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STATUTORY INSTRUMENTS

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**2016 No. 166**

**INFRASTRUCTURE PLANNING**

**The Palm Paper Mill Generating Station Order 2016**

*Made* - - - - *11th February 2016*

*Coming into force* - - *12th February 2016*

An application under section 37 of the Planning Act 2008<sup>(1)</sup> (the “2008 Act”) 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<sup>(2)</sup> and has had regard to the documents and matters referred to in section 104(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.

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

**Citation and commencement**

1. This Order may be cited as the Palm Paper Mill Generating Station Order 2016 and comes into force on 12th February 2016.

**Interpretation**

2.—(1) In this Order—

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

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(1) [2008 c.29](#). Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act [2011 \(c.20\)](#). Section 83(1) was amended by paragraph 35 of that Schedule. Section 104(2) was amended by paragraph 49 of that Schedule and section 58 of the Marine and Coastal Access Act [2009 \(c.23\)](#). Section 114 was amended by paragraph 55 of Schedule 13 to the Localism Act 2011. Section 120 was amended by section 140 of, and paragraph 60 of Schedule 13 to, that Act.

(2) [S.I. 2009/2263](#); regulation 3 was amended by [S.I. 2012/635](#) and [2012/787](#).

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

“environmental statement” means the document certified by the Secretary of State as the environmental statement under article 13 (certification of plans, etc.);

“highway” and “highway authority” have the same meaning as in the Highways Act 1980(3);

“land plan and site location plan” means the plan certified by the Secretary of State as the land plan and site location plan under article 13;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair and adjust the authorised development; and any derivative of “maintain” must be construed accordingly;

“Order limits” means the limits shown on the land plan and site location plan and the site layout and works plan;

“relevant planning authority” means the Borough Council of King’s Lynn and West Norfolk;

“Requirement” means a Requirement set out in Schedule 2 (Requirements); and a reference to a numbered Requirement is a reference to the Requirement set out in the paragraph of that Schedule with the same number;

“site layout and works plan” means the plan certified by the Secretary of State as the site layout and works plan under article 13;

“undertaker” means, subject to article 7(2) (consent to transfer benefit of Order), Palm Paper Limited(4) (company number 00813701).

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

(4) In this Order, “include” must be construed without limitation.

(5) References in this Order to any statutory body include that body’s successor bodies having jurisdiction over the authorised development.

### **Development consent granted by Order, etc.**

3.—(1) Subject to the provisions of this Order and to the Requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Schedule 2 (which contains the Requirements) has effect.

### **Procedure in relation to certain approvals, etc. under Requirements**

4.—(1) Where an application is made to the relevant planning authority for any consent, agreement or approval required by a Requirement, the following provisions, so far as they relate to a consent, agreement or approval of a local planning authority, apply as if the Requirement were a condition imposed on a grant of planning permission—

(a) sections 78 and 79 of the Town and Country Planning Act 1990(5) (right of appeal in relation to planning decisions);

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(3) 1980 c.66. “Highway” is defined in section 328(1). For “highway authority”, see section 1.

(4) The registered office of Palm Paper Limited is Saddlebow Industrial Estate, Poplar Avenue, King’s Lynn, Norfolk PE34 3AL.

(5) 1990 c.8. Section 78 was amended by section 17 of the Planning and Compensation Act 1991 (c.34); section 43(2) of the Planning and Compulsory Purchase Act 2004 (c.5); paragraph 3 of Schedule 10, and paragraph 2 of Schedule 11, to the Planning Act 2008; section 123(3) of, and paragraph 11 of Schedule 12 to, the Localism Act 2011; paragraph 8 of Schedule 1 to the Growth and Infrastructure Act 2013 (c.27); and paragraph 12 of Schedule 4 to the Infrastructure Act 2015 (c.7). Section

- (b) any orders, rules or regulations that make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission,

insofar as those provisions are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 or any orders, rules or regulations made under the Planning Act 2008.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission insofar as it provides in relation to—

- (a) an application for such a consent, agreement or approval;
- (b) the grant or refusal of such an application; or
- (c) a failure to give notice of a decision on such an application.

