



Meeting: Council

Date: 6 February 2013

Wards Affected: Wellswood, Tormohun and Ellacombe Wards

Report Title: Torquay Inner Harbour Pontoon Berthing Project

Executive Lead Contact Details: Jeanette Richards, Executive Lead for Tourism and Environment, (01803) 846004, Jeanette.richards@torbay.gov.uk

Supporting Officer Contact Details: Kevin Mowat, Executive Head of Tor Bay Harbour Authority, (01803) 292429, Kevin.Mowat@torbay.gov.uk

1. Purpose

- 1.1 This report provides details of the “Torquay Inner Harbour Pontoon Berthing Project”, which was approved by the Council’s Harbour Committee on 11th June 2012. The project proposes to replace the existing chain moorings with new pontoon moorings in Torquay’s inner harbour. It is the aim of this report to provide the Council with sufficient information to enable them to reach a decision regarding this project.
- 1.2 The Harbour Authority’s existing inner harbour customers at Torquay will benefit from greatly improved mooring facilities. New customers waiting for pontoon berths will ensure that the inner harbour occupancy level is increased significantly. Even more people within Torbay and beyond will have the opportunity and be encouraged to use the Torquay harbour.

2. Proposed Decision

- 2.1 That the Harbour Committee’s recommendation to replace the existing chain moorings in Torquay’s inner harbour be approved.
- 2.2 That the Torquay Inner Harbour Pontoon Berthing Project be added to the Council’s Capital Plan and the use of prudential borrowing of approximately £800,000 be approved to enable the scheme to proceed.
- 2.3 That, the Executive Head of Tor Bay Harbour Authority, in consultation with the Chairman of the Harbour Committee and the Mayor, be authorised to use his delegated powers to proceed with the Torquay Inner Harbour Pontoon Berthing Project and that the Torbay Development Agency be asked to provide the necessary project management services.

3. Summary and Reasons for recommendations

- 3.1 To seek the Council's, approval for the Harbour Committee's recommendation to develop pontoon moorings, in Torquay's inner harbour, to replace the existing chain moorings.
 - 3.2 To create improved moorings for local people and those within the sub-region, whilst continuing the development of a sustainable harbour that will meet the needs of the community.
 - 3.3 To raise the overall amenity of the inner harbour at Torquay and improve the quality of the area for the users of the harbour, whether they are boat owners, businesses in the area or others within the community.
-

Supporting Information

4. Position

- 4.1 The idea of putting pontoon berths in Torquay's inner harbour has been in circulation for many years but it wasn't until May 2003 when the half-tide cill became operational that the opportunity was properly unlocked. Water is now retained at half-tide and this change to the harbour infrastructure has been shown to be reliable over a number of years.
- 4.2 The success of the Town Dock, which opened in April 2008 in the outer harbour, has shown that there is a clear demand for pontoon berthing. This facility enjoys healthy waiting lists and the occupancy rate has effectively been 100% from the first day.
- 4.3 On the 22nd June 2009 the Harbour Committee considered Report 150/2009 which provided an overview of a project that would replace the existing chain moorings with pontoon berths in Torquay's inner harbour. In minute 106/2009 the Harbour Committee noted the report and agreed that a 'Key Decision' entry should be submitted for inclusion in the Council's Forward Plan. A Forward Plan entry (Ref. 25/2009) was subsequently made but the entry was later withdrawn because the project was not seen as being sufficiently imminent to warrant inclusion. More recently a new Forward Plan entry has been made.
- 4.4 The relentless high demand for Town Dock berths, ongoing support from harbour users and the news regarding the South Devon link road, which will open up a wider catchment area, have all combined to encourage the Harbour Authority to seek a decision now, to move this project forward.

