
STATUTORY INSTRUMENTS

2007 No. 3219

**The Felixstowe Dock and Railway
Harbour Revision Order 2007**

PART 2

WORKS PROVISIONS

Power to construct works

4.—(1) Subject to the provisions of this Order, the Company may, in the lines and situations and upon the lands delineated on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections, construct and maintain the following work, with all necessary works and conveniences connected therewith—

A quay, including berths for vessels, together with quayside cranes and a control tower, extending into Harwich Harbour from the walls of the Dock Basin and the existing quay lines and enclosing an area of 28.4 hectares of the bed of the Dock Basin and the bed of Harwich Harbour being the area enclosed by those walls and those quay lines and by an imaginary line commencing at a point at TM 2792333280 thence extending in a straight line to a point at TM2789333205, thence extending in a straight line to a point at TM2773333268, thence extending in a straight line to a point at TM2769833254, thence in a straight line to a point at TM2821431953, thence in a straight line to a point at TM2822731848 and thence in a straight line to a point at TM 2825731840.

(2) The Company may, for the purposes of the work authorised by paragraph (1), demolish and remove the structures lying within the limits of deviation (including the oil jetty, pipes, piers and pontoons) and enclose and reclaim so much of the bed of the Dock Basin and of Harwich Harbour and of the foreshore as lies within the limits of deviation and may hold and use the same as part of the undertaking.

(3) Subject to the provisions of this Order, the Company may, within the limits of deviation, reconstruct, extend, enlarge, replace or relay the work and may maintain the same as reconstructed, extended, enlarged, replaced or relaid.

(4) The work shall for all purposes form part of the undertaking.

Power to deviate

5.—(1) In the construction of the work the Company may deviate laterally from the lines or situations thereof shown on the deposited plans to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the work shown on the deposited sections to any extent not exceeding 1 metre upwards and to any extent downwards as may be necessary or convenient.

(2) When the work has been constructed the southerly and westerly limits of deviation shall be 44 metres seaward of the proposed viewing area, extending in a north-westerly direction 3 metres seaward of the proposed quay face and continuing north-westward to the northern limit of deviation.

Subsidiary works

6.—(1) The Company may from time to time within the limits of deviation provide and operate such dock facilities, together with works ancillary to those facilities, as may be necessary or convenient for the construction of the work or the operation of the undertaking, and for this purpose the Company may construct and maintain roads, buildings, sheds, offices, workshops, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires, mains, cables, electrical substations, signals, conveyors, cranes, container handling equipment, lifts, hoists, lighting columns, weighbridges, stairs, ladders, stages, platforms, catwalks, equipment, machinery and appliances and such other works and conveniences as may be necessary or expedient.

(2) Without prejudice to paragraph (1), the Company may within the limits of deviation carry out and maintain such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance or use of the work including—

- (a) works for the accommodation or convenience of vessels (including dolphins and pontoons); and
- (b) works to alter the position of apparatus, including mains, sewers, drains, pipes, conduits, cables, electrical substations and electrical lines.

(3) Article 3 of, and Parts 11 and 17 in Schedule 2 to, the Town and Country Planning (General Permitted Development) Order 1995⁽¹⁾ (which respectively permit development authorised by a harbour revision order designating specifically both the nature of the development authorised and the land on which it may be carried out and development of operational land in respect of a dock or harbour undertaking) shall have effect in relation to a work as if the authority to develop given thereunder excluded buildings or any other structures or erections (including, without prejudice to the generality of the foregoing, stacks of goods, materials or shipping containers) above a height of 17 metres from ground level as shown on the deposited plans, other than the control tower, lights and lighting towers, cranes, trolleys, gantries, jibs or booms required for the construction of the work or the operation of the undertaking.

Period for completion of work

7.—(1) Subject to paragraph (2), if the work is not completed within ten years from the coming into force of this Order or such extended time as the Secretary of State may on the application of the Company allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to the Company for making and maintaining the works shall cease except as to so much thereof as is then substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under paragraph (3) of article 4 or article 6.

