

OVERVIEW AND SCRUTINY COMMITTEE

Thursday, 7 February 2019

REVIEW REFERRING TO THE GOVERNANCE OF SOUTHWOLD HARBOUR

EXECUTIVE SUMMARY

Please see section 1 below for more detail about the following summary.

1. On 18 December 2018, the Southwold Harbour Lands Joint Committee (**JC**) met to consider the way forward for the governance of Southwold Harbour. Having considered a detailed report, a copy of which is at Appendix B to this report (the **December Report**) and heard from members of Waveney District Council (**WDC**) and Southwold Town Council (**STC**), the JC resolved to revisit previous plans, to carry out a consultation exercise about the governance of Southwold Harbour and to meet again on 6 March 2019 to decide on the way forward. That consultation exercise is ongoing and concludes on 1 March 2019.
2. On 20 December 2018, the Overview and Scrutiny Committee (**Committee**) received a scoping form from a member of the Committee, Cllr Beavan (**Scoping Form**). In this Scoping Form, Cllr Beavan suggested (in essence) that the Committee review some historic management issues about Southwold Harbour and that the purpose of the review would be to find a way forward for the governance of Southwold Harbour.
3. On 3 January 2019, the Committee considered the Scoping Form and (having explained that the Committee would look only at the process which had been used, not attempt to resolve the issues set out in the Scoping Form) resolved that it be accepted onto the Committee's Work Programme for discussion at the 7 February 2019 meeting and that Cllr Beavan should liaise with officers to clarify the issues to be scrutinised.
4. On 11 January 2019, Cllr Beavan submitted a report setting out more detailed contentions in support of his Scoping Form (the **Beavan Report**). As explained in section 1 below, the Beavan Report indicates that it was prepared with assistance from two members of STC, but it does not represent the views of STC.
5. The purpose of this report is, having reviewed the Beavan Report, to address the issues raised in the Scoping Form for the meeting of the Committee on 7 February 2019.

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| Is the report Open or Exempt? | Open |
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| Wards Affected: | Southwold |
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| Cabinet Member: | Councillor Mark Bee Leader of Waveney District Council |
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| Supporting Officer: | <p>Andrew Jarvis Strategic Director 01394 444323 andrew.jarvis@eastsoffolk.gov.uk</p> <p>Simon Taylor Chief Finance Officer 01394 444570 simon.taylor@eastsoffolk.gov.uk</p> <p>Kerry Blair Head of Operations 01502 523007 kerry.blair@eastsoffolk.gov.uk</p> |
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1 INTRODUCTION

- 1.1 On 20 December 2018, the Overview and Scrutiny Committee received a scoping form from a Member of the Committee, Cllr Beavan, requesting that the Committee review some historic management issues which Cllr Beavan raised about Southwold Harbour (**Scoping Form**).
- 1.2 The Scoping Form stated that the purpose of the suggested review would be: *“To find a way forward for the governance of Southwold Harbour that restores the trust between the Southwold electorate and the Council, and effects a sustainable harbour operation. To that end, to ensure that the current consultation is inclusive and transparent”*.
- 1.3 The Scoping Form suggested that the Committee should consider the following main alleged issues and concerns:
- (1) *“historic mismanagement of the harbour and caravan site by WDC ... including...”*
 - (2) *“inaccurate accounts especially pre-2010”;*
 - (3) *“gross mismanagement of the North Wall project”;*
 - (4) *“failure of the Joint Harbour Committee to meet quarterly in public as promised in 2015”;*
 - (5) *“continued use of depreciation and other means to extract funds in contravention of the 1933 Harbours Act”;* and
 - (6) *“inaccuracy of the accounts currently submitted to the Department for Transport”*.
- 1.4 On 3 January 2019, the Overview and Scrutiny Committee (**Committee**) considered the Scoping Form. The Chairman stated that she had made Cllr Beavan aware that, if the Committee agreed to accept the item on the Committee’s Work Programme, it could only look at the process that had been used rather than being able to actually resolve any of the issues he had raised. The Chairman continued that, in addition, she had asked Cllr Beavan,

who had made specific allegations within the Scoping Form, to meet with officers in order to clarify the issues he wanted scrutinised and he had agreed to do this. The Committee was informed that, unfortunately, no-one who had dealt with the 2010 accounts was still employed at WDC. The Head of Operations indicated that, although officers had already met with Cllr Beavan on this matter several times, he felt it would be useful to meet again to clarify the specific issues. He added that, if Members did decide to scrutinise the item, there were several existing reports that could be made available to them.

