
STATUTORY INSTRUMENTS

2022 No. 436

The Little Crow Solar Park Order 2022

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Little Crow Solar Park Order 2022 and comes into force on 27th April 2022.

Interpretation

2.—(1) In this Order except where provided otherwise—

“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);

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in section 105(1) of the 1991 Act;

“archaeological management plan” means the document certified as the archaeological management plan for the purposes of this Order under article 14 (certification of plans, etc);

“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;

“battery energy storage” means equipment used for the storage of electrical energy by battery;

“building” includes any structure or erection or any part of a building, structure or erection;

“cable circuit” means an electrical conductor necessary to transmit electricity between two points within the authorised development and may include one or more auxiliary cables for the purpose of gathering monitoring data;

“CCTV” means a closed circuit television security system;

(1) 1961 c. 33
(2) 1980 c. 66.
(3) 1989 c. 29.
(4) 1990 c. 8.
(5) 1991 c. 22.
(6) 2008 c. 29.

“commence” means to carry out any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development other than site preparation works, and “commencement” and “commenced” must be construed accordingly;

“construction compound” means a compound including central offices, welfare facilities, accommodation facilities, storage and parking for construction of the authorised development and other associated facilities;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental statement” means the document certified by the Secretary of State as the environmental statement for the purposes of this Order under article 14 (certification of plans, etc);

“hedgerow plan” means the plan identifying hedgerows and important hedgerows and certified by the Secretary of State for the purposes of this Order under article 14 (certification of plans, etc);

“highway” and “highway authority” have the same meaning as in the 1980 Act(7);

“inverter” means electrical equipment required to convert direct current power generated by the solar panels to alternating current power;

“land plan including Order limits” means the plan certified by the Secretary of State as the land plan including Order limits for the purposes of this Order under article 14 (certification of plans, etc);

“LEMP” means the landscape and ecological plan approved pursuant to requirement 10;

“local planning authority” means the planning authority for North Lincolnshire;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace in relation to the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement; and any derivative of “maintain” must be construed accordingly;

“mounting structure” means a frame or rack with posts made of galvanised steel or other material pushed into the ground to support the solar panels;

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

“outline BSMP” means the plan certified by the Secretary of State as the battery safety management plan for the purposes of this Order under article 14(certification of plans, etc);

“outline CEMPs” means the outline construction environmental management plan and the outline construction environmental management plan for biodiversity certified by the Secretary of State as the outline CEMPs for the purposes of this Order in accordance with article 14 (certification of plans, etc);

“outline CTMP” means the document certified by the Secretary of State as the outline construction traffic management plan for the purposes of the Order in accordance with article 14 (certification of plans, etc);

“outline decommissioning strategy” means the document certified as the outline decommissioning strategy by the Secretary of State for the purposes of this Order under article 14 (certification of plans, etc);

(7) “highway” is defined in section 328 (1) for “highway authority” see Section 1.

“outline LEMP” means the document certified by the Secretary of State as the outline landscape and ecological management plan for the purposes of this Order in accordance with article 14 (certification of plans, etc);

“outline soil management plan” means the document certified by the Secretary of State as the outline soil management plan for the purposes of this Order in accordance with article 14 (certification of plans, etc);

“proposed temporary diversion of public footpath 214 plan” means the plan showing footpath 214 and its proposed temporary diversion certified by the Secretary of State for the purposes of this Order under article 14 (certification of plans, etc);

“requirement” means those matters set out in Part 1 of Schedule 2 (requirements) and a reference to a numbered requirement is a reference to the requirement set out in the paragraph of that Part of that Schedule with the same number;

“site preparation works” means operations consisting of pre–construction surveys and/or monitoring, site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements;

“solar panel” means a solar photovoltaic panel designed to convert solar irradiance to direct current electrical energy fitted to a mounting structure;

“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, 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⁽⁸⁾

“substation” means a compound containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation with welfare facilities, means of access and other associated facilities;

“transformer” means a structure containing electrical switch gear serving to transform electricity generated by the solar panels and imported and exported by the batteries to a higher voltage;

“undertaker” means INRG Solar (Little Crow) Limited company number 11136483, whose registered office is at 93 Leigh Road, Eastleigh, Hants, England SO50 9DQ;

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

“work” means a work set out in Schedule 1 (authorised development); and

“works plan” means the plan certified by the Secretary of State as the works plan for the purposes of this Order in accordance with article 14 (certification of plans, etc).

