2005 No. 1137

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Margate Pier (Turner Centre) Order 2005

Made - - - - - *8th April 2005*

Coming into force - - *29th April 2005*

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Whereas an application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(**a**) made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992(**b**) ("the 1992 Act"), for an Order under sections 3 and 5 of the 1992 Act;

And whereas the Secretary of State is of the opinion that the primary object of this Order cannot be achieved by means of an order under the Harbours Act 1964(**c**);

And whereas the Secretary of State having considered the objection made and not withdrawn, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas notice of the Secretary of State's determination was published in the London Gazette on 31st March 2005;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 3 and 5 of, and paragraphs 1 to 5, 7, 8, 10,11, 15, 16 and 17 of Schedule 1 to, the 1992 Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Margate Pier (Turner Centre) Order 2005 and shall come into force on 29th April 2005.

Interpretation

2.—(1) In this Order—

"the Act of 1961" means the Land Compensation Act 1961(**d**);

"the Act of 1965" means the Compulsory Purchase Act 1965(**e**);

"the Applications Rules" means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000;

"authorised works" means the scheduled works and any other works authorised by this Order;

"the book of reference" means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

(**a**) S.I. 2000/2190.
(**b**) 1992 c. 42, as amended by S.I. 1995/1541 and 1998/2226.
(**c**) 1964 c. 40.
(**d**) 1961 c. 33.
(**e**) 1965 c. 56.

"the construction limits" means the limits of construction activity as shown on the land plan;

"the Council" means the Kent County Council;

"the deposited sections" means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

"the harbour" means the harbour of Margate in the County of Kent as described in article 2 (interpretation) of the Margate Pier and Harbour Order 1992(**a**);

"the harbour master" means the harbour master for the harbour;

"the land plan" means the plan certified by the Secretary of State as the land plan for the purposes of this Order;

"the limits of deviation" in relation to a work, means the limits of deviation related to that work which are shown on the works plan;

"maintain" includes inspect, repair, adjust, alter, remove, reconstruct and replace and "maintenance" shall be construed accordingly;

"the Order limits" means the limits of deviation and the temporary limits;

"owner", in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

"the scheduled works" means the works specified in Schedule 1 to this Order;

"the stone pier" means the Stone Pier at the harbour;

"the temporary limits" means—

(a) the limits of land to be used temporarily as shown on the land plan, described in the book of reference and specified in columns (1) and (2) of Schedule 3 to this Order; and

(b) the construction limits;

"tidal work" means so much of any authorised work as is on, under or over tidal waters or tidal land below the level of mean high water springs;

"tribunal" means the Lands Tribunal;

"Trinity House" means the Corporation of Trinity House of Deptford Strond; and

"the works plan" means the plan described in rule 12(1)(a) of the Applications Rules prepared in connection with the application for this Order certified by the Secretary of State as the works plan for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or on land or in the air-space over its surface.

(3) All directions, distances and dimensions stated in any description of works or powers shall be construed as if the words "or thereabouts" were inserted after each such reference.

(4) Any references in this Order to a work identified by the number or number and letter of the work shall be construed as a reference to the work of that number or number and letter authorised by this Order.

PART 2

WORKS PROVISIONS

Power to construct and maintain works

3.—(1) The Council may construct and maintain the scheduled works.

(2) Subject to article 4, the scheduled works shall be constructed in the lines or situations shown on the works plan and in accordance with the levels shown on the deposited sections.

(3) Subject to paragraphs (5) to (8), the Council may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

(a) buildings on the stone pier, including or incorporating shops, reception areas, refreshment facilities, educational facilities and other facilities;

(**a**) S.I. 1993/1313.

(b) the provision of access to or from the scheduled works;

(c) temporary or permanent landing places, jetties or moorings or other means of accommodating vessels in the construction or maintenance of the scheduled works;

(d) buoys, beacons, fenders and other navigational warning or ship impact protection works;

(e) works to alter the position of apparatus, including mains, sewers, drains and cables;

(f) landscaping and other works to mitigate any adverse effects of the construction, maintenance, use or operation of the other authorised works; and

(g) works for the benefit or protection of land affected by the authorised works.

(4) Subject to paragraph (6), the Council may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works.

