Application by North Somerset Council for an order granting development consent for the Portishead branch line - MetroWest phase 1

Planning Inspectorate reference TR040011 Interested party reference PORT-S57657

Note on behalf of First Corporate Shipping Limited trading as The Bristol Port Company (BPC) on BPC's powers as statutory undertaker

19 January 2021

1. Background

- 2. This note has been prepared by Wedlake Bell LLP in response to action point 22 arising from the Compulsory Acquisition Hearing on 4 December 2020 and summarises the relevant statutory source/authority for the statutory undertaker powers exercised by BPC at Bristol Port, with specific reference to Royal Portbury Dock (RPD), including how those powers were transferred to BPC from Bristol City Council.
- 3. In this note, the "Order limits" means the Order limits as defined in the draft Portishead Branch Line (MetroWest Phase 1) Development Consent Order.

Bristol City Council and Bristol Corporation

- 4. In 1991, The City Council of Bristol (**BCC**) was the statutory harbour authority for the Port of Bristol and the Harbour of Bristol, including being the owner and operator of four dock systems within the port, known as the City Docks, Avonmouth Docks, Royal Portbury Dock and Portishead Docks.
- 5. The role had passed to BCC from The Lord Mayor, Aldermen and Burgesses of the City and County of Bristol (**Corporation**), as a result of local government re-organisation. The Corporation's role in relation to the port, including its various powers and duties, derived from historical rights and privileges together with an extensive body of local legislation from the mid nineteenth century onwards cited as the Bristol Dock Acts. Confirmation of the Corporation's (later BCC's) role is set out in the recitals to the Bristol Corporation (West Dock) Act 1971 (1971 Act) as follows:

"And whereas the Corporation are the owners of the docks known respectively as the City Docks, the Avonmouth Docks and the Portishead Docks and also are both the port and harbour authority of the port and harbour of Bristol:".

Royal Portbury Dock

- **6.** RPD was initially known as the West Dock and was constructed under powers granted to the Corporation by the 1971 Act. Section 1(2) of the 1971 Act states:
 - "This Act shall be included among the enactments which may be cited together as the Bristol Dock Acts, 1848 to 1971".
- **7.** The 1971 Act empowered the Corporation to:
- 7.1 construct within the limits of deviation eight numbered works shown on deposited plans (Works Nos. 1 to 8), together comprising the impounded dock and a new access road (being what is now Royal Portbury Dock Road) (section 16(1) and section 18);

- 7.2 "within the limits of deviation for the said works extend, enlarge, alter, replace or relay the same." (section 16(2)); and
- 7.3 carry out subsidiary works "within the limits of deviation and within the spoil areas." (section 17(1)).
- **8.** For the purpose of these provisions the limits of deviation were shown on the deposited plans of the works and the "spoil areas" were defined in section 5(1) of the Act as "the lands shown on the deposited plans as intended to be used for the disposal of spoil and for other works".
- **9.** The Act defined "the works" to mean:

"the works authorised by section 16 (Power to construct works) of this Act and any works constructed under section 17 (Subsidiary works) of this Act and includes those works as extended, enlarged, altered, replaced or relaid under subsection (2) of the said section 16 and "work" shall be construed accordingly."

10. Section 6(1) provided:

"Subject to the provisions of this Act, the Corporation may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for or in connection with the construction and maintenance of the works and the disposal of spoil or other materials and for other the purposes of this Act or for any of those purposes."

and by section 19:

"The works and all lands appropriated by the Corporation for the purposes thereof shall form part of the dock undertaking for all purposes."

- 11. All BPC's land which is within the Order limits, other than the areas referred to in paragraphs 20 and 21 below, is within the boundaries of both the limits of deviation or the spoil areas defined in the 1971 Act and the land acquired by the Corporation for the purposes of the works, as defined in the 1971 Act, and therefore formed part of the Corporation's dock undertaking for all purposes.
- **12.** Section 5(1) of the 1971 Act included the following definitions:

"the Corporation docks" means the Avonmouth Docks, the City Docks, the Portishead Docks and the West Dock of the Corporation together with all basins, docks and waters of the Corporation within the port;

"the dock undertaking" means and includes the undertaking carried on by the Corporation upon or in connection with the docks for the time being of the Corporation and the real and personal property, railways, piers, works and appliances acquired, appropriated or provided by them for the purposes thereof including any such property as aforesaid which is held by a grantee in fee farm or is leased to or occupied by lessees or tenants of the Corporation;

"the port" means the port and harbour of Bristol as for the time being existing;"

"the West Dock" means Works Nos. 1 to 8 and the real and personal property, railways, works and appliances acquired, appropriated or provided by the Corporation for the purposes thereof".

13. The Corporation's dock undertaking at (what is now) RPD therefore included the business conducted in connection with it and the land and physical infrastructure, including railways, acquired, used or provided for the purposes of that business.

