STATUTORY INSTRUMENTS

2015 No. 129

INFRASTRUCTURE PLANNING

The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015

Made - - - -	*4th February 2015*
Coming into force - -	*25th February 2015*

An application has been made to the Secretary of State, under section 37 of the Planning Act 2008(**1**) ("the 2008 Act") in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**2**) for an order granting development consent.

The application was examined by a single appointed person (appointed by the Secretary of State) under Chapter 3 of part 6 of the 2008 Act and carried out 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The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83(1) of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 15, 17, 19, 22, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

(**1**) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
(**2**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755.
(**3**) S.I. 2010/103, amended by S.I. 2012/635.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 and comes into force on 25th February 2015.

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 1984 Act" means the Road Traffic Regulation Act 1984(**8**);

"the 1990 Act" means the Town and Country Planning Act 1990(**9**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**10**);

"the 2008 Act" means the Planning Act 2008(**11**);

"address" includes any number or address for the purposes of electronic transmission;

"Air Products (BR) Limited" means the company of that name, company number 02532156, whose registered office is at Hersham Place Technology Park, Molesey Road, Walton on Thames, Surrey, KT12 4RZ;

"Anglian Water" means Anglian Water Services Limited, company number 02366656, whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire PE29 6YJ;

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

"authorised development" means the development and associated development described in Schedule 1 (authorised development) or any part of them and any other development authorised by this Order or part of it, which is development within the meaning of section 32 (meaning of development) 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;

"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;

"cycle track" has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act(**12**);

(**4**) 1961 c. 33.
(**5**) 1965 c. 56.
(**6**) 1980 c. 66.
(**7**) 1981 c. 66.
(**8**) 1984 c. 27.
(**9**) 1990 c. 8.
(**10**) 1991 c. 22.
(**11**) 2008 c. 29.
(**12**) The definition of "cycle track" was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

"E.ON UK Gas Limited" means the company of that name, company number 02436332, whose registered office is at Westwood Way, Westwood Business Park, Coventry, CV4 8LG;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"the engineering drawings and sections" means the documents certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

"environmental statement" means the document submitted alongside the application for this Order, together with any addendums submitted, and certified as the environmental statement by the Secretary of State for the purposes of this Order;

"escorted vehicles" means Part 2 vehicles and Part 2 vehicle-combinations as defined in article 3 of the Road Vehicles (Authorisation of Special Types) (General) Order 2003(**13**), and any attendants employed in accordance with Schedule 6 to that Order;

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

"Heron Wind Limited" means the company of that name, company number 07640868, whose registered office is at 11th Floor, 140 London Wall, London, EC2Y 5DN;

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

"the land plans" means the plans 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 5 (limits of deviation);

"maintain" and any of its derivatives include inspect, repair, adjust, alter, remove or reconstruct in relation to the authorised development and any derivative of "maintain" is to be construed accordingly;

"National Grid Gas plc" means the company of that name, company number 02006000, whose registered office is at 1-3 Strand, London, WC2N 5EH;

"Northern Powergrid" means Northern Powergrid Limited, company number 03271033, whose registered office is at Lloyds Court, 78 Grey Street, Newcastle upon Tyne, NE1 6AF;

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

"the Order limits" means the limits of deviation 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 (interpretation) of the Acquisition of Land Act 1981(**14**);

"relevant planning authority" means the local planning authority for the land in question;

"rights of way and access plans" means the plans certified as the rights of way and access plans by the Secretary of State for the purposes of this Order;

"Secretary of State" means the Secretary of State for Transport;

"statutory undertaker" means any statutory undertaker for the purposes of section 127(8) (statutory undertakers' land) of the 2008 Act;

(**13**) S.I. 2003/1998.

(**14**) 1981 c. 67. The definition of "owner" was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

"street" means a street within the meaning of section 48 (streets, street works and undertakers) 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;

"traffic regulation plans" means the plans certified as the traffic regulation plans by the Secretary of State for the purposes of this Order;

"trunk road" means a highway which is a trunk road by virtue of—

(a) section 10(**15**) or 19(1) of the 1980 Act (provisions as to trunk roads);

(b) an order or direction under section 10 of that Act; or

(c) an order granting development consent; or

(d) any other enactment;

"Vitol Power Immingham" means VPI Immingham LLP, company number OC300980, whose registered office is at Belgrave House, 76 Buckingham Palace Road, London SW1W 9TQ;

"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 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.

(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) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) 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 rights of way and access plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3. Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the Secretary of State is granted development consent for the authorised development to be carried out within the Order limits.

Maintenance of authorised development

4. The Secretary of State may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(**15**) As amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act.

Limits of deviation

5.—(1) Subject to paragraph (2), in carrying out the authorised development the Secretary of State may—

(a) in relation to all authorised development, deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans;

(b) in relation to Work No.28, deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 0.15 metres upwards or downwards; and

(c) in relation to all authorised development other than Work No.28, deviate vertically from the levels of the authorised development shown on the engineering drawings and sections, to a maximum of 0.5 metres upwards or downwards.

(2) Any deviation under paragraph (1) is only permitted if it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Benefit of Order

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

(2) Paragraph (1) does not apply to the works specified below for which the consent is granted by this Order for the express benefit of the following owners and occupiers of land, statutory undertakers and other persons affected by the authorised development—

(a) Northern Powergrid in relation to Work Nos. 9 and 11;

(b) Anglian Water in relation to Work Nos. 10 and 12;

(c) Vitol Power Immingham in relation to Work No. 14;

(d) National Grid Gas plc in relation to Work Nos. 15 and 16;

(e) E.ON UK Gas Limited in relation to Work No. 17;

(f) Heron Wind Limited in relation to Work No. 18; and

(g) Air Products (BR) Limited in relation to Work No. 30.

Consent to transfer benefit of Order

7.—(1) The Secretary of State may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the Secretary of State and the transferee; or

(b) grant to another person ("the lessee") for a period agreed between the Secretary of State and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the Secretary of State, except in paragraph (3) or where the reference is to a consenting function of the Secretary of State, includes 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 Secretary of State.