### **Maintenance of authorised development**

5. The undertaker may, at any time and to the extent assessed in the environmental statement, maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

### **Operation of generating station**

6.—(1) The undertaker may operate the generating station for which development consent is granted by this Order.

(2) Where Palm Paper Limited has the benefit of this article, either Palm Paper Limited or Palm Power Limited<sup>(6)</sup> (company number 07899303) may operate the generating station.

(3) This article does not relieve the undertaker or Palm Power Limited of any requirement to obtain a permit or licence under any legislation that may be required to authorise the operation of a generating station.

### **Consent to transfer benefit of Order**

7.—(1) The undertaker may, with the 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; 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 agreed between the undertaker and the lessee.

(2) Where a transfer or grant is made under paragraph (1), references in this Order to the undertaker, except in paragraph (3), include references to the transferee or lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with a 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.

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<sup>79</sup> was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 and by paragraph 4 of Schedule 10 to the Planning Act 2008.

<sup>(6)</sup> The registered office of Palm Power Limited is Wey Court, West Union Road, Farnham, Surrey GU9 7PT.

## Defence to proceedings in respect of statutory nuisance

**8.—(1)** Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(7) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within section 79(1) (c), (d), (e), (fb), (g), (ga) or (h) 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 the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and 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(8);
- (b) is a consequence of the construction or maintenance of the authorised development and cannot reasonably be avoided;
- (c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and is attributable to the authorised development which being used in accordance with the scheme for noise management approved by the relevant planning authority under Requirement 13; or
- (d) is a consequence of the use of the authorised development and cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where a consent given under that section 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.

## Access to works

**9.** The undertaker may, for the purposes of the authorised development, with the approval of the relevant planning authority, form and lay out such means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

## Discharge of water

**10.—(1)** The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance 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.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) must be determined as if it were a dispute under section 106 of the Water Industry Act 1991(9) (right to communicate with public sewers).

(3) The undertaker must not discharge water into a watercourse, public sewer or drain except with the consent of the person to whom it belongs, and such consent may be given subject to such terms and conditions as that person may reasonably impose, but may not be unreasonably withheld.

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(7) [1990 c.43](#). Section 79(1)(fb) was inserted by section 102(2) of the Clean Neighbourhoods and Environment Act [2005 \(c.16\)](#). Section 79(1)(ga) was inserted by section 2(2) of the Noise and Statutory Nuisance Act [1993 \(c.40\)](#) and amended by paragraph 2 of Schedule 17 to the Environment Act [1995 \(c.25\)](#). Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995. Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 and paragraph 6 of Schedule 17 to the Environment Act 1995.

(8) [1974 c.40](#). Section 61 was amended by Schedule 7 to the Building Act [1984 \(c.55\)](#), paragraph 15 of Schedule 3 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

(9) [1991 c.56](#). Section 106 was amended by section 35(8) and 43(2) of the Competition and Service (Utilities) Act [1992 \(c.43\)](#) and sections 36(2) and 99 of the Water Act [2003 \(c.37\)](#). Section 106 was also amended by paragraph 16 of Schedule 3 to the Flood and Water Management Act [2010 \(c.29\)](#), but this amendment is not yet in force.

- (4) The undertaker must not 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 may 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.
- (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 pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.
- (7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010<sup>(10)</sup> (requirement for an environmental permit).
- (8) In this article—
- (a) “public sewer or drain” means a sewer or drain that belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker<sup>(11)</sup>;
  - (b) “watercourse” includes any river, stream, ditch, drain, canal, cut, culvert, dyke, sluice, sewer and passage through which water flows except a public sewer or drain; and
  - (c) other expressions, except those otherwise defined in this Order, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those Regulations.

