
STATUTORY INSTRUMENTS

2023 No. 110

The East Northamptonshire Resource
Management Facility Order 2023

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3. Subject to the provisions of this Order and to the Requirements in Schedule 2 (requirements) attached to this Order the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

Effect of this Order on the original order

4.—(1) The undertaker must not start operational use of Work No. 1A, Work No. 2, or Work No.3 under this Order until notice has been served on the relevant planning authority that the undertaker is ceasing to operate those works under the original order.

(2) Upon service of the notice under paragraph (1) construction, operation and maintenance of Work No.1A, Work No.2 and Work No.3 will cease under the original order and from that date the authorised development will be constructed, operated and maintained in accordance with the provisions of this Order and the plans certified under article 18.

(3) From the date of the notice served under paragraph (1) the provisions of the original order will not apply in relation to the authorised development.

Limits of deviation

5. In carrying out, maintaining or diverting the authorised development, the undertaker may—
- (a) construct any such work within the lateral limits of deviation or extents of work shown on the works plans for the relevant work;
 - (b) in relation to Work No. 1 only deviate the works vertically upwards to a limit of 1 metre from the contours shown in grey on the restoration profile contour plan;
 - (c) deviate the works vertically downwards to any extent as may be found necessary to construct the authorised development, subject to approval by the Environment Agency.

Benefit of this Order

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

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

Consent to transfer benefit of this 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.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), 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 undertaker.

(4) The consent of the Secretary of State is not required under this article where the transfer or grant is made to Western Power Distribution for the purposes of undertaking Work No. 5.

Power to construct and maintain the authorised development

8. The undertaker may at any time construct and maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Maintenance of drainage works

9.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(1).