

HIGHLAND COUNCIL

Agenda Item	12
Report No	ECI/33/20

Committee: Economy and Infrastructure

Date: 4 November 2020

Report Title: Uig Harbour Redevelopment – Update Report

Report By: Executive Chief Officer Infrastructure and Environment

1. Purpose/Executive Summary

- 1.1 This report updates Members of the project to redevelop the facilities at Uig Harbour to support the delivery of the new larger ferry vessel for the Uig, Tarbert, Lochmaddy triangle.
- 1.2 The Highland Council's (THC) proposals to redevelop infrastructure at Uig Ferry Terminal on the Isle of Skye have been paused. Following receipt of tender bids for the main civil infrastructure works, the cost of the infrastructure project has increased significantly. Despite a number of cost reduction exercises being undertaken, cost savings identified are not sufficient to allow THC to award construction contracts at this time in line with the project's original scope, costs and funding arrangements with Transport Scotland (TS). Approval for the revised procurement strategy and funding is awaited from Transport Scotland.
- 1.3 The outage period – 13 September 2021 to 4 February 2022 – required to construct the linkspan and outer roundhead, during which there can be no ferry service to / from Uig was approved at the Economy and Infrastructure Committee on 1 July 2020. CMAL has developed mitigation measures with the Hebrides sailing from Ullapool for this period. Given the delay to the start of the construction works, the revised outage period will need to be from 12 September 2022 to 3 February 2023. These outage dates assume that there will be no further delays to the funding approval and construction start date.

2. Recommendations

- 2.1 Members are asked to:
 - (i) note the position; and
 - (ii) approve the change to the outage period from 2021/22 to 2022/23.

3. Implications

3.1 Resource

3.1.1 The scheme will be 80% grant funded from Transport Scotland with the balance made up from increased harbour dues to cover the additional THC borrowing. It is recognised that this project will only proceed if an economic bid is received; supported by a funding agreement from the Scottish Government. Funding from Transport Scotland has been resubmitted, this is on the basis of a revised procurement strategy (following feedback from Transport Scotland), a project risk profile, estimated project budget costs and contingencies.

3.1.2 £1.5M of THC funding is included in the capital programme to address the very poor state of the existing pier that is unaffected by the ferry proposals and relates to essential maintenance.

3.2 Legal – There are no known legal implications arising from this report.

3.3 Community (Equality, Poverty and Rural) – Consideration of equalities issues and compliance with legislation has been followed, and a formal EQIA will be produced on conclusion of the consultation and design process. Consultations have been carried out with the community and key stakeholders and further consultation regarding disabled access will be carried out.

3.4 Climate Change / Carbon Clever – The new vessel is a dual fuel vessel which gives the flexibility of using Marine Gas Oil (MGO) and Liquid Natural Gas (LNG) and provides the opportunity to lower emissions and gives greater flexibility over future fuel costs.

3.5 Risk – A project risk register has been developed as part of the project governance and the project risks include:

- i) delay to the project as a result of both retendering and delayed funding approval with a delayed construction start date of at least 12 months due to the need to coordinate with a winter outage period;
- ii) a delayed construction start date will result in a later completion date extending beyond the programmed completion of July 2023 which will impact on the current estimated vessel delivery date;
- iii) no conforming tenders are received and there is no certainty that a retendering process will realise any reduction in project budget;
- iv) uncertain economic situation following COVID-19 which may impact on higher tender costs requiring a higher project budget;
- v) changes to the construction risk profile – weather and physical conditions reverting to client risk from contractor risk – may result in higher construction outturn costs;
- vi) any alternative design or de-scoping may require further consultation / approvals / consents and delayed construction start date; and
- vii) any requirements and costs associated with the further consultations on the issue of disabled access to small boats.