- 4.5 The drawing in Appendix 1 shows a proposed layout that will deliver 173 berths to replace 173 moorings. It is expected that access to the pontoons will be via a bridge located close to an overflow taxi rank (actually located on the harbour estate) on Victoria Parade. As the capacity of the harbour will not change there should not be any concerns regarding additional vehicular traffic or the need for increased car parking capacity. The area adjacent to the access bridge can serve as a drop off and pick up location during daylight hours and could well continue with its taxi use at night. This would not be dissimilar to its current use.
- 4.6 The Council has a lease with Marina Developments Ltd (MDL) in connection with Torquay Marina and ancillary buildings which contains various obligations for consultation with MDL should the Council wish to construct a new 'marina' within an area extending to one nautical mile from the extremity of Princess Pier. The definition of the word 'marina' is defined in the lease as "any system of berthing vessels giving pedestrian access from the berth to the shore, but shall not include the provision of berthing for visiting vessels exhibitions and landing".
- 4.7 When considering the development of the Town Dock the Council initially considered these obligations to be binding and consequently entered into lengthy, subject to contract, negotiations with MDL in relation to the construction of the Town Dock in the outer harbour at Torquay. However, the Council found it necessary to obtain Counsel's opinion on the relevant provisions and Counsel found them to be for the most part unenforceable due to the wording being unenforceable in law. Also, the relevant lease provisions fell foul of the Council's public law duties and accordingly the Council believe they are free to deal with their harbour duties and powers without being fettered by the pre-existing MDL lease provisions.
- 4.8 Consequently the opinion of Counsel was set out to MDL and their solicitors but they have neither confirmed acceptance of, nor denied, its validity. However, in the spirit of a good landlord and tenant relationship the Executive Head of Tor Bay Harbour Authority, the Harbour Committee Chairman and the Mayor have met with MDL to discuss the Council's intention to upgrade the inner harbour chain moorings to pontoon berths.
- 4.9 Given the current state of the economy and so as to provide plenty of time for procurement, this design and build project, if agreed, will not commence until the winter of 2013/14.
- 4.10 The Torbay Development Agency's capital projects team will be asked to assist the Executive Head of Tor Bay Harbour Authority to procure the Torquay Inner Harbour Pontoon Berthing Project scheme using experienced piling contractors and pontoon manufacturers, under the guidance of a suitable Project Board team. A design and build contract will be used based on a very clear brief (Appendix 2 shows a draft outline of the Project Brief). If the Council supports the Torquay Inner Harbour Pontoon Berthing Project scheme, as recommended by the Harbour Committee, then it is expected that the development will be open for use by April 2014. A

Harbour Revision Order already exists which gives statutory approval to this scheme and planning consent is not therefore required.

- 4.11 The cost of the proposed Torquay Inner Harbour Pontoon Berthing Project scheme has been identified as approximately £800,000. This figure has been determined from information provided by Solent Marine who were involved in the construction of the Town Dock. As Solent Marine is a leading marina contractor this development cost is considered by Executive Head of Tor Bay Harbour Authority to be suitably accurate. Similarly the revenue operating costs have been taken from the Harbour Authority's experience of managing the Town Dock over the last five years.
- 4.12 At an estimated cost of £800,000 this project cannot be funded directly from the harbour reserve fund, although it could be part funded from the reserve fund. Therefore, other than allowing a third party to own and operate the facility the Torquay Inner Harbour Pontoon Berthing Project can only be funded by way of prudential borrowing. Given the way that prudential borrowing works the harbour account would be required to budget to repay the cost of the principal and interest over a period no longer than the life of the asset. Based on the expected cost of £800,000 and an asset life of 20 years, this would cost the harbour account £61,821 per annum. If the asset life is assumed to be 25 years then the cost to the harbour account would reduce to £54,285 per annum.
- 4.13 A new Torquay Inner Harbour Pontoon Berthing Project would naturally attract a revised level of charging to reflect the obvious improvement in the quality of mooring provision and to generate sufficient income to pay for borrowing. As part of a consultation exercise a new combined charge (including harbour dues & mooring fees) has been suggested at £129.95 per metre (plus VAT) per annum, being half way between the existing chain mooring rate (including harbour dues & mooring fees) of £91.07 per metre (plus VAT) per annum and the current Town Dock rate. This figure was then used to provide a detailed analysis of costs and incomes associated with the Torquay Inner Harbour Pontoon Berthing Project scheme, using the Town Dock assessment of running costs and an assessment of income at different occupancy rates. The analysis is attached to this report as Appendix 3.
- 4.14 The assessment that is Appendix 3 utilises the known maintenance costs of the Town Dock less the saving on existing maintenance regimes, Harbour Authority income estimates (based on £129.95 per metre) including a 3-year phased uplift of existing mooring holders to the new Torquay Inner Harbour Pontoon Berthing rate and a 20-year/25-year repayment period under prudential borrowing rules for a £800,000 investment. The table indicates that net operating income is sufficient to meet annual principal and interest repayments. At the end of a 20-year term, it is estimated that a net income surplus of £569,562 could be generated for investment in harbour infrastructure and services plus possible early repayment of some of the loan principal. A 25-year term could deliver a surplus of £700,565.