- 1.5 The Committee resolved on 3 January 2019 that the Scoping Form relating to Southwold Harbour be accepted onto the Committee's Work Programme for discussion at the 7 February 2019 meeting and that Cllr Beavan liaise with officers to clarify the issues to be scrutinised.
- 1.6 On 11 January 2019, Cllr Beavan submitted a report setting out in more detail what he wished the Committee to take into account in carrying out its review of his alleged failings in the way that WDC has managed certain aspects of the SHL (the **Beavan Report**). It appears that the Beavan Report was prepared with assistance from Simon Flunder and Ian Bradbury, who are both members of STC, and others named in that report. However, STC have asked us to make it clear that the views expressed in the Beavan Report are not and should not be taken to represent the views of STC.
- 1.7 This report has to deal with the allegations made in the Scoping Form, having reviewed the further details provided in the Beavan Report.
- 1.8 For ease of reference, it does so by addressing each of the alleged issues, as recited in paragraph 1.3 above, in the following sections 3 to 8, producing the reports which were referred to by the Head of Operations as appendices to this report, as explained below.
- 1.9 Before doing so, this report addresses in section 2 below the "purpose" and "desired outcomes" of the review as stated in the Scoping Form.

2 SOUTHWOLD HARBOUR LANDS (SHL) JOINT COMMITTEE (JC)

- 2.1 In his Scoping Form of 20 December 2018, Cllr Beavan states that the purpose of this suggested review is: *"To find a way forward for the governance of Southwold Harbour that restores the trust between the Southwold electorate and the Council, and effects a sustainable harbour operation. To that end, to ensure that the current consultation is inclusive and transparent"* and that the desired outcomes of the review are: *"That WDC recognises previous problems and engages transparently with all stakeholders to reach a mutually agreed form of governance in a true consultation rather than a PR exercise."*
- 2.2 For the following reasons, we believe that this "purpose" is misconceived, that the suggestion that the Committee should work in parallel on or interfere with the work already being done to improve the governance of Southwold Harbour is unhelpful and that the suggestions that the ongoing Southwold Harbour consultation might be anything other than transparent, or might merely be a "PR exercise", are wrong.
- 2.3 The improvements which should be made for the future governance of Southwold Harbour are already the subject of detailed consideration and ongoing consultation by the Southwold Harbour Lands Joint Committee (JC), as explained in more detail below.
- 2.4 On 18 December 2018, the JC, comprised of members of Waveney District Council (WDC)'s Cabinet and members of Southwold Town Council (STC), met to consider the future governance of the Southwold Harbour Lands (SHL), meaning as appropriate the harbour and neighbouring lands, including the relevant stretch of the River Blyth, Buss Creek, Salt Creek,

the caravan and camping site and commercial properties leased to independent operators to generate rental income for the harbour.

- 2.5 First, the JC considered a comprehensive published report, a copy of which is at Appendix B to this report (the **December Report**). The December Report explains the background, the establishment and terms of reference of the JC, the range of issues which had prevented previously planned governance changes and new proposals to improve the governance of Southwold Harbour pursuant to the Ports Good Governance Guidance issued by the Department for Transport in 2018.
- 2.6 Next, the JC heard from members of WDC and Southwold Town Council and considered responses from officers to the questions raised and comments made by those members, including Cllr Beavan.
- 2.7 The JC then resolved to revisit the previous plans and to allow a substantial period for consultation with stakeholders - on the governance of Southwold Harbour generally and the governance improvements proposed in the December Report in particular - so that the JC could then decide how to proceed, taking into account the results of that consultation exercise, when it meets again on 6 March 2019.
- 2.8 That consultation exercise has been arranged with reference to the consultation principles issued by the Cabinet Office. The consultation is ongoing and aims to conclude on 28 February, with a final deadline for consultation submissions of 1 March 2019. It includes the material published at: <https://www.eastsuffolk.gov.uk/features/southwold-harbour-consultation/>, an online survey for consultees to complete, provision for written submissions, communication with groups which claim to represent stakeholders and the following direct consultation events:
- Saturday, 19 January, 10am to 1pm, 'Drop in' event at the Sailing Club, Southwold Harbour
- Saturday 26 January, 10am to 1pm, 'Drop in' event at the Methodist Church Hall, Southwold
- Wednesday 6 February, from 6.30pm, public meeting at St Edmunds Hall, Southwold
- 2.9 WDC intends to publish an interim report on the results of the consultation in late February, making available copies of all written representations delivered by that time, with an update on any last-minute results for the JC at their meeting on 6 March 2019.
- 2.10 Accordingly, WDC believes that this consultation on the future governance of Southwold Harbour is inclusive and transparent. Cllr Beavan and all other interested persons are encouraged to make their proposals for the governance of Southwold Harbour, including anything further they believe WDC should "recognise" about historic issues, so that the JC can take these into account when making its decision and recommendations to WDC and STC. It would be unhelpful and inappropriate to ask the Committee to attempt to undertake the same task at the same time. It would be particularly unfortunate if valid representations were made to the Committee but not communicated to the JC in time for them to be taken into account before the JC decides what to recommend.
- 2.11 It is not appropriate to address these governance issues further in this report and it would be entirely wrong to pre-empt the results of or interfere with the consultation exercise. This will be the subject of a further, detailed published report (or reports) to the JC based on the results of the consultation exercise, as explained above.
- 2.12 We now deal in turn in each of the following sections of this report with the allegations made in the Scoping Form, as recited in paragraph 1.3 above, having reviewed the further details provided in the Beavan Report.

