

SLOUGH MULTIFUEL EXTENSION PROJECT

Planning Inspectorate Ref. EN010129

The Slough Multifuel Extension Order

Land at Edinburgh Avenue, Slough, SL1 4TU

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The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure)
Regulations 2009 – Regulation 5(2)(b)



Applicant: SSE Slough Multifuel Limited

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INFRASTRUCTURE PLANNING

THE SLOUGH MULTIFUEL EXTENSION ORDER 202[]

Made - - - - - ***
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An application has been made to the Secretary of State under section 37 of the Planning Act 2008 (“the 2008 Act”)(a), in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009(b) for an Order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to section 61(c) and section 65(d) of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of that Act and with the Infrastructure Planning (Examination) Procedure Rules 2010(e). The Examining Authority has submitted a report to the Secretary of State under section 74(2)(f) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(g), [and has considered the representations made and not withdrawn] and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)(h) 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.

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120(i) of the 2008 Act, makes the following Order—

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Slough Multifuel Extension Order 202[] and comes into force on [Insert Date].

Interpretation

2.—(1) In this Order—

-
- (a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
 - (b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, S.I. 2019/734, 2020/1534, 2021/978 and 2022/634.
 - (c) Section 61 was amended by Schedule 13, paragraph 18(4) to the Localism Act 2011 and by section 26 of the Infrastructure Act 2015 (c.7).
 - (d) Section 65 was amended by Schedule 13 paragraph 22(2) and Schedule 25, paragraph 1 to the Localism Act 2011 and by section 27(1) of the Infrastructure Act 2015.
 - (e) S.I. 2010/103. This instrument was amended by S.I. 2012/635.
 - (f) Section 74 was amended by Schedule 13(1) paragraph 29(3) and Schedule 25, paragraph 1, to the Localism Act 2011.
 - (g) S.I. 2017/572.
 - (h) Section 104(2) was amended by Schedule 13, paragraph 49 to the Localism Act 2011 and s58(5) of the Marine and Coastal Access Act 2009 (c.23).
 - (i) Section 114 was amended by Schedule 13, paragraph 55 to the Localism Act 2011, section 115 was amended by section 160(2) to (6) of the Housing and Planning Act 2016 (c. 22) and section 120 was amended by section 140 and Schedule 13, paragraph 60 of the Localism Act 2011.

“the 1980 Act” means the Highways Act 1980(a)

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

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

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

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

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

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

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

“commence” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (when development begins), forming part, or carried out for the purposes, of the authorised development;

“construction environment management plan” means the construction environment management plan approved pursuant to condition 17 of the TCPA permission and certified pursuant to article 11;

“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 [] including all appendices thereto;

“existing generating station” means a generating station within the Order limits comprised of development authorised by planning permission issued pursuant to the 1990 Act including the TCPA permission and further TCPA permission;

“extended generating station” means a generating station within the Order limits which includes (i) the extension of a generating station comprised of the authorised development and (ii) the existing generating station;

“further TCPA permission” means planning permission granted by Slough Borough Council with reference P/00987/025 dated 2 June 2017, and any other variations thereto (which shall include for the avoidance of doubt any variations pursuant to Section 73 of the 1990 Act);

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

“maintain” in relation to any part of the authorised development includes inspect, upkeep, repair, adjust, alter, remove, improve, refurbish, reconstruct and replace 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” is to be construed accordingly;

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

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

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Schedule 2 (requirements) to this Order;

“TCPA permission” means planning permission granted by Slough Borough Council with reference P/00987/051 dated 1 February 2022, and any other variations thereto (which shall include for the avoidance of doubt any variations pursuant to Section 73 of the 1990 Act);

(a) 1980 c.66.
(b) 1989 c.29.
(c) 1990 c.8.
(d) 1991 c.22.
(e) 2008 c.29.

“undertaker” means SSE Slough Multifuel Limited (company number 11271136) or any person who has the benefit of this Order in accordance with articles 6 (Benefit of the Order) and 7 (Consent to transfer benefit of the Order);

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

(2) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be 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 and shown on the Works plan.

(4) The expression “includes” is to be construed without limitation unless the contrary intention appears.

