

Harbour Authority accounts reveal it has made huge loans to Thorpe companies – when it is supposed to be short of cash.

In December 2018, Bembridge Harbour Improvement Company Ltd (BHIC – which is the Statutory Harbour Authority for Bembridge Harbour) published its [accounts for the year to March 2018](#). In line with Mr Thorpe’s assertion of his legal right to “total confidence”, these consist of a one page balance sheet for 2018 and 2017. One salient fact which does however emerge is that during the year to March 2018, the harbour authority, which is required to channel all its resources towards the harbour, was able to make allowances or payments of £540,000 to other Thorpe-owned companies. These were made up of a £335,000 increase in a loan to Bembridge Investments Ltd (BIL) and payments of £205,000 to Hawk Property Developments Ltd (Hawk). This represents around 80% of the harbour authority’s estimated turnover. As the Thorpes decline to be open, without a DfT investigation, we will not know why this was done and if it was in compliance with the harbour Act. In an [email](#) to officials at DfT on 28th January 2019 in section 7 we asked how a loan to BIL of £350,000 serves the harbour authority’s interests under the terms of the Act. In January Trustees met local council members to discuss the implications, and subsequently [wrote](#) to update John Metcalfe, IWC Chief Executive.

Unequivocal statement from Mr Thorpe that he does not intend to comply with government guidance

Mr Thorpe has made it clear that he does not intend to comply with [government guidance](#) on harbour management generally. The Trust advised the DfT of their concerns in [the Trust’s review of compliance](#). Mr Thorpe’s statements on financial management included in an [appendix to advisory group minutes of 7th February 2019](#) states, “[we] will continue to retain our financial records in total confidence”. The DfT clearly states that the guidance applies to all statutory harbour authorities, and that it expects compliance. Without a DfT inspection Mr. Thorpe has made it clear that this will not happen.

Public meeting to discuss the harbour

Bembridge resident Sir Paul Kenny called a public meeting to discuss the harbour, which was held in November. 115 people attended, including representatives of the GMB Union, this Trust and members of many local groups. Serious concern was expressed about the lack of spending on dredging or repair of the groyne, and there were calls for financial transparency in the harbour’s management.

Faced with the refusal of the harbour authority to be more open, the Trust’s opinion is that the best hope of securing financial transparency is for a DfT inspection that carries out an audit, and orders the harbour authority to comply with government guidance on how a statutory harbour authority must operate. This is the only way to confirm that it is complying with the terms of the [’63 Harbour Act](#), and in particular the application of funds (clause 31, i) and ii).

New applications submitted for houseboat moorings - with no guarantee the harbour will benefit

On 21st Jan 2019 a [planning application](#) was submitted for houseboats on two new plots on the harbour authority’s undeveloped land. Mr Thorpe commented on 7th January that he intends to apply for a further five plots. If Mr Thorpe gets permission for all the houseboat

sites applied for, the receipts are likely to amount to around £600k – the vast majority of which is required to be invested in the harbour. Having previously undertaken to the IWC that he would enter a legal agreement for profits to be applied to specific harbour improvements such as dredging and groyne repair, he has failed to submit such an agreement in connection with the current application, and has recently declared that he does not intend to apply profits to these improvements as previously promised. Documentation of all these points can be found [here](#). The Trust has submitted full representations on the application to the IWC and is monitoring any progress.

Further attempts to change the terms of the proposed development of harbour land in Mr Thorpe's favour, to the detriment of the harbour

16 months ago the IWC resolved to grant outline planning permission for residential development on harbour land as an “enabling development” - i.e. because the harbour was deemed not to be able to afford to pay for the new marina facilities proposed, that the harbour authority claimed to be essential. This is a form of public subsidy. Planning permission would be granted on completion of an s106 agreement specifying how the profits from the development would be shared between the developer (BIL - where Mr and Mrs Thorpe are the sole shareholders) and the harbour authority (BHIC – to which, Mr and Mrs Thorpe as directors, owe a fiduciary duty and have additional statutory responsibilities).