The Port and Harbour of Bristol

- 14. Before 1991, the extent of the Port of Bristol and the Harbour of Bristol was set out in Part 2 of Schedule 1 to The Bristol Port and Harbour Revision Order 1972 (SI 1972 No. 1931), as amended by The Bristol Port and Harbour Revision Order 1976 (SI 1976 No. 1076), copies of which are at appendix 1. Under that Schedule, The Port of Bristol and the Harbour of Bristol comprised:
- the area of the Severn Estuary described in Part 2 and those parts of the River Avon described in subparagraphs (a) and (b) of Part 2;
- the City Docks and Avonmouth Docks (being docks within the city and county of Bristol) and Portishead Docks (subparagraph (c) of Part 2); and
- 14.3 to the extent not otherwise included, the West Dock, as defined by section 5 of 1971 Act (subparagraph (d) of Part 2), therefore including the land acquired by the Corporation for the purposes of the 1971 Act works.

Transfer to BPC

- Avonmouth Docks and RPD were privatised in August 1991 when BPC acquired BCC's undertaking in respect of them, including accepting a long lease of BCC's land at RPD¹. On 3 December 1993 The Port of Bristol Harbour Revision Order 1993 (SI 1993 No. 2974) came into force. A copy is at appendix 2. By article 3, from the operative date specified in the Order (31 December 1993) BPC (defined in the Order as "the Company") became the harbour authority for the designated harbour in place of and to the exclusion of BCC (defined in the Order as "the Council").
- 16. The "designated harbour" in the 1993 Order meant "the Port of Bristol and the Harbour of Bristol², as regards which there are vested in the Council immediately before the operative date, statutory powers and duties of improvement, maintenance and management, other than the City Docks and the Portishead Pier and Docks."
- 17. The designated harbour for the purposes of the 1993 Order therefore included, among other areas, the West Dock as defined by section 5 of the 1971 Act, including the land acquired by the Corporation for the purposes of the 1971 Act works.
- **18.** Article 4 of the 1993 Order provided:

"4.—(1) On and from the operative date the Company shall have in respect of the designated harbour all the duties and powers imposed or conferred on the Council by any provision of the Bristol Dock Acts and Orders 1848 to 1986 in force immediately before that date, and on that date the Council shall cease to have any such duties or powers in respect of the designated harbour.

(2) In consequence of paragraph (1) above, on and from the operative date any statutory provision of local application or document whatsoever (other than a document referred to in article 6(1) of this Order)³ shall, so far as it relates to the designated harbour, have effect (except where the context otherwise requires and subject to any necessary modifications) as if, for any reference however worded and whether express or implied—

² See paragraph 14 above for the extent of The Port of Bristol and the Harbour of Bristol.

¹ In 2015, BPC also acquired from BCC the freehold reversion to this land.

³ Article 6(1) relates to deeds and other agreements *etc*, and makes separate provision for these to bind the Company in place of the Council on the terms set out.

- (a) to the Council, there were substituted a reference to the Company; and
- (b) to any officer or servant of the Council, there were substituted a reference to the officer or servant of the Company who corresponds as nearly as may be to the firstmentioned officer or servant."
- **19.** As a result of the 1993 Order, with effect from the operative date:
- 19.1 BPC became harbour authority for RPD in place of, and to the exclusion of, BCC and assumed the statutory powers and duties of improvement, maintenance and management in respect of RPD which had previously been conferred on BCC or the Corporation by the Bristol Dock Acts and Orders 1848 to 1986;
- 19.2 so far as they relate to RPD, all provisions of the Bristol Dock Acts and Orders 1848 to 1986 applied to BPC as they had previously applied to BCC/the Corporation; and
- 19.3 RPD, and the business conducted in connection with it and the land and physical infrastructure, including railways, acquired, used or provided for the purposes of that business, became part of BPC's statutory undertaking.
 - For these purposes, in accordance with the definition of the West Dock in section 5 of the 1971 Act, RPD includes all BPC's land at RPD which is within the Order limits, other than the areas referred to in paragraphs 20 and 21 below.
- The land within Plots 05/50 and 05/75 was acquired by BPC, together with adjacent land, for the purpose of BPC's statutory undertaking in order to provide additional cargo transit storage areas for use for cargoes being loaded or discharged at RPD. It is therefore now held and/or used by BPC for the purpose of its statutory undertaking.
- 21. The land within the Order limits lying under and to the south east of the M5 bridge although situated outside the limits of deviation and the spoil areas defined in the 1971 Act was acquired by the Corporation in 1965 in a single conveyance along with land within the spoil areas and was therefore acquired by the Corporation for the purposes of its undertaking. In 2000-2001, BPC constructed a rail link leading from the berths at RPD to the national rail network to serve traffic at RPD. That rail link, including the part situated under and to the south east of the M5 bridge is, and is used as, part of BPC's statutory undertaking and BPC holds its interest in the remainder of the land in the area for the purposes of its statutory undertaking.

