
STATUTORY INSTRUMENTS

2018 No. 1020

The Eggborough Gas Fired Generating Station Order 2018

PART 7

MISCELLANEOUS AND GENERAL

Defence to proceedings in respect of statutory nuisance

37.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 ^{M1}(summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act no order is to be made, and no fine may be imposed, under section 82(2) 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 given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974 ^{M2}; 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 is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974, 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.

Marginal Citations

M1 1990 c.43; there are amendments which are not relevant to this Order.

M2 1974 c.40. Section 61(9) was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

Changes to legislation:

There are currently no known outstanding effects for the The Eggborough Gas Fired Generating Station Order 2018, Section 37.