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STATUTORY INSTRUMENTS

2006 No. 554

HARBOURS, DOCKS, PIERS AND FERRIES

The Port of Ipswich Harbour Revision Order 2006

Made - - - - *21st February 2006*

Coming into force - - *7th March 2006*

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Whereas Ipswich Port Limited has applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

And whereas by virtue of the Port of Ipswich (Transfer of Undertaking) Harbour Revision Order 2002(b) the undertaking of Ipswich Port Limited as harbour authority for the Port of Ipswich has been transferred to Associated British Ports;

And whereas the Secretary of State for Transport is satisfied as mentioned in subsection (2) of the said section 14:

Now, therefore, the Secretary of State for Transport (being the appropriate Minister under subsection (7) of the said section 14(c)), in exercise of the powers conferred by that section and now vested in him(d) and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Port of Ipswich Harbour Revision Order 2006 and shall come into force on 7th March 2006.

(2) The Ipswich Dock Acts and Orders 1852 to 1986, the Port of Ipswich (Transfer of Undertaking) Harbour Revision Order 2002 and this Order may be cited together as the Ipswich Dock Acts and Orders 1852 to 2006.

Interpretation

2.—(1) In this Order —

“the 1847 Act” means the Harbours Docks and Piers Clauses Act 1847(e);

“the 1965 Act” means the Compulsory Purchase Act 1965(f);

“the annexed map” means the map annexed to this Order;

“Chart Datum” in relation to any depth of dredging is 2.07 metres below Ordnance Datum (Newlyn);

“A.B. Ports” means Associated British Ports;

“the deposited plan” and “the deposited sections” mean respectively the plan and sections (numbered sheets 1, 2 and 3) prepared in duplicate, signed by the Head of Ports Division in the Department for Transport and marked “Plan and sections referred to in the Port of Ipswich Harbour Revision Order 2006” one copy of which is deposited at the Department and the other at the principal office of A.B. Ports;

“dock superintendent” and “harbour master” have the same meaning as in section 3(1) of the Ipswich Dock Act 1971(g);

(a) 1964 c.40: section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2, 3, 4(1) and 14 and by the Transport and Works Act 1992 (c.42), Schedule, paragraph 1.

(b) S.I. 2002/3296.

(c) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(d) SI. 1997/2971.

(e) 10&11 Vict. c..27.

(f) 1965 c.56.

(g) 1971 c.xiv.

“the limits of deviation” means the limits of deviation for Works Nos. 1 and 2 shown on the deposited plan;

“reference point” means Ordnance Survey National Grid reference point;

“tidal work” means so much of any of the works as is on, under or over tidal waters or tidal lands below the level of high water;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaking” means the undertaking of A.B. Ports at the Port of Ipswich as authorised from time to time;

“the works” means the works authorised by this Order.

(2) Any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

(3) All points, directions, and lengths as stated in any description of works, powers or lands other than Article 5 (Power to deviate) below shall be construed as if the words “or thereabouts” were inserted after each such point, direction, distance and length.

PART 2 WORKS PROVISIONS

Power to make works

3.—(1) A.B. Ports may, in the lines and situations shown on the deposited plan and according to the levels shown on the deposited sections, make and maintain the following works on the bed of the river Orwell:-

Work No.1

A new quay extending the existing No.2 Shed Quay commencing at reference point TM16704 42068, then extending into the river in a southerly and then south-easterly direction and terminating at reference point TM 16783 41898 on the existing Power Station quay.

Work No.2

A new quay extending the existing Power Station quay commencing at reference point TM 16850 41772, then extending into the river in a south-easterly direction to reference point TM 17075 41504, and then returning in a north-easterly direction to reference point TM17113 41537 on the existing Ash Lagoon wall.

(2) A.B. Ports may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the works.

(3) The works shall for all purposes form part of the undertaking.

Power to make subsidiary works

4. A.B. Ports may:

- (a) from time to time within the limits of deviation erect, construct and maintain all such works, conveniences, appliances and apparatus as they from time to time deem necessary or convenient for the purposes of or in connection with or incidental to, the construction and maintenance of the works or the accommodation of vessels thereat.
- (b) in the course of constructing, replacing altering or reconstructing the works carry out construction activity, including the temporary placing of plant and equipment, within the waters adjoining the limits of deviation.

