STATUTORY INSTRUMENTS

2017 No. 817

INFRASTRUCTURE PLANNING

The National Grid (Richborough Connection Project) Development Consent Order 2017

Made - - - -	*3rd August 2017*
Coming into force - -	*24th August 2017*

An application under section 37 of the Planning Act 2008(**1**) (the "2008 Act") has been made to the Secretary of State for an order granting development consent.

The application has been examined by a Panel, which has made a report to the Secretary of State under section 74(2) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Panel, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(**2**) and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State is satisfied that the special category land within the order limits, when burdened with the rights imposed by this Order, will be no less advantageous than it was before to the persons in whom it is vested; other persons, if any, entitled to rights of common or other rights; and the public; and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

Accordingly, the Secretary of State, in exercise of the powers in section 114 and 120 of the 2008 Act, makes the following Order:

(**1**) 2008 c. 29.
(**2**) S.I. 2009/2263. Regulation 3 was amended by S.I. 2012/635 and S.I. 2012/787 and revoked by S.I. 2017/575 subject to transition provisions contained in that instrument..

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the National Grid (Richborough Connection Project) Development Consent Order 2017 and comes into force on 24th August 2017.

Interpretation

2.—(1) In this Order, unless the context requires otherwise,—

"the 1961 Act" means the Land Compensation Act 1961(**3**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**4**);

"the 1980 Act" means the Highways Act 1980(**5**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**6**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**7**);

"the 1990 Act" means the Town and Country Planning Act 1990(**8**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**9**);

"the 2008 Act" means the Planning Act 2008(**10**);

"the 2009 Act" means the Marine and Coastal Access Act 2009(**11**);

"the access and rights of way and public rights of navigation plans" means the plans listed in Part 2 of Schedule 2 (plans and drawings) as the access and rights of way and public rights of navigation plans, certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"the Archaeological Mitigation Written Scheme of Investigation" means the scheme included as part of the CEMP identifying steps to mitigate predicted effects on archaeology, geo-archaeology, palaeo-environmental and historic landscape heritage assets during construction of the authorised development and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"authorised development" means the development and associated development, described in Schedule 1 (authorised development), including any related development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

"the Biodiversity Mitigation Strategy" means the strategy included as part of the CEMP incorporating measures to avoid, reduce, mitigate and compensate for likely adverse effects on ecological receptors arising from the construction of the authorised development and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"the book of reference" means the book of reference certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

(**3**) 1961 c. 33.
(**4**) 1965 c. 56.
(**5**) 1980 c. 66.
(**6**) 1981 c. 66.
(**7**) 1984 c. 27.
(**8**) 1990 c. 8.
(**9**) 1991 c. 22.
(**10**) 2008 c. 29.
(**11**) 2009 c. 23.

"building" includes any structure or erection or any part of a building, structure or erection;

"business day" means Monday to Friday excluding Bank Holidays and other public holidays;

"carriageway" has the same meaning as in the 1980 Act;

"CEMP" means the Construction Environmental Management Plan (Document 5.4.3.C(D)) including the Archaeological Mitigation Written Scheme of Investigation (Document 5.4.3F(B)), the Biodiversity Mitigation Strategy (Document 5.4.3E(C)), the Construction Traffic Management Plan (Document 5.4.3G(C)), the Public Rights of Way Management Plan (Document 5.4.3H(C)), the Outline Waste Management Plan (Document 5.4.3D(A)) and the Noise and Vibration Management Plan (Document 8.8(B)) certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"compulsory acquisition notice" means a notice served in accordance with section 134 of the 2008 Act (notice of authorisation of compulsory acquisition);

"the Construction Traffic Management Plan" means the plan included as part of the CEMP incorporating strategies and measures to limit the impact on existing users of the public highway network arising from construction of the authorised development and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"the deemed marine licence" means the marine licence set out in Schedule 9 (deemed marine licence);

"the design drawings" means the drawings listed in Part 3 of Schedule 2 (plans and drawings) as the design drawings and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"Environmental Statement" means the environmental statement (January 2016 – Documents 5.1 to 5.4) as submitted by National Grid Electricity Transmission plc to support its application for development consent and the documents contained in or named in the consolidated errata and changes (Document 5.2.1(C));

"the extinguishment of easements, servitudes and other rights plans" means the extinguishment of easements, servitudes and other rights plans listed in Part 6 of Schedule 2 (plans and drawings) and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"foundations" means a foundation placed in land to support pylons and electric lines constructed upon those foundations;

"highway" has the same meaning as in the 1980 Act;

"the highway authority" means Kent County Council;

"the land plans" means the plans listed in Part 4 of Schedule 2 (plans and drawings) as the land plans and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"limits of deviation" means the limits of deviation referred to in article 5 (limits of deviation) and shown on the works plans;

"the location plan" means the plan listed in Part 1 of Schedule 2 (plans and drawings) as the location plan and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"main river" has the same meaning as in Part 4 of the Water Resources Act 1991(**12**);

(**12**) 1991 c. 57.