3.6 Gaelic – There are no known Gaelic implications arising from this report

4. Current Situation

- 4.1 A confidential paper was taken to the Economy and Infrastructure Committee on 1 July 2020 advising Members that, following the high tender return of the main civils infrastructure contract, the project had been resubmitted to the IDM Board for consideration and approval of the full or revised scope of works and/or budget, to enable the Highland Council to consider award. The recommendation in the committee report, to award the construction contract, subject to the review of the grant award from TS, by the Executive Chief Officer Infrastructure and Environment, in consultation with the Chair and Vice Chair of the Economy and Infrastructure Committee, to accept the grant funding provided by TS and the award of the Main Civil Infrastructure Works contract in line with the confirmation from the IDM Board was approved. However, following TS Investment Decision Making (IDM) Board's decision on 11 August 2020 not to approve the requested funding for Uig, this resulted in the award of the contract being unable to be progressed.
- 4.2 The IDM Board highlighted its concerns that the process had resulted in only one tender being received for the main civil infrastructure works contract and further tenders for the dredging, linkspan, terminal building contracts being carried out separately, meaning that an overall budget could not be established. Based on just one tender return for the main civil infrastructure works being received, the IDM Board had concerns about the ability to demonstrate value for money in the interests of THC and Scottish Ministers.
- 4.3 A project review has been carried out by THC and CMAL to consider a revised procurement and contract strategy, a review of the project risk profile for the construction works and a review of the estimated project budget costs, contingencies and funding.
- 4.4 A joint project review report was submitted by THC and CMAL to TS on 25 September 2020 for consideration by TS IDM Board. The report details changes in the contract strategy, risks and budget.
- 4.5 In summary, given that the scope of works remains unchanged, an updated project budget based on the received tender, revised risk allocation, and combined 'civils tender package' were considered to be the most appropriate way forward to achieve market interest and cost certainty at tender return, noting the risks associated with potential events during the works.
- 4.6 Given timescales to meet the next outage period opportunity in September 2022, contract preparation for re-tender in December 2020 is being progressed to ensure the programme is met with potential award of the contract in April 2021 and construction works commencing in July 2021 for completion in July 2023.

5. Vessel Delivery

- 5.1 On 25 August 2020, the Cabinet Secretary for Economy, Fair Work and Culture, Fiona Hyslop, announced that the new vessel for the Skye Triangle route, MV Hull 802, is now expected to be delivered between December 2022 and February 2023; and deployed to the route following completion of sea trials.

6. Petition – Disabled Access

- 6.1 Further to the extensive consultation with the public, community groups and harbour users, there has been additional communication from tourist boat operators and the Uig Community Trust expressing their previous concerns regarding disabled access at the new steps from the widened approachway.
- 6.2 The request for a hinged walkway pontoon to replace the boat steps at Uig harbour has been previously considered and the review identified that the wave climate, even following redevelopment of the pier, would be unfavourable for a pontoon. The reliability of maintaining a working floating pontoon was considered unsustainable in terms of maintenance and cost. Also, the use of the pontoon as emergency access would be unsuitable because of the slopes the pontoon would need to be installed at to limit berthage loss on the pier. The means of emergency access would need to be appropriate for the emergency services and at most states of the tide this would be in excess of 1:10. The potential loss of berthing will be greater with a hinged walkway and pontoon compared to new steps, and any loss of berth is a major consideration for all harbour users. Also, the installation of a pontoon would require additional investment, and this would be deemed as non-ferry infrastructure.
- 6.3 The proposed new steps have been redesigned with an increase in the number of landings from three landings to seven landings which will provide more safe access points at different tide levels.
- 6.4 Following the further concerns, it was agreed that consideration of the issues and potential solutions should be investigated further with the community and harbour users, and it was planned to hold additional consultation and also conduct trial use for disabled access over the link span, which THC has confirmed could be a potential solution at some tide levels where access to small vessels could be provided outwith ferry operations. This consultation process was disrupted by the COVID Pandemic but will be progressed when circumstances permit.
- 6.5 Thomas Butler, owner and operator of a small wildlife cruise company in Uig, lodged a petition with the Scottish Parliament Public Petitions Committee on 31 January 2020.
- 6.6 The Scottish Government Public Petitions Committee received and considered the petition at its meeting on 26 August 2020. The petition can be accessed at link [PE1792: Access to Scottish piers and harbours](#) and states:
Calling on the Scottish Parliament to urge the Scottish Government to ensure that local authorities and service providers provide access for those with disabilities at public facilities such as piers and harbours.
- 6.7 The response to the Scottish Government Public Petitions Committee is detailed in **Appendix 1** – The Highland Council Response to Scottish Government Public Petitions Committee.

7. Funding

- 7.1 Discussions regarding budget and funding mechanism are ongoing with TS, and once finalised, a paper will be taken to Economy and Infrastructure Committee to seek approval to award the construction phase of the project.