Power to deviate

5. In constructing Works Nos. 1 and 2 A.B. Ports may deviate laterally from the lines or situations shown on the deposited plan and described in article 3 (Power to make works) above to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

Fine for obstructing works

6. Any person who intentionally obstructs any person acting under the authority of A.B. Ports in constructing the works or intentionally or recklessly interferes with equipment or materials used in the construction of the works shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to dredge

7.—(1) For the purposes of affording uninterrupted and convenient means of access to the works and of enabling their use at all states of the tide, A.B. Ports may, from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Orwell—

- (a) within the area shaded grey on the deposited plan, to a depth of not more than 8.80 metres below Chart Datum; and
- (b) within the area hatched black on the deposited plan, to a depth of not more than 5.90 metres below Chart Datum.

(2) A.B. Ports may (subject to paragraphs (3) and (4) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it in the course of any operations authorised by this article.

(3) No materials referred to in this article shall;

- (a) be disposed of in contravention of the provisions of any enactment relating to the disposal of waste;
- (b) be deposited in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(4) The power to use, appropriate, or dispose of materials referred to in this Article shall not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1995(a)).

Tidal works not to be executed without approval of Secretary of State

8.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid, extended or reconstructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, altered, enlarged, replaced, relaid, extended or reconstructed in contravention of this article or of any condition or restriction imposed under this article —

- (a) the Secretary of State may by notice in writing require A.B. Ports at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and, if on the expiration of 30 days from the date when the notice is served upon A.B. Ports it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; and
- (b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work or part of it and restore the site to its former condition;

(a) 1995 c.21.

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from A.B. Ports.

Provision against danger to navigation

9.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, A.B. Ports shall as soon as reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

(2) If without reasonable excuse A.B. Ports fails to notify Trinity House as required by paragraph (1) above or to comply in any respect with a direction given under the said paragraph, it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

10.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require A.B. Ports at its own expense either to repair and restore the work of any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under paragraph (1) above.

(3) If, on the expiration of 30 days from the date when a notice under paragraph (1) above is served upon A.B. Ports, it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; and any expenditure incurred by the Secretary of State in so doing shall be recoverable from A.B. Ports.

Survey of tidal works

11. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from A.B. Ports.

Permanent lights on tidal works

12.—(1) After the completion of a tidal work A.B. Ports shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct.

(2) If A.B. Ports fails to comply in any respect with a direction given under paragraph (1) above, it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for A.B. Ports to prove that all due diligence was used to secure compliance with the direction.

Lights on tidal works during construction

13.—(1) A.B. Ports shall at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying or extension thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If A.B. Ports fails to comply in any respect with a direction given under paragraph (1) above, it shall be liable on summary conviction to a fine not exceeding the statutory maximum and

on conviction on indictment to a fine; but it shall be a defence for A.B. Ports to prove that all due diligence was used to secure compliance with the direction.

PART 3

ACQUISITION AND POSSESSION OF LAND

Power to acquire land

14. A.B. Ports may acquire compulsorily so much of the land shown hatched black on the annexed map and described in the Schedule to this Order as may be required for or in connection with the works and may use any land so acquired for those purposes or for any other purposes connected with its undertaking.

Application of Part I of Compulsory Purchase Act 1965

- 15.—(1) Part I of the 1965 Act shall apply to the acquisition of land under this Order—
- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(a) applies, and
 - (b) as if this Order were a compulsory purchase order under that Act.
- (2) Part I of the 1965 Act, as so applied, shall have effect as if—
- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted, and
 - (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days notice) for the reference to 14 days notice there were substituted a reference to notice of 3 months.

Disregard of certain interests and improvements

16.—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

- (a) any interest in land, or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) above “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Extinction of private rights of way

17.—(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

- (a) as from the acquisition of land by A.B. Ports, whether compulsorily or by agreement, or
- (b) on the entry on the land by A.B. Ports under section 11(1) of the 1965 Act, whichever is sooner.

(a) 1981 c.67.

(2) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

(3) This article does not apply to rights of way to which section 271 or 272 of the Town and Country Planning Act 1990(a) (extinguishment of rights of statutory undertakers etc.) applies.

