
STATUTORY INSTRUMENTS

2022 No. 1396

**The Keadby 3 (Carbon Capture Equipped
Gas Fired Generating Station) Order 2022**

PART 4

SUPPLEMENTAL POWERS

Discharge of water

14.—(1) Subject to paragraphs (3) and (4) and Part 2 of Schedule 10 to this Order (For The Protection Of Canal And River Trust), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(1) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs but approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river other than in accordance with a consent granted by the Environment Agency.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1) of the Environmental Permitting (England and Wales) Regulations 2016(2).

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application, that person is deemed to have granted consent or given approval as the case may be.

(1) 1991 c. 56. This Section was amended by sections 35 and 43(2) of, and paragraph 1 of Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36 and 99 of the Water Act 2003 (c. 37) and paragraph 16 of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(2) S.I. 2016/1154.

(9) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes England and Regulator of Social Housing, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964⁽³⁾ (interpretation), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991⁽⁴⁾ have the same meaning as in that Act.

Authority to survey and investigate the land

15.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development or upon which entry is required in order to carry out monitoring or surveys in respect of the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least fourteen days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(3) 1964 c. 40.

(4) 1991 c. 57.

Temporary interference with canal and public rights of navigation

16.—(1) The undertaker may in connection with the construction of the authorised development (and subject to Part 2 of Schedule 10 (protective provisions))—

- (a) temporarily interfere with the waterway, by constructing or maintaining temporary works at any point within the Order limits as it considers necessary or expedient;
- (b) temporarily moor or anchor barges or other vessels or craft in the River Trent or the canal;
- (c) temporarily close any part of the canal within the Order limits to navigation; and
- (d) load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials within the Order limits in connection with the construction of the authorised development.

(2) The power conferred by paragraph (1)(c) must be exercised in a way which secures—

- (a) that no more of the canal is closed to navigation at any time than is necessary in the circumstances; and
- (b) that if complete closure of a part of the canal to navigation becomes necessary, all reasonable steps are taken to secure that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use it.

(3) Any person who, as a result of the exercise of powers conferred by this article, suffers loss by reason of the interference with any private right of navigation is entitled to compensation to be paid by the undertaker to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Use of private roads for construction

17.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with the construction of the authorised works.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

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