

REPORT TO: Cabinet

MEETING DATE: 12 June 2012

BY: Executive Director (Support Services)

SUBJECT: North Berwick Harbour – Area to be Transferred
as Part of Proposed Empowerment Order

1 PURPOSE

- 1.1 To seek a Cabinet decision on the area to be transferred as part of the proposed North Berwick Harbour Empowerment Order.

2 RECOMMENDATIONS

- 2.1 Cabinet is asked to:-
- (i) Approve that the area of land currently leased to the Scottish Seabird Centre (SSC) does not form part of the proposed Empowerment Order, as per plan attached in Appendix 1; and
 - (ii) Approve that, three years following the formation of the prospective new Harbour Trust, a joint review be undertaken of the SSC position on being part of the overall Harbour Trust with the Harbour Trust as its potential landlord.

3 BACKGROUND

- 3.1 At its meeting on 13 March 2007, Cabinet agreed to remit Council officials to work together with members of North Berwick Harbour Trust Association to examine potential developments relating to the management of North Berwick Harbour, with a view to establishing a Harbour Trust.
- 3.2 The report at that time was non-specific as to the detail of what would constitute the area of land to be transferred – although the general view at the time was that in the interests of all the Harbour Trust Association be invited to accept an extensive area of Harbour land, including the SSC site.

- 3.3 Council officials have liaised closely with representatives of the Harbour Trust Association, who have successfully managed the Harbour area on behalf of the Council since June 2007.
- 3.4 The Harbour Trust Association has made positive improvements to the Harbour management, including closer supervision of the Harbour Master's duties; increased quality control of the Harbour area; and improved collection of mooring and dinghy parking fees, all as a result of a locally managed arrangement which is more responsive to day-to-day requirements.
- 3.5 During this time, the Council has made significant financial investment, circa £300,000, in improvements to the fabric and safety of the Harbour. In addition, the Harbour Trust Association has been allowed to retain the annual revenue income generated from the Harbour area, circa £30,000 per annum.
- 3.6 In the course of ongoing discussion regarding the detail of the legal framework for the transfer of the Harbour area, the Empowerment Order, it became evident that there was an issue regarding the transfer of the area leased by SSC. The current lease covers an area of 1481.3 m² on the eastern edge of the Harbour, as shown in Appendix 1, and expires on 31 December 2097.
- 3.7 The Harbour Trust Association is of the view that the area leased by SSC should form part of the Harbour area covered by the Empowerment Order. The reasons for this include, but are not limited to, the fact that they consider the transfer of the lease would secure the future of the Seabird Centre, it would increase the ability of the Trust to attract external funding, it would make Harbour by-laws more manageable, and it would stop a precedent being set whereby other lessees may wish to retain the Council as landlord.
- 3.8 SSC, however, wishes to retain the Council as its direct landlord and does not want the area covered by its current lease transferred as part of the Order. Their view, strongly held, is that the partnership between SSC and the Council has been successful in achieving a national visitor attraction. They believe there is no requirement, or benefit to SSC, for the lease to be transferred to the Trust, nor any detriment to the Trust. SSC think this would be a retrograde step which would put its future at potential risk.
- 3.9 Due to the differing and very strongly held views of both organisations, the Council has been required, and attempted, to facilitate a preferred local agreement. Meetings involving Elected Members and senior officials have been held with both parties, independently and collectively. In addition, and as a result of these meetings, both parties were also encouraged to meet together to find a mutually acceptable solution. All these attempts have failed to secure a locally agreed outcome.
- 3.10 The Council also offered provision for independent mediation but this was declined.

- 3.11 In the absence of a local agreement, the Council is, therefore, required to make a final decision. Having considered the matter, the Head of Policy & Partnerships is of the view that, on balance, there should be no detriment to the Harbour Trust should the land currently leased to SSC be excluded from the Empowerment Order. I do not believe that this exclusion will limit Trust ambitions and aspirations for North Berwick Harbour. Protected access for SSC operations can be easily accommodated through a grant of servitude of access – a relatively straightforward process.
- 3.12 In acknowledgement that the potential new Harbour Trust will be finding its own feet over the first few years in operation and that SSC may want to reconsider its current position on preferred landlord status, it would be appropriate that three years following the formation of the new Harbour Trust a joint review of the SSC position on being part of the overall Harbour Trust, with the Harbour Trust as its potential landlord, be undertaken.