Time limit for exercise of powers of acquisition

18. The powers conferred by this Order to acquire land compulsorily shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

PART 4

MISCELLANEOUS

Power to appropriate lands and works for particular trades, etc.

19.—(1) Notwithstanding anything in this or any other enactment A.B. Ports may from time to time for purposes of or in connection with the management of the Port of Ipswich set apart and appropriate any lands, docks, quays, wharves, jetties, piers, berths, floats, slipways, yards, warehouses, buildings, sheds, landing stages, tips, staithes, cranes, pipeways, machinery, equipment, works and conveniences forming part of the undertaking for the exclusive, partial or preferential use and accommodation of any particular trade, authority, body, company, person, vessel or class of vessels or goods subject to the payment of such rents and subject to such terms, conditions and regulations as A.B. Ports may think fit.

(2) No authority, body, company, person or vessel shall make use of any lands, docks, quays, wharves, jetties, piers, berths, floats, slipways, yards, warehouses, buildings, sheds, landing stages, tips, staithes, cranes, pipeways, machinery, equipment, works and conveniences so set apart or appropriated without the consent of the harbour master or a dock superintendent as the case may be, and the harbour master or a dock superintendent, may order any person or vessel making use thereof without such consent to be removed and the provisions of section 58 of the 1847 Act, shall extend and apply mutatis mutandis to and in relation to any such vessel.

(3) This article has effect subject to the provisions of the enactments relating to town and country planning.

Conservation (Natural Habitats, &c.) Regulations 1994

20.—(1) Regulation 60 of the Conservation (Natural Habitats, &c.) Regulations 1994(b) (“the Habitats Regulations”) shall not apply to any planning permission which relates to the development authorised by this Order and which is granted by article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995(c) for the class of development described as permitted development in Part 11 of Schedule 2 to that Order.

(2) If and to the extent that any development authorised by this Order —

(a) does not form part of the plan and project which was subject to an appropriate assessment under article 6 of the Council Directive 92/43/EEC (“the Habitats Directive”) in connection with the making of this Order, and

(b) is not subject to a further consent, permission or authorisation by a competent authority within the meaning of the Habitats Directive,

paragraph (1) above shall not have the effect of disapplying regulation 60 of the Habitats Regulations in relation to any planning permission for that development.

(a) 1990 c.8.

(b) S.I. 1994/2716.

