



Marine
Management
Organisation

Marine Management
Organisation
Lancaster House
Hampshire Court
Newcastle Upon Tyne
NE4 7YH

T 0191 376 2563
www.marinemanagement.org.uk

Andrew Hignett
Keystone Law
53 Davies Street
London
W1K 5JH

Our reference: DC9847

12 June 2015

Dear Mr Hignett,

**The Harbours Act 1964
The Poole Harbour Revision (Works) Order 2015**

1. The Marine Management Organisation (“the MMO”) informs you that consideration has been given to the application for The Poole Harbour Revision (Works) Order 2015 (“the Order”) for which you applied on behalf of Poole Harbour Commissioners (“the applicant”), under Section 14 of the Harbours Act 1964 (“the Act”) on 6 June 2014.

Summary of Decision

2. The MMO has authorised the making of the Order with amendments and modifications which it considers necessary and appropriate.
3. The Order authorises 5 phases of development to create a new deep water quay, strengthen, extend and deepen the existing conventional quays within the port and reclaim land to create additional land adjacent to these new and extended quays. The final phase of works will comprise the reconstruction of two existing roll-on roll-off (Ro-Ro) berths.
4. The MMO determined that the proposed Order would authorise a project. Accordingly Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment applies to the proposal and an environmental statement (ES) has been supplied with the application.
5. The MMO has also granted a marine licence for works associated with the first 3 phases of development authorised by the Order.
6. The MMO screened that application under the Marine Works (Environmental Impact Assessment) Regulations 2007 (As Amended) (“the MWR”) and determined that Environmental Impact Assessment (EIA) was not required under the MWR by virtue of regulation 10 because it was satisfied that assessment of any effects on the environment of the project in question was to be carried out by the MMO under the Act.



Context

7. The applicant is the statutory harbour authority for the port of Poole (“the Port”) and operates under Acts and orders dated 1914 to 2012.
8. The applicant is a Trust Port. Trust Ports are independent statutory bodies, each governed by their own unique statutes. There are no shareholders or owners and any surplus is ploughed back into the respective Trust Port for the benefit of its stakeholders.
9. The Government requires Trust Ports to be run as commercial businesses and one of the applicant’s key business objectives is therefore to ensure that the commercial port remains competitive in the face of changing markets. In order that this objective can be achieved and maintained, it is necessary to strengthen and broaden the Port’s capabilities to adapt to market trends.
10. As a Trust Port, all profits realised by the applicant are reinvested in the Port to enhance the existing port and facilities and fund new developments. The applicant’s commercial activities account for approximately 90% of its revenue and are therefore crucial in ensuring that the organisation can meet its legislative (including conservancy and environmental) and fiduciary responsibilities.
11. The proposals reflect the applicant’s assessment of the infrastructure needs of both existing and potential new customers. For many years the ferry trade provided the Port with its core business. Much reduced passenger and vehicle numbers in recent years are witness to a general decline in ferry business in Poole and other south coast ports. Whilst other trades, notably dry bulk cargoes, have increased in importance, in order to provide long-term security for the Port it is considered necessary to enhance its capability to accommodate a wider range of trades. Studies undertaken by Fisher Associates have confirmed that if investment is not made in additional and deeper berths and additional land behind the quays for the Port’s core business, there is a significant risk that the Port will be left behind as the trend towards larger vessels leads to a shrinking market for its services.
12. The applicant’s ability to respond to the challenges and opportunities it faces, notably the maritime trend for larger and deeper draught vessels, is currently constrained by the limitations of its internal infrastructure, specifically the depth and length of its quays. The applicants need to be able to respond quickly and efficiently to changing market demands if the Port is to remain competitive. In the Port Master Plan, the applicant therefore set out a phased strategy of expanding the Port to take account of immediate and future likely demands, of which the proposals in the Order are a first, urgently needed, stage.
13. The National Policy Statement for Ports recognises that the provision of sufficient sea port capacity is and will remain an essential element in ensuring sustainable long-term growth and prosperity, and encourages sustainable port development and a competitive and efficient port industry. It confirms that judgements about where and when new developments might be proposed should be made on the basis of commercial factors by the port industry operating within a free market environment. The Government wishes to see port development being an engine for economic growth, supporting sustainable transport and providing additional capacity for the

development of renewable energy. At the same time it seeks to ensure that proposals meet legal, environmental and social constraints and objectives, including those in relevant European directives and corresponding national regulations.

