

CABINET
19TH JUNE, 2023

SUBJECT:
BURRY PORT HARBOUR PETITION

Purpose:

The purpose of this report is to update Cabinet on the position at Burry Port Harbour, following a petition presented to full Council on the 25th January 2023 by the Friends of Burry Port Marina (FBPM).

Recommendations / key decisions required:

- To note the position with regards the lease obligations of Burry Port Marina Ltd (BPML) in respect of their management of the Harbour.
- To note CCC's position with regards landlord responsibilities for the lease of the asset and the continued engagement by officers with the management of BPML.

Reasons:

- Burry Port Harbour was leased to BPML, a subsidiary of The Marina Group for a period of 150 years from the 1st April 2018.
- Harbour users and the Friends of Burry Port Marina (FBPM) have raised concerns over the condition of the harbour, culminating in a petition being presented to Council.
- It is noted that Burry Port Marina Ltd has been placed into Administration as of Friday the 2nd June 2023.

Cabinet Decision Required:	YES – 19 th June, 2023
Council Decision Required:	NO

CABINET MEMBER PORTFOLIO HOLDER:-

Cllr. G. John (Cabinet Member for Regeneration, Leisure, Culture and Tourism)

Directorate:
Communities

**Name of Head of Service/
Report Author:**

Ian Jones
Jason Jones

Designations:

Head of Leisure
Head of Regeneration

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**EXECUTIVE SUMMARY
CABINET
19TH JUNE 2023**

BURRY PORT HARBOUR PETITION

Issues raised within petition presented by Chair of Friends of Burry Port Marina (FBPM)

'We the undersigned electors in the County of Carmarthenshire petition the Carmarthenshire County Council:

To recognise that the condition of Burry Port harbour and marina has steadily deteriorated to what is essentially an unworkable state despite the long-term lease to a private marina operator, and we register our deep concern and dissatisfaction.

To ensure, as Landlord and Statutory Harbour Authority, that all terms of that lease are fully enforced without further delay.

To inspect the property and issue notices of any breaches of these terms within the next month, and if the leaseholder fails to take appropriate and effective action, to pursue your rights under the lease.

To take note that we have no faith or confidence that the Water Injection Dredging method will clear the harbour of the heavy sand that needs removing, which makes up the vast bulk of the accumulated sediment, and we do not consider this to be an appropriate or effective action.

We want to see the harbour and marina return to the best possible condition, to be a safe, functioning, attractive facility that is a genuine benefit for both the harbour users and our whole community.'

Update position

CCC officers representing the Regeneration, Finance, and Leisure divisions continue to meet regularly with the Managing Director of The Marine Group, where operational concerns have, and continue, to be raised and discussed. Officers are also meeting regularly with the chair of FBPM.

The County Council shares the stated aim of FBPM in wanting a safe, functioning, attractive facility that is a genuine benefit for both the harbour users and our whole community.

Many of the concerns raised locally are recognised by CCC, however, the harbour is still operating albeit access and egress times for vessels are reduced due to the lack of sustained progress with dredging. These concerns have been relayed to BPML and the tenant has been issued with legal notice of potential breaches against the terms of the lease, with a requirement for the operator to outline a clear, measurable, and timebound plan of action to address these concerns. This plan has since been received and published; however, it is noted that actions and deadlines have already slipped and are not being met.

One of the main points of concern is the lack of progress in ensuring that the harbour is dredged to a depth of 1m of water, below the top of the harbour sill, at impound level. Whilst the terms of the lease do not specify how BPML should operationally manage (or dredge) the harbour, the expected outcome is clearly articulated in terms of depths within the harbour. The operator must also comply with all environmental and Health and Safety regulations as they undertake day-to-day operations and any major works. The Water Injected Dredging (WID) methodology is a recognised and environmentally supported method of sustainable dredging, however, there is a recognition by all parties, including BPML, that some other methods, such as mechanical dredging, will and may continue to be required to remove heavier sand-based sediment from the harbour.

BPML have referenced a very challenging financial environment, along with the impact of the covid pandemic as some mitigation for the current condition of the harbour, however, there is a recognition that progress over the first five years of the lease period has not been satisfactory, especially in relation to the dredging regime.

Debt has accumulated in respect of rent, rates, and other charges and this has also become part of the dialogue with BPML management. Enforcement action has been implemented and repayment schedules agreed. There is continued ongoing discussion in respect of BPML securing funds to support the repayment of debt and the delivery of the works programme. More recently, it is noted that Burry Port Marina Ltd has been placed into Administration as of the 2nd June 2023.

A list of other improvements has been promised around the harbour by BPML, including an upgrade of the commercial pontoons, a re-commencement of work to re-furbish the old RNLI building into a new Harbour Masters' office and improved changing and showering facilities for harbour users. A plan of work has been communicated to stakeholders via TMG's website and by direct contact with mooring holders, however, concerns remain over the (timely) delivery of these developments.

CCC officers continue to take legal advice and are formally pursuing options to bring matters to a conclusion as part of the lease management process.

DETAILED REPORT ATTACHED

NO

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: **Ian Jones** **Head of Leisure**
 Jason Jones **Head of Regeneration**

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	YES	NONE	NONE	NONE	YES

2. Legal

Instructions received and letter issued to BPML stating that they are currently in breach of their repairing obligation under Clause 25, and specifically Clause 25.3, which places an obligation to:

‘...dredge the Harbour and East Dock when necessary to ensure that the Dredged sea bed level of both the Harbour and East Dock is of no less than 1.0 metre at impound level (with the lock gate up) at any time during the Term.’

BPML have been put on notice of the steps open to Carmarthenshire County Council to remedy the breach, which will also include recovery of any costs incurred in doing so.

It is noted that Burry Port Marina Ltd has been placed into Administration as of Friday the 2nd June 2023. CCC officers continue to take legal advice and are formally pursuing options to bring matters to a conclusion as part of the lease management process.

3. Finance

Annual lease is chargeable at a minimum of £30k pa. Debts in respect of rental, rates and employee related costs remain outstanding and recovery action and a repayment schedule has been implemented.

It is noted that Burry Port Marina Ltd has been placed into Administration as of Friday the 2nd June 2023.

7. Physical Assets

Concerns expressed by CCC and key stakeholders regarding dredging of harbour not meeting the outcomes stated in the lease with BPML. This needs to be addressed to protect the authority’s asset and reputation.

CONSULTATIONS

We confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: **Ian Jones** **Head of Leisure**
 Jason Jones **Head of Regeneration**

1. Scrutiny Committee request for pre-determination	YES
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Scrutiny Committee	Communities, Homes & Regeneration
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Date the report was considered:-	15th May, 2023
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Scrutiny Committee Outcome/Recommendations:-

UNANIMOUSLY RESOLVED that the Committee's concerns at the current situation at Burry Port Harbour be conveyed to the Cabinet and the Cabinet be requested to:

1. Undertake a site visit to Burry Port Harbour at low tide,
2. Consider terminating the lease agreement with Burry Port Marine Ltd if no improvements had been achieved by the end of the current legal process.

2. Local Member(s)

Local members support the views of the above scrutiny committee and are being kept fully informed with regular meetings on this matter.

3. Community / Town Council

Updates provided via local members and FBPH representatives.
 Officers in regular dialogue with Town Council officers.

4. Relevant Partners - N/A

5. Staff Side Representatives and other Organisations - N/A

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED YES	Include any observations here
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Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:

THESE ARE LISTED BELOW.

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Lease between CCC and BPML		CCC online folders.