Appendix 1

The Bristol Port and Harbour Revision Order 1972 and The Bristol Port and Harbour Revision Order 1976

1972 No. 1931

HARBOURS, DOCKS, PIERS AND FERRIES The Bristol Port and Harbour Revision Order 1972

Made - -

7th July 1972

Laid before Parliament

24th October 1972

Coming into Operation

5th December 1972

The Secretary of State for the Environment in exercise of his powers under section 14 of the Harbours Act 1964(a), and of all other powers enabling him in that behalf and on the application of the lord mayor, aldermen and burgesses of the city and county of Bristol, hereby makes the following Order:—

Citation and commencement

- 1.—(1) This Order may be cited as the Bristol Port and Harbour Revision Order 1972 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b).
- (2) The Bristol Dock Acts 1848 to 1971 and this Order may be cited together as the Bristol Dock Acts and Order 1848 to 1972.

terpretation

- 2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—
 - "the Act of 1951" means the Bristol Corporation Act 1951(c);
 - "the Act of 1955" means the Bristol Corporation Act 1955(d);
 - "the Act of 1961" means the Bristol Corporation Act 1961(e);
 - "the city" means the city and county of Bristol;
 - "the Corporation" means the lord mayor, aldermen and burgesses of the city acting by the council of the city;
 - "enactment" includes an enactment in this Order or in any general or local Act and any order, byelaw, scheme or regulation made under an Act.
- (2) The Interpretation Act 1889(f) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- (3) Any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment, including this Order.

⁽a) 1964 c. 40.

⁽b) 9 & 10 Geo. 6. c. 18; 1965 c. 43. (d) 1955 c. xx.

⁽c) 1951 c. xxxii. (e) 1961 c. xliv.

⁽f) 1889 c. 63.

Alteration of limits of Port and Harbour of Bristol etc.

- 3.—(1) As from the coming into operation of this Order the limits of the Port of Bristol and of the Harbour of Bristol and of the area within which the Corporation are entitled to exercise jurisdiction as a conservancy authority and as a local lighthouse authority within the meaning of Part XI (Lighthouses) of the Merchant Shipping Act 1894(a) shall be extended to include the area described in Part I of Schedule I to this Order (in this Order referred to as "the added area") and thereafter shall consist of and comprise the area described in Part II of the said schedule (in this article referred to as "the limits of the port") in lieu of the area described in Part II of the Schedule to the Act of 1955 (in this article referred to as "the existing area").
- (2) Subject as hereinafter provided, all enactments conferring rights, powers, privileges and immunities or imposing duties, obligations and liabilities upon the Corporation and all byelaws and regulations made by the Corporation which relate to or are in force in the existing area shall relate to and have effect in the limits of the port.
- (3) Nothing in this Order shall affect the operation within the limits of the port of such of the provisions of the Harbours, Docks and Piers Clauses Act 1847(b) as immediately before the coming into operation of this Order were operative within the existing area and, subject as hereinafter provided, the said provisions shall extend and apply to the added area.
- (4) The Corporation shall not impose any rates, dues, tolls or charges on any vessel or on any goods or passengers carried therein by reason only that the vessel passes through a part of the limits of the port which lies seawards of an imaginary line drawn straight across the mouth of the River Avon from National Grid reference point ST50246 78828 to National Grid reference point ST50271 78100 on a voyage between a place not within the limits of the port and any other place not within those limits.
- (5) Nothing in any existing enactment of local application which relates to or is in force in the limits of the port or any byelaw or regulation of the Corporation shall be construed as authorising the Corporation or the several officers of the Corporation having the powers of a harbour master under the Harbours, Docks and Piers Clauses Act 1847 (as extended and applied by paragraph (3) of this article) to interfere with the navigation of a vessel within the added area for the purpose of a voyage between a place not within the limits of the port and any other place not within those limits; nor shall anything in this article be construed as authorising the Corporation to make any byelaw or regulation to that effect.
- (6) Without prejudice to paragraph (5) of this article the powers of a harbour master to give directions under section 52 of the Harbours, Docks and Piers Clauses Act 1847 shall not extend to any vessel navigating between the lower Bristol Channel and Cardiff Docks, Barry Docks, Newport Docks, Uskmouth Terminal Basins or Lydney Docks.
- (7) The management of all lighthouses, buoys and beacons within the added area (other than lighthouses, buoys and beacons belonging to the Corporation of Trinity House Deptford Strond) shall be transferred to and vest in the Corporation and section 31 (Corporation to be local lighthouse authority) of the Bristol

(a) 1894 c. 60.

(b) 1847 c. 27.

Corporation Act 1938(a) shall have effect as if a reference to the limits of the port were substituted for the reference to the area described in Part II of the Schedule to the Act of 1955.