Designation: Executive Chief Officer Infrastructure and Environment

Date: 9 October 2020

Author: Colin Howell, Head of Infrastructure,
Andrew Maciver, Principal Engineer Strategy & Testing

Background Papers: Uig Ferry Redevelopment – Masterplan Report,
Economy and Infrastructure Committee – 1 July 2020 –
Members only Report No. ECI/10/20 Uig Harbour
Redevelopment – Grant Funding and Contract Award

Appendix A – Uig Harbour Redevelopment – The Highland Council Response to the Scottish Government Public Petitions Committee

Petition PE1792: Access to Scottish Piers and Harbours

- 1.1 The Scottish Government Public Petitions Committee received and considered the petition at its meeting on 26 August 2020. The petition can be accessed at link [PE1792: Access to Scottish piers and harbours](#) and states:

Calling on the Scottish Parliament to urge the Scottish Government to ensure that local authorities and service providers provide access for those with disabilities at public facilities such as piers and harbours.

- 1.2 The Scottish Government Public Petitions Committee have written to the Highland Council specifically asking for views from Highland Council on:

- the action called for in the petition, given that the Council owns the port in question and so are responsible for access to it under the Equality Act 2010 regarding access to piers and harbours;
- access for those with disabilities to both the pier/ harbour and the adjacent waters via the pier/ harbour, as the petition alludes to both, given the need for water activities as well as pier/ harbour access; and
- whether an Equality Impact Assessment has been conducted re accessibility to both pier/ harbour and the adjacent waters, given that the Council plans infrastructure change; and if so, the conclusions drawn from that EIA relevant to the access issues in this petition.

- 1.3 Advice has been taken from Rosemary MacKinnon, Principal Policy Officer – Equality, and legal advice from the Council's Legal Corporate Governance section, regarding disabled requirements for marine infrastructure and the views requested by the Scottish Government Public Petitions Committee.

- 1.4 The response to the Scottish Government Public Petitions Committee details the following response:

The action called for in the petition, given that The Highland Council owns the port in question and so are responsible for access to it under the Equality Act 2010 regarding access to piers and harbours.

The main UK legislation that applies to public transport and disabled people is consolidated in the Equality Act 2010, but much of the law as it relates to the treatment of disabled passengers and the services they can expect derives from various EU legislative instruments.

The Equality Act 2010 (the Act) provides a broad legal framework covering discrimination against people with specific 'protected characteristics' including that of disability.

The Act also places a positive duty on service providers and those exercising public functions to make reasonable adjustments for disabled people. This requires those subject to the duty to remove or change physical features, provisions, criteria or practices which would put a disabled person at a substantial disadvantage in comparison with a person who is not disabled when accessing services and facilities.

In addition, the Public Sector Equality Duty, is aimed at ensuring that the needs of all people with protected characteristics are fully considered as part of policy development and delivery, including transport provisions.

Part 3 of the Act provides protection from unlawful discrimination in the provision of services and exercise of public functions. This applies to the transport infrastructure and means that providers have a duty to avoid discrimination in respect of matters such as timetables, booking facilities and other services at ports and ferry terminals, stations and airports, and also the use of certain specified vehicles (including trains coaches and taxis) but does not extend to transport by sea or air.

However, protection from discrimination for disabled passengers travelling by sea has increased by bringing into force the EU Regulation No. 1177/2010 through the Merchant Shipping (Passengers' Rights) Regulations 2013 and subsequent amendments.

The Regulation aims to provide disabled persons and persons with reduced mobility (PRMs) with the same opportunities to travel by ferry and cruise ship as they have in other transport sectors across the EU. It applies to:

- passengers travelling on a ferry departing from, or arriving in, the UK or any other EU Member State, or who have booked and paid for such a journey; and
- passengers travelling or booked on a cruise ship departing from the UK or any other EU Member State.

The regulations shall not apply to passenger vessels which carry up to 12 passengers or have a crew of 3 or less. It also does not apply where the journey is 500 metres or less or on excursion or sightseeing tours.

Additionally, the maritime regulations include two exemptions to the right to non-discrimination. This means that carriers, travel agents and tour operators may be allowed to discriminate:

- if they can show this is necessary to meet applicable safety requirements, or

- where the design of the ship or infrastructure of the port makes it impossible to uphold the right to non-discrimination in a safe or operationally feasible manner.

