

# Statement of Statutory Nuisance

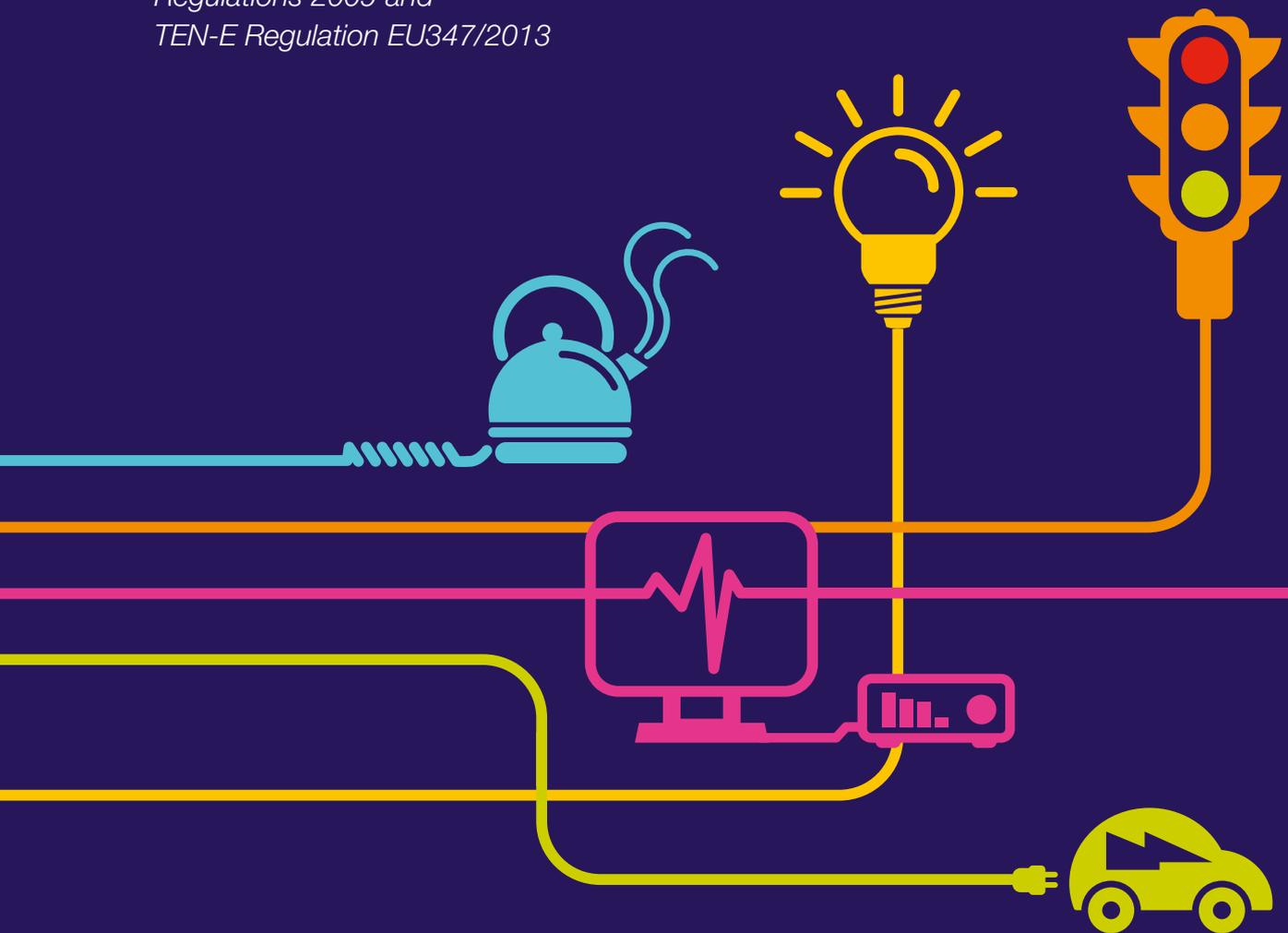
National Grid (Richborough Connection Project) Order

*Regulation 5(2)(f) of the*

*Infrastructure Planning (Applications: Prescribed Forms and Procedure)*

*Regulations 2009 and*

*TEN-E Regulation EU347/2013*



Page intentionally blank

# **Richborough Connection Project**

## **Volume 5**

### **Document 5.6 Statement of Statutory Nuisance**

National Grid  
National Grid House  
Warwick Technology Park  
Gallows Hill  
Warwick  
CV34 6DA