- 4.15 A range of sensitivity analyses have also been undertaken to assess the impact of changes to some of the variables i.e. income and expenditure. Thus an inflation rate of 2.5 % per annum has been added to the operating expenditure heads. A 70% occupancy rate has been used in the 25 year plan and an occupancy rate of 80% has been used in the 20 year plan. Furthermore it has been assumed that prices will increase on average by 2.5% per annum. Income forecasts for both the 20 year and 25 year plans have assumed that existing customers remain on the current rate of harbour charges but if a 3-year staged increase is approved then a further minimum income of £6,700 can be achieved in years one, two and three. Obviously an increase in the construction costs will incur an annual increase in principal and interest repayments and similarly any increase in annual operating costs will incur annual increases in expenditure. However, given that the predicted surplus and the potential additional income from existing customers can both be used to support additional borrowing and if necessary the harbour reserve fund could be used to reduce the initial or subsequent level of borrowing; the scheme is considered to be financially viable.
- 4.16 The Torquay Inner Harbour Pontoon Berthing Project will improve access to moorings for harbour customers and the community. There are no obvious negative impacts in respect of environmental sustainability or crime and disorder.

5. Possibilities and Options

- 5.1 To continue with the existing provision of chain moorings, without providing improved mooring opportunities for local people. This option would still require some considerable capital investment because new ground chains would be required throughout the inner harbour and it would mean that the unsightly tender racks would remain on the top of the old inner harbour slipway. Furthermore the Harbour Authority would need to enter into a costly contract for mooring maintenance using professional diving services.
- 5.2 To allow MDL, or another operator, to develop, own and manage a pontoon berthing facility in Torquay's inner harbour. Based on the existing rental terms for Torquay Marina this option does not improve the income received from the existing inner harbour moorings (assuming occupancy rates returned to previous levels). This option would not sit well with the harbour user group or the Harbour Liaison Forum who have always promoted a Council run facility.

6. Preferred Solution/Option

- 6.1 That the proposal to replace the existing chain trot moorings in Torquay's inner harbour is approved and that the new facility is owned and managed by Tor Bay Harbour Authority on behalf of Torbay Council.

7. Consultation

7.1 On the 2nd June 2009 the Executive Head of Tor Bay Harbour Authority advised the Torquay & Paignton Harbour Liaison Forum that in line with the Tor Bay Harbour and Maritime Strategy he was considering further improvements to harbour facilities and infrastructure. The Forum was asked for their views on the idea of replacing the Torquay inner harbour chain moorings with pontoon berths. An indicative drawing of the pontoon layout (similar to Appendix 1) was circulated for discussion. After a brief debate the Forum broadly supported the idea but several people recognised that the pricing structure would need careful consideration.

7.2 In 2009 as part of the Harbour Authority's Annual Users Survey customers were asked the following questions :-

- (i) Do you think Tor Bay Harbour should provide further pontoon moorings for use by annual berth holders ?
- (ii) Where would you like to see further pontoon berthing ?
- (iii) Which market sector should the Harbour Authority target for its pontoon berthing ?

