



Department for Transport

Winckworth Sherwood LLP
Solicitors and Parliamentary Agents
Minerva House
5 Montague Close
LONDON
SE1 9BB

Martin Woods
Head of the TWA Orders Unit
Department for Transport
Zone 1/14-18
Great Minster House
33 Horseferry Road
LONDON
SW1P 4DR

Enquiries: 020 7944 3293
Email: transportandworksact@dft.gov.uk

Web Site: www.gov.uk/dft/twa

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Dear Sirs,

TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED HAYLE HARBOUR (PENPOL CREEK FOOTBRIDGE) ORDER

1. I am directed by the Secretary of State to say that consideration has been given to the application made on 30 June 2015 by your clients, Hayle Harbour Authority Limited and Peveril Securities Limited ("the applicants") for the proposed Hayle Harbour (Penpol Creek Footbridge) Order ("the Order"), to be made under sections 3 and 5 of the Transport and Works Act 1992 ("the TWA").

2. The Order, if made, would authorise the construction and maintenance of a fixed pedestrian footbridge over Penpol Creek in Hayle Harbour in Cornwall, running from the South Quay of the harbour to Penpol Terrace in Hayle town centre. Planning permission for the footbridge was granted by the local planning authority, Cornwall Council, on 27 January 2015 (reference number PA 14/04724).

Summary of the Secretary of State's decision

3. For the reasons given in this letter, the Secretary of State has decided to make the Order.

The Order application

4. In making this application, the applicants complied with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. This included serving copies of the application and the accompanying documents on the persons specified in those Rules and making the documents available for public inspection. As also required by those Rules, the applicants published notices

giving information about the application and how to make representations. The applicants provided an Environmental Statement with the application.

5. In response to the application, the Secretary of State received no objections nor any other representations.

Purpose of the Order

6. The proposed footbridge would interfere with rights of navigation by introducing a height restriction on vessels navigating to moorings beyond the bridge. Since, in the opinion of the Secretary of State, the primary object of the Order could not be achieved by means of an Order under the Harbours Act 1964 or the Highways Act 1980, he accepts that it was appropriate for the applicants to seek statutory authority for constructing the footbridge by way of a TWA Order.

7. The applicants explained in their application that the footbridge would improve connectivity between the South Quay and Foundry areas of Hayle Harbour (which are the subject of major redevelopment proposals) and the town centre of Hayle. The applicants considered that the footbridge, which would be for use by pedestrians and cyclists only, would play an important part in the ongoing regeneration of Hayle Harbour and the town more generally by encouraging pedestrian circulation and footfall around the area.

Secretary of State's consideration and decision

8. The Secretary of State has considered the information contained in the Order application. He notes that the proposed footbridge would support the ongoing development of the South Quay and other areas in Hayle Harbour, which once complete will comprise commercial and residential elements and a new marina. He recognises that, without the footbridge, the route between the new development and the town centre would be longer and less convenient. He notes further that Cornwall Council consider that provision of the footbridge is fundamentally important to the redevelopment of the harbour as it would significantly improve its connectivity and would foster increased use of sustainable transport measures over car use. To that end, the Council has made a section 106 agreement in connection with the redevelopment of the South Quay obliging the developer to seek the necessary consents for the footbridge.

9. With regard to the navigational impacts of the footbridge, the Secretary of State notes that approximately 36 vessels with masts would need to be relocated within the harbour area as a result of constructing the bridge, but that with the regeneration of the South Quay the net number of moorings in the harbour would increase. It would be the responsibility of the harbour authority to manage a mooring plan to minimise the effect of the bridge on commercial and leisure boat users. None of those who would be affected by the changes to moorings have made representations about the Order application. As regards navigational safety, in response to consultation on the Order application, the Maritime and Coastguard Agency said it was content that any concerns could be addressed by suitably worded conditions attached to a Marine Licence under the Marine and Coastal Access Act 2009. An application for a Marine Licence for constructing the footbridge is currently before the Marine Management Organisation.

10. The Secretary of State is satisfied that the navigational impacts of the proposed footbridge are acceptable. Furthermore, he does not consider that it is necessary for him to await a decision on the Marine Licence application before he decides the Order application as the Marine Management Organisation has not raised any concerns with the Order application.

11. With regard to the obligations under section 14(3A) of the TWA, the Secretary of State confirms that before making this determination he considered the Environmental Statement submitted with the application. With regard to section 14(3AA) of the TWA, he considers that, on the basis of the Environmental Statement, the proposed footbridge would have no major adverse environmental effects. He is further satisfied that, with the proposed mitigation measures in place (including the Construction and Environmental Management Plan), the construction of the footbridge would have no significant adverse environmental impacts.

12. The Secretary of State has concluded that, in the light of the above considerations, it is in the public interest to authorise the footbridge. He has, accordingly, decided to make the Order, subject to a number of minor drafting amendments which do not make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA.

13. This letter constitutes the Secretary of State's notice of his determination to make the Order for the purpose of section 14(1)(a) and section 14(2) of the TWA. The applicants are required to publish a notice of the determination in accordance with section 14(4) of the TWA.

Challenge to decision

14. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

Yours sincerely,

Martin Woods

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the ground that –

- it is not within the powers of the TWA; or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days beginning with the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within 3 working days of the date of this decision letter.

A person who thinks they may have grounds for challenging the decision to make the Order is advised to seek legal advice before taking any action.