

The Bridlington Harbour Commissioners' (the Commissioners) Reply to the East Riding of Yorkshire Council's (the Council) Response in respect of the Commissioners' Representations to the Jacobs Reports as available on 10th November 2011.

- 1 The Commissioners' Reply to the Council's Response in respect of the Commissioners' Representations on the draft Jacobs Reports, as available to the Commissioners on 10th November 2011, is set out below. References to the Commissioners' Representation and the Council's Response are given in square brackets indicating the source followed by the paragraph numbers.
- 2 The Commissioners do not accept the Council's criticisms concerning the reference to the draft Jacobs Reports and the Commissioners' response at the Public Examination. Indeed the Council itself, in its Response [ED22] had already relied on extracts from the draft report. The Commissioners had highlighted the potential importance of the Jacobs reports at the pre-hearing meeting. Although their production was further delayed and they remained a draft, it was appropriate to comment upon the drafts to assist the Inspector as to the Commissioners' position. With respect, it is incorrect and inappropriate to categorise this approach as unprofessional. The Commissioners are required by statute to operate and maintain the harbour and to have ignored the Jacobs Reports and their relevance to the AAP would have been inconsistent with their statutory duty.
- 3 The Business Plan is said to form part of the evidence base for the AAP. Paragraph 3.38 of the AAP states in part:

‘The evidence in support of the Marina, which has also informed the provisions for its size, layout and other features, includes
(Bullet 3) A Business Plan Study to be completed in 2010’.

The Business plan should therefore have been in place in 2010 as part of the ‘evidence in support of the Marina’.
- 4 The Jacobs Reports contain the Business Plan and the Commissioners therefore had no option but to make reference to it at the Public Examination.
- 5 The Inspector made it clear at the Pre-hearing Meeting (and in the Guidance Notes for Participants) that representations were to contain ‘quality of reasoning’. The Commissioners have accorded with the Inspector's instructions by setting out their reasoning in what is believed to be a clear and logical manner.
- 6 Somewhat inconsistently (see emphasised words below) with para 3.38 of the AAP (see above), Para 122 of Appendix 1 to the AAP, Summary of the Evidence Base, states in bullet point 4 that:

‘A Business Plan Study is to be carried out in 2010-2011 to provide a rigorous independent assessment of the design proposals for the Marina's operational account; inform any changes needed to the design of the Marina: and support the remaining negotiations between the partners on the Marina's delivery and operations, including the Commissioners' ongoing responsibilities for the operations of the Trust Port.’

- 7 Although the timing had changed (but neither timescale has been met), the Business Plan is still incomplete as confirmed by the Council's Response. There is therefore as yet no financial justification for the Marina, either for its capital cost, or for its viability as a running concern. The Commissioners' Representation demonstrates that the Harbour/Marina Development will not generate sufficient income to give it financial stability and the Council have not shown this to be incorrect.

The Jacobs Report(s). [ERYC 1-6]

Commissioning.

- 8 The Council state at paragraph 4 that 'The Study Brief was prepared and agreed jointly by the Council, the Commissioners and Yorkshire Forward' (the partners). The Council then add that 'it was a difficult and protracted process'. The Commissioners would like to clarify the position.
- 9 At a meeting held on 9 July 2009 at the Yorkshire Forward (YF) Offices, Leeds it was agreed that the partners would meet on 17 July to finalise the content of the Business Plan Brief and the procurement time-table to commission consultants. On 13 July YF circulated the procurement time-table and an advertisement for Expressions of Interest for comment. On 17 July the partners meet. On 21 July the Commissioners sent an amended draft of the Business Plan Brief to Yorkshire Forward.
- 10 Within one month the partners had produced an almost completed brief and put in place the initial administrative procedures for procurement. This was neither difficult nor protracted, and was the way in which the partners commissioned the PLB Supply and Demand Study. The Commissioners anticipated the process would continue, in the manner of the PLB Study, with all three partners being fully involved throughout the procurement.
- 11 On 6 October 2009 the partners again met, (after a technical meeting on 28 September) but the Business Plan Brief was not discussed even though the Council submitted a Project Programme Chart which showed 'Production of Outline Business Plan: duration 13wks: start Tue 15/12/09: Finish Mon 15/03/10.'
- 12 On 22 September 2010 YF circulated a draft brief for discussion at the partners' meeting the next day (this re-issue had been discussed on 13 August 2010). This draft brief was not the one last under discussion in July 2009, but a document produced by the Council. The 2010 brief was significantly different from the 2009 version, in particular it added a Technical Study, a new concept that doubled the scope of the brief, and would require quite different skills from the Business Plan. At the same meeting YF stated that they would not be funding the commission.
- 13 With the brief now much larger than before, and, with YF becoming less prominent in discussions and then ceasing to be involved, preparation took longer. Agreement was reached on 16 February 2011.
- 14 The brief was issued without competition by the Council to Jacobs, with whom the Council had a term agreement. The agreed February text was altered by the Council to suit their procurement rules (it is not clear why this was not done prior to February). There was no tender process and no opportunity for the Commissioners to approve the

appointment, a very different set of circumstances from the Commissioners' experience with the PLB appointment.

