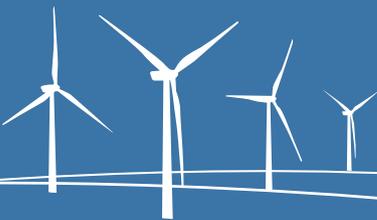


East Anglia THREE

Statement of Engagement with Section 79(1) of the Environmental Protection Act 1990

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East Anglia THREE Limited

East Anglia THREE Offshore Wind Farm

Statement of Engagement with Section 79(1) of the Environmental Protection Act 1990

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1 Summary

- 1.1 East Anglia THREE Limited (**EATL**) is planning to develop the East Anglia THREE Offshore Windfarm (the **Project**) with up to 172 turbines and an installed capacity of up to 1,200 MW. The Project would be located approximately 69km from the coast of Suffolk at its closest point to land, covering an area of approximately 305km².
- 1.2 As the total installed electricity generating capacity will exceed 100 MW, the Project is deemed to be a Nationally Significant Infrastructure Project (**NSIP**), and therefore EATL is submitting an application to the Secretary of State (the **Application**) under Section 37 of the Planning Act 2008 for a Development Consent Order (**DCO**) for the construction and operation of the Project.
- 1.3 EATL is currently considering constructing the Project in either a Single Phase or in a Two Phased approach. Under the Single Phase approach the Project would be constructed in one single build period and under a Two Phased approach the Project would be constructed in two phases each consisting of up to 600MW, installed consecutively.
- 1.4 The Application also seeks flexibility to construct the Project with either a High Voltage Direct Current (HVDC) or a Low Frequency Alternating Current (LFAC) electrical solution. A decision on the final electrical solution for the Project would be made following consent, during the final design stage of the Project.
- 1.5 This Statement of Engagement has been prepared in accordance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the **APFP Regulations**) which requires the applicant for a DCO to provide a statement as to whether the application engages Section 79(1) (*Statutory nuisances and inspections therefor*) of the Environmental Protection Act 1990.
- 1.6 This Statement explains that, whilst it is not expected that the construction or operation of the Project would engage Section 79(1) by causing statutory nuisances (whichever phasing approach or electrical solution is adopted), the draft DCO (Document 3.1) that accompanies the Application contains a provision at Article 7 (*Defence to proceedings in respect of statutory nuisance*) to provide a defence to proceedings for statutory nuisance, should they be initiated against EATL (or its successors) as undertakers of the Project under the terms of the draft DCO.
- 1.7 The Environmental Statement (**ES**) (Document 6.1) which has been prepared by EATL as part of the process of environmental impact assessment for the Application has analysed the potential significant effects of a number of elements specified in Section 79(1).
- 1.8 The main potential for the Project to cause statutory nuisance would be onshore noise during the construction of the Project and noise emitted from the new onshore substation during operation. However, the conclusion that EATL has drawn from the ES is that, with the implementation of mitigation measures where appropriate (which will be secured by Requirements attached to the DCO), claims for statutory nuisance are unlikely to arise from the Project.

2 Statement of Engagement

2.1 Regulation 5(2)(f) requires the applicant for a DCO to state whether the proposal engages one or more of the matters set out in Section 79(1) (*Statutory nuisances and inspections therefor*) of the Environmental Protection Act 1990. If so, the applicant is required to indicate how it proposes to mitigate or limit such nuisances.

2.2 Section 79(1) deals with the following matters:

- (a) any premises in such a state as to be prejudicial to health or a nuisance;
- (b) smoke emitted from premises so as to be prejudicial to health or a nuisance;
- (c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;
- (d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;
- (e) any accumulation or deposit which is prejudicial to health or a nuisance;
- (f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;
- (fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;
- (fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;
- (g) noise emitted from premises so as to be prejudicial to health or a nuisance; and
- (ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street.

2.3 It is considered that the Project has the potential to give rise to complaints from receptors under sub-paragraphs (g) and (ga) under Section 79(1) in relation to noise. This Statement also considers air quality (sub-paragraph (d)) and lighting (sub-paragraph (fb)).

2.4 Whilst the conclusions of the ES suggest that no such nuisance will occur, EATL has included within the draft DCO at Article 7 (*Defence to proceedings in respect of statutory nuisance*) a provision which would protect EATL or its successors as undertakers operating the Project from any proceedings for statutory nuisance.

3 Noise

3.1 The likely noise effects from construction, operation and decommissioning of the onshore elements of the Project have been predicted and assessed in accordance with the appropriate legislation and guidance. Survey data has been utilised to determine the baseline noise levels at locations representative of the potentially most affected noise sensitive receptors.

Construction

3.2 As part of the consent for the East Anglia ONE Offshore Windfarm, ducting will have been installed for use by East Anglia THREE. This greatly reduces the potential noise impacts

associated with the Project's landfall location and onshore cable route. Along the cable route, the Project's construction will predominantly relate to construction of jointing pits and cables being pulled through ducts, together with related construction works. Certain receptors may experience minor magnitude effects; however a range of industry standard and recommended mitigation measures are available to reduce impacts, including the preparation of a Code of Construction Practice and a noise and vibration management scheme (secured by Requirements 22 and 24).