(2) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between points on a work are taken to be measured along that work.

(3) 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 this Order.

(4) In this Order “includes” must be construed without limitation unless the contrary intention appears.

(5) References in this Order to any statutory body include that body’s successor bodies as from time to time have jurisdiction in relation to the authorised development.

⁽⁸⁾ “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

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.

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.

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.

Disapplication, application and modification of legislative provisions

6.—(1) Regulation 6 of the Hedgerows Regulations 1997⁽⁹⁾ 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 **(10)**.

⁽⁹⁾ [S.I. 1997/1160](#).

⁽¹⁰⁾ 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 [\(c.23\)](#).

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⁽¹¹⁾ 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⁽¹²⁾; 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.

PART 3**PUBLIC FOOTPATH****Temporary closure and diversion of public footpath**

8. The undertaker may, during the construction and decommissioning of the authorised development, temporarily close public footpath 214 as specified in column (3) of Schedule 3 (public footpath to be temporarily closed and diverted) to the extent specified in column (5) (extent of temporary closure) of Schedule 3, and must provide the temporary substitute public footpath specified in column (6) (extent of temporary diversion) of Schedule 3 for the period during which the footpath is temporarily closed.

PART 4**SUPPLEMENTAL POWERS****Discharge of water**

9.—(1) Subject to paragraphs (3) and (4) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use 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.

⁽¹¹⁾ 1990 c. 43.

⁽¹²⁾ 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.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991⁽¹³⁾.

(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 or the person or body otherwise having authority to give such consent; 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 carry out any works to or 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 such 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 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 permit granted by the Environment Agency.

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

(7) This article does not authorise a groundwater activity or a water discharge activity within the meaning of the Environmental Permitting (England and Wales) Regulations 2016⁽¹⁴⁾.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

(9) 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.

Authority to survey and investigate the land

10.—(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 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.

⁽¹³⁾ 1991 c. 56. Section 106 was amended by section 35(8)(a) of the Competition and Service (Utilities) Act 1992 (c. 43) and sections 36(2) and 99 of the Water Act 2003 (c. 37). There are other amendments to the section which are not relevant to this Order.

⁽¹⁴⁾ S.I. 2016/1154 “Groundwater activity” is defined in paragraph 3 of Schedule 22. “Water discharge activity” is defined in paragraph 3 of Schedule 21.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 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 may 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

but such consent must not be unreasonably withheld.

(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) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (4)(a) in the case of a highway authority; or

(b) under paragraph (4)(b) in the case of a street authority,

that authority is deemed to have granted consent.

PART 5

OPERATIONS

Operation of generating station

11.—(1) The undertaker is authorised to operate and use the generating station for which development consent is granted by this Order.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

PART 6

MISCELLANEOUS AND GENERAL

Removal of human remains

12.—(1) Before the undertaker carries out any development or works which will or may disturb any human remains within the Order limits it must remove those human remains from the Order limits, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from the Order limits the undertaker must give notice of the intended removal, describing the Order limits and stating the general effect of the following provisions of this article, by—

(a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and

(b) displaying a notice in a conspicuous place within or near the Order limits.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to North Lincolnshire Council.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred within the Order limits may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

(a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or

(b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

(a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains within the Order limits; or

(b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or

(c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or

(d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (9) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under this article—

(a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and

- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the local authority mentioned in paragraph (3).
- (11) No notice is required under paragraph (2) before the removal of any human remains where the undertaker is satisfied—
- (a) that the remains were interred more than 100 years ago; and
 - (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.
- (12) In this article references to a relative of the deceased are to a person who—
- (a) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased; or
 - (b) is, or is a child of, a brother, sister, uncle or aunt of the deceased; or
 - (c) is the lawful executor of the estate of the deceased; or
 - (d) is the lawful administrator of the estate of the deceased.
- (13) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.
- (14) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.
- (15) Section 25 of the Burial Act 1857(15) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) is not to apply to a removal carried out in accordance with this article.
- (16) The Town and Country Planning (Churches, Places of Religious Worship and Burial Ground) Regulations 1950(16) do not apply to the authorised development.