- 15 Jacobs sent their Proposal to the Council on 27 April 2011. A second proposal was then sent on 31 May 2011. The inception meeting was held on the 8 July 2011.
- 16 The Business Plan was delayed from the end of July 2009 until late September 2010. No part of the delay was caused by the Commissioners and there is no reason to think that YF caused a delay. The Commissioners have never received an adequate explanation for this delay.
- 17 A new expanded brief was sent to the Commissioners (with no explanation of the change) on the day before a meeting at which it was to be discussed. At that meeting the method of procurement was altered and YF were beginning the process of closing down. In the circumstances (and the Christmas - New Year break) the February agreement was an achievement.
- 18 However, as with the fourteen month delay to September 2010, the Council have not explained the near five month delay between mid-February to mid-July 2011. Neither the Commissioners nor YF were in any way involved during this time.
- 19 The Jacobs Reports state clearly that the Council is their Client and that the Client is the Commissioning Party.

The Timeline for the Studies. [ERYC 1-5]

- 20 The Council's Response [ERYC 1] states that the Jacobs reports 'as submitted at ED29 are no more than an initial draft'. The Commissioners Representation [BHC 3] is quite clear about the documents' status. It is clear that the Council do not have a Business Plan, i.e. the financial justification for the Marina, merely an interim draft upon which there remains a great deal of outstanding work.
- 21 The Note of the Exploratory Meeting held on 17 June 2011 states, with regard to Issue 1, at paragraph 5.4 'The Inspector agreed that it would be advisable to have the hearings once the business plan was further advanced, and asked for the timetable.'
- 22 Section 2.2 of Jacobs Proposal dated May 2011 states: 'The final reports are required by the Client in early September 2011, so that they are available as supporting documentation to the "Examination in Public" of the Area Action Plan for Bridlington'. On 29th July 2011 Jacobs issued Progress Report 1 which stated 'We are on programme for completion by the due date', which was shown as week commencing 26th September 2011.
- 23 The Council's Response, [ERYC 5] gives a list of dates that are correct, but the Commissioners do not accept that the list is complete. It omits the two long delays prior to 8 July 2011, it does not clarify the status of Papers 2, 3 and 4 [5(f)], which formed only a part of the Business Plan report that was received on and after 2 November 2011, and no mention is made of the transmission problems that delayed the receipt of the Leigh Fisher reports in correct format until after 2 November 2011 [5(g)].

- 24 The Council also fail to mention Jacobs commitment to completion by the end of September 2011. Had the Business Plan been commissioned by Yorkshire Forward in the late summer of 2009, the Business Plan could have been completed in 2010 as set out in the AAP.
- 25 The Council's Timeline also fails to explain the delay caused by Jacobs having to submit a second proposal, [BHC 65]. No explanation is given as to why the final reports were not delivered by the due date (30 September 2011), but instead only an updated Interim Technical Report was issued [ERYC 5(d)].
- 26 The Council's Response [ERYC 5(e)] states that the Commissioners cancelled a meeting proposed for 3rd October 2011. The proposed meeting was cancelled with the agreement of the Council because the draft reports from Jacobs were not ready in time for the Commissioners' meeting that was held at 6.00pm on the evening of Thursday 29th September 2011. The specific purpose of this Commissioners' meeting was to discuss the Jacobs reports prior to the meeting with Jacobs and the Council on the following Monday morning.
- 27 The Harbour office normally closes at 5.00pm, but staff remained on duty until 5.30pm in the hope of receiving the reports that should have been with both the Commissioners and the Council five working days prior to the agreed meeting date (i.e. Monday 26 September 2011). The reports came through by email after the office had closed and so were not available for the Commissioners meeting that night even though the Commissioners had specifically arranged the meeting for the sole purpose of discussing the draft Jacobs Reports.
- 28 The pre-hearing meeting of the Public Examination was held on 27th September 2011 at which the Commissioners stated they wished to make representation on the Business Plan. All parties were therefore aware of the urgency of receiving and discussing the Business Plan. Because of commitments by both the Commissioners and the Council the meeting postponed from 3rd October could not be held until 10th November 2011.
- 29 As stated by the Commissioners [BHC 3] the Uncontrolled Draft Outline Delivery Plan and the Uncontrolled Draft Business Plan were received in early November. The Commissioners therefore had very little time to assimilate the Jacobs reports and prepare their Representation prior to the start of the Public Examination.
- 30 The Commissioners' Representation was therefore neither avoidably late nor opportunistic. It was responding to an important document (albeit draft) that should have formed part of the evidence base for the AAP when the AAP was submitted for examination. The AAP cannot be found sound in respect of the proposals for the Harbour/Harbour Top when such an important document is incomplete. This important document is still only an interim draft. By their own admission the Council should have completed the Business Plan and had it in place in 2010. Jacobs acknowledge in their proposal that the final reports should be completed in early September 2011, in time for the Examination in Public of the Area Action Plan.