(8) Within one month after the coming into operation of this Order the Corporation shall deposit at the Department of Trade and Industry a plan showing the limits of the port.

nendment of enactments

- 4.—(1) As from the coming into operation of this Order section 4 (Interpretation) of the Act of 1951 and section 4 (Interpretation) of the Act of 1961 shall have effect in each case as if in the definition of the expression "the port" a reference to the area described in Part II of Schedule I to this Order were substituted for the reference to the area described in Part II of the Schedule to the Act of 1955.
- (2) As from the coming into operation of this Order section 39 (For protection of British Transport Commission) of the Act of 1961 shall have effect as if in the definition of the expression "the added area" in subsection (1) thereof for the words "Part I of the Schedule to the Bristol Corporation Act 1955" there were substituted the words "Part I of Schedule 1 and Schedule 2 to the Bristol Port and Harbour Revision Order 1972", as if in the definition of the expression "the undertakings" in the said subsection (1) after the word "as" there were inserted the words "Cardiff Docks, Barry Docks, Newport Docks, Uskmouth Terminal Basins," and as if at the end of subsection (2) thereof there were inserted the words "but without prejudice to article 3(5) and (6) of the Bristol Port and Harbour Revision Order 1972".
- (3) As from the coming into operation of this Order section 26 (For protection of Bristol Corporation) of the British Transport Docks Act 1967(b) as originally enacted and as incorporated with Part IV of the British Transport Docks Act 1969(c), shall have effect as if in the definition of the expression "the port" in agraph (1) thereof for the words "being the area described in Part II of the Schedule to the Bristol Corporation Act 1955" there were substituted the words "as existing on 1st August 1955".

As to customs limits

5. Nothing in this Order shall affect the limits of any port appointed and declared by the Treasury under section 11 of the Customs Consolidation Act 1876(d) or under any enactment repealed by that Act.

Saving for pilotage authorities

- 6.—(1) Nothing in this Order shall prejudice or derogate from or in anywise alter, affect or interfere with the jursidiction or authority of a pilotage authority to which this article applies (hereinafter referred to as "the authority") in the appointment of pilots or the fees, emoluments and rights whatsoever due or payable to the authority or any other rights and privileges whatsoever now subsisting and in force enjoyed by the authority under or by virtue of any enactment or otherwise.
- (2) This article applies to the Barry Pilotage Authority, the Cardiff Pilotage Authority, the Gloucester Pilotage Authority and the Newport Pilotage Authority or their successors.

⁽a) 1938 c. lxxix.

⁽c) 1969 c. xxiii.

⁽b) 1967 c. xxxi.

⁽d) 1876 c. 36.

For protection of British Transport Docks Board

7.—(1) In this article—

- (a) "major dredging work" means the removal of marl, gravel, rock or other materials in such quantity and to such an extent as will in any calendar year result in—
 - (i) an increase of more than one fathom in the controlling depth of the main channel lying between the English Grounds and the Middle Ground; or

ce

Bo

Ha Bo

pai

anc

Por

arb

and

agre Writ

Pub.

1(

Cor (Alt

adve

may

affec

Repe

11

Cron 12.

ege (

13.

for a

those

Joint expen

- (ii) an increase of more than 400 square yards in the cross-sectional area below chart datum of the said main channel taken on any line at right angles to the axis of the channel; or
- (iii) the removal from any one continuous area of more than one million cubic yards of such material;
- (b) "the Board" means the British Transport Docks Board.
- (2) Before commencing any major dredging work within the added area the Corporation shall—
 - (a) give to the Board at their principal office three months' notice in writing of their intentions, together with a description of the work which they propose to carry out which description shall specify the location of the work, the total quantity of material to be removed, the depth and width to be attained in any channel which they propose to dredge and the date when they propose to commence the said work;
 - (b) give full consideration to any representations made by the Board within two months of receipt of the said notice as to the effects which they apprehend the said work may have on the shipping channels and approaches to the River Usk, their docks at Newport and their terminal basins at Uskmouth; and
 - (c) inform the Board of the steps which the Corporation propose to take as a result of such consideration.
- (3) The Corporation shall keep correct records showing the dredged area, the quantity of material removed and the depth and width of channel achieved in relation to every major dredging work and shall, not later than one month after the completion of each such work, or after the end of each calendar year whichever is the earlier, send to the Board a written statement of those records in such form as the Board may reasonably require.
- (4) The Corporation shall carry out such tests and surveys as the Board may by notice in writing reasonably require for the purpose of ascertaining whether or not a major dredging work has had or is having or is likely to have a predicial effect on the shipping channels or approaches referred to in paragraph (2)(b) of this article.
- (5) If it shall be agreed between the Corporation and the Board, or determined by arbitration, that such tests and surveys show that the depth or width of any of the shipping channels or approaches referred to in paragraph (2)(b) of the article has been reduced as the result of a major dredging work so as to affect prejudicially the navigation of vessels in such channels and approaches the Corporation shall reimburse to the Board the cost of any measures which the Board may reasonably take in restoring or maintaining the said shipping channels or approaches to or in the condition in which they were before the commencement of the major dredging work.