Final

January 2016

Page intentionally blank

<b>Document Control</b>			
<b>Document Properties</b>			
<b>Organisation</b>	Amec Foster Wheeler		
<b>Author</b>	Michael Van der Merwe, Hannah Dennett		
<b>Approved by</b>	Karen Wilson		
<b>Title</b>	Statement of Statutory Nuisance		
<b>Document Reference</b>	5.6		
<b>Version History</b>			
<b>Date</b>	<b>Version</b>	<b>Status</b>	<b>Description/Changes</b>
04/01/16	1	Final	1 <sup>st</sup> Issue

Page intentionally blank

## Table of Contents

<b>1.</b>	<b>INTRODUCTION</b>	<b>3</b>
1.1	The applicant and an overview of the Richborough Connection project	3
1.2	Purpose of this Report	3
<b>2.</b>	<b>THE PROJECT</b>	<b>5</b>
2.1	The proposed development	5
<b>3.</b>	<b>ENVIRONMENTAL PROTECTION ACT 1990</b>	<b>7</b>
3.1	Provisions of the EPA 1990	7
<b>4.</b>	<b>POTENTIAL BREACHES OF SECTION 79 (1)</b>	<b>9</b>
4.1	Introduction	9
4.2	Smoke, fumes, gases, dust or other effluvia	9
4.3	Light from premises	10
4.4	Noise emitted from premises	11
<b>5.</b>	<b>CONCLUSIONS</b>	<b>13</b>

Page intentionally blank

# 1. INTRODUCTION

## 1.1 The applicant and an overview of the Richborough Connection project

- 1.1.1 National Grid's role is to connect people to the energy they use, whether to heat and light homes, or to keep factories and offices running. As old power stations close new sources of energy need to be connected to our network, so that electricity continues to be available at the flick of a switch.
- 1.1.2 One of these new sources of energy is a proposed high-voltage electricity link between Belgium and Richborough near Sandwich in Kent, known as the Nemo Link®. In order to transport the energy from Nemo Link around the country, National Grid need to connect it to the high-voltage electricity network.
- 1.1.3 There is no high-voltage electricity network in the Richborough area, so National Grid will need to build a new connection to join Richborough to their existing network approximately 20km away, near Canterbury. This new infrastructure project is known as the Richborough Connection project.
- 1.1.4 National Grid has prepared a series of plans and reports to explain its proposals to build a new 400kV overhead line between the existing Canterbury North 400kV Substation and the proposed Richborough 400kV Substation. The application has been submitted under the *Planning Act 2008* (known as a Development Consent Order (DCO) application) and the TEN-E Regulation (European Legislation) which has been submitted to the Planning Inspectorate for their review.
- 1.1.1 This Statement forms part of a suite of DCO application documents and should be read alongside, and is informed by those documents.
- 1.1.2 Section 2 of this document sets out the relevant provisions of *the Environmental Protection Act 1990* (EPA 1990) Section 79(1). Section 3 gives a summary of the Project and section 4 considers the potential for breaches of the provisions.

## 1.2 Purpose of this Report

- 1.2.1 This Statement of Statutory Nuisance provides an explanation of the matters set out in Section 79(1) of the EPA 1990 in respect of statutory nuisance, the potential implications of the proposed development and the measures that have been incorporated into the project design to limit any such potential nuisances.
- 1.2.2 The requirement for a Statement of Statutory Nuisances is set out in the *Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009* at Regulation 5(2)(f), which states that "*The application must be accompanied by.....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(b), and if so how the applicant proposes to mitigate or limit them*".
- 1.2.3 This statement has been prepared having regard to the requirements of National Policy Statement for Energy EN-1 which states under paragraph 4.14.2 that "*it is very important that, at the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the 1990 Act and how they may be mitigated or*

*limited are considered by the IPC so that appropriate requirements can be included in any subsequent order granting development consent.”*

- 1.2.4 Further information about the proposed development can be found in **Chapter 3** of the Environmental Statement (ES) (**Volume 5, Document 5.2**). **Chapters 7, 11** and **12** provide further information about potential effects in relation to lighting, noise and vibration and air quality respectively.