BHC Paragraph 5. [ERYC 6]

- 31 The Commissioners' statement that the Marina development must "be constructed as a single unit" is considered below under the section on Phasing.

The Background to Jacobs Report(s). [ERYC 7-15]

32 If the Council set up a Steering Group for a Harbour/Marina Scheme in December 2005 [ERYC 9], then the Commissioners were not part of it. A meeting was held on 16 December 2005 attended by the Commissioners but this did not set up a Steering Group. A further meeting took place on 8 March 2006. It remains the case that there was no serious engagement by the Council with the Commissioners until November 2006 [BHC 52 – 55]. At the meeting held on 8 March 2006 the Council's own minutes show that the Council rejected the Commissioners' researched and prepared scheme for a 'within harbour' marina. This was in March 2006 when it was still possible to apply for EU funding as stated in the Roger Tym and Partners 2004 Draft Final Report [paras. 1.48 & 1.49].

Annex to ERYC's Response.

33 Considering the Annex to the Council's Response that refers to the Roger Tym and Partners Report (LD01). This Annex refers to paragraphs 21 – 26 of the Commissioners' Representation. In fact the Commissioners' observations on the Tym Report extends from [BHC] paragraph 12 to 29. It is noted that the Council only comments on paragraphs 21 to 26.

34 The Commissioners do not consider that they are incorrect in their comments on the Tym Report or that they have misunderstood what the Tym Report says. The Tym Report evolved over a number of years, the Draft Final Report was issued in June 2004, with the Updated Final Report being issued in October 2007, over three years later. In the interim, Roger Tym and Partners' Bridlington Area Action Plan – Retail Study, Final Report (SD06) was published in June 2006. This document contains material that was in the Tym 2004 Report but is omitted from their 2007 Updated Final Report (LD01).

35 The Commissioners quote in full paragraph 5.75 of the Tym 2004 Draft Final Report, [BHC 23]. The 2004 Version was quoted because this was the document available to the Council, the Commissioners and Yorkshire Forward in December 2006 when agreement in very broad principle was reached on a conceptual master plan for what is now the Marina Scheme [BHC 55].

36 The 2007 Updated Final Version of the Tym Report (LD 01) states at the paragraph [5.68] (p71) of Section 5:

'We believe that the commitment to a marina or at the very least a significantly changed harbour area, however, would be a necessary condition to securing the needed risk investment in the town centre redevelopment.'

37 The underlined words are additions to the 2004 text. The 2007 text has down graded the commitment from a marina to a 'Significantly Changed Harbour Area.' 'Significant Change' at the harbour has replaced the marina as the driving force.

38 The 2007 version of the Tym Report was completed prior to the presentation of the PLB Report and therefore the change of direction and the diminished importance of the Marina occurred when the Council were still promoting a 500 berth marina. The

Commissioners therefore contend that contrary to the Council's assertion, [ERYC A2] that their statement [BHC 26] that "Clearly, when the report was written and in the opinion of the authors, there was no clear justification for a marina." is a valid conclusion.

