STATUTORY INSTRUMENTS

2017 No. 766

INFRASTRUCTURE PLANNING

The Wrexham Gas Fired Generating Station Order 2017

Made - - - -	*18th July 2017*
Coming into force - -	*8th 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 single appointed person appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(**2**). The single appointed person has submitted a report and recommendation to the Secretary of State under section 83 of the 2008 Act.

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

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.

In accordance with section 127 of the Planning Act 2008(**4**), the Secretary of State has applied the relevant tests and is satisfied that they have been met.

Accordingly, the Secretary of State, in exercise of the powers in sections 114, 115 and 120 of the 2008 Act, makes the following Order—

(**1**) 2008 c.29; the relevant provisions of the Planning Act 2008 are amended by Chapter 6 of Part 6 of, and schedule 13 to, the Localism Act 2011 (c. 20) and by sections 22-27 of the Growth and Infrastructure Act 2013 (c. 27). Transitional provisions are contained in S.I. 2013/1124.

(**2**) S.I. 2010/103, amended by S.I. 2012/635.

(**3**) S.I. 2009/2263. Regulation 3 was amended by S.I. 2012/635 and S.I. 2012/787. S.I 2009/2263 was revoked by S.I. 2017/572, but continues to apply to this application for development consent by virtue of transitional provisions contained in Regulation 37(2) of that instrument.

(**4**) 2008 c.29, Section 127 was amended by sections 23(1), (2)(a), 23(2)(b) and 23(2)(c) of the Growth and Infrastructure Act 2013, c.27 and by paragraphs 64(1) and (2) of Schedule 13(1) to the Localism Act 2011 (c.20).

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Wrexham Gas Fired Generating Station Order 2017 and comes into force on 8th August 2017.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**5**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**6**);

"the 1980 Act" means the Highways Act 1980(**7**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**8**);

"the 1990 Act" means the Town and Country Planning Act 1990(**9**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**10**);

"the 2008 Act" means the Planning Act 2008(**11**);

"access rights of way plan" means the plan identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified as the access rights of way plan by the Secretary of State for the purposes of this Order;

"address" includes any number or address used for the purposes of electronic transmission;

"apparatus" has the same meaning as in Part 3 of the 1991 Act;

"authorised development" means the development described in Schedule 1 (authorised development) to this Order;

"book of reference" means the document identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified by the Secretary of State as the book of reference for the purposes of this Order;

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

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

"commence" unless otherwise provided for means, save for the permitted preliminary works, beginning to carry out any material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or carried out for the purposes of the authorised development and the words "commencement" and "commenced" and cognate expressions are to be construed accordingly;

"date of final commissioning" means the date on which the authorised development commences operation by generating power on a commercial basis;

"design and access statement" means the document identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified as the design and access statement by the Secretary of State for the purposes of this Order;

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

"design objectives statement" means the design objectives contained within the summary of design objectives at chapter 2 of the design and access statement and certified by the Secretary of State as the design objectives statement 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 documents identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified as the environmental statement by the Secretary of State for the purposes of this Order;

"exhaust gas emission flue stack" means the exhaust gas emission flue stack excluding any ancillary support structures, sound proof cladding and emissions monitoring platforms;

"footpath" and "footway" have the same meaning as in the 1980 Act;

"gross rated electrical output" means the aggregate of the gross electric power as measured at the terminals of each generator comprised in the generating station in accordance with standards agreed with the regulating authority under the Environmental Permitting (England and Wales) Regulations 2016(**12**);

"highway" and "highway authority" have the same meaning as in the 1980 Act;

"illustrative foul and surface water drainage strategy" means the document identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified as the drainage strategy by the Secretary of State for the purposes of this Order;

"illustrative landscape and ecological mitigation master plan" means the document identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified as the illustrative landscape and ecological mitigation master plan by the Secretary of State for the purposes of this Order;

"the land plans" means the plans identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified as the land plans by the Secretary of State for the purposes of this Order;

