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W E L S H   S T A T U T O R Y   I N S T R U M E N T S

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**2017 No. 1009 (W. 258)**

**INFRASTRUCTURE PLANNING**

**The Hirwaun Generating Station (Amendment) Order 2017**

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Hirwaun Generating Station Order 2015, a development consent order under the Planning Act 2008, following an application made in accordance with the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 for a non-material change under paragraph 2 of Schedule 6 to the Planning Act 2008. This Order amends some of the requirements of the authorised development by enabling construction of the bat mitigation structure prior to other elements of the authorised development.

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**2017 No. 1009 (W. 258)**

**INFRASTRUCTURE PLANNING**

**The Hirwaun Generating Station (Amendment) Order 2017**

*Made* - - - - *17 October 2017*

*Coming into force* - - *20 October 2017*

An application has been made, under paragraph 2 of Schedule 6 to the Planning Act 2008<sup>(1)</sup>, to the Welsh Ministers in accordance with the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011<sup>(2)</sup> for non-material changes to the Hirwaun Generating Station Order 2015<sup>(3)</sup>.

The Welsh Ministers, having considered the application, the responses to the publicity and consultation required by regulations 6 and 7 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011, have decided to make the changes on terms that in the opinion of the Welsh Ministers are not materially different from those proposed in the application.

Accordingly, the Welsh Ministers, in exercising the powers conferred on the Secretary of State by paragraphs 2(1) and (9) of Schedule 6 to the Planning Act 2008 and now exercisable by them<sup>(4)</sup>, make the following Order—

**Title and commencement**

1. The title of this Order is the Hirwaun Generating Station (Amendment) Order 2017 and comes into force on 20 October 2017.

**Amendments to the Hirwaun Generating Station Order 2015**

2.—(1) Schedule 2 (requirements) to the Hirwaun Generating Station Order 2015 is amended as follows.

(2) For requirement 4(3) substitute the following paragraph—

“(3) Save in respect of the bat mitigation structure forming part of numbered work 2E(g), the remainder of numbered work 2 of the authorised development is not to commence until details of the layout, scale and external appearance of numbered work 2 (except for the bat

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(1) 2008 c.29. Paragraph 2 was amended by paragraph 4 of Schedule 8 to the Marine and Coastal Access Act 2009 (c.23), by paragraphs 1 and 72 of Schedule 13 to the Localism Act 2011 (c.20), and by section 28 of the Infrastructure Act 2015 (c.7). There are other amendments to the Act that are not relevant to this Order.  
(2) S.I. 2011/2055, as amended by S.I. 2012/635, S.I. 2013/522 and S.I. 2015/760.  
(3) S.I. 2015/1574, as amended by S.I. 2015/2070 and S.I. 2016/1087.  
(4) By virtue of paragraph 8(3) of Schedule 7 to the Wales Act 2017 (c. 4), Schedule 6 to the Planning Act 2008 has effect in relation to orders granting development consent for devolved Welsh generating stations as if references to the Secretary of State were references to the Welsh Ministers.

mitigation structure) have been submitted to and approved by the relevant planning authority in consultation with the Brecon Beacons National Park Authority.”

(3) For requirement 4(6) substitute the following paragraph—

“(6) Save as otherwise provided for in this requirement, the authorised development must be carried out substantially in accordance with the mitigation measures identified in the mitigation commitments register in so far as they relate to the authorised development. Notwithstanding the reference on page 9 of the mitigation commitments register to the bat mitigation structure being provided one year prior to the demolition of the existing structures, where bat mitigation has been in place for the period agreed with the relevant planning authority and Natural Resources Wales in accordance with Requirement 4(7)(b)(iv) that period shall be deemed to be substantially in accordance with the mitigation measures identified in the commitments register.”

(4) Insert new requirement 4(7)—

“(7) The bat mitigation structure forming part of numbered work 2E(g) of the authorised development is not to commence until:

- (a) dusk and dawn bat surveys have been completed and the results submitted to the relevant planning authority and Natural Resources Wales; and
- (b) the following details of the bat mitigation structure have been submitted to and approved by the relevant planning authority in consultation with Natural Resources Wales (informed by the results of the survey referred to in (a) above):
  - (i) whether the structure is to be an existing building or a new structure;
  - (ii) if new, the siting of the structure, the scale of the structure and the external appearance of the structure;
  - (iii) if an existing building, details of any alterations to the building required to make it suitable as bat mitigation; and
  - (iv) the period for which such mitigation (for either a new structure or existing building) is required to be in place prior to demolition works commencing on site.”

(5) For requirement 5(1) substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, the remainder of numbered work 2 of the authorised development is not to commence until a written landscaping plan for numbered work 2 has been submitted to and approved by the relevant planning authority. The landscaping plan must include details of all proposed hard and soft landscaping works and be substantially in accordance with the landscaping mitigation proposals set out in figure 11.5 of the environmental statement in so far as they relate to numbered work 2, and include details of—

- (a) location, number, species, size and planting density of any proposed planting including details of any proposed tree planting and the proposed times of such planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) minor structures, such as furniture, refuse or other storage units and signs;
- (g) existing trees to be retained, with measures for their protection together with any landscaping and visual mitigation required during the construction period;
- (h) implementation timetables for all landscaping works;

