
STATUTORY INSTRUMENTS

2022 No. 1195

INFRASTRUCTURE PLANNING

The East Anglia THREE Offshore Wind Farm (Amendment) (No. 2) Order 2022

Made - - - - 16th November 2022

Coming into force - - 17th November 2022

An application has been made, under paragraph 2 of Schedule 6 to the Planning Act 2008⁽¹⁾, to the Secretary of State in accordance with the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011⁽²⁾ (“the 2011 Regulations”) for a non-material change to the East Anglia THREE Offshore Wind Farm Order 2017⁽³⁾ (“the 2017 Order”).

The Secretary of State, having considered the application, the responses to the publicity and consultation required by regulations 6 and 7 of the 2011 Regulations, made an order on 30th September 2022⁽⁴⁾. That Order did not contain one of the amendments agreed following consultee feedback. The Secretary of State has therefore decided to make this order containing the additional amendment 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 paragraph 2(1) and (9) of Schedule 6 to the Planning Act 2008, makes the following Order:

Citation and commencement

1. This Order may be cited as the East Anglia THREE Offshore Wind Farm (Amendment) (No. 2) Order 2022 and comes into force on 17th November 2022.

Amendment to the East Anglia THREE Offshore Wind Farm Order 2017

2. The East Anglia THREE Offshore Wind Farm Order 2017 (“the 2017 Order”) is amended by inserting the following paragraph after paragraph 37 in Part 3 (Requirements) of Schedule 1 (Authorised Project).

(1) 2008 c. 29. Paragraph 2 was amended by paragraph 4 of Schedule 8 to the Marine and Coastal Access Act 2009 (c. 23), by paragraph 1 and 72 of Schedule 13 to the Localism Act 2011 (c. 20), and by section 28 of the Infrastructure Act 2015 (c. 7). There are other amendments to the Act that are not relevant to this Order.

(2) S.I. 2011/2055, as amended by S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2015/377, S.I. 2015/760, S.I. 2015/1682, S.I. 2017/314, S.I. 2017/524, S.I. 2018/378, S.I. 2019/734, S.I. 2020/764 and S.I. 2020/1534. There are other amendments to the Act that are not relevant to this Order.

(3) S.I. 2017/826 as amended by S.I. 2018/843, S.I. 2019/997 and S.I. 2021/471.

(4) S.I. 2022/1015.

“Cromer Primary Surveillance Radar

38.—(1) No erection of any wind turbine generator forming part of the authorised development may commence until the Secretary of State, having consulted with NATS, has confirmed satisfaction in writing that appropriate mitigation will be implemented and maintained for the required period and that arrangements have been put in place with NATS to ensure that the approved mitigation is implemented and in operation prior to erection of the wind turbine generators.

(2) The undertaker must thereafter comply with the obligations contained within the approved mitigation for the required period.

(3) For the purposes of this requirement—

- (a) “appropriate mitigation” means measures to mitigate any adverse effects which the operation of the authorised development will have on the primary surveillance radar at Cromer and NATS’ associated air traffic (surveillance and control) services/operations during the required period;
- (b) “approved mitigation” means the detailed Primary Radar Mitigation Scheme setting out the appropriate mitigation approved by the Secretary of State and confirmed in writing in accordance with sub-paragraph (1);
- (c) “NATS” means NATS (En-Route) Plc (company number 04219273) or any successor body;
- (d) “the required period” means the shorter of—
 - (i) the operational life of the authorised development; and
 - (ii) the period ending on the date notified to the Secretary of State by the undertaker and confirmed in writing by NATS being the date on which NATS no longer requires the appropriate mitigation to be in place.”.

Amendment to the East Anglia THREE Offshore Wind Farm (Amendment) Order 2022

3. The East Anglia Three Offshore Wind Farm (Amendment) Order 2022 is amended by deleting article 4(d).

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

David Wagstaff
Deputy Director Energy Infrastructure Planning
Department for Business, Energy and Industrial
Strategy

16th November 2022

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the East Anglia THREE Offshore Wind Farm Order 2017 (as amended), a development consent order under the Planning Act 2008, following an application made in accordance with the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 for a non-material change under paragraph 2 of Schedule 6 to the Planning Act 2008. This Order inserts paragraph 38 in Part 3 of Schedule 1 which provides guidance and mitigation on the erection of primary surveillance radar at Cromer following consultation feedback. This amendment was not included in the Order made by the Secretary of State on 30th September 2022. This Order also deletes article 4(d) of the East Anglia THREE Offshore Wind Farm (Amendment) Order 2022 which appeared in error and purported to amend a reference which had already been removed as the result of a previous variation.