
STATUTORY INSTRUMENTS

2024 No. 230

The Medworth Energy from Waste Combined
Heat and Power Facility Order 2024

PART 3

STREETS

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any streets specified in Schedule 3 (streets subject to street works) and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) drill, tunnel or bore under the street;
- (c) place and keep apparatus in the street;
- (d) maintain apparatus in the street, change its position or remove it; and
- (e) execute any works required for or incidental to any works referred to in subparagraphs (a), (b), (c) or (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Where the undertaker is not the street authority, the provisions of sections 54 (advance notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

Power to alter layout, etc., of streets

11.—(1) The undertaker may for the purposes of the authorised development alter the layout of or construct any works in the street in the case of permanent works as specified in column (2) of Schedule 4 (streets subject to permanent alteration of layout) in the manner specified in relation to that street in column (3) of that Schedule and in the case of temporary works as specified in column (2) of Schedule 5 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (3) of that Schedule.

(2) Without prejudice to the powers conferred by paragraph (1) in respect of specific streets, but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating or maintaining the authorised development alter the layout of any street within the Order limits and, without limiting the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, footpath, cycle track or verge; and
- (b) make and maintain passing places.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Construction and maintenance of new or altered means of access

12.—(1) Those parts of each means of access specified in Part 1 of Schedule 6 (access) to be constructed or altered under this Order must be completed to the reasonable satisfaction of the highway authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the highway authority.

(2) Those parts of each means of access specified in Part 2 of Schedule 6 (access) to be constructed or altered under this Order and which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(3) Those restoration works carried out pursuant to article 11(3) (power to alter layout, etc., of streets) identified in Part 3 of Schedule 6 (access) which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the street authority.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), a court must in particular have regard to the following matters—

- (a) the character of the street including the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

Temporary prohibition or restriction of use of streets and public rights of way

13.—(1) The undertaker may, during and for the purposes of constructing the authorised development, temporarily alter, divert, prohibit or restrict the use of any street or public right of way within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
 - (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.
- (2) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way where the use has been prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.
- (3) The undertaker must provide reasonable access for non-motorised users (including pedestrians) and vehicles going to or from premises abutting a street or public right of way affected by the temporary alteration, diversion, prohibition or restriction of a street or public right of way under this article if there would otherwise be no such access.
- (4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily alter, divert, prohibit or restrict the use of the streets or public rights of way specified in columns (1) and (2) of Schedule 7 (temporary prohibition or restriction of the use of streets or public rights of way) to the extent specified in column (3) of that Schedule.
- (5) The undertaker must not temporarily alter, divert, prohibit or restrict the use of—
- (a) any street specified in paragraph (4) without first consulting the street authority; and
 - (b) any other street without the consent of the street authority which may attach reasonable conditions to any such consent.
- (6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (7) If the undertaker uses any street or public right of way as a temporary working site under this article the undertaker must restore the street or public right of way to the reasonable satisfaction of the street authority.

Use of private roads

- 14.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised development.
- (2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).
- (3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Access to works

15. The undertaker may, for the purposes of the authorised development—
- (a) form and lay out the permanent means of access, or improve existing means of access in the location specified in Schedule 4 (streets subject to permanent alteration of layout);
 - (b) form and lay out the temporary means of access in the locations specified in Schedule 5 (streets subject to temporary alteration of layout); and
 - (c) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve the existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

- 16.—(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
 - (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised development;
 - (d) any alteration, diversion, prohibition or restriction in the use of a street authorised by this Order;
 - (e) the construction in the street of any of the authorised development; or
 - (f) any such works as the parties may agree.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Traffic regulation measures

17.—(1) Subject to the provisions of this article, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with, or in consequence of, the construction of the authorised development, temporarily—

- (a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (b) make provision as to the direction or priority of vehicular traffic on any road;
- (c) permit, prohibit or restrict the use of any road;
- (d) permit, prohibit or restrict vehicular access to any road;
- (e) amend or suspend in whole or in part any order made, or having effect as if made under the 1984 Act;
- (f) determine that no person is to drive any motor vehicle at a speed exceeding 30 miles per hour along the length of road known as New Bridge Lane and shown coloured blue on the access and public rights of way plans; and
- (g) place traffic signs and signals in the extents of the road specified in column 3 of Schedule 7 (temporary prohibition or restriction of the use of streets or public rights of way), and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(1),

either at all times or at times, on days or during such periods as may be specified by the undertaker.

- (2) Before exercising the power conferred by paragraph (1) the undertaker must
- (a) consult with the chief officer of police in whose area the road is situated; and
 - (b) obtain the written consent of the traffic authority in whose area the road concerned is situated.

(1) S.I. 2016/362.

- (3) The undertaker must not exercise the powers under paragraph (1) of this article unless it has—
- (a) given not less than four weeks’ notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention not less than seven days before the provision is to take effect, in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker’s intention in the case of sub-paragraph (a).
- (4) Any prohibition, restriction or other provision made by the undertaker under article 13 (temporary prohibition or restriction of use of streets and public rights of way) or paragraph (1) of this article has effect as if duly made by, as the case may be—
- (a) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
 - (b) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act,
- and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement)(2).
- (5) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(3) when used in accordance with regulation 3(5) of those regulations.
- (6) In this article—
- (a) subject to sub-paragraph (b) expressions used in this article and in the 1984 Act have the same meaning; and
 - (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.

(2) [2004 c. 18](#). There are amendments to this Act not relevant to this Order.
(3) [S.I. 2011/935](#)