

## STATUTORY INSTRUMENTS

### 2021 No. 74

#### The A1 Birtley to Coal House Development Consent Order 2021

### PART 2

#### PRINCIPAL POWERS

##### Development consent etc. granted by the Order

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

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

##### Commencement Information

**I1** Art. 3 in force at 9.2.2021, see [art. 1](#)

##### Maintenance of authorised development

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

##### Commencement Information

**I2** Art. 4 in force at 9.2.2021, see [art. 1](#)

##### Maintenance of drainage works

5.—(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 <sup>F1</sup> (interpretation) of the Land Drainage Act 1991.

**F1** 1991 c. 59. The definition of “drainage” was substituted by section 100(2) of the [Environment Act 1995](#) (c. 25).

#### Commencement Information

**I3** Art. 5 in force at 9.2.2021, see [art. 1](#)

#### Planning permission

6. If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the authorised development,

the carrying out of such development, under the terms of the planning permission does not breach the terms of this Order.

#### Commencement Information

**I4** Art. 6 in force at 9.2.2021, see [art. 1](#)

#### Limits of deviation

7. In carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 1 [<sup>F2</sup>metre] upwards or 1 [<sup>F2</sup>metre] downwards,

except that these maximum limits of lateral and vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

**F2** Word in [art. 7\(b\)](#) substituted (1.5.2021) by [The A1 Birtley to Coal House Development Consent \(Correction\) Order 2021 \(S.I. 2021/551\)](#), [art. 1](#), [Sch.](#)

#### Commencement Information

**I5** Art. 7 in force at 9.2.2021, see [art. 1](#)

#### Benefit of the Order

8.—(1) Subject to paragraph (2) and article 9 (consent to transfer benefit of the Order), the provisions of this Order conferring powers on the undertaker 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.

#### Commencement Information

**I6** Art. 8 in force at 9.2.2021, see [art. 1](#)

#### Consent to transfer benefit of the Order

**9.**—(1) Subject to paragraph (4), the undertaker may—

- (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 required for a transfer or grant under this article, except where the transfer or grant is made to—

- (a) Northumbrian Water Limited for the purposes of undertaking Work No. 22; and
- (b) Northern Gas Networks Limited for the purposes of undertaking Work Nos. 9, 10, 12, 13, 14, 15 and 16.

#### Commencement Information

**I7** Art. 9 in force at 9.2.2021, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The A1 Birtley to Coal House Development Consent Order 2021, PART 2.