STATUTORY INSTRUMENTS

2015 No. 1832

INFRASTRUCTURE PLANNING

The Ferrybridge Multifuel 2 Power Station Order 2015

Made - - - -	*28th October 2015*
Coming into force - -	*19th November 2015*

An application has been made to the Secretary of State 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 was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(**3**).

The single appointed person, having considered the application with the documents that accompanied it and the representations made and not withdrawn, has submitted a report with a recommendation to the Secretary of State.

The Secretary of State, having considered the report and recommendation of the single appointed person, has decided the application and determined to make an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State do not make substantial changes 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—

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Ferrybridge Multifuel 2 Power Station Order 2015.

(**1**) 2008 c.29
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(**2**) S.I. 2009/2264
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(**3**) S.I. 2010/103
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(2) This Order comes into force on 19th November 2015.

Interpretation

2.—(1) In this Order—

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

"1971 Act" means the Banking and Financial Dealings Act 1971(**5**);

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

"1989 Act" means the Electricity Act 1989(**7**);

"1991 Act" means the New Roads and Street Works Act 1991(**8**);

"2008 Act" means the Planning Act 2008;

"2010 Regulations" means the Environmental Permitting (England and Wales) Regulations 2010(**9**);

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

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

"business day" means any day except—

(a) Christmas Day;

(b) Good Friday;

(c) a day that is a bank holiday in England and Wales by virtue of section 1 of the 1971 Act;

(d) any other day that is a Saturday or a Sunday;

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

"environmental statement" means the environmental statement (including the figures and appendices) submitted with the application for this Order and certified as the environmental statement by the Secretary of State for the purposes of this Order under article 23 ;

"FM1 Power Station" means the Ferrybridge Multifuel 1 power station within the Ferrybridge Power Station site, north-west of Knottingley, West Yorkshire, for which consent under section 36 of the Electricity Act 1989 was granted in October 2011;

"heavy goods vehicle" means a motor vehicle constructed or adapted to carry or to haul goods of more than 3.5 tonnes in weight;

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

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

(**4**) 1961 c. 33 .

(**5**) 1971 c. 80 .

(**6**) 1980 c. 66 .

(**7**) 1989 c. 29 .

(**8**) 1991 c. 22 .

(**9**) S.I. 2010/675 .

"light goods vehicle" means a motor vehicle constructed or adapted to carry or to haul goods of not more than 3.5 tonnes in weight;

"maintain" includes (i) inspect, repair, adjust, alter, improve, refurbish, and (ii) in relation to a part of a work (but not the whole of a work) of the authorised development, remove, clear, demolish, decommission, reconstruct or replace; and "maintenance" and other cognate expressions are to be construed accordingly;

"MWe" means megawatts of electrical output;

"Order land" means the land required for the proposed development shown on the Order plan which is within the Order limits;

"Order limits" means the limits, shown by the red line boundary on the Order plan, within which the authorised development may be carried out;

"Order plan" means the document certified as the Order plan by the Secretary of State for the purposes of this Order under article
23
;

"owner", in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**10**);

"a part" of the authorised development means any part of Works Nos. 1-4;

"planning authority" means Wakefield Metropolitan District Council, as the planning authority for the area in which the Order land is situated;

"requirements" means the requirements set out in Schedule 2 (the requirements); and a reference to a numbered requirement is a reference to the requirement imposed by the corresponding numbered paragraph of that Schedule;

"statutory undertaker" means any person falling within the meaning of 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;

"undertaker" means Multifuel Energy Limited (company number SC286672), having its registered office at Inveralmond House, 200 Dunkeld Road, Perth PH1 3AQ, subject to article 8 (transfer of the benefit of this Order);

"unnamed road" means the unnamed road to the east of and adjacent to the A1(M) which leads northwards from Stranglands Lane to the western boundary of Work No. 1A;

"waste derived fuel" means fuel derived from (i) processed municipal solid waste, (ii) commercial and industrial waste or (iii) waste wood;

"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

"works plans" means the documents certified collectively as the works plans by the Secretary of State for the purposes of this Order under article 23.

