STATUTORY INSTRUMENTS

2016 No. 818

INFRASTRUCTURE PLANNING

The North Wales Wind Farms Connection Order 2016

Made - - - -	*28th July 2016*
Coming into force - -	*19th August 2016*

An application under section 37 of the Planning Act 2008(**1**) 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, 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:

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the North Wales Wind Farms Connection Order 2016 and comes into force on 19th August 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**);

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

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

"2008 Act" means the Planning Act 2008;

"access and rights of way plans" means the plans identified with document reference numbers 2.4.0 - 2.4.13 Option B (version 0) certified as the access and rights of way plans by the Secretary of State for the purposes of this Order;

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

"authorised development" means the development described in Schedule 1 (authorised development) which is development within the meaning of section 32 of the 2008 Act;

"the book of reference" means the book of reference Option B (version 2) (as amended by the addendums to the Book of Reference Option B versions 2 and 3), and as certified by the Secretary of State as the book of reference under article 36;

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

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

"date of final commissioning" means the date on which the authorised development first comes into use by distributing electricity at 132kV on a commercial basis;

"design and construction report" means the design and construction report (version 1) document reference 7.1 and 7.2 certified as the design and construction report by the Secretary of State for the purposes of this Order;

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

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

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

"the land plans" means the plans identified with document reference numbers 2.2.0-2.2.13 Option B (version 1) 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 4 (limits of deviation) and shown on the works plans;

"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, or vary the authorised development as described in Schedule 1, and any derivative of "maintain" must be construed accordingly;

(**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.

"NRW" means the Natural Resources Body for Wales;

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

"the 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 highway authority" means the local highway authority of the area to which the provision relates;

"relevant planning authority" means the local planning authority of the area to which the provision relates;

"Requirements" means those matters set out in Schedule 2 to this Order;

"SP Manweb PLC" means SP Manweb PLC (company registration number 02366937) whose registered office is at 3 Prenton Way, Prenton, CH43 3ET;

"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 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;

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

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

"undertaker" means SP Manweb PLC or any other person who has the benefit of this Order in accordance with article 7 or 8;

"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

"the works plans" means the plans identified with document reference numbers 2.3.0-2.3.13 Option B (version 0) certified as the works plans by the Secretary of State 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 over which rights are acquired and created under this Order.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points are taken to be measured between the referenced points.

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

(5) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 and shown on the works plans and a reference to numbered work 1 means numbered works 1A and 1B, a reference to numbered work 2 means numbered works 2A and 2B and a reference to numbered work 3 means numbered works 3A and 3B.

(6) 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.

(**10**) 1981 c.67.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) The undertaker is granted development consent for the authorised development, as set out in Schedule 1 (authorised development), subject to the provisions of this Order including the Requirements set out in Schedule 2 (Requirements).

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

(3) Subject to paragraph (4), in constructing each numbered work, the undertaker may deviate within the corresponding numbered area shown on the works plans up to the limits of deviation provided for in article 4.

(4) Development consent is only granted for development within the Order limits.

Limits of deviation

4. In carrying out and maintaining the authorised development the undertaker may—

(a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation within the Order limits relating to each numbered work shown on those plans and carry out construction and maintenance activities for the purposes of the authorised development anywhere within the Order limits; and

(b) deviate vertically from the levels of the authorised development—

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

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

Operation of authorised development

5.—(1) The undertaker is authorised to keep installed the above ground electric line included in the authorised development.

(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 from time to time to authorise the keeping installed or use of an electic line above ground.

Maintenance of authorised development

6.—(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.

Benefit of the Order

7.—(1) Subject to article 8 (consent to transfer benefit of the Order), and paragraph (2), the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply where this Order provides an express benefit to owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Consent to transfer benefit of the Order

8.—(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 so agreed.

(2) Where a transfer, or grant, has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—

(a) the transferee or lessee is a statutory undertaker;

(b) the transferee or lessee is a person who holds a licence issued under section 6(1) of the Electricity Act 1989(**11**); or

(c) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—

(i) no such claims have been made;

(ii) any such claims that have been made have all been compromised or withdrawn;

(iii) compensation has been paid in final settlement of all such claims;

(iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or

(v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable.

(5) Where an exception in paragraph (4) applies, the undertaker must notify the Secretary of State in writing before transferring or granting any benefit referred to in paragraph (1).

PART 3

STREETS

Power to alter layout, etc., of streets

9.—(1) Subject to paragraph (3), the undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street in the case of permanent works as specified in column (2) of Part 1 of Schedule 3 (streets subject to permanent and temporary alteration of layout) in the manner specified in relation to that street in column (3) and in the case of temporary works as specified in column (2) of Part 2 of Schedule 3 (streets subject to permanent and temporary alteration of layout) in the manner specified in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing and maintaining the authorised

(**11**) 1989 c.29.