(c) SI 1995/418

Signed by authority of the Secretary of State for Transport

Paul Carey

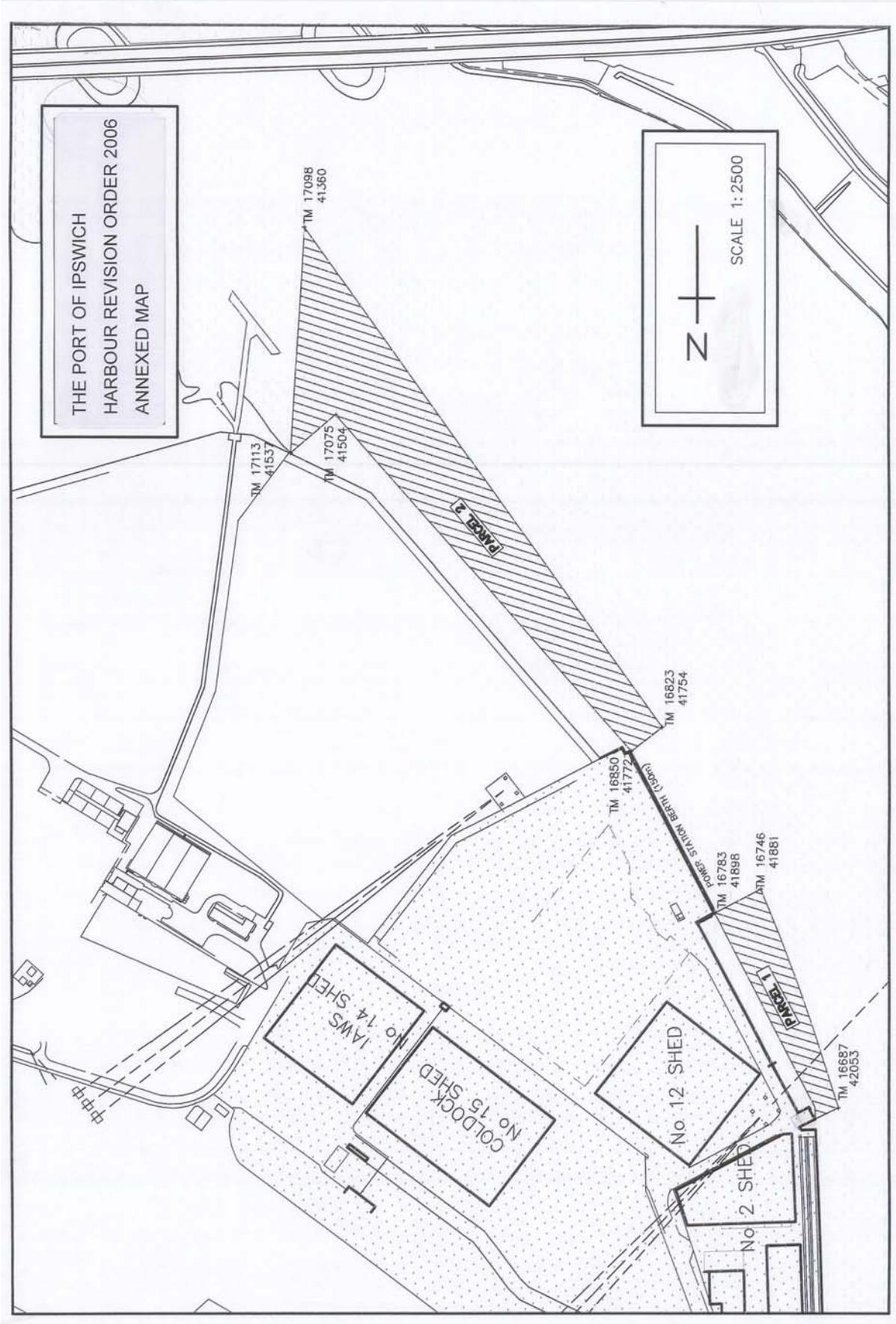
Head of Ports Division in the Department for Transport

21st February 2006

SCHEDULE

DESCRIPTION OF LAND SUBJECT TO COMPULSORY PURCHASE

No. on annexed map	Extent and description of land	Owner, lessor or occupier
1.	0.60 hectares approximately Riverbed on the eastern side of the river Orwell situated within a line commencing at a point 8 metres south of the south-western corner of No.2 Shed quay proceeding south-west to reference point TM 16687 42053 then south-easterly to reference point TM 16746 41881 then north-easterly to the existing Power Station quay at reference point TM 16783 41898 before following a line parallel to the existing quay line in a north-westerly direction for 180 metres and then heading north to terminate at the point of commencement.	Ipswich Borough Council Civic Centre Civic Drive Ipswich IP1 2EE
2.	2.40 hectares approximately Riverbed on the eastern side of the river Orwell situated within a line commencing at reference point TM 16850 41772 on the Power Station Quay extending into the river Orwell in a south-westerly direction to reference point TM 16823 41754, then south-easterly for 480 metres to reference point TM 17098 41360 then north-easterly to reference point TM 17113 41537 before proceeding in a south-westerly direction for 52 metres to reference point TM 17075 41504 and then heading north-westerly to terminate at the point of commencement.	Ipswich Borough Council Civic Centre Civic Drive Ipswich IP1 2EE



THE PORT OF IPSWICH
 HARBOUR REVISION ORDER 2006
 ANNEXED MAP

N
 SCALE 1:2500

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Associated British Ports—

- (a) to construct two new quays adjoining the existing Power Station quay and Ash Lagoon Wall in the river Orwell and to dredge deep water berths in the riverbed adjacent to the quays;
- (b) to acquire land compulsorily for the purpose of the proposed dredging;
- (c) to appropriate land and works of Associated British Ports for particular trades or persons.

A copy of the deposited plan and sections as referred to in Article 3 of this Order is available for inspection at the offices of Associated British Ports, Old Custom House, Key Street, Ipswich IP4 1BY and at the offices of the Department for Transport, Great Minster House, 76 Marsham Street, London, SW1P 4DR.

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