
STATUTORY INSTRUMENTS

2021 No. 43

The Weymouth Harbour Revision Order 2021

PART 5

GENERAL DIRECTIONS, SPECIAL DIRECTIONS AND BYELAWS

Procedure for giving, amending or revoking general directions

22.—(1) Subject to paragraph (7), if the Council propose to give, amend or revoke a general direction, it must—

- (a) give notice in writing of the proposal to the “designated consultees” them being;
 - (i) the Chamber of Shipping,
 - (ii) the Royal Yachting Association,
 - (iii) any advisory body created pursuant to article 28 of this Order and to
 - (iv) such other persons or organisations as it considers appropriate for the purposes of the application of this provision,
- (b) place a notice of the proposal on the Council’s website and in prominent locations around the harbour from the same date as the notice given in accordance with sub-paragraph (a) above and keep those notices on display for a minimum of 6 weeks;
- (c) consult with the designated consultees upon the proposal and allow a period of not less than 6 weeks from the date of the notice given in accordance with sub-paragraphs (a) and (b) for written representations to be made by the designated consultees and any other persons to the Council regarding the proposal;
- (d) have regard to all representations made during consultation;
- (e) give notice in writing to the designated consultees and to those other persons that have provided a consultation response following consultation as to whether the Council proposes to proceed with the proposal and, if so, specifying whether it is making any modifications to the proposal and its reasons for so doing; and
- (f) if the Council proposes to proceed with the proposal and a designated consultee has made representations against the proposal, invite that designated consultee to confirm in writing whether they maintain their objection to the proposal within 28 days beginning with the date of the notice given in accordance with sub-paragraph (e), or such longer period as the Council may specify.

(2) Where the Council has complied with paragraph (1), it may proceed to give, amend or revoke a general direction if—

- (a) none of the designated consultees have made representations against the proposal;
- (b) none of the designated consultees which have made representations against the proposal has confirmed in writing that they are maintaining their objection to the proposal in accordance with paragraph (1)(f); or

- (c) where a designated consultee has maintained an objection in accordance with paragraph (1)(f), the requirements of paragraph (3) have been complied with.
- (3) Where a designated consultee has confirmed in writing to the Council that they maintain their objection to a proposal—
- (a) the issue must be referred to an independent person (“the adjudicator”) appointed—
 - (i) by agreement between the Council and each designated consultee maintaining an objection in accordance with paragraph (1)(f) (“the parties”); or
 - (ii) failing agreement, by the President of the London Maritime Arbitrators Association on the application of either of the parties;
 - (b) so far as is reasonably practicable within 12 weeks beginning with the date of the referral, the adjudicator must—
 - (i) provide a reasonable opportunity for the parties to make representations to or be heard by the adjudicator at a hearing, and
 - (ii) make a written report to the parties with findings and recommendations on the issue, and
 - (c) the Council must decide whether to exercise the power to give, amend or revoke the general direction having regard to the adjudicator’s report (but it is not bound to give effect to any recommendations) and, once it has decided, must give notice in writing to the designated consultees and to any other persons that have provided a consultation response of its decision and the reasons for that decision.
- (4) Except as otherwise provided for in paragraph (3), the adjudicator may determine the procedure for the making of representations and the conduct of any hearing.
- (5) The costs incurred by the adjudicator and the parties from a referral under paragraph (3) are to be paid by one of more of the parties as the adjudicator may direct.
- (6) If the Council wishes to exercise the power to give, amend or revoke a general direction in a form materially different from both the form notified to the designated consultees and to any others that have provided a consultation response under paragraph (1)(e) and where paragraph (3) applies the form recommended by the adjudicator under paragraph (3)(b), it must proceed as if the proposal is a new proposal to which paragraph (1) applies.
- (7) Paragraphs (1) to (6) do not apply where in the interests of navigational safety or safety of persons the Council proposes to give or amend a general direction—
- (a) in an emergency; or
 - (b) relating to an intended activity or operation within the harbour which—
 - (i) is expected to commence within 16 weeks of the Council having been notified or otherwise becoming aware of the intended activity or operation;
 - (ii) is to last less than 28 days, and
 - (iii) the Council considers that the giving or amending of a general direction in relation to that activity or operation is required, taking into account other activities or operations in the harbour which may be affected.
- (8) Where the Council proceeds to give or amend a general direction in accordance with paragraph (7), it must—
- (a) as soon as is reasonably practicable give notice of the direction or amendment to those persons who would have been designated consultees had paragraph (1)(a) applied; and
 - (b) if the direction or amendment is intended to continue in force for more than 12 weeks, apply the procedure under paragraphs (1)(c) to (f) and (2) to (6) to the direction or amendment with the following modifications—

- (i) a reference to the ‘proposal’ in those paragraphs is to be read as a reference to the direction or amendment; and
- (ii) a reference to the Council ‘proceeding’ with a proposal is to be read as a reference to the Council determining that the direction or amendment should remain in force.