STATUTORY INSTRUMENTS

2017 No. 215

INFRASTRUCTURE PLANNING

The North London Heat and Power Generating Station Order 2017

Made - - - - 24th February 2017

Coming into force - - 18th March 2017

An application has been made to the Secretary of State under section 37 of the Planning Act 2008(**1**) (the "2008 Act") and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**2**) for an Order under sections 114, 115 and 120 of the 2008 Act.

The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(**3**).

The single appointed person, having considered the application with the documents that accompanied it and the representations made and not withdrawn, has submitted a report with a recommendation to the Secretary of State.

The Secretary of State, having considered the report and recommendation of the single appointed person, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(**4**), 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 this Order giving effect to the proposals comprised in the application on terms which in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State is satisfied that the special category land (as identified in the book of reference), when burdened with rights imposed by this Order, will be no less advantageous than it was before to 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.

(**1**) 2008 c.29 Parts 3 and 6 were amended by Section 137 and Schedule 13 to the Localism Act 2011 (c.20).

(**2**) S.I. 2009/2264, amended by the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635), Infrastructure Planning (Prescribed Consultees and Interested Parties etc) (Amendment Regulations 2012 (S.I. 2012/635), Infrastructure Planning (Prescribed Consultees and Interested Parties etc) (Amendment) Regulations 2013 (S.I. 2013/522), Infrastructure Planning (Applications: Prescribed Forms and Procedure) (Amendment) Regulations 2014 (S.I. 2014/2381) and the Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2012 (S.I. 2012/787).

(**3**) 2008 c.29. Sections 86-98 as amended by the Localism Act 2011, Schedule 13 (S.I. 2010/103) and the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635).

(**4**) S.I. 2009/2263 as amended by the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635) and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2012 (S.I. 2012/787).

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120 of the 2008 Act, makes the following Order:

Citation and commencement

1. This Order may be cited as the North London Heat and Power Generating Station Order 2017 and comes into force on 18th March 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 1990 Act" means the Town and Country Planning Act 1990(**8**);

(**5**) 1961 c.33. Section 1 and subsections (A1), (1) and (3)-(6) of section 4 were amended by articles 5(1), (2) (6) of, and paragraphs 31, 37(a), 37(b), 38, 39(a), 39(b), 39(c), of Schedule 1 and Schedule 5 of Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). There are other amendments to the 1961 Act which are not relevant to this Order.

(**6**) 1965 c.56. Subsections (1)-(3) of section 1 and section 30 were amended by subsections (1) and (3) of section 34 of, and paragraph 14 of Schedule 4 to, and Schedule 6 to, the Acquisition of Land Act 1981 (c.67). Subsection (4) of section 1 was amended by section 4 of and paragraph 13(1)(a) and (b) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11). Subsection (5) of section 1 was amended by section 109 of and paragraph 124 of Schedule 10 to, the Courts Act 2003 (c.39). Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991(c.34). Section 4 and subsection (2) of section 11 were amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by section 67 of the Planning and Compensation Act 1991 (c.34). Subsection (2A)(d) and 2(d) of section 5, section 6, subsections (1) and (3) of section 8 and subsection (1) of section 10, subsection (3) of section 11, subsection (1) of section 15, subsection (1) of section 16, subsection (2) of section 17, subsections (1) and (2)(b) of section 18, subsection (2) of section 19 and subsection (3) of section 20 were amended by articles 5(1), (2) and (6) of, and paragraphs 59, 61, 62, 63, 65, 66, 67, 68, 69 ad 70 of Schedule 1 to, and Schedule 5 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Subsection (3) of section 10 was amended by section 4 of, and paragraph 13(2)(a) and (b) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Subsection (1) of section 11 and sections 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by sections 14 and 70 of, and paragraphs 12(1) and 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by sections 62 and 139 of, and paragraphs 27 and 28(1) and (2) to, the Tribunals, Courts and Enforcement Act 2007 (c.15). Subsection 2 of section 20 was amended by section 70 of, and paragraph 4 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Subsections 3 and 4 of section 23 and subsection (1) of section 25 were amended by section 59 of, and paragraph 4 of part 2 of Schedule 11 to, the Constitutional Reform Act 2005 (c.4). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1965 Act which are not relevant to this Order.

(**7**) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted, and section 1(3) was amended, by section 259(1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.

