

2000 No. 2251

HARBOURS, DOCKS, PIERS AND FERRIES

**The Portsmouth (Millennium Waterbus Landing Stages)
Harbour Revision Order 2000**

Made - - - - - 21st August 2000

Coming into force 4th September 2000

Whereas Portsmouth City Council and Gosport Borough Council 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, in pursuance of paragraph 1A 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 the Council Directive No. 85/337/EEC(c) on the assessment of the effects of certain public and private projects on the environment but whose characteristics do not require that it should be made subject to an environmental assessment;

And whereas objections duly made to the Secretary of State pursuant to paragraph 4 of Schedule 3 to that Act(d) have been withdrawn;

And whereas the Secretary of State for the Environment, Transport and the Regions is satisfied as mentioned in subsection (2)(b) of the said Section 14;

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

Citation and commencement

1. This Order may be cited as the Portsmouth (Millennium Waterbus Landing Stages) Harbour Revision Order 2000 and shall come into force on 4th September 2000.

(a) 1964 c. 40; Section 14 and Schedule 3 were amended by the Transport Act 1981 (c. 56); Section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14; Schedule 3 was also amended by the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (S.I. 1988/1336).
(b) Paragraph 1A was inserted by the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (S.I. 1988/1336), regulations 3 and 4 and amended by S.I. 1992/1421.
(c) O.J. No. L175, 5.7.85, p. 40.
(d) Paragraph 4 was amended by the Transport Act 1981, sections 15(2) and 40(1), Schedule 5, paragraph 14 and Schedule 12, Part II and by the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996, regulations 1(2), 2(1) and (6).
(e) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).
(f) S.I. 1981/238; S.I. 1997/2971.

Interpretation

2.—(1) In this Order—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(a);

“the authorised works” means all or any of the works authorised by this Order or any part of those works, and where any part of those works remain uncompleted, includes the site thereof;

“the Borough Council” means the Gosport Borough Council;

“the City Council” means the Portsmouth City Council;

“the Councils” means both the Borough Council and the City Council;

“deposited plan” and “deposited sections” means the three plans and sections each of which is prepared in duplicate signed by the Head of Ports Division in the Department of the Environment, Transport and the Regions and marked “Plan and sections referred to in the Portsmouth Harbour (Millennium Waterbus Landing Stages) Harbour Revision Order 2000”, of which one copy of each of the plans is deposited at the offices of the Department of the Environment, Transport and the Regions and one at the offices of the Director of Corporate Services of the City Council;

“enactment” means any enactment whether public general or local and includes any order, bye-law, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“Harbour Master” means in respect of the Camber Landing Stage and the Gunwharf Landing Stage the Harbour Master appointed from time to time by the City Council and in respect of HMS Alliance Landing Stage such person or body as the Borough Council shall nominate in writing to the Secretary of State and the Queen’s Harbour Master from time to time;

“the Landing Stages” means the Camber Landing Stage, the Gunwharf Landing Stage and the HMS Alliance Landing Stage;

“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 plan;

“the Camber Landing Stage” means the landing stage to be constructed at the Camber, Portsmouth as part of the authorised works;

“the Gunwharf Landing Stage” means the landing stage to be constructed at Gunwharf, Portsmouth Harbour as part of the authorised works;

“the HMS Alliance Landing Stage” means the landing stage to be constructed at HMS Alliance, Gosport as part of the authorised works;

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

“tidal work” means so much of the authorised works as is on, under or over any part of the seashore lying below the level of high water;

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

“vessel” includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water.

(2) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance and length.

Incorporation of Act of 1847

3.—(1) Subject to paragraph (2) below, the Act of 1847 (except sections 6 to 13, 16 to 20, 23, 25 to 27, 31, 48, 49, 50, 67, 79 to 82, 84 to 90, 95, 97 and 98 and so much of the proviso to section

(a) 1847 c. 27.

(b) 1865 c. 125.

83 as follows the words “the special Act”), so far as the same is applicable for the purposes of and is not inconsistent with, or varied by, the provisions of this Order, is hereby incorporated with this Order.

