

NAME OF COMMITTEE	Salcombe Harbour Board
DATE	4 February 2013
REPORT TITLE	MOORINGS POLICY ENFORCEMENT
REPORT OF	Salcombe Harbour Master
WARDS AFFECTED	All South Hams

Summary of report:

To review a request from the residents of The Moorings Kingsbridge for a private pontoon.

Financial implications:

There are no direct financial implications from this report.

RECOMMENDATIONS:

That the Harbour Board RESOLVES to rule on the request in Appendix 1 to this report, in line with the current Moorings Policy.

Officer contact:

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1. BACKGROUND

- 1.1 The Moorings Policy was updated in 2012 following an extensive public consultation. The Salcombe Harbour Board (“SHB”) recommended to Full Council on 12 November 2012 that the updated Moorings Policy be adopted (SH36/12).
- 1.2 The proliferation of private pontoon mooring facilities is covered by the Moorings policy paragraph 6.0.12:

6.0.12 *The cumulative effects of a proliferation of walk-ashore jetties or pontoons would represent a loss of foreshore within the Site of Special Scientific Interest (SSSI) and be detrimental to the appearance of the estuary within the Area of Outstanding natural Beauty (AONB). Even when located on private fundus, moored pontoons require a Mooring Licence which will not normally be granted if the pontoon is for private use. Applications for commercial pontoons and pontoons providing public access to the estuary will be assessed on their individual merits and environmental impact. However when and if the commercial activity (and/or the public access) cease the mooring licence will be withdrawn and the pontoon should be removed. In no cases will its use as a private mooring be permitted (SH 5/10).*

2. ISSUES FOR CONSIDERATION BY THE BOARD OR AD HOC SUB COMMITTEE WHICH SHOULD BE TAKEN INTO CONSIDERATION WHEN REVIEWING THE ATTACHED REQUEST

- 2.1 The Moorings Policy states in para 6.0.12 that pontoons for private access will not normally be granted.
- 2.2 It is a particularly sensitive time for pontoon proliferation with the Harbour Authority having to justify the improvements to the berthing arrangements at Kingsbridge to Natural England in order to gain their support for the MMO licence application. Granting this request could potentially damage these negotiations.
- 2.2 The Board are requested to review the request from The Moorings Apartments at Kingsbridge at Appendix 1.
- 2.3 If the Board gives its support to this request, the applicant will still require Planning Permission and an MMO Licence.

3. LEGAL IMPLICATIONS

- 3.1 Statutory Powers: Local Government Act 1972, Section 151. The Pier and Harbour Order (Salcombe) Confirmation Act 1954 (Sections 22-36).
- 3.2 A local authority is entitled to make policies in order to provide guidelines for its own decision-making (whether by members or officers) but it should not regard itself as completely restricted by policy. It must always be possible for the authority to make an exception to policy; if it isn't, the authority will be regarded as having "fettered its discretion" and that is unlawful. However, in order to be fair to everyone, the authority should have good reasons both for making an exception, or refusing to do so.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications from this report.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Risk/Opportunity	Risk Status			Mitigating and Management Actions
	Impact/Severity	Likelihood/Probability	Risk Score	
By granting approval for an additional private pontoon, the flood gates would open with numerous similar requests. This would adversely affect the character of the estuary which is within the South Devon AONB.	3	2	6	The Harbour Authority has a policy of not generally approving private pontoons.
Granting this request could adversely affect the Harbour Authority's application for an MMO Licences for the Kingsbridge Pontoons.	3	3	9	An MMO licence is required for all pontoon developments. The plan to increase the size of the current pontoons will likely be reliant on a compensating reduction elsewhere in the Estuary. This would be difficult to justify if permission were given for additional private Pontoons.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life Economy
Statutory powers:	Local Government Act 1972, Section 151. The Pier and Harbour Order (Salcombe) Confirmation Act 1954 (Sections 22-36).
Considerations of equality and human rights:	None
Biodiversity considerations:	None

Sustainability considerations:	None
Crime and disorder implications:	None
Background papers:	SH 34/09 Moorings Policy SH 36/12 Moorings Policy
Appendices attached:	Appendix 1 – Request on behalf of the Residents of The Moorings Kingsbridge.

Ian Gibson
Harbour Master

Salcombe Harbour Board
4 February 2013