

Marine Licensing Variation Decision

The Marine and Coastal Access Act (2009)

Applicant: Milford Haven Port Authority
Variation application reference no: CML2057v3

Pembroke Port, Pembroke Dock

Pembroke Dock Infrastructure Project

4 November 2022

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OUR DECISION

Based on all the information available, and having regard to all relevant considerations NRW has decided to grant the variation to the Existing Marine Licence sought by the Variation Application.

This decision document:

- explains how the Variation Application has been determined, having regard to the relevant legal framework outlined in section 4;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the Variation Application;
- provides a record of the decision-making process; and
- sets out the reasons for any conditions imposed in connection with any marine licence granted pursuant to the Variation Application.

1 APPLICATION DETAILS

1.1 The Variation Application

Applicant name and address	The Applicant is the person or organisation set out below: Company: Milford Haven Port Authority Address: Head Office, Gorsewood Drive, Milford Haven, SA73 3EP
Variation Application reference number	CML2057v3
Existing Marine Licence reference number	CML2057v2
Date Variation Application was duly made	04 October 2022
Description of variation	Marine licence varied to include the installation of limestone blocks rather than shipping containers for the temporary stank.
Proposal[s] covered by the Variation Application	Pembroke Dock Infrastructure Project (the Project)
Licensable marine activities covered by the Variation Application	Installation of a temporary stank (limestone containers) to allow excavations to be undertaken in the dry. (the Proposed Activities)
Marine Plan area	Welsh inshore region and Welsh offshore region
Variation Application documents:	• CML2057v3 Variation Application Form • CML2057v3 Implications for Assessment

2 VARIATION APPLICATION PROCEDURE

2.1 The Variation Application

The Variation Application was accepted by Natural Resources Wales (**NRW**) considered duly made on 04 October 2022. This means we considered it was in the correct form and contained sufficient information for us to begin our determination, but not that it necessarily contained all the information we needed to complete that determination, and the documents considered may therefore include documents provided after the Variation Application was first made.

2.2 Documents considered

In reaching its decision, NRW has considered the documents listed in section 1 of this decision document along with such other information provided by the Applicant or received during any consultation, that NRW considered relevant.

2.3 Commercial Confidentiality

The Applicant made no claim that any information forming part of the Variation Application was subject to commercial confidentiality and we have not received any information in relation to the Variation Application that appears to be commercially confidential.

3 CONSULTATION

In determining this Marine Licence Variation Application, NRW Permitting Service carried out a consultation on the 04 October 2022 with NRW Advisory and Cadw for a period of 10 days. NRW Advisory responded to the consultation on 19 October 2022 and Cadw responded on the 10 October 2022.

NRW Permitting Service has had regard to all consultation responses received in making its decision. Where these have impacted on NRW's decision making, this has been noted in the relevant paragraph in section 5 of this decision document.

4 ENVIRONMENTAL IMPACT ASSESSMENT

Council Directive 2011/92/EU (as amended) on the assessment of the effects of certain public and private projects on the environment ("the EIA Directive") aims to protect the environment and the quality of life by ensuring that projects which are likely to have significant environmental effects by virtue of their nature, size or location are subject to an EIA before permission is granted.

The Marine Works (Environmental Impact Assessment) Regulations 2007 ("the Regulations") transpose the EIA Directive in Wales and England for marine licence applications.

The Marine Licence application required for the original Project was accompanied by an Environmental Statement (ES). NRW assessed the project as an EIA development under the Regulations and issued a Written Confirmation of the EIA Consent Decision on 30 June 2021. NRW is satisfied that the information incorporated in the EIA Consent Decision is up to date at the time of this decision. The variation application was supported by the documents listed in section 1 including a report on the implications of the proposed changes to the Licence, including the assessment of additional impact pathways to designated sites not included in the original decision. NRW PS are content that the changes fall within the project design envelope assessed within the original ES and that the conclusion of the EIA Consent Decision dated 30 June 2021 remain valid.

5 BASIS FOR OUR DECISION

In determining the marine licence variation application, NRW has taken regard of the decisions made in the EIA Consent Decision dated 30 June 2021 and decision document dated 30 June 2021. NRW is

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satisfied that this information is up to date at the time of this decision. However, where the changes outlined in the variation application have impacted on NRW's decision making, this has been noted in the relevant paragraph of this section in the decision document.

