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Date:
9 January 2015

Dear Niall

HARBOURS ACT 1964 - LERWICK HARBOUR REVISION ORDER

1. I refer to the application submitted on behalf of your client, Lerwick Port Authority (LPA) on 29 October 2014 for the making of the Lerwick Harbour Revision Order ("the HRO") under section 14 of the Harbours Act 1964 ("the 1964 Act"). This letter conveys the Scottish Ministers' decision on this application.

Purpose of HRO

The purpose of the HRO is to authorise LPA to construct and maintain works at Lerwick Dales Voe. This would involve:-

- The construction at Dales Voe of a solid quay adjoining and extending the existing Dales Voe jetty
- The construction of reclamation area and slope protection

Pre-application Consideration of Environmental Impact

2. Having been advised of the intention to make an application, Ministers consulted with LPA, Scottish Natural Heritage ("SNH"), Scottish Environment Protection Agency ("SEPA") and Shetland Islands Council to determine whether the proposed order would authorise a project which falls within Annex I or II of the Directive 85/337/EEC as amended by 97/11/EC and 2003/35/EC and if so whether it was a relevant project in terms of paragraph 4 of schedule 3 to the 1964 Act.

3. Following that consultation Ministers concluded that the works were a project falling within Annex II and that it was a relevant project due to its size. In accordance with paragraph 5 of schedule 3 to the 1964 Act they advised LPA accordingly on 23 September 2014.

The Application

4. LPA is the statutory harbour authority for Lerwick. An application has been made by LPA for an HRO under section 14 of the Harbours Act 1964. LPA submitted an application to the Scottish Government on 29 October 2014.
5. Notice of the application was advertised in the Shetland Free Press on 31 October and 7 November 2014 and in the Edinburgh Gazette on 31 October 2014.

Objections

6. Scottish Ministers received no objections within the 42 day statutory notice period provided for in Schedule 3 to the 1964 Act, which ended on 12 December 2014.

The Scottish Ministers' Consideration

7. Section 14(2) (b) of the Harbours Act requires that an HRO shall not be made in relation to a harbour unless the appropriate Minister is satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economical transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships.

The Scottish Ministers are satisfied that this HRO meets these objectives and that the HRO should be made in the interests of securing the improvement, maintenance and management of the harbour in an efficient and economical manner.

Right to Challenge Decision

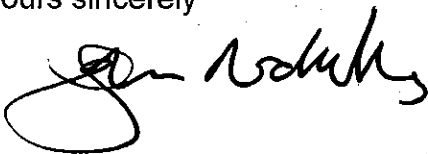
8. The foregoing decision of the Scottish Ministers is final but any person who desires to question the making of the HRO on the ground that there was no power to make the HRO or that a requirement of the 1964 Act was not complied with in relation to the HRO may, within six weeks from the date on which the HRO becomes operative, make an application for the purpose to the Court of Session as the case may be.

A person who thinks they may have grounds for challenging the decision to make the HRO is advised to take legal advice before taking any action.

Availability of Decision

9. A copy of this letter has been sent to all those who were consulted on or made representations to the order and will be published on the Scottish Government website.

Yours sincerely



JOHN NICHOLLS
Director

