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STATUTORY INSTRUMENTS

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**2022 No. 436**

**The Little Crow Solar Park Order 2022**

**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(1) (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(2) do not apply to the authorised development.

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(1) [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).

(2) [S.I. 1950/792](#).

**Commencement Information**

**I1** Art. 12 in force at 27.4.2022, see [art. 1](#)

**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.

**Commencement Information**

**I2** Art. 13 in force at 27.4.2022, see [art. 1](#)

**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);
  - (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.

#### Commencement Information

**I3** Art. 14 in force at 27.4.2022, see [art. 1](#)

#### 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<sup>(3)</sup> 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;

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(3) 1978 c. 30.

- (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.

#### **Commencement Information**

**I4** Art. 15 in force at 27.4.2022, see [art. 1](#)

### **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(4).

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**Commencement Information**

**I5** Art. 16 in force at 27.4.2022, see [art. 1](#)

**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.

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**Commencement Information**

**I6** Art. 17 in force at 27.4.2022, see [art. 1](#)

**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.

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**Commencement Information**

**I7** Art. 18 in force at 27.4.2022, see [art. 1](#)

**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.

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**Commencement Information**

**18** Art. 19 in force at 27.4.2022, see [art. 1](#)

**Protective Provisions**

**20.** Schedule 6 (protective provisions) has effect.

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

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**Commencement Information**

**19** Art. 20 in force at 27.4.2022, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Little Crow Solar Park Order 2022, PART 6.