When deciding on the design of new ports and terminals, and as part of major refurbishments, the bodies responsible for those facilities should take into account the needs of disabled people, in particular with regard to accessibility, paying particular consideration to 'design for all' requirements (EU1177/2010).

Current regulations make clear that operators should give thought to what changes they can make or processes they can adopt to assist disabled passengers at all points of their journey, including the design of new ports and terminals or major refurbishments to consider the accessibility needs of passengers with disabilities and reduced mobility, and to design facilities that can be used by all passengers. There is, however, no need to retrofit. This means that while port and vessel operators must consider the needs of disabled passengers when building new infrastructure or carrying out a major refurbishment, they do not need to make existing facilities comply with regulation where this would require modification or replace ships, infrastructure, ports or port terminals.

1.5 Access for those with disabilities to both the pier/ harbour and the adjacent waters via the pier/ harbour, as the petition alludes to both, given the need for water activities as well as pier/ harbour access.

Following the decision by the Scottish Government to provide a larger vessel for the Uig/Tarbert/Lochmaddy Triangle lifeline ferry service to the Western Isles, The Highland Council has been working in conjunction with Caledonian Maritime Assets Ltd (CMAL), Transport Scotland, Caledonian Ferries Ltd (CFL) and the Comhairle nan Eilean Siar towards redeveloping the three ports which include Uig to accommodate the larger vessel and the additional passenger and vehicle traffic which will result.

The works proposed at Uig for the Transport Scotland funded project, are car marshalling and parking, new terminal building, widened approachway, dredging, new solid pier extension including a roundhead, fendering, replacement linkspan and LNG infrastructure.

In respect of ferry travel, as can be seen the regulations above apply and the design of the infrastructure at Uig have been agreed with CFL and CMAL including access for passengers - these designs have been considered and consulted upon, specifically including members of the local access panels served by the Uig ferry.

The works at Uig include the widening of the approachway, which impacts on existing berthage and also the existing small boat access steps, it is therefore part of the project to replace the berthage and small boat access.

The issue of small boat access was raised during the extensive consultations, and consideration was given to provision of a floating pontoon arrangement with hinged access, and technical reports were commissioned and shared with the communities.

The pontoon/hinged walkways pose two significant issues. The location at Uig is exposed and concerns were raised during the technical evaluation about the long-term durability of a floating system. The other aspect was that to provide disabled access ramps due to the tidal range – meant that the floating structure and associated ramps were of significant length. Berthage usage at Uig is significant due to fishing aquaculture, pleasure and marine tourism. The floating system would reduce the provision of berthage, where existing berthage space is at a premium. It is noted that such a provision would also be costly to install and maintain and the installation of a pontoon for disabled accessibility to small boats would require additional investment as it would be considered as non-ferry infrastructure.

As stated above the maritime legislation shall not apply for passengers of sightseeing or excursions and notwithstanding this, exemptions exist where it is deemed impossible to uphold the right to non-discrimination in a safe or operationally feasible manner.

Noting the significant consultation and consideration of these matters, designs have been developed for the replacement steps taking cognisance of the range of vessels and usage to provide additional landings, and fendering arrangements to improve access provision and safety.

Construction consents have been progressed based on the designs as described above through a Harbour Revision Order – this order was duly published and included a period of representation. No sustained objections were received, and no representations were made about the design of the infrastructure or boat access.

The Harbour Revision Order was duly made – and is now in force.

It was agreed that consideration of the issues and potential solutions should be investigated further with the community and harbour users, and it was planned to hold additional consultation and also conduct trial use for disabled access over the link span, which The Highland Council have confirmed could be a potential solution at some tide levels where access to small vessels could be provided outwith ferry operations. This consultation process was disrupted by the Covid Pandemic but will be progressed when circumstances permit.

1.6 Whether an Equality Impact Assessment has been conducted re accessibility to both pier/ harbour and the adjacent waters, given that The Highland Council plans infrastructure change; and if so, the conclusions drawn from that EIA relevant to the access issues in this petition.

Consideration of equalities issues and compliance with legislation has been followed, and a formal EQIA will be produced on conclusion of the design process, that can only be completed following the above disabled access consultations that have been interrupted by the Covid Pandemic.

It is clear that until these consultations are concluded the issue of disabled access to small boats remains a live issue.

Works at Uig have been paused, and construction works will not commence before Summer Autumn of 2021, so there remains the time and opportunity to conclude consultations, and allow completion of the EQIA.