On 5 April 2019 Mr Thorpe submitted to IWC planners the latest in a long series of proposed significant amendments to the s106 agreement. Many of these have appeared to improve the benefits of the deal to the property company, BIL, at the direct expense of the harbour authority. The amounts involved might prove to be around £1m.

The most recent proposals would mean that proper checks to establish actual profits, and thus secure the correct amount of cash for the harbour authority, would be impossible. The Trust's chair, closely advised by our planning barrister, continues to address these issues with the planning authority.

To make matters worse, BIL now has the option to require the harbour authority (which is supposed to be raising desperately needed money through this development) to rent or buy outright (for around £1 million) the improved shore-based facilities (e.g. offices, showers etc) created as part of the development. If it can afford to do this, why is the housing project necessary in the first place, and why was a motion to grant planning permission, subject to agreeing the s106, passed?

Our comments to planners have consistently been agreed as appropriate, and some significant corrections have been incorporated into their response to Mr Thorpe's frequently changing drafts of this vital agreement.

In response to the latest development, on 9th April 2019 the Trust submitted a [further legal note](#) to the IWC Planning Department, as an update to [the opinion of our QC](#), (submitted in May 2018) arguing that IWC Planning Department should not have agreed the application in the first place. We continue to argue that without full clarity on the finances of the development, without which the proper fulfilment of the fiduciary duties of Mr and Mrs Thorpe to the harbour authority cannot be demonstrated.

Continuing lack of agreement on repairing the groyne to slow the rate at which the harbour silts up

It can be readily argued that it is the responsibility of the harbour authority to repair the groyne – a vital investment to reduce the rate of siltation, which should significantly reduce

its own dredging costs. However, in the absence of this happening, the project to repair Bembridge groyne is being led by Bembridge Harbour Users Group (BHUG). The latest estimate of the cost of the project was around £275,000 but useful savings should be possible. BHUG are confident that a significant part of the funding will be raised by public subscription, and whilst it is looking to the harbour authority for a substantial contribution, Mr Thorpe will not confirm any specific figure or percentage at this stage, advising it would be dependent on trading conditions at the time. It might be noted that the contribution sought from Mr Thorpe is actually a contribution from the harbour authority and in reality a deployment of the money harbour users pay in mooring fees and harbour dues. The use of such money is of course subject to the '63 Act.

Mr Thorpe will not confirm how much the harbour authority will put in to the project, and in his [response to BHUG dated 11th April 2019](#), questions any need for the groyne at all. [In the same BHUG meeting](#) on 8 March he stated that he does not anticipate putting any of the proceeds of seven additional houseboat plots towards the groyne, despite previous statements recorded in an [email from BHT dated 2nd April 2019](#) that led both BHT and the IWC to believe he would. He is currently refusing to progress any work unless all the money raised by public subscription has first been received by the harbour authority. BHUG will not accept this: among other reasons, if the company holding the funds should go bankrupt before the work was done and paid for, that money could be lost and the groyne not delivered, as the donor would rank amongst ordinary creditors.

Discussions are in hand with an established financial institution to hold donated money in an escrow account from which stage payments can be made. This is a normal type of security procedure in commercial transactions. But so far this has been rejected by Mr Thorpe. Discussions continue.

A [memo from Robin Powell](#) (chair of BHUG) attached to Bembridge Harbour Advisory Group (BHAG) 11 April meeting minutes sets this all out very clearly. The Trust continues to promote the repair of the groyne, including by individual contributions from members of the Trust who are also members of BHUG.

No progress on providing proper sewage treatment facilities in the harbour

The Trust wants to see the best possible water quality in the harbour. The main sources of untreated effluent in the harbour are: riverborne farm runoff; discharges from properties in Latimer Road; Southern Water licensed discharges; visitors' yachts; those houseboats still without access to sewage treatment facilities (10); and "liveaboards" on pontoon berths.