### **Application of landlord and tenant law**

**11.**—(1) This article applies to—

- (a) an agreement for leasing to a person the whole or part of the authorised development or the right to operate it; and
- (b) an agreement entered into by the undertaker with a person for the construction, maintenance, use or operation of the authorised development or any part of it,

so far as the agreement relates to the terms on which land that is the subject of a lease granted by or under the 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 prejudices the operation of an agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to a lease granted by or under an agreement to which this article applies 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 a party to the lease any right or obligation arising out of or connected with anything done or omitted on or in relation to land that is the subject of the lease, in addition to a right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by a party to the lease of an obligation of any other party under the lease.

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<sup>(10)</sup> S.I. 2010/675.

<sup>(11)</sup> “Sewerage undertaker” is defined in Schedule 1 to the Interpretation Act 1978 (c.30).

### **Operational land for purposes of Town and Country Planning Act 1990**

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

### **Certification of plans, etc.**

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

- (a) the conceptual surface water drainage system (document 2.7, 19th August 2014);
- (b) the design and access statement (document 4.3, September 2014);
- (c) the environmental statement (document 5.1, 19th August 2014);
- (d) the existing site layout plan (document 2.5, August 2014);
- (e) the land plan and site location plan (document 2.1, August 2014);
- (f) the maximum parameters of works (document 2.18, 23rd March 2015);
- (g) the outline construction environmental management plan (document 6.1, 19th August 2014);
- (h) the outline landscaping plan (document 2.15, August 2014);
- (i) the site layout and works plan (document 2.2, August 2014),

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

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

### **Arbitration**

14. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Signed by authority of the Secretary of State for Energy and Climate Change

*Giles Scott*  
Head of National Infrastructure Consents and  
Coal Liabilities  
Department of Energy and Climate Change

11th February 2016

## SCHEDULE 1

Article 2(1)

### Authorised development

In the County Borough of King's Lynn and West Norfolk—

A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the Planning Act 2008, being an electricity generating station fuelled by gas with a thermal input of up to 162 megawatts, a nominal gross electrical output of up to 60 megawatts and an output of up to 130 tonnes of heat (steam) per hour, comprising—

1. A combined cycle plant including—
  - (a) a gas turbine within a turbine hall;
  - (b) a steam turbine within a turbine hall;
  - (c) 2 electricity generators and 2 transformers within a compound;
  - (d) a heat recovery steam generator;
  - (e) a main stack for the discharge of flue gas;
  - (f) 4 to 8 banks of hybrid cooling towers;
  - (g) condenser equipment and auxiliary cooling equipment;
  - (h) a demineralised water treatment facility;
  - (i) gas-insulated switchgear;
  - (j) a pipe bridge including pipes and cables for electricity, steam, condensate and raw water, connecting the combined cycle gas turbine building with the paper machine building; and
  - (k) a control room and laboratory.

2. In connection with the above (and to the extent that it does not otherwise form part of the above), development (whether or not shown on the plans referred to in Requirement 4) within the scope of the environmental impact assessment recorded in the environmental statement comprising

- (a) surface water management systems;
- (b) lighting columns and lighting;
- (c) temporary construction site offices;
- (d) surfaced area on site for the parking of construction vehicles, plant and machinery;
- (e) open and covered storage of construction materials and equipment; and
- (f) workshops for the assembly and testing of equipment.

## SCHEDULE 2

Articles 2(1) and 3(2)

### Requirements

#### **Time limit for commencing authorised development**

1. The authorised development must be commenced on or before 11th February 2021.

#### **Notice of commencement of authorised development**

2. Notice of commencement of the authorised development must be given to the relevant planning authority within 7 days of the date on which the authorised development is commenced.

### **Commissioning of authorised development: notice of commencement and completion**

3.—(1) Notice of the commencement of commissioning must be given to the relevant planning authority within 7 days of the date on which commissioning is commenced.

(2) Notice of the completion of commissioning must be given to the relevant planning authority within 7 days of the date on which commissioning is completed.

(3) In this Requirement, “commissioning” means the process of ensuring that all systems and components of the authorised development are installed, tested, and operable in accordance with the design and operational requirements of the undertaker.

