
STATUTORY INSTRUMENTS

2014 No. 3328

The Willington C Gas Pipeline Order 2014

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Willington C Gas Pipeline Order 2014 and comes into force on 7th January 2015.

Interpretation

2.—(1) In this Order—

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

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

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

“1990 Act” means the Town and Country Planning Act 1990(4);

“1991 Act” means the New Roads and Street Works Act 1991(5);

“1997 Regulations” means the Hedgerows Regulations 1997(6);

“2008 Act” means the Planning Act 2008;

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

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

“book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“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(7);

“commence” means begin to carry out any material operation (as defined in section 56(4) of the 1990 Act(8)) forming part of the authorised development other than operations consisting of—

(a) ecological or archaeological investigations;

(1) 1961 c.33.

(2) 1965 c.56.

(3) 1980 c.66.

(4) 1990 c.8.

(5) 1991 c.22.

(6) SI 1997/1160, amended by section 73(2) of the Countryside and Rights of Way Act 2000 (c.37) and S.I. 2003/2155, 2006/1177, 2009/1307 and 2013/755.

(7) “Carriageway” is defined in section 329.

(8) Section 56(4) was amended by paragraph 10 of Schedule 7 to the Planning and Compensation Act 1991 (c.34).

- (b) investigations for the purpose of assessing ground conditions;
- (c) remedial work in respect of any contamination or other adverse ground conditions;
- (d) the diversion and laying of services;
- (e) the erection of any temporary means of enclosure;
- (f) the temporary display of site notices or advertisements; and
- (g) for the purpose of the operations referred to in sub-paragraphs (a) to (f), the cutting of vegetation, other than the cutting of vegetation authorised by article 32 (felling or lopping of trees, etc.);

and “commencement” must be construed accordingly;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act⁽⁹⁾;

“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 environmental statement certified by the Secretary of State as the environmental statement for the purposes of this Order;

“highway” has the same meaning as in the 1980 Act⁽¹⁰⁾;

“land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the areas shown on the works plans (within a broken red line) and referred to in article 7 (limits of deviation);

“local highway authority” means Staffordshire County Council or Derbyshire County Council as appropriate for the area in which the land to which the provisions of this Order apply is situated;

“maintain” (except as provided in Part 5 of Schedule 9) includes inspect, maintain, adjust, alter, repair, test, cleanse, re-lay, divert (in accordance with articles 5 (maintenance and diversion of authorised development) and 7 (limits of deviation)), make safe, decommission, reconstruct, demolish, abandon, replace, remove and improve the authorised development or any of its parts (but not so as to vary from the description of the authorised development in Schedule 1); and any derivative of “maintain” must be construed accordingly;

“National Grid Electricity” means National Grid Electricity Transmission plc (company registration number 02366977);

“National Grid Gas” means National Grid Gas plc (company registration number 02006000);

“NG works” means those works to be constructed, owned and operated by National Grid Gas and described in Part 1 of Schedule 1 as (a) Works No.2 (shown on sheet 1 of the works plans) and (b) those works within Works No.3 which comprise National Grid Gas’s part of the above-ground installation, and are shown within the turquoise bounded area on the Yoxall AGI plan;

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

“Order limits” means the limits (including the limits of deviation, the works limits and any additional land to be used) shown by a blue line on the works plans within which the authorised development may be carried out;

⁽⁹⁾ Section 134 was amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011.

⁽¹⁰⁾ “Highway” is defined in section 328.