- 39 The Commissioners are aware of paragraph 6.17, parts 1 and 2 of the Tym Report, [ERYC A1]. The paragraph [Tym 6.17] is in the section titled 'Candidate Projects' that forms part of the Performance Analysis Summary that brings together points made earlier in the report but does not present new evidence.
- 40 Part 2 of the paragraph [Tym 6.17] covers redevelopment within the town centre. Part 1 of the paragraph is concerned with the Marina, and opens with: 'Subject to a full appraisal and the cooperation of the Harbour Commissioners (both as joint venture partners in the capital project and operators on completion), we feel that a marina is merited on the following grounds:'. Following this opening sentence is a list of points.
- 41 The Council suggest [ERYC A1] that this list gives 'the several roles of a marina in achieving the types, scale and a quality of investment Bridlington needs but would not otherwise be forthcoming'. The Council have postponed the marina for some ten years, but are continuing with the Burlington Parade Scheme. Since the marina has been postponed and has no known start date it can not possibly provide or fulfil any role in 'achieving the types, scale and a quality of investment Bridlington needs'.
- 42 The wording of the opening sentence (quoted in para 27 above) is also important. Firstly, the word 'merited' is a weak word in this context, falling some way short of 'justified' and far short of 'necessary'. The authors are reinforcing their view that a 'Significantly Changed Harbour Area' is adequate. Secondly, a marina is 'Subject to a full appraisal'. The Tym Report, which draws on the Scott Wilson Report, clearly states that in October 2007 the need for a Marina had not been appraised.
- 43 The Appraisal process is still incomplete. The PLB Report has shown, contrary to the suggestion in the Tym Report, that there is no demand for a 500 berth marina. The available information on financial viability shows, in the Commissioners' opinion, that the marina will not generate sufficient income to give it financial stability and is therefore not sound [BHC 4 & 124].
- 44 The Council's response to BHC 21 [ERYC A3] states correctly that the Tym Report considers the fishing industry in Section 4, whilst Section 5 provides a summary; the Commissioners therefore logically used the Report's own summary. The Commissioners were, and are, fully aware of the statements made in Section 4 of the Tym Report but considered that the author's own text in Section 5 was an adequate summary.
- 45 The Council's Response statement that there is no fish processing industry in Bridlington is, quite simply, incorrect. [ERYC A3]. There are currently four well established fish processing businesses in Bridlington, namely: Taste of the Sea, Venture Sea Foods Ltd., Andrew Helm Ltd., and Ship to Shore Ltd.
- 46 The Commissioners do not understand what the Council mean when they say 'there is also no regular retail outlet for shellfish landed in Bridlington.' [ERYC A3]. Boiled fresh crab, either dressed or still in the shell, are available within the town from several

retail outlets. Lobster is a high price delicate commodity with a very short shelf life and therefore has to be kept alive to the point of sale (or consumption). Lobsters are therefore not suitable for impulse buying and most retail outlets, other than in some major towns and cities, only supply on request. Links with local retailers are substantial and it is of concern that the Council are still not fully aware of what is happening in this respect in Bridlington.

- 47 The Annex to the Council's Response concludes with remarks about the catalytic effect of a marina and by stating that the Commissioners have misunderstood this catalytic effect [ERYC A5 & 5]. The Commissioners believe that they have fully understood the meaning of 'catalytic effect' as used in the Tym Reports. The Council have misread BHC 24. The statement that 'many of the supposed benefits of the marina are either already in place or are to take place elsewhere' refers back to BHC 18 -23. The Benefits referred to include the economic benefits mentioned by the 2001 Inquiry Inspector [BHC 18].
- 48 The Commissioners therefore remain of the opinion that the Tym Report is compromised by considerably over stating the demand for marina berths and therefore any benefits that might accrue from the marina [BHC 29 & 44]. The Commissioners remain of the opinion that the three main economic benefits identified by the 2001 Inquiry Inspector are no longer linked to a marina [BHC 19]. The Tym Report gives no clear evidence of the need for a marina in the 2004 version [BHC 26] and states in the 2007 version that a marina is not essential.

The Scott Wilson Report.

- 49 The Council claim that the Commissioners singled out the Scott Wilson report and that this 'lacks logic' [ERYC 11]. The Commissioners in fact referred to both the Scott Wilson report and the Roger Tym and Partners report of 2004, as well as the Council's Big Lottery bid. The two reports were commissioned by the Council prior to their lottery bid and all were undertaken without the involvement of the Commissioners.
- 50 There was no serious engagement by the Council with the Commissioners until after the failure of the Council's lottery bid [BHC 51-54]. Thus, to imply that because the Commissioners jointly signed off the PLB report, that had, in the Council's opinion, had 'full regard' to the Scott Wilson report, the Commissioners concurred with the Scott Wilson report is absurd.
- 51 The Council have consistently relied on the Scott Wilson report to justify their failure to provide a backup scheme should the preferred layout not proceed for any reason. The Sustainability Appraisal is not a substitute for a rigorous and objective assessment of a backup, or 'do minimum', scheme.
- 52 The Commissioners have consistently argued this point, and have put forward their own 'within harbour' (do minimum) scheme. The Commissioners' 'within harbour' scheme is at least as far advanced as the preferred option, and, as pointed out in the Commissioners Representations and elsewhere, would fulfil most of the requirements for a marina at Bridlington.
- 53 The concerns that the Commissioners have are that, without the adequate testing of a fallback position, the Council is not in a position to demonstrate that the process that has

led to the adoption of the preferred scheme is robust. The onus is on the Council to demonstrate the soundness of its proposals. The Council make a number of references to 'the public interest'. The public interest is not served by omitting properly to investigate an alternative, smaller and less costly scheme.

