

1988 No. 1519

HARBOURS, DOCKS, PIERS AND FERRIES

**The Portsmouth Mile End Quay Harbour
Revision Order 1988**

Made - - - -

29th July 1988

The Secretary of State for Transport in exercise of the powers conferred by section 14 of the Harbours Act 1964(a) and now vested in him(b) and of all other powers enabling him in that behalf, and on the application of the Portsmouth City Council, hereby makes the following Order:-

Citation

1.—(1) This Order may be cited as the Portsmouth Mile End Quay Harbour Revision Order 1988.

(2) The Portsmouth Mile End Quay Revision Orders 1966 to 1981 and this Order may be cited as the Portsmouth Mile End Quay Harbour Revision Orders 1966 to 1988.

Interpretation

2.—(1) In this Order the following expressions have the meanings hereby assigned to them respectively:-

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(c);

“the authorised works” means the works authorised by this Order or any part of those works;

“the Company” means P.D. Fuels Limited;

“the Council” means the Portsmouth City Council;

“the deposited plan” means the plan prepared in duplicate signed by an Assistant Secretary in the Department of Transport and marked “Plan and Sections referred to in the Portsmouth Mile End Quay Harbour Revision Order 1988”, of which one is deposited at the offices of the Department of Transport and one at the offices of the City Secretary and Solicitor of the Council;

“hovercraft” has the same meaning as in the Hovercraft Act 1968(d);

“the limits of deviation” means the limits of deviation shown on the deposited plan;

“the Mile End Quay undertaking” means the undertaking of the Council authorised by the Portsmouth Mile End Quay Harbour Revision Orders 1966 to 1988;

“the Order of 1966” means the Portsmouth Mile End Quay Revision Order 1966(e);

“the Order of 1973” means the Portsmouth Mile End Quay Revision Order 1973(f);

“the Order of 1981” means the Portsmouth Mile End Quay Revision Order 1981(g);

“vessel” includes every description of vessel used in navigation however propelled, any hovercraft and hydro-foil vessel and any aircraft designed to manoeuvre on the water.

(2) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance and length.

(a) 1964 c.40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4.

(b) S.I. 1981/238. (c) 1847 c.27. (d) 1968 c.59. (e) S.I. 196/982. (f) S.I. 1973/2135. (g) S.I. 1981/1632.

Incorporation of Act of 1847

3.—(1) The Act of 1847 (except sections 6 to 13, 16 to 20, 25 to 27, 31, 48, 49, 50, 67, 79 to 82, 84 to 90, 95, 97 and 98 and so much of the proviso to section 83 as follows the words “the special Act”), so far as the same is applicable for the purposes of and is not inconsistent with, or varied by, the provisions of this Order, is hereby incorporated with this Order.

Provided that—

- (a) section 15 of the Act of 1847 shall have effect as if for the words from “shall forfeit” to the end of the section, there were substituted the words “shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale”;
- (b) section 34 of the Act of 1847 shall have effect as if, after the word “may”, there were inserted the words “(producing if so required a duly authenticated document showing his authority)”;
- (c) section 63 of the Act of 1847 shall have effect as if the words “and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition” were omitted; and
- (d) section 69 of the Act of 1847 shall have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”;

(2) In the construction of the Act of 1847 as so incorporated the expression “the special Act” shall mean this Order and the expression “vessel” shall have the meaning assigned to it by article 2(1) of this Order.

(3) For the purposes of section 83 of the Act of 1847 as so incorporated sections 236 to 238 of the Local Government Act 1972(a) shall apply to this Order as if it were such an enactment as is referred to in the said section 236, and for the purposes of the said section 236 the confirming authority for byelaws made under the said section 83 shall be the Secretary of State.

Application of provisions of Orders of 1966 and 1973

4.—(1) The following provisions in the Orders of 1966 and 1973 shall apply to this Order, and in respect of the authorised works, as they apply to, and in respect of the works authorised by, those orders respectively;—

In the Order of 1966—

- Article 22 (Directions of harbour master);
- Article 23 (Recovery of rates in respect of vessels);
- Article 26 (Harbour master may prevent sailing of vessels);

In the Order of 1973—

- Article 8 (Power to dredge, etc.);
- Article 10 (Fine for obstructing works);
- Article 11 (Tidal works not to be executed without approval of Secretary of State);
- Article 12 (Provision against danger to navigation);
- Article 13 (Abatement of works abandoned or decayed);
- Article 14 (Survey of tidal works);
- Article 15 (Permanent lights on tidal works);
- Article 16 (Lights on tidal works during construction);
- Article 23 (Crown rights);
- Article 24 (Saving rights of Queen’s Harbour Master);
- Article 25 (Inquiries by Secretary of State).

