
STATUTORY INSTRUMENTS

2013 No. 648

The Hinkley Point C (Nuclear Generating Station) Order 2013

PART 1

General provisions

Miscellaneous and general

Suspension of restriction on development of Bridgwater C

38.—(1) The restriction on the use of restricted land imposed in the transfer dated 5th August 1993 made between (1) Sedgemoor District Council (2) EBC Developments Limited and (3) Safeway Stores Plc and enforceable under section 33 of the Local Government (Miscellaneous Provisions) Act 1982(1) (enforceability by local authorities of certain covenants relating to land) shall be suspended—

- (a) as from the date of acquisition of the restricted land or any part of it by the undertaker, whether compulsorily or by agreement;
- (b) on the date of entry on the restricted land or any part of it by the undertaker under section 11(1) of the 1965 Act (power of entry); or
- (c) on appropriation of the restricted land or any part of it by the undertaker for the purposes of this Order,

whichever is the earlier, for so long as the restricted land is used by the undertaker or any other person for the purpose of the construction or use of Work No. 5A or for student accommodation for Bridgwater College and ancillary, subsidiary and related purposes.

(2) In this article—

“Bridgwater College” means the tertiary college of that name whose main address is Bath Road, Bridgwater, Somerset, TA6 4PZ; and

“restricted land” means the parcels of land shown as BRI_C_1, BRI_C_5, BRI_C_6 and BRI_C_7 on sheet no. 3 of the land plans.

Application of landlord and tenant law

39.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it,

(1) 1982 c. 30. Section 33(1) was amended by section 32 of, and paragraph 6 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1982 Act which are not relevant to this Order.

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

40. Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act) in respect of—

- (a) the permanent development site;
- (b) land in respect of which Work No. 1A(m) and Work No. 1B (new site access road) are authorised;
- (c) land in respect of which Work No. 1A(q) (emergency access road) is authorised;
- (d) land in respect of which Work No. 8A(1)(a) to (h) (the refurbishment and extension of Combwich Wharf) is authorised; and
- (e) land in respect of which Work No. 8A(2)(c) (existing access road) is authorised.

Felling or lopping of trees

41.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or
- (b) from constituting a danger to persons using the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

Trees subject to tree preservation orders

42.—(1) The undertaker may fell or lop any tree described in column (1) of Schedule 13, or cut back its roots if it reasonably believes it to be necessary in order to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity; and
 - (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) shall not apply.
- (3) The authority given by paragraph (1) shall constitute a deemed consent under the relevant tree preservation order.
- (4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

Certification and construction of plans and documents

43.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the land plans;
- (c) the rights of way plans;
- (d) the works plans; and
- (e) any other plans or documents referred to in this Order (other than enactments, British Standards and other published documents not produced for the purposes of the authorised project),

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document certified under paragraph (1) shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) This paragraph applies where a plan or document certified under paragraph (1)—

- (a) referred to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identified that provision by a number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made.

(4) Where paragraph (3) applies, the reference in the plan or document concerned shall be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made, having regard to the Secretary of State's published comparison of the Order as made with the draft (without sequential numbering) dated 31st August 2012.

Service of notices

44.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (9), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(2) (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service

(2) 1978 c. 30. There are amendments to this Act which are not relevant to this Order.

on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Paragraphs (6) to (9) apply where a person (“A”) is required or authorised to serve or send a notice or other document for the purposes of this Order on or to another person (“B”).

(6) A may serve or sending the notice or other document by electronic transmission if—

- (a) B has sent A notice that B agrees to receive that notice or document (or notices and documents of a description including that notice or document) by electronic transmission;
- (b) B has not subsequently withdrawn that agreement in accordance with paragraph (8); and
- (c) A complies with any conditions as to addressing or mode of transmission that B has specified in agreeing to receive notices or other documents by electronic transmission.

(7) If B notifies A within 7 days of receiving a notice or other document by electronic transmission that B requires a paper copy of all or any part of the notice or other document, A must provide B with such a copy as soon as reasonably practicable.

(8) B may withdraw agreement to receive a notice or document (or notices or documents of a specified description) by electronic transmission by sending a notice to that effect to A.

(9) Notice under paragraph (8) is final and takes effect on a date specified by B in the notice but that date must not be less than 7 days after the date on which the notice is given.

(10) This article does not exclude the employment of any method of service not expressly provided for by it.

(11) In this article “electronic transmission” means a communication transmitted—

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

Arbitration

45. Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institute of Civil Engineers.

Procedure in relation to certain approvals etc.

46.—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of the Order such consent, agreement or approval shall, if given, be given in writing and shall not be unreasonably withheld.

(2) Schedule 14 shall have effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements.

For the protection of the Environment Agency (Part 1)

47.—(1) Section 23(6) of the Land Drainage Act 1991⁽³⁾ (prohibition on obstructions etc. in watercourses) shall not apply to the construction of the authorised project.

(2) Any requirement for consent under the terms of the Water Resources Act 1991, the Land Drainage Act 1991 or the Wessex Water Authority Land Drainage Byelaws, shall not be removed by the authorisation of the authorised project by this Order.

(3) Schedule 15 shall have effect.

Crown rights

48.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee—

(a) to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

(ii) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the Government Department having the management of that land; or

(iii) belonging to a Government Department or held in trust for Her Majesty for the purposes of a Government Department without the consent in writing of that Government Department; or

(b) to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown land which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.

(3) [1991 c. 59](#). This Act has been amended by section 1 of the Land Drainage Act [1994 \(c. 25\)](#) (repealing sections 12 and 13 and inserting of section 67A); by section 120 of, and paragraphs 191 to 194 of Schedule 22 to, the Environment Act [1995 \(c. 25\)](#); and by section 31 of, and Schedule 2 to, the Flood and Water Management Act [2010 \(c. 29\)](#).