
STATUTORY INSTRUMENTS

1999 No. 2587

The Pur Fleet (King's Lynn) Order 1999

PART II

WORKS PROVISIONS

Principal Powers

Power to construct and maintain works

3.—(1) The Council may construct and maintain the scheduled works.

(2) Subject to article 4 below, the scheduled works shall be constructed in the lines or situations shown on the deposited plan and in accordance with the levels shown on the sections.

(3) Subject to paragraph (5) below, the Council may carry out and maintain such of the works specified in sub-paragraphs (a) to (d) below as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

- (a) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses,
- (b) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works,
- (c) works for the benefit or protection of premises affected by the scheduled works, and
- (d) works for the removal, alteration, diversion or stopping-up of any apparatus, including cables, mains, drains, sewers or watercourses, the Council providing a proper substitute before interrupting the flow in any such drain, sewer or watercourse and obtaining the consent (which shall not be unreasonably withheld) of the owner of any such apparatus before carrying out any such work (unless, if after reasonable enquiry the identity of the owner cannot be ascertained).

(4) Subject to paragraph (5) below, the Council may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works.

(5) Paragraphs (3) and (4) above shall not authorise the carrying out or maintenance of works to alter the course of, or otherwise interfere with, navigable rivers or watercourses.

Power to deviate

4. In constructing or maintaining any of the scheduled works, the Council may—

- (a) deviate laterally from the lines or situations shown on the deposited plan within the limits of deviation for that work shown on that plan, and
- (b) deviate vertically from the levels shown on the sections to any extent not exceeding 1 metre upwards and to any extent downwards.

Exclusion of section 25 of Water Resources Act 1991

5. Section 25 of the Water Resources Act 1991(1) shall not apply to the barrage.

Creek not to be a reservoir

6. Notwithstanding the provisions of subsection (2) of section 1 of the Reservoirs Act 1975(2), so much of the creek as is impounded by the barrage shall not, by virtue of the retention of water by means of the barrage, be taken to be a reservoir for the purposes of that Act or for the purposes of Schedule 2 of that Act.

Supplemental

Diversion of flow of water in certain watercourses

7. The Council may by means of the works divert, abstract, intercept, or otherwise interfere with the waters or the flow of water in the creek or the river.

Power to Council to interfere with existing dam

8.—(1) Subject to the provisions of this Order, the Council may for the purposes of regulating the level of water which may be impounded as a consequence of the construction of the barrage, fill in, alter or remove any sills, tide flaps, sluices or other similar devices whatsoever forming part of the existing dam.

(2) The Council shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise by the Council of the powers of this article and any question as to the amount of the compensation to be so paid shall be determined by the Lands Tribunal.

Power to take, pump and discharge water

9.—(1) Except as provided in paragraphs (2) and (3) below, notwithstanding anything contained in any other enactment the Council may, for the purposes of or in connection with the exercise of their functions under this Order, take, impound and use water from the creek or pump any water from the creek into any sewer, drain or watercourse and for any of those purposes may, within the limits of deviation, lay down, take up and alter conduits, pipes and other works and conveniences and make any convenient connections with the creek or, as the case may be, with the sewer, drain or watercourse.

(2) The Council shall not, under the powers of this article—

- (a) discharge any water into any sewer or drain except with the consent (which shall not be unreasonably withheld) of the sewerage undertaker or (in the case of a private sewer or drain) the owner and subject to such terms and conditions as the sewerage undertaker or the owner, as the case may be, may reasonably impose, and
- (b) make any opening into any such sewer or drain save in accordance with plans approved by and under the superintendence, if given, of, the sewerage undertaker or the owner, as the case may be, but such approval shall not be unreasonably withheld.

(3) Subject to article 5 above, nothing in this article shall relieve the Council from the requirements of the Water Resources Act 1991.

(1) 1991 c. 57.
(2) 1975 c. 23.

(4) Section 85 of the Water Resources Act 1991 shall apply to a discharge under the powers of this article into any controlled waters within the meaning given by section 104 of that Act as if this article were excluded from the reference to any local statutory provision mentioned in section 88(1)(f) of that Act.

(5) In paragraph (2) above “owner” includes any person with a right to use the private sewer or drain in question.

Agreements with owners of land and others for execution of works

10.—(1) The Council may enter into agreements with the Agency or the owners of, or other persons interested in, any land in or through which the works are or may be constructed or the drainage of which may be affected by the construction of the works for or with respect to the doing of anything which may be rendered necessary or convenient by reason or in consequence of the exercise of the powers of this Order.

(2) Any such agreement may provide for—

- (a) the payment by the Council of, or the making of contributions by them towards, the cost incurred by the Agency or any such owners or other persons in or in connection with the doing of any such thing, or
- (b) the payment by the Council of compensation for any injury suffered or loss incurred by the Agency or any such owners or other persons by reason or in consequence of the execution by the Council of the works.

Operation of sluices

11. Notwithstanding anything in any enactment or in any rule of law, the Council may operate the sluices, culverts or moveable sections or gates comprised in the barrage to control the level of water impounded in the creek, in such manner and for such periods as they think necessary or desirable.

Misuse of sluices, etc.

12.—(1) Any person who, without lawful authority, closes or opens the sluices, culverts or moveable sections or gates comprised in the barrage or in any other way interferes with those sluices, culverts, sections or gates or the operation thereof, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person shall not be guilty of any offence under paragraph (1) above as respects any act done in an emergency in order to avoid danger to any person or property.

Tidal Works

Tidal works not to be executed without approval of the Secretary of State

13.—(1) A tidal work shall not be constructed, altered, replaced, relaid or reconstructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, altered, replaced, relaid or reconstructed in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Secretary of State may by notice in writing require the Council at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if on the expiration of a period of 30 days beginning with the date on which the notice is served upon the Council they shall have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice, or

(b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work or part of it and restore the site to its former condition, and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Council.

Lights on tidal works during construction

14.—(1) The Council shall at or near a tidal work during the whole time of the construction, alteration, replacement, relaying or re-construction thereof, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Council fail to comply with any requirement of a direction given under this article, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Provision against danger to navigation

15.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Council shall as soon as is reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

(2) If the Council fail to notify Trinity House as required by this article, or to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Abatement of works abandoned or decayed

16.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Council at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works vested in the Council on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere, or to cause reasonable apprehension that it may interfere, with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice given under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Council, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be a debt due from the Council to the Crown and shall be recoverable from the Council.

Survey of tidal works

17. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work and any expenditure incurred by the Secretary of State in such a survey and examination shall be a debt due from the Council to the Crown and shall be recoverable from the Council.

Permanent lights on tidal works

18.—(1) The Council shall at the outer extremity of every tidal work exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct.

(2) If the Council fail without reasonable excuse to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.