3 HISTORIC MANAGEMENT OF THE HARBOUR AND CARAVAN SITE

- 3.1 The Scoping Form alleges “*historic mismanagement of the harbour and caravan site by WDC*”, making each of the allegations addressed in the following sections of this report and stating that this has resulted in a “*lack of trust*”.
- 3.2 This general allegation of “*historic management*” is not accepted. WDC has managed the SHL since 1974, advancing substantial sums for protective works, maintenance works and improvements and recovering those advances over time, as noted in the December Report and below. It is anticipated that WDC will be asked to advance substantial further sums in future for coast protection and flood defence works and for improvements which should be made to the SHL, particularly to improve the Southwold caravan and camping site, as outlined in the December Report.
- 3.3 It is acknowledged that some local stakeholders are or were distrustful of WDC, but that appears to be one of the main reasons that the JC was established in 2014. It is striking that most of the specific allegations made in the Scoping Form relate to historic projects and matters which were concluded long before the JC was established.
- 3.4 One of the major advantages of the JC has been to improve the relationship between WDC and STC (in contrast to the position before the JC was established in 2012, as outlined in section 4 of the December Report), enabling them to work more constructively to seek to improve the governance of the SHL and arrangements for consultation with local stakeholders.
- 3.5 It is unfortunate that the first governance model selected by the JC in 2015 now appears to be inappropriate, but that was the model strongly preferred by local stakeholders at that time and seemed then (based on external professional advice) to be capable of delivery. When investigating all of the complex issues which need to be accommodated for Southwold Harbour and its stakeholders, as it sought to deliver the planned model, the JC discovered the likelihood that the relevant obstacles could not be overcome and was then obliged to explore alternatives, which it did in consultation with local stakeholders. Having worked on that for some time, it then received the new guidance on good governance issued by the Department for Transport, recommending a Harbour Management Committee and related governance improvements which are explained in the December Report.
- 3.6 As explained in the December Report and confirmed by Cllr Bee as Vice Chairman at the meeting of the JC on 18 December 2018, WDC is keen now to consult on all of those issues and the future governance arrangements for the SHL, including the proposed Harbour Management Committee governance arrangements. This should help to restore trust with any reasonable local stakeholders, particularly if they have engaged fully with the consultation to make it as useful and representative as it can be.

4 ACCOUNTS

- 4.1 The Scoping Form alleges “*inaccurate accounts especially pre-2010*”. This allegation is not accepted, for the following reasons.
- 4.2 We should first confirm that references to WDC’s “**general fund**” mean WDC’s main revenue account, which receives the majority of WDC’s revenue and is used to pay out the majority of WDC’s expenditure. WDC’s general fund:
- 4.2.1 includes most of the statutory and discretionary services that WDC provides on a day to day basis (in accordance with the guidance from the District Auditor in 2007, as

explained below, the general fund includes income and expenditure in respect of the caravan and camp site at Southwold); but

- 4.2.2 excludes activities of WDC as harbour authority for Southwold under the Southwold Harbour Order 1933 and the activities of WDC in relation to social housing under the relevant housing legislation (the housing revenue account). Those are accounted for separately from the general fund, but reported within WDC's overall accounts.
- 4.3 WDC's accounts before 2010 (including WDC's accounting for the SHL) were subject to external audit every year by the District Auditor. So far as we are aware, no issues were raised about their accuracy, other than the correction made in line with the advice from the District Auditor in 2007, as explained below.
- 4.4 Although those who dealt with the accounts before 2010 are no longer with WDC, it should be noted that the District Auditor received and investigated objections made to WDC's accounts for the year to 31 March 2005 about the SHL.
- 4.5 The District Auditor concluded his investigation and issued his report on 19 February 2007. A copy of his report is at Appendix C to this report. The District Auditor noted the objections which had been made about the accounts (as recited in his report) and WDC's position that the SHL had been in deficit for many years before the SHL made surpluses, that those year by year surpluses were then used to repay the accumulated deficit and that as at 31 March 2006 the balance of the deficit owed to the general fund was approximately £313,000. The District Auditor advised that:
 - 4.5.1 the income and expenditure in respect of the caravan and camping site should be accounted for as part of the general fund, rather than as part of the Southwold harbour undertaking, subject to an appropriate adjustment (based on a fair rental figure) for the value of the use of the land within the harbour undertaking for the caravan and camping site. It appears that WDC had previously treated the income from the caravan and camping site as part of the income from the harbour, in line with the views of local stakeholders, but the District Auditor questioned in his report whether operation of a caravan and camping site was within the scope of the powers and responsibilities of the harbour authority under the Southwold Harbour Order 1933 as opposed to WDC's general powers and responsibilities as owner/operator of the caravan and camping site.

WDC amended those accounts accordingly, with the agreement of the District Auditor, and for all subsequent years has included an appropriate disclosure note in its accounts in respect of the harbour.
 - 4.5.2 WDC had not, as had been alleged, received significant revenues and incurred expenditure in the general fund which should be accounted for in the harbour undertaking accounts;
 - 4.5.3 WDC had correctly applied proper accounting principles in relation to depreciation and capital charges in the accounts of WDC and of the harbour undertaking;
 - 4.5.4 The District Auditor's interpretation of the Southwold Harbour Order, along with the general legislative framework applicable to local authorities, confirmed that WDC had not unlawfully credited surplus revenues of the harbour undertaking to the general fund and any surplus for the relevant financial year should be credited to the general fund.