### **Detailed design**

4.—(1) The authorised development must be carried out in accordance with the following plans and documents—

- (a) the conceptual surface water drainage system;
- (b) the environmental statement;
- (c) the existing site layout plan;
- (d) the design and access statement;
- (e) the land plan and site location plan;
- (f) the maximum parameters of works;
- (g) the site layout and works plan.

(2) In this Requirement—

“conceptual surface water drainage system” means the document certified by the Secretary of State as the conceptual surface water drainage system under article 13;

“design and access statement” means the document certified by the Secretary of State as the design and access statement under article 13;

“existing site layout plan” means the plan certified by the Secretary of State as the existing site layout plan under article 13;

“maximum parameters of works” means the document certified by the Secretary of State as the maximum parameters of works under article 13.

### **Provision of landscaping**

5.—(1) No part of the authorised development may be commenced until a landscaping scheme has been submitted to and approved by the relevant planning authority.

(2) The landscaping scheme must reflect the proposals set out in the outline landscaping plan and include details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed 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 refuse or other storage units, signs and lighting; and
- (g) implementation timetables for all landscaping works.

(3) In this Requirement, “outline landscaping plan” means the plan certified by the Secretary of State as the outline landscaping plan under article 13.



### **Implementation and maintenance of landscaping**

- 6.—(1) All landscaping works must be carried out—
- (a) in accordance with the landscaping scheme approved under Requirement 5;
  - (b) to a reasonable standard in accordance with relevant recommendations of appropriate British Standards or other recognised codes of good practice; and
  - (c) in accordance with implementation timetables approved under Requirement 5.
- (2) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

### **Surface and foul water drainage**

- 7.—(1) No part of the authorised development may be commenced until details of the surface and foul water drainage system (including means of pollution control) have, after consultation with the sewerage and drainage authority, been submitted to and approved by the relevant planning authority.
- (2) The surface and foul water drainage system must be constructed and implemented in accordance with the approved details.

### **Contaminated land and groundwater**

- 8.—(1) No part of the authorised development may be commenced until a scheme to deal with the contamination of any land (including groundwater) within the Order limits (the “site”) that is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.
- (2) The scheme must include—
- (a) an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose; and
  - (b) a management plan that sets out long-term measures with respect to any contaminants remaining on the site.
- (3) The scheme must be implemented as approved.
- (4) If during construction of the authorised development contamination not previously identified is found to be present on the site, then, unless otherwise agreed by the relevant planning authority, no further works for the authorised development may be carried out until a remediation strategy detailing how the unidentified contamination will be dealt with has been submitted to and approved by the relevant planning authority.
- (5) The remediation strategy must be implemented as approved.
- (6) In this Requirement, “controlled waters” has the meaning given in Part 3 of the Water Resources Act 1991(12).

### **Construction environmental management plan**

- 9.—(1) No part of the authorised development (excluding archaeological, soil movement and ecological mitigation works) may be commenced until a construction environmental management

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(12) See section 104(1).

plan drafted in accordance with the principles set out in the environmental statement and the outline construction environmental management plan has been submitted to and approved by the relevant planning authority.

- (2) The construction environmental management plan must include—
- (a) details of the methods to control noise and vibration arising from construction activities, which must include—
    - (i) proposals for monitoring construction noise;
    - (ii) proposals for introducing mitigation measures or alternative working practices where measurements exceed acceptable limits;
  - (b) details of the methods to be used to control dust and other emissions;
  - (c) details of all temporary fencing, temporary buildings, compound areas and parking areas, including arrangements for their removal following the completion of construction;
  - (d) details of areas to be used for the storage of plant, construction materials and waste;
  - (e) details of the facilities to be provided for the storage of fuel, oil and other chemicals, including measures to prevent pollution;
  - (f) details of temporary lighting arrangements;
  - (g) measures to ensure that construction vehicles do not deposit mud on the public highway;
  - (h) a scheme for the routing of construction heavy goods vehicles accessing the site;
  - (i) a scheme making provision for any abnormal wear and tear arising from heavy goods construction vehicles to the highway between the site and the A47;
  - (j) details of mitigation measures to protect biodiversity interests within the site during construction;
  - (k) advisory signage at public access points advising of possible hazards, including the potential for sudden noise;
  - (l) details of the methods to be used to perform a ground gas risk assessment; and
  - (m) details of a survey to establish whether any as yet unmapped private sewers are present within the Order limits.
- (3) The construction environmental management plan must be implemented as approved.