14. Poole is one of a number of south coast ports that jointly link the economy of southern England with international markets. The closest are the major international deep-sea port of Southampton and the ports of Portsmouth and Portland, all of which have investment proposals designed to sustain their competitiveness into the future. As well as contributing to national port capability, the Port is an important component of the local and regional economy in its own right. It is also at the centre of a nationally significant cluster of marine-related businesses and has the potential to serve the development of offshore wind energy. The Order, which will also safeguard the Port's rail connection to the national network, will therefore have a correspondingly wide economic and social benefit.
15. The works contained in the Order are thus considered to be fully in line with Government policy. They are commercially driven and required to ensure that the Port remains competitive and retains and enhances its ability to support the economy of the surrounding area and the conservation of the sensitive environments within and the port.
16. The works described in the Order will provide long term security for the Port and its employees and safeguard existing jobs on the Port estate and local areas. The anticipated increase in the volume and diversity of trades attracted to the new and improved facilities will also provide new development employment opportunities.
17. The Order is sought to achieve Object 4 and Object 7B specified in Schedule 2 to the Act:

Object 4

'Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make bylaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above'

Paragraph 3 of that Schedule states:

'Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provisions of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of—

(a) improving, maintaining or managing the harbour;

(b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or

(c) regulating the carrying on by others of activities relating to the harbour or of activities on harbour land.'

Object 7B

'Extinguishing public rights of navigation for the purposes of works described in the order or works ancillary to such works, or permitting interference with the enjoyment of

such rights for the purposes of such works or for the purposes of works carried out by a person authorised by the authority to carry them out.'

18. In summary, it is the case for the applicant that the Order is necessary to improve the Ports capacity and capability to deal with a range of shipping and marine activities thus ensuring that the Port remains competitive as a regionally significant port.

Application procedure

19. An application for the Order and marine licence was submitted on behalf of the applicant to the MMO in June 2014.

20. Notice of the application for the Order and marine licence was published in the London Gazette on 19 June 2014 and in The Daily Echo on 19 June and 26 June 2014.

21. In addition, the MMO consulted:

- Centre for Environment, Fisheries and Aquaculture Science (CEFAS);
- Chamber of Shipping;
- Department for Transport;
- English Heritage (EH);
- Environment Agency (EA);
- Highways Agency (HA);
- Maritime and Coastguard Agency (MCA);
- Natural England (NE);
- Network Rail;
- Borough of Poole (BoP);
- Royal Society for the Protection of Birds;
- Royal Yachting Association (RYA);
- Inshore Fisheries Conservation Authority (IFCA);
- The Crown Estate (CE), and;
- Trinity House (TH);

22. A number of representations and one objection were received during the statutory 42 day period provided for in schedule 3 to the Act. These are summarised as follows:

CEFAS

23. Cefas responded to request additional information in respect of coastal processes, sediment quality and fisheries to inform their consideration of the EIA and conclude that the subjects had been adequately addressed in the ES.

Coastal processes:

24. The applicant used the Telemac-2D model ("the model") to calculate tidal heights which were validated against locally measured data. Modelled heights represented conditions well, however, no information was provided on the calibration and validation of the model with regards to tidal flows. This was required to provide confidence in the predictions made in the ES.

Fisheries:

25. Cefas were concerned that the local Environment Agency (EA) and the Game and Wildlife Conservation Trust (GWCT) had not been consulted with regard to fish ecology.
26. CEFAS also expressed view that:
 - The main text of the ES is vague in terms of shellfish, that there is little mention of the mollusc beds within Poole harbour and the potential for impacts upon them;
 - There is no consideration of the potential impact on commercial fisheries and no cumulative impact assessment conducted; and
 - The timing of works (anticipated Oct and March) needs to be addressed to reflect the critical importance of the spring for fish species such as smolts, sea trout and salmon.

MMO response

Coastal processes:

27. The applicant subsequently provided calibration data for the model which showed that the model performed correctly and indicated that previous use of the model to predict changes for a channel deepening in 2004 gave confidence in the values presented in the ES.

Fisheries:

28. The fish and shellfish desk-top study in the ES considers available information to provide data relating to the numbers of salmon utilising the catchment, and information to determine the likely periods when salmon and other diadromous species may be present in Poole Harbour, and/or migrating within the Rivers Frome and Piddle. The applicant provided the credentials of the study author and noted that the GWCT were consulted regularly as the report was written. The desk study carried out is sufficient and considers the species which are of particular issue in this area. This study also provided the information required in relation to shellfish species.
29. A definitive piling methodology is not available at this time as contractors have not yet been appointed, as such the timings of piling sessions is unknown. The applicant proposed that this be considered as part of the MMO's examination of the Construction Environmental Management Plan (CEMP) when the precise piling methodology will be known. The MMO is satisfied with the approach and notes Cefas and the EA are also content.
30. The additional information provided by the applicant in response to concerns raised was assessed by Cefas and a revised advice note was subsequently provided to the MMO which concluded that the ES was acceptable. The MMO notes Cefas are content that their original concerns have been addressed and adopts those conditions deemed appropriate.

