



Decision Approval Document

Case Management Team

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| Case Manager | Andrew Watson |
| Case Officer | Mark Kirby |
| Approving Officer | Gregor McNiven |

Application details

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| Applicant name | Portsmouth City Council |
| Reference | DC0462 |
| Associated marine licence reference | none |
| Date received | 29/04/2013 |
| Title | Abolition of Portsmouth & Gosport Joint Board HRO |
| Type | Non works order |
| Description | Order to abolish the joint board who licence and regulate water boatmen |

Public notices and consultation

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| Did notices appear in accordance with the Act? | Yes |
| Original notices received? | Yes |
| Did the MMO consult? (*Applicant served documentation following direction from MMO) | Local Marine Management Organisation |
| | Department for Transport |
| | Maritime and Coastguard Agency |
| | Gosport Council |
| | Joint Board |

Representations

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| Total number of objections or representations received? | 2 |
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| Name | Category | Nature of representation | Within Statutory 42 day period? | Withdrawn? |
|---|----------|--------------------------|---------------------------------|-------------------|
| Marine and Coastguard Agency | Response | Response | Yes | No changes needed |
| Joint Board | Response | Supporting response | Yes | No changes needed |
| Has the applicant been given opportunity to respond/resolve objections/representations? | | Yes | | |
| Objections received and not withdrawn? | | none | | |

Public Inquiry

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| Public inquiry called? | No |
| Inquiry dates? | N/A |
| Notice of inquiry published? | N/A |
| Name of Inspector | N/A |
| Inspectors report received? | N/A |

Summary of inspector's findings

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| Inspector's recommendation | N/A |
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Environmental impact assessment (EIA)

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| Has the project been screened under relevant EIA regulations? Section and annex? | N/A |
| Scoping opinion issued? | N/A |
| Has EIA been conducted and environmental statement (ES) provided? | N/A |
| Does the ES cover everything detailed in scoping opinion? | N/A |
| Is there a related marine licence application? | N/A |
| Has the applicant request an opinion under the Marine Works (EIA) Regulations? | N/A |
| Has the MMO deferred to another set of regulations? | N/A |
| Has the project been advertised adequately with 42 days for representations? | N/A |
| Have copies of the notices been received? | N/A |

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| Has the EIA consent decision been issued to interested parties? | N/A |
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Location

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| Is there a cross-border element to the project? | N/A |
| Will the project have a likely significant effect (LSE) on another European Economic Area (EEA) state? | N/A |

Habitat Regulations

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| Is it feasible that the plan or project could have an effect of a protected site? | N/A |
| Is the proposal connected with the management of the protected site? | N/A |
| Will the plan or project either alone or in combination with other plans or projects have a likely significant effect on the interest features of the site in light of the conservation objectives? | N/A |
| Has an appropriate assessment been carried out? Did the assessment ascertain that the plan or project will not adversely affect the integrity of the site? | N/A |
| Are there any alternative solutions? | N/A |
| Are there reasons of overriding public interest? | N/A |

Marine conservation zone (MCZ)

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| Does the harbour revision order authorise an activity within or near to an area being put forward for or already designated as an MCZ? | N/A |
| Is the activity capable of affecting (other than insignificantly) either (i) the protected features of an MCZ or (ii) any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependant? | N/A |
| Is the MMO satisfied there is no significant risk of the activity hindering the conservation objectives stated for the MCZ? | N/A |
| Can the MMO exercise its functions to further the conservation objectives of the site? | N/A |
| Are there other means of proceeding with the act which would create a substantially lower risk of hindering the achievement of those objectives? This should include proceeding with it (a) in another manner, or (b) at another location? | N/A |
| Does the benefit to the public of proceeding with the act clearly outweigh the risk of damage to the environment that will be created by proceeding with it? | N/A |

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| Can the applicant satisfy the MMO that they will undertake or make arrangements for the undertaking of measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MCZ? | N/A |
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Water Framework Directive (WFD)

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| Has the Environment Agency advised the MMO to undertake a WFD assessment? | N/A |
| Has the Applicant provided information to undertake a WFD assessment? | N/A |
| Is the project compliant with the WFD? | N/A |
| If the project is not compliant with WFD, does article 4.7 apply? | N/A |

Policy

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| Relevant planning or policy considerations | none |
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MMO consideration (the tests)

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| Section 14(1) – Objects for whose achievement an HRO may be made. | <p>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. The relevant objects in respect of this application are:</p> <p>“Reconstituting the harbour authority by whom the harbour is being improved, maintained or managed or altering their constitution, or establishing, as the harbour authority, in lieu of the existing one, an existing body designated in that behalf or a body constituted for the purpose.”</p> <p>and:</p> <p>“Any object which, though not falling within any of the foregoing paragraphs, appears to the appropriate Minister to be one the achievement of which will conduce to the efficient functioning of the harbour.”</p> |
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| Section 14(2)(a) – Substantial interest. | 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. |
| Section 14(2)(b) – Desirability. | 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. |
| Section 14(2A) – Repealing legislation | By virtue of section 14(2A) the objects for achieving all or any of which a harbour revision order may be made in relation to a harbour include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour, or consolidating any statutory provisions of local application affecting the harbour; and subsection (2)(b) of this section does not apply to an order in so far as it is made for objects mentioned in this subsection. |

Fees

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| Application fee | £4000 |
| Inquiry costs | none |

MMO decision summary



The MMO agrees with the case for the Applicant and is satisfied for the reasons provided in paragraphs 23 to 28 that sections 14(1), 14(2)(a) and 14(2A) of the 1964 Act are met.

The MMO authorises the making of the Order with amendments and modifications not substantially affecting the character of the Order which it considers necessary and/or appropriate.

DfT (legal services)

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| Notice of intention to lay given? | 16/05/2014 |
| Coming into force date agreed? | 16/06/2014 |
| Appropriate documents finalised and sent? <ul style="list-style-type: none">• Statutory Instrument proforma• The Order• Explanatory memorandum• Relevant legislation | All sent |

Decision approval

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| Case Officer |  | Date | 16/05/2014 |
| Approving Officer |  | Date | 16/05/2014 |