
STATUTORY INSTRUMENTS

2020 No. 419

The Riverside Energy Park Order 2020

PART 2

WORK PROVISIONS

Principal powers

Development consent granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development to be constructed, operated and maintained 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.

(3) In constructing and maintaining the authorised development the undertaker may deviate vertically from the levels of the authorised development to any extent downwards not exceeding two metres.

Maintenance of authorised development

4.—(1) The undertaker may at any time maintain the authorised development except to the extent that this Order and the requirements or an agreement made under this Order provides otherwise.

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

Operation of the authorised development

5.—(1) The undertaker is authorised to operate the generating station comprised in the authorised development.

(2) Other than as set out in this Order, 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 an electricity generating station.

Disapplication of legislative provisions and modifications to section 36 consent and RRRF planning permission

6.—(1) The provisions of any bylaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw – making powers of the authority) to the Water Resources Act 1991(1) do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the construction, operation or maintenance of any part of the authorised development.

(2) Regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 does not apply in respect of any flood risk activity carried out under the powers conferred by this Order.

(3) The section 36 consent and the RRRF planning permission are to be amended for the purposes of this Order only as set out in Schedule 13 (modifications to the section 36 consent and RRRF planning permission).

(4) To the extent that there is an inconsistency on the land coloured brown identified on the REP and RRRF Applications Boundaries Plan between any provision of this Order and all or any of RRRF condition 1, RRRF condition 22 or RRRF condition 32 then, in respect of such inconsistency only, there is deemed to be no breach of all or any of RRRF condition 1, RRRF condition 22 or RRRF condition 32 (as applicable) and no enforcement action can be taken following the carrying out of the pre-commencement works, commencement or operation of the authorised development.

(5) In the event that planning permission 15/02926/OUTM is implemented and the land which is the subject of that planning permission is subsequently used for the temporary uses as authorised under this Order, a new planning permission is not required for the resumption of the land's development and use for which planning permission 15/02926/OUTM grants consent following the end of the temporary uses authorised under this Order.

(6) The provisions of the Neighbourhood Planning Act 2017(2) in so far as they relate to temporary possession of land under articles 31 (temporary use of land for carrying out the authorised development) and 32 (temporary use of land for maintaining the authorised development) of this Order do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the construction, operation or maintenance of any part of the authorised development.

Port of London Act 1968

7.—(1) Nothing in this Order relieves the undertaker of any obligation to obtain any permit or licence under the Port of London Act 1968(3) in respect of works or operations carried out within the Thames under the powers of this Order.

(2) In this article “the Thames” means that part of the river Thames within the Order limits and within the limits of the Port of London Authority, as described in Schedule 1 (description of port limits) to the Port of London Act 1968.

Benefit of this Order

8.—(1) Subject to paragraph (2) and article 9 (consent to transfer benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to works falling within the description of paragraph (a) of Work No. 6 (but only in so far as such works relate to Work No. 9) and Work Nos. 9 and 10 for which consent is granted by this Order for the benefit of the undertaker and London Power Networks.

Consent to transfer benefit of the Order

9.—(1) Subject to paragraph (4) the undertaker may, with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) all or any part of the benefit of the provisions of this Order (including any part of the authorised development) and such related statutory rights as may be agreed in writing between the undertaker and the transferee; or

(2) 2017 c.20

(3) 1968 (c.xxxii).

- (b) grant to another person (“the lessee”), for a period agreed between the undertaker and the lessee, all or any part of the benefit of the provisions of this Order (including any part of the authorised development) and such related statutory rights as may be agreed between the undertaker and the lessee.
- (2) Where an agreement has been made in accordance with paragraph (1)(a) or (1)(b) references in this Order to the undertaker, except paragraph (3), include references to the transferee or the lessee.
- (3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) 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.
- (4) The consent of the Secretary of State is required for the exercise of the powers under paragraph (1) except where—
- (a) the transfer or grant is made to Riverside Energy Park Limited (and in circumstances where Riverside Energy Park Limited is a wholly owned subsidiary of Cory Environmental Holdings Limited); or
 - (b) the transferee or lessee holds a licence under section 6 (licences authorising supply, etc.) of the Electricity Act 1989; or
 - (c) 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 claims that have been made have all been compromised or withdrawn;
 - (iii) compensation has been paid in final settlement of any claims made;
 - (iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable.
- (5) Where the consent of the Secretary of State is not required under paragraph (4), the undertaker must notify the Secretary of State in writing before transferring or granting all or any part of the benefit of the provisions of this Order and such related statutory rights referred to in paragraph (1).
- (6) The notification referred to in paragraph (5) 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 (7), the date on which the transfer will take effect;
 - (c) the powers to be transferred or granted;
 - (d) pursuant to paragraph (3), 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.
- (7) The date specified under paragraph (6)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.
- (8) The notice given under paragraph (5) 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.

Guarantees in respect of payment of compensation

10.—(1) The undertaker must not begin to exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any Order land unless it has first put in place either—

- (a) a guarantee and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2); or
 - (b) an alternative form of security and the amount of that security approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2).
- (2) The provisions are—
- (a) article 22 (compulsory acquisition of land);
 - (b) article 24 (compulsory acquisition of rights);
 - (c) article 26 (private rights);
 - (d) article 31 (temporary use of land for carrying out the authorised development);
 - (e) article 32 (temporary use of land for maintaining the authorised development); and
 - (f) article 33 (statutory undertakers).
- (3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.
- (4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.