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(11);

“relevant planning authority” means South Derbyshire District Council or East Staffordshire Borough Council as appropriate for the area in which the land to which the provisions of this Order apply is situated;

“Requirement” means a Requirement set out in Part 2 of Schedule 1; and a reference to a numbered Requirement is a reference to the Requirement set out in the paragraph of the same number in that Part;

“statutory undertaker” means any person falling within sections 127(8) and 138(4A) of the 2008 Act(12) or who has the benefit of the protective provisions in Schedule 9;

“street” means a street within the meaning of section 48 of the 1991 Act(13), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(14);

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

“undertaker” means RWE Generation UK plc(15) (company registration number 03892782) or a successor body, or any other person, to whom RWE Generation UK plc transfers or grants any or all of the benefit of this Order in accordance with article 9 (consent to transfer benefit of Order);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“works limits” means the limits of land shown by a broken green line on the works plans within which the authorised development can be carried out and maintained;

“works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order;

“Yoxall AGI plan” means the plan certified as the Yoxall AGI plan by the Secretary of State for the purposes of this Order;

“Yoxall AGI site” means the land hatched blue on sheet 1 of the works plans and shown on the Yoxall AGI plan.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate.

(4) All areas described in the book of reference are approximate.

(5) References in this Order to a numbered Work are references to a work numbered in Part 1 of Schedule 1.

Application and modification of legislative provisions

3.—(1) Regulation 6(1) of the 1997 Regulations applies to the development consent granted by this Order except that it is modified so as to read for the purposes of this Order only as if there were inserted after sub-paragraph (e) the following—

(11) 1981 c.67. The definition was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c.34). Paragraph 1(5) of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act 1994 (c.21).

(12) Section 138(4A) was inserted by section 23(4)(b) of the Growth and Infrastructure Act 2013 (c.27).

(13) Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c.26).

(14) “Street authority” is defined in section 49.

(15) The registered office of RWE Generation UK plc is Windmill Hill Business Park, Whitehall Way, Swindon, Wiltshire SN5 6PB.

“(ea) for the carrying out of development for which development consent has been granted under the Planning Act 2008.”

(2) Section 78(1) of the 1990 Act(**16**) applies to the development consent granted by this Order and to the Requirements except that it is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (b) the following—

“(ba) refuse an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions;

(bb) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on any consent, agreement or approval of that authority given pursuant to a requirement imposed on a grant of development consent or contained in a development consent order;

(bc) fail to give notice to the applicant of their decision on an application of the kind referred to in (ba) or (bb), within the time prescribed by a development order or such extended time as may at any time be agreed in writing between the applicant and the planning authority; or”.

(3) Sections 78 and 79 of the 1990 Act(**17**) have effect in relation to any appeal under section 78(1) as so applied.

(4) Regulation 16 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(**18**) applies to any application to discharge a Requirement as if the Requirement were a condition attached to the grant of planning permission.

(5) Any orders, rules or regulations that apply to applications pursuant to conditions or the subject matter of section 78 of the 1990 Act apply to any application or appeal made under that section as modified by this article, insofar as those provisions are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and any orders, rules or other regulations made under the 2008 Act.

(6) Appeals by the undertaker under section 78 of the 1990 Act as modified by this article must be dealt with by the Secretary of State and appropriate Minister as if the appeal were made by a statutory undertaker against a determination of an application to which section 266(1) of the 1990 Act applies, provided that the undertaker making the appeal holds a licence under section 6 of the Electricity Act 1989(**19**).

(16) Section 78 was amended by section 43(2) of the Planning and Compulsory Purchase Act 2004 (c.5), paragraph 3(b) of Schedule 10 to the Planning Act 2008, section 123(3) of, and paragraph 11 of Schedule 12 to, the Localism Act 2011 and paragraph 8 of Schedule 1 to the Growth and Infrastructure Act 2013.

(17) Section 79 was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c.34) and by paragraph 4 of Schedule 10 to the Planning Act 2008.

(18) S.I. 2012/2920, to which there are amendments not relevant to this Order.

(19) 1989 c.29. Section 6 was amended by section 30 of the Utilities Act 2000 (c.27), sections 136 and 145 of, and Schedule 23 to, the Energy Act 2004 (c.20), regulation 5 of S.I. 2011/2704 and article 6 of S.I. 2012/2400.