There is no pump out station at the visitors' marina. In BHAG minutes Mr Thorpe confirmed that the pump out station was not a priority as he did not foresee much use. The Trust have asked the harbour authority to publish a strategic plan that would address this. To date the harbour authority has not announced any intention to publish a strategic plan.

Since 2011 owners of all new houseboats on Embankment Road have been required to install sewage systems at their own expense. Two more of the older houseboats – *Myosotis* and *The Ark* – have just ordered sewage systems. This leaves ten boats that have no sewage treatment or storage systems at all.

Stephen Treby of Natural England asked in planning representations of 3rd April that new systems should deal with all waste water, not just storage tanks for foul sewage. Mr Thorpe originally promised in [previous statements](#) that sewage treatment plant would be mandatory for all new houseboat plots. This has not happened. BHT has submitted [representations to](#)

[IWC](#) on the application for two new houseboat plots, noting that Mr Thorpe has not required installation of treatment plant as promised.

The harbour authority previously offered [assurances](#) of financial support to houseboats without sewage treatment. Mr Thorpe now says in an [email of 20th March](#) at point 3 that the harbour authority will not offer any financial help at all to the ten remaining boats unless permission is granted for least 32 houseboat plots on Embankment Road. This seems unlikely on the basis of [overcrowding concerns expressed by Bembridge Parish Council](#) and strong objections [by Natural England](#).

Dredging delayed again for unclear reasons

Conventional dredging was due to take place last month of the resident marina and the “BODA pool” in front of Bembridge Sailing Club (where they moor their One Design fleet and which they pay for). This has just been delayed again. According to Mr Thorpe in the [advisory group minutes of 11th April 2019](#), this is because ML Dredging (the company which normally dredges the harbour) have been unable to provide services on the dates required – a very surprising outcome given the normal lead times for scheduling this kind of operation; the Trust frankly doubts this explanation.

Instead, it would appear that having failed to dredge in the normal manner to the time scales previously promised to BHUG and BSC, Mr Thorpe has authorised an unconventional and frankly questionable approach. One of Nigel Bennett’s diggers was deployed on the beach in front of Bembridge Sailing Club on 29th April and over the next three days dug out the BODA pool and spread the dredged material on the beach. This is short termism at best (as the sand will probably wash straight back into the pool), with potentially quite serious negative wider implications for users of the harbour. The Trust continues to monitor the situation.

In an [email to the IWC](#) Mr Thorpe has said that he will spend some of the proceeds from houseboat sales on a dredger. This is a curious decision in light of the high possible capital and running costs compared to the (relatively) low annual dredging spend and limited use it would get in Bembridge Harbour. We will continue to pay close attention to this, as it would be very concerning if Mr Thorpe was intending to put at risk harbour authority capital to launch a business providing dredging services outside the harbour.

Siltation remains in the Trust’s view the single most important issue facing the harbour and its dependent communities. Less water means less useable harbour, resulting in fewer users, leading inexorably to damaged local communities.

In April 2019 the harbour authority drew attention to a report by Paul Tosswell of Lymington Technical Services in support of their proposition that the groyne repair may be ineffective in reducing siltation in the harbour, when the report did not address that issue at all. Originally written in 2016, the report states that there was a net difference, that is after any dredging, of 36,000 m³ in sediments in two years. Bizarrely, it does not say if that was a positive or negative difference. Either way, that would be equivalent to five big lorry loads every single day. It is not clear what exactly this shows, and when referring to it this Spring, in a familiar pattern, the harbour authority does not disclose the necessary information – in this case the survey itself – to show the areas involved and where losses and gains have occurred.

The harbour authority’s Spring 2019 “Bembridge Breeze” magazine, edited by the Thorpes, included an article on page 12 presenting an argument against the efficacy of a repaired groyne. In reality the article simply reported the situation around 2000 when the author was very involved in the running of the harbour and reaffirmed the obvious by reference to a

1980s report: a very much longer groyne would do very much more. The Trust, as always, want to do the best practically achievable based on sound advice and evidence. We remain firmly committed to the groyne project.