

2000 No. 3389

HARBOURS, DOCKS, PIERS AND FERRIES

The Tor Bay Harbour Revision Order 2000

Made - - - - - *22nd December 2000*

Coming into force - - - *12th January 2001*

Whereas Torbay Council (being the harbour authority for Tor Bay Harbour) have applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

And whereas the Secretary of State for the Environment, Transport and the Regions having, in pursuance of paragraph A2 of Schedule 3 to the said Act(b), determined that the application is made in relation to a project which falls within Annex II to Council Directive 85/337/EEC(c) on the assessment of the effects of certain public and private projects on the environment and whose characteristics require that it should be made subject to an environmental assessment, has directed the applicant to supply him with the information referred to in Annex III to the Directive;

And whereas the Secretary of State has in accordance with paragraph 3A of the said Schedule, furnished bodies appearing to him to have environmental responsibilities with the information supplied to him under the said paragraph A2 of that Schedule and has consulted such bodies;

And whereas the Secretary of State has considered the information supplied under the said paragraph A2 and is satisfied as mentioned in subsection (2)(b) of the said section 14;

And whereas no objection to the application has been made pursuant to paragraph 3(a) of the said Schedule;

Now, therefore, the Secretary of State (being the appropriate Minister under subsection (7) of the said section 14(d)), in exercise of the powers conferred by that section and now vested in him(e), and of all other powers enabling him in that behalf, hereby makes the following Order:

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- (a) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2, 3, 4(1) and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.
(b) Paragraph A2 was inserted by the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996 (S.I. 1996/1946), regulation 2(2). Schedule 3 was amended by the Transport Act 1981, section 18 and Schedule 6, paragraphs 4(2) to (7) and 12 and by the Transport and Works Act 1992, Schedule 3, paragraph 10 and Schedule 4, Part II, S.I. 1988/1336 and S.I. 1996/1946.
(c) OJ No. L175, 5.7.85, p. 40.
(d) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).
(e) S.I. 1981/238 and S.I. 1997/2971.

[DOT 12347]

Citation and commencement

1.—(1) This Order may be cited as the Tor Bay Harbour Revision Order 2000 and shall come into force on 12th January 2001.

(2) The Tor Bay Harbour Acts 1970 to 1988(a) and this Order may be cited together as the Tor Bay Harbour Acts and Order 1970 to 2000.

Interpretation

2. In this Order—

“the 1970 Act” means the Tor Bay Harbour Act 1970(b);

“the 1983 Act” means the Tor Bay Harbour (Torquay Marina &c.) Act 1983(c);

“authorised works” means Works Nos. 1 to 6 and any other works authorised by this Order, or any part of such works;

“the bridge” means the opening bridge comprising Work No. 1;

“the Council” means Torbay Council;

“the deposited plans” and “the deposited sections” mean respectively the plans and sections (location plan and sheets numbered 1 to 6) prepared in duplicate, signed by the Head of Ports Division, Department of the Environment, Transport and the Regions and marked “Plans and sections referred to in the Tor Bay Harbour Revision Order 2000” one copy of which is deposited at the offices of the Department of the Environment, Transport and the Regions and the other at the offices of the Council;

“the harbour” has the same meaning as in section 4 of the 1970 Act;

“harbour undertaking” means the undertaking of the Council authorised by the Tor Bay Harbour Acts and Order 1970 to 2000;

“the level of high water” means the level of mean high-water springs;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

“master”, in relation to a vessel, means any person having or taking command, charge, management or conduct of the vessel for the time being;

“reference point” means Ordnance Survey National Grid reference point; and

“tidal work” means so much of any work authorised by this Order as is on, under or over tidal waters.

Power to construct, etc., works

3.—(1) Subject to the provisions of this Order, the Council may, in the lines and situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, construct and maintain the works hereinafter described with all necessary works and conveniences connected therewith—

Work No. 1

An opening bridge over the entrance between Torquay Inner Harbour and Torquay Outer Harbour, to be constructed in such a manner that it may be opened so as to afford a clear width at that entrance of not less than 8 metres at every level from the top of the flapgate forming part of Work No. 4 of the 1983 Act to a height upwards without limit above the level of high water, commencing at South Pier at reference point SX 9177163283 and terminating at the Old Fish Quay at reference point SX 9177063333.

Work No. 2

Piled moorings together with a pontoon system to be constructed or placed in Torquay Outer Harbour (having a ramp connection giving access to that system from Beacon Quay) commencing at reference point SX 9183063151 and terminating at reference point SX 9169063191.

(a) 1970 c. liii, 1983 c. x and 1988 c. xxii.

(b) 1970 c. liii.

(c) 1983 c. x.

Work No. 3

Piled moorings together with a pontoon to be constructed or placed in Torquay Outer Harbour (having a ramp connection giving access to that pontoon from Haldon Pier) commencing at reference point SX 9181663102 and terminating at reference point SX 9172763073.