## **2. THE PROJECT**

### **2.1 The proposed development**

2.1.1 The proposed development consists of the following principal components and activities:

- A new 400kV overhead line between Richborough and Canterbury North Substations (to be known as the PC route). This would be approximately 20km long and would be built using 45 standard lattice pylons and 15 low height lattice pylons (60 pylons in total).
- A permanent diversion of an existing lower voltage 132kV overhead line (known as the PY route) to enable the new 400kV overhead line to be constructed above the existing lower voltage overhead line. This would be done by building 6 new pylons, 4 of which are of a different height so the new 400kV overhead line can then be built. The removal of 2 pylons of existing lower voltage 132kV overhead line on the PY route due to the permanent diversion.
- Three temporary diversions of another existing lower voltage 132kV overhead line (known as the PX route). The PX route has to remain in operation (energised) whilst the new 400kV overhead line is being built, so in order to maintain local electricity supplies, three temporary diversions of the existing PX route would be needed where the new 400kV overhead line crosses over it. This would be done by transferring the PX route onto wooden poles so that the new 400kV overhead line can be built.
- The removal of 20.6km (79 pylons) of existing lower voltage 132kV overhead line, the PX route (and its temporary diversions) which runs between Richborough 132kV Substation and Canterbury South 132kV Substation.
- Other works, for example, temporary access roads to reach pylon construction and demolition areas, bridge structures, highway works, construction compounds, protective scaffold structures, pylon work sites and ancillary works.

Page intentionally blank

### 3. ENVIRONMENTAL PROTECTION ACT 1990

#### 3.1 Provisions of the EPA 1990

3.1.1 Section 79(1) of the Environmental Protection Act (EPA) 1990 describes those matters which constitute a statutory nuisance in England and Wales.

3.1.2 79(1) "*...the following matters constitute "statutory nuisances" for the purposes of this part [of the 1990 Act] that is to say:*

*(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;*

*(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;*

*(h) any other matter declared by any enactment to be a statutory nuisance;*

*and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 ... or sections 80 and 80A....and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint."*

Section 79 (3) sets out that "*subsection (1)(b) ... does not apply to .. (ii)dark smoke emitted from a chimney of a building or a chimney serving the furnace of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land,...or ..(iv) dark smoke emitted otherwise than as mentioned above from industrial or trade premises."* Section 79 (5a) sets out that "*Subsection (1)(fa) does not apply to insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (animals which are protected), unless they are included in respect of section 9(5) of that Act only."*

3.1.3 The paragraphs (a), (b), (e), (f), (fa) and (h) have been scoped out as the nature of the development is such that they will not be engaged as follows.

- a) There will be no permanent buildings or premises constructed as part of the proposed development. Temporary structures will be put in place as part of the construction compounds and at temporary bridge sites. These structures will be

maintained and managed throughout the duration of the construction works and are therefore unlikely to be prejudicial to health or a nuisance.

- b) No fires will be allowed as part of the Construction Environmental Management Plan (CEMP) see **Appendix 3C within Document 5.4.3C**. The CEMP will be implemented through Requirement 5 of the draft DCO (**Volume 2, Document 2.1**).
- e) No accumulations or deposits which are likely to be prejudicial to health or a nuisance will occur. Materials stored on-site will be subject to the measures set out in the CEMP to ensure that wind-blown dust is avoided. Any soil affected by contamination will be appropriately identified, assessed and managed to ensure that it does not present a health risk, in accordance with the procedures defined in the CEMP and secured by Requirement 13 of the draft DCO.
- f) No animals will be kept on-site as part of the proposed development.
- fa) No materials will 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 will be removed off-site.
- h) There are no other matters or elements of the proposed development which could be considered to be a statutory nuisance.

3.1.4 The only matters comprised in Section 79(1) of the EPA 1990, which may potentially be engaged as a consequence of the authorised project are:

- c) and d) relating to air quality;
- fb) relating to artificial light; and
- g) and ga) relating to noise (which for the purposes of the above, includes vibration).

## 4. POTENTIAL BREACHES OF SECTION 79 (1)

### 4.1 Introduction

4.1.1 Taking account of the Application and the Environmental Statement (**Volume 5, Documents 5.1-5.4**), the only matters prescribed in Section 79(1) of the EPA 1990 that could, potentially, be engaged as a consequence of the proposed development are c) fumes or gases, d) dust or other effluvia, e) accumulation or deposit fb) artificial light from premises (during construction or operation), and g) and ga) noise emitted from premises (during construction or operation). The remainder of this section addresses the potential for emissions relating to air quality (section 4.2), lighting (section 4.3) and noise (section 4.4) from both the construction and the operation of the proposed development, the environmental measures that will be implemented to manage such emissions and therefore whether any such emissions could result in a statutory nuisance and a breach of the legislation.