- 54 The approach adopted by the Commissioners and set out in their Representations is consistent, logical and responsible.
- 55 The Commissioners have shown that the Council has not produced any robust evidence, or indeed any evidence, that at the date of the Public Examination the preferred scheme will generate sufficient income to give it financial stability. Consequently, as a result of the Council's failure to produce such evidence, the AAP is not deliverable and is therefore not sound.

The Jacobs Technical Report. [ERYC 16-20]

Access & Public Open Space. [ERYC 17]

- 56 The Council states, at the end of their paragraph 1, 'the Council does not intend to invest in the project without ensuring that a safe and satisfactory access/egress for a successful harbour/Marina scheme is provided and that appropriate access rights are granted.' The difficulty here is to whom will the access rights be appropriate? The Council's response is typical of their vague, ambiguous and unhelpful answers that characterise discussions with them. The Commissioners' past experience of this sort of statement from the Council is extremely unsatisfactory, [BHC 76 & 79].
- 57 The Commissioners have made it clear that the issue of access and egress to the harbour is extremely important, and that it is not an issue of detail but central to the successful delivery of the Marina Proposal, [BHC 72-75]. In spite of the Commissioners' attempts over an extended period to get this issue resolved the Council seem incapable of providing an answer that will enable the issue to be resolved and allow everyone to move on.
- 58 The Council is incorrect in their assertions given in paragraph 2 that the plans tabled by BHC at the Examination Inquiry have 'not correctly represented the situation'. Any plans tabled at the Examination were provided to assist the Inspector with regard to plans already submitted by the Commissioners as part of Appendix A to the Commissioners' Representation on Matter 2. It is incorrect to say that the existing operational land is criss-crossed by access roads, turning areas, walkways, public access etc.
- 59 As pointed out by the Council later in the paragraph, the two main operational land areas, Clough Hole and the West End, are separated by the raised walkway that used to form the southern approach to the Council's bridge that crossed Clough Hole prior to the Commissioners filling the area. As pointed out by the Commissioners [BHC 76 & 79] there are two public footpaths across Clough Hole. The first path was provided by the Commissioners on the line of the Council's demolished bridge thereby saving the Council the expense of rebuilding, and then maintaining, the bridge. The second footpath across Clough Hole was a late addition introduced at the insistence of the Council. At the West End of the harbour the public have general access and this will not change if and when a marina is built.

- 60 The Council's assertion that the proposals will re-organise the operational harbour top fails to take into account the significant level differences between the South Pier, the existing harbour top and Langdale's Wharf and the inherent difficulties in providing a level site suitable to a working harbour. The current vehicular and pedestrian routes and public open spaces are already, to use the Council's words, 'properly planned and managed'. The Council appear to have failed to take into account the fact that the harbour is a successful working harbour.
- 61 It is acknowledged that the option to construct new buildings into the cliff face on the north side of Clough Hole formed part of the relocated vessel maintenance area, but the site of the buildings was carefully aligned to enable public access from Garden Walk and Queens Garden to continue to operate. These public accesses, particularly from Garden Walk, provide some of the best views of the harbour, [BHC 78]. The building locations put forward by the Council in 2011 close off the proposed public access from Garden Walk. The proposed access from Bridge Street referred to by the Council [ERYC 17 (2)] was an illustrative one provided by West 8 that was simpler, and less profligate of land use, than those now being put forward by the Council.

Berth Disposition [ERYC 18]

- 62 Jacobs may have used their 'own knowledge, experience and research', but this does not explain why they adopted the PLB berth disposition rather than that put forward by the Wheeler Trevitt Consultants Ltd (WTC) study, as representative of the current situation to be found on the North East Coast. The WTC study incorporated extensive local research that included visiting local marinas and discussing the berthing situation with the marina managers, and was accepted by the Commissioners, Yorkshire Forward, and the Council.
- 63 As stated by the Commissioners [BHC 89-92], Yorkshire Forward, the Council, in conjunction with their consultants Atkins and KM Consulting, and the Commissioners with the Consultant Harbour Surveyor, agreed that the PLB report did not adequately reflect the local conditions. It was considered that local knowledge and conditions should be used as this was most likely to reflect the foreseeable future berth disposition at Bridlington.
- 64 The decision to undertake a further study to supplement the PLB Report was not taken casually or lightly, indeed one of the Executive Directors of Yorkshire Forward attended meetings at which the proposal was discussed. Jacobs have not offered any evidence of further local research but have relied on what has happened on different coasts with different transport links, and different local environmental and economic factors, all of which affect local berth disposition. The result of Jacobs' decision is that they have, in the opinion of the Commissioners, over-estimated the probable proportional split between typical vessel sizes, and have therefore, against the agreed evidence, inflated the income that the Marina may generate from berthing fees.
- 65 The Council do not specify the research that Jacobs have used, nor do they attempt to justify the decision that has lead Jacobs to assume that the income from yachts berthing in the marina is at the level they have given in the Jacobs report. To introduce at this stage an assertion without any supporting evidence serves no useful purpose.

