
STATUTORY INSTRUMENTS

2010 No. 2414

HARBOURS, DOCKS, PIERS AND FERRIES

The Gosport Borough Council (Ferry Works) Harbour Revision Order 2010

Made - - - - 30th September 2010

Coming into force - - 8th October 2010

Gosport Borough Council has applied for a harbour revision order under section 14 of the Harbours Act 1964(1):

Objections to the making of this Order were received and have now been withdrawn.

The Secretary of State for Transport is satisfied as mentioned in section 14(2)(b) of that Act.

The Secretary of State (being the appropriate Minister under section 14(7)(2) of that Act) makes the following Order in exercise of the powers conferred by section 14 and now vested in the Secretary of State (3):

Citation and commencement

1. This Order may be cited as The Gosport Borough Council (Ferry Works) Harbour Revision Order 2010 and shall come into force on 8th October 2010.

Interpretation

2. In this Order—

“the authorised works” has the meaning given in article 3(2);

“the Council” means the Council of the Borough of Gosport;

“the deposited plan” and “the deposited section” mean respectively the plan and section comprising a single sheet prepared in duplicate, signed by the Head of Ports Division in the Department for Transport and marked “Plan and section referred to in The Gosport Borough Council (Ferry Works) Harbour Revision Order 2010” one copy of which is deposited at the Department for Transport’s offices and the other at the principal office of the Council;

(1) 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, section 40 and Schedule 12 (Part II), by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 1, by S.I. 2006/1177, regulation 2 and Part 1 of the Schedule, by the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraphs 8 and 9 and by S.I. 2009/1941, articles 1(2), 2(1) and Schedule 1, paragraph 12.

(2) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(3) S.I. 1981/238, S.I. 1997/2971, S.I. 2001/2568 and S.I. 2002/2626.

“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 plan;

“tidal work” means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“Queen’s Harbour Master” means the person appointed to be Queen’s Harbour Master of the Dockyard Port of Portsmouth under the Dockyard Ports Regulation Act 1865(4);

“Trinity House” means the Corporation of Trinity House of Deptford Strond.

Power to construct etc. works

3.—(1) The Council may construct and maintain the authorised works in the lines and situation, within the limits of deviation and in accordance with the levels shown on the deposited plan and deposited section.

(2) The authorised works are a landing stage together with access ways, mooring piles and such other works and conveniences as may from time to time be requisite or expedient for the purposes of or in connection with, the construction, maintenance and use of the landing stage.

(3) For the purposes of the authorised works, the Council may demolish and remove any existing structure or apparatus within the limits of deviation.

Power to deviate

4. In the construction or maintenance of the authorised works, the Council may deviate laterally from the lines or situations shown on the deposited plan to any extent within the limits of deviation and may deviate vertically from the levels shown on the deposited section to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

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

5.—(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) 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 Council at their own expense to remove the tidal work or any part of it and restore the site to its former condition; and, if on the expiration of 30 days from the date when notice is served upon the Council they have failed to take reasonable steps to comply with the requirements of the notice, the Secretary of State may take whatever steps the Secretary of State considers appropriate to achieve the result required by the notice; or

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

Amendment of Hampshire Act 1983

6.—(1) Part VI of the Hampshire Act 1983 (Ferry from Gosport to Portsmouth)(5) is amended as follows.

(2) In section 47 (interpretation of Part VI)—

(a) in the definition of “the landing stage” leave out “the floating landing stage (Work No. 3) and the bridge (Work No. 4)” and “respectively” and insert at the end “and the works authorised by the Order of 2010”;

(b) after that definition insert the following definition—

““the Order of 2010” means the Gosport Borough Council (Ferry Works) Harbour Revision Order 2010.”.

(3) In subsection (2) of section 48 (management of ferry works and lands, etc.) after “specified” insert “in the Order of 2010 and”.

Saving for Trinity House and Queen’s Harbour Master

7. Nothing in this Order shall prejudice or derogate from any of the powers, rights or privileges, or the jurisdiction or authority of, Trinity House or the Queen’s Harbour Master whether conferred by or under any other enactment or otherwise.

Saving for Crown rights

8.—(1) Nothing in this Order affects prejudicially any estate, interest, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order shall authorise the Council to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any part of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

(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) 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 Transport

30th September 2010

R C Bennett
Head of Ports Division
Department for Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Gosport Borough Council to replace the existing landing stage which is used by the cross-harbour ferry in Gosport and to maintain and renew a new landing stage in its place.

Copies of the plan and section relating to the Order are available for inspection at the offices of Gosport Borough Council, Town Hall, High Street, Gosport, Hampshire PO12 1EB.