Operational land for the purposes of the 1990 Act

13. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

Certification of plans, etc.t

- 14.—(1)** The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the—
- (a) archaeological exclusion zone – whole area plan (document reference 2.22 LC DRW);
 - (b) environmental statement (document reference 6 LC ES CH (Chapters 1-11) as submitted on 4 December 2020, as updated by the following documents —
 - (i) 6.4A LC ES CH 4 (Development Proposal) (9 August 2021);
 - (ii) 6.6B LC ES CH 6 (Landscape and Visual Impact) (9 August 2021);
 - (iii) 6.7A LC ES CH 7 (Ecology) (9 August 2021);
 - (iv) 6.10A LC ES CH 10 (Agriculture) (9 August 2021);
 - (v) 6.11A LC ES CH 11 (8 April 2021);
 - (vi) 7.12C LC TA 4.5 Air Quality and Carbon Assessment (31 August 2021);
 - (vii) 7.16A LC TA 4.9 Noise Impact Assessment (24 May 2021);

(15) 1857 c. 81. Substituted by Church of England (Miscellaneous Provisions) Measure 2014, section 2 (January 1, 2015: substitution has effect subject to transitional and saving provisions specified in S.I. 2014/2077, paragraphs 1 and 2).

(16) S.I. 1950/792.

- (viii) 7.21B LC TA 6.5 Detailed Landscape Proposals (9 August 2021);
- (ix) 7.29B LC TA 7.9 Habitats Regulation Statement – No Significant Effects report (NSER) (9 August 2021);
- (x) flood risk assessment and drainage strategy (document reference 7.3 LC TA3.1);
- (xi) 7.35A LC TA 9.1 Transport Statement (11 January 2021);
- (xii) outline BSMP (environmental statement technical appendix 7.14 LC TA4.7);
- (xiii) outline CEMPs (environmental statement technical appendix 7.8D LC TA4.1 (31 August 2021) & 7.27 LC TA7.7);
- (xiv) outline CTMP (environmental statement technical appendix 7.36 LC TA9.2);
- (xv) outline soil management plan (environmental statement technical appendix 7.11 LC TA4.4);
- (xvi) outline decommissioning strategy (environmental statement technical appendix 7.9C LC TA4.2 (31 August 2021); and
- (xvii) outline LEMP (environmental statement technical appendix 7.28D LC TA7.8)(31 August 2021);
- (c) hedgerow plan (document reference 2.40 LC DRW);
- (d) land plan including Order limits (document reference 2.1 LC DRW);
- (e) proposed temporary diversion of public footpath 214 plan (document reference 2.39 LC DRW);
- (f) works details – Key B2 - sheet 5 of 7 (document reference 2.15 LC DRW);
- (g) works plan (document reference 2.8 LC DRW);
- (h) archaeological management plan (document reference 9.42 LC OTH)

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

15.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(17) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
 - (b) in any other case, the last known address of that person at the time of service.
- (4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—
- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
 - (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—
- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
 - (b) the notice or document is capable of being accessed by the recipient;
 - (c) the notice or document is legible in all material respects; and
 - (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.
- (6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.
- (7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).
- (8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—
- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
 - (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.
- (9) This article does not exclude the employment of any method of service not expressly provided for by it.
- (10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Felling or lopping of trees or removal of hedgerows

16.—(1) The undertaker may fell or lop any tree, or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, or shrub—

- (a) from obstructing or interfering with the construction, maintenance operation or decommissioning of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree, or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

(4) The undertaker may for the purposes of the authorised development—

(a) remove those parts of the important hedgerows within the Order limits and specified in Schedule 4 part 1 (removal of important hedgerows); and

(b) remove those parts of the hedgerows as are within the Order limits and specified in Schedule 4 part 2 (removal of hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997(18).

Arbitration

17.—(1) Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled in arbitration in accordance with the rules at Schedule 5 (Arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order shall not be subject to arbitration.

Requirements, appeals, etc.

18.—(1) Where an application is made to, or a request is made of, the local planning authority or any other relevant person for any agreement or approval requirement or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed.

(2) Part 2 (procedure for discharge or requirements) of Schedule 2 (Requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements in Part 1 of that Schedule.

Application of landlord and tenant law

19.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants may prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law to which paragraph (2) applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Protective Provisions

20. Schedule 6 (protective provisions) has effect.

Signed by Authority of the Secretary of State for Business, Energy and Industrial Strategy

Gareth Leigh
Head of Energy Infrastructure Planning
Department for Business, Energy and Industrial
Strategy

5th April 2022