- (6) If after the completion of a major dredging work there shall be fifteen consecutive years during which no liability to the Board by the Corporation shall have arisen under paragraph (5) of this article, and no further major dredging work shall have been carried out, the provisions of this article shall cease to have effect unless and until a further major dredging work is commenced, whereupon the provisions of this article, including this paragraph, shall revive.
- (7) Any question arising between the Board and the Corporation under the rovisions of paragraphs (3), (4) or (5) of this article shall be determined by arbitration.

For protection of Newport Harbour Commissioners

8. The provisions of article 7 (For protection of British Transport Docks Board) of this Order shall extend and apply for the protection of the Newport Harbour Commissioners as if for references to the British Transport Docks Board there were substituted references to the said Commissioners and as if in paragraph (2)(b) thereof for the words "the River Usk, their docks at Newport and their terminal basins at Uskmouth" there were substituted the words "the Port and Harbour of Newport".

Arbitration

9. Where under this Order any difference is to be referred to or settled by arbitration, then, unless otherwise provided, such difference 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.

Publication of notices

10. Within one month after the coming into operation of this Order the Corporation shall give notice of the alteration of limits effected by article 3 (Alteration of limits of Port and Harbour of Bristol, etc.) of this Order by advertisement in the London Gazette and in such other manner (if any) as they may deem expedient for causing such alteration to be made known to parties affected thereby.

Repeal

11. The Act of 1955 is hereby repealed.

Crown rights

12. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown.

Costs of Order

13. All costs, charges and expenses of and incidental to the preparing, applying for and obtaining of this Order and otherwise in relation thereto (other than those which any person is lawfully ordered to pay by the Secretary of State or a Joint Committee of both Houses of Parliament or any costs, charges and expenses incurred in opposing the Order) shall be paid by the Corporation out of the general rate fund of the city.

ESigned by authority of the Secretary of State and Friends

John Peyton,

Minister for Transport Industries, Department of the Environment,

7th July 1972.

SCHEDULE 1

PART I

ADDED AREA

An area bounded by an imaginary line commencing at the triangulation point near Ladye Point in the urban district of Clevedon in the county of Somerset and from thence drawn straight in a south-westerly direction to Sand Point (latitude 51°23′16′ north—longtitude 2°58′48″ west) thence straight in a south-westerly direction to the point off Brean Down at which latitude 51°20′00″ north intersects longtitude 3°03′13′ west thence straight in a direction just north of west to the south-eastern extremity of Steep Holme (latitude 51°20′16″ north—longtitude 3°06′09″ west) thence in a westerly direction along the line of mean high-water springs to the western extremity of Steep Holme (latitude 51°20′22″ north—longtitude 3°06′52″ west) thence straight in a north-easterly direction to the point at which latitude 51°23′29″ north intersects longitude 3°03′34″ west thence in a straight line in a north-easterly direction to the point at which latitude 51°26′21″ north intersects longitude 2°59′30″ west thence due north along the meridian of 2°59′30″ west to the point at which it is intersected by latitude 51°27′10″ north thence straight in a north-easterly direction to the point at which latitude 51°29′30″ north intersects longitude 2°52′40″ west and thence in a southerly direction to the triangulation point hereinbefore described.

PART II

LIMITS OF PORT AND HARBOUR OF BRISTOL AND OF AREA OF CORPORATION'S JURISDICTION AS CONSERVANCY AUTHORITY AND AS LOCAL LIGHTHOUSE AUTHORITY

An area bounded by an imaginary line commencing at Wharf Point (latitude 51°29′58″ north—longitude 2°43′00″ west) and from thence drawn in a south-westerly direction along the line of mean high-water springs to the triangulation point near Ladye Point in the urban district of Clevedon in the county of Somerset thence straight in a south-westerly direction to Sand Point (latitude 51°23′16″ north—longitude 2°58′48″ west) thence straight in a south westerly direction to the point off Brean Down at which latitude 51°20′00″ north intersects longitude 3°03′13″ west thence straight in a direction just north of west to the south-eastern extremity of Steep Holme (latitude 51°20′16″ north—longitude 3°06′09″ west) thence in a westerly direction along the line of mean high-water springs to the western extremity of Steep Holme (latitude 51°20′22″ north—longitude 3°06′52″ west) thence straight in a north-easterly direction to the point at which latitude 51°23′29″ north intersects longitude 3°03′34″ west thence in a straight line in a north-easterly direction to the point at which latitude 51°26′21′ north intersects longitude 2°59′30″ west thence due north along the meridian of 2°59′30″ west to the point at which it is intersected by latitude 51°27′10″ north thence straight in a north-easterly direction to the Beacon on Denny Island (latitude 51°31′31′ and 100′ an

north—longitude 2°46′46″ west) thence straight in a north-easterly direction to the point on the coast of the county of Gloucester at which the level of mean high-water springs is intersected by latitude 51°33′00″ north and thence in a south-westerly direction along the line of mean high-water springs to Wharf Point hereinbefore described together with—

