
STATUTORY INSTRUMENTS

2024 No. 70

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

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

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

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans and within the limits of deviation.

Maintenance of authorised development

4.—(1) The undertaker may at any time maintain the authorised development.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

Operation of authorised development

5.—(1) The undertaker is authorised to use and operate the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required to authorise the operation of the authorised development.

Benefit of the Order

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

- (a) Work No. 1F in relation to which the provisions of this Order have effect for the benefit of the undertaker and NGESOL;
- (b) Work No. 2 in relation to which the provisions of this Order have effect for the benefit of the undertaker and the onshore carbon pipeline operator;
- (c) Work No. 8A in relation to which the provisions of this Order have effect for the benefit of the undertaker and Northern Powergrid Limited; and
- (d) Work No. 8B in relation to which the provisions of this Order have effect for the benefit of the undertaker and BT Openreach Limited.

Consent to transfer benefit of the Order

7.—(1) Subject to the powers of this Order, the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including any of the numbered works) and such related statutory rights as may be agreed in writing between the undertaker and the transferee; and
 - (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 (including any of the numbered works) and such related statutory rights as may be so agreed.
- (2) Where a transfer or grant has been made references in this Order to the undertaker, except in paragraph (8), include references to the transferee or the lessee.
- (3) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—
- (a) the transferee or lessee is—
 - (i) the holder of a licence under section 6 of the 1989 Act;
 - (ii) a holding company or subsidiary of the undertaker; or
 - (iii) in relation to a transfer or lease of any works within a highway a highway authority responsible for the highways within the Order land; or
 - (b) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made;
 - (ii) any such claim has been made and has been compromised or withdrawn;
 - (iii) compensation has been paid in full and final settlement of any such claim;
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.
- (4) Where the consent of the Secretary of State is not required, the undertaker must notify the Secretary of State in writing before transferring or granting a benefit referred to in paragraph (1).
- (5) The notification referred to in paragraph (4) must state—
- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
 - (b) subject to paragraph (6), the date on which the transfer will take effect;
 - (c) the powers to be transferred or granted;
 - (d) pursuant to paragraph (8), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
 - (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.
- (6) The date specified under paragraph (5)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.
- (7) The notification given must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notification.
- (8) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit—
- (a) the benefit transferred or granted (“the transferred benefit”) must include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;

- (b) the transferred benefit will reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant 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.

Application and modification of statutory provisions

8.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation or maintenance of any part of the authorised development—

- (a) section 23 (prohibition of obstructions, etc, in watercourses) of the Land Drainage Act 1991(1);
- (b) any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(2);
- (c) the legislation listed in Schedule 3 (legislation to be disapplied) in so far as the provisions still in force are incompatible with the powers contained within this Order; and
- (d) the provisions of the Neighbourhood Planning Act 2017(3) insofar as they relate to temporary possession of land under articles 25 (temporary use of land for carrying out the authorised development) and 26 (temporary use of land for maintaining the authorised development) of this Order.

(2) As from the date on which the authorised development (including the permitted preliminary works) is commenced any approval, grant, permission, authorisation or agreement made under the Town and Country Planning Act 1947(4), the Town and Country Planning Act 1962(5), the Town and Country Planning Act 1971(6), the 1990 Act or the 1989 Act prior to that date is hereby excluded and does not apply but only insofar as such approval, grant, permission, authorisation or agreement relates to the Order limits and is inconsistent with the authorised development and anything approved under the requirements.

(3) As from the date on which this Order takes effect the undertaker must not commence, or to the extent already commenced must not continue to carry out, any works consented by the Drax Power (Generating Stations) Order 2019 other than as set out in this Order.

(4) The carrying out of Work No. 8A shall not be regarded as conflicting with or constituting non-compliance by any person with, any conditions of a planning permission granted under section 57(f) (requirement of planning permission) of the 1990 Act which relate to plots 01-108, 01-110 and 01-115 of the land plans or land adjacent to those plots outside of the Order limits.

(1) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 to the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.

(2) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c. 21).

(3) 2017 c. 20.

(4) 1947 c.51 as repealed by the Town and Country Planning Act 1962 and the Planning (Consequential Provisions) Act 1990 (c. 11).

(5) 1962 c.38 as repealed by the Town and Country Planning Act 1971 and the Planning (Consequential Provisions) Act 1990 (c. 11).

(6) 1971 c. 78 as repealed by the Planning (Consequential Provisions) Act 1990 (c. 11).