- 4.6 After the District Auditor/Audit Commission ceased to audit the WDC accounts, they have been subject to external audit every year by Ernst and Young LLP, who have raised no issues about their accuracy.
- 4.7 To confirm, in accordance with the advice in 2007 from the District Auditor as described above:
- 4.7.1 WDC's accounting for the Southwold harbour undertaking relates to income and expenditure in respect of the harbour itself (it does not include income or expenditure of the Southwold caravan and camping site); and
- 4.7.2 in that accounting, WDC includes an annual adjustment (described for simplicity as a lease payment) in favour of the harbour undertaking from the general fund for the value of the use of the land on which the caravan and camp site is based.
- 4.8 Following the previous accumulated deficit as described in paragraph 4.5 above, the North Dock Wall project for Southwold harbour, concluded in the 2012/13 financial year, required a considerable amount of capital investment, £3.358 million. To fund this, WDC advanced £2.137 million and obtained an external grant of £1.221 million. This is explained in more detail in section 5 below. In accordance with the guidance from the District Auditor in 2007, as described above, any surplus from the harbour was used to repay this deficit to the general fund over time. Further, WDC chose to treat surplus income from the Southwold caravan and camping site in the general fund (after the annual adjustment in favour of the harbour undertaking as described in paragraph 4.7.2 above) as repaying the accumulated deficit owed by Southwold harbour.
- 4.9 The Beavan Report refers to a spreadsheet, which is produced at Appendix A to the Beavan Report. If the Committee requires any explanation of this:
- 4.9.1 The spreadsheet notes capital investments in Southwold harbour (including the North Dock Wall project) of £3,582,293, plus £38,011 invested in the caravan and camping site, a total capital investment to £3,620,304. It recognises the external grant of £1,221,077, leaving net general fund capital expenditure of £2,399,227.
- 4.9.2 The next two elements of the spreadsheet are the surplus or deficit positions in relation to the caravan and camping site (as part of the general fund) and the harbour (accounted for separately, as described above). The figures in brackets present surpluses and the non-bracketed figures present deficits.
- 4.9.3 The spreadsheet includes figures relating to the separate North Denes caravan and camping site as well as the Southwold caravan and camping site for consistency, because WDC's published statements of accounts before 2010/11 included all caravan sites as one department, and to show that WDC recorded the losses from the North Denes caravan site while WDC operated it (in addition to the surplus income from the Southwold caravan site) as required in the general fund as one Department.
- 4.10 In the event that the Committee would like any further explanation of the figures shown in the spreadsheet at Appendix A to the Beavan Report, WDC's Chief Finance Officer has produced the following three tables:
- 4.10.1 Table 1 at Appendix A to this report shows what these figures would be if WDC's contributions from the general fund to repay the accumulated deficit were removed (and the figures for capital investment into the harbour during 2000/01 to 2002/03 were removed, since we do not have comparable surplus/deficit figures for these years), leaving the Southwold harbour undertaking with a deficit as at 31 March 2018 of £1,583,988. This shows that, at the end of the 2010/11 financial year, the previous

deficit (as described in paragraph 4.5 above) had been repaid and the harbour had made a surplus of £29,212. However, WDC then had to advance the new capital sums needed for the North Dock Wall works (as described in paragraph 4.8 above and section 5 below), which commenced in the 2011/12 financial year.

4.10.2 Table 2 at Appendix A to this report includes figures for WDC's caravan and camping site operations (which, from 2011/12, consist of the Southwold caravan and camping site alone) between 2003/04 and 2017/18. This shows that WDC has contributed £455,000 to repay the deficit owed by the harbour undertaking to the general fund.

4.10.3 Table 3 at Appendix A to this report shows the combined position of the Southwold harbour undertaking and WDC's general fund contribution from its caravan and camping site operations. This shows that the outstanding deficit owed to WDC's general fund by the Southwold harbour undertaking as at 31 March 2018 was £1,167,000.

4.11 The comments made in the Beavan Report about depreciation and finance charges in the accounts are dealt with in section 5 below.

4.12 It appears that all other points made in section 1 of the Beavan Report are about matters which WDC deals with in accordance with the advice from the District Auditor in 2007, as explained in paragraph 4.5 above, and/or matters which have not been raised by any of the external auditors who have audited WDC's accounts every year as described above. Accordingly, we do not propose to comment further on these.

5 MANAGEMENT OF THE SOUTHWOLD NORTH DOCK WALL PROJECT

5.1 The Scoping Form alleges "*gross mismanagement of the North Wall project*". This allegation is not accepted.

5.2 During 2011 and 2012, WDC advanced substantial sums to enable construction of a new North Dock Wall at Southwold Harbour to support the maritime economy, using WDC's advance to secure grant funding from the EU Fisheries Fund.

5.3 WDC engaged May Gurney Limited as design and build contractor for the North Dock Wall works following a tender competition under a public sector framework agreement, based on the NEC3 form of contract then recommended for use in government construction procurement projects.