(2) In the Act of 1847 so incorporated—

- (a) section 15 of the Act of 1847 shall have effect as if, for the words from “shall forfeit” to the end of the section, there were substituted the words “shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale”;
- (b) section 34 of the Act of 1847 shall have effect as if, after the word “may”, there were inserted the words “(on producing, if so required, a duly authenticated document showing his authority)”;
- (c) section 63 of the Act of 1847 shall have effect as if the words “and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition” were omitted; and
- (d) section 69 of the Act of 1847 shall have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

(3) In the construction of the Act of 1847 as so incorporated the expression “the special Act” shall mean this Order and the expression “vessel” shall have the meaning assigned to it by Article 2(1) of this Order.

(4) For the purposes of section 83 of the Act of 1847 as so incorporated, sections 236 to 238 of the Local Government Act 1972(a) shall apply to this Order as if it were such an enactment as is referred to in the said section 236, and:—

- (a) for the purposes of the said section 236 the confirming authority for bye-laws made under the said section 83 shall be the Secretary of State for the Environment, Transport and the Regions; and
- (b) the said section 236 shall have effect as if in subsection (7) thereof after the word “confirm” where it first occurs the words “with or without modification” were inserted.

(5) If the Secretary of State, on considering bye-laws relating to the Landing Stages made by the City Council or the Borough Council or both, as the case may be, and submitted under the said section 236 as having effect in accordance with paragraph (4) above, proposes to make a modification which appears to him to be substantial, then—

- (a) he shall inform the City Council or the Borough Council, or both, as the case may be, as appropriate and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification; and
- (b) he shall not confirm the bye-laws until such period has elapsed as he thinks reasonable for the City Council or the Borough Council or both, as the case may be, and other persons who have been informed of the proposed modification to consider and comment on it.

Power to construct works

4.—(1) Subject to the provisions of this Order, the Councils (or others acting on their behalf) may, when they have acquired the necessary lands or obtained sufficient interests therein, make and maintain within the limits of deviation, the following works partly in the City of Portsmouth and partly in the Borough of Gosport:—

- (a) *The Camber* the construction at the Camber of a free floating pontoon measuring thirty metres in length by four metres in width secured in place by mooring piles. The south western corner of the pontoon will be located 8 metres north of the slipway toe and one metre seawards of the quay face. The pontoon will be positioned parallel with the face of the quay wall. A pedestrian gangway thirty two metres long and two metres four decimetres wide will extend out from a structural platform to be constructed on the face of the quay wall all within an area of land enclosed by the limit of deviation formed by an imaginary line commencing from the north west corner of the Camber Town Quay

(a) 1972 c. 70.

passing north for a distance of five metres thence in a westerly direction for a distance of twenty two metres thence in a northerly direction for a distance of forty eight metres thence in a westerly direction for a distance of twelve metres, thence generally following along the existing quay, slipway and Camber Town Quay back to the point of commencement;

- (b) *The Gunwharf* the construction of a free floating pontoon measuring twenty metres in length by ten metres in width positioned parallel with the north western quay wall of Gunwharf adjacent to Fisher Road and secured in place by mooring dolphins. The south western corner of the pontoon will be located twenty three metres north east of the south western end of the quay and one metre seawards of the quay face. A pedestrian gangway thirty two metres long and two metres four decimetres wide will extend out from a structural platform to be constructed on the face of the quay wall all within an area of land enclosed by the limit of deviation formed by an imaginary line commencing from the south western corner of the quay parallel with Fisher Road passing north west for a distance of fifteen metres thence in a north easterly direction for a distance of seventy three metres thence generally following the line of the existing quay back to the point of commencement; and
- (c) *HMS Alliance* the installation of one mooring pile to support the existing pontoon at HMS Alliance. The pile will be positioned eight metres out from the north western corner of the existing pontoon and in line with the pontoon's north berthing face all within an area of land enclosed by the limit of deviation formed by an imaginary line commencing at the south eastern corner of Haslar Jetty passing south easterly for a distance of five metres, thence in a north easterly direction for a distance of fifteen metres, thence in a north westerly direction for a distance of twenty five metres, thence in a south westerly direction for a distance of fifteen metres, thence to the point of commencement.

(2) The Councils may within the limits of deviation therefor extend, enlarge, alter, replace or relay the authorised works.

(3) The Councils may authorise any person to carry out the authorised works.

Power to deviate

5. In constructing the authorised works the Councils may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation and may divert vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

Further powers as to works

6. Subject to the provisions of this Order, the Councils may, in connection within the construction of the authorised works, enclose and reclaim from the foreshore and bed of the sea, and may hold and use as part of the Landing Stages, so much of the foreshore and bed of the sea as is situated within the limits of deviation and is required for, or in connection with, the construction of the authorised works.