(4) In this Requirement, “outline construction environmental management plan” means the plan certified by the Secretary of State as the outline construction environmental management plan under article 13.

### **Construction traffic**

**10.**—(1) No stage of the authorised development may be commenced until a construction traffic management plan has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority in relation to that stage.

- (2) The construction traffic management plan must include, in relation to each stage of construction, details of—
- (a) the preferred route to be used by construction traffic;
  - (b) the steps to be taken to advise drivers of vehicles visiting the site of the approved construction routes and of the measures to monitor compliance;
  - (c) condition survey in relation to the junction of High Road and Poplar Avenue;
  - (d) “before” and “after” joint road condition surveys;
  - (e) strategic route signing; and

- (f) signing at access points.
- (3) The construction traffic management plan must be implemented as approved.
- (4) Notices must be erected and maintained throughout the period of construction at every site exit, indicating to drivers the route agreed by the relevant planning authority for traffic entering and leaving the site.

### **Control of noise during construction and maintenance**

**11.**—(1) No part of the authorised development may be commenced until a scheme for noise management during construction and maintenance has been submitted to and approved by the relevant planning authority.

- (2) The noise management scheme must set out the particulars of—
  - (a) the works, and the method by which they are to be carried out;
  - (b) the noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits; and
  - (c) a scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.
- (3) The approved noise management scheme must be implemented before, and maintained during, the construction and maintenance of the authorised development.
- (4) Construction and maintenance works must be undertaken in accordance with the approved noise management scheme.

### **Construction hours**

**12.**—(1) Subject to sub-paragraphs (2) and (4), construction and demolition works must not take place except between—

- (a) 7 a.m. and 7 p.m. on weekdays (excluding public holidays); and
- (b) 7 a.m. and 4 p.m. on Saturdays (excluding public holidays),

unless otherwise agreed by the relevant planning authority.

(2) Subject to sub-paragraph (4), the following works are permitted outside the hours referred to in sub-paragraph (1)—

- (a) emergency works; and
- (b) works which do not cause noise that is audible at the boundary of the Order limits.

(3) Any emergency works carried out under sub-paragraph (2)(a) must be notified to the relevant planning authority within 72 hours of their commencement.

(4) No piling operations may take place after 6 p.m., unless otherwise agreed by the relevant planning authority.

(5) For the purpose of this Requirement, “construction works”—

- (a) does not include—
  - (i) the arrival or departure of personnel on the site;
  - (ii) on-site briefings or meetings;
  - (iii) the use of welfare facilities;
  - (iv) non-intrusive activities, such as electrical installation and internal fit-out works;
  - (v) archaeological investigations;
  - (vi) landscaping works; but

- (b) includes start up, shut down and deliveries.

### **Control of noise during operational phase**

**13.**—(1) No part of the authorised development may commence operation until a scheme for noise management (including monitoring and attenuation) during the operation of the authorised development has been submitted to and approved by the relevant planning authority.

(2) The scheme for noise management must be implemented as approved and maintained during the operation of the authorised development.

### **European protected species**

**14.**—(1) This Requirement applies if the authorised development is not commenced before 19th August 2016.

(2) No part of the authorised development may be commenced until—

- (a) the undertaker has assessed the potential for habitats within the Order limits to have changed sufficiently to make them suitable for European protected species; and
- (b) the outcome of that assessment has been approved in writing by the relevant planning authority and Natural England.

(3) If the relevant habitats are assessed to be suitable for European protected species, further survey work must be carried out to establish whether European protected species are present on any of the land affected, or likely to be affected, by the authorised development.

(4) If a European protected species is shown to be present on such land, no part of the authorised development may be commenced until, after consultation with Natural England and the Secretary of State for the Environment, Food and Rural Affairs, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority.