5.4 Under the contract, Norfolk Property Services (**NPS**) were engaged to act as project managers, supervisors and CDM co-ordinators. As part of their role, NPS carried out interim valuations of work performed and certified completion of the works in December 2012.

5.5 As mentioned above, the total cost of the works was recorded as £3.358 million, including approximately £1.221 million funded by grant from the EU Fisheries Fund. WDC were asked for further information about the total sums paid under the contract and information was provided.

5.6 The Head of Internal Audit at WDC received a detailed complaint about the final account (originally made on 14 March 2017) on 27 June 2017, with a supplemental letter from the same complainant on 4 October 2017.

5.7 On 18 October 2017, the Head of Internal Audit at WDC issued her review of the complaints which had been made. A copy of this review is at Appendix D to this report.

5.8 For ease of reference, the review copied each item from the complaints which had been made and answered them in turn. The Head of Internal Audit was given a wide remit to investigate

the complaints fully, reports to the Chief Executive of WDC and, in her professional capacity as an auditor, has significant independence from the officers who awarded and managed the North Dock Wall project.

5.9 The complaints had included a variety of matters, including (incorrect) assertions that sums had been paid twice or otherwise duplicated at additional cost to harbour users, (correct) assertions that there had been minor coding errors (a total of £5,221.57 of expenses which had been allocated to but did not relate solely to the North Dock Wall project), problems with mooring rings (which WDC were arranging to replace with stronger bollards, particularly for larger boats) and assertions (as dealt with by the District Auditor in 2007) that WDC could not use the surplus income from the harbour to repay the sums it had advanced from the general fund for the North Dock Wall works and communications.

5.10 Please refer to the review at Appendix D to this report for the details. The Head of Internal Audit identified some corrections and learning points, which might perhaps be unsurprising on many major projects. Nonetheless, these points were properly considered, accepted and resolved as outlined below. The review covered a wide range of complaints, but perhaps the main such points arising from the review are those summarised below, with comments from WDC under each:

5.10.1 A finding that communication throughout the original Southwold Harbour Dock Wall Contract should have been managed in a more effective manner.

It was arranged that Andrew Jarvis (Strategic Director at WDC) and Kerry Blair (Head of Operations at WDC) would provide explanations for the ongoing works and plans for Southwold Harbour in due course and WDC noted the need to communicate clearly with interested parties. We submit that WDC has done so, particularly during the consultation events and regular meetings described in paragraph 6.7 of this report and in more detail in section 7 of the December Report.

5.10.2 A finding of some coding anomalies, as mentioned above, being a total of 5,221.57 of expenses which had been allocated to but did not relate solely to the North Dock Wall project.

These minor errors were raised with the Chief Finance Officer at WDC for correction and were all costs which were properly payable by WDC; they simply did not relate solely to the North Dock Wall project.

5.10.3 A finding that WDC's position remained that the capital advances made by WDC for Southwold Harbour should and would be repaid from any surpluses made by the harbour over time, noting that this was consistent with the application of Article 39 of the Southwold Harbour Order 1933 reviewed by the District Auditor in 2007 (as described in section 4 above), who confirmed that it was not unlawful for WDC to credit surplus revenues of the harbour undertaking to the general fund of WDC in this way.

No action was necessary from this, but it was confirmed by the Head of Internal Audit that the sums which had been claimed as duplicate payments were not duplicates and that users of Southwold Harbour were charged standard rates following a benchmarking exercise, not expected to pay separately or additionally for the works undertaken at Southwold Harbour.

5.10.4 A finding noting that WDC had acknowledged in its Annual Governance Statement for 2016-17 that contract management needed improving and as such a number of changes had taken place; joint contract procedure rules had been rolled out across

WDC and Suffolk Coastal District Council, training had been delivered and would continue to be delivered by the procurement and legal teams for both Councils, support is offered by the specialist procurement and legal teams to relevant managers and new officers recruited for their extensive and proven contract management experience were in post.

WDC has continued to improve contract management (including a programme on contract and associated risk management delivered by specialists provided through Zurich, WDC's insurers) and is monitored in this respect by the Audit and Governance Committee.

6 FREQUENCY OF MEETINGS OF THE SOUTHWOLD HARBOUR LANDS JOINT COMMITTEE

6.1 The Scoping Form alleges *"failure of the Joint Harbour Committee to meet quarterly in public as promised in 2015"*.

6.2 As outlined in section 2 of this report and explained in more detail in section 4 of the December Report (copy at Appendix B to this report), the Southwold Harbour Lands Joint Committee (JC) was established in 2014 with the following terms of reference:

"[WDC and STC] acknowledge that there are various complex historical and current issues that prevent any simple transfer or devolution of Southwold Harbour and its associated lands to any existing or other body. The Councils will however work through the Joint Working Group to overcome these collective challenges and to jointly seek to enable:

- i. In the short term, more local involvement and engagement in the management and delivery of Southwold Harbour and all other activities on the wider Southwold Harbour lands; and*
- ii. In the medium term, implementation of a revised local model for the delivery of Southwold Harbour and its associated lands that addresses the future ownership, and long term sustainability, responsibility, liability and delivery"*.

