

2017 No. 330

INFRASTRUCTURE PLANNING

**The Glyn Rhonwy Pumped Storage Generating Station Order
2017**

Made - - - - *8th March 2017*

Coming into force - - *29th March 2017*

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An application under section 37 of the Planning Act 2008(a) has been made to the Secretary of State for an order granting development consent.

The application has been examined by a single appointed person, who has made a report to the Secretary of State under section 83(1) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the single appointed person, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(b) and has had regard to the documents and matters referred to in section 105(2) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

(a) 2008 c. 29.

(b) S.I. 2009/2263, amended by S.I. 2012/635 and 2012/787.

Accordingly, the Secretary of State, in exercise of the powers in section 114 and 120 of the 2008 Act, makes the following Order:

PART 1

Preliminary

Citation and Commencement

1. This Order may be cited as the Glyn Rhonwy Pumped Storage Generating Station Order 2017 and comes into force on 29th March 2017.

Interpretation

2.—(1) In this Order—

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

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

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

“the 1984 Act” means the Road Traffic Regulation Act 1984(d);

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

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

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

“access plan” means the plan having drawing number GR_160406_DCO_2.09.4_v4 and certified as the access plan by the Secretary of State for the purposes of this Order;

“AOD” means above ordnance datum (and is the height relative to average sea level at Newlyn, Cornwall, UK);

“apparatus”, unless otherwise defined, means any equipment, pipes, cables, ducts or other similar infrastructure situated in or over the Order limits including any means of access to the same.

“authorised development” means the development described in Part 1 of Schedule 1 (authorised development) which is development within the meaning of section 32 of the 2008 Act;

“the 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;

“commence” means begin to carry out any material operation (as defined in section 155 of the 2008 Act) in respect of the authorised development or forming part of the authorised development, except for investigations for the purpose of assessing ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure or the temporary display of site notices or advertisements; and “commencement” and “commenced” must be construed accordingly;

(a) 1961 c.33.
(b) 1965 c.56.
(c) 1980 c.66.
(d) 1984 c.27.
(e) 1990 c.8.
(f) 1991 c.22.
(g) 2008 c.29.

“environmental statement” means the environmental statement together with its appendices and figures submitted with the application for this Order and certified as the environmental statement by the Secretary of State;

“hedgerow plan” means the plan having drawing number GR_160324_HEDGE_v2 and certified by the Secretary of State as the hedgerow plan for the purposes of this Order;

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

“indicative engineering drawings and sections” means the engineering drawings and sections for the authorised development having drawing numbers 2.02, 2.05, 2.05.1, 2.05.2, 2.05.3, 2.05.4, 2.05.5, 2.06.1, 2.06.2, 2.06.3, 2.06.4, 2.06.5-1, 2.06.6-1, 2.06.7, 2.06.8, 2.06.9, 2.06.10 and 2.06.11; 2.06.12 and certified by the Secretary of State as the indicative engineering drawings and sections for the purposes of this order;

“the land plans” means the plans having drawing numbers 141004-EXPA-LAND-001-J, 141004-OVER-LAND-001-J, and 141004-OVER-LAND-002-J certified as the land plans by the Secretary of State for the purposes of this Order;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct or replace 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, or vary the authorised development as described in Schedule 1, and any derivative of “maintain” must be construed accordingly;

“MW” means MegaWatt;

“Natural Resources Wales” means the Natural Resources Body for Wales or any successor body to the function concerned;

“Order limits” means the order limits shown on the works plans, 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(a);

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003(b);

“public sewer or drain” means a sewer or drain belonging to Natural Resources Wales, an internal drainage board, a local authority, a National Park Authority or a sewerage undertaker;

“relevant planning authority” means Gwynedd Council as the planning authority for the area in which the authorised development is situated;

“requirement” means a requirement set out in Part 2 of Schedule 1 (requirements) to this Order, and a reference to a numbered Requirement is a reference to the Requirement set out in the paragraph of the same number in that Part;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street, 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, as defined in section 49 of that Act;

“tree preservation order” has the meaning given in section 198 of the 1990 Act;

“TPO plan” means the plan having drawing number GR_160323_7.2_v4 certified as the TPO plan by the Secretary of State for the purposes of this Order;

“the Tribunal” means the Lands Chamber of the Upper Tribunal;

“Undertaker”, subject to article 8, means Snowdonia Pumped Hydro Limited a company incorporated in England (Company Number 8644844) whose registered office is at 1 Finsbury Circus, London;

(a) 1981 c.67.

(b) 2003 c.21.

“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; and
“the works plans” means the plans having drawing numbers; GR_160809_DCO_2.04b_v17, GR_160809_DCO_2.04c_v17 and GR_160809_DCO_2.04d_v17 and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All areas, distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development will be taken to be measured along that work.

(4) References in this Order to a numbered work are references to a work number in Part 1 of Schedule 1 (authorised development) and shown on the works plans.

PART 2

Principal Powers

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements in Part 2 of Schedule 1 (requirements) to this Order the Undertaker is granted development consent for the authorised development, set out in Part 1 of Schedule 1, to be carried out within the Order limits.

(2) Subject to article 6 (power to deviate) each numbered work may only be constructed within the area shown for that numbered work on the works plans.

Procedure in relation to approvals etc. under requirements

4.—(1) Schedule 7 (discharge of requirements) is to have effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements set out in Part 2 of Schedule 1 to this Order.

Maintenance of authorised development

5. Subject to requirement 19, the Undertaker may at any time and from time to time maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Power to deviate

6.—(1) In constructing or maintaining the authorised development comprising works numbered 1A to 4G in Part 1 of Schedule 1 (authorised development), the Undertaker may deviate from the indicative engineering drawings and sections;

- (a) laterally to any extent provided that the work remains within the area shown for that work on the works plans; and
- (b) in relation to the underground structures, vertically upwards to any extent which may be necessary or expedient from the ordnance datum levels shown in the indicative engineering drawings and sections, and vertically downwards to a maximum of 10m from the ordnance datum levels shown in the indicative engineering drawings and sections.

(2) Any deviation under paragraph (1) is not permitted if it is likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.