- (a) so much of the River Avon up to Hanham Mills as is not comprised within the said area and all other rivers or parts of rivers, harbours, canals, pills and creeks which at the coming into operation of this Order were or are for the time being within the city which are not so comprised;
- (b) the banks of the River Avon from its mouth up to Hanham Mills and the banks of all pills and creeks communicating directly with the said river together with a space of five yards in width on each of the banks thereof immediately above the level of mean high-water springs;
- (c) the Portishead Docks of the Corporation and all docks and locks which at the coming into operation of this Order were or are for the time being within the city or abutting on any part of the said area.

SCHEDULE 2

Area added to Port and Harbour of Bristol and to area of Corporation's Jurisdiction as Conservancy Authority and as Lighthouse Authority under the Act of 1955

An area bounded by an imaginary line commencing at the triangulation point near Ladye Point in the urban district of Clevedon in the county of Somerset and from thence drawn straight in a northerly direction to the point at which latitude 51°29′30″ north intersects longitude 2°52′40″ west thence straight in a north-easterly direction to the Beacon on Denny Island (latitude 51°31′30″ north—longitude 2°46′46″ west) thence straight in a southerly direction to Portishead Point Lighthouse and thence in a south-westerly direction along the line of mean high-water springs to the triangulation point hereinbefore described.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order alters the limits of the Port and Harbour of Bristol and of the area within which the Bristol Corporation exercise jurisdiction as conservancy authority and as local lighthouse authority so as to include a further part of the Bristol Channel. The Order also extends the existing powers of the Bristol Corporation under their local enactments to the limits as so altered and contains a number of ancillary provisions.

ustries, nment.

int near id from 23'16" i to the 103'13" emity of westerly of Steep in northorigitude it which

ong 27 . latitude irection

s Juris-Drity Intitude Westerly

int near straight ongitude if Brean straight latitude the line latitude irection thence le 26'21" dian of ithence

931/30/

STATUTORY INSTRUMENTS

1976 No. 1067

MARBOURS, DOCKS, PIERS AND FERRIES

The Bristol Port and Harbour Revision Order 1976

Made - - -

15th March 1976

Laid before Parliament

11th May 1976

Coming into Operation

30th June 1976

The Secretary of State for the Environment in exercise of the powers conferred by section 14 of the Harbours Act 1964(a) and now vested in him(b) and of the powers enabling him in that behalf and on the application of the City Council of Bristol, hereby makes the following Order:—

Citation and commencement

1—(1) This Order may be cited as the Bristol Port and Harbour Revision Order 1976 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(c)

(2) The Bristol Dock Acts and Order 1848 to 1972 and this Order may be cited together as the Bristol Dock Acts and Orders 1848 to 1976.

nt ation

2.—(1) In this Order, unless the context otherwise requires, the following appressions have the meanings hereby assigned to them respectively, that is to say:—

"the caisson" means the caisson forming part of the junction cut or passage being part of Work No. 1 authorised by section 8 (Power to construct works) of the Bristol Docks and Railways Act 1901(d);

"the city" means the City of Bristol;

"the Council" means the City Council of Bristol;

"enactment" includes an enactment in this Order or in any general or local Act and any order, byelaw, scheme or regulation made under an Act;

"the entrance lock" means the entrance lock to the Avonmouth Dock of the Council authorised by section 20 (Description of the Works) of the Bristol Port and Channel Dock Act 1864(e) and section 4 (Alteration of the Bristol Port and Channel Dock Act 1872(f).

(a) 1964 c. 40.

(c) 9 & 10 Geo. 6 c. 18; 1965 c. 43.

(e) 1864 c. ccxli.

(b) S.I. 1970/1681 (1970 III, p. 5551).

(d) 1901 c. cclxiv.

(f) 1872 c. clxii.

[DOE 22518]

- (2) The Interpretation Act 1889(a) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- (3) Any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by any subsequent enactment, including this Order.

Abandonment of works

- 3.—(1) The Council may abandon and discontinue the use of the entrance lock as a lock and may remove the gates thereof and in lieu of such gates or any of them construct such fixed dams, walls, sluices or other structures as they think fit or may fill in the said lock and the entrance channel thereto and the Council may use the said lock as so altered and the entrance channel thereto for the general purposes of their dock undertaking.
- (2) As from the date of the abandonment and discontinuance of the entrance lock the obligations imposed by any enactment with respect to the admission of ships through the said lock shall cease and determine.
- (3) The Council may abandon and discontinue the use of the caisson and remove it.

Amendment of Bristol Port and Harbour Revision Order 1972

- 4. As from the coming into operation of this Order Part II of Schedule. to the Bristol Port and Harbour Revision Order 1972(b) shall have effect as if at the end thereof there were inserted the following paragraph—
 - "(d) so much of the West Dock, as defined by section 5 (Interpretation) of the Bristol Corporation (West Dock) Act 1971(c), as is not comprised within the said area.".