(2) In the construction of the provisions specified in subsection (1) above as so applied to this Order expressions to which meanings are assigned in the Order of 1966 or, as the case may be, the Order of 1973 shall have the meanings so assigned, except that—

(a) 1972 c.70.

- (a) any reference in those provisions to works or, as the case may be, authorised works shall be taken as a reference to the works authorised by this Order;
- (b) any reference in those provisions to the Mile End Quay undertaking shall be taken as a reference to that undertaking as defined in this Order; and
- (c) in article 22 of the Order of 1966, for the reference to article 17 of that Order there shall be substituted reference to article 10 of this Order.

Power to construct works

5.—(1) Subject to the provisions of this Order, the Council may, when they have acquired the necessary lands or obtained sufficient interests therein, make and maintain, within the limits of deviation shown therefor upon the deposited plan the following works in the City of Portsmouth:—

Work No. 1 – A wharf and quay and an embankment and reclamation north and west of the existing Mile End Quay within an area of land enclosed by an imaginary line commencing at the northern end of the western face of the existing Rudmore Quay of the Company, passing in a westerly direction for a distance of 151 metres, thence turning to and passing in a south-westerly direction for a distance of 203 metres, thence in a south-easterly direction for a distance of 22 metres to a point on the north-west embankment of the existing Mile End Quay, thence passing generally along the northern face of the Mile End Quay to Mill Wharf and thence along the seaward face of Mill Wharf and Rudmore Quay to the point of commencement;

Work No. 2 – Two breasting dolphins situated with their north-west faces on a line extending north-eastward from the northern end of the quay (Work No. 1), comprising—

Work No. 2A – One such dolphin centred at a point 20 metres from the said northern end of that quay; and

Work No. 2B – One such dolphin centred at a point 47 metres from the said northern end of that quay.

(2) The Council may within the limits of deviation therefor extend, enlarge, alter, replace or relay the authorised works.

Power to deviate

6. In constructing the authorised works the Council may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation.

Further powers as to works

7. Subject to the provisions of this Order, the Council may, by means of the authorised works, enclose and reclaim from the foreshore and bed of the sea, and may hold and use as part of the Mile End Quay undertaking, so much of the foreshore and bed of the sea as is situate within the limits of deviation and is required for, or in connection with, the authorised works.

Subsidiary works

8. Subject to the provisions of this Order, the Council may, in connection with the authorised works and within the limits of deviation, construct, erect, lay down, place, maintain, work or use all necessary or convenient bridges, abutments, booms, pontoons, fenders, tanks, pumps, conduits, pipes, wires, mains, cables, rails, signals, conveyors, cranes, lifts, hoists, drops, weighbridges, stairs, stages, platforms, catwalks, landing places, dolphins, buoys, moorings, beacons, approaches, buildings, sheds, offices, depots, roads, walls, fences, gates, equipment, machinery and appliances and such other works and apparatus as they think fit:

Provided that electrical works or equipment constructed, erected, laid down or placed or maintained, worked or used pursuant to the powers conferred by this article shall be so constructed, erected, laid down or placed, and so maintained, worked or used, that any electricity generated or conveyed by any such works or equipment or used therein or in connection therewith does not cause interference (whether by induction or otherwise) with any telecommunications apparatus or with telecommunication by means of any such apparatus.

Rudmore and Mill Wharves

9. The provisions of this article shall have effect except as may be otherwise agreed in writing between the Council and the Company—

- (1) Subject as provided in paragraph (2) below, before carrying out works which will or may obstruct the existing access for vessels to, or the use of, the Mill Wharf and Rudmore Quays of the Company, so long as that access or use is continued by the Company, the Council shall construct so much of the authorised works as will provide for the relocation of the berthing facilities available to the Company at those quays and for the discharge of oil to the Company's existing tanks off Rudmore Road.
- (2) When the works to be constructed in accordance with paragraph (1) above have been completed, the Council shall, after giving due notice to the Company, proceed with completion of those works with all reasonable despatch, notwithstanding the obstruction thereby caused to the use of the Company's quays, in accordance with such arrangements for the avoidance or mitigation of interference with the Company's operations as may be agreed between the Council and the Company or in default of agreement, determined by arbitration.
- (3) On completion of so much of the authorised works as is referred to in paragraphs (1) and (2) above, the Council shall grant to the Company by lease under article 11 of this Order, such facilities as it may reasonably require for the berthing of vessels and the passage of persons and things between those vessels and the Company's existing depot between Rudmore Road and Rudmore Square, and the Council may then proceed with the completion of the authorised works.
- (4) Any difference arising between the Council and the Company under this article shall be referred to and settled by a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party after notice in writing to the other, by the President of the Institution of Civil Engineers.