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

PART 2

Principal powers

Development consent etc. granted by the Order

3. Subject to the provisions for this Order and to the requirements in Schedule 2 the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

Authorisation of the operation of the extended generating station

4.—(1) The undertaker is authorised to operate the extended generating station at a capacity of over 50MW.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation other than section 36 of the 1989 Act.

Power to maintain the authorised development

5. 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.

Benefit of the Order

6. Subject to article 7 (consent to transfer the benefit of the order), the provisions of this Order conferring power on the undertaker have effect solely for the benefit of the undertaker.

Consent to transfer benefit of the Order

7.—(1) Except where paragraph (4) applies, 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/or
- (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 between the undertaker and the lessee.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraphs (5) and (6), shall include references to the transferee or lessee.

(3) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (1) —

- (a) the benefit transferred or granted (“the transferred benefit”) shall 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 shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall 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 (1) 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.

(4) The consent of the Secretary of State is required for the exercise of powers under this article, except where the transferee or lessee is the holder of a licence under section 6 of the 1989 Act.

(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must provide written notification to the Secretary of State and the relevant planning authority at least 14 days prior to transferring and/or granting any benefit pursuant to this article.

(6) A notice required under paragraphs (5) 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) the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted;
 - (iv) the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
- (b) be accompanied by 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.

Planning permission

8.—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order or of the extended generating station;

then the carrying out, use, operation or decommissioning of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

(2) Anything done by the undertaker in accordance with this Order does not constitute a breach of any planning permission issued pursuant to the 1990 Act.

Existing powers and duties of the undertaker

9. Except as previously provided, nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under the 1980 Act, the 1991 Act and the Town and Country Planning (General Permitted Development) (England) Order 2015(a).

(a) S.I. 2015/596.

PART 3

Supplemental powers

Defence to proceedings in respect of statutory nuisance

10.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (statutory nuisances and inspections therefor) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning 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(b); or
 - (ii) is a consequence of the construction, maintenance or decommissioning of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development in compliance with condition 20 of the TCPA permission; or
 - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 (prior consent for work on construction sites) does not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction, maintenance or decommissioning of the authorised development.

Certification of plans and documents, etc.

11.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the landownership and interests schedule;
- (b) the land plan;
- (c) the works plan;
- (d) the environmental statement;
- (e) the approved generating station plans named as follows:
 - (i) East Elevation of Consented Development and Proposed Project; and
 - (ii) Plan and East Elevation of Consented Development and Project;
- (f) the TCPA permission;
- (g) the further TCPA permission; and

(a) 1990 c.43. Relevant amendments are as follows: section 82 was amended by Schedule 17, paragraph 6 of the Environment Act 1995 (c.25), section 5 of the Noise and Statutory Nuisance Act 1993 (c.40) and section 103 of the Clean Neighbourhoods and Environment Act 2005 (c.16); and section 79 was amended by sections 101 and 102 of the Clean Neighbourhoods and Environment Act 2005 and by Schedule 22, paragraph 89 of the Environment Act 1995.

(b) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990, c.43. There are other amendments to the 1974 Act which are not relevant to the Order.

- (h) the construction environment management plan;

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.

(3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made;

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

Arbitration

12.—(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 [3] (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) For the avoidance of doubt, 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.

Service of notices

13.—(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 (6) 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 of the Interpretation Act 1978 (references to service by post) 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 that body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that 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 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 the 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) 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 seven days of receipt that the recipient requires a paper copy of all or any 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 an electronic transmission 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 seven 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.

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

[Name]

Head of Energy Infrastructure Planning

Department for Business, Energy and Industrial Strategy

Date

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

In the County of Berkshire

A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act and associated development within the meaning of s115(2) of the 2008 Act—

Work No. 1 - An extension to the Slough Multifuel combined heat and power generating station with the effect that, once extended, the extended generating station will have a gross installed generating capacity of more than 50MW, comprising the following works—

- (a) a boiler primary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment;
- (b) a boiler secondary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment; and
- (c) mechanical modifications to the actuated steam turbine inlet control valve to allow steam capacity to be increased.