Car Parking [ERYC 19]

- 66 The new South Pier (Main Pier), forming part of the preferred option scheme, will be closed to public access except for the raised walkway along its southern seaward side. The only parking that will be available on the new Main Pier will be for commercial interests and will not be available for public or leisure use. The latest plan available, West 8 Proposal November 2010, [Figure A3 of Appendix A to BHC Response to Matter 2], shows nearly all of the new fill area south of the existing South Pier to be occupied by housing and the like. This area will therefore have to provide parking for the proposed housing and other developments to be built upon it.
- 67 It may, of course, be possible to provide free parking for 240 yachtsmen's cars as well as all the other parking required for the housing and development on the proposed fill area on the existing South Beach in front of the Spa and Pembroke Gardens. It would be possible to provide parking at ground level beneath the houses and other development, but this would increase the height of the development and further obscure the views of the harbour and Flamborough Head from the Spa and Pembroke Gardens, which sits ill with the Council's declared aims of promoting the Spa as a major regional attraction. Alternatively, parking could be provided underground beneath the houses, but the low level of the ground platform, the proximity to the sea and the presence of local springs may make this a difficult operation. Either option will be a costly exercise and yet again raises the question of the availability of sufficient funds to deliver the works.

Phasing [ERYC 20]

- 68 The Business Plan Brief states that the primary purpose of the Business Plan Study is to 'Establish (whether and) how best the proposed Harbour/Marina can be operated on a viable and sustainable business basis.' and then states '...what conditions need to be in place to ensure that the marina can operate viably on a day to day basis and accrue sufficient surpluses to satisfactorily maintain the harbour and marina and to discharge statutory obligations on a long term basis.' The Technical and Cost Study (Stage 1) was to, as the fourth of five bullet points, 'provide advice and recommendations on the phasing of the project and construction works whilst ensuring ongoing operational requirements are not unduly affected'. It is clear that the phasing referred to in the Brief is for the construction of the enlarged harbour/marina.
- 69 The Council are on record as inferring that the Marina is ten years away as referred to in the issue of the Bridlington Free Press dated 23 September 2010. The available version of the Jacobs Report states, at the start of the fourth paragraph of Section 6 (p56), 'Acknowledging that several years could pass between the initial West End land reconfiguration, including the construction of the proposed car park and hotel, and completion of the new Tidal Basin to the south (assuming that the Tidal Basin is actually constructed)...'. Both the Council's statement and the Jacobs statement emphasise the long, possibly terminal, delay anticipated in delivering the Marina Project.
- 70 It is therefore apparent that the phasing works and land exchanges outlined by the Council in their letter to the chairman of the Commissioners of 9 May 2011, and subsequently picked up and expanded by Jacobs, do not relate to the Marina Development but to the Burlington Parade Scheme. There is no mention in the Brief of

the Burlington Parade Scheme, and yet the delivery plan put forward by Jacobs concentrates almost exclusively on the delivery of the Burlington Parade Scheme.

71 Jacobs responded primarily to the phasing of Burlington Parade, rather than to the phasing of the marina project. The Council have stated and shown on drawings that the Gypsy Race corridor will now terminate at Sawmill Yard. The harbour top therefore no longer forms a logical part of Burlington Parade.

72 It is on record (LD14) that the ERYC cabinet resolved (amongst other things) on 21st September 2010: 'that the Council has sufficient existing resources, taking into account the likely costs and the potential for income to be generated, to enable delivery of the Bridlington Area Action Plan and continuing studies for the Marina for a staged approach to the delivery of the Area Action Plan.' From this it can be justifiably concluded that there is no financial imperative for the Council to acquire and develop the harbour top. There is therefore no need for the harbour top to be included within the Burlington Parade scheme which now logically stops north of Bridge Street at Sawmill Yard.