- 3.3 Up to two new substations will be constructed feeding into the National Grid at the nearby Bramford National Grid substation. At the substation location trenching will be required to lay cables where no pre-laid ducts are installed. There are no properties within the construction noise impact buffer around the substation(s). Therefore on-site construction works associated with the construction of the substation(s) are predicted to result in an effect of negligible magnitude and therefore a negligible impact.
- 3.4 The mitigation measures proposed during construction are secured for the Project whether a Single Phase or Two Phased approach is adopted. Therefore the above assessment will not change irrespective of the phasing approach adopted during construction.

Operation

- 3.5 During the operation of the Project, effects are expected to be limited to the operation of the onshore substation(s). East Anglia THREE will commit to a requirement limiting operational noise from the substation (Requirement 26). The effect of this requirement will be such that noise emissions from East Anglia THREE will not exceed the prescribed limit. Noise levels would be of negligible magnitude on receptors of medium sensitivity and therefore of negligible significance.
- 3.6 The assumption has been made in the ES that there would be no noise impacts from the proposed onshore cable route during operation.
- 3.7 The electrical solution adopted will not alter this assessment.

Decommissioning

- 3.8 It is anticipated that the onshore cables would be decommissioned (de-energised) and the cables and jointing pits left in-situ. In this case there would be no impact for any receptor upon decommissioning. However, it may be possible to remove and recycle the cables that have been installed in ducts, in which case impacts to receptors would be similar to, but likely be of lower magnitude than those described for construction.
- 3.9 The noise levels from decommissioning of the substation(s) are difficult to predict as they would contain high but very transient noise levels from demolition works. More continuous noise levels from plant onsite would not be considered to be higher than those predicted for construction works.

- 3.10 The mitigation measures outlined for the construction of the cable route and onshore substation(s) for the control of noise would therefore also be expected to be adopted for the decommissioning phase. Requirement 31 (*Onshore decommissioning*) states that within three months of the cessation of commercial operation of the connection works or of Work No. 5B or of Work No. 7, an onshore decommissioning plan must be submitted to and approved by the relevant planning authority.

Offshore

- 3.11 EATL considers that none of the matters specified in Section 79(1) are engaged by the offshore elements of the Project, principally because the Project is located in the North Sea approximately 69 km from the Suffolk coast.

4 Air quality

- 4.1 Onshore construction activities such as soil stripping, plant movement, materials storage and stockpiling, transport of materials and topsoil reinstatement may lead to dust emissions. However, due to the temporary nature of the works and the proposed control measures secured by the Requirements in the draft DCO, the dust emissions produced would be minimal. These impacts are considered to be not significant; therefore they are not expected to engage Section 79(1). As set out above, this is the case whether the Project is constructed using either the Single Phase or Two Phased approach.

5 Lighting

Onshore

- 5.1 During the construction phase, some temporary lighting would be required. It is anticipated that there would be some limited activities requiring work on a 24-hour basis and the use of lighting to ensure safe working is likely to be required particularly during the winter months.
- 5.2 During operation, the proposed lighting at the onshore substation(s) will be limited to internal access roads and walkways with task lighting operated only when and where it is required for specific inspection or maintenance work. Lights would be on columns or attached to the buildings and lamps would have directional or horizontal cut-off reflectors.
- 5.3 Requirement 23 (*External lighting and control of artificial light emissions*) secures the provision of details of external lighting during construction and operation. The impacts of onshore lighting are considered to be not significant; therefore they are not expected to engage Section 79(1).
- 5.4 Again, this mitigation is secured whichever phasing approach is adopted and the phasing approach adopted does not alter this assessment.

Offshore

- 5.5 The windfarm is approximately 69km offshore and at this distance the turbines and any navigation lighting are considered to be sufficiently far offshore not to be seen.

6 Conclusions

- 6.1 EATL has designed the Project in such a way as to minimise the environmental effects of the Project and has also included a variety of measures to mitigate any remaining impacts further still.
- 6.2 These measures are secured by the requirements contained in Part 3 of Schedule 1 to the draft DCO, which cover a number of relevant matters including:
- (a) A Code of Construction Practice in relation to onshore works, covering a wide range of matters (Requirement 22);
 - (b) Limits on onshore construction hours (Requirement 25);
 - (c) Limits on construction noise (Requirement 24);
 - (d) Limits on operational noise arising from the onshore substation(s), as measured at specific residential locations (Requirement 26); and
 - (d) Control on lighting during construction of the onshore connection works and the operation of the onshore substation(s) (Requirement 23).
- 6.3 The measures will apply whether the Project is constructed under a Single Phase or Two Phased approach and whichever electrical solution is adopted.
- 6.4 In relation to the offshore works, the noise and vibration effects on anthropic receptors during the construction, operation and decommissioning phases of the Project are considered sufficiently small to be well within accepted standards and as a result no further mitigation is deemed necessary. Again, this assessment applies to the Project whether a Single Phase or Two Phased approach to construction is adopted.
- 6.5 Notwithstanding the above conclusion, the draft DCO that accompanies the Application contains a provision at Article 7 (*Defence to proceedings in respect of statutory nuisance*) that would provide a defence to proceedings for statutory nuisance should they be initiated against EATL or its successors as undertakers under the terms of the DCO. Given the Project's status as nationally significant infrastructure it is appropriate that the Project is protected from proceedings under Section 79 of the Environmental Protection Act 1990 and is capable of continued operation.

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