5.1 The need to protect the environment:

The reference to the "environment" includes the local and global environment; the natural environment; and, by virtue of section 115(2) of the 2009 Act, any site of historic or archaeological interest. The natural environment may include the physical, chemical and biological state of the sea, the sea-bed and the sea-shore, and the ecosystems within it, or those that are directly or indirectly affected by an activity, whether within the marine licensing area or otherwise.

In considering the need to protect the environment we have considered the relevant environmental legislation set out below.

5.1.1 European Protected Sites and Ramsar Sites

a) The legal framework

European sites are those designated under the Conservation of Habitats and Species Regulations 2017 (**Habitats Regulations 2017**) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (**Offshore Habitats Regulations 2017**) as Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

The Habitats Regulations 2017 and the Offshore Habitats Regulations 2017 require that any project that is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) must be subject to an appropriate assessment. NRW undertakes a Habitats Regulation Assessment (HRA) to establish whether an appropriate assessment is required.

In addition NRW must exercise its functions under the 2009 Act so as to secure compliance with the requirements of the relevant European Directives. NRW also has a duty under the Habitats Regulations 2017 to support wild birds by protecting habitats and avoiding pollution.

A Ramsar site is a wetland which has been designated under the Ramsar Convention. The Ramsar Convention does not place specific legal requirements on its parties (though Ramsar sites are often SSSIs or SPAs, considered below), however Ramsar status is considered by NRW as matter of policy in its decision making.

b) Factors relevant to our determination

The Project is located in or may affect the following European Protected Sites:

- Pembrokeshire Marine/Sir Benfro Forol SAC
- West Wales Marine SAC

The following sites are considered functionally linked due to the high mobility of species:

- North Anglesy Marine SAC
- Bristol Channel Approaches SAC
- Pen Llyn a'r Sarnau SAC

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- Cardigan Bay Marine SAC

A Habitats Regulations Assessment considering the impact of change in methodology was undertaken, and NRW (as Statutory Nature Conservation Body) consulted on the HRA.

The following conclusions of the HRA have been considered by NRW in making this decision, that the project will not adversely affect the integrity of any Natura 2000/Ramsar site, taking into account any conditions or restrictions as applicable, either alone or in-combination with other plans and projects. Further details are described within the Habitats Regulations Assessment.

NRW is therefore satisfied that the Proposed Activities, either alone or in combination with other plans or projects, will not adversely affect the integrity of European Sites.

5.1.2 Other matters considered relevant to the need to protect the environment

The Marine Licence Variation Application dated 04 October 2022 requested a minor change to the methodology, this included the use of limestone blocks rather than importing concrete shipping containers to site.

Following consultation, NRW Advisory requested further clarifications regarding the approximate volume of material to be used, approximate size of the material/blocks, what the proposed removal methodology would be and how long will the removal of the temporary stank take. This information was provided by the applicant on 21 October and NRW Advisory had no further comments.

In addition, Cadw raised no concerns in relation to the historic environment.

NRW is therefore satisfied that the minor change in methodology will not provide any significant impact on the environment, and consider that mitigation already incorporated within the existing licence is appropriate.

5.1.3 Conclusion of our considerations under the need to protect the environment

IN SUMMARY, having considered the need to protect the environment, NRW does not consider that any impacts of the Project on the environment (either alone or in combination with other plans or projects) are sufficient on their own to justify refusal of the Variation Application.

5.2 Marine Policy Documents

(a) The Legal framework

NRW is required to take its decision in accordance with the appropriate marine policy documents unless relevant considerations indicate otherwise.

UK Marine Policy Statement 2011 (MPS)

The MPS is the framework for preparing Marine Plans and taking decisions affecting the marine environment.

Welsh National Marine Plan (WNMP)

The WMNP is the Marine Plan for the Welsh inshore region and the Welsh offshore region and sets out the Welsh Government's policies for and in connection with the sustainable development of this area.

(b) Our determination

UK Marine Policy Statement 2011

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This decision has been taken in accordance with marine policy as set out in the UK Marine Policy Statement 2011.

Welsh National Marine Plan

This decision has been taken in accordance with marine policy as set out in the Welsh National Marine Plan.

5.3 Other matters NRW thinks relevant**5.3.1 Well-being of Future Generations (Wales) Act 2015****(a) The legal framework**

In making its decision, NRW is required to take all reasonable steps to meet its published well-being objectives, which are designed to maximise NRW's contribution to achieving each of the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015. NRW must also act in accordance with the principles of sustainable development.