4 POLICY IMPLICATIONS

- 4.1 This report supports two of the key focus areas in the Draft Council Plan 2012-2017 – growing our economy and growing our communities. Both SSC and the Harbour play an important role in the economic and community benefit of the area.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

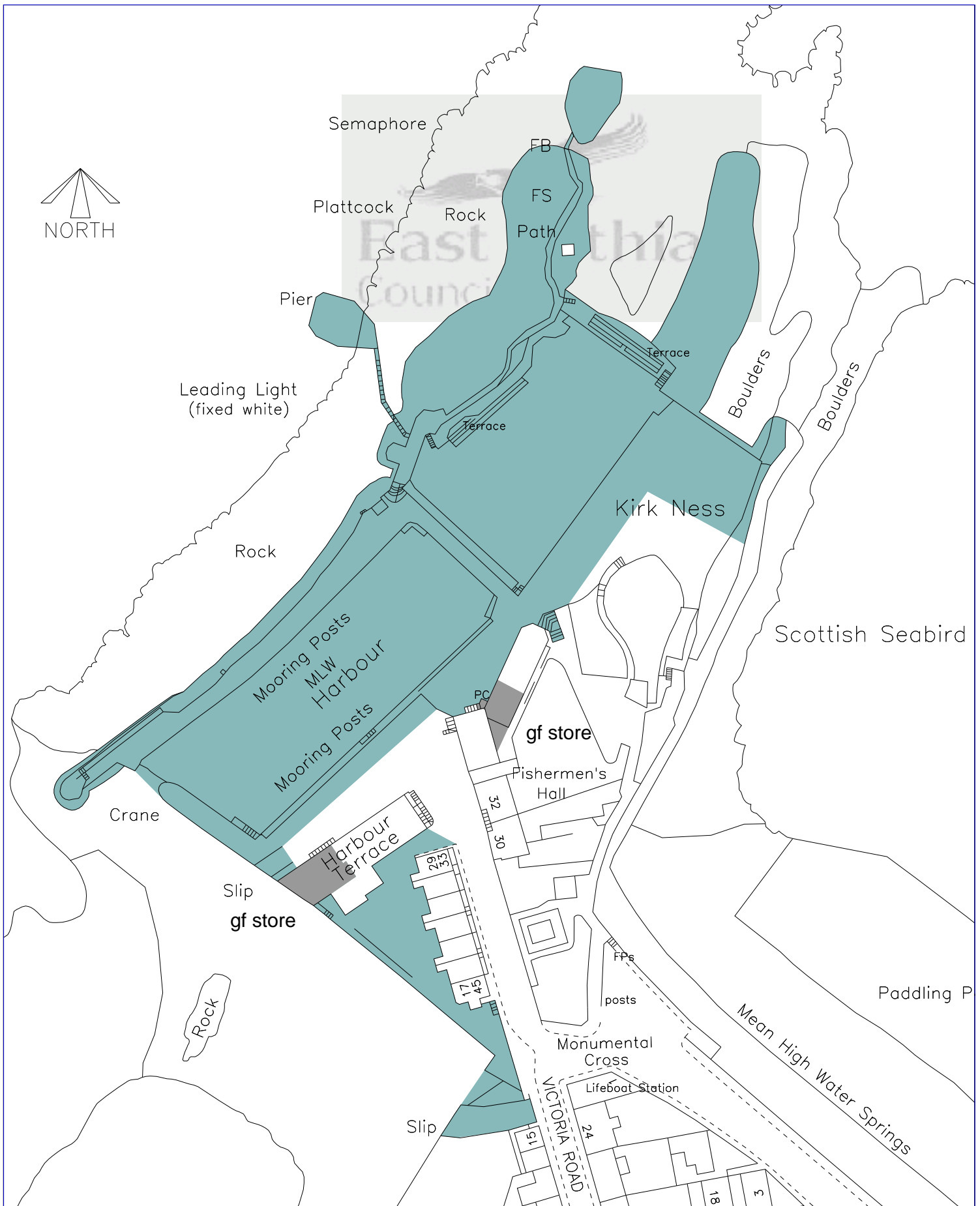
6 RESOURCE IMPLICATIONS

- 6.1 Financial – None.
- 6.2 Personnel - None.
- 6.3 Other – None.

7 BACKGROUND PAPERS

- 7.1 Report to Cabinet - North Berwick Harbour – Future Management Arrangements - 13 March 2007.

AUTHOR'S NAME	Tom Shearer
DESIGNATION	Head of Policy and Partnerships
CONTACT INFO	Tel: 01620 827560 E-Mail: tshearer@eastlothian.gov.uk
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North Berwick

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