

Colne Marina – Tendring District Council (TDC) Planning Application 21/00194/FUL

Introduction:

Brightlingsea Harbour Commission (BHC) is the appropriate navigation authority for Brightlingsea Harbour and must be consulted on any applications that would impact below the mean high water springs mark.

All such works within the marine area also require a licence from the Marine Management Organisation (MMO).

BHC has been contacted by TDC, but not, as yet, by the MMO to provide their views on the above planning application.

The decision to grant or refuse a planning application ultimately rests with the local planning authority.

This response is BHC's considered view and therefore will serve as a response to all organisations. As the appropriate authority, the legal requirement is that it should focus solely on aspects of 'safe navigation'. Any wider issues (eg loss of amenity; benefit to local economy) should not form part of this statutory response.

Current Brightlingsea Harbour bye-laws allow the Harbour Master to control the provision of moorings within the statutory harbour regardless of any planning consent, ownership or leases.

Safe Navigation:

The Port Marine Safety Code (November 2016) states that *'the harbour authority has a duty to conserve the harbour so that it is fit to use as a port and a duty of reasonable care to see that the harbour is in a fit condition for a vessel to use it safely'*.

There is no specific definition of safe navigation, but avoidance of collisions must form a key component.

Any restricted area is characterised by a greater number of hazards being present at the same time, implying that navigational safety is lower. This requires the application of specific criteria such as under keel clearance and distance to navigational obstructions when considering movements within the harbour.

Process

In order to reach its considered view, the Commissioners decided to consult with as many stakeholders as possible. Comments were sought via the Harbour website, whilst local organisations were contacted directly. A list of those who commented is attached as Appendix 1.

Although many views were expressed, the primary focus of these consultations was to consider the impact of the Colne Marina proposals on the safe operation of the harbour.

Commercial Operations:

Most local commercial organisations consulted raised concerns about the proposals. These covered safety, loss of amenity, access and affect on business.

Brightlingsea Harbour pilots also raised concerns about safe entry and exit from the wharf if the proposals were implemented.

In order to establish a clear view of the impact on the operation of the wharf, the Commissioners established a working group to undertake a detailed analysis of the risks and possible mitigation of the same in the light of the planning application before it. Their report is attached as Appendix 2.

Leisure Activities:

Current access to the north channel fairway is dictated by the tide with concerns expressed that the proposed development of outer pontoons and the boats moored on them would occupy a large part of the deepest water channel. As such, this would reduce current access times.

Leisure users also raised concerns about the narrowness of the distance between the proposed new pontoons and the fact that most would be at right angles to the water flow, making entering and exiting more challenging particularly if the winds were easterlies or westerlies.

The general consensus was that there would be a significant loss of amenity, alongside safety concerns.

Following the responses received, the Commissioners undertook a detailed analysis of the likely impact on leisure users of the proposals. This is attached as Appendix 3.

Conclusion:

From the analyses and consultation carried out Brightlingsea Harbour Commissioners consider that the proposals would have a significant impact on safe navigation in the north channel fairway and therefore recommend that Tendring District Council Planning Committee rejects the application.

Brightlingsea Harbour Commissioners

7 October 2021