STATUTORY INSTRUMENTS

2016 No. 853

INFRASTRUCTURE PLANNING

The River Humber Gas Pipeline Replacement Order 2016

Made - - - -	*25th August 2016*
Coming into force - -	*15th September 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 has been 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.

Accordingly, the Secretary of State, in exercise of the powers in 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 River Humber Gas Pipeline Replacement Order 2016 and comes into force on 15th September 2016.

Interpretation

2.—(1) In this Order—

(**1**) 2008 c. 29.
(**2**) S.I. 2009/2263, amended by S.I. 2012/635 and 2012/787.

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

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

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

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

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

"1989 Act" means the Electricity Act 1989(**8**);

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

"2003 Act" means the Communications Act 2003(**10**);

"2008 Act" means the Planning Act 2008;

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

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

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

"AGI" means an Above Ground Installation facility for the safe operation and maintenance of a pipeline;

"ancillary works" means the ancillary works described in Part 2 of Schedule 1 (authorised project) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

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

"authorised project" means the authorised development and the ancillary works;

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

"cathodic protection" means a technique used to control corrosion of a metal surface by making the metal surface a cathode of an electrochemical cell;

"commence" means begin any material operation (as defined in section 155 of the 2008 Act) comprised in or carried out for the purposes of the authorised project, but does not include any remediation, environmental (including archaeological) surveys and investigation, site or soil survey, erection of site office, erection of fencing to site boundaries or marking out of site boundaries, the diversion or laying of services or environmental mitigation measures; and "commencement" must be construed accordingly;

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

"drainage works" means that part of the authorised project comprised in paragraph 2(j) (further associated development) of Schedule 1 (authorised project) and such other further associated

(**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**) 1991 c.22.
(**10**) 2003 c.21.
(**11**) 2009 c.23.

development in connection with that paragraph as is listed in paragraphs 2(a), (c), (d), (e), (f), (g), (h), (i) and (k) of that Schedule;

"drivers pack" means the collection of measures defined in the initial TMP at Paull and at Goxhill to mitigate the effects of construction traffic;

"environmental statement" means the statement certified as the environmental statement by the Secretary of State for the purposes of this Order, together with any supplemental or additional environmental statement submitted for the purposes of complying with and/or discharging the Requirements in Schedule 3 (requirements) or conditions in Schedule 9 (deemed marine licence) and listed in Part 4 of Schedule 2 (plans);

"Goxhill AGI" means the existing National Grid Gas AGI at Goxhill in North Lincolnshire as indicated on works plan 5;

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

"highway authority" means North Lincolnshire Council or East Riding of Yorkshire Council as the case may be including their successors and where the relevant matter is located in the administrative areas of both then it means both;

"initial CEMP" means the construction environmental management plan certified as such by the Secretary of State for the purposes of this Order;

"initial TMP" means the traffic management plan certified as such by the Secretary of State for the purposes of this Order;

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

"maintain" includes inspect, repair, adjust, alter, remove, reconstruct and replace any of the authorised project 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;

"National Grid Gas" means National Grid Gas Plc (company number 2006000) whose registered office is at 1 - 3 Strand, London, WC2N 5EH or any successor company performing the same functions;

"Order land" means the land shown on the land plans that is within the limits of land to be acquired or used and described in the book of reference;

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

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

"Paull AGI" means the existing National Grid Gas AGI at Paull in the East Riding of Yorkshire as indicated on works plan 7;

"relevant planning authority" means North Lincolnshire Council or East Riding of Yorkshire Council as the case may be including their successors and where the relevant matter is located in the administrative areas of both then it means both;

"Requirements" means the Requirements set out in Schedule 3 (requirements) and a reference to a numbered Requirement is a reference to the Requirement imposed by the corresponding numbered paragraph of that Schedule;

"stopple" means a device inserted into a pipeline and opened to achieve the isolation or stopping of flow in a live pipeline;

(**12**) 1981 c.67. The definition of "owner" was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34), Sch.15(I) para.9.