6.3 The minutes of the meeting of the JC on 26 October 2015 record that:

"The Vice Chairman requested reassurance and a commitment that the Southwold Harbour Lands Joint Committee would meet regularly for the rest of the 2015/16 municipal year and beyond, and that informal meetings could take place as appropriate.

It was confirmed that the Joint Committee could meet on a quarterly basis in future and potential meeting dates would be circulated in due course."

6.4 It is accepted that the JC did not meet publicly during 2016 or 2017, for the following reasons.

6.5 As explained in sections 4 and 5 of the December Report, it was expected in October 2015 that the JC would be recruiting a project manager and then working to deliver the then planned governance model of transfer of the SHL to a charitable trust. However, recruitment of a suitable project manager alone took a long time and they then started work in June 2016. It then slowly became apparent that this project would be far more difficult than had been anticipated, that serious issues had not previously been considered and that much greater investigation and planning would be required to find a viable model, as explained in sections 4 and 5 of the December Report.

- 6.6 As explained in section 2 of this report and in more detail in paragraphs 4.9 to 4.18 of the December Report, the members of the JC liaised frequently on an informal basis from December 2016 and through 2017 and 2018, but the nature of the process of investigation and exploring alternatives which were sufficiently viable to propose to the JC took a great deal of time.
- 6.7 Further, as explained in section 7 of the December Report:
- 6.7.1 during 2017 and early 2018, a number of consultation events were held in Southwold and attended by staff, caravan owners, Cllr Ian Bradbury, members of the “*Southwold Harbour and River Blyth Users Association*”, members of the “*Southwold Haven Port Stakeholders Group*”, members of the “*Southwold Caravan Owners Association*” and members of the public; and
- 6.7.2 the Head of Operations for WDC meets regularly with representatives of the “*Southwold Harbour and River Blyth Users Association*” (at least two of whom are understood also to be members of the “*Southwold Haven Port Stakeholders Group*”) and representatives of the “*Southwold Caravan Owners Association*” to consult them about the management of the SHL.
- 6.8 Accordingly, while it is regretted that the JC did not meet publicly in 2016 or 2017, the JC was engaged with the work necessary to find a way forward, liaised informally and consulted directly with local stakeholders to keep them informed and to take into account their views on the problems which had been encountered and the alternatives which were being investigated, as explained above and in more detail in the December Report.
- 6.9 The JC is now working to put this right. It began well with the meeting in public on 18 December 2018, allowing time for questions and comments from members of WDC and STC (including Cllrs Beavan, Flunder and Bradbury, the members who prepared the report submitted by Cllr Beavan in support of his Scoping Form).
- 6.10 The JC is now part way through the consultation exercise which it has arranged to enable all potentially interested persons to contribute their representations and proposals.
- 6.11 The JC will then meet in public on 6 March 2019 to take into account the results of the consultation and decide on the way forward, which it would then recommend to WDC and STC so that any necessary amendments to the terms of reference of the JC can be made. WDC’s Cabinet and STC will then meet simultaneously in public on 15 March 2019 to consider the JC’s recommendations and decide on the way forward.
- 6.12 The JC can then meet following the decision of WDC’s Cabinet and STC on 15 March 2019 to decide on its work and meeting programme depending on what it is required to do to implement whatever decision is made for the future governance of the SHL and the future role of the JC in that. This might, for example, be a long term monitoring role or might be an intensive short term role to enable establishment of the proposed Harbour Management Committee to replace the JC; that cannot be fixed at this stage.

7 DEPRECIATION AND OTHER CHARGES

- 7.1 The Scoping Form alleges “*continued use of depreciation and other means to extract funds in contravention of the 1933 Harbours Act*”. This allegation is not accepted.
- 7.2 It is assumed that the allegation referring to the “*1933 Harbours Act*” is intended to refer to the Southwold Harbour Order 1933, which is the governing instrument for the harbour authority. It contains a provision that harbour revenue be applied in a prescribed order, including: (a) payment of revenue expenses of the maintenance, repair and management of

the harbour undertaking and all connected conveniences; (b) repayment to the general rate fund of all monies paid out of it for the purposes of the harbour undertaking; and (c) to reduce any principal monies borrowed.

- 7.3 It appears that the comments in the Beavan Report are based on private sector accounting rules rather than public sector accounting rules. Central Government issued regulations which operate to stop the impact of depreciation and other capital charges on local authority revenue reserves (and so taxpayers). Due to the way local authorities are financed and the fact that money received for the sale of non-current assets is tied up in capital receipts, Central Government does not want these to impact local authority revenue reserves. WDC is subject to the same regulations whether it is acting as harbour authority or otherwise.
- 7.4 The comprehensive income and expenditure statement for a local authority will include the costs of depreciation, charges for impairment and gains and losses on the disposal of non-current assets across the various service areas. The removal of capital accounting from the comprehensive income and expenditure statement is dealt with through the movement in reserves statement, with its associated disclosure note. These adjustments are made against the capital adjustment account, which is an unusable reserve and is one of the reserves specific to local authority accounts (see the capital adjustment account, which is at the base of the balance sheet, as part of the unusable reserves, and the unusable reserves disclosure note). Accordingly, depreciation is not being stored within a separate reserve to replace assets and at the same time is not being extracted from the harbour authority itself.
- 7.5 Further, one of the objections investigated by the District Auditor in 2007, as described in paragraph 4.5 above, was to these depreciation and capital charges. The District Auditor concluded that the depreciation and capital charges raised in relation to the harbour undertaking were made in accordance with proper practices (the relevant local government legislation and regulations), are therefore a legitimate charge to the harbour undertaking and are properly chargeable to revenue for the purposes of the Southwold Harbour Order 1933. A copy of the District Auditor's report is at Appendix C to this report.
- 7.6 Further, as part of their annual audits, Ernst and Young LLP review the depreciation and other charges applied by WDC each year and have raised no issue about this.

