STATUTORY INSTRUMENTS

2016 No. 987

INFRASTRUCTURE PLANNING

The Brechfa Forest Wind Farm Connection Order 2016

Made - - - -	*6th October 2016*
Coming into force - -	*28th October 2016*

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 was examined by the Examining Authority which has made a report to the Secretary of State under section 83(1)(b) 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(**2**) 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.

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

PART 1

Preliminary

Citation and commencement

1. This order may be cited as the Brechfa Forest Wind Farm Connection Order 2016 and comes into force on 28th October 2016.

Interpretation

2.—(1) In this 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).
(**2**) S.I. 2009/2263, amended by S.I. 2012/635 and 2012/787.

"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 1989 Act" means the Electricity Act 1989(**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;

"access and rights of way plans" means the plans listed in Part 3 of Schedule 2 (plans) and certified as the access and rights of way plans by the Secretary of State for the purposes of this Order;

"archaeological written scheme of investigation" means the archaeological written scheme of investigation certified as the archaeological written scheme investigation by the Secretary of State for the purposes of this Order;

"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;

"the book of reference" means the book of reference 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;

"business day" means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(**11**);

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

"CEMP" means the Construction Environmental Management Plan (Document 8.6A) together with the waste management plan, the pollution prevention and emergency response plan, water management plan, the dust management plan, invasive weeds management plan, certified as the CEMP by the Secretary of State for the purposes of this Order;

"CMS" means the Construction Management Strategy (Document 8.5) certified as the CMS by the Secretary of State for the purposes of this Order;

"crown land plans" means the plans listed in Part 4 of Schedule 2 (plans) and certified as the crown land plans by the Secretary of State for the purposes of this Order;

"CTMP" means the Construction Traffic Management Plan (Document 8.7) together with the Public Rights of Way Management Strategy (Document 8.7 Annex 1), certified as the CTMP by the Secretary of State for the purposes of this Order;

"design drawings" means the design drawings listed in Part 5 of Schedule 2 (plans) and certified as the design drawings by the Secretary of State 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**) 1989 c.29
(**9**) 1990 c. 8.
(**10**) 1991 c. 22.
(**11**) 1971 c. 80.

"dust management plan" means the dust management plan forming Document 8.6 Annex 5 of the CEMP and certified as the dust management plan by the Secretary of State 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 features plans" means the plans listed in Part 6 of Schedule 2 (plans) and certified as the environmental features plans by the Secretary of State for the purposes of this Order;

"environmental statement" means the environmental statement certified as such by the Secretary of State for the purposes of this Order;

"flood consequence assessment" means the flood consequence assessment certified as the flood consequence assessment by the Secretary of State for the purposes of this Order

"frac-out contingency plan" means the frac-out contingency plan certified as the frac-out contingency plan by the Secretary of State for the purposes of this Order;

"habitat management plan" means the habitat management plan (Document 8.6.1) and certified as the habitat management plan by the Secretary of State for the purposes of this Order;

"heritage designation plans" means the plans listed in Part 7 of Schedule 2 (plans) and certified as the heritage designation plans by the Secretary of State for the purposes of this Order;

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

"invasive weeds management plan" means the invasive weeds management plan forming Document 8.6 Annex 6 of the CEMP and certified as the invasive weeds management plan by the Secretary of State for the purposes of this Order;

"land plans" means the plans listed in Part 8 of Schedule 2 (plans) and certified as the land plans by the Secretary of State 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;

"maintain" means to inspect, repair, adjust, alter, remove, reconstruct, replace, reconductor or relay the authorised development, but not so as to vary from the description of the authorised development in Schedule 1 and 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" is to be construed accordingly;

"master key plan" means the master key plan listed in Part 2 of Schedule 2 (plans) and certified as the master key plan by the Secretary of State for the purposes of this order;

"Natural Resources Wales" means the Natural Resources Body for Wales;

"operational use" occurs when that part of the authorised development first transmits electricity at 132kV;

"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;

"overall location plan" means the plan listed in Part 1 of Schedule 2 (plans) and certified as the overall location plan by the Secretary of State for the purposes of this Order;

"owner" in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**12**);

"pollution prevention and emergency response plan" means the pollution prevention and emergency response plan forming Document 8.6 Annex 2 of the CEMP and certified as the pollution prevention and emergency response plan by the Secretary of State for the purposes of this Order;

"public rights of way management strategy" means the public rights of way management strategy forming Document 8.7 Annex 1 of the CTMP and certified as the public rights of way management strategy by the Secretary of State for the purposes of this Order;

"relevant highway authority" means the highway authority for the highway that the provision relates, being either the South Wales Trunk Road Agency or Carmarthenshire County Council as appropriate;

"relevant planning authority" means the planning authority for the area of land that the provision relates to, being Carmarthenshire County Council;

"the Requirements" means the requirements in Schedule 3 (Requirements);

"statutory undertaker" (except in Part 1 of Schedule 9) 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;

"transport assessment" means the transport assessment certified as the transport assessment by the Secretary of State for the purposes of this Order;

"trees and hedges with the potential to be affected plans" means the plans listed in Part 9 of Schedule 2 (plans) and certified as the trees and hedges with the potential to be affected plans by the Secretary of State for the purposes of this Order;

"undertaker" means Western Power Distribution (South Wales) Plc (Company Number 2366985) whose registered office is at Avonbank Feeder Road Bristol BS2 0TB or any other person who has the benefit of this Order in accordance with article 6 (benefit of Order) or 7 (consent to transfer benefit of Order);

"waste management plan" means the waste management plan forming Document 8.6 Annex 1 of the CEMP and certified as the waste management plan by the Secretary of State for the purposes of this 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;

"water management plan" means the water management plan forming Document 8.6 Annex 3 of the CEMP and certified as the water management plan by the Secretary of State for the purposes of this Order; and

"works plans" means the plans listed in Part 10 of Schedule 2 (plans) and certified as the works plans by the Secretary of State for the purposes of this Order. References

(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 restrictive covenants are references to the restrictions over the land which are made pursuant to this Order.

(**12**) 1981 c. 67.

(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 shall be 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.

PART 2

Principal powers

Development consent granted by the Order

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

(2) The undertaker may install, and keep installed, the above ground electric lines and the underground cables included in the authorised development.

(3) The undertaker may use the electric line and any other elements of the authorised development as part of the electricity distribution system in Wales.

(4) Subject to article 5 (limits of deviation), the authorised development must be constructed and installed in the lines and situations shown on the works plans and in accordance with the levels shown on the design drawings.

Maintenance of the authorised development

4. 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.

Limits of deviation

5. In carrying out or maintaining the authorised development for which it is granted development consent by article 3(1) (development consent granted by the Order), the undertaker may—

(a) deviate laterally from the lines or situations of the authorised development shown on the works plans within the limits of deviation relating to that work as described in Requirements 3(1) and 3(2) and carry out construction activities for the purposes of the authorised development anywhere within the Order limits; and

(b) deviate vertically from the levels of the authorised development set out in Table 1 of Requirement 3:

(i) to any extent not exceeding 2 metres upwards; or

(ii) to any extent downwards as may be necessary or convenient.

Benefit of Order

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

(2) Paragraph (1) does not apply where the consent granted by this Order is expressed to be for the benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.