- (i) measures for the management of the ecological resources that will remain within the Order land on completion of the authorised development; and
  - (j) landscaping maintenance throughout the operational life of the authorised development.”
- (6) For requirement 6(1) substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, the remainder of numbered work 2 of the authorised development is not to commence until written details of the design, layout and (where not already identified in Schedule 3 and the rights of way, streets and access plan) siting of any new permanent or temporary means of access to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway used by vehicular traffic, has been submitted to and approved by the relevant planning authority (in consultation with the highway authority).”
- (7) For requirement 7(1) substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, the remainder of numbered work 2 of the authorised development is not to commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure have been submitted to and approved by the relevant planning authority.”
- (8) For requirement 8(1) substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, the remainder of numbered work 2 of the authorised development is not to commence until written details of a surface and foul water drainage plan (including means of pollution control) have, after consultation with the relevant sewerage and drainage authority, been submitted to and approved by the relevant planning authority, such strategy to be in substantial accordance with the principles set out in Section 5.2 of the flood risk assessment.”
- (9) For requirement 9(1), substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, the remainder of numbered work 2 of the authorised development is not to commence until a written scheme applicable to that numbered work, to deal with the contamination of any land, including groundwater, which is likely to cause significant harm to persons, the environment or significant pollution of controlled waters has, after consultation with Natural Resources Wales been submitted to and approved by the relevant planning authority.”
- (10) For requirement 10(1) substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, each of numbered works 1 and the remainder of numbered work 2 of the authorised development is not to commence until a written ecological management plan covering that numbered work reflecting a preconstruction ecological constraints survey and the ecological mitigation plan for that numbered work, figure 11.5 and section 8.7 of the environmental statement has been submitted to and approved by the relevant planning authority in consultation with Natural Resources Wales.”
- (11) For requirement 11(1) substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, each of numbered work 1 and the remainder of numbered work 2 of the authorised development is not to commence until a written scheme of investigation covering that numbered work has been submitted to and approved by the relevant planning authority.”
- (12) For requirement 12(1), substitute the following paragraph—

“(1) No numbered work of the authorised development is to commence other than the bat mitigation structure forming part of numbered work 2E(g) of the authorised development until a construction environment management plan covering that numbered work has been submitted to and approved by the relevant planning authority.”

(13) For requirement 13(1) substitute the following paragraph—

“(1) No numbered work of the authorised development other than tree felling and the bat mitigation structure forming part of numbered work 2E(g) of the authorised development is to commence until a construction traffic management plan covering that numbered work has been submitted to and approved by the relevant planning authority in consultation with Welsh Government Transport. The construction management plan is to detail the proposals for the movement of construction traffic and abnormal indivisible loads associated with the authorised development and is to include—

- (a) construction vehicle routing plans at 1:2,500 scale for all traffic including abnormal indivisible loads showing—
  - (i) swept path analysis from the point of entry onto the highway network to the Order land;
  - (ii) highway mitigation in respect of any identified constraints on vehicle movements such as embargo periods, route traffic sensitivity, temporary road works and other highway restrictions to be developed following consultation with the South Wales Trunk Road Agent, and, where relevant, referring to supporting HD19/03 safety audit documentation (as contained within the Design Manual for Roads and Bridges Volume 5 Section 2 Part 2 and as amended or replaced); and
  - (iii) land ownership boundaries for any required holding areas, passing areas and layover areas;
- (b) evidence of appropriate trial runs that demonstrate the suitability of the route from the point of entry onto the trunk road network to the Order land for the proposed types of abnormal indivisible loads;
- (c) site access plans at 1:2,500 scale that include supporting HD19/03 safety audit documentation (as contained within the Design Manual for Roads and Bridges Volume 5 Section 2 Part 2 and as amended or replaced);
- (d) proposals for the management of junctions to and crossings of the public highway during delivery of abnormal indivisible loads;
- (e) proposals for the scheduling and timing of movements of delivery vehicles, to be developed following consultation with the Welsh Government and potentially affected undertakers, and, in relation to any abnormal indivisible loads, details of vehicle parameters, number of vehicles in convoy size, dimensions (width, length, height) and weight (total vehicle with load and axel loading);
- (f) details of escorts for abnormal indivisible loads highlighting where and when along the route private vehicles, banksman and Police vehicles escorts will be used (including emergency contingencies);
- (g) proposals for temporary warning signs and banksman for abnormal indivisible loads, including provision of plan drawings and associated traffic signs schedule highlighting locations along the route where temporary traffic management (including cones and temporary signs) needs to be deployed;
- (h) a methodology for undertaking a conditions survey of Main Avenue, Fourth Avenue and any other land identified during the trial runs that may have a constraining impact on the abnormal indivisible load movements including the timescales for undertaking the surveys and the method(s) of reporting the findings to the relevant planning authority, comprehensive photographs and potential compensation arrangements;
- (i) details of any temporary or permanent improvements to highways;

- (j) proposals for the making good of any incidental damage to highways by construction traffic associated with the authorised development including street furniture, structures, drainage features, highway verge and carriageway surfaces;
- (k) proposals for traffic management controls (such as temporary signals), diversion routes and signage required during any of the activities, operations or works set out in Schedule 4; and
- (l) proposals for the notification of occupiers of land adjacent to the construction traffic route of the scheduling and timing of abnormal indivisible load movements from the point of exit from the trunk road network to the Order land.”

(14) For requirement 16(1) substitute the following paragraph—

“(1) With the exception of the bat mitigation structure forming part of numbered work 2E(g) of the authorised development which may commence, the remainder of numbered work 2 of the authorised development is not to commence until, after consultation with the relevant planning authority, a written scheme for the management and mitigation of artificial light emissions which is in accordance with the outline lighting strategy in so far as it relates to the authorised development has been submitted to and approved by the relevant planning authority in consultation with the Brecon Beacons National Park Authority.”

*Lesley Griffiths*

Cabinet Secretary for Environmental and Rural Affairs, one of the Welsh Ministers

17 October 2017