31. The MMO agrees with the conclusions of CEFAS and is satisfied that the ES adequately meets the requirements of the EIA Directive.

EH

32. EH confirmed their satisfaction with the impacts predicted in the ES. In order to help mitigate impacts EH requested that a condition requiring the applicant to produce a written scheme of investigation (WSI) and dredge finds protocol for approval prior to the commencement of any works.

MMO response

33. MMO notes the comments of EH and concurs that the development and agreement of a WSI prior to the commencement of works is appropriate. An appropriate condition has been included on the marine licence.

EA

34. The EA raised concerns in respect of water quality, fisheries and flood risk.

Water quality:

35. The EA requested that sediment is sampled throughout the duration of the works of all phases for heavy metal contaminants, TBT and bacteria. The request arose because the ES suggested that some samples exceeded sediment quality guidelines and one sample showed high levels of Arsenic.
36. They advised that every precaution should be taken to prevent litter entering the marine environment. Marine litter has been identified as a key descriptor under the Marine Strategy Framework Directive contributing to the overall assessment of Good Environmental Status of our seas by 2020. Nearly 80% of marine litter comes from land based sources and can have serious ecological impacts on marine organisms both at the local and global scale.

Fisheries:

37. The EA had concerns regarding the potential impact of piling on migratory fish species. The EA have no objection to the use of vibro piling during the works but consider where percussive piling is necessary such the piling should be restricted to the period December to February to mitigate impact on salmon, sea trout and eels.

Flood risk:

38. The EA have no objection to the quay wall level indicated in the Flood Risk Assessment of 4.0mCD but highlight that the level is not in accordance with Borough of Poole Flood Risk Management Strategy as indicated in the ES. The EA suggest that the HRO be amended to state that the new quay wall can be up to 4.6mCD, providing flexibility and allowing for future improvements of the quay wall associated with climate change sea level rise.

MMO response

Water quality:

39. The applicant provided a set of sediment samples that were analysed by Cefas. The results of the analysis were also reviewed by the EA. The analysis showed that the dredged material was suitable for disposal at sea and that no areas were above action level 2. The high levels of Arsenic shown in the ES were due to a typographical error. On further analysis by the applicant it was shown that the levels were low enough for the material to be disposed of at sea. The EA confirmed they no longer required ongoing sampling during the works.
40. The applicant considers marine litter to be mainly associated with visiting cruise ships and confirmed they would endeavour to engage with operators in an effort to minimise litter from vessels. The EA requested that the applicant consider disseminating the message of environmental impacts following release of marine litter to all relevant stakeholders.

Fisheries:

41. The applicant requested CEFAS and the EA agree a unified position in respect of piling restriction periods.
42. The EA agreed with Cefas that further information regarding the piling operation was required in order to understand the level of risk to fish. Specifically:
 - the hammer energies involved;
 - the likely piling duration per pile; and
 - an estimate of the number of piles per day
43. The applicant agreed to provide the data requested in the CEMP prior to the works commencing. The MMO is satisfied with the proposed approach and has conditioned the marine licence to require that such information be provided for approval prior to the commencement of the works.

Flood risk:

44. The applicant wishes to maintain the present height in the Order and notes the EA's satisfaction with a height of 4.0mCD.
45. The MMO notes the views of the EA and the decision of the applicant and is satisfied that flood risk is adequately addressed.

HA

46. The HA responded to confirm its satisfaction with the applicants transport assessment and concluded no further assessment or mitigation was required.

MMO Response

47. MMO notes the conclusions of the HA that no further assessment or mitigation of traffic impacts is required to support the development. The MMO is satisfied with the predicted impacts arising from the project and agrees with the HA's conclusions.

MCA

48. The MCA advised that risk assessments should be conducted in line with the Port Marine Safety code and associated Guide to Good Practice.

MMO Response

49. The MMO acknowledges the advice of the MCA and provided a copy of the response to the applicant for information.

NE

50. NE requested additional information in respect of air pollution and water and sediment quality to inform their assessment of the information contained in the ES.

