

APPENDIX A

Planning History:

14/0145	Development Consent Order No. 2015:1386 Swansea Bay (Tidal Lagoon)	Approved by Secretary of State	09/06/15
---------	--	--------------------------------------	----------

Publicity and Responses (If applicable):

Head of Engineering and Transport (Highways): No comments were received.

Head of Engineering and Transport (Drainage): No comments were received.

Pollution Control (Noise): No adverse comments providing all relevant legislation is included within the HRO.

Biodiversity Unit: A response of no comment was received.

Legal Services: Comments provided.

Contaminated Land: A response of no comment was received.

Coastal Processes: A response of no comment was received.

Street Care Services: No objection to the applications.

Swansea Bay Port Health Authority: The Port Health Authority will respond directly to the MMO with any comments.

Description of Site and its Surroundings:

On the 9th June 2015 a Development Consent Order (DCO) for Tidal Lagoon Swansea Bay was granted by the Secretary of State. The order granted permission for the construction of a tidal powered generating station (240MW) comprising of the construction of a 9.5km length seawall to house 16 turbines and 10 sluice gates, which would form a tidal lagoon area of 11.5sq.km. including seabed and foreshore, together with:

- associated dredging;
- 11kV or 33 kV and 275kV cabling to facilitate grid connections;
- operation and maintenance facilities including gantry crane,
- visitors centres and information points and viewing areas,
- substation, lighting;
- boating facilities and storage,
- hatcheries,
- offices,
- welfare facilities,
- control rooms and laboratories,

- car parking and emergency access facilities,
- workshops,
- hardstanding,
- slipways,
- jetties,
- mole and floating pontoons and access points;
- hard and soft landscaping,
- public art and habitat creation;
- extension of the existing long sea sewerage outfall plus installation of ultra violet storm water treatment facilities;
- a new eastern channel training wall to River Neath;
- internal access carriageways,
- access tracts and footways;
- Navigational aids;
- drainage outfall and swales;
- bunds embankments,
- boundary treatment and fencing;
- plus demolition of buildings.

Brief description of proposal:

This application is a consultation request from the Marine Management Organisation (MMO) for a Harbour Revision Order (HRO) for the Port of Swansea and the Port of Neath. The application is from Tidal Lagoon Swansea Bay and seeks to revise the existing jurisdictional boundaries so that the Authorities (the City and County of Swansea and Neath Port Talbot County Borough Council) can agree details for offshore requirements that form part of the DCO. The HRO will also allow any enforcement and monitoring of the DCO to take place. The Harbour Revision Order does not involve any physical works.

On the 8th January 2016 the Authority received an informal request directly from the applicant requesting that further amendments be considered. The Authority is currently in discussions with the applicant regarding the specific wording.

Material Considerations:

The main issues for consideration concern the implications of the proposal upon highways, drainage, coastal processes, biodiversity, contaminated land, pollution control and legal issues.

Policy Context:

Should the Order be granted the Tidal Lagoon area would fall within the jurisdiction of the City and County of Swansea and Neath Port Talbot County Borough Council and would be subject to the relevant plans and policies of the respective Councils.

In terms of Neath Port Talbot Council the area would be subject to the policies of the Emerging Local Development Plan which includes but is not limited to SP16 Environmental Protection; SP18 Renewable and Low Carbon Energy; SP20 Transport Network; and, SP21 Built Environment and Historic Heritage.

Planning Issues:

The Harbour Revision Order does not propose any physical works so as such there will be no adverse impacts on amenity, highways, drainage, coastal processes, pollution control, biodiversity and contaminated land. However should the Order be approved the Requirements under the Development Consent Order will involve physical works and the impacts of these works will be considered on a case by case basis. Furthermore any planning applications which are submitted beyond the scope and remit of the DCO and associated requirements may well result in an impact, but these will in turn be considered at that time as it is not possible at this stage to anticipate the impact of developments which have not yet been submitted for consideration.

Legal Issues:

Should the HRO be granted it would extend the Council's jurisdiction for the Planning Act 1990, the Control of Pollution Act 1974 and the Environmental Protection Act 1990. This would allow the Authority to discharge the requirements contained in the DCO, enforce the provisions of the DCO and enforce the provisions of the section 106 agreement in relation to the Tidal Lagoon development.

The MMO should satisfy themselves through liaison with the UK and Welsh Governments that the jurisdiction of all relevant primary and secondary legislation is transferred under the HRO.

The Applicant's Statement of Support, Para. 4.13 refers to Section 72 of the Local Government Act 1972. This Act does not apply in Wales as the provision was repealed by the Local Government (Democracy)(Wales) Act 2013 (LGDW). However a similar provision is contained within Section 46 of the LGDW Act 2013. All references to Section 72 of the Local Government Act 1972 should be amended accordingly so the correct Act and Section are included.

The jurisdictional issues associated with the HRO should only be for the duration of the development coming into being. Once the Tidal Lagoon has come into being it is understood that under Section 46 of the Local Government (Democracy)(Wales) Act 2013 would assure that the development accretes to the community boundary directly on shore. Thereby becoming fully under the jurisdiction of the Local Authority as a whole. As such the Authority considers that there is no reason why the HRO applications should seek to limit, restrict or control this jurisdiction once established under Section 46. The MMO should satisfy themselves that this is the case.

Conclusion:

The proposed Orders do not involve any physical works and providing the comments which form part of this report are taken into account the Authority does not object to the provision of the orders to extend the relevant jurisdictions as originally drafted and consulted upon by the MMO. An informal request has been received from the applicant requesting that further amendments be considered. The Authority is currently in discussions with the applicant regarding the specific wording.

Recommendation:

No objection to the proposed Orders. There are not considered to be any adverse implications as a result of the Harbour Revision Orders as originally drafted and consulted upon by the MMO. An informal request has been received from the applicant requesting that further amendments be considered. The Authority is currently in discussions with the applicant regarding the specific wording.