In response to these questions 86.6% said yes to Question (i), 80% of Torquay respondents said 'Torquay inner harbour' and 54% said the market sector should be 'Town Dock' style i.e. limited water/electricity, basic security, local priority and pricing similar to the Town Dock. The 2012 Annual Users Survey response to the market sector Question gave 86% in support of a 'Town Dock' style facility with limited water/electricity, basic security and local priority.

7.3 On the 29th May 2012 the Torquay & Paignton Harbour Liaison Forum were provided with a sketch (similar to Appendix 1) of the proposed Torquay Inner Harbour Pontoon Berthing scheme and the Executive Head of Tor Bay Harbour Authority gave an overview of the project. Consequently the Liaison Forum provided unanimous support for the moorings upgrade.

7.4 This season the Harbour Authority conducted a survey of existing Town Dock customers, those on the Town Dock waiting list and existing Inner Harbour customers. The main results are set out below :-

13 Town Dock customers would consider a new inner harbour berth

8 Town Dock waiting list customers would consider a new inner harbour berth while they waited for a Town Dock berth

80% of Inner Harbour customers who responded would welcome a new pontoon style berth

7.5 On 23rd July 2012 the Mayor, the Harbour Committee Chairman and the Executive Head of Tor Bay Harbour Authority met with Marina Developments Ltd. Feedback from the Managing Director of MDL indicated that they were concerned that they

might be damaged or disadvantaged by the Council's proposals. Subsequently the Executive Head of Tor Bay Harbour Authority provided MDL with some reassurance regarding the scale of the project and the target market.

7.6 Relevant Council officers and a number of taxi drivers have been approached regarding the Victoria Parade location for the embarkation bridge. No concerns were forthcoming.

8. Risks

8.1 There is a risk that the harbour account may not be able to meet the cost of the prudential borrowing. However, a financial sensitivity analyses has been undertaken, drawn from Appendix 3 and this is detailed in paragraph 4.15.

8.2 There is a risk that the inner harbour half-tide cill could fail and boats moored on the new pontoons would subsequently sustain damage if the water level fell too low. To mitigate against this risk the inner harbour half-tide cill is the subject of a clear planned maintenance regime which includes regular underwater inspections. Furthermore, harbour staff are trained to operate emergency procedures, with an alternative power pack in the event of a power failure.

8.3 As detailed in 4.6 and 4.7 above, there is a risk that MDL might see this project as a 'marina' and use the terms of their lease to challenge the Council's right to replace the existing inner harbour chain moorings with new pontoon berths.

8.4 There is a residue risk that Torquay harbour may be unable to grow its reputation for high quality maritime facilities if the Torquay Inner Harbour Pontoon Berthing Project is not developed.

8.5 An environmental risk always exists if any boat discharges pollution into the harbour but in this location, behind a half-tide cill, the problem would be more apparent and could be more damaging. Even though the proposed pontoon berthing project will not increase the mooring capacity in this area of the harbour the occupancy rate is expected to rise considerably. Also, the improved facilities will encourage greater use of craft by their owners and consequently the possibility of people staying on their boats overnight. This environmental risk will be mitigated by educating customers and backing this up with the threat of bye-law enforcement. Furthermore, it might be possible to provide some quayside toilets adjacent to the access bridge on Victoria Parade or on pontoons within the structure itself.

Appendices

Appendix 1 Torquay Inner Harbour - Proposed Pontoon Layout

Appendix 2 Torquay Inner Harbour Pontoon Berthing Project Brief

- Appendix 3 Detailed Analysis of Costs and Incomes Associated with the Torquay Inner Harbour Pontoon Berthing Project
- Appendix 4 Equality Impact Assessment

Additional Information

The following documents/files were used to compile this report:

Torquay Inner Harbour Pontoon Berthing Project – Harbour Committee Report 11/6/12

Torquay Harbour Town Dock Report - Report 172/2006

Torquay Inner Harbour Pontoon Berthing Project – June 2009

Torquay Inner Harbour Pontoon Berthing Project – Forward Plan entry Ref. 25/2009 & I009414

Lease Agreement for Torquay Marina (5th October 1987)