
STATUTORY INSTRUMENTS

2022 No. 436

The Little Crow Solar Park Order 2022

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order including 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 plan.

(3) Notwithstanding anything in this Order or shown on the works plan the undertaker may construct either Work No. 2A or Work No. 2B but for the avoidance of doubt may not construct both of Work No. 2A and Work No. 2B under the powers conferred by this Order.

(4) The undertaker must notify the local planning authority prior to the commencement of any works comprised in Work No.2A or Work No. 2B which of those works it intends to construct.

Commencement Information

I1 Art. 3 in force at 27.4.2022, see [art. 1](#)

Maintenance of authorised development

4.—(1) 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.

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

Commencement Information

I2 Art. 4 in force at 27.4.2022, see [art. 1](#)

Consent to transfer benefit of Order

5.—(1) Except as otherwise provided in this Order, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (4), the undertaker may with the written consent of the Secretary of State—

- (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; 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 and such related statutory rights as may be so agreed,

except where paragraph (6) applies, in which case no consent of the Secretary of State is required.

(3) Where an agreement has been made in accordance with paragraph (2) references in this Order to the undertaker, except in paragraphs (5) and (7) are to include references to the transferee or the lessee.

(4) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application.

(5) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (2)—

- (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 under paragraph (2) 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.

(6) This paragraph applies to any provisions of this Order and its related statutory rights where the transferee or lessee is the holder of a licence under section 6 (licensing authorising supply etc) of the 1989 Act.

(7) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State and the local planning authority.

(8) The notice required under paragraphs (4) and (7) must—

- (a) state—
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (9), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted; and
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (5)(c), will apply to the person exercising the powers transferred or granted; and
- (b) be accompanied by—
 - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
 - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(9) The date specified under paragraph (8)(a)(ii) in respect of a notice served in respect of paragraph (7) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.

(10) The notice given under paragraph (7) 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 notice.

Commencement Information

I3 Art. 5 in force at 27.4.2022, see [art. 1](#)

Disapplication, application and modification of legislative provisions

6.—(1) Regulation 6 of the Hedgerows Regulations 1997(1) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

“(k) or for carrying out or the maintenance of development which has been authorised by the Little Crow Solar Park Order 2022.”

(2) Any development or any part of a development within the Order limits which is constructed or used under the authority of a planning permission pursuant to Part 3 of the 1990 Act (whether expressed or otherwise) following the coming into force of this Order is to be disregarded at all times for the purposes of ascertaining whether or not an offence has been committed under the provisions of Sections 160 (development without development consent) and 161 (breach of terms of order granting development consent) of the 2008 Act (2).

Commencement Information

I4 Art. 6 in force at 27.4.2022, see [art. 1](#)

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisances) of the Environmental Protection Act 1990(3) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if —

(a) the defendant show that the nuisance —

(i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(4); or

(ii) is a consequence of the construction maintenance or decommissioning of the authorised development and cannot reasonably be avoided; or

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and cannot reasonably be avoided.

(2) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

(1) [S.I. 1997/1160](#).

(2) Sections 160 and 161 were amended by [S.I.2015/664](#). Section 161 was also amended by section 112 (2) of and paragraph 4 of Part 1 of Schedule 8 to the Marine and Coastal Access Act 2009 (c.23).

(3) [1990 c. 43](#).

(4) [1974 c. 40](#). Section 61(9) was amended by Section 162 and paragraph 15 of Schedule 3 to the Environment Protection Act 1990 (c. 25). There are other amendments to 1974 Act which are not relevant to this Order.

Changes to legislation: There are currently no known outstanding effects for the
The Little Crow Solar Park Order 2022, PART 2. (See end of Document for details)

.....

Commencement Information

I5 Art. 7 in force at 27.4.2022, see [art. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Little Crow Solar Park Order 2022, PART 2.