Air pollution:

51. The ES highlights that the development proposal will likely result in an increase in traffic to and from the port. NE's concern relates to the predicted elevated nitrogen oxide levels at Site of Special Scientific Interest (SSSI)/Special Protection Area (SPA) receptor sites due to additional vehicle movements arising from the works. NE asked for more information to allow them to advise no likely significant effect.
52. Specifically, NE indicated the assessment was not considered to be robust at the time for the following reasons:
1. The use of a 2% threshold of where an increase in nitrogen based pollution would be considered harmful is arbitrary and not justified or based upon referenced evidence sources.
 2. There is no effective consideration of the air pollution effects (nitrogen enrichment) in combination with other plans or projects, eg proposed road schemes to facilitate access to the port, residential developments
 3. No detailed consideration of alternatives to the proposal eg use of the rail link to the Port
 4. There is no consideration of the likely geographic effects (hence extent) on the designated sites features, a map showing the area of protected sites likely to be impacted by nitrogen based pollution and the additional annual deposition predicted.
 5. No consideration of effects on designated sites elsewhere, for example the Dorset Heathlands SPA and Dorset Heaths SAC are within 200m of other parts of the transport system.
 6. No consideration of effects on Poole Harbour Ramsar, a requirement under the National Planning Policy framework.

7. The mitigation currently proposed i.e. signs requesting drivers to switch of engines, is not effective or quantifiable and therefore cannot be considered at this time.
8. A number of assumptions made in the pollution assessment are questioned, e.g. the speed considered at Holes Bay Road exceeds the speed limit.

Water and sediment quality:

53. Clarification was sought in respect of the assessment of potential impacts on species and habitats arising from elevated concentrations of metals at the development site indicated by the ES. No information has been provided as to the concentration of contaminants at the receptor sites or how the range of sediment deposition relates to current operations.

MMO Response

Air pollution:

54. Point 1: The elevated level of nitrogen oxide translates to a nitrogen deposition increase of 1.16%, up to 27.53kg N/ha/yr from 27.22kg N/ha/yr. The accepted critical load for UK saltmarsh habitat is reported between 20-30kg N/ha/yr and, therefore, in both the without and with development scenarios the deposition lies within this range. Based on the above the applicant's assessment has identified that the effect of nitrate deposition on receptor sites would be that the viability of saltmarsh vegetation and its growth is not affected. The applicant met with NE regarding this issue and agreed to mitigate via a Nitrate Offsetting scheme.
55. Points 2-5: The transport assessment found that only localised roads in the vicinity of the Port of Poole were likely to exceed criteria for the need to undertake a transport assessment and this is where the air quality assessment was concentrated. Impacts further afield, such as on the A31 were shown to be small. Peak holiday traffic in August has a daily weekday variation of flows on the A31 of -2.8% to +4.6% which is greater than the greatest development impacts (1.6%) which might only occur from the Harbour development on certain days. Therefore, the effects on air quality would be equally affected and significant impacts on nitrate deposition unlikely.
56. Point 6: This is considered within the applicant's HRA report.
57. Point 7: No other options were deemed feasible to reduce emissions from vehicles on the harbour estate. This approach has been adopted elsewhere and the applicant has powers to enforce this. The nitrate offsetting proposals may provide a mechanism for considering alternative mitigation.
58. Point 8: The slightly higher speed on provides a worst case scenario with regards roadside nitrogen oxide contribution and nitrogen deposition.
59. In response to NE concerns the applicant provided more information on the methodology used to calculate the amount of nitrogen offsetting stated in the ES. The amount of land required for offsetting is 0.094Ha and will be implemented in agreement with Borough of Poole's planning guidance. NE has reviewed the calculations and methodologies used to derive them and are satisfied that it is a simple and logical approach.

Water and Sediment Quality:

60. The ES contains a Water and Sediment Quality Assessment report and cross references the ecological assessment undertaken. The sediment analysis undertaken by Cefas showed the material was below Action level 1 and suitable for disposal at sea.
61. NE confirmed their concerns have been addressed following consideration of the extra information supplied by the applicant and suggested conditions to be placed on any marine licence to mitigate potential impacts. NE also confirmed that the inclusion of the conditions on the marine licence will ensure there will be no likely significant effect on the Poole Harbour SPA.
62. The MMO is satisfied with the contents of the supplied information and has included conditions on the marine licence it considers necessary and appropriate. After carrying out its own assessment of the effects on the Poole Harbour SPA the MMO agrees with the conclusion of NE that there will not be a likely significant effect.