Associated development

Associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act in connection with and in addition to Work No. 1 including temporary construction laydown areas, contractor facilities, vehicle parking and cycle storage facilities, to the extent that it does not otherwise form part of that work, as (i) may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and (ii) falls within the scope of the works assessed in the environmental statement.

SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1. In this Schedule references to “development”, “authorised development” and “plant” in the conditions attached to the TCPA permission or further TCPA permission identified in this Schedule shall as the context requires be interpreted as including the authorised development and references to “construction”, “commissioning”, “use”, “operation” and “decommissioning” shall as the context requires be interpreted as including the construction, commissioning, use, operation and decommissioning of the authorised development.

Commencement of the authorised development

2. The authorised development must commence within five years of the date on which this Order comes into force.

Construction

3.—(1) The authorised development shall be constructed in accordance with –

- (a) the requirements of conditions 11 (prevention of pollution), 24 (access) and 26 (drainage) of the TCPA permission; and
- (b) the details approved, including any revisions approved, pursuant to conditions 17 (construction environment management plan) and 21 (construction compound details) of the TCPA permission.

4. Notwithstanding requirement 3(b) the authorised development shall be constructed in accordance with the construction environment management plan certified pursuant to article 11 of this Order except to the extent that any revisions approved to it pursuant to condition 17 of the TCPA permission do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

Local liaison group

5. The local liaison group which was established and operates in accordance with condition 16 of the TCPA permission shall incorporate the authorised development within its remit.

Commissioning

6.—(1) The authorised development shall not be commissioned unless the requirements of:

- (a) conditions 9 (contaminated land mitigation and remediation strategy verification report), 29 (noise monitoring programme), 36 (highways scheme) and 37 (pest scheme) of the TCPA permission; and
- (b) condition 6 (parking spaces) of the further TCPA permission

have been satisfied.

Ongoing

7.—(1) The authorised development shall be operated in accordance with -

- (a) the requirements of conditions 20 (noise levels), 23 (acceptable fuel type), 28 (dust), 30 (fuel deliveries), 31 (fuel deliveries), 33 (sound systems), 34 (waste hierarchy) and 35 (waste transfer operations) of the TCPA permission;

- (b) the details approved, including any revisions approved, pursuant to conditions 4 (landscaping and tree planting scheme), 9 (contaminated land mitigation and remediation strategy verification report), 10 (surface water drainage), 13 (odour management plan), 18 (fauna management plan), 29 (noise monitoring programme), 36 (highways scheme) and 37 (pest scheme) of the TCPA permission; and
- (c) the details approved, including any revisions approved, pursuant to conditions 3 (cycle parking) and 4 (living wall) of the further TCPA permission.

Decommissioning

8. The authorised development shall be decommissioned in accordance with the requirements of condition 22 (decommissioning) of the TCPA permission.

SCHEDULE 3

Article 12

ARBITRATION RULES

Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 37 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, shall be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration shall be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in business days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the Arbitrator is appointed which shall be either—

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the Arbitrator being appointed, the Claimant shall provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant’s statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent shall provide the Claimant and the Arbitrator with—

- (a) a written Statement of Defence responding to the Claimant’s Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant’s claim, its acceptance of any element(s) of the Claimant’s claim, its contentions as to those elements of the Claimant’s claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant’s statements, comments on the Claimant’s expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The Arbitrator shall make an award on the substantive difference based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the Arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the Arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the Arbitrator shall direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing shall not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the Arbitrator shall invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the Arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report shall be as directed by the Arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator shall take these submissions into account in the Award.

(8) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The Arbitrator's award shall include reasons. The parties shall accept that the extent to which reasons are given shall be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996(a), including the nonmandatory sections, save where modified by these Rules.

(2) There shall be no discovery or disclosure, except that the Arbitrator shall have the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

Costs

6.—(1) The costs of the Arbitration shall include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation shall be open to and accessible by the public.

(2) The Arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph shall prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises SSE Slough Multifuel Limited (referred to in this Order as the undertaker) to construct and maintain an extension to the existing Slough multifuel generating station and to

(a) 1996 c.23.

operate a generating station within the Order limits at a capacity of over 50MW. This Order imposes requirements in connection with the authorised development.