(5) Paragraphs (3)(a), (f) and (g) shall only authorise the carrying out or maintenance of works within the limits of deviation.

(6) Paragraph (3)(b) and (4) shall only authorise the carrying out and maintenance of works on the stone pier.

(7) Paragraph (3)(c) and (d) shall only authorise the carrying out and maintenance of works within such part of the Order limits as lies below the level of mean high water springs.

(8) Paragraph (3)(e) shall only authorise the carrying out or maintenance of works within the Order limits.

Power to deviate

4.—(1) In constructing or maintaining any of the scheduled works, the Council may—

(a) deviate laterally from the lines or situations shown on the works plan within the limits of deviation relating to that work shown on that plan; and

(b) deviate vertically from the levels shown on the deposited sections—

(i) to any extent not exceeding 3 metres upwards; and

(ii) to any extent downwards as may be necessary or expedient.

(2) Without prejudice to the generality of paragraph (1), in constructing and maintaining Work No.1B the Council may, to the extent it thinks fit, deviate from the design of the bridge structure shown on the sections, including by varying the height or clearance above the level of the water underneath it.

Discharge of water

5.—(1) The Council may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land shown on the works plan within the limits of deviation, make openings into, and connections with, the watercourse, sewer or drain.

(2) The Council shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The Council shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The Council shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under 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.

(5) 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(**a**).

(6) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to a sewerage undertaker, a local authority or a harbour authority within the meaning of the Harbours Act 1964(**b**);

(b) "watercourse" includes all rivers, tidal rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

(c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Safeguarding works to stone pier

6.—(1) Subject to the following provisions of this article the Council may at its own expense and from time to time carry out such safeguarding works to that part of the stone pier lying within the Order limits as the Council considers to be necessary or expedient.

(2) Safeguarding works may be carried out—

(a) at any time before or during the construction, in the vicinity of the stone pier, of any part of the authorised works; or

(b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Council may enter onto and survey any part of the stone pier falling within paragraph (1).

(4) For the purpose of carrying out safeguarding works under this article to the stone pier the Council may (subject to paragraphs (5) and (6))—

(a) enter onto the stone pier; and

(b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the stone pier, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

(a) a right under paragraph (1) to carry out safeguarding works to the stone pier;

(b) a right under paragraph (3) to enter onto the stone pier;

(c) a right under paragraph (4)(a) to enter onto the stone pier; or

(d) a right under paragraph (4)(b) to enter land,

the Council shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and in a case falling within sub-paragraph (a) or (c), specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter onto the stone pier or the land to be referred to arbitration under article 22.

(7) The Council shall compensate the owners or occupiers of any land in relation to which the powers of this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

(a) safeguarding works are carried out under this article to the stone pier; and

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(**a**) 1991 c. 57.
(**b**) 1964 c. 40.

(b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the stone pier is first opened for use, it appears that the safeguarding works are inadequate to protect the stone pier against damage caused by the construction or operation of that part of the works,

the Council shall compensate the owners and occupiers of the stone pier for any damage sustained by them.

(9) Without prejudice to article 20, nothing in this article shall relieve the Council from any liability to pay compensation under section 10(2) of the Act of 1965.

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part I of the Act of 1961.

(11) In this article "safeguarding works", in relation to the stone pier, means—

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the stone pier by the construction, maintenance or operation of the authorised works; and

(b) any works the purpose of which is to remedy any damage which has been caused to the stone pier by the construction, maintenance or operation of the authorised works.

Power to survey and investigate land, etc.

7.—(1) The Council may, for the purposes of this Order—

(a) survey or investigate any land within the Order limits;

(b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as the Council thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without prejudice to the generality of sub-paragraph (a), carry out archaeological and ecological investigations on any such land;

(d) take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the authorised works;

(e) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) to (d); and

(f) enter on the land for the purpose of exercising the powers conferred by sub paragraphs (a) to (e).

(2) No land may be entered, or equipment placed or left on or removed from the land, under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Council—

(a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and

(b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) The Council shall pay compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in the case of dispute, under Part I of the Act of 1961.

