STATUTORY INSTRUMENTS

2016 No. 297

INFRASTRUCTURE PLANNING

The Thorpe Marsh Gas Pipeline Order 2016

Made - - - -	*3rd March 2016*
Coming into force - -	*25th March 2016*

An application has been made to the Secretary of State for an order granting development consent 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 has been examined by a single appointed person (appointed by the Secretary of State) who having considered the representations made and not withdrawn and the accompanying documents has submitted a report to the Secretary of State under section 83(1) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the single appointed person, has taken into consideration the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(**3**) 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 with modifications that in the opinion of the Secretary of State do not make any substantial change to the proposals.

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

(**1**) 2008 c.29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act 2011 (c.20). Section 83(1) was amended by paragraph 35 of that Schedule. Section 114 was amended by paragraph 55 of Schedule 13 to the Localism Act 2011. Section 120 was amended by section 140 of, and paragraph 60 of Schedule 13 to, that Act.

(**2**) S.I. 2009/2264 as amended by the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635) and the Infrastructure Planning (Prescribed Consultees and Interested Parties etc) (Amendment) Regulations 2013 (S.I. 2013/522). There are other amendments to the Regulations which are not relevant to this Order.

(**3**) S.I. 2009/2263; regulation 3 was amended by S.I.s 2012/635 and 2012/787.

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Thorpe Marsh Gas Pipeline Order 2016 and comes into force on 25th March 2016.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**4**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**5**);

"the 1980 Act" means the Highways Act 1980(**6**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**7**);

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

(**4**) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1961 Act which are not relevant to this Order.

(**5**) 1965 c.56. 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 was 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 sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) 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 section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

(**6**) 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), by section 64(1), (2) and (3) of the Transport and Works Act (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37). 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). 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.

(**7**) 1981 c.66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c.17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c.50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c.28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c.51). There are amendments to the 1981 Act which are not relevant to this Order.

(**8**) 1990 c.8. Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c.34). Section 106 was substituted, and section 106A inserted, by section 12(1) of the Planning and Compensation Act 1991. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the 2008 Act. Sections 272 to 274 and section 279 were amended by section 406(1) of, and paragraph 103 of Schedule 17 to, the Communications Act 2003 (c.21), and section 280 was amended by section 406(1) of, and paragraph 104 of Schedule 17. to, that Act. Sections 272 to 274 were also amended by S.I. 2011/741 and S.I. 2012/2590. Section 282 was amended by S.I. 2009/1307. There are other amendments to the 1990 Act which are not relevant to this Order.

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

"the 1997 Regulations" means the Hedgerows Regulations 1997(**10**);

"the 2008 Act" means the Planning Act 2008;

"AGI" means Above Ground Installation;

"AGI plan" means the plan certified as the AGI plan by the Secretary of State for the purposes of this Order;

"AGI site" means the land coloured green on sheet 2 of the works plan and shown on the AGI plan and comprising Works No. 5, 6 and 7;

"authorised development" means the development and associated development described in Part 1 of 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 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;

"commence" means to carry out within the Order limits any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development, other than operations consisting of the removal, diversion and laying of services, and "commencement" is to be construed accordingly;

"Crown land plan" means the plan certified as the Crown land plan by the Secretary of State for the purposes of this Order;

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

"flood risk assessment addendum" means the document certified as the flood risk assessment addendum by the Secretary of State for the purposes of this Order;

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

"Highways England" means Highways England Company Limited (company registration number 9346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ or its successor from time to time as the strategic highways company for England;

"historic environment plan" means the plan certified as the historic environment plan by the Secretary of State for the purposes of this Order;

"important hedgerows plan" means the plan certified as the important hedgerows plan by the Secretary of State for the purposes of this Order;

"land plans" means the plans certified as the land plan by the Secretary of State for the purposes of this Order;

"limits of deviation" means the limits of deviation referred to in article 6 (limits of deviation);

"maintain" includes, to the extent assessed in the environmental statement, to inspect, maintain, adjust, alter, repair, test, cleanse, re-lay, divert, make safe, decommission, reconstruct, demolish, abandon, replace, remove and improve the authorised development or any part of it; and any derivative of "maintain" shall be construed accordingly;

(**9**) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

(**10**) S.I. 1997/1160. There are amendments to the Regulations which are not relevant to this Order.