73 The Council suggest that the Commissioners' statement that the marina need not be constructed as a single unit is not correct [ERYC 6 & 20(c2)]. The Council's minutes of their meeting with the Commissioners held on 8 March 2006 record the Council's position as being that the marina must be built as a single unit. The Commissioners accept that in 2006 this was in relation to the Commissioners' suggestion that the Commissioners' well advanced within harbour scheme could be built as a first phase to a larger scheme. The Council rejected that proposal and in doing so lost the opportunity of an EU grant [Tym 2004 1.48 & 1.49].

74 As the outline design of the proposals for a marina progressed it became apparent that, if the harbour/marina development was not built as a single unit, the disruption and inconvenience, not just to the harbour, but to the town as well, would be insupportable. The Jacobs Technical Report acknowledges this at section 6.2.3 Fig 6.4-1 and the associated following two paragraphs on pages 67 and 68, given in full below;

'It can be seen from Figure 6.4-1 that the majority of the harbour development work requires to be undertaken within the same phase of the works in order to avoid undue delays or disruption to current harbour activities. Phase 2B of the works (Inner Basin construction), as shown above, has the potential to be developed as a separate stage of the works or alternatively, it may be more economical in the long term to include the construction of the Inner Basin as part of Phase 2.

Similarly, the Pleasure Craft Area as shown in Phase 2A could be constructed following the completion of phase 1, as part Phase 2 or as a future development following the establishment of the new marina and Tidal Basin.

75 Section 6.2.3 of the Jacobs Report is titled Tidal Basin and Marina Phasing. Figure 6.4-1 shows just two phases, Phase 1 and Phase 2. The only works shown under Phase 1 are:

Reconfiguration of land-side at West End including land reclamation and wave attenuation measures, and
Hotel and car park construction at West End.

- 76 All of the works identified as Phase 1 are to do with the Burlington Parade Scheme, they will not materially assist the Harbour Marina Development. By carrying out the West End land reclamation in advance of the rest of the scheme the cost of the West End land reclamation will be very substantially increased because of the significant wave attenuation measures that will be required as a result of the West End works until the marina and tidal basin are built.
- 77 The Jacobs Report devotes about a page and a half of text and two figures to the phasing of the tidal basin and marina, i.e. the whole of the works apart from the reclamation at the West End of the existing harbour. By contrast Jacobs devote some seven pages of text plus five supporting figures to the initial phasing options for the West End at Section 6.2 titled Landward Development (to West End of existing harbour).
- 78 Two things are apparent from the Jacobs Report. The first is that they have devoted considerable energy to the phasing of the Burlington Parade Scheme, even though this is not within their brief. Secondly that Jacobs, in common with the Commissioners (and the Council in 2006) consider that a marina development needs to be constructed as a single unit
- 79 At the end of ERYC 20(g) the Council state that they are making a major long term investment. If this is the case, then it seems strange that the Council appear to have not had regard to the 'Watersports and Leisure Participation Survey' (W&LPS) published annually by the British Marine Federation (BMF) with the Royal Yachting Association (RYA) amongst others. One of the reasons for the BMF and RYA investing in this running survey over some ten years is to identify long term trends. The Commissioners have given pertinent information from the W&LPS [BHC 114-118]. Without reference to the W&LPS the Business Plan is not robust.
- 80 It is also strange that the Council appear not to have had regard to the 'Economic Benefits of Coastal Marinas' (EBCM) study, published by the BMF with the Crown Estate and others. The Commissioners have again provided important information from this document [BHC 119-121]. In the opinion of the Commissioners the EBCM is a key document in any new coastal marina.
- 81 At ERYC 20(h) the Council suggest that 'the construction works can be phased to achieve an almost seamless transition into expanded and flexible berthing and completely new fishing and commercial facilities.' Firstly, this statement simply ignores the long time delay between the Council's proposed inclusion of the harbour top in the Burlington Parade Scheme and the as yet undefined date for completion of the Harbour/Marina Scheme, if indeed it ever comes to fruition, as Jacobs note.
- 82 Secondly, the Council have failed to take into account the level differences across the site and the significant adverse affect that their proposals will have on the vessel maintenance facility. 'Seamless' in this situation is not an appropriate description.
- 83 The Council's Response concerning the Harbour North Side [BHC 80], ground investigation [BHC 81-86] and dredging [BHC 87 & 88], is given at ERYC 20(i). If the Council have an inspection report, condition and strength analysis for the long sheet piled wall on the Harbour North Side then it has not been made available to the Commissioners, nor is it mentioned in the Jacobs Technical report. The Commissioners

are not aware of any recent site investigation work, but stand by their comments in their Representation [BHC 81-86].