"maintain" includes inspect, repair, adjust, alter, remove, reconstruct or replace the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the Environmental Statement, and any derivative of "maintain" must be construed accordingly;

"MMO" means the Marine Management Organisation;

"National Grid" means National Grid Electricity Transmission plc (registered company number 2366977);

"Noise and Vibration Management Plan" means the plan included as part of the CEMP incorporating measures for the management of noise and vibration arising from the construction of the authorised development and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"the Order land" means the land shown on the land plans which is within the Order limits and described in the book of reference;

"the Order limits" means the limits shown on the land plans and on the works plans within which the authorised development may be carried out;

"the Outline Waste Management Plan" means the plan included as part of the CEMP incorporating measures for the management of waste arising from the construction of the authorised development, certified under article 43 (certification of plans, etc.);

"owner", in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**13**);

"the Public Rights of Way Management Plan" means the plan included as part of the CEMP detailing measures to manage the temporary closure of public footpaths arising from the construction of the authorised development and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"relevant local authority" means, in any given provision of this Order, the local authority for the area to which the provision relates;

"relevant planning authority" means, in any given provision of this Order, the local planning authority for the area to which the provision relates;

"Requirements" means the Requirements as set out in Schedule 3 (requirements) and any numbered Requirement must be construed accordingly;

"sewerage undertaker" means a company appointed under the Water Industry Act 1991(**14**) to provide sewerage services in respect of a geographical area of England and Wales;

"the special category land and crown land plans" means the plans listed in Part 5 of Schedule 2 (plans and drawings) as the special category land and crown land plans and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"statutory undertaker" means, unless the contrary is apparent, any person falling within section 127(8) and section 138(4A) and (4B) of the 2008 Act;

"street" means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

"the temporary construction works" means Work Nos. 2 and 3;

"traffic" has the same meaning as in section 329(1) of the 1980 Act;

"traffic authority" has the same meaning as in the 1984 Act;

(**13**) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to that Act which are not relevant to this Order.
(**14**) 1991 c. 57 as amended by S.I. 2009/3104.

"the traffic regulation order plans" means the plans listed in Part 7 of Schedule 2 (plans and drawings) as the traffic regulation order plans and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"the Trees and Hedgerows to be Removed or Managed Plans" means the plans listed in Part 8 of Schedule 2 (plans and drawings) as the trees and hedgerows to be removed or managed plans and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order;

"the tribunal" means the Lands Chamber of the Upper Tribunal;

"UK Power Networks" means UK Power Networks Operations Limited (registered company number 03870728) and/or its affiliate South Eastern Power Networks plc (registered company number 03043097) as applicable;

"the UK Power Networks works" means Works Nos. 4A, 4B, 4C, 5A, 5B, 5C, 5D, 6A, 6B, 6C, 6D, 6E and 6F and any associated development in connection with those works, described in Schedule 1 (authorised development);

"the undertaker"—

(a) in relation to the authorised development, means National Grid; and

(b) in relation to the UK Power Networks works, and subject to article 6(4), includes UK Power Networks;

"watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, rhynes, sewers and passages through which water flows except a public sewer or drain; and

"the works plans" means the plans listed in Part 9 of Schedule 2 (plans and drawings) as the works plans and certified by the Secretary of State under article 43 (certification of plans, etc.) for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictions are references to restrictions over land which interfere with the interests or rights of another and are for the benefit of land which is acquired, or rights over which are acquired, under this Order.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) All areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters, or numbers, are to be construed as references to points so lettered or numbered on the access and rights of way plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

(7) References in this Order to "Document" followed by a number or numbers are references to documents submitted by National Grid in support of the application for development consent that resulted in the making of this Order.

(8) For the purposes of this Order, "operational use" in relation to any part of the authorised development occurs when that part first transmits electricity at either 132kV or 400kV.