Work No. 4

Demolition of existing slipways and the construction of an extended solid new quay face by means of the reclamation and infilling of the bed of the sea at Beacon Quay in Torquay Outer Harbour (comprising an area of approximately 1,550 square metres and incorporating a slipway) commencing at South Pier at reference point SX 9181663250 and terminating at Haldon Pier at reference point SX 9182463098.

Work No. 5

Piled moorings together with a pontoon to be constructed or placed in Torquay Outer Harbour (having a ramp connection giving access to that pontoon from Princess Pier) commencing at reference point SX 9144763237 and terminating at reference point SX 9152163154.

Work No. 6

The construction of a solid dinghy platform by means of the reclamation and infilling of the bed of the sea adjoining the south-eastern side of Haldon Pier (comprising an area of approximately 1,100 square metres and incorporating a slipway) commencing at reference point SX 9184163088 and terminating at reference point SX 9178663045.

(2) The Council may, within the limits of deviation, from time to time reconstruct, renew, alter, enlarge, replace or relay the authorised works and may maintain the same as reconstructed, renewed, altered, enlarged, replaced or relaid.

(3) Nothing in this article shall authorise the Council to demolish the existing slipways mentioned in Work No. 4 in paragraph (1) above without obtaining listed building consent in respect of that demolition under section 82 of the Planning (Listed Buildings and Conservation Areas) Act 1990(a).

Power to deviate

4. In constructing the works authorised by article 3 above the Council may deviate laterally from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels of those works shown on the deposited sections to any extent not exceeding three metres upwards or to such extent downwards as may be found necessary or convenient.

Opening of bridge

5.—(1) Subject to paragraph (2) below, the Council shall cause the bridge to be opened at such times and for such periods for the purpose of enabling the passage of vessels to or from Torquay Inner Harbour on receiving from the master not less than one hours' prior notice between the hours of 8 a.m. and 8 p.m. or two hours' prior notice at all other times notwithstanding that the use by pedestrians of the bridge may be prevented, delayed or interfered with by reason or in consequence thereof:

(2) In cases of emergency the Council shall use their best endeavours to open the bridge when requested by the master to do so in accordance with paragraph (1) above, at shorter notice than the applicable period specified above.

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

6.—(1) A tidal work shall not be constructed, reconstructed, renewed, enlarged or altered 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.

(a) 1990 c. 9.

(2) If a tidal work is constructed, reconstructed, renewed, enlarged or altered in contravention of paragraph (1) above or of any condition or restriction imposed under the said paragraph—

(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 30 days from the date when the notice 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

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself 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.

Application of provisions of 1983 Act

7. The following sections of the 1983 Act shall apply in relation to this Order as they apply in relation to that Act, namely:

section 4 (Power to make subsidiary and accommodation works);

section 6 (Provision against danger to navigation);

section 7 (Abatement of works abandoned or decayed);

section 8 (Survey of tidal works);

section 9 (Permanent lights on tidal works);

section 10 (Lights on tidal works during construction);

Saving for Trinity House

8. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Corporation of Trinity House of Deptford Strond.

Obstructing works

9. Any person who intentionally obstructs any person acting under the authority of the Council in setting out the lines of the works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Defence for Council in relation to certain offences

10.—(1) In any proceedings for an offence under sections 6, 9, and 10 of the 1983 Act as applied to this Order, it shall be a defence for the Council to prove that they took all reasonable precautions and exercised all due diligence to avoid commission of such an offence.

(2) If in any case the defence made under paragraph (1) above involves an allegation that the commission of the offence was due to the act or default of another person, the Council shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, they have served on the prosecution a notice in writing giving such information as was then in their possession identifying or assisting in the identification of that other person.

Crown rights

11.—(1) Nothing in this Order shall affect, prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, without prejudice to the generality of the foregoing nothing in this Order shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) or any rights of whatsoever description—

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or

(b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under paragraph (1) above may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Signed by authority of the Secretary of State
for the Environment, Transport and the Regions

22nd December 2000

Stephen Reeves
Head of Ports Division
Department of the Environment, Transport and the Regions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises the Torbay Council to construct works, including—

- (a) an opening bridge between Torquay Inner Harbour and Torquay Outer Harbour,
- (b) in Torquay Outer Harbour, demolition of existing slipways and construction of a new quay face by the reclamation and infilling of the bed of the harbour (incorporating a slipway) at Beacon Quay,
- (c) in Torquay Outer Harbour, piled moorings together with pontoons with ramp connections to Beacon Quay, Haldon Pier and Princess Pier, and
- (d) construction of a dinghy platform by the reclamation and infilling of the bed of the sea (incorporating a slipway) adjoining the south-eastern side of Haldon Pier.

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The Tor Bay Harbour Revision Order 2000

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