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Bramford to Twinstead Reinforcement

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Document 5.4: Statement of Statutory Nuisance

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

nationalgrid

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1. Introduction

1.1 Overview

1.1.1 National Grid Electricity Transmission plc (here on referred to as National Grid) is making an application for development consent to reinforce the transmission network between Bramford Substation in Suffolk, and Twinstead Tee in Essex. The Bramford to Twinstead Reinforcement ('the project') would be achieved by the construction and operation of a new electricity transmission line over a distance of approximately 29km (18 miles). It comprises of overhead lines, underground cables and a grid supply point (GSP) substation. It also includes the removal of 25km of the existing distribution network and various ancillary works.

1.1.2 This Statement of Statutory Nuisances has been produced to support the application for development consent under the Planning Act 2008. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 require Development Consent Order (DCO) applications to be accompanied by (among other documents) a Statement of Statutory Nuisance. Regulation 5(2)(f) states:

'(2) The application must be accompanied by -

(f) a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefore) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them.'

1.1.3 This Statement therefore sets out the matters in Section 79(1) of the Environmental Protection Act (EPA) 1990 in respect to statutory nuisance, the potential of the project to cause statutory nuisance and the measures that have been incorporated into the project to mitigate any such potential nuisances.

1.2 Environmental Protection Act 1990

1.2.1 Table 1.1 describes the matters that constitute 'statutory nuisances' within Section 79(1) of the EPA 1990 and whether they have been screened as applicable to the project. Matters that are not applicable to the project have been screened out of this Statement.

1.2.2 This Statement should be read alongside the Environmental Statement (ES) (**application document 6.2**), the Construction Environmental Management Plan (CEMP) (**application document 7.5**) and CEMP Appendix A: Code of Construction Practice (CoCP) (**application document 7.5.1**) which contain the good practice measures to avoid or reduce potentially significant effects. These are secured through Requirement 4 of the draft DCO (**application document 3.1**).

1.2.3 Statutory nuisances are matters listed in the EPA 1990 that are 'prejudicial to health' or a 'nuisance'. The findings of the ES and the environmental impact assessment (EIA) process have been drawn on to inform this Statement, but it is acknowledged that the legal standard of what constitutes a statutory nuisance is different to what may be a significant environmental effect under the EIA Regulations.

Table 1.1 – Statutory Nuisances and Application to the Project

Matter	Screening to Assess Application to the Project
(a) any premises in such a state as to be prejudicial to health or a nuisance.	There would be no premises in such a state so as to be prejudicial to health or nuisance. Measures to avoid and/or control construction activities which have the potential to be prejudicial to health or create nuisance are included in the CEMP (**application document 7.5**). The project is not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
(b) smoke emitted from premises so as to be prejudicial to health or a nuisance.	No burning of waste materials would be permitted on site as per good practice measure GG19 in the CoCP (**application document 7.5.1**). Smoke would not be emitted to cause a nuisance or be prejudicial to health during construction or operation of the project.
(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance.	Emission of fumes and gases applies only to private dwellings (as noted in Section 79 (4) of the Act) and is therefore not relevant to the project.
(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.	**Screened in as potentially applicable to the project.**
(e) any accumulation or deposit which is prejudicial to health or a nuisance.	The waste produced on the project is expected to be low in volume and is not expected to be contaminated. Accumulations or deposits of excavated material or waste are not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
(ea) any water covering land or land covered with water which is in such a state as to be prejudicial to health or a nuisance.	The project does not involve covering any land with water, so this is not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance.	No animals would be kept on-site as part of the project during construction or operation. Animals are not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance and (faa) any insects emanating from premises and being prejudicial to health or a nuisance.	No materials would be stored on-site which could attract insects, which could cause a nuisance or be prejudicial to human health. Any food waste from the construction compounds would be removed off-site. Insects emanating are not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance.	**Screened in as potentially applicable to the project.**

Matter	Screening to Assess Application to the Project
(g) noise emitted from premises so as to be prejudicial to health or a nuisance.	**Screened in as potentially applicable to the project.**
(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.	**Screened in as potentially applicable to the project.**
(h) any other matter declared by any enactment to be a statutory nuisance.	There are no other matters or elements of the project which could be considered to be a statutory nuisance.

2. Further Consideration of Matters

2.1 Dust, Steam, Smell Or Other Effluvia (Section 79(1)(d))

Construction

2.1.1 As outlined in ES Chapter 13: Air Quality (**application document 6.2.13**) combustion related emissions from construction site vehicles and plant would not be significant, and therefore would not constitute a statutory nuisance.

2.1.2 Some of the construction activities have the potential to generate dust emissions that could give rise to a statutory nuisance. Dust could be generated through activities such as the excavation, stockpiling and replacement of soil associated with soil stripping of the temporary access routes, compound areas and the underground cable sections. Dust could also be generated by construction traffic using the temporary access routes. These could affect human receptors in the vicinity of the project.

2.1.3 ES Appendix 13.1: Dust Risk Assessment (**application document 6.3.13.1**) assesses the potential risk of causing dust adverse effects at sensitive receptors. As is standard practice in the construction industry, good practice measures would be put in place to control dust emissions at source and to manage or reduce the release of dust beyond the boundaries of the construction areas. The good practice measures are set out in the CoCP (**application document 7.5.1**).