"limits of deviation" means, in respect of numbered works 1, 3, 4 and 5 inclusive the outer limits of the corresponding numbered area shown on the works plan;

"maintain" includes to the extent assessed in the environmental statement inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part, but not the whole of, the authorised development, and "maintenance" and "maintaining" are to be construed accordingly;

"National Grid" means National Grid Gas plc (Company No. 02006000) whose registered office is at 1-3 Strand, London WC2N 5EH;

"NRW" means the Natural Resources Body for Wales and any statutory successors from time to time performing the same functions;

"this Order" means the Wrexham Gas Fired Generating Station Order 2017;

"Order land" means the land which is required for, or is required to facilitate, or is incidental to, or is affected by, the authorised development shown on the land plans and described in the book of reference;

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

(**12**) S.I. 2016/1154.

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

"permitted preliminary works" means any investigation works that may be required pursuant to requirement 5 (ground investigation), requirement 6 (piling) or requirement 8 (archaeology);

"relevant planning authority" means the planning authority for the area in which the authorised development is situated;

"requirements" means those matters set out in Schedule 3 (requirements) to this Order;

"start-up and shut-down" means the periods of 30 minutes before the opening up of construction sites (start-up) and 30 minutes following the end of the working day (shut-down), during which the arrival of workers, changing into and out of work wear, pre-job briefing and leaving the site prior to closing and securing the site take place;

"statutory undertaker" means any person falling within section 127(8) of the 2008 Act and includes a public communications provider as defined by section 151(1) of the Communications Act 2003(**14**);

"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 any footpath and "street" includes any part of a street;

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

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

"undertaker" means Wrexham Power Limited or any other person who for the time being has the benefit of this Order in accordance with article 7 of this Order;

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

"the works plan" means the plan identified in Table 1 of Schedule 2 (documents and plans to be certified) to this Order and certified as the works plan by the Secretary of State for the purposes of this Order; and

"Wrexham Power Limited" means Wrexham Power Limited (Company No. 06762265) whose registered office is at Park Point, 17 High Street, Longbridge, Birmingham B31 2UQ.

(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 restrictive covenants over land which interfere with the interests or rights of another and are for the benefit of land over which rights are created and acquired under this Order.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between lines and/or points on a numbered work comprised in the authorised development and shown on the works plan and access rights of way plan are to be taken to be measured along that work.

(4) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plan and a reference in this Order to a work designated by a number, or by a combination of letters and numbers (for example, "Work No. 1A" or "numbered work 1A"), is a reference to the work so designated in Schedule 1 (authorised development) and a reference to "Work No. 1" or "numbered work 1" means numbered works 1A to 1G inclusive, and a reference to "Work No.2" or "numbered work 2" means numbered works 2A and 2B inclusive.

(5) The expression "includes" is to be construed without limitation.

(**13**) 1981 c.67.
(**14**) 2003 c.21.

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

(7) References to any statutory body include that body's successor bodies as from time to time have jurisdiction over the authorised development.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development in Schedule 1 to be carried out within the Order limits.

(2) Subject to paragraph (3), each numbered work must be situated within the numbered area shown on the works plan.

(3) In constructing each numbered work, the undertaker may construct each numbered work anywhere within the corresponding numbered area shown on the works plan up to the limits of deviation.

Maintenance of authorised development

4.—(1) The undertaker may at any time maintain the authorised development except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

Operation of authorised development

5.—(1) The undertaker is authorised to operate and use the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required from time to time to authorise the operation of a generating station.

Benefit of this Order

6. Subject to article 7 (consent to transfer benefit of this Order), the provisions of this Order have effect solely for the benefit of the undertaker.

Consent to transfer benefit of this Order

7.—(1) Subject to paragraph (4), the undertaker may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order (including any of the numbered works) and such related statutory rights as may be agreed in writing between the undertaker and the transferee; or

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (including any of the numbered works) and such related statutory rights as may be agreed in writing by the undertaker and the lessee.

(2) Where a transfer, or grant, has been made in accordance with paragraph (1) references in this Order to the undertaker include references to the transferee or lessee.