
STATUTORY INSTRUMENTS

2005 No. 2601

The Great Yarmouth Outer Harbour Revision Order 2005

Protection for Great Yarmouth Borough Council and Waveney District Council

5. For section 33 (For protection of Great Yarmouth Borough Council and Waveney District Council) of the 1986 Act there shall be substituted the following:

“33. The following provisions shall, unless otherwise agreed in writing between the Great Yarmouth Borough Council and the Waveney District Council, or either of them, and the Authority have effect:—

(1) In this section—

“accumulation” means any accumulation of silt or other material in the protected areas;

“construction” includes execution and placing, maintenance, extension, enlargement, alteration, replacement, relaying and removal; and “construct” and “constructed” have corresponding meanings;

“the council” means—

(a) In relation to the Borough of Great Yarmouth, and to the protected areas in the Borough, the Great Yarmouth Borough Council;

(b) in relation to the District of Waveney, and to the protected areas in the District, the Waveney District Council;

“damage” means any adverse effects to the protected areas;

“the district” means the Borough of Great Yarmouth or the District of Waveney, as the case may require;

“erosion” means any erosion of the protected areas;

“the protected areas” means the beaches, sea walls, promenades, groynes, revetments and any other coast protection structures in the district;

“specified work” means any permanent or temporary work or operation authorised by this Act (which includes for the avoidance of doubt, any dredging and any exploratory geotechnical investigations that may be undertaken).

(2) If, during the construction of a specified work or within 10 years after the completion of such work and wholly or partly in consequence of its construction there is caused or created an accumulation or erosion or alteration of the tidal flow or littoral drift which causes damage, or reasonable expectation of damage, the Authority, if so required by the council before or within the period of 10 years after such completion shall remedy such accumulation, erosion, alteration of tidal flow or littoral drift, in the manner specified in subsection (4) below and, if it refuses or fails so to do, the council may itself cause work to be done and may recover the reasonable cost thereof from the Authority.

(3) Should any accumulation or erosion or alteration of the tidal flow or littoral drift which causes damage or reasonable expectation of damage, arise in consequence of such construction within the said period of 10 years and be remedied in accordance with subsection (2) above, any recurrence of such accumulation or erosion or alteration of the

tidal flow or littoral drift shall from time to time be so remedied by the Authority during the said period of 10 years and at any time thereafter, save that the Authority's obligations under this paragraph shall cease in the event that following the remedying of any accumulation or erosion or alteration of the tidal flow or littoral drift a period of 10 years elapses without any further accumulation or erosion or alteration of the tidal flow or littoral drift being caused or created in consequence of such construction.

- (4) For the purposes of subsections (2) and (3) above—
 - (a) in the case of an accumulation, the remedy shall be its removal; and
 - (b) in the case of erosion or alteration of tidal flow or littoral drift, the remedy shall be the carrying out of such reconstruction works and other protective works or measures as may be reasonably required by the council:

Provided that in the event that surveys, inspections, tests or sampling establish that such accumulation or erosion or alteration of tidal flow or littoral drift would have been caused in any event by factors other than the construction of a specified work the Authority shall be liable to remedy such accumulation or erosion or alteration of tidal flow or littoral drift only to the extent that the same is attributable to such construction.

(5) For the purposes of subsection (2) above the date of completion of a work shall be the date on which it is brought into use.

(6) Any difference arising between the Authority and the council under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.”.