2.1.4 The Dust Risk Assessment has concluded that, with these good practice measures in place, there would be no significant effect as a result of construction dust. It is expected that these dust control measures would reduce dust to a level which would neither generate a nuisance nor be prejudicial to health and thus would not give rise to a statutory nuisance. Supporting technical details can be found in ES Appendix 13.1: Dust Risk Assessment (**application document 6.3.13.1**).

2.1.5 It is not anticipated that construction activities would give rise to any material amounts of steam, smell or other effluvia.

2.1.6 On the above basis, there would be no statutory nuisance related to dust, steam, smell or other effluvia during the construction phase of the project.

Operation

2.1.7 Operation of the reinforcement is not anticipated to generate dust, steam, smell or other effluvia which could cause a nuisance or be prejudicial to health and thus would not create a statutory nuisance.

2.2 Artificial Light (Section 79(1) (fb))

Construction

2.2.1 Temporary artificial lighting may be required to illuminate the works at the trenchless crossing locations, where activities may be undertaken at night, as once started operations cannot safely stop. There may also need to be temporary artificial lighting at contained sites, such as the construction compounds, to aid safety and to provide security

to the site. Site lighting may also be required for working areas in consideration of winter working hours and non-standard working arrangements.

2.2.2 In all instances, construction lighting would be of the lowest luminosity necessary to safely perform each task and directional to avoid glare into residential properties. It would also be designed, positioned and directed to reduce the intrusion into adjacent properties, protected species and sensitive habitats as described in good practice measure GG20 in the CoCP (**application document 7.5.1**). With these measures in place, the potential for the temporary lighting to cause a nuisance would be low and there is no likelihood of the temporary lighting being injurious to health.

Operation

2.2.3 As outlined in ES Chapter 4: Project Description (**application document 6.2.4**) the GSP substation would require security lighting, which would be used outside of daylight hours. This would require a trigger (i.e. would not be continuous) and be on a timer. Such security lighting would be low lux level light-emitting diode (LED) type luminaires with directable light output and passive infrared sensor (PIR) motion activated lighting at the access gates to facilitate safe entry at night. As operation of the GSP lighting would be infrequent and short term, it is not anticipated to be prejudicial to health and thus would not create a statutory nuisance.

2.2.4 No permanent lighting is proposed elsewhere on the project.

2.3 Noise and Vibration (Section 79(1) (g) and (ga))

Construction

2.3.1 As outlined in ES Chapter 14: Noise and Vibration (**application document 6.2.14**), temporary noise impacts resulting from the increase in traffic associated with the construction phase are not considered likely to be significant. Vibration associated with construction vehicles passing along local roads is also not considered to be significant.

2.3.2 Certain construction activities and equipment used during construction would produce noise and vibration during construction. This includes works associated with the trenchless crossings, cutting associated with the removal of pylons, excavators associated with the soil stripping and trench formation, and piling associated with pylon foundations.

2.3.3 ES Chapter 14: Noise and Vibration (**application document 6.2.14**) identifies thresholds for significant observed adverse effect levels (SOAEL), as required by the Government's Noise Policy Statement for England (Department for Environment, Food and Rural Affairs, 2010). Significant adverse effects during construction would occur where the SOAEL is exceeded at a receptor for a duration of more than ten days in any 15 consecutive days, or more than 40 days in any consecutive six months. Significant adverse effects have been identified at a limited number of receptors during construction works. However, best practicable means would be employed which would reduce levels of noise and vibration to a non-significant level as set out in the CEMP (**application document 7.5**).

2.3.4 To constitute a statutory nuisance, a noise must occur regularly and continue for a period of time that makes it unreasonable. The short term and transitory nature of the construction activities reduces the potential for statutory nuisance to occur.

2.3.5 The CEMP (**application document 7.5**) outlines the best practicable means that would be used to reduce noise and vibration during construction. With the implementation of these measures, the likelihood of statutory nuisance is negligible.

Operation

2.3.6 As outlined in ES Chapter 14: Noise and Vibration (**application document 6.2.14**), no significant adverse noise effects have been predicted that would represent a nuisance under Section 79(g) or 79 (ga) of the EPA 1990 during operation. Therefore, operation of the reinforcement is not expected to create a nuisance or be prejudicial to health.

3. Conclusion

3.1.1 This Statement of Statutory Nuisance identifies the matters set out in Section 79(1) of the EPA 1990 in respect of statutory nuisance and considers whether the project has the potential to cause nuisance.

3.1.2 The CEMP (**application document 7.5**) and the CoCP (**application document 7.5.1**) include good practice measures to avoid or reduce the effects of dust, lighting, noise and vibration. These measures would reduce impacts that could otherwise result in nuisance during construction. The development authorised by the DCO must be undertaken in accordance with the CEMP, pursuant to Requirement 4 of the draft DCO (**application document 3.1**). National Grid and their contractor would carry out all work in accordance with the CEMP during the construction of the project unless otherwise agreed with the relevant planning authority.

3.1.3 With the good practice measures in place, no breach of Section 79(1) of the EPA 1990 is expected as a result of the project.

References

Department for Environment, Food and Rural Affairs (2010) Noise Policy Statement for England.

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