



Ms Lara Moore
Ashfords LLP
[By email only]

Our reference:
HRO/2020/00007

7 March 2022

Dear Ms Lara Moore,

**The Harbours Act 1964
The Saint Mawes Pier and Harbour Revision Order 2022**

1. The Marine Management Organisation (“the MMO”) informs you that consideration has been given to the application for The Saint Mawes Pier and Harbour Revision Order 2022 (“the Order”) for which you applied on behalf of The Saint Mawes Pier and Harbour Company (“the applicant”), under Section 14 of the Harbours Act 1964 (“the Act”) on 8 October 2020.

Summary of Decision

2. The MMO has authorised the making of the Order with amendments and modifications not affecting the character of the Order which it considers necessary and appropriate.
3. The Order amends the Saint Mawes Pier and Harbour Act 1854 to reduce the required shareholding of an individual director from 10 shares to 5 shares. The Order also amends the Saint Mawes Pier and Harbour Act 1854 to permit up to two directors (from a total number of ten directors appointed) who do not hold any shares. This amendment is required to enable the applicant to comply with the Ports Good Governance Guidance (PGGG) by ensuring sufficient flexibility to appoint suitably experienced directors to the board.

Context

4. The applicant is the statutory harbour authority governed by its own local legislation collectively known as the Saint Mawes Pier and Harbour Act and Orders 1854 to 2022. The applicant is responsible for the management, administration, maintenance, and improvement of the Saint Mawes Pier and Harbour.
5. The Saint Mawes Pier and Harbour is located at St Mawes on the south coast of Cornwall. The Harbour limits are denoted by the points of Carricknath to the South, St Mawes Castle to the north, Polvarth Point in the east, and Amsterdam Point in the



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west. The Harbour has 132 moorings, with pontoons available in the inner harbour for yachts' tenders under 5m in length.

6. The Order is being sought because the current requirements for the selection of directors at the harbour means that there is only a small pool of people who are eligible to be selected as a director. The amendments contained within the Order would improve flexibility and allow for the selection of suitably experienced directors.
7. The Order is sought to achieve Object 1 specified in Schedule 2 to the Act:

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.

Application procedure

8. On 8 October 2020 an application for the Order was submitted to the MMO by Ashfords LLP on behalf of the applicant.
9. Notice of the application for the Order was advertised in the London Gazette on 4 May 2021 and in the Western Morning News on 4 May 2021 and 11 May 2021.
10. MMO consulted the following bodies, their responses are summarised below:

Organisation	Response received and actions
Department for Transport (DfT)	DfT raised no objection to the Order
Maritime and Coastguard Agency (MCA)	The MCA stated they had no objection to the Order itself. The MCA also highlighted the need for the applicant to comply with the Port Marine Safety Code and its Guide to Good Practice during the day to day operation of the harbour. The comments were passed to the applicant, however, compliance with the Code and its Guide to Good Practice during the day to day operation of the harbour were not relevant to the Order.
Trinity House	Trinity House notes and supports the saving provision for Trinity House and has no objections to the Order.
Cornwall Council	No response received.
Royal Yachting Association (RYA)	The RYA responded stating they had no comments to make on this application.
UK Major Ports Group	No response received.
British Ports Association (BPA)	The BPA responded that they do not represent the applicant and raise no objection or support for the Order.
Chamber of Shipping	No response received.
Duchy of Cornwall	No response received.

Public Representations

11. No public representations were received within the statutory 42-day period provided for in Schedule 3 to the Act.

MMO Consideration

12. During the MMO's review of the Order particular consideration was given to the wording of the amendments to the Saint Mawes Pier and Harbour Act 1854 to ensure that it was clear that the two non-shareholding directors would be counted within the total number of ten directors.
13. The MMO also gave consideration to the PGGG and concluded that the making of the Order would be in line with the guidance which highlights that a board of a statutory harbour authority needs to have an appropriate balance of skills, experience, independence, and knowledge while being of a sufficient size to meet its business requirements.
14. 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.
15. 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.
16. 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 Decision

17. The MMO is satisfied that the Order meets the requirements of section 14(1) and 14(2)(a) of the Act.
18. The MMO is satisfied that there are no objections to the application for the Order.
19. The MMO is satisfied for the reasons set out by the applicant in their statement of support, and summarised above, that the making of the Order (and each provision of the Order) is desirable for the purposes of sections 14(2)(a) and (b) of the Act and should be made.
20. The MMO authorises the making of the Order with amendments and modifications which it considers necessary and appropriate but not substantially affecting the character of the Order.

Challenges to Decision

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

Yours Sincerely

A handwritten signature in black ink that reads "Daniel Jose". The signature is written in a cursive style with a large initial 'D'.

Daniel Jose
Marine Licensing Case Officer

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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.

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.