BoP

63. BoP provided a letter of support for the HRO.

MMO Response

64. MMO notes the position of Borough of Poole.

RYA

65. RYA had no comments to make on the respective applications.

MMO Response

66. MMO notes the position of the RYA.

TH

67. TH requested minor drafting modifications in respect of regulation 14(1) and 15(1) of the Order.

MMO response

68. The MMO notes drafting modifications requested are accepted by the applicant. The MMO is satisfied the proposed drafting modifications are necessary and appropriate and these are reflected in the Order.

Marina Developments Limited (MDL)

69. An objection was received on behalf of MDL. The main points of objection are:

1. The proposed commercial port will create a navigational hazard for the users of the channel to and from Holes Bay, Town Quay and Poole Quay Boat Haven.
2. Large vessels mooring and turning in the channel will obstruct craft travelling in and out of Holes Bay.
3. Increased navigational hazard due to vessels being released in waves from the lifting bridge.
4. Poole Quay Marina is often congested at the entrance.
5. The entrance to Poole Quay Marina is shared by the fishing fleet.
6. MDL are concerned the Order will compromise existing and potential leisure use in the harbour by interfering with access and use of the navigational channel safeguarded for the commercial port.

MMO response

The applicant responded to each point of objection as follows:

70. Point 1: The proposed commercial port development has been fully assessed in terms of Navigational Risk in Chapter 15 of the Environmental Statement (Navigational Risk Assessment) (NRA). Risk of collision is not considered to be a significant impact. In addition to this, in response to the consultation undertaken by the MMO, responses from the MCA and the RYA have confirmed that they have no objections to the scheme, with neither identifying any concerns over navigational risk.
71. The Port fully complies with the Port Marine Safety Code as audited by independent marine consultants and an independently appointed designated person. The Port will continue to comply in respect of any future developments at the Port
72. The applicant therefore concludes that there will be no navigational hazard as a result of the proposed development works.
73. Point 2: Fundamentally Rule 9 of the International Regulations for Preventing Collisions at Sea 1972 (as amended) refers in this instance. Analysis of previous years harbour authority records and pilotage acts suggest that the construction of the new berths, as outlined in the Order, would be unlikely to result in an increase of shipping movements around the port (at any one time) beyond that which has been experienced in previous years. Much higher levels of commercial vessel activity on Town Quay and upstream of Poole Bridge have been experienced in the past.
74. The applicant therefore concludes that this is a perceived issue only.
75. Point 3: With the 18% reduction of boats passing through the two bridges, it is clear that leisure use in Holes Bay has declined, partly due to the downturn in the economy and partly since the opening of the Twin Sails Bridge. The applicant therefore concludes that any perceived navigational hazard will be reduced due to the lower number of leisure vessels in the 'wave'.
76. Before the introduction of the two-bridge operation, the volume of marine traffic arriving in Little Channel as a 'wave' resulting from the lifting of Poole Bridge could be unlimited. With the NRA for Twin Sails Bridge restricting the number of craft in the basin to 60, the volume of the 'wave' is now known and controlled, and this is taken into account in the NRA for the proposal. To date the maximum volume has been 47.

77. 'Waves' of leisure craft will not increase the navigational hazard to more than currently exists or has existed since the opening of the Twin sails Bridge. The level of commercial activity in Little Channel at any one time is unlikely to exceed that experienced in previous years.
78. The Poole bridges' basin and approaches are areas that have been carefully risk assessed and as such are successfully managed. Regular reviews are undertaken by the Bridges Operating Board and it can be proven there are very few incidents on record other than offences against bylaws.
79. The applicant therefore concludes that the navigational hazard is not increased as a result of the proposed development works.
80. Point 4: Poole Quay Boat Haven (PQBH) is not exclusively a visitor marina; a significant number are resident berths occupied by residents having good local knowledge and understanding of the area, including safe passage in and out of the marina using the Little Channel.
81. The Harbour Master has confirmed it is very rare that a commercial ship swings off near the PQBH entrance. There are no incidents on record to show this is an area of conflict, and indeed very little evidence to suggest that the entrance to PQBH is often congested.
82. It should also be noted that the new commercial berths are not in the vicinity of the PQBH entrance.
83. PHC therefore conclude that there are no current congestion issued a PQBH entrance and there will be none as a result of the proposed development works.
84. Point 5: This matter is independent of the applicant's development proposals. Not with standing this the Port are not aware of any incidents of the type suggested, nor are there any records to suggest any such conflict. As above, it should be noted that the new commercial berths are not in the vicinity of the PQBH entrance.
85. The applicant therefore concludes that this is a perceived issue only.
86. Point 6: The Port ensures that all the varied interests of the harbour (commercial, recreational and environmental) operate in harmony, both for the common good and for the long term sustainability of the whole Harbour and its stakeholders. It is therefore wrong to assume that the navigational channel is safeguarded for the Port of Poole.
87. The navigational channel is for all to use safely with existing control measures in place which have been introduced following formal risk assessment and annual reviews. The independent NRA conducted as part of the Environmental Impact Assessment recommends additional control measures during construction and operational phases, and these are referenced in the application.
88. The MMO notes the response from Poole Harbour Commissioners who are the statutory harbour authority for the Port of Poole. After consultation with various

