
STATUTORY INSTRUMENTS

2019 No. 1268

The Abergelli Power Gas Fired Generating Station Order 2019

PART 3
STREETS

Power to alter layout etc. of streets

8.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street in the case of permanent works as specified in column (2) of Part 1 of Schedule 3 (permanent alteration of layout) in the manner specified in relation to that street in column (3) and in the case of temporary works as specified in column (2) of Part 2 of Schedule 3 (temporary alteration of layout) in the manner specified in relation to that street in column (3).

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating and maintaining the authorised development alter the layout of any street within the Order land and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge;
- (b) make and maintain passing places.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Street works

9.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order land and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) drill, tunnel or bore under the street;
- (c) place and keep apparatus in the street;
- (d) maintain apparatus in the street or change its position or remove it;
- (e) carry out all necessary works required for the execution of the works required under article 8 (power to alter layout etc. of streets) including removal and relocation or reinstatement of drainage, fence lines and signage and pruning or removal of vegetation to improve visibility; and
- (f) execute any works required for or incidental to any works referred to in subparagraphs (a), (b), (c), (d) and (e).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Where the undertaker is not the street authority, the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

Construction and maintenance of new or altered means of access

10.—(1) Those parts of each means of access specified in Part 1 of Schedule 5 (access) to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the highway authority.

(2) Those parts of each means of access specified in Part 2 of Schedule 5 to be constructed under this Order and which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(3) Those restoration works carried out pursuant to article 8(3) (power to alter layout, etc., of streets) identified in Part 3 of Schedule 5 must be completed to the reasonable satisfaction of the highway authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the highway authority.

(4) Those restoration works carried out pursuant to article 8(3) identified in Part 4 of Schedule 5 which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the street authority.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), a court is, in particular, to have regard to the following matters—

- (a) the character of the street including the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

Temporary prohibition or restriction of use of streets

11.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit the use of or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without prejudice to the scope of paragraph (1), the undertaker may use any street where the use has been prohibited or restricted under the powers conferred by this article and within the Order land as a temporary working site.

(3) The undertaker must provide reasonable access for non-motorised users (including pedestrians) going to or from premises abutting a street affected by the temporary alteration, diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily alter, divert, prohibit the use of or restrict the use of the streets specified in columns (1) and (2) of Schedule 6 (temporary prohibition or restriction of the use of streets) to the extent specified in column (3) of that Schedule.

- (5) The undertaker must not temporarily alter, divert, prohibit the use of or restrict the use of—
- (a) any street specified in paragraph (4) without first consulting the street authority; and
 - (b) any other street without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Any person who suffers loss by the temporary alteration, diversion, prohibition or restriction under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Stopping up of streets

12.—(1) The undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Schedule 7 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the rights of way, streets and access plan, in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Schedule 7 (being a street to be stopped up) shall be wholly or partially stopped up under this article unless any of the conditions specified in paragraph (3) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

- (3) The conditions referred to in paragraph (2) are that—
- (a) the undertaker is in possession of the land; or
 - (b) there is no right of access to the land from the street concerned; or
 - (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
 - (d) the owners and any lessee of the land have agreed to the stopping up.
- (4) Where a street has been stopped up under this article—
- (a) all rights of way over or along the street so stopped up shall be extinguished; and
 - (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the street as is stopped up under paragraph (1).

(5) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article is subject to article 31 (apparatus and rights of statutory undertakers in streets).

Access to works

13. The undertaker may, for the purposes of the authorised development—

- (a) form and layout the permanent means of access, or improve existing means of access, in the locations specified in Part 1 of Schedule 3 (streets subject to permanent and temporary alteration of layout);
- (b) form and layout the temporary means of access in the locations specified in Part 2 of Schedule 3 (streets subject to permanent and temporary alteration of layout); and
- (c) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve the existing means of access, at such locations within the Order land as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

14.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street;
- (d) any alteration, diversion, prohibition or restriction in the use of a street authorised by this Order; or
- (e) the carrying out in the street of any of the works referred to in article 10(1) (construction and maintenance of new or altered means of access).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Traffic Regulation

15.—(1) Subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction of the authorised development or any other development necessary for the authorised development that takes place within the Order land, at any time prior to when the authorised development first becomes operational—

- (a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road; and
- (b) make provision as to the direction or priority of vehicular traffic on any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

- (2) The undertaker must not exercise the powers under paragraph (1) of this article unless it has—
 - (a) given not less than 4 weeks’ notice in writing of its intention so to do to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker’s intention in the case of sub-paragraph (a).
- (3) Any prohibition, restriction or other provision made by the undertaker under article 11 or paragraph (1) of this article has effect as if duly made by, as the case may be—
 - (a) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
 - (b) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act,

and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement)(1).

- (4) In this article—
 - (a) subject to sub-paragraph (b) expressions used in this article and in the 1984 Act have the same meaning; and
 - (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.
- (5) If the traffic authority fails to notify the undertaker of its decision within eight weeks of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

(1) 2004 c.18. There are amendments to this Act not relevant to this Order.