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STATUTORY INSTRUMENTS

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**2024 No. 70**

**The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024**

**PART 1**

**PRELIMINARY**

**Citation and commencement**

**1.** This Order may be cited as the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 and comes into force on 7th February 2024.

**Interpretation**

**2.—(1)** In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1980 Act” means the Highways Act 1980(3);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

“the 1984 Act” means the Road Traffic Regulation Act 1984(5);

“the 1989 Act” means the Electricity Act 1989(6);

“the 1990 Act” means the Town and Country Planning Act 1990(7);

“the 1991 Act” means the New Roads and Street Works Act 1991(8);

“the 2008 Act” means the Planning Act 2008(9);

“access and rights of way plans” means the plans of that name identified in the table at Schedule 13 (documents and plans to be certified) and which are certified by the Secretary of State as the access and rights of way plans for the purposes of this Order;

“address” includes any number or address used for the purposes of electronic transmission;

“AGL” means above ground level;

“AOD” means above ordnance datum;

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(1) 1961 c. 33.

(2) 1965 c. 56.

(3) 1980 c. 66.

(4) 1981 c. 66.

(5) 1984 c. 27.

(6) 1989 c. 29.

(7) 1990 c. 8.

(8) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 78(4), 80(4) and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(9) 2008 c. 29.

“apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act except that, unless otherwise provided, it further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electricity cabinets;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development within the meaning of section 32 (meaning of “development”) of the 2008 Act authorised by this Order;

“book of reference” means the document of that name identified in the table at Schedule 13;

“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;

“commence” means beginning to carry out a material operation, as defined in section 56(4) of the 1990 Act (which explains when development begins), comprised in or carried out for the purposes of the authorised development other than the permitted preliminary works (except where stated to the contrary) and “commencement”, “commenced” and “commencing” are to be construed accordingly;

“commissioning” means the process of assuring that all systems and components of numbered works 1(D)(i), (iii) and (v), and all systems and components of numbered works 1(D)(ii), (iv) and (vi) (which are installed or installation is near to completion) are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker and “commission”, in relation to the such numbered works, is to be construed accordingly;

“crown land plan” means the plan of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the crown land plan for the purposes of this Order;

“date of Unit 1 full commissioning” means the date on which the commissioning of numbered works 1(D)(i), (iii) and (v), is completed as notified as such by the undertaker to the relevant planning authority pursuant to requirement 3 of Schedule 2 (requirements) to this Order;

“date of Unit 2 full commissioning” means the date on which the commissioning of numbered works 1(D)(ii), (iv) and (vi), is completed as notified as such by the undertaker to the relevant planning authority pursuant to requirement 3 of Schedule 2 (requirements) to this Order;

“design parameters” means the maximum parameters set out in Schedule 14;

“draft lighting strategy” means the document entitled draft lighting strategy identified in the table at Schedule 13 and which is certified by the Secretary of State as the draft lighting strategy for the purposes of this Order;

“Drax Power Limited” means Drax Power Limited (Company No. 04883589) whose registered office is at Drax Power Station, Selby, North Yorkshire YO8 8PH;

“electronic communication” has the meaning given in section 15(1) (general interpretation) of the Electronic Communications Act 2000(10);

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“environmental statement” means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the environmental statement for the purposes of this Order;

“FGD plant” means the redundant flue gas desulphurisation plant situated within the Order limits and in respect of which Drax Power Limited has planning permission under the 1990 Act

to undertake the decommissioning, demolition (including of 6 absorber units) and associated restoration works;

“flood risk assessment” means the document of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the flood risk assessment for the purposes of this Order;

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

“framework construction worker travel plan” means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the framework construction worker travel plan for the purposes of this Order;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“holding company” has the same meaning as in section 1159 of the Companies Act 2006<sup>(11)</sup>;

“land plans” means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the land plans for the purposes of this Order;

“limits of deviation” means the area up to the edge of the area shown for each numbered work on the works plans;

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development provided that any such activities do not give rise to any materially new or materially different environmental effects which are worse than those assessed in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly;

“NGESOL” means National Grid Electricity System Operator Limited (company number 11014226) whose registered office is at 1 to 3, Strand, London, WC2N 5EH;

“onshore carbon pipeline” means the onshore carbon dioxide transportation infrastructure into which the authorised development will connect;

“onshore carbon pipeline operator” means the party with responsibility for developing or operating the onshore carbon pipeline;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the land plans and works plans within which the authorised development may be carried out and land acquired or used;

“outline construction traffic management plan” means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order;

“outline local employment plan” means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline local employment plan for the purposes of this Order;

“outline landscape and biodiversity strategy” means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline landscape and biodiversity strategy for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981<sup>(12)</sup>;

“permitted preliminary works” means all or any of—

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(11) 2006 c. 46.

(12) 1981 c. 67.

- (c) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions, demolition of buildings and removal of plant and machinery;
- (d) above ground site preparation for temporary facilities for the use of contractors;
- (e) remedial work in respect of any contamination or other adverse ground conditions;
- (f) diversion and laying of services;
- (g) the provision of temporary means of enclosure and site security for construction;
- (h) the temporary display of site notices or advertisements; or
- (i) site clearance (including vegetation removal, demolition of existing buildings and structures);

“plot” means any plot as may be identified by reference to a number and which is listed in the book of reference and shown on the land plans;

“proposed surface water drainage strategy” means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the proposed surface water drainage strategy for the purposes of this Order;

“register of environmental actions and commitments” means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the register of environmental actions and commitments for the purposes of this Order;

“relevant planning authority” means the unitary council for the area in which the land to which the provisions of this Order apply is situated;

“requirements” means those matters set out in Schedule 2 (requirements) and “requirement” means any one of the requirements;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act and includes a public communications provider defined by section 151(1) (interpretation of chapter 1) of the Communications Act 2003<sup>(13)</sup>;

“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 any footpath and part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“street works” means the works listed in article 9(1) (street works);

“subsidiary” has the same meaning as in section 1159 of the Companies Act 2006<sup>(14)</sup>;

“traffic authority” has the same meaning as in section 121A (traffic authorities) of the 1984 Act<sup>(15)</sup>;

“undertaker” means Drax Power Limited or the person who has the benefit of this Order in accordance with articles 6 and 7;

“Upper Tribunal” means the Lands Chamber of the Upper Tribunal;

“watercourse” includes every river, stream, creek, ditch, drain, canal, cut, culvert, dyke, sluice, sewer and passage through which water flows except a public sewer or drain; and

“works plans” means the plans of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the works plans for the purposes of this Order.

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(13) 2003 c. 21 as amended by the Digital Economy Act 2017 (c. 30).

(14) 2006 c. 46.

(15) Section 121A was inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by section 271 of the Greater London Authority Act 1999 (c. 29), section 1(6) of, and paragraphs 70 and 95 of Schedule 1 to, the Infrastructure Act 2015, S.I. 1999/1920 and S.I. 2001/1400.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in this Order.

(3) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between lines or points on a numbered work comprised in the authorised development and shown on the works plans and access and rights of way plans are to be taken to be measured along that work.

(4) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plans and a reference in this Order to a work designated by a number, or by a combination of letters and numbers (for example, “Work No. 1A” or “numbered work 1A”), is a reference to the work so designated in that Schedule and a reference to “Work No. 1” or “numbered work 1” means numbered works 1A to 1F inclusive and the same principle applies to such numbered works that contain letters.

(5) In this Order, the expression “includes” is to be construed without limitation.

(6) In this Order, references to any statutory body include that body’s successor bodies.

(7) All areas described in square metres in the book of reference are approximate.