Viewing area for members of public

8. At any time after the work has been constructed, the Company may, in substitution for the existing public viewing area shown stippled black on sheet 2 of the deposited plans, carry out and maintain on, or on any part of, the land shown hatched black on that sheet works to provide the proposed viewing area accessible by and for the use of members of the public including a means of pedestrian and vehicular access over, or over any part of, the land shown cross hatched black on that sheet.

(1) [S.I. 1995/418](#).

Power to dredge

9.—(1) The Company may, for the purposes of constructing and maintaining the work and of affording access to the work by vessels, from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the river as adjoin or are near to the work and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995⁽²⁾) from time to time dredged by them.

(2) No such materials shall be laid down or deposited—

(a) in contravention of the provisions of any enactment as respects the disposal of waste; or

(b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(3) The Company shall consult with Harwich Haven Authority before exercising the powers conferred on them by this article.

Obstruction of work

10. Any person who intentionally obstructs any person acting under the authority of the Company in setting out the lines of the work, or who interferes with, 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.

Planning, etc. jurisdiction

11.—(1) During the period beginning with the date when this Order comes into force and ending on the accretion date, the area within the limits of deviation shall, for the purposes of the Control of Pollution Act 1974⁽³⁾ and the Town and Country Planning Act 1990⁽⁴⁾, be annexed to and incorporated with the district of Suffolk Coastal.

(2) On the accretion date, the area of the whole or of so much of the works authorised by article 4 and article 6 as shall have been completed or substantially commenced shall be annexed to and incorporated with the Town of Felixstowe, the district of Suffolk Coastal and the county of Suffolk.

(3) In this article “accretion date” means the date when the works so authorised have been completed or, if sooner, the date when the powers granted by this Order cease to have effect pursuant to article 7.

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

12.—(1) Unless its construction has commenced within five years of the coming into force of this Order, no tidal work shall be constructed, reconstructed, extended, enlarged, replaced or relaid 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 that work is begun.

(2) Any request for the approval of the Secretary of State under paragraph (1) shall be accompanied by written evidence to demonstrate to the satisfaction of the Secretary of State that Schedule 2 has been complied with as respects the tidal work for which approval is being requested.

(3) If a tidal work is constructed, reconstructed, extended, enlarged, replaced or relaid in contravention of paragraph (1) or of any condition or restriction imposed under that paragraph—

(a) the Secretary of State may by notice in writing require the Company at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition;

(2) 1995 c. 21, *see* section 255(1).

(3) 1974 c. 40.

(4) 1990 c. 8.

and, if on the expiration of 30 days from the date when the notice is served upon the Company they have failed to take reasonable steps to comply with the requirements of the notice, the Secretary of State may take whatever steps she considers appropriate to achieve the result required by the notice; or

- (b) if it appears to the Secretary of State urgently necessary so to do, she 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 Company.

Lights on tidal works etc., during construction

13.—(1) The Company shall at or near—

- (a) a tidal work, including any temporary work; or
- (b) any plant, equipment or other obstruction placed, in connection with any work authorised by article 4 or article 6, within the area of seaward construction activity,

during the whole time of the construction, reconstruction, extension, enlargement, replacement or relaying 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 and the Harwich Haven Authority or, failing agreement between them, the Secretary of State may from time to time direct.

(2) If the Company fail to comply in any respect with any direction given under paragraph (1), they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Provision against danger to navigation

14.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Company shall as soon as reasonably practicable notify Harwich Haven Authority and Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Harwich Haven Authority and Trinity House or, failing agreement between them, Harwich Haven Authority may from time to time direct.

(2) If the Company fail to give the notification required by paragraph (1) or to comply in any respect with any direction given under that paragraph they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

15.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Company at their own expense either to repair and restore that work or any part thereof, or to remove that work and restore the site thereof 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 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 under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Company, they have failed to comply in any respect with the notice, the Secretary of State may

take whatever steps she considers appropriate to achieve the result required by the notice and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

Survey of tidal works

16. If the Secretary of State deems it expedient to do so, the Secretary of State may order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Company.

Permanent lights on tidal works

17.—(1) After the completion of a tidal work the Company shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps, if any, for the prevention of danger to navigation as Harwich Haven Authority and Trinity House or, failing agreement between them, Harwich Haven Authority may from time to time direct.

(2) If the Company fail to comply in any respect with any direction given under paragraph (1) they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.