



Andrew Hignett
Keystone Law
53 Davies Street
London
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Our reference: DC9792

12 June 2015

Dear Mr Hignett,

The Harbours Act 1964
The Littlehampton Harbour Revision Order 2014

1. The Marine Management Organisation (“the MMO”) informs you that consideration has been given to the application for the Littlehampton Harbour Revision Order 2014 (“the Order”) for which you applied on behalf of Littlehampton Harbour Board (“the applicant”), under Section 14 of the Harbours Act 1964 (“the Act”) on 24 April 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 would modernise and extend existing powers vested in the applicant and provide powers considered necessary for the efficient and economical management of the harbour.
4. In particular, the Order would clarify the definition of the harbour and extend the limits, authorise the disposal of land and property no longer required for the purposes of the harbour, authorise the applicant to provide harbour services and facilities, undertake certain commercial activities and confer power to give directions to vessels using it.
5. The proposed Order does not authorise a project for the purposes of Council Directive 85/337/EEC which is codified by Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment does not apply to the proposal, and accordingly an environmental statement was not required.

Context

6. The applicant is the statutory harbour authority for Littlehampton harbour (“the harbour”).



7. The harbour is a small tidal port at the mouth of the River Arun in West Sussex.
8. The harbour handles approximately 30,000 tons per annum of dry bulk cargo for vessels of up to around 2000GT; primarily for Lafarge Tarmac as the sole commercial operator in the harbour.
9. It also acts as home port for a small inshore fishing fleet of around 15 vessels and is the operating base for a similar sized charter sea angling fleet.
10. In addition to this commercial activity the harbour hosts significant leisure sailing activity in and around two independent yacht clubs and a marina.
11. The Port Marine Safety Code ("the Code") published by the Department for Transport in October 2009 applies to the applicant.
12. The Code *"establishes the principle of a national standard for every aspect of port marine safety, and aims to enhance safety for those who use or work in ports, their ships, passengers and the environment. It applies to port marine operations the well-established principles of risk assessment and safety management systems. It provides a measure by which harbour authorities can be accountable for the legal powers and duties which they have to run their harbours safely and help to discharge their obligations effectively"*.
13. The Code identifies a number of matters which harbour authorities must do in order to comply with the Code including reviewing existing powers and advises that harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation.
14. In particular, paragraph 3.4 of the Code states *"Harbour Authorities would be well advised to secure powers of general direction to support the effective management of vessels in their harbour waters, if they do not have them already"*.
15. The Order is sought to achieve the object specified in paragraph 4 of Schedule 2 to the Act:

"Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above".
16. In summary, it is the case for the applicant that the Order is consistent with relevant policy and is necessary to facilitate the efficient and economical management of the harbour.

Application procedure

17. On 24 April 2014 an application for the Order was submitted to the MMO.
18. Notice of the application for the Order was published in the London Gazette on 1 May 2014 and in the Littlehampton Gazette on the 1 May 2014 and 8 May 2014.
19. In addition the MMO consulted directly with:

- Angmering Park Estate
- Arun District Council
- Department for Transport
- Environment Agency
- Littlehampton Town Council
- Marine and Coastguard Agency
- Natural England
- Royal Yachting Association
- Chamber of Shipping
- The Crown Estate
- Trinity House
- West Sussex County Council
- Osborne of Arun Group (Management) Limited
- Littlehampton Marina
- Arun Yacht Club
- Littlehampton Yacht Club
- Sussex Inshore Fisheries Conservation Authority (IFCA)

20. A number of representations were received during the statutory 42 day period provided for in schedule 3 to the Act. No objections were received. Representations are summarised as follows:

Royal Yachting Association (RYA)

21. The RYA requested a minor drafting change to omit the words “or an adjacent site” from article 6(3).

MMO Response

22. The applicant agreed to the proposed drafting modification.
The MMO is satisfied that the drafting in its current form is appropriate.

Environment Agency (EA)

23. The EA requested that they be considered a ‘Designated Consultee’ for the purposes of any proposed direction under article 4 (general directions) which would have the potential to impact upon compliance with the Water Framework Directive.

MMO Response

24. The applicant acknowledges the EA’s request and confirmed that they would add the EA as a ‘Designated Consultee’ in the circumstances set out under the discretionary power provided to them in the article.

25. The MMO notes the request of the EA and their satisfaction with the commitment of the applicant to consult the EA in relevant circumstances. The MMO is satisfied with the agreement.

Natural England (NE)

26. NE advised that there would be no effect on any designated sites. They suggested that the local IFCA should be consulted as the order was to allow general directions.

MMO Response

27. The MMO consulted Sussex IFCA following the recommendation of NE. The MMO notes and agrees with NE's opinion that there will be no effect on any designated sites.

Department for Transport (DfT)

28. The DfT highlighted various policies to the MMO including the Home Office's draft code of conduct on powers of entry and asked that they be considered to ensure that the order is compliant with them.

MMO Response

29. The MMO has considered the response of the DfT and made amendments it considers necessary and appropriate to ensure compliance.

Angmering Park Estate (APE)

30. APE sought clarification in respect of potential impacts on their property or rights.

MMO response

31. The applicant provided clarification to the APE which resolved their concerns.

32. The MMO notes the savings contained in the Order for the Duke of Norfolk and Earl of Arundel and is satisfied the Order will not detrimentally affect the property or rights of the APE.

33. Following the close of the consultation period the applicant requested the Order be modified to extend the existing boundaries of their jurisdiction by a small margin to cover an area.

34. The MMO agreed to consider the modification as part of the application but determined that a second consultation with those parties it considered to have an interest in the boundary changes was appropriate.

35. No objections were received from those consulted but minor drafting modifications were made to the Order following comments in the responses. Modifications included clarification of harbour limits using geodetic points, and the inclusion of savings for the Crown Estate and Trinity House.

MMO consideration

36. 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.
37. 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.
38. 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

39. The MMO is satisfied that the Order meets the requirements of section 14(1) and 14(2)(a) of the Act.
40. The MMO is satisfied for the reasons set out by the applicant in their statement of support and summarised above and concludes that the making of the Order is desirable for the purposes of section 14(2)(b) of the Act and should be made.
41. The MMO authorises the making of the Order with amendments and modifications which it considers necessary and appropriate.

Challenge to decisions

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

Yours sincerely



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Annex

Right to challenge decisions

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.