Obstruction of construction of works and misuse of works

8. Any person who, without reasonable excuse—

(a) obstructs another person from constructing any of the authorised works under the powers conferred by this Order;

(b) makes fast to any part of any tidal work;

(c) moors or operates any vessel within 5 metres (measured horizontally) of Work No. 1A or 1B;

(d) in any other way interferes with any of the authorised works,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Additional powers within tidal waters and tidal land

9.—(1) Without prejudice to the other powers conferred by this Order or otherwise available to it, the Council may within so much of the Order limits as lies within tidal waters or tidal land below the level of mean high water springs, for the purposes of or in connection with the construction of the authorised works and notwithstanding any interference thereby with any public or private rights—

(a) carry out excavations and clearance, dredging, deepening, dumping and pumping operations;

(b) use, appropriate and dispose of any materials (including liquids but excluding any wreck within the meaning of Part IX of the Merchant Shipping Act 1995(**a**)) obtained by it in carrying out any such operations;

(c) remove or relocate any moorings;

(d) remove and relocate any vessel or structure sunk, stranded or abandoned or moored or left (whether lawfully or not);

(e) temporarily moor or anchor vessels and structures;

(f) temporarily alter, interfere with, occupy and use the banks, bed, foreshores, waters and walls of the harbour;

(g) construct, place, maintain and remove temporary works and structures,

in such manner and to such extent as may appear to it to be necessary or convenient.

(2) Except in the case of emergency, the Council will use its reasonable endeavours to notify the owner of any mooring and the owner or master of any vessel or structure affected by the proposal to exercise the powers of paragraph (1)(c) or (d) before the exercise of that power.

Prohibitions within tidal waters and tidal land

10.—(1) Notwithstanding anything in any other enactment or rule of law but subject to the provisions of this article, the Council may, after consulting the harbour master (if any), at any time when it appears to the Council necessary or desirable for the purposes of the construction of the authorised works, by direction close to navigation by all vessels or by any class of vessel the whole or any part of the area within so much of the Order limits as lies within tidal waters or tidal land below the level of mean high water springs.

(2) A direction under paragraph (1) shall specify the duration of the closure, the area affected and the vessel to which it applies.

(3) A person may not, without the written consent of the Council, within any part of the area within the Order limits, during a period when it is closed to navigation under this article—

(a) navigate any vessel or cause or permit a vessel to be moored if the vessel concerned is subject to the closure;

(b) lay down or place any mooring or apparatus, including mains, sewers, drains and cables; or

(c) undertake or cause or permit any other operation or activity.

(4) Any person who contravenes the requirements of paragraph (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Except in an emergency, the Council shall publish notice of any direction given under paragraph (1) in a newspaper circulating in the District of Thanet not less than 14 days before the direction is to take effect.

(6) In giving a direction pursuant to paragraph (1), the Council shall ensure that no greater area is closed to navigation at any time by all vessels, or by any class of vessel, than is at that time necessary in the circumstances.

(7) A direction given under this article may be varied or revoked by a subsequent direction given under this article.

Protection of navigation

11. Schedule 2 to this Order shall have effect.

(**a**) 1995 c. 21.

PART 3

TEMPORARY POSSESSION OF LAND

Temporary use of land for construction of works

12.—(1) The Council may, in connection with the carrying out of the authorised works—

(a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 3 to this Order for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works specified in column (4) of that Schedule;

(b) remove any buildings and vegetation from that land; and

(c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 28 days before entering upon and taking temporary possession of land under this article the Council shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The Council may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the works specified in relation to that land in column (4) of Schedule 3 to this Order.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Council shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Council shall not be required to replace a building removed under this article.

(5) The Council shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part I of the Act of 1961.

(7) Without prejudice to article 20, nothing in this article shall affect any liability to pay compensation under section 10(2) of the Act of 1965 or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) Where the Council takes possession of land under this article, they shall not be required to acquire the land or any interest in it.

(9) In this article "building" includes any structure or other erection.

Temporary use of land for maintenance of works

13.—(1) At any time during the maintenance period relating to any of the scheduled works, the Council may—

(a) enter upon and take temporary possession of any land within 20 metres from that work if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it; and

(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall not authorise the Council to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the Council shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The Council may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the Council shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The Council shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part I of the Act of 1961.

(8) Without prejudice to article 20, nothing in this article shall affect any liability to pay compensation under section 10(2) of the Act of 1965 or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the Council takes possession of land under this article, they shall not be required to acquire the land or any interest in it.