"National Grid Gas" means National Grid Gas plc (company registration no. 02006000) or any successor company performing the same function;

"nature conservation plan" means the plan certified as the nature conservation plan by the Secretary of State for the purposes of this Order;

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

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

"outline construction environmental management plan" means the document certified as the outline construction environmental management plan by the Secretary of State for the purposes of this Order;

"outline construction traffic management plan" means the document certified as the outline construction traffic management plan by the Secretary of State for the purposes of this Order;

"outline public rights of way plan" means the document certified as the outline public rights of way 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(**11**);

"pipe dump plan" means the plan certified as the pipe dump plan by the Secretary of State for the purposes of this Order;

"pipeline works" means Works No. 9, 10, 11, 13, 14, 15, 19, 20, 23, 24, 26, 27, 28, 31, 33, 34, 35, 38, 39, 40, 41, 43, 44, 45, 47, 48, 49, 50, 51, 53, 55, 57, 58, 59, 60, 62, 63, 64, 65, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, 85, 87, 89, 90, 91, 92, 94, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 107, 109, 110, 111, 113, 114, 115, 118, 119, 121, 122 and 123 as described in Part 1 of Schedule 1 (authorised development);

"public rights of way plan" means the plan certified as the public rights of way plan by the Secretary of State for the purposes of this Order;

"relevant highway authority" means Doncaster Metropolitan Borough Council, East Riding of Yorkshire Council or North Yorkshire County Council, as appropriate, for the area in which the relevant highway to which the relevant provision of this Order applies is situated, or any successors to their statutory functions and, in the case of trunk roads, means the Secretary of State for Transport;

"relevant local authority" means Doncaster Metropolitan Borough Council, East Riding of Yorkshire Council or North Yorkshire County Council, as appropriate, for the area in which the land to which the relevant provision of this Order applies is situated or any successors to their statutory functions or any joint committee they choose to establish pursuant to section 102 and 106 of the Local Government Act 1972(**12**);

"relevant planning authority" means Doncaster Metropolitan Borough Council, East Riding of Yorkshire Council or Selby District Council, as appropriate, for the area in which the land to which the relevant provision of this Order applies is situated or any successors to their statutory functions;

"Requirements" means those matters set out in Part 2 of Schedule 1 (Requirements);

"runway 07/25" means the runway identified as runway 07/25 on the runway plan;

"runway plan" means the plan certified as the runway plan by the Secretary of State for the purposes of this Order;

(**11**) 1981 c.67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34).
(**12**) 1972 c.70.

"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 compounds" means Works No. 1, 3, 8, 16, 18, 21, 22, 25, 29, 32, 36, 42, 52, 56, 61, 66, 82, 88, 93, 106, 108, 112, 116 and 120 as described in Part 1 of Schedule 1 (authorised development);

"Thorpe Marsh Power Limited" means Thorpe Marsh Power Limited (company registration number 06637894) whose registered office is at Carlton House, 4 Ellerbeck Way, Stokesley Business Park, Stokesley, North Yorkshire TS9 5JZ;

"tree preservation order" has the meaning given in section 198 of the 1990 Act;

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

"undertaker" means Thorpe Marsh Power Limited (company registration number 06637894);

"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;

"working width" means the land coloured blue and yellow and labelled "working width" on the works plan;

"works plan" means the plan certified as the works plan 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.

(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 are to be taken to be measured along that work.

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

(5) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order, described in Part 1 of Schedule 1.

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

PART 2

Principal powers

Development consent etc. granted by Order

3. Subject to the provisions of this Order and to the Requirements in Part 2 of Schedule 1, the undertaker is granted development consent for the authorised development in Part 1 of Schedule 1 to be carried out within the Order limits, and Schedule 1 has effect for that purpose.