STATUTORY INSTRUMENTS

2015 No. 680

INFRASTRUCTURE PLANNING

The Knottingley Power Plant Order 2015

Made - - - -	*10th March 2015*
Coming into force - -	*1st April 2015*

An application has been made to the Secretary of State in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**1**) for an Order under sections 114, 115, 120, 140 and 147 of the Planning Act 2008(**2**) ("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The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the report and recommendation of the single appointed person, and decided the application, has 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 any substantial change to the proposals.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 147 of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Knottingley Power Plant Order 2015 and comes into force on 1st April 2015.

(**1**) 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.

(**2**) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c.20), and by sections 22 to 27 of the Growth and Infrastructure Act 2013 (c.27), see S.I. 2013/1124 for transitional provisions.

(**3**) S.I. 2010/103, as amended by S.I. 2012/635.

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**);

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

"the 2008 Act" means the Planning Act 2008;

"access to works plan" means the plan certified as the access to works plan by the Secretary of State for the purposes of the Order and submitted with the application (drawing number KPL-APFP_5_2_K-2.8, sheet 1 revision F, sheet 2 revision E, sheet 3 revision D, sheet 4 revision E, sheet 5 revision E);

"authorised development" means the development and associated development described in Part 1 of 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 certified by the Secretary of State as the book of reference for the purposes of this Order;

(**4**) 1961 c.33. There are 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. Section 11(1) 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. 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 and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006. 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 paragraph 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 1992 (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 65(5) 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; and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994. 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 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force in relation to England: 6th April 2012: S.I. 2012/601). There are other amendments to the 1990 Act which are not relevant to this Order.

(**9**) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 78(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

"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;

"CCS" means carbon capture and storage;

"the Coal Authority" means the Coal Authority established under the Coal Industry Act 1994;

"commence", unless otherwise provided for, means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) forming the relevant part of the authorised development other than operations consisting of preliminary works, site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "commencement" is construed accordingly;

"commissioning" means the process of assuring that all systems and components of the authorised development (which are installed or installation is near to completion) are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

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

"environmental statement" means the document certified as the environmental statement by the Secretary of State for the purposes of this Order and submitted with the application together with any supplementary or further environmental information submitted by the undertaker in support of the application;

"flood risk assessment" means section K.1 of the environmental statement's Appendix 1 ("Flood Risk Assessment"); section 20.8 of the environmental statement ("Assessment of Flood Risk"); and the Flood Risk Assessment Addendum (cooling water pipeline and pump house) (reference JL30840-NHY-RP-001 Rev D dated 4th April 2014);

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

"indicative AGI layout drawings" means the drawings certified as the indicative above ground installation layout drawings by the Secretary of State for the purposes of the Order and submitted with the application (drawing number 3511480B/KN-CDR/2012/401, revision M);

"indicative generating station layout drawings" means the drawings certified as the indicative generating station layout drawings by the Secretary of State for the purposes of the Order and submitted with the application (drawing number ESBI/KPL/PL/01, revision C);

"indicative overhead lines and pylons layout drawings" means the drawings certified as the indicative overhead lines layout drawings by the Secretary of State for the purposes of the Order and submitted with the application (drawing number 90NG475/12/01, revision D, drawing number 90NG475/10/01, revision B, drawing number 90NG475/10/02, revision B);

"indicative pump house layout drawing" means the drawing certified as the indicative pump house layout drawing by the Secretary of State for the purposes of the Order and submitted with the application (drawing number PP-DT-00077-D505-012, revision 1);

"ISO Conditions" means ambient temperature of 15° Celsius, relative humidity 60% and ambient pressure of 1 bar;

"land" includes land covered by water and any interest or right in, to or over land;

"the land plan" means the plan certified as the land plan by the Secretary of State for the purposes of this Order (key plan drawing number Land/001 revision 9, sheet 1 drawing number Land/002 revision 9, sheet 2 drawing number Land/003 revision 9, sheet 3 drawing number Land /004 revision 9, sheet 4 drawing number Land/005 revision 9, sheet 5 drawing number

Land/006 revision 9, sheet 6 drawing number Land/007 revision 9, sheet 7 drawing number Land/008 revision 9);

"maintain" includes, to the extent assessed in the environmental statement, inspect, maintain, repair, adjust, alter, refurbish, improve, clear, and remove; and "maintenance" is construed accordingly;

"operational phase" means the period of time that the relevant part of the authorised development is in operation after construction and commissioning is complete, which begins on the date specified in the operational phase notice and "operational" and "operation" should be construed accordingly;

"operational phase notice" means a written notice served by the undertaker on the relevant planning authority and the Environment Agency confirming that the operational phase is about to be begin or has begun, in accordance with Requirement 35 in Part 2 of Schedule 1;

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

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

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

"preliminary works" means landscaping and creative conservation, providing these operations do not require the delivery to or removal from the site of bulk filling materials; surveys, including geotechnical surveys; provision of wheel cleansing facilities; erection of temporary fencing; site security; preparation of contractor's laydown areas; and any other works agreed in writing with the relevant planning authority to constitute permitted preliminary works;

"public rights of way temporary closures and permanent stopping up plan" means the document certified as the public rights of way temporary closures and permanent stopping up plan by the Secretary of State for the purposes of the Order and submitted with the application (drawing number KPL-APFP_5_2_k-2.9, sheet 1 revision G, sheet 2 revision D, sheet 3 revision D, sheet 4 revision D, sheet 5 revision G);

"relevant highway authority" means the highway authority for the area in which the land to which the relevant provision of this Order applies is situated;

"relevant local authority" means the local authority for the area in which the land to which the relevant provision of this Order applies is situated;

"relevant planning authority" means the planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

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

"statutory undertaker" means any person falling within section 127(8), 128(5) or 129(2) 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;

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

"undertaker" means Knottingley Power Limited (company number 05902446);

"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; and

(**10**) 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). There are other amendments to the 1981 Act which are not relevant to this Order.

"the works plan" means the plan certified as the works plan by the Secretary of State for the purposes of this Order (drawing number KPL-APFP_5_2_J-2.3, sheet 1 revision F, sheet 2 revision D, sheet 3 revision D, sheet 4 revision D, sheet 5 revision D).

(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 taken to be measured along that work.

(4) 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 and shown on the works plan.

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

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

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the 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 (authorised development) has effect for that purpose.

Power to maintain authorised development

4. 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.

PART 3

OPERATIONS

Operation of generating station

5.—(1) The undertaker is hereby authorised to operate the generating station and associated plant 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 an electricity generating station.

Limits of deviation

6. In carrying out the authorised development the undertaker may—

(a) deviate laterally from the lines or situations of the authorised development shown on the works plan to the extent of the limits of deviation shown on that plan; and

(b) deviate vertically to any extent downwards as may be found necessary or convenient.