
STATUTORY INSTRUMENTS

2020 No. 1148

The West Burton C (Gas Fired Generating Station) Order 2020

PART 6

Miscellaneous and General

Application of landlord and tenant law

12.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development 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 development, or any part of it,

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 prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law to which paragraph (2) applies 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

13. Development consent granted by this Order is to 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 not being operational land).

Felling or lopping of trees

14.—(1) The undertaker may fell or lop any tree or shrub within or overhanging the Order limits or within the extent of the publicly maintainable highway 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 from obstructing or interfering with the construction, maintenance or operation of the authorised development.

(2) In relation to the felling or lopping of any tree or shrub within the publicly maintainable highway, the power contained in paragraph (1) must only be exercised in connection with the delivery of abnormal indivisible loads to the West Burton Power Station Site.

(3) In carrying out any activity authorised by paragraph (1) the undertaker must –

- (a) give at least 14 days’ notice to the relevant planning authority of its intention to fell or lop any tree or shrub overhanging the Order limits or within the extent of the publicly maintainable highway;
- (b) do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (c) the duty contained in section 206(1) of the 1990 Act (replacement of trees)(1) does not apply.

(4) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(5) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act (determination of questions of disputed compensation).

Protective provisions

15. Schedule 5 (protective provisions) has effect.

Certification of plans etc.

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

- (a) the combined heat and power assessment (Document 7.2 Rev 0);
- (b) the environmental statement (Document 5.2 Rev 0);
 - (i) Chapter 9 (Ecology Chapter) of the environmental statement (Rev 2);
- (c) the framework construction environmental management plan (Document 7.3 Rev 2);
- (d) the framework construction traffic management plan (Document 7.6 Rev 3);
- (e) the framework construction workers’ travel plan (Document 7.7 Rev 0);
- (f) the indicative layout plans (Document 3.4 Rev 0);
- (g) the land plans (Document 3.3 Rev 0);
- (h) the landscaping and biodiversity management and enhancement plan (Document 7.5 Rev 4);
- (i) the lighting strategy (Document 7.4 Rev 0);
- (j) the outline drainage strategy (Document 7.8 Rev 0);
- (k) the outline written scheme of investigation (Document 7.9 Rev 0); and
- (l) the works plans (Document 3.2 Rev 0),

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.

(1) Section 206(1) was amended by section 192 of and schedule 8 to the 2008 Act.

Procedure in relation to certain approvals etc.

17.—(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 agreement or approval required or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed.

(2) Schedule 3 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to the requirements.

Arbitration

18. Any difference under any provision of this Order, unless otherwise provided for, is to 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.