

COUNCIL BUSINESS COMMITTEE – 31 AUGUST 2023

MINUTE 13 – LANCASTER PORT COMMISSION HARBOUR REVIEW ORDER: DRAFT RESPONSE

The Council via its Business Committee has considered the Port of Lancaster's request for a Harbour Revision Order 202 () and objects to it in its current form.

Should the order receive approval, ***the Council politely requests that the following recommendations are acted upon in full.***

Lancaster City Council recognises that Lancaster Port Commission and its activities contribute in a significant way to the economy and infrastructure in Glasson Dock, a small village within the district. We welcome the opportunity to comment on the proposed changes to its governing framework- via this consultation on the revised Harbour Order.

1.Port Operational Land (Part 2, Section 4)

Any land defined as Port Operational Land would give the Commission permitted development rights within that land. The Commission should not be including in its proposed plan of its 'premises' any area which has not been previously recognised as Port Operational Land. It should also not be including within this Order any area which is in dispute with Lancaster City Council, or where there are discussions over rights of way, including with Lancashire County Council, as this could prejudice the outcomes of such disputes or discussions.

We understand that the Duchy (owners of the foreshore along the River Lune) is investigating the boundaries of the suggested ownership of land outlined in the Plan attached to the Harbour Revision Order (HRO)

Clarity is needed about the land in question within the HRO.

The following paragraphs -Section 4 should be removed.

- (2) In the event of any discrepancy between the descriptions of the boundaries of the port referred to in paragraph (1) and the boundaries shown on the port limits plan and the port premises plan, the descriptions in question shall prevail over the said plans.
- (3) The port premises shall be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning Act 1990(a).

The revision order should exclude all parcels of land over which there remains doubt over ownership, or restrictive covenants, and the land rear of Railway Place that is subject to an ongoing and unresolved enforcement complaint by the LPA.

Council Business Committee recommend that the co-ordinates that are provided on the revised version are transposed to a map by the MMO so that a cross check can be made.

2.Scope of the Port Activities (Part 2 Sections 32/35)

The HRO appears to attempt to take every possible eventuality for any future activity into account. It would be much simpler, easier to understand and enforced if the actual activities and duties of the port were focussed around the five-year business plan proposed in this revised HRO.

For example, see **Development of land etc.**

32.—(1) The Commission may, subject to obtaining the necessary rights in or over land— (a) use or develop for any purpose, and deal with, any land within or in the vicinity of the port;

It appears that sections 32 and 35 means the Commission may set up a company to develop land, and a company for '*carrying on at any place a trade or business of any kind*' which is conducive to improving the economy of the Port.

Any such companies will have additional powers to do things which the commission does not have power to do. This appears to give the Commission enormous scope to do anything it wishes. The controls on whether such activities are indeed conducive to the best interests of the Port are unclear and should be specified within the Order.

The scope, size and scale of the port and harbour activities within the Order should be considerably reduced. A clear set of criteria against which new proposed activities can be judged must be introduced.

3.Governance (Part 2, 31)

The Harbour Revision Order offers an opportunity to outline the process of selecting Commissioners, dealing with potential conflict of interests, and ensuring that commissioners' skills are commensurate with good governance of the Port, including marine knowledge and community relations.

The composition of the Commission, the methods for selecting commissioners, their roles and responsibilities including whether or not, and how, the Commissioners are concerned with governance and /or Port management, must be clarified in the Order.

4.Transparency and Accountability (Part 2 (31) Advisory Bodies)

Currently Ports have powers to create bye-laws and Port Directions, the latter are usually used in emergencies. (Bye-laws are required to be approved by the Department of Transport)

The proposal to create an Advisory Body is welcomed and is noted that membership of the proposed Advisory body is key to opening the Commission up to transparency, accountability, and developing better community relationships. The proposed Advisory body will be one of 4 consultees when making a Port Direction, making it influential in planning changes that affect the community.

The composition of the Advisory Body should include elected members of the City and County Councils, residents and local small business, relevant officers of the city council, as well as organisations that have expertise in marine matters Finances.

The previous Harbour Order made provision for the annual accounts to be sent to the County Council, and that they would be available to be seen, which is not in the revised order.

A method of easily accessible public viewing of the annual accounts should be added to the HRO.

5. Heritage (Part 2, Section 5.2)

The Commission is seeking to be able to 'alter, extend, demolish and reconstruct' buildings within the Port premises (Section 5.2). It should be noted that there are listed structures within the port and the port itself is a scheduled monument.

The Commission must consult heritage bodies before making alterations or demolishing structures with important heritage aspects.

6. New Sections Required in the Harbour Revision Order

Regulation

It is unclear what recourse is available, if any, if it becomes apparent that the Commission is not carrying out the tasks that are referred to in the Order as 'must' carry out, such as the business plan. There are no timescales in the Order.

Trust Ports are not regulated by any government department. They are expected to obey their own Harbour Act and can be prosecuted if they do not comply with it. The Department for Transport grants the bye-laws and has a 'light touch' advisory capacity over trust ports. As a statutory body, the Commission, is obliged to embrace the Nolan Principles of public life and work to the "Ports Good Governance Guide". But these are discretionary although advised and expected.

The Marine Management Organisation is a non-governmental organisation that licences ports. They are under the control of DEFRA.

There should be an additional section on Enforcement and Regulation within the Order.

7. Formalisation of Flood Defence Responsibilities

The Commission has a partnership relationship with the Environment Agency, in terms of the flood defence aspects of the Sea gate, which is currently out of order and has opened the village up to a significant flood risk. However, it is understood that no formal contract is in place. No reference is made to maintenance, or replacement of the Seagate or other flood gates within the responsibility of the Commission.

8. Statutory Duty of Conservancy

We express concern about the Port's existing statutory duty of conservancy. The inner harbour has become unusable to cargo ships due to severe silting and is only navigable by pleasure boats to and from the canal. The Port continues to be able to function by using its East and West Quays but that failure to keep the inner harbour navigable is of concern: it has impacted residents as the East Quay is far closer to residential properties and that we ask that the statutory duties of conservancy are enforced.