8 ACCOUNTS SUBMITTED TO THE DEPARTMENT FOR TRANSPORT

- 8.1 The Scoping Form alleges "*inaccuracy of the accounts currently submitted to the Department for Transport*". This allegation is not accepted.
- 8.2 The Beavan Report states that the accounts for the harbour undertaking as submitted to the Department for Transport cannot be reconciled to the management accounts. The reason for this is that the management accounts are based on budget requirements, which are different from the accounting requirements which apply to the accounts to be submitted to the Department for Transport.
- 8.3 These accounts are submitted to the Department for Transport pursuant to the Southwold Harbour Order 1933 as amended by the relevant harbour legislation, which requires that the accounts be delivered in the format required under the Companies Act 2006.
- 8.4 As explained in section 7 above, local authorities are required to eliminate depreciation from their revenue reserves to ensure this cost does not impact upon taxpayers. To eliminate the depreciation costs from the Southwold harbour accounts, other income includes an amount equivalent to the depreciation charge (which could be treated as a depreciation contribution from WDC). This is necessary because there is no movement in reserves statement (explained in section 7 above) under the format required under the Companies Act 2006.

- 8.5 The Beavan Report notes that the management accounts show depreciation of £11,000 and the accounts submitted to the Department for Transport show depreciation of £146,000. The reason for this is that the depreciation charges for the main building assets and infrastructure are coded to a non-current assets department in line with WDC's budget requirements. Under Companies Act 2006 accounting standards, this has to be brought into the statement of accounts - again, the management accounts and the statement of accounts cannot be compared on a like for like basis.
- 8.6 The Beavan Report questions the treatment in the accounts of the "contribution" by the caravan and camping site. This treatment is correct, since the accounts need to recognise the deficit owed by the harbour to the general fund and WDC's reduction of that deficit using the surplus from the caravan and camping site, as explained in the preceding sections of this report. This is in accordance with the guidance from the District Auditor, as explained in paragraph 4.5 above.
- 8.7 Following issue of the new Ports Good Governance Guidance in 2018, WDC's Chief Finance Officer has arranged for the external auditors, Ernst and Young LLP, to undertake a separate audit engagement for the 2018/19 financial year on the Southwold harbour accounts. The aim is that, rather than giving a separate disclosure note, this will ensure that a separate audit opinion is issued specifically on the Southwold harbour accounts to reassure anyone unfamiliar with the different accounting treatments necessary for: (a) local authority financial statements; (b) local authority management accounts; and (c) statements of accounts under the Companies Act 2006.

9 SPECIFIC PROPOSALS MADE IN THE BEAVAN REPORT

- 9.1 At the end of the Beavan Report, a number of "*recommendations*" are made in bold. These are copied below and answered in turn.
- 9.2 "*The outstanding debt of the Harbour to General Funds should be reduced by £715,000*".
- 9.3 There are no grounds for such a reduction. The debt is owed to the general fund and has been significantly reduced already by application of the caravan and camping site income from the general fund, as explained in section 4 above.
- 9.4 "*Before any future substantial harbour works, the council should use an open commercial tendering process to select contractors including an independent qualified surveyor.*"
- 9.5 WDC would procure any such works in accordance with its contract procedure rules (which expect such a commercial tendering process for any substantial works) and would appoint professionals appropriate to the relevant project (which might be surveyor, an engineer or another professional). For example, the harbour study currently being procured by WDC to assist with the future planning for Southwold Harbour uses a specification which was prepared by independent engineers and is going out to commercial tender, as arranged by WDC's procurement team working with Coastal Partnership East.
- 9.6 "*All committees of WDC should meet openly and formally with notice and minutes at least once a year.*"
- 9.7 WDC intends that this will be the case where appropriate, given that some committees will be temporary and deal with very different matters and some will need to meet more frequently. As explained in section 6 of this report, the Southwold Harbour Lands Joint Committee (**JC**) has now met in public and made arrangements for future meetings.
- 9.8 "*Department for Trade accounts should be submitted on time and be clear and accurate.*"