Costs of Order

5. All costs, charges and expenses of and incidental to the preparing, applying for and obtaining of this Order and otherwise in relation thereto (other than those which any person is lawfully ordered to pay by the Secretary of State or a Joint Committee of both Houses of Parliament or any costs, charges and expenses incurred in opposing the Order) shall be paid by the Council out of the general rate fund of the city.

Signed by authority of the Secretary of State 15th March 1976.

John Gilbert. Minister for Transport, Department of the Environment

(a) 1889 c. 63. (c) 1971 c. lv.

(b) S.I. 1972/1931.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order authorises the City Council of Bristol to abandon and discontinue the use of the entrance lock to their Avonmouth Dock and to remove the caisson at the Junction Cut at Avonmouth. The Order also amends the description of the existing limits of the Port and Harbour of Bristol and of the area within which the City Council exercise jurisdiction as conservancy authority as local lighthouse authority contained in Part II of Schedule 1 to the baselol Port and Harbour Revision Order 1972 so as to include within the said limits the portion of the West Dock of the City Council which was added thereto by section 32 of the Bristol Corporation (West Dock) Act 1971.

Appendix 2

The Port of Bristol Harbour Revision Order 1993

STATUTORY INSTRUMENTS

1993 No.2974

HARBOURS, DOCKS, PIERS AND FERRIES

The Port of Bristol Harbour Revision Order 1993

Made - - - - Ist December 1993

Coming into force - - 3rd December 1993

Whereas the City Council of Bristol and First Corporate Shipping Limited have applied for a harbour revision order under section 14 of the Harbours Act 1964(1) (hereinafter called "the Act");

And whereas there were objections made and not withdrawn to the application for the Order, and an inquiry was held in accordance with paragraph 4(3) of Schedule 3 to the Act;

And whereas after consideration of the objections made and not withdrawn and of the report of the person holding the inquiry the Secretary of State for Transport is satisfied that the making of the following Order is desirable:

Now therefore the Secretary of State (being the appropriate Minister under section 14(7) of the Act)(2), in exercise of the powers conferred by section 14 of the Act and now vested in him(3), and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

- 1.—(1) This Order may be cited as the Port of Bristol Harbour Revision Order 1993.
- (2) The Bristol Dock Acts and Orders 1848 to 1986 and this Order may be cited as the Bristol Dock Acts and Orders 1848 to 1993.
 - (3) This Order shall come into force on 3rd December 1993.

Interpretation

2.—(1) In this Order—

"the City Docks" means so much of the Port of Bristol and the Harbour of Bristol as is on the City Centre side of the line coloured blue on the signed plan;

"the Company" means First Corporate Shipping Limited;

"the Council" means the City Council of Bristol;

^{(1) 1964} c. 40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraphs 1 and 10.

⁽²⁾ For the definition of "the Minister" (mentioned in section 14(7)), see section 57(1).

⁽³⁾ S.I.1981/238.

"the designated harbour" means the Port of Bristol and the Harbour of Bristol(4), as regards which there are vested in the Council, immediately before the operative date, statutory powers and duties of improvement, maintenance and management, other than the City Docks and the Portishead Pier and Docks:

"the level of high water" means the level of mean high-water springs;

"the operative date" means the day after the day on which expires a period of four weeks beginning with the day on which this Order comes into force;

"the Portishead Pier and Docks" means—

- (a) the land shown coloured red on the signed plan; and
- (b) the pier, jetties, breakwaters, wharves, quays, berths, slipways, roads, bridges, sheds and other conveniences, and the lands, buildings and property of every description and of whatever nature which, immediately before the operative date, are vested in, occupied or administered by the Council for the purposes of or in connection with the harbour undertaking of the Council on the whole or any part of the land mentioned in paragraph (a) above;

excluding, in the case of paragraph (b) above, any part of the Severn Estuary below the level of high water and any land in respect of which, immediately before the operative date, the Company has a lease from the Council;

"the signed plan" means the plan signed in triplicate by an Assistant Secretary in the Department of Transport, of which copies have been deposited at the offices of that Department, the registered office of the Company and the office of the City Clerk of the Council;

"Trinity House" means the Corporation of Trinity House of Deptford Strond.

- (2) In this Order—
 - (a) any reference to the undertaking of the Council at the designated harbour is a reference to the powers, duties, rights and liabilities of the Council in relation to that harbour as they exist immediately before the operative date;
 - (b) any reference to the harbour undertaking of the Council on the whole or any part of the land mentioned in paragraph (a) of the definition of "the Portishead Pier and Docks" in paragraph (1) above is a reference to the undertaking of the Council as harbour authority in respect thereof; and
 - (c) any reference to the Port of Bristol and the Harbour of Bristol includes a reference to the area within which, immediately before the operative date, the Council is entitled to exercise jurisdiction as a conservancy authority and as a local lighthouse authority within the meaning of Part XI (Lighthouses) of the Merchant Shipping Act 1894(5).