(**8**) 1990 c.8. Subsection (4)(aa) of section 56 was added by Planning and Compensation Act 1991 (c.34). Subsection (5)(a) of section 56 was amended by subsection (2)(a) of section 40 of the Planning and Compulsory Purchase Act 2004 (c.5) and subsection (1) of section 30 of, and paragraphs 2 and 3 of part 2 of Schedule 4 to, the Infrastructure Act 2015 (c.7). Subsection (5)(b) of section 56 was amended by subsection (4) of section 31 of, and paragraphs 8 and 10 of Schedule 6 to, Planning and Compensation Act 1991 (c.34). Subsections (3), (4), (6) and (7) of section 198 were amended by subsection (1) of section 192 and subsection (2)(a) of section 238 of, and paragraphs 7 and 8 of Schedule 8 to, and Schedule 13 to, the 2008 Act. Subsection

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

"the 2008 Act" means the Planning Act 2008;

"Advent Way" means Advent Way, Edmonton, London N18 3AB;

"apparatus" includes pipes, conduits, wires, sewers, drains, tunnels, cables and associated above and below ground structures and any structure for the lodging of apparatus in or for gaining access to apparatus within the Order limits;

"Ardra Road" means Ardra Road, Edmonton, London N9 0BD;

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

"book of reference" means the document certified by the Secretary of State as the book of reference for the purposes of this Order under article 33 (certification of documents and plans);

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

"carriageway" has the same meaning as in section 329 of the 1980 Act;

"cctv" means closed-circuit television cameras and equipment, mounting poles and associated cables;

"code of construction practice" means the document certified by the Secretary of State as the code of construction practice for the purposes of this Order under article 33 (certification of documents and plans);

"commence" means begin to carry out any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development other than operations consisting of enabling works and the temporary display of site notices or advertisements for the purposes of the authorised development, to the extent that they do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement and "commencement" is to be construed accordingly;

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

"DCO Schedules 6-8 explanatory diagrams" means the explanatory diagrams relating to Schedule 6 (public rights of way to be temporarily suspended), Schedule 7 (public rights of way to be extinguished) and Schedule 8 (streets to be temporarily stopped up) certified by the Secretary of State for the purposes of this Order under article 33 (certification of documents and plans);

(4)(a) of section 198 was amended by sections 31, 32, 42 and 84 of, and paragraphs 8 and 20 of Schedule 6 and paragraphs 8 and 34 of Schedule 7 to and Parts 1 and 2 of Schedule 19 to, the Planning and Compensation Act 1991 (c.34). Subsections (8) and (9) of section 198 were amended by subsection (3) of section 42 to the Planning and Compulsory Purchase Act 2004 (c.5). There are other amendments to the 1990 Act which are not relevant to this Order.

(**9**) 1991 c.22. Sections 48(3A) and 50(1A), were inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 49, subsection (3) of section 63, subsection 7A(a) of section 74, subsections (2) and (10)(a) and section 86 were amended by subsection (6) of section 1 of, and paragraphs 113, 117 - 121 of part 2 of Schedule 1 to, the Infrastructure Act 2015 (c.7) Sections 51, 53-60, 65-69, subsections (1A), (4), (4B) and (6) of section 70, 71-72, 73A-73F, subsections (3)(b) and (7B) of section 74, 75, 78A, 39-80, 83, 88, subsection (2) of section 89, 90, 92-93, 95A and 96-97 were amended by sections 40, 42-45, 47-56, 58 and 59 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18). Subsection (5) of section 63 was added by section 32 of, and paragraph 27 of schedule 3 to, the Flood and Water Management Act 2010 (c.29). Subsection (4) of section 64 was added by section 81 of, and paragraph 7 of Schedule 2 to, the Road Traffic Act 1991 (c.40). Subsections (3) and (4A) of section 70 were amended by regulation 17E of The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951). Subsections (2A), (3), (3)(b), (4), (5A)-(5C), (7), (7A) and (7B) were amended by sections 256 and 274 of, and part V(2) of Schedule 31 to, the Transport Act 2000 (c.38). Subsection (1)(a) of section 89 was amended by subsection (1) of section 2 of, and paragraph 57(1) of Schedule 1 to, the Water Consolidation (Consequential Provisions) Act 1991 (c.60). There are other amendments to the 1991 Act which are not relevant to this Order.

