




**DOGGER BANK
TEESSIDE A & B**

**March
2014**

Statutory Nuisance Statement

Pursuant to Regulation 5(2)(f) of the Infrastructure Planning
(Applications: Prescribed Forms and Procedure) Regulations 2009

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1 Introduction

1.1 The development

- 1.1.1 This statement is provided by Forewind Limited (Forewind) in relation to the Dogger Bank Teesside A & B offshore wind farms.
- 1.1.2 Dogger Bank Teesside A & B comprises two proposed offshore wind farms to be located within the Dogger Bank Zone in the North Sea. As these wind farms are both more than 100 megawatts, the project is classed as a Nationally Significant Infrastructure Project under the Planning Act 2008. Therefore, in order to gain development consent and deemed Marine Licences to construct and operate the wind farms it is necessary to apply to the Planning Inspectorate for a Development Consent Order (DCO).
- 1.1.3 This statement accompanies the final application and is submitted alongside a draft DCO, an Environmental Statement (ES), a Consultation Report and other statutory and non-statutory documents.

1.2 The purpose of this document

- 1.2.1 Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 states that any application for an order granting development consent should be accompanied by a statement setting out whether the proposal could cause a statutory nuisance, as defined in the Environmental Protection Act 1990. If such a nuisance could occur, the statement must set out how the applicant proposes to mitigate or limit the effects.
- 1.2.2 Whilst it is not expected that the construction or operation of Dogger Bank Teesside A & B would cause a statutory nuisance, the draft DCO accompanying the application contains a provision at Article 11 that would provide a defence to proceedings for statutory nuisance should they be initiated against Forewind or any future operators of the development.

2 Background

2.1 Background

- 2.1.1 In January 2010, following a competitive tender process, The Crown Estate awarded Forewind the exclusive development rights for 'Zone 3 Dogger Bank'; the largest of the Round 3 offshore wind farm zones. The Dogger Bank Zone comprises an area of 8,660km², and is located in the North Sea between 125km and 290km off the UK coast. Forewind is a consortium comprising four leading international energy companies (RWE, SSE, Statkraft and Statoil).
- 2.1.2 Dogger Bank Teesside A & B will be the second application within the zone to be submitted to the Planning Inspectorate for consent (the first being Dogger Bank Creyke Beck). The application comprises two offshore wind farms; Dogger Bank Teesside A and Dogger Bank Teesside B, with a total generating capacity of up to 2.4 Gigawatts (GW).
- 2.1.3 From the point of consent, Dogger Bank Teesside A & B will be taken forward to construction by two special purpose companies known as Bizco 2 and Bizco 3.

2.2 Legislative framework

- 2.2.1 Section 79(1) of the Environmental Protection Act identifies the matters which are considered to be a statutory nuisance. To justify the inclusion of a provision within the DCO which provides a defence against claims of statutory nuisance, a statement must be produced which considers what may give rise to nuisance in the absence of mitigation measures implemented in the construction or operation of the development.
- 2.2.2 The ES for Dogger Bank Teesside A & B addresses the likelihood of significant effects arising from matters which could constitute a statutory nuisance. Where any matters may potentially arise, the ES sets out proposals for mitigation; therefore the ES was used as the basis for this Statutory Nuisance Statement.
- 2.2.3 The environmental assessment determines that the only matters within Section 79(1) of the Environmental Protection Act which may potentially be engaged as a consequence of the development are air quality and noise. These are addressed in turn in the following sections.
- 2.2.4 In summary, this statement deals only with those matters which could potentially become a nuisance in the absence of mitigation, and then describes the proposed mitigation which relates to these topics.

3 Assessment of Statutory Nuisance

3.1 Air Quality

- 3.1.1 An air quality impact assessment has been carried out and is presented in Chapter 30 of the ES.
- 3.1.2 The chapter concludes that the main impacts in relation to air quality are associated with the construction phase of Dogger Bank Teesside A & B. However, residual impacts are assessed as negligible. These are considered acceptable given the temporary nature of the impacts, encountered during construction only.
- 3.1.3 During operation, residual impacts are assessed as negligible for both onshore and offshore air quality.
- 3.1.4 The mitigation measures outlined for the control of dust emissions to the atmosphere and vehicle emission controls, during construction, would also be expected to be adopted for the decommissioning phase and will be subject to a decommissioning plan and associated EIA at the relevant time. The residual impacts of the decommissioning phase on air quality are therefore predicted to be negligible.
- 3.1.5 As the ES concludes that there would be negligible impacts arising during the operation of the development and from construction traffic, and no mitigation proposed, they are not considered further in this statement.