(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 airspace above its surface.

(3) A reference in this Order to a "grid reference" is a reference to the map co-ordinates on the National Grid used by the Ordnance Survey.

(**10**) 1981 c. 67

(4) 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.

(5) All references in this Order to grid references and heights above ordnance datum are to be construed subject to the tolerances to which Ordnance Survey measures them.

(6) A reference in this Order to a "Work" identified by a number is a reference to the Work of that number described in Schedule 1 and shown on the works plans.

Electronic communications

3.—(1) In this Order—

(a) references to documents, maps, plans, drawings, certificates or other documents, or to copies, include references to them in electronic form;

(b) references to a form of communication being "in writing" include references to an electronic communication that satisfies the conditions in paragraph (3); and "written" and other cognate expressions are to be construed accordingly.

(2) If an electronic communication is received outside the recipient's business hours, it is to be taken to have been received on the next business day.

(3) The conditions are that the communication is—

(a) capable of being accessed by the recipient;

(b) legible in all material respects; and

(c) sufficiently permanent to be used for subsequent reference.

(4) For the purposes of paragraph (3)(b), a communication is legible in all material respects if the information contained in it is available to the recipient to no lesser extent than it would be if transmitted by means of a document in printed form.

(5) In this article "electronic communication" has the meaning given in section 15(1) of the Electronic Communications Act 2000(**11**).

PART 2

PRINCIPAL POWERS

Development consent granted by this Order

4. Subject to the provisions of this Order and to the requirements in Schedule 2, the undertaker is granted development consent for the authorised development.

Limits of deviation

5.—(1) In carrying out the authorised development the undertaker may deviate laterally from the lines, situations or building outlines shown on the works plans and sheet 1 of the indicative layout—

(a) in such a way as to reduce the size of the relevant part of the authorised development, to such extent as the undertaker considers necessary or expedient;

(**11**) 2000 c. 7

(b) in such a way as to increase the size of the relevant part of the authorised development, to the maximum extent of the limits of deviation shown on the relevant document.

(2) Paragraph (1) is subject to the following exceptions—

(a) the centre point of the emissions stack comprised in Work No. 1A must be at grid reference 447250 425345;

(b) the north-west corner of the cooling system comprised in Work No. 1A must be at grid reference 447226 425285;

(c) the width and length of each building comprised in the authorised development and listed in Schedule 3 (maximum building dimensions) must not exceed the maximum width or length for that building specified in that Schedule; and

(d) the width and length of each building comprised in the authorised development and listed in Schedule 4 (minimum building dimensions) must not be less than the minimum width or length for that building specified in that Schedule.

(3) In carrying out the authorised development the undertaker may deviate vertically from the levels shown on sheet 2 of the indicative layout, in such a way as to reduce or increase the size of the relevant part of the authorised development, to such extent as the undertaker considers necessary or expedient.

(4) Paragraph (3) is subject to the following exceptions—

(a) the height of the emissions stack comprised in Work No. 1A must be 136 metres above ordnance datum (Newlyn);

(b) the height of each building comprised in the authorised development and listed in Schedule 3 (maximum building dimensions) must not exceed the maximum height for that building specified in that Schedule;

(c) the height of each building comprised in the authorised development and listed in Schedule 4 (minimum building dimensions) must not be less than the minimum width or length for that building specified in that Schedule; and

(d) each part of the authorised development, apart from piling works, must be at least 1 metre above the relevant groundwater table level.

(5) In this article—

the "indicative layout" means the document certified as the indicative generating station site layout, elevation and sections plan – concept layout by the Secretary of State for the purposes of this Order under article 23;

"the relevant groundwater table level" means, in relation to each part of the authorised development, the level of the groundwater table in the land on which it is proposed to construct that part, as established pursuant to requirement 6 (pre-development groundwater table level survey).

Authorisation of the operation of the authorised development

6.—(1) The undertaker is authorised to operate the generating station comprised in the authorised development.