(10) In this article—

(a) "the maintenance period", in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for public use;

(b) "building" includes any structure or other erection; and

(c) any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

Suspension of private rights of way

14.—(1) All private rights of way over land of which the Council take temporary possession under this Order shall be suspended and unenforceable for as long as the Council remain in lawful possession of the land.

(2) Any person who suffers loss by the suspension of any right under this article shall be entitled to compensation to be determined, in default of agreement, under and in accordance with the Act of 1961.

Time limit for exercise of powers of acquisition

15. The power conferred by article 12 to enter upon and take temporary possession of land shall cease at the end of the period of 3 years beginning with the day on which this Order comes into force.

PART 4

PROTECTIVE PROVISIONS

Royal National Lifeboat Institution

16.—(1) Nothing in this Order shall prevent or unduly interfere with the carrying on of the Royal National Lifeboat Institution's lifeboat rescue service.

(2) In particular, nothing in article 10 shall apply to any vessel used by the Royal National Lifeboat Institution in carrying out that service.

PART 5

MISCELLANEOUS AND GENERAL

Transfer of powers

17.—(1) The Council may enter into, and carry into effect, agreements for the transfer to another person of all or any of the powers conferred on the Council by this Order.

(2) The exercise of any powers of this Order by any other person in accordance with an agreement under paragraph (1) shall be subject to the same obligations and liabilities under this Order as would apply if that power were exercised by the Council.

(3) Not later than 21 days after entering into any such agreement the Council shall give written notice to the Secretary of State and to Trinity House stating the name and address of the person to whom the powers are being transferred and the date when the transfer is to take effect.

(4) The powers under paragraph (1) may be exercised by any person to whom powers have been transferred under that paragraph.

(5) Any agreement or undertaking entered into by the Council in connection with the promotion of this Order shall, so far as relevant to any functions, powers or duties under this Order exercisable by the transferee under an agreement made under paragraph (1), be binding on the transferee.

Certification of plans, etc.

18. The Council shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the land plan, the deposited sections and the works plan to the Secretary of State for certification that they are true copies of, respectively, the book of reference, the deposited sections and plans referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

19.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, his last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to him by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

20. Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

(**a**) 1978 c. 30.

Crown rights

21.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown, and in particular, nothing in this Order authorises the Council to take, use, enter upon or in any manner interfere with any land, hereditaments, or rights of whatsoever description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners; or

(b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally or subject to such conditions or upon such terms as may be considered necessary or appropriate.

Arbitration

22. Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing 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.

Signed by authority of the Secretary of State

Ellis Harvey
Head of the Transport and Works Act Orders Unit
Department for Transport

8th April 2005

SCHEDULE 1

Article 2(1)

SCHEDULED WORKS

In the District of Thanet—

An extension to the stone pier comprising the following—

Work No. 1A

An enclosed building with a width of 20 metres, commencing at grid reference E635223.881, N171275.103 and extending in a south-easterly direction for a distance of 55 metres and terminating at grid reference E635271.508, N171252.731 to be used for the purposes of an art gallery or other commercial or leisure purposes;

Work No. 1B

A vehicular and pedestrian bridge structure linking the said stone pier or any building constructed on the stone pier to Work No. 1A;

Work No. 2

Mitigation works for birds consisting of an apron of solid construction bound by an imaginary line commencing on the existing sea wall to the south of the stone pier at grid reference E635334.991, N171194.154, thence in a curved and then straight line for 58 metres in a south-westerly and then southerly direction to grid reference E635322.709, N171160.539, thence in a straight line for 18 metres in an easterly direction to grid reference E635340.44, N171163.64 on the said sea wall and thence along the edge of the sea wall for 31 metres in a northerly direction terminating at the said grid reference E635334.991, N171194.154.

SCHEDULE 2

Article 11

PROTECTION OF NAVIGATION

1. In this Schedule—

"construction" includes execution, placing, alteration and reconstruction and "constructed" has a corresponding meaning; and

"plans" includes sections, drawings, particulars and schedules of construction.

Tidal Works

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

(2) If a tidal work is constructed, altered, replaced or re-laid in contravention of this paragraph or any condition or restriction imposed under this paragraph—

(a) the Secretary of State may by notice in writing require the Council at its own expense to remove the tidal work or any part of it and restore the site to its former condition or so near to its former condition as is acceptable to him; or

(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 so restore the site.

