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STATUTORY INSTRUMENTS

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**2019 No. 1091**

**The Kemsley Mill K4 Combined Heat  
and Power Generating Station Order 2019**

**PART 4**

**MISCELLANEOUS AND GENERAL**

**Procedure in relation to certain approvals, etc. under requirements**

**10.**—(1) Where an application is made to the relevant planning authority for any consent, agreement or approval required by a requirement, the following provisions, so far as they relate to a consent, agreement or approval of a local planning authority, apply as if the requirement were a condition imposed on a grant of planning permission—

- (a) sections 78 and 79 of the 1990 Act<sup>(1)</sup> (right of appeal in relation to planning decisions);
- (b) any orders, rules or regulations that make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission,

insofar as those provisions are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017<sup>(2)</sup> or any orders, rules or regulations made under the 2008 Act.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission insofar as it provides in relation to—

- (a) an application for such a consent, agreement or approval;
- (b) the grant or refusal of such an application; or
- (c) a failure to give notice of a decision on such an application.

**Operational land for the purposes of the 1990 Act**

**11.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

**Certification of plans, etc.**

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

- (a) the design and access statement (document number 5.3, APP-058);

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(1) Section 78 was amended by paragraph 21 of Schedule 12 to the Housing and Planning Act 2016 (c.22). Section 79 was amended by paragraph 23 of that Schedule.

(2) [S.I. 2017/572](#).

- (b) the environmental statement (document numbers 3.1 and 3.2, APP-008 to APP-036);
  - (c) the outline CEMP (environmental statement appendix 2.1, REP5-004);
  - (d) the land plan (document number 4.3, REP1-013);
  - (e) the works plans:
    - (i) document number 4.4, REP1-003; and
    - (ii) document number 4.9, AS-008; and
  - (f) any other plans or documents referred to in this Order as requiring certification, for certification that they are true copies of the documents referred to in this Order.
- (2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### Service of notices

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8), 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 (references to service by post) of the Interpretation Act 1978(3) as it applies for the purposes of this article, the proper address of any person in relation to the service 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 any 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) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and

- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.
- (6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.
- (7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).
- (8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—
  - (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
  - (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.
- (9) This article does not exclude the employment of any method of service not expressly provided for by it.
- (10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

#### **Arbitration**

**14.** Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order must 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 Secretary of State.