476.00 2003 P1 shall be removed, with the retention of up to eight fore-and-aft moorings (locations to be determined by the Harbour Master).
- 9.1.3 A vibro piling methodology shall 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.

- 9.1.4 Sufficient Tier 1 oil pollution response booming shall be held to completely encircle the plant equipment being used.
- 9.1.5 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.
- 9.1.6 All relevant consents shall be obtained prior to commencement of the works, and a copy of each consent lodged with the Harbour Office

**9.2 It is recommended that the River Hamble Harbour Management Committee advises the Harbour Board to grant Harbour Works Consent for the proposal at Hamble River Sailing Club by The Crown Estate with the following conditions:**

- 9.2.1 Removal of moorings as indicated in drawing FA EG-9476.00 3001 P2.
- 9.2.2 A vibro piling methodology shall 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.
- 9.2.3 Sufficient Tier 1 oil pollution response booming shall be held to completely encircle the plant equipment being used.
- 9.2.4 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.
- 9.2.5 All relevant consents shall be obtained prior to commencement of the works, and a copy of each consent lodged with the Harbour Office.

**9.3 It is recommended that the River Hamble Harbour Management Committee advises the Harbour Board to grant Harbour Works Consent for the proposal at Mercury Gardens by The Crown Estate with the following conditions.**

- 9.3.1 Removal of moorings as indicated in drawings FA EG-9476.00 4002 P2.
- 9.3.2 A vibro piling methodology shall 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.
- 9.3.3 Sufficient Tier 1 oil pollution response booming shall be held to completely encircle the plant equipment being used.
- 9.3.4 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.

- 9.3.5 All relevant consents shall 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 No known impact.

### **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.