(3) If at the end of 28 days from the date when notice is served on the Council under sub-paragraph (2)(a) it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice.

Provision against danger to navigation

3.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof the Council 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 may from time to time direct.

(2) If the Council fail to notify Trinity House as required by sub-paragraph (1) or to comply in any respect with a direction given under the said sub-paragraph, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Abatement of works abandoned or decayed

4.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing, require the Council at their own expense—

(a) to repair and restore the work, or any part of it; or

(b) to remove the work and restore the site to its former condition, or so near its former condition as is acceptable to him.

(2) Where—

(a) a work erected under this Order, part of which is a tidal work, is abandoned or allowed to fall into decay; and

(b) the part of the work on or over land above the level of mean high-water springs is in such a condition as to interfere, or cause reasonable apprehension that it may interfere, with the right of navigation or any public rights over the foreshore,

the Secretary of State may include that part of the work, or any portion of it, in any notice under sub-paragraph (1).

(3) If at the end of the period of 28 days from the date when notice is served on the Council under sub-paragraph (1) they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice.

Survey of works

5. 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 the Council.

Permanent lights etc.

6.—(1) After the completion of a tidal work the Council shall at the outer extremity of every tidal work 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 the Council fail to comply in any respect with a direction given under this paragraph, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; but it shall be a defence for the Council to prove that all due diligence was used to secure compliance with the direction.

Lights on works during construction

7.—(1) The Council shall at or near a tidal work during the whole time of the construction, alteration, replacement, or reconstruction of the work 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 may from time to time direct.

(2) If the Council fail to comply in any respect with a direction given under this paragraph, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; but it shall be a defence for the Council to prove that all due diligence was used to secure compliance with the direction.

Expenses

8. The Secretary of State may recover from the Council any expenditure incurred by him under paragraphs 2(2)(b) or (3) or 4(3).

SCHEDULE 3

Article 12

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1)	*(2)*	*(3)*	*(4)*
Location	*Number and description of land shown on land plan*	*Purpose for which temporary possession may be taken*	*Authorised work*
District of Thanet	No. 3. Part of the stone pier.	Temporary works area and access to works	Work Nos. 1A and 1B
District of Thanet	No. 4. Storage hut and part of the stone pier.	Temporary works area and access to works	Work Nos. 1A and 1B
District of Thanet	No. 5. Storage hut and part of the stone pier.	Temporary works area and access to works	Work Nos. 1A and 1B
District of Thanet	No. 6. Storage hut and part of the stone pier.	Temporary works area and access to works	Work Nos. 1A and 1B
District of Thanet	No. 7. Storage hut and part of the stone pier.	Temporary works area and access to works	Work Nos. 1A and 1B

(1)	*(2)*	*(3)*	*(4)*
Location	*Number and description of land shown on land plan*	*Purpose for which temporary possession may be taken*	*Authorised work*
District of Thanet	No. 8. Area of sea, fundus, foreshore and slipway to the south of Margate Pier.	Temporary works area	Work Nos. 1A, 1B and 2
District of Thanet	No. 9. Council office building (Droit House).	Temporary works area and access to works	Work Nos. 1A, 1B and 2
District of Thanet	No. 11. Car and Coach park, hardstanding, access ways, part of slipway.	Temporary works area and access to works	Work Nos. 1A, 1B and 2
District of Thanet	No. 12. Hardstanding providing site for ice cream van.	Temporary works area and access to works	Work Nos. 1A, 1B and 2

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Kent County Council to construct an extension to the existing stone pier at Margate Harbour, consisting of a new building to be used primarily as an art gallery and for leisure and educational purposes. The building will be connected to the stone pier by a bridge structure and will be named Turner Contemporary.

Copies of the Order, plans, the sections and the book of reference are available for inspection free of charge during office hours at the offices of Kent County Council, Invicta House, County Hall, Maidstone, Kent ME14 1XX.

STATUTORY INSTRUMENTS

2005 No. 1137

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Margate Pier (Turner Centre) Order 2005

£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0519 4/2005 150519 19585

ISBN 0-11-072813-0

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