Subsidiary works

7.—(1) Subject to paragraph (2) below and to the other provisions of this Order, the Councils may, in connection with the authorised works and within the limits of deviation, construct, erect, lay down, place, maintain, remove, replace, work or use all necessary or convenient bridges, abutments, booms, pontoons, fenders, bollards, ladders, tanks, pumps, conduits, pipes, wires, mains, cables, rails, signals, conveyors, cranes, lifts, hoists, passenger side loaders, drops, weighbridges, stairs, stages, platforms, catwalks, landing places, dolphins, piles, buoys, moorings, beacons, approaches, buildings, sheds, offices, depots, roads, walls, fences, gates, equipment, machinery and appliances and such other works and apparatus as they think fit.

(2) Electrical works, mechanical works or equipment constructed, erected, laid down, or placed or maintained, worked or used pursuant to the powers conferred by this article shall be so constructed, erected, laid down or placed, and so maintained, worked or used, that any electricity generated or conveyed by any such works or equipment or used therein or in connection therewith does not cause interference (whether by induction or otherwise) with any telecommunications apparatus or with telecommunication by means of any such apparatus.

Power to appropriate lands and works for particular trades etc

8.—(1) Notwithstanding anything in any statutory provision of local application the Councils may from time to time for the purpose of or in connection with the management of the Landing Stages set apart and appropriate all or any part of the Landing Stages for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Councils may think fit.

(2) No person or vessel shall make use of any part of the Landing Stages so set apart or appropriated without the consent of the Harbour Master or other duly authorised officer and the Harbour Master or, as the case may be, such officer, may order any person or vessel making use thereof without such consent to leave or be removed and the provisions of section 58 (Powers of harbour master as to mooring of vessels in harbour) of the 1847 Act shall extend and apply mutatis mutandis to and in relation to any such vessels.

Jurisdiction and directions of Harbour Master

9.—(1) Subject to paragraph (2) below, the limits within which the powers of the Harbour Master may be exercised under and subject to the provisions of the Act of 1847 as incorporated with this Order and all other powers enabling him in that behalf shall extend to a distance of 100 metres seawards from the authorised works in respect of the Camber Landing Stage and the Gunwharf Landing Stage and 10 metres seawards from the authorised works in respect of the HMS Alliance Landing Stage.

(2) The powers exercisable by virtue of this article shall be limited to vessels going to, moored at, or departing from the authorised works.

(3) Section 52 of the Act of 1847 as incorporated with this Order shall extend to empower the Harbour Master to give directions prohibiting the mooring of vessels in or near to any approach to the authorised works.

(4) In case of conflict between any direction given by the Harbour Master and any direction given by the Queen's Harbour Master, the directions given by the Queen's Harbour Master shall prevail.

Recovery of rates in respect of vessels

10. In addition to the remedy given by section 44 of the Act of 1847 as incorporated with this Order (recovery of rates in respect of vessels by distraint and sale of the vessel and its tackle), and whether or not the collector of rates has gone on board the vessel and demanded any rates which the master of the vessel has neglected or refused to pay, the City Council (in respect of the Camber Landing Stage and the Gunwharf Landing Stage) or the Borough Council (in respect of the HMS Alliance Landing Stage) may recover such rates as a debt in any court of competent jurisdiction.

Harbour Master may prevent sailing of vessels

11. The Harbour Master may prevent the removal or sailing from the authorised works of any vessel until evidence has been produced to him of the payment of any ship, passenger and goods dues and other charges payable in respect of the vessel or of passengers thereon or of the goods imported or exported therein.

Fine for obstructing works

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

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

13.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid or extended 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, enlarged, replaced, relaid or extended in contravention of this article—

- (a) the Secretary of State may by notice in writing require the City Council (in respect of the Camber Landing Stage and the Gunwharf Landing Stage) or the Borough Council (in respect of the HMS Alliance Landing Stage) at its 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 thirty days from the date when the notice is served upon the City Council or, as the case may be, the Borough 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 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 City Council or, as the case may be, the Borough Council, as a debt in any court of competent jurisdiction.

