
STATUTORY INSTRUMENTS

2021 No. 173

The Wheelabrator Kemsley K3 Generating Station Order 2021

PART 1

PRELIMINARY

Interpretation

2.—(1) In this Order—

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

“the 1980 Act” means the Highways Act 1980(2);

“the 1989 Act” means the Electricity Act 1989(3);

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

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

“the 2008 Act” means the Planning Act 2008(6);

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(7);

“authorised development” means the development and associated development described in Schedule 1 (authorised development), which 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;

“commissioning” means the process of testing all systems and components of Work No 1 (including systems and components which are not yet installed but the installation of which is near to completion), in order to verify that they function in accordance with the design objectives, specifications and operational requirements of the undertaker; and “commission” and other cognate expressions are to be construed accordingly;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order and submitted with the application on 11 September 2019 including all appendices thereto;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

(1) 1961 c. 33.

(2) 1980 c. 66.

(3) 1989 c. 29.

(4) 1990 c. 8.

(5) 1991 c. 22.

(6) 2008 c. 29.

(7) S.I. 2016/1154.

“K3 Generating Station” means a generating station having a capacity of up to 75MW, which was originally commissioned on 16 July 2020 pursuant to the K3 Sustainable Energy Plant Planning Permission and the approved plans and documents listed in Part 2 of Schedule 2 permitting the construction and operation of a generating station having a capacity of up to 49.9MW;

“K3 Sustainable Energy Plant Planning Permission” means planning permission SW/19/501345 granted on 14 June 2019 by Kent County Council pursuant to section 73 of the 1990 Act permitting the construction and operation of a generating station having a capacity of up to 49.9MW;

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

“maintain” includes (i) inspect, repair, adjust, alter, refurbish or improve the authorised development and (ii) in relation to any part (but not the whole of the authorised development) remove, reconstruct or replace that part provided those works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement; and “maintenance” is construed accordingly;

“MW” means megawatts of electrical output;

“operational use” of the development comprising the authorised development means operational use for the purposes for which it is authorised under this Order but not including commissioning;

“Order land” means the land shown on the land plan within the Order limits and described in the book of reference;

“Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in Section 7 of the Acquisition of Land Act 1981(8);

“relevant highway authority” means the highway authority for the area in which the relevant highway to which the relevant provision of this Order applies is situated;

“relevant planning authority” means the local planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“requirements” means those matters set out in Schedule 2 (requirements) to this Order;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways (subject to confirmation from the relevant highway authority), 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;

“undertaker” means WTI/EFW Holdings Ltd. (company number 07593865) or any other person who for the time being has the benefit of this Order in accordance with article 8 of this Order;

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

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference in this Order to a “grid reference” is a reference to the map co-ordinates on the National Grid used by the Ordnance Survey.

(8) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 c. 34. There are other amendments to the 1981 Act which are not relevant to this Order.

- (3) All distances, directions and lengths referred to in this Order are approximate.
- (4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by Schedule 1 of this Order.
- (5) The expression “includes” shall be construed without limitation.