"design code principles" means the document certified by the Secretary of State as the design code principles for the purposes of this Order under article 33 (certification of documents and plans);

"discharging authority" means the relevant authority, body or person responsible under the provisions of this Order for approving, consenting or discharging any matter;

"Edmonton EcoPark" means the land at Edmonton EcoPark, Advent Way, London N18 3AG, the location of which is shown on drawing number A_0003 Rev 00 of the site location plans;

"electricity and heat generating station" means Works No. 1a;

"enabling works" includes surveying, land clearance, geological testing and sampling, environmental and hazardous substance testing and sampling (including the making of trial boreholes, window sampling and test pits in connection with such testing and sampling), soil tests, pegging out, tree protection, ecological survey and mitigation works, archaeological investigation, removal of minor and re-locatable buildings and structures (other than the works described in Works No. 7), creation of enabling works accesses (other than the creation of the new accesses to the north and east of the Edmonton EcoPark and the widening of the existing access to the south of the Edmonton EcoPark), and for works falling within this definition, the erection of fencing, hoarding or any other means of temporary enclosure, temporary facilities including re-locatable buildings, connections to utilities, and in all cases which do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement;

"energy from waste facility" means all existing buildings, structures and plant comprising the existing generating station at the Edmonton EcoPark and includes the waste reception hall, bunkers, cranes, grate fired boilers, ash handling system, flue gas cleaning system, waste water treatment plant, chimney stack and flues, turbine hall and electrical system and water cooled condensers;

"environmental commitments and mitigation schedule" means the document certified by the Secretary of State as the environmental commitments and mitigation schedule for the purposes of this Order under article 33 (certification of documents and plans);

"environmental statement" means the document certified by the Secretary of State as the environmental statement for the purposes of this Order under article 33 (certification of documents and plans);

"full operation" means the period of the authorised development's operation starting from the end of the transitional period;

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

"land clearance" means works to clear land of surface vegetation and to remove detritus;

"land plans" means the plans certified by the Secretary of State as the land plans for the purposes of this Order under article 33 (certification of documents and plans);

"Lee Park Way" means Lee Park Way, Edmonton, London N18 3AB;

"maintain" includes to keep up, preserve, conserve, inspect, repair, landscape, plant and re-plant, adjust, alter, remove, clear, refurbish, reconstruct, replace and improve the authorised development, but not so as to vary from the description of the authorised development in Schedule 1 and provided it does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and "maintenance" is to be construed accordingly;

"Meridian Way" means Meridian Way, Edmonton, London N9 0AR;

"National Grid" means National Grid Electricity Transmission Plc and National Grid Gas Distribution Limited, and their successors in title, assigns and any other person exercising their powers;

"operational site" means the area shown hatched green on drawing number A_0004 Rev 00 of the site location plans;

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

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

"owner", in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**10**);

"relevant planning authority" means the London Borough of Enfield;

"Requirements" means the requirements set out in Schedule 2 (requirements); and a reference to a numbered Requirement is a reference to the requirement imposed by the corresponding numbered paragraph of that Schedule;

"stage" means a stage of construction of the authorised development as approved under Requirement 3 and excludes enabling works;

"statutory undertaker" means any person falling within section 127(8) 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;

"temporary laydown area" means the land within plot numbers 16, 18, 19, 20 and 21, as shown on the land plans;

"transitional period" is the period during which the energy from waste facility and the electricity and heat generating station are operating at the same time;

"undertaker" means North London Waste Authority(**11**) or a successor body, or such other person who has the benefit of this Order in accordance with article 8 (consent to transfer benefit of Order);

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

"works plans" means the plans certified by the Secretary of State as the works plans for the purposes of this Order under article 33 (certification of documents and plans).

(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 airspace above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate.

(4) A reference in this Order to "Works" identified by a number is a reference to the Works of the number described in Schedule 1 (authorised development) and shown on the works plans.

(**10**) 1981 c. 67. Section 4 was amended by articles 5(1), (2) and (6) of, paragraphs 149 and 150 of Schedule 1 to, and Schedule 5 to, the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Section 7 was amended by article 8 of, and paragraph 23 of part 1 of Schedule 3 to, S.I. 1990/776, sections 70 and subsections (1), (3) and (8) of, and paragraph 9 of part 1 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34); section 328 of, and paragraphs 34(1) and (2) of part 1 of Schedule 29 to, the Greater London Authority Act 1999 (c.29), article 3(1), and sub-paragraphs (1) and (2) of paragraph 54 of Schedule 1 to, the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990 (S.I. 2001/1149); section 53(1) of, and paragraph 53 of Schedule 1 to, the Fire and Rescue Services Act 2004 (c.21); and section 91 of, and paragraph 110 of part 3 of Schedule 12 to, the Postal Services Act 2011 (c.5). There are other amendments to this Act which are not relevant to this Order.

(**11**) A joint statutory waste disposal authority.