consultees including TH, MCA and having considering the content of the NRA in chapter 15 of the ES, the MMO concludes that navigational safety has been adequately assessed and can be appropriately managed through the implementation of mitigation measures identified in the NRA and Ports Safety Management System.

MMO consideration

89. Paragraph 19 of Schedule 3 to the Act provides that the MMO shall consider any ES supplied with the application, the result of any consultations, any opinion under paragraph 16(5) and the result of any consultations with other European Economic Area (EEA) states, any objections made and not withdrawn, any representations received and the report of any person who held an inquiry before making a determination.
90. Regulation 7 (1) (a) of the Conservation of Habitats and Species Regulations 2010 (“The 2010 Regulations”) provides that for the purposes of the 2010 Regulations ‘competent authority’ includes any Minister of the Crown [sic] government department, statutory undertaker, public body of any description or person holding office.
91. The MMO is therefore a competent authority for the purposes of the 2010 Regulations
92. Regulation 61 of the 2010 Regulations provides:

A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.
93. Section 14(1) of the Act provides for an order to be made under this section (“a harbour revision order”) in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties for achieving all or any of the objects set out in Schedule 2 to the Act.
94. By virtue of section 14(2)(a) a harbour revision order may not be made in relation to a harbour unless the MMO is satisfied that an appropriate written application has been made by the authority engaged in improving, maintaining or managing it or by a person appearing to it to have a substantial interest or body representative of persons appearing to it to have such an interest.
95. By virtue of section 14(2)(b) a harbour revision order shall not be made in relation to a harbour unless the MMO is satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, or of facilitating the efficient and economical transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships.

MMO's decision

96. The MMO has assessed the Order in line with the requirements of the EIA Directive and transposing legislation.
97. The MMO concludes that the environmental impacts of the works authorised by the Order have been adequately identified, described and assessed and is satisfied that the mitigation proposed in the ES is sufficient in combination with the conditions applied to the associated marine licence to enable the approval of the application.
98. The MMO also assessed the Order in accordance with the 2010 Regulations.
99. In its assessment the MMO considered the information provided by the applicant in support of their application and the advice of NE.
100. Having considered the application and supporting information in its assessment the MMO has determined that the project, either alone or in-combination with other plans or projects, is not likely to have a significant effect on the interest features of a designated European site in light of the sites conservation objectives.
101. In its consideration of the requirements of section 14(1) and in particular whether the Order is sought to achieve all or any of the Objects specified in Schedule 2 to the Act the MMO must be satisfied that all of the purposes for which the Order is sought are intra vires.
102. The MMO is satisfied that the purposes for which the Order is sought would achieve those objects set out in paragraph 17 above.
103. Consequently the MMO is satisfied that the Order in its current form meets the requirements of section 14(1) and 14(2)(a) of the Act.
104. The MMO concludes for the reasons set out by the applicant in their statement of support and summarised above that the making of the Order is desirable in respect of multiple purposes set out in section 14(2)(b) of the Act and should be made.
105. The MMO authorises the making of the Order with amendments and modifications which it considers necessary and appropriate.

Challenge to decisions

106. Information on the right to challenge this decision is set out in the Annex to this letter.

Yours sincerely



Mark Kirby

Inshore Licensing Team

D 0191 376 2563

E mark.kirby@marinemanagement.org.uk

Annex

Right to challenge orders made under sections 14 and 16 of the Harbours Act 1964

Any person who desires to question the making of the Order on the ground that there was no power to make the Order or that a requirement of the Harbours Act 1964 was not complied with in relation to the Order, may within 6 weeks from the date on which the Order becomes operative make an application for the purpose to the High Court or the Court of Session, as the case may be.

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.