### 4.2 Smoke, fumes, gases, dust or other effluvia

#### Construction stage

4.2.1 There is limited potential for the following matters covered in Section 79(1) of the EPA 1990 to arise: c) fumes or gases emitted from premises, d) any dust, steam, smell or other effluvia and e) any accumulation or deposit.

4.2.2 The potential for these nuisances is covered in **Chapter 12** of the ES (**Volume 5, Document 5.2**).

4.2.3 As outlined in **Chapter 12 Air Quality** (within **Document 5.2**) combustion related emissions from construction site vehicles and plant would not be significant, and therefore would not constitute a statutory nuisance.

4.2.4 Construction activities, such as site preparation and site excavation have the potential to generate dust emissions and deposit dust, which have the potential to affect human and ecological receptors in the vicinity of the proposed development and cause nuisance. A Dust Risk Assessment has therefore been undertaken to define appropriate site specific environmental measures (**Document 5.4.12A, Appendix 12A**).

4.2.5 These measures have been incorporated into the CEMP and Construction Traffic Management Plan (CTMP), (**Documents 5.4.3C and 5.4.3G, Appendices 3C and 3G**) to ensure that there would be no significant air quality effects as a result of construction activities. Therefore there would be no statutory nuisance in terms of air quality for the construction phase of the Project.

#### Operational stage

4.2.6 As outlined in the ES (**Document 5.2, Chapter 12 Air Quality**), operational air quality effects would not be significant, and therefore would not constitute a statutory nuisance.

#### Embedded environmental measures

4.2.7 Measures in line with best practice guidance for mitigating the generation of dust on construction sites will include (but are not limited to):

- covering skips to minimise the release of dust from waste material;
- burning of any waste or other materials on site will not be permitted for any reasons;
- clearing or damping down roadways and other areas on-site;
- road sweeping/washing, where required;
- screening, enclosure, spraying (or other dust controls) of spoil stockpiles, rubble or construction materials close to sensitive receptors;
- stockpiled materials and generators will be placed so as to minimise potential impact on nearby sensitive receptors;
- sheeting of lorries carrying soil and other dust sources;
- enforcement of speed limits on all site roadways;
- where possible, engines will be turned off when not in use; and
- regular plant and vehicle maintenance checks conforming to the manufacturers or legislative emission standards.

4.2.8 These measures have been incorporated into the CEMP and CTMP, (**Documents 5.4.3C and 5.4.3G, Appendices 3C and 3G**) and strict compliance from any appointed contractors would be required.

### **Conclusions**

4.2.9 As outlined in the ES **Document 5.2, Chapter 12 Air Quality**, with the employment of environmental measures, there would be no significant effects during either the construction or operational phases, and as such no statutory nuisance would be expected.

## **4.3 Light from premises**

### **Construction stage**

4.3.1 There is limited potential for light pollution during construction as identified in the ES **Document 5.2, Chapter 3, 6, 7 and 9**. A lighting scheme would be implemented through Requirement 6 of the draft DCO (**Volume 2, Document 2.1**) to minimise the extent to which lighting associated with construction activity affects areas of habitats on or in the vicinity of the Order Limits (**Appendix 3C, within Volume 5, Document 5.4.3C**). This strategy would be informed by latest research and guidance.

4.3.2 External lighting, including security lighting would be minimised during the hours of darkness where possible and would be required only exceptionally as the majority of activities being undertaken in daylight hours. Should site compounds require security lighting these would be on a timer and motion sensitive. There may be a need for lighting during limited night-time works where scaffolding is in place over roads and railways, however there is no potential for significant effects resulting from any such fixed or mobile lighting which would contribute to illumination in the sky and light pollution.

### **Operational stage**

- 4.3.3 No significant operational lighting effects associated with the proposed development that could potentially generate a nuisance issue were identified.

### **Embedded environmental measures**

- 4.3.4 The lighting arrangements for temporary evening works will be considered in the Lighting Scheme under draft DCO Requirement 6.