(5) The authorised development must be carried out in accordance with the approved scheme.

(6) In this Requirement, “European protected species” means a European protected species of animal or plant within the meaning of Part 3 of the Conservation of Habitats and Species Regulations 2010<sup>(13)</sup>.

### **Piling during construction period**

**15.**—(1) No piling activities may take place until a piling method statement (which may form part of the construction environmental management plan approved under Requirement 9) has been submitted to and approved by the relevant planning authority.

(2) The piling method statement must—

- (a) conform with the provisions set out in chapters 7 (noise and vibration) and 9 (ecology and nature conservation) of the environmental statement;
- (b) include details of mitigation to be employed to ensure that the noise from piling activities does not exceed 55dB(A)LA Max at the locations of the agreed measurement points between March and August (inclusive); and
- (c) demonstrate that piling activities will not have an unacceptable impact on groundwater.

(3) Piling activities must be carried out in accordance with the approved piling method statement.

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<sup>(13)</sup> S.I. 2010/490. See regulations 40 and 44.

### Control of artificial light emissions

16.—(1) No part of the authorised development may be commenced until a scheme for the management and mitigation of artificial light emissions has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented before, and maintained during, the construction, operation and decommissioning of the authorised development.

### Air safety

17.—(1) No part of the authorised development may be commenced until the undertaker has notified the Defence Geographic Centre of the Ministry of Defence of—

- (a) the precise location of the authorised development with grid co-ordinates;
- (b) the proposed date of commencement of construction;
- (c) the height above ground level (in metres) of the tallest structure; and
- (d) the maximum extension height (in metres) of any construction equipment.

(2) The undertaker must ensure that the main stack is fitted at the highest practicable point of the structure with an aviation warning omni-directional red light or equivalent infra-red light with a minimum intensity of 25 candela.

(3) The undertaker must notify the Defence Geographic Centre of the Ministry of Defence of the date of completion of the construction of the authorised development within 28 days of completion.

### Restoration of land used temporarily for construction

18. Any land within the Order limits that is used temporarily for construction must be reinstated to its former condition, or such condition as the relevant planning authority may approve, within 6 months of the completion of the authorised development.

### Height of authorised development

19.—(1) The height above adjacent ground level of a building set out in column (1) of the table must not be more than the height set out in the corresponding entry in column (2).

<i>(1)</i>	<i>(2)</i>
<i>Building</i>	<i>Height (metres) above adjacent ground level</i>
Turbine hall	14.80
Heat recovery steam generator hall	24.95
Main stack	80.00
Hybrid cooling tower platform	16.00
Stair tower	22.30
Condensers	17.00
Pipe bridge	17.20

(2) The main stack must be at least 80 metres in height above adjacent ground level.

(3) In this Requirement, “adjacent ground level” means 5 metres above ordnance datum.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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**Approval, etc. to be in writing**

20. Where the approval or agreement of the relevant planning authority or another person is required under a Requirement, that approval or agreement must be given in writing.

**Amendments to approved plans, etc.**

21.—(1) Where a Requirement requires the authorised development to be carried out in accordance with a plan, scheme, statement, strategy or details (the “plan”) approved by the relevant planning authority, the approved plan must be taken to include any amendments that may subsequently be approved by the relevant planning authority (after consulting every person required to be consulted before approval of the original plan).

(2) The relevant planning authority must not approve an amendment unless it is satisfied that the amendment is unlikely to give rise to any new or materially different environmental effects from those assessed in the environmental statement.

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**EXPLANATORY NOTE**

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

This Order grants Palm Paper Limited development consent for a gas-fired generating station on the site of the paper mill at Saddlebow Industrial Estate, King’s Lynn, Norfolk.

A copy of the plans, book of reference and other documents mentioned in this Order and certified in accordance with article 13 may be inspected free of charge during working hours at the offices of the Borough Council of King’s Lynn and West Norfolk, King’s Court, Chapel Street, King’s Lynn, Norfolk PE30 1EX.