84 The Commissioners are aware of the contents of the Jacobs Reports but consider that the knowledge base regarding the Harbour North Side and the ground conditions across the proposed site is very limited. The Council conclude their remarks [ERYC 20(i)] by saying there are no 'insurmountable issues'. The Commissioners are of the opinion that the Council appears to be assuming that because a difficult issue is not insurmountable that it will be affordable. It is the affordability of a scheme that makes it deliverable.

85 The Council's response to dredging issues is also given at ERYC 20(i). The Commissioners suggest that they are probably better informed on the dredging issues at Bridlington Harbour than anyone else. They have undertaken initial dredging assessments for the proposed Harbour/Marina Scheme and have concluded that in the absence of further site work (on the realistic silt load of the Gypsy Race for instance) that the dredging requirement for the completed Harbour Marina Scheme will be in the order of an additional 10,000 tonnes per annum over and above the existing dredging requirement of 20,000 tonnes per annum.

86 The harbour's licence for dumping dredging spoil at sea was reduced from 30,000 tonnes, the probable future dredging requirement, to 20,000 tonnes. Despite protracted negotiations the Commissioners have been unable to increase their licence above 20,000 tonnes (apart from one isolated instance) and at the moment see no likelihood of their achieving the extended licence that will be required for the harbour/marina development. The Commissioners therefore stand by their comments made in their Representation [BHC 87 & 88].

87 Indeed, the Commissioners consider that dredging issues could well become what the Council have referred to as 'a technical show-stopper'. For the present however, the Commissioners, in the spreadsheet appended to their Representation, have assumed that the removal of the additional 10,000 tonnes of dredgings will cost only slightly more, due to having to work round berthing pontoons, than the current disposal. However this remains a large, and potentially very expensive, unknown.

88 At ERYC 20 (j) the Council returned to the assertion that it is essential to include the harbour top in Burlington Parade. In the Bridlington AAP Retail Study by Roger Tym & Partners (SD06) retail 'anchors' are defined and their possible role in the regenerated Bridlington town centre explained. The authors, in the report Section 7 Overall Conclusions and Key Recommendations, state in para 7.19:

'In our assessment, the preferred option for meeting the objective specified above is to redevelop sufficient of the land between (and including) the Coach Park Site and the existing shopping core to accommodate the major share of the prospective capacity for additional comparison floor space in the centre.'

89 As stated above parts of the Tym Final Draft Report of 2004 is the precursor to SD06. In paragraph 4.17 of the Tym Final Draft Report 2004 the authors' state:

'We sound a note of caution; it is critical that in Bridlington's fragile and finite markets that demand not be dissipated across too wide an area'.

90 Far from the evidence base suggesting that the harbour top should be part of the Burlington Parade Scheme, the evidence base makes it clear that development should be between the Coach Park and the existing shopping core and not dissipated across too wide an area. No evidence has been adduced by the Council to show that the harbour top should be included in the Burlington Parade Scheme.

The Leigh Fisher Outline Business Plan. [ERYC 21-23]

91 With regard to ERYC 22, it seems logical to the Commissioners that it is first necessary for the Council to demonstrate that the proposal is viable and sustainable before considering the phasing of its construction. As with the Jacobs Technical Report the Leigh Fisher Report confuses the proposed Burlington Parade Scheme (which is not in their brief) with the Marina Scheme.

92 With regard to ERYC 23, the Commissioners acknowledge that the Jacobs Reports are ‘work in progress’ as the Commissioners’ opening statements make abundantly clear. The Council’s observations on the ‘robust income and expenditure projections and sensitivity analysis contained in the draft Business Report’ are also noted. However, the Council have provided no argument or evidence to show that the Commissioners’ careful analysis of the Leigh Fisher data is incorrect.

93 The Commissioners’ spreadsheets, given in the Appendix to the Commissioners’ Representation, were based closely on the Leigh Fisher draft ‘Mid-Range Start-up scenario: Annual cash Flow for Combined Harbour and Marina Business’ spreadsheet given in Annex 7 to their report (P127). Much of the data contained in the Commissioners spreadsheets was taken directly from the Leigh Fisher report, but where changes have been made they reflect the Commissioners’ own experience and expertise. The Commissioners have adopted what they consider to be a realistic, cautiously optimistic, approach that leaves some of the benefit of doubt with the Leigh Fisher figures (for example the Commissioners suspect that the car parking revenues may be too high).

94 The Commissioners acknowledge that minor adjustments could be made to their spreadsheets, but in the Commissioners’ opinion such adjustments will not alter the basic conclusion that the Marina proposals are not viable, sustainable and deliverable and that therefore the AAP is not sound.

Conclusion.

95 There is nothing in the Council’s Response which alters the views expressed and the conclusions reached by the Commissioners in their Representations.