(b) Our determination

NRW has taken into account its well-being objectives and is satisfied that its decision is consistent with meeting those objectives.

NRW is also satisfied that its decision is consistent with the sustainable development principle i.e. seeking to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

5.3.2 Sustainable management of natural resources**(a) The legal framework**

NRW's general purpose is to pursue the sustainable management of natural resources in relation to Wales and applying the principles of sustainable management of natural resources as set out in section 4 of the Environment (Wales) Act 2016 so far as consistent with the proper exercise of its functions.

(b) Our determination

NRW is satisfied that this decision, when implemented in accordance with the attached conditions, is consistent with its general purpose of pursuing the sustainable management of natural resources in relation to Wales, and applying the principles of sustainable management of natural resources.

6 Conclusions and Recommendations

Based on all the information available, and having regard to all relevant considerations including consultation responses, NRW's decision is to grant the variation to the Existing Marine Licence sought by the Variation Application. We have reached this decision having had regard to the relevant legal framework outlined in section 5 and have also explained in section 5 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

The Licence has been varied to reflect the change in methodology, as set out in Annex 1.

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AUTHORISATION

Report by: Jodie Pullen Position: Permitting Officer	Date: 26 October 2022	Signed: 
Authorised by: Peter Morrison Position: Lead Specialist Officer	Date: 4 November 2022	Signed: 

ANNEX 1 – Changes to Marine Licence

Changes to Marine Licence include Table 1 Activity 1 where it states - Installation of a temporary stank (limestone containers) to allow excavations to be undertaken in the dry.

Activity 1 Capital dredging around the slipways and within the Graving Dock	
Type of Licensed Activity	Dredging
Description	Existing Slipways: Excavation of material above the water mark at the time of excavation (in the dry), will be undertaken by backhoe excavator. If rock is identified within this area and is considered sufficiently weak a larger backhoe excavator will be used to remove the rock. If the rock is deemed not suitable to be removed using a backhoe excavator a hydraulic breaker will be used. Installation of a temporary stank (limestone containers) to allow excavations to be undertaken in the dry. In any areas below the existing water mark (in the wet) material will be removed by backhoe excavator with a closed bucket attachment positioned on a barge. A hydraulic breaker may be used in the wet for the excavation of rock material at the bottom of the slipway. Graving Dock: Removal of the existing caisson gate and removal of material via the installation of a temporary cofferdam and the use of a backhoe excavator and sludge pump in the dry.
Material types to be removed or deposited	Existing Slipways: Material to be removed: Silt/ Sand/ Gravel/ Rock/Limestone Graving Dock: Materials to be removed Silt / Sand All material is to be deposited onshore.
Quantities/Dimensions	Existing Slipways: 38,740m³ Graving Dock: 7100m³
Activity 2 The creation of a single “mega” slipway	
Type of Licensed Activity	Construction
Description	Combining the two existing slipways and extending the slipway into the Milford Haven Waterway into deeper water. The slipway will be of concrete construction with structural steel members. Secant piled walls will be installed on the flanks of the new slipway boundary.

	Concrete is to be pumped to fill the gap between the precast concrete slabs and the flank walls.
Material types to be removed or deposited	Material Removed: Cementitious materials, Stone/ Concrete, Rock/ Gravel, Material deposited: site manufactured materials (concrete/masonry based), steel
Quantities/Dimensions	The slipway will extend approximately 4.27 m below CD and cover an area of 67 m x 172 m with a gradient of 1:12. Concrete will be pumped in two strips either side of the slipway, each strip measuring up to 475mm wide. The length of the insitu underwater concrete is approximately 100m, to a maximum depth of 850mm, resulting in a volume of approximately 81m ³ .
Activity 3 Infilling the Graving Dock	
Type of Licensed Activity	Deposit and Removal
Description	Infilling of the graving dock with crushed stone over a layer of sand with a mass wall erected at the invert to the seaward end of the dock, which preserves the opening and caisson slot.
Material types to be removed or deposited	Silt, Sand, Stone, Gravel and Rock.
Quantities/Dimensions	Type 1B Imported Fill with a volume of 32,238 m ³ . Sand (acting as a protective layer) with a volume of 1,770 m ³ .