### **Conclusions**

- 4.3.5 No significant lighting effects associated with the proposed development that could potentially generate a nuisance issue were identified.

## **4.4 Noise emitted from premises**

### **Construction stage**

- 4.4.1 There is some potential for the following matters covered in Section 79(1) of the EPA 1990 to arise: g) noise emitted from premises and (ga) noise emitted from or caused by a vehicle, machinery or equipment in a street.
- 4.4.2 The potential for noise from these activities is covered in **Chapter 11** of the ES (**Volume 5, Document 5.2**).
- 4.4.3 As outlined in **Chapter 11** noise impacts resulting from the projected slight increase in traffic associated with the construction phase are not considered likely to be significant. Vibration associated with HGVs passing along local roads is also not considered likely to be significant.
- 4.4.4 As outlined in **Chapter 11** potential noise effects on nearby residential receptors from night time works during construction/dismantling phases of the proposed development relate to works such as traffic management. These are not expected to generate significant levels of noise as they will involve traffic management set up (workmen putting out cones/signs) and security patrols. Only works that are not possible within the core construction working hours (e.g. due to traffic disruption) will be carried out a night.
- 4.4.5 Construction activities, such as constructing the pylon foundations, have the potential to generate noise and vibration effects and disturb residents living in close proximity to the proposed development. As described in the ES **Document 5.2, Chapter 11** Noise and Vibration a CEMP has been prepared and submitted as **Appendix 3C within Document 5.4.3C** and will be implemented through Requirement 5 of the draft DCO.
- 4.4.6 Under Requirement 6 of the draft DCO a Noise and Vibration Management Plan will also be prepared and implemented. This will incorporate measures to minimise noise emissions such as, specifying working methods, hours of work and any noise controls in accordance with 'best practicable means'. Noise controls specified will be in accordance with BS5228 Code of Practice for Noise and Vibration Control on Construction and Open Sites 2009 +A1: 2014 Part 1-Noise and Part 2-Vibration. The construction methods and mitigation measures would take account of particularly sensitive receptors.

4.4.7 The assessment has concluded that with these measures in place no significant noise and vibration effects are likely. Therefore there would be no statutory nuisance in terms of noise and vibration for the construction phase of the proposed development.

#### **Operational stage**

4.4.8 In the ES, no significant adverse noise effects were predicted that would represent a nuisance under section 79(g) or 79 (ga) of the EPA 1990.

4.4.9 National Grid takes the concerns of the public seriously, and operates a team of Noise Advisers to answer questions and address any concerns.

#### **Embedded environmental measures**

4.4.10 Measures that have been incorporated into the project to reduce noise effects include the following.

- During construction/uprating activities, noise and vibration will be minimised wherever possible. Manufacturers' recommendations with regards to vibration levels will be adhered to. Works will be carried out in accordance with the guidelines of the Control of Noise at Work Regulations 2005 and the Control of Vibration at Work Regulations 2005.
- The noise rating of equipment will inform equipment selection and where it is necessary to use equipment with high noise levels close to sensitive receptors, appropriate measures will be adopted (e.g. limited times of operation).
- Where possible, plant will be turned off when not in use.
- All plant and equipment will be suitably sited, operated and serviced in order to minimise noise and vibration.
- Pneumatic tools will be fitted with an integral silencer and/or purpose-made muffler.
- Working hours will be restricted to those set out in **Chapter 3** of the ES (**Volume 5, Document 5.2**) unless there are specific requirements for works at other times, e.g. scaffold erection over roads or railway.

#### **Conclusions**

4.4.11 For the reasons explained above and with implementation of the above measures no claim against statutory nuisance is envisaged in respect of noise.

## **5. CONCLUSIONS**

- 5.1.1 This Statement identifies the matters set out in Section 79(1) of the EPA 1990 in respect of statutory nuisances and considers whether the proposed application would engage one or more of those matters on the basis adopted for assessment.
- 5.1.2 With the proposed environmental measures in place, it is not expected that there would be a breach of Section 79(1) of the EPA 1990 during construction or operational activities.
- 5.1.3 The CEMP includes measures that will minimise the potential to cause nuisance. The construction activities that have the potential to create a nuisance will be controlled through strict compliance with National Grid's Contract Requirements which will require that the contractor implement the measures outlined in the CEMP.

Page intentionally blank