Provision against danger to navigation

14.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof forming part of the Camber Landing Stage or the Gunwharf Landing Stage the City Council shall, or in the case of injury to or destruction or decay of a tidal work or any part thereof forming part of the HMS Alliance Landing Stage the Borough Council shall, as soon as reasonably practicable notify Trinity House and the Queen's Harbour Master 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 either the City Council or the Borough Council shall fail to notify Trinity House or the Queen's Harbour Master as required by paragraph (1) above or to comply in any respect with a direction given under that paragraph, they shall be respectively 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 forming part of the Camber Landing Stage or the Gunwharf Landing Stage is abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the City Council at its own expense either to repair and restore the work or any part thereof, or to remove the 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 tidal work forming part of the HMS Alliance Landing Stage is abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the Borough Council at its own expense either to repair and restore the work or any part thereof, or to remove the 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.

(3) 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.

(4) If on the expiration of thirty days from the date when a notice under this article is served upon the City Council or, as the case may be, the Borough Council, it has 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 recoverable from the City Council or, as the case may be, the Borough Council, as a debt in any court of competent jurisdiction.

Survey of tidal works

16. If the Secretary of State at any time deems it expedient to do so, he 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 City Council in respect of expenditure incurred relating to the Camber Landing Stage or Gunwharf Landing Stage and from the Borough Council in respect of

expenditure incurred relating to the HMS Alliance Landing Stage as a debt in any court of competent jurisdiction.

Permanent lights on tidal works

17.—(1) After the completion of a tidal work the Councils shall at the outer extremity 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 Trinity House shall from time to time direct.

(2) If the City Council or the Borough Council fails to comply in any respect with a direction given under paragraph 1 above, that Council shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Lights on tidal works during construction

18.—(1) The Councils shall at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying or extension 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 Trinity House shall from time to time direct.

(2) If the City Council or the Borough Council fails to comply in any respect with a direction given under paragraph 1 above, that Council shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Recovery of fines

19. All fines and forfeitures recoverable under the provisions of the Act of 1847 as incorporated with this Order or under any bye-law made in pursuance of section 83 of the Act of 1847 as so incorporated may be recovered summarily.

Power to lease

20. The City Council (in respect of the Camber Landing Stage and the Gunwharf Landing Stage) and the Borough Council (in respect of the HMS Alliance Landing Stage) may lease or grant the use or occupation of, or any right or interest in or over any lands, works, buildings, equipment or other property forming part of such landing stages for harbour purposes for such period or periods and on such terms and conditions as shall be agreed between the City Council or, as the case may be, the Borough Council, and the person taking the same.

Extension of Section 86 of Portsmouth Corporation Act 1959

21. Section 86 (Powers with respect to disposal of wrecks) of the Portsmouth Corporation Act 1959^(a) shall have effect as if the references in subsections (1) and (7) of that section to any approach to the Inner and Outer Camber as extended by the quay works included references to the Camber Landing Stage and the Gunwharf Landing Stage.

Crown rights

22.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the Councils to take, use, enter upon or in any manner interfere with, any land, hereditaments, or rights of whatsoever description (including any part of the shore or bed of the sea or any other 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, and
- (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.

(a) 1959 c. xiv.

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(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 as appropriate.

Saving rights of Queen's Harbour Master

23. Nothing in this Order shall take away, alter, prejudice or affect the jurisdiction or any rights, powers, authorities or privileges of the Queen's Harbour Master.

Inquiries by Secretary of State

24. The Secretary of State may cause such inquiries to be held as he may consider necessary for the purposes of the exercise of any of his powers or duties under this Order, and subsections (2) to (5) inclusive of section 250 of the Local Government Act 1972 shall apply to any such inquiry as if it were a local inquiry held in pursuance of subsection (1) of that section.

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

21st August 2000

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

EXPLANATORY NOTE

(This note does not form part of the Order)

This Order empowers the Portsmouth City Council and Gosport Borough Council to construct landing stages at the Camber, Portsmouth, Gunwharf, Portsmouth and HMS Alliance, Gosport, and makes ancillary provision.

The deposited plan and sections defined in article 2 of the Order may be inspected during normal working hours at the offices of the Director of Corporate Services, Portsmouth City Council, Guildhall Square, Portsmouth PO1 2PX and at the offices of the Department of the Environment, Transport and the Regions at 76 Marsham Street, London SW1P 4DR.

2000 No. 2251

HARBOURS, DOCKS, PIERS AND FERRIES

The Portsmouth (Millennium Waterbus Landing Stages)
Harbour Revision Order 2000

£2.50

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Acts of Parliament

E 1412 08/00 ON (MFK)