Limits of harbour master's jurisdiction

10.—(1) Subject to the provisions of paragraph (2) of this article, the limits within which the powers of the harbour master of the Council may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Order, shall extend—

- (a) to a distance of 100 metres in every direction from the works from time to time comprising the Mile End Quay undertaking; and
- (b) to so much of the dredged channels provided for access to those works and for accommodation of vessels at those works under article 8 (Power to dredge, etc.) of the Order of 1973 (as having effect in accordance with this Order) as extend beyond 100 metres from those works.

(2) The powers exercisable by virtue of this article shall be limited to vessels going to, moored at, or departing from Mile End Quay.

(3) In case of conflict between any directions given by the harbour master of the Council and any directions given by the person for the time being appointed to be the Queen's Harbour Master of the Dockyard Port of Portsmouth under the Dockyard Ports Regulation Act 1865(a), the directions given by the Queen's Harbour Master shall prevail.

(a) 1865 c.125.

Power to lease

11. The Council may lease or grant the use or occupation of, or any right or interest in or over, any lands, works, buildings, equipment or other property forming part of their Mile End Quay undertaking for harbour purposes for such period or periods and on such terms and conditions as shall be agreed between the Council and the person taking the same.

Parking places

12. The Council may provide facilities within Mile End Quay for the parking of vehicles and trailers and for that purpose may erect barricades or fencing with relative offices, waiting rooms and other conveniences and may make reasonable charges for the use of such facilities.

Removal of vehicles, etc.

13.—(1) If a vehicle or trailer is left without the permission of the Council—

(a) in any place where it is likely to obstruct or interfere with the use of Mile End Quay; or

(b) in any part of Mile End Quay where the parking of vehicles or trailers is prohibited by notice erected by the Council;

the Council may remove the vehicle or trailer, or cause it to be removed.

(2) Any notice erected under paragraph (1)(b) above shall be conspicuously posted in or close to the place to which it relates.

(3) Where the Council in exercise of the powers of this article remove a vehicle or trailer or cause it to be removed, the expense of and incidental to the removal shall be recoverable by the Council from any person responsible as a debt in any court of competent jurisdiction.

(4) For the purposes of paragraph (3) above “person responsible” shall have the same meaning as in section 102(8) of the Road Traffic Regulation Act 1984(a).

(5) If the Council in exercise of the powers of this article remove a vehicle to a place not readily visible from the place whence it is so removed they shall, if and so soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1971(b) or any other regulations having the like effect for the time being in force, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

(6) A notice stating the general effect of paragraph (1) above shall be displayed in a prominent position at each place where a road accessible to vehicles enters any part of Mile End Quay.

Revocation

14. The following provisions are hereby revoked:—

In the Order of 1966—

Article 17 (Limits of harbour master’s jurisdiction);

In the Order of 1973—

In paragraph (1) of article 8 (Power to dredge, etc.), the words from “or for the purpose” to the end of the paragraph;

Article 17 (Power to lease undertaking);

Article 18 (Limits of harbour master’s jurisdiction);

In the Order of 1981—

Article 10 (Limits of harbour master’s jurisdiction).

(a) 1984 c.27.

(b) S.I. 1971/450.

Further extension of section 86 of Portsmouth Corporation Act 1959

15. Section 86 (Powers with respect to disposal of wrecks) of the Portsmouth Corporation Act 1959(a), as having effect in accordance with article 21 of the Order of 1966 and article 21 of the Order of 1973, shall have effect as if the references to any approach to the Flathouse Wharf and Quay in subsections (1) and (7) of that section included a reference to any approach to the authorised works.

Costs of order

16. All costs, charges and expenses preliminary to, and of and incidental to, the preparation of, the application for, and the obtaining of this Order or otherwise in relation thereto (other than those which any person is lawfully ordered to pay by the Secretary of State for Transport or a Joint Committee of both Houses of Parliament, or any costs, charges and expenses incurred in opposing the Order) shall be paid by the Council.

Signed by authority of the Secretary of State
29th July 1988

J. W. S. Dempster
An Under Secretary in the
Department of Transport

(a) 1959 c.xlv.

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