
STATUTORY INSTRUMENTS

2015 No. 680

The Knottingley Power Plant Order 2015

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.

Benefit of the Order

7.—(1) The undertaker may with the consent of the Secretary of State—

- (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 undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker 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

except where paragraph (5) applies in which case no such consent is required.

(2) Consent under paragraph (1) may not be unreasonably withheld or delayed.

(3) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (4), include references to the transferee or lessee.

(4) 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.

(5) This paragraph applies where—

- (a) the transferee or lessee is a person who holds a licence under section 6 of the Electricity Act 1989(1) or section 7 of the Gas Act 1986(2); or
- (b) the time limits for 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 - (ii) any such claims have been made and have been compromised or withdrawn;
 - (iii) compensation has been paid in final settlement of any such claims;
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claims; or
 - (v) it has been determined by the tribunal or court of competent jurisdiction in respect of any such claims that no compensation is payable.

(6) The provisions of articles 10 (street works), 12 (public rights of way), 18 (compulsory acquisition of land), 21 (compulsory acquisition of rights and imposition of restrictive covenants), 27 (temporary use of land for carrying out the authorised development) and 28 (temporary use of land for maintaining the authorised development) have effect only for the benefit of the named undertaker and a person who is a transferee or lessee and also holds a licence under section 6 of the Electricity Act 1989 or section 7 of the Gas Act 1986.

(7) The provisions of article 10 (street works) in addition only have effect for the benefit of the named undertaker and a person who is a transferee or lessee and is also a street authority.

Application and modification of legislative provisions

8. Regulation 6 of the Hedgerows Regulations 1997(3) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

- “(k) or for carrying out development which has been authorised by development consent made pursuant to the Planning Act 2008.”

Defence to proceedings in respect of statutory nuisance

9.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(4) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2)(5) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent

(1) 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 this section that are not relevant to this Order.

(2) 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 this section that are not relevant to this Order.

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

(4) 1990 c.43. Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995 (c.25). There are amendments to this Act which are not relevant to this Order.

(5) Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40) and paragraph 6 of Schedule 17 to the Environment Act 1995 (c.25).

given under section 61 (prior consent for work on construction sites) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974⁽⁶⁾; or

(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in compliance with a noise management scheme approved by the relevant planning authority under Requirement 23 (control of noise – operational phase); or

(ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

⁽⁶⁾ 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15(4) of Schedule 15 to, the [Environmental Protection Act 1990, c.43](#). There are other amendments to the 1974 Act which are not relevant to this Order.