Mitigation Measures

- 3.1.6 In relation to other components of air quality, the following mitigation measures are to be put in place to ensure that any predicted effects are mitigated and a nuisance does not arise from construction activities.
 - i. Impacts from earthworks activities during construction will be mitigated through the implementation of a Construction Environmental Management Plan which would be approved and enforced by the local planning authority. This would also include details of dust management.
 - ii. Additional mitigation measures will also include, but are not limited to, damping down all dusty activities and surfaces, temporary covering of earthworks, and ensuring vehicles transporting material entering and leaving sites are covered to prevent escape of materials during transport.
 - iii. Mitigation measures for air quality impacts associated with non-road mobile machinery used during construction include, but are not limited to, fitting Diesel Particulate Filters, using a fuel equivalent to ultra-low sulphur diesel and complying with either the current or previous EU Direction Staged Emission Standards.
- 3.1.7 The above mitigation will be secured through Requirement 26 contained in Part 3 of the draft DCO, with which the proposed development must comply. This specifies that a Code of Construction Practice and Construction Environmental Management Plan (CEMP) will be submitted to the local planning authority for written approval before construction commences. The Requirement specifies that air quality and dust management must be addressed within the Code of Construction Practice.

Furthermore, an outline Code has been submitted with the application and Section 5 of this describes the proposed mitigation for air quality which will be captured within the final Code.

Residual impacts

3.1.8 The impact assessment presented in Chapter 30 concludes as follows.

- i. After the proposed mitigation measures have been implemented, the impacts associated with dust during construction and earthworks activities would be negligible.
- ii. The mitigation measures applied to non-road mobile machinery during the construction phase would also result in negligible air quality impacts.
- iii. Where appropriate, any mitigation proposed for construction activities will be replicated for the decommissioning stage unless new techniques come to light in the meantime, and as such any residual impacts associated with decommissioning can be considered to be negligible.

3.2 Noise

3.2.1 The impact assessment for onshore noise has been carried out and is presented in Chapter 29 of the ES.

3.2.2 Chapter 29 of the ES identifies that construction noise impacts arising from onsite works, within the working areas of the landfall, cable corridor and converter stations will result in six receptors may experience a minor impact or greater.

3.2.3 Operational noise limits from the converter station (at the nearest receptor) will be reduced to below the established 42dB(A) for residential receptors and 46dB(A) for non-residential receptors. To ensure these levels will not be breached, a range of mitigation measures are available.

Mitigation

3.2.4 The mitigation measures below will be put in place to ensure that a nuisance does not arise during the construction or operation of the wind farms.

- i. Requirement 27 of the DCO will restrict any on-site construction works and traffic movements to specific times, as described in Section 3.4.1.
- ii. A set of generic Best Practice working practices referred to as Best Practicable Means (BPM) will be employed during the construction phase. Examples of typical BPM include locating static noisy plant in use as far away from noise sensitive receptors and imposition of vehicle speed limits for heavy goods vehicle.

3.2.5 The converter station operational noise levels (at the nearest receptor) will be reduced to below the established indicator of 42dB(A) for residential receptors and 46dB(A) for non-residential receptors. The precise nature of mitigation will be determined during detailed design of the converter stations. Typical measures will include:

- Selection of quieter equipment;
- Installation of acoustic enclosures (a minimum 10dB reduction is required);

- Installation of acoustic barriers;
- Possibility to screen converter stations further by the construction of a landform/embankment around the site, which will protect against flooding and may also provide up to 10dB attenuation;
- Silencing of exhausts/outlets for air handling/cooling units; and
- Locating equipment to take advantage of screening inherent in the design, i.e. from the converter hall or control room buildings.

3.2.6 These measures are all good practice industry standard approaches to noise reduction.

Residual Impacts

3.2.7 After undertaking the proposed mitigation measures, onshore construction noise will result in minor adverse residual impacts or below, not significant in EIA terms.

3.2.8 Onshore operational noise from the converter stations is considered to be a minor adverse residual impact for some non-residential receptors and negligible residual impact for all residential receptors. Residents are afforded protection from the inclusion of noise limits.

3.2.9 As previously, the same mitigation measures are proposed for decommissioning activities as construction activities (where appropriate), and as such any residual impacts associated with the decommissioning stage can be considered to be minor adverse or below.

4 Conclusion

4.1 Potential for nuisance

- 4.1.1 This statement identifies the matters set out in Section 79(1) of the Environmental Protection Act 1990 in respect of statutory nuisance and considers whether the proposed development could cause a statutory nuisance.
- 4.1.2 The only matters within the Environmental Protection Act with the potential to be engaged as a result of this proposed development are identified as air quality and noise.
- 4.1.3 It has been demonstrated in Section 3 of this document that Dogger Bank Teesside A & B would have no or negligible air quality or noise impacts provided the mitigation identified is employed. All the impacts identified by the ES could be suitably mitigated and have been secured by appropriate Requirements in the draft DCO. As a result, it is not expected that the construction, operation or decommissioning of Dogger Bank Teesside A & B would engage section 79(1) and give rise to any statutory nuisance under the Environmental Protection Act 1990, subject to the application of appropriate mitigation.

4.2 Development Consent Order

- 4.2.1 Notwithstanding the above conclusion, the draft DCO that accompanies the application contains a provision at Article 11 that would provide a defence to proceedings for statutory nuisance should they be initiated against Forewind or its successors as undertakers under the terms of the DCO.
- 4.2.2 However, it should be noted that, in any event, the provisions of Article 11 of the DCO do not provide an absolute defence. To benefit from the defence it is necessary to have in place and to successfully operate the appropriate mitigation and management systems as described in this document, in the draft DCO, and in the outline Code of Construction Practice which have been submitted with the application.