
STATUTORY INSTRUMENTS

2007 No. 608

The Ouseburn Barrage Order 2007

PART 2

WORKS PROVISIONS

Supplementary powers and provisions

Power to dredge etc.

9.—(1) The Council may deepen, dredge and remove obstructions from the bed, foreshore and banks of, the Ouseburn—

- (a) for the purposes of the construction, operation or maintenance, of the scheduled works; or
- (b) for the purpose of facilitating the navigation of vessels; or
- (c) for the purpose of ensuring the water level upstream of the scheduled works is always higher than the level of the bed of the Ouseburn.

(2) The powers conferred by this article shall only be exercisable with the prior written consent of the Port Authority, such consent not to be unreasonably withheld.

(3) The Council shall pay compensation to all persons for any damage sustained by them by reason of the exercise by the Council of its powers under paragraph (1)(a) and the amount of the compensation to be paid, where not agreed, shall be determined by the tribunal.

(4) The Council may use, appropriate or sell or otherwise dispose of anything (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995(1)) removed in exercise of the power conferred in paragraph (1).

Cables, pipes or wires under or over tidal water or tidal lands

10. Notwithstanding anything in this Order, any cables, pipes or wires to be laid or placed by the Council pursuant to this Order (other than those laid or placed within or attached to the structure of the scheduled works) under or over any tidal waters or tidal lands below the level of high water shall be laid or placed at such depth under, or such height over, tidal waters or tidal lands as the Port Authority and the Environment Agency may require.

Ouseburn not to be a reservoir

11. Notwithstanding the provisions of subsection (2) of section 1 of the Reservoirs Act 1975(2), no part of the Ouseburn as is impounded by the scheduled works shall, by virtue of the retention of water by means of the scheduled works, be taken to be a reservoir for the purposes of that Act.

(1) 1995 c. 21.
(2) 1975 c. 23.

Agreements with owners of land and others for construction of works

12.—(1) The Council may enter into and carry into effect agreements or arrangements with the Port Authority, the Environment Agency and the owners of, or other persons interested in, any land in or through which any of the authorised works are or may be constructed, or the drainage of which may be affected by the construction of any of the authorised works, for or with respect to the doing of anything which may be necessary in order to carry out, or in consequence of, the authorised works.

(2) Without prejudice to the generality of paragraph (1), any such agreement may provide for—

- (a) the payment by the Council of, or the making of contributions by it towards, the cost incurred, or to be incurred, by the Port Authority, the Environment Agency and any such owners or other persons in or in connection with the doing of any such thing; or
- (b) the payment by the Council of compensation for any injury suffered or loss incurred by the Port Authority, the Environment Agency and any such owners or other persons by reason or in consequence of the execution by the Council of the authorised works, or entry upon land.

Temporary closing of Ouseburn in connection with works

13.—(1) Notwithstanding anything in any other enactment or in any rule of law, the Council may temporarily close the Ouseburn between the Low Level Bridge and the Ouseburn Culvert, or any part thereof, to navigation during or for the purposes of executing any works or doing anything authorised by or under this Order.

(2) The Council shall not exercise the powers conferred by paragraph (1) without the consent of the Port Authority (such consent not to be unreasonably withheld) and, in the exercise of those powers—

- (a) the Council shall so execute or do such works or things as to ensure that at any time no more of the Ouseburn is so closed than is reasonably necessary in all the circumstances; and
- (b) if it becomes necessary to close the Ouseburn completely to navigation, the Council shall use its best endeavours to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the Ouseburn and that the minimum interference is caused to persons who may be using or intending to use the Ouseburn for the purposes of trade or business.

(3) Neither the Council nor the Port Authority shall be liable for any costs, damages or expenses whatsoever incurred by any person (save as provided in Part 1 of Schedule 6 (provisions for the protection of the Port Authority)) as a result, directly or indirectly, of any closure of the Ouseburn under paragraph (1).

(4) In the case of an emergency, the Council's powers under paragraph (1) may be exercised by the Council without the consent of the Port Authority provided that the Port Authority are informed of the action as soon as possible.

Diversion of flow of water

14. The Council may by means of the authorised works divert, intercept, stop up or otherwise interfere with the waters of, or the flow of water in, the Ouseburn.

Power to take, pump, impound and discharge water

15.—(1) The Council may take, impound and use water from, and discharge water into, the Ouseburn, and may pump any water required by it from or into the Ouseburn or pump any water found by it into the Ouseburn or into any watercourse, public sewer, or drain in connection with the construction or maintenance of the authorised works and for those purposes may lay down, take up

and alter conduits, pipes and other works and conveniences and may, on any land within the limits of deviation, make openings into, and connections with, the Ouseburn, or any watercourse, public sewer or drain.

(2) Any dispute arising from the exercise of the powers in paragraph (1) to connect to or use a public sewer or drain shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(3).

(3) The Council shall not, in exercise of the powers conferred by this article—

- (a) discharge any water into any public sewer or drain except with the consent (which shall not be unreasonably withheld) of the authority to which it belongs and subject to such terms and conditions as the said authority may reasonably impose;
- (b) make any opening into any public sewer or drain except in accordance with plans reasonably approved by and under the superintendence (if provided) of the authority to which the sewer or drain belongs; or
- (c) discharge any water into the Ouseburn or any other watercourse except with the consent (which shall not be unreasonably withheld) of the Port Authority or the authority to which it belongs and subject to such terms and conditions as the Port Authority may reasonably impose.

(4) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991(4).

(5) The Council shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain in exercise of the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(6) In the exercise of its powers conferred by this Order the Council shall not except with the consent of Northumbrian Water (which may be given subject to such terms and conditions as Northumbrian Water may reasonably impose) move, alter or break into any public sewer, lateral drain or disposal main which is at that time vested in Northumbrian Water and shown on the sewer map maintained by Northumbrian Water in accordance with section 199 of the Water Industry Act 1991.

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority, or a joint planning board; and
- (b) other expressions except “watercourse” used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Deposits in Ouseburn

16. Except so far as may be unavoidable in the construction of the authorised works, or in the exercise of the powers conferred by article 9 (power to dredge etc.) or article 15(1) (power to take, pump, impound and discharge water), the Council shall not, without the consent of the Environment Agency and Port Authority (which shall not be unreasonably withheld), deposit in or allow to fall or be washed into the Ouseburn any gravel, soil or other materials in the carrying out of the authorised works.

(3) 1991 c. 56.

(4) 1991 c. 57.