"stopple and bypass pit" means an excavation around the existing gas pipeline for the purposes of fitting a series of stopple tees to allow the tie-in of Work No. 1 to the existing gas pipeline, and a temporary bypass to maintain the supply of gas during tie-in works;

"stopple tee" means an encirclement device to allow insertion of a stopple into a pipeline;

"street" means a street within the meaning of section 48 of the 1991 Act(**13**), 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;

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

"traffic authority" has the meaning given in section 121A (traffic authorities) of the 1984 Act;

"true clean bed" means the interface between accumulated deposits and the underlying drift or solid geology of the Humber Estuary;

"UK marine area" has the same meaning as in section 42 of the 2009 Act;

"undertaker" means National Grid Gas or any person who has the benefit of this Order in accordance with article 10 (transfer of benefit) of this Order;

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

"the works plans" means the plans certified as the works plans by the Secretary of State for the purposes of this Order and listed in Part 1 of Schedule 2 (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 air-space above its surface.

(3) All distances, directions and lengths referred to in this Order and any document 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 (and in particular in respect of scheduled linear works referred to in this Order all distances are measured along the indicative pipeline route as shown on the works plans for that work).

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

(5) A reference in this Order to a work designated by a number, or by a combination of letters and numbers (for example, "Work No. 2"), is a reference to the work so designated in Schedule 1 (authorised project).

(6) A reference in this Order to a document or plan required to be submitted for certification under article 44 (certification of plans etc.) is a reference to the version of that document or plan that has been certified under article 44.

Application, modification and disapplication of legislative provisions

3.—(1) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

(a) the Environmental Permitting (England and Wales) Regulations 2010(**14**), to the extent that they require a permit for anything that would have required consent under section 109 of the Water Resources Act 1991 immediately before the repeal of that section;

(b) The provisions of any byelaws made under paragraphs 5, 6 or 6a of Schedule 25 to the Water Resources Act 1991, which require consent or approval for the carrying out of the works.

(**13**) Section 48 was amended by the Local Transport Act 2008 (c.26), Pt 7 s.124(2).
(**14**) S.I. 2010/675. See amendments made by S.I. 2016/475.

(2) A power conferred by this Order may be exercised despite, and without having regard to, any provision of byelaws made by the East Riding of Yorkshire Council in its capacity as lead local flood authority but this paragraph does not apply to a provision which permits the taking of any action with the consent of East Riding of Yorkshire Council, of an internal drainage board or of the Environment Agency.

PART 2

Works Provisions

Development consent, etc. granted by Order

4.—(1) Subject to the provisions of this Order and the Requirements in Schedule 3 (requirements), the undertaker is granted—

(a) development consent for the works comprising the authorised development in Part 1 of Schedule 1 (authorised project) and further associated development relating to those works set out in Part 2 of that Schedule; and

(b) consent for the ancillary works relating to those works,

to be carried out within the Order limits.

(2) Each Work must be constructed and maintained within the limits of deviation for that Work.

(3) In carrying out a Work, as described in Schedule 1, the undertaker may deviate from the situations shown on the works plans in Schedule 2 (plans) to the extent of the limits of deviation.

Maintenance of authorised project

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

Operation of authorised project

6.—(1) The undertaker is authorised to operate the authorised project.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required to authorise the operation of the authorised project.

Limits of deviation

7.—(1) Save in relation to the drainage works, where paragraph (2) applies, the undertaker may—

(a) in respect of the location of any work comprised in the authorised development deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation for that work shown on those plans; and

(b) in respect of Work No.1 deviate vertically;

(i) for each or any part of Work No. 1 referred to in column 1 of the table below, to the limit upwards specified in relation to that part of Work No.1 in column 2 of that table;

(ii) to any extent downwards as may be found necessary or practical to a maximum depth of 70 metres below the surface of the ground; and

(iii) except that subparagraph (i) does not apply to those parts of Work No.1 that are built within the Goxhill AGI and the Paull AGI.