STATUTORY INSTRUMENTS

2016 No. 779

INFRASTRUCTURE PLANNING

The Meaford Gas Fired Generating Station Order 2016

Made - - - -	*19th July 2016*
Coming into force - -	*2nd August 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 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

Introduction

Citation and commencement

1. This Order may be cited as the Meaford Gas Fired Generating Station Order 2016 and comes into force on 2nd 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 rights of way plan" means the plan identified with document reference number 2.4 and certified as the access rights of way plan 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) to this Order which is development within the meaning of section 32 of the 2008 Act;

"book of reference" means the book of reference with document reference number 4.3 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;

"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 commences operation by generating power on a commercial basis;

"design and access statement" means the design and access statement certified as such 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;

"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 and in respect of the latter, will be Staffordshire County Council unless otherwise stated;

"the land plan" means the plan submitted as revision 1 dated September 2015 and certified as the land plan by the Secretary of State for the purposes of this Order;

"limits of deviation" means, in respect of numbered works 1 to 7 inclusive the outer limits of the corresponding numbered area 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, 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.

"Meaford Energy Limited" means Meaford Energy Limited (Company Registration Number 08575649) whose registered office is at Park Point, 17 High Street, Longbridge, Birmingham B31 2UQ;

"National Grid" means National Grid Gas plc (Company Registration Number 02006000) whose registered office is at 1 to 3 Strand, London WC2N 5EH;

"Order land" means the land required for, or affected by, the authorised development shown on the land plan 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 Stafford Borough Council as the planning authority for the area in which the authorised development is situated;

"requirements" means those matters set out in Schedule 2 (requirements) to this Order;

"SP Manweb" means SP Manweb Plc (company 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 and shall include a public communications provider as defined by the Communications Act 2003(**11**);

"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;

"traffic authority" has the same meaning as in the 1984 Act;

"undertaker" means Meaford Energy Limited, which is the named undertaker, 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;

"works plans" means the plans with document reference number 2.3 and certified as the works plans by the Secretary of State for the purposes of this Order; and

"WPD" means Western Power Distribution (West Midlands) Plc whose registered office is Avonbank, Feeder Road, Bristol BS2 0TB.

(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 created and acquired under this Order.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between lines and points on a numbered work comprised in the authorised development and shown on the works plans and access rights of way plan are 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 plans and a reference in this Order to a work designated by a number, or by a combination

(**10**) 1981 c. 67.
(**11**) 2003 c. 21.

of letters and numbers (for example, "Work No. 1A" or "numbered work 1A"), is a reference to the work so designated in Schedule 1 and a reference to "Work No. 1" or "numbered work 1" means numbered works 1A to 1E inclusive, a reference to "Work No.2" or "numbered work 2" means numbered works 2A and 2B inclusive and reference to "Work No.5" and "numbered work 5" means numbered works 5A and 5B inclusive.

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

(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 they from time to time have jurisdiction over the authorised development.

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) 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.

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

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, and only to the extent assessed in the environmental statement.

(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 under any other legislation that may be required from time to time to authorise the operation of a generating station.

Benefit of Order

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

(2) Paragraph (1) does not apply to—

(a) numbered work 2A(i) and numbered work 2A(ii) for which consent is granted by this Order for the benefit of the undertaker and National Grid; and

(b) numbered work 3 for which consent is granted by this Order for the benefit of the undertaker and WPD.

Consent to transfer benefit of Order

7.—(1) Subject to paragraph (4), the undertaker, and National Grid in relation to numbered work 2A(i) and numbered work 2A(ii) and WPD in relation to numbered work 3, 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 between the undertaker, National Grid or WPD (as the case may be) and the transferee; or

(b) grant to another person ("the lessee") for a period agreed between the undertaker, National Grid or WPD (as the case may be) 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 or National Grid or WPD (as the case may be), except in paragraph (3) include references to the transferee or 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, National Grid or WPD (as the case may be).

(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 the holder of a licence under section 6 of the Electricity Act 1989(**12**) or section 7 of the Gas Act 1986(**13**); or

(b) 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 any claim that no compensation shall be payable.

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

Application and modification of legislative provisions

8. Schedule 3 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments referred to in that Schedule in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

(**12**) 1989 c. 29. Section 6 was amended by section 30 of the Utilities Act 2000 (c.27), and section 6(10) amended by section 89(3) of the Energy Act 2004 (c.20). There are other amendments to the section that are not relevant to this Order.

(**13**) 1986 c. 44. Section 7 was amended by section 5 of the Gas Act 1995 (c.45) and section 76(2) of the Utilities Act 2000 (c.27). There are other amendments to the section that are not relevant to this Order.