Establishment of Company as harbour authority for designated harbour

3. On the operative date the Company shall become the harbour authority for the designated harbour and the Council shall cease to be the harbour authority for that harbour.

Duties and powers of Company in respect of designated harbour

4.—(1) On and from the operative date the Company shall have in respect of the designated harbour all the duties and powers imposed or conferred on the Council by any provision of the Bristol Dock Acts and Orders 1848 to 1986 in force immediately before that date, and on that date the Council shall cease to have any such duties or powers in respect of the designated harbour.

⁽⁴⁾ For the limits of the Port of Bristol and the Harbour of Bristol, see the Bristol Port and Harbour Revision Order 1972 (S.I. 1972/1931), article 3(1) and Schedule 1, Part II; amended by S.I. 1976/1067.

^{(5) 1894} c. 60.

- (2) In consequence of paragraph (1) above, on and from the operative date any statutory provision of local application or document whatsoever (other than a document referred to in article 6(1) of this Order) shall, so far as it relates to the designated harbour, have effect (except where the context otherwise requires and subject to any necessary modifications) as if, for any reference however worded and whether express or implied—
 - (a) to the Council, there were substituted a reference to the Company; and
 - (b) to any officer or servant of the Council, there were substituted a reference to the officer or servant of the Company who corresponds as nearly as may be to the first-mentioned officer or servant.

Byelaws etc.

- **5.**—(1) On and from the operative date any byelaw, regulation, licence or consent made, issued or granted by the Council in relation to the designated harbour and in force immediately before that date shall, notwithstanding the making of this Order, continue in force and be deemed to have been made, issued or granted by the Company.
- (2) Subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act 1972(6) (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Company under any statutory power exercisable by the Company by virtue of this Order as if the Company were a local authority and the secretary of the Company were a proper officer of a local authority; but, subject to paragraph (3) below, the Secretary of State may confirm the byelaws with such modifications as he thinks fit.
- (3) Where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Company and require it to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.

Saving of agreements etc.

- **6.**—(1) Subject to paragraph (2) below, all sales, conveyances, leases, grants, assurances, deeds, contracts, bonds, agreements, notices and demands affecting the undertaking of the Council at the designated harbour and in force immediately before the operative date (other than any such document the parties to which include both the Council and the Company) shall (in so far as they relate to that undertaking) on and from that date be as binding and of as full force and effect as respects anything occurring or falling to be done on and after the operative date and may be enforced as fully and effectively against or in favour of the Company as if (except in any case where the Company as agent for the Council is already a party thereto or bound thereby or entitled to the benefit thereof) the Company instead of the Council hadbeen a party thereto or bound thereby or entitled to the benefit thereof or bound thereby orentitled to the benefit thereof the Company had been a party thereto or bound therebyor entitled to the benefit thereof in its own right and not as agent for the Council.
 - (2) Nothing in paragraph (1) above—
 - (a) shall transfer from the Council to the Company any liability of the Council (including any liability in damages) incurred or arising prior to the operative date or relating to events, acts or omissions which took place prior to the operative date; or
 - (b) shall have the effect of transferring from the Council to the Company any interest in any land.

Continuance of proceedings

- 7.—(1) Nothing in this Order shall release, discharge or suspend any action, arbitration or other proceeding, or any cause of action, arbitration or other proceeding, pending or existing immediately before the operative date—
 - (a) by or in favour of or against the Council; or
 - (b) by or in favour of or against the Company as agent for the Council;

in relation to the undertaking of the Council at the designated harbour, and any such action, arbitration or other proceeding or cause of action, arbitration or other proceeding may be maintained, prosecuted or continued by or in favour of or against the Council or, in the case of paragraph (b) above, the Company.

Restriction on levying certain dues

8. The Company shall not have power to levy charges of either of the kinds mentioned in paragraphs (a) and (b) of the definition of "ship, passenger and goods dues" in section 57 of the Harbours Act 1964 in respect of a vessel which is not designed or adapted for the carrying of goods by reason only of that vessel entering, using or leaving the waters of the designated harbour in order to pass to or from the City Docks.

Saving for Trinity House

9. Nothing in this Order shall prejudice or derogate from any of the powers, rights, duties or privileges of Trinity House.

Signed by authority of the Secretary of State for Transport

Caithness
Minister of State,
Department of Transport

1st December 1993

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates First Corporate Shipping Limited as the harbour authority for the Port of Bristol (other than the City Docks and the Portishead Pier and Docks) in place of the City Council of Bristol, which remains as harbour authority for those docks.

The Order contains provisions conferring upon First Corporate Shipping Limited certain of the statutory functions hitherto exercised by the City Council in respect of the Port.