- 9.9 WDC intends that accounts will be submitted to the Department for Transport on time, that they will be accurate and that they will be as clear as possible. As explained in section 8 above, the specific audit arrangements made for future accounts should provide additional reassurance in this respect.
- 9.10 *“The current JHC consultation should be extended by two weeks to enable all stakeholders to make a contribution”*
- 9.11 The Beavan Report states that owners of caravans at the Southwold caravan and camping site will not return until 1 March 2019, the day the current consultation exercise ends. However, we note that during the previous consultation (as described at section 7 of the December Report), a presentation for the users of the caravan site was held on 13 December 2017 and was well attended, with approximately 50 attendees, some of whom were members of the *“Southwold Caravan Owners Association”* (who are understood to represent most of the users of the caravan site) and some who were not. Further, WDC has already been liaising with the Southwold Caravan Owners Association as part of the current consultation. Several members of the Association attended the second consultation event (on 26 January) and we understand that the Association is planning to send an e-mail to all of its members with a link to the consultation documents to assist them.
- 9.12 The Beavan Report refers to a number of other points (including requests for public meetings on weekends, which have already been arranged and publicised as part of the consultation exercise described in section 3 above), but none of these seem to require an extension of time for the consultation.
- 9.13 Further, WDC is conscious that members at the meeting on 18 December 2018 asked the JC for reassurance that WDC would seek to enable arrangements for the future governance of Southwold harbour to be decided before WDC is replaced by East Suffolk Council on 1 April 2019. Cllr Bee confirmed that WDC would seek to do so.
- 9.14 Accordingly, we do not believe that it is necessary or appropriate to extend the consultation period. The consultation period was set by the JC on 18 December 2018 (in line with the recommendations which had been published in advance of the meeting) and the first formal consultation event was on 19 January 2019.

10 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?

- 10.1 In the East Suffolk Business Plan published by WDC and Suffolk Coastal District Council in 2015, it was anticipated that Southwold Harbour would be transferred to a new local trust.
- 10.2 For the reasons outlined in this report and explained in more detail in the December Report, the JC is revisiting this and carrying out the consultation exercise so that it can then decide in March on the way forward to recommend for the future governance of the SHL.

11 FINANCIAL AND GOVERNANCE IMPLICATIONS

There are no specific additional financial or governance implications. This report responds to the allegations made in the Scoping Form and does not propose any change in the financial status quo. It is suggested that any proposals for the governance of Southwold harbour are matters which are to be considered by the JC as part of the consultation exercise and when it meets in March.

12 OTHER KEY ISSUES

No Equality Impact Assessment, Sustainability Impact Assessment or Partnership Impact has been prepared for this report, because it merely responds to the allegations made in the Scoping Form and does not propose any change in the status quo.

13 CONSULTATION

This report has been prepared based on the information readily available and enquiries of officers, without wider consultation. A consultation exercise had been arranged by the JC and is ongoing in relation to the governance of the SHL.

14 OTHER OPTIONS CONSIDERED

This report responds to allegations made in the Scoping Form and does not propose any change in the status quo. Options for the future governance of the SHL are to be considered by the JC as described above.

15 REASON FOR RECOMMENDATION

15.1 For the reasons set out in detail above in this report:

15.1.1 the allegations made in the Scoping Form (as supplemented by the Beavan Report) are all matters which have already been addressed (in particular, in accordance with advice from the District Auditor in relation to the accounts, in accordance with advice from the Head of Internal Audit in relation to the works in 2011/12 to the North Dock Wall and through the previous and planned meetings of the Southwold Harbour Lands Joint Committee), so it is not necessary or appropriate to ask the Committee to revisit these or make further determinations about them;

15.1.2 the recommendations made in the Beavan Report are all either inappropriate or matters which are in line with WDC's arrangements and intentions, such that no recommendations are necessary or appropriate; and

15.1.3 with reference to the purpose described in the Scoping Form, it is not necessary or appropriate to ask the Committee to duplicate or interfere with the consultation exercise and consideration being undertaken by the Southwold Harbour Lands Joint Committee of the future governance of the Southwold Harbour Lands.

RECOMMENDATIONS

That the Committee resolve that:

1. in the light of the information provided and reviewed, the Committee consider that it is not necessary or appropriate to further investigate the allegations made in the Scoping Form dated 20 December 2018 and it would be inappropriate to interfere with the consultation and consideration by the Southwold Harbour Lands Joint Committee of the way forward for the future governance of the Southwold Harbour Lands; and
2. accordingly, no recommendations from the Committee are necessary.

| APPENDICES | |
|-------------------|--|
| Appendix A | Outstanding debt owed by Southwold Harbour to Waveney District Council |
| Appendix B | Report to the Southwold Harbour Lands Joint Committee for 18 December 2018 (December Report) |
| Appendix C | Audit Commission report on Southwold Harbour Accounts, 19 February 2007 |
| Appendix D | Review by the Head of Internal Audit of complaints about the Southwold Harbour North Dock Wall Contract, dated 18 October 2017 |

| BACKGROUND PAPERS | | |
|--------------------------|--|---|
| Date | Type | Available From |
| Various | Appendices to the December Report, as published on or before 7 December 2018 | https://www.eastsuffolk.gov.uk/yourcouncil/council-meetings-and-decisions/agendas-reports-and-minutes-of-council-meetings/waveney-district-council-meetings/2018-meetings/december-2018-meetings/wdc-southwold/ |