

SCHEDULE 1

Article 14

APPLICATION OF PERMITTED DEVELOPMENT RIGHTS

PART I

Time limits

1.—(1) In their application to the works article 3 of, and Part 11 of Schedule 2 to, the 1995 Order (which permit development authorised by a harbour revision order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the planning permission granted by that Order were limited to such of the works as are substantially commenced within ten years from the coming into force of this Order, or such extended period as the Secretary of State may, on the application of A.B. Ports before the end of that ten year period, allow.

(2) Nothing in paragraph (1) above affects the carrying out of any development which consists of any reconstruction, renewal, alteration, replacement or relaying of the works.

Planning restrictions

2.—(1) In their application to the works, article 3 of, and Part 11 of Schedule 2 to, the 1995 Order shall have effect as if the planning permission granted by that Order were subject to the restrictions contained in paragraphs 3 to 11 below.

(2) In their application to other development carried out on land which falls to be treated as operational land of a dock or harbour undertaker by virtue of this Order, article 3 of, and Part 17 of Schedule 2 to, the 1995 Order shall have effect as if the planning permission granted by that Order, were subject to the restrictions contained in paragraphs 3 to 11 below.

(3) The restrictions contained in paragraphs 3 to 8 below do not apply to temporary construction activity.

(4) For the purpose of the Town and Country Planning Act 1990(1), the restrictions contained in paragraphs 3 to 11 below shall be deemed to be conditions imposed on the grant of planning permission.

Operational restrictions

3. The port operational use of the works shall be restricted to the handling of load-on load-off container traffic, and any use which is incidental or ancillary to the handling of such traffic.

4. Container stacks shall not exceed a maximum height of 13 metres above the level of Work No. 1.

5. No shore cranes shall exceed, with booms raised, a height of 80 metres above the level of Work No. 1.

6. No lighting columns shall exceed a height of 30 metres above the level of Work No. 1.

7.—(1) Before the commencement of operations at the site, and for so long as such operations continue, A.B. Ports shall provide and maintain the noise barrier authorised by article 5(2) at a height of 5 metres above the level of Work No. 1.

(2) In sub-paragraph (1), “the site” has the meaning given by paragraph 8(4) below.

(1) 1990 c. 8.

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

8.—(1) Operational noise emitted from the site (excluding noise arising from construction activities), shall be monitored in accordance with sub-paragraph (2) below and, to the extent that such noise is under the control of A.B. Ports, it shall be controlled so as not to exceed the limits stated in Table 1 measured at the specified location.

Table 1 Limits for Operating Noise

<i>(1) Period</i>	<i>(2) Time</i>	<i>(3) Noise Limit</i>	
Daytime:	Monday—Friday	0700–1900	53 dB L_{Aeq} (1 hour)
	Saturday	0900–1900	
Evening:	Monday—Saturday	1900–2300	46 dB L_{Aeq} (1hour)
Daytime:	Sunday and bank holidays	0900–1900	
Night-time:	Monday—Friday	2300–0700	44 dB L_{Aeq} (1 hour) 48 dB L_{Amax}
	Friday—Sunday	2300–0900	
	Sunday—Monday	1900–0700	

Note 1: L_{Aeq} (1 hour) shall be the highest recorded value over the time period.

Note 2: Measurements shall be disregarded if the wind speed measured at the location where the noise level is measured exceeds 5 metres per second.

Note 3: Measurements shall be disregarded if the level of background noise determined using the same units in accordance with sub-paragraph (2)(a) below is within 3 dB of the levels stated in Table 1.

Note 4: “Bank holiday” means a day specified as a bank holiday in or under the Banking and Financial Dealings Act 1971(2).

8.—(2) Before the commencement of operations at the site, a scheme for monitoring noise arising from those operations at the site shall have been submitted to and approved in writing by Kingston upon Hull City Council (“HCC”). The scheme shall provide for—

- (a) the supply, installation and maintenance of a monitoring system at the specified location, and at a location determined by calculation or measurement as suitable (by virtue of additional distance from the works, such that site-related noise is at least 7 dB lower than at the specified location) for measurement of background noise for a period of not less than six months ending not later than the time when operations at the site commence;
- (b) the monitoring system to be capable of inspection and interrogation by HCC and A.B. Ports at any time; and
- (c) continuous measurement and recording of wind speed either at the specified location or at a location from which the wind speed at the specified location can be inferred;

and once approved, the scheme shall be implemented in accordance with its terms.

- (a) (3) (a) In the event that noise levels at the specified location exceed the limits in Table 1, subject to the provisos of Note 2 and Note 3, A.B. Ports shall undertake further measurements to investigate and such further measures as may be necessary to identify the cause, and insofar as the source of the noise is under their control, take remedial action to reduce noise emission from the site to within the limits in Table 1 and take all reasonable action to prevent any repetition of a breach of the limits.

(2) 1971 c. 80; see section 1 and Schedule 1.

- (b) In the event that A.B. Ports is unable to identify the cause of increased noise levels, HCC may, by itself or through its duly authorised agent and at the expense of A.B. Ports, undertake such reasonable measurements and investigations as it deems necessary to identify the cause; and, in the further event that the cause is established by HCC, and that the source is under A.B. Ports' control, shall submit a programme of reasonable remedial action to reduce noise emission and prevent repetition and A.B Ports shall promptly undertake, at its own expense, the action specified.
- (4) In sub-paragraphs (1) to (3)—
- “the site” means the area of Work No. 1 as constructed and any area dredged under article 9;
- “the specified location” means a free-field location 4m above local ground level near and to the south of 27 Corinthian Way.

Construction restrictions

- 9.** For the purpose of constructing Work No. 1 the amount of fill material to be transported by road shall not exceed 200,000m³.
- 10.** The dredging of the berth area adjoining the quay face of Work No. 1 shall not be carried out until after completion of the noise barrier authorised by article 5(2) above.
- 11.**—(1) A code of construction practice shall be submitted to and approved in writing by HCC before commencement of construction of the works, and save insofar as any requirements of the code of construction practice may be waived by any requirements imposed in a notice served under section 60 or a consent given under section 61 of the Control of Pollution Act 1974⁽³⁾, such construction shall be carried out in accordance with the approved code of construction practice.
- (2) In this paragraph “code of construction practice” means a code setting out measures to be employed in the construction of the works so as to mitigate the impact of those works, based on the measures identified in the environmental information submitted to the Secretary of State in connection with the application for this Order.

PART II

- 12.** Regulation 60 of the Conservation (Natural Habitats, &c.) Regulations 1994⁽⁴⁾ (“the Habitats Regulations”) shall not apply to any planning permission which relates to the works and which is granted by article 3(1) of the 1995 Order for the class of development described as permitted development in Part 11 of Schedule 2 to that Order.
- 13.** If and to the extent that the works—
- (a) do not form part of the plan and project which was subject to an appropriate assessment in accordance with regulation 48 of the Habitats Regulations in connection with the making of this Order; and
- (b) are not subject to a further consent, permission or authorisation by a competent authority as defined in the Habitats Regulations,

paragraph 12 above shall not have the effect of disapplying regulation 60 of the Habitats Regulations in relation to any planning permission for the works.

⁽³⁾ 1974 c. 40.

⁽⁴⁾ S.I.1994/2716.