

# M20 Junction 10a

## TR010006

### 6.4 Statement of Statutory Nuisances

APFP Regulation 5(2)(f)

Revision A

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009





M20 Junction 10a

TR010006

## **6.4 Statement of Statutory Nuisances**

Volume 6

This document is issued for the party which commissioned it and for specific purposes connected with the above-captioned project only. It should not be relied upon by any other party or used for any other purpose.

We accept no responsibility for the consequences of this document being relied upon by any other party, or being used for any other purpose, or containing any error or omission which is due to an error or omission in data supplied to us by other parties

This document contains confidential information and proprietary intellectual property. It should not be shown to other parties without consent from us and from the party which commissioned it.



# Content

<b>Chapter</b>	<b>Title</b>	<b>Page</b>
1.	Introduction	1
1.1	The scheme _____	1
1.2	Purpose of this document _____	1
2.	Section 79 - Environmental Protection Act 1990	3
3.	Potential breaches of Section 79 - Environmental Protection Act 1990	4
3.2	<b>Dust arising on business and residential premises</b> _____	4
3.3	<b>Artificial light from premises</b> _____	5
3.4	<b>Operational road lighting</b> _____	6
3.5	<b>Noise emitted from premises or caused by a vehicle, machinery or equipment</b> _____	7
4.	Conclusion	8
5.	Bibliography	9



# 1. Introduction

## 1.1 The scheme

- 1.1.1 This document relates to an application made by Highways England to the Planning Inspectorate under Section 37 of the Planning Act 2008.
- 1.1.2 The application is for the grant of a Development Consent Order (DCO). The DCO is for the M20 Junction 10a scheme.
- 1.1.3 The M20 Junction 10a scheme involves creating a new interchange on the M20 east of Junction 10 that will incorporate a new 2-lane dual carriageway link road to the existing A2070 Southern Orbital Road (Bad Munstereifel Road).
- 1.1.4 In addition to the new interchange, the scheme includes a pedestrian and cycle bridge over the M20 to the east of the new Junction 10a. This new bridge will provide a link between Kingsford Street on the south side of the motorway to the A20 on the north side.
- 1.1.5 The scheme also includes a new footbridge to replace the existing non-compliant footbridge over the A2070 at Church Road and a new retaining wall at Kingsford Street.
- 1.1.6 An 'Alternative Scheme' includes the provision of new access in the form of a roundabout from the proposed A2070 link road to the proposed Stour Park Development site, located immediately south of the proposed A2070 link road.

## 1.2 Purpose of this document

- 1.2.1 This statement identifies the matters set out in Section 79 of the Environmental Protection Act 1990 in respect of statutory nuisances and considers whether the proposed development would engage one or more of those matters. Where any matters may be potentially engaged, this statement sets out its proposals for mitigating or limiting them.
- 1.2.2 This statement has had due regard to the Department for Communities and Local Government guidance, 'Planning Act 2008: Application Form Guidance' and the statement is included in the application to comply with the requirements of Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, the latter of which requires:
- 1.2.3 "...a statement 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, and if so how the applicant proposes to mitigate or limit them."

- 1.2.4 As this statement is part of the application documents, it should be read alongside and is informed by the other application documents. In particular, this statement should be read alongside the Environmental Statement (ES), DCO document reference 6.1.
- 1.2.5 This statement concludes that, with the mitigation measures secured by the DCO in place, none of the statutory nuisances identified in Section 79 of the Environmental Protection Act 1990 are predicted to arise.

## 2. Section 79 - Environmental Protection Act 1990

2.1.1 The following text is an extract from Section 79 of the Environmental Protection Act 1990 which sets out those matters which constitute a statutory nuisance in England and Wales.

"(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 emitting 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 or in Scotland, road; and
- (h) any other matter declared by 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 below and, where a complaint of 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."

### 3. Potential breaches of Section 79 - Environmental Protection Act 1990

- 3.1.1 Taking the scheme into account, the only matters prescribed in Section 79 that could potentially be engaged as a consequence of the authorised project either at construction stage or during operation are (d) dust arising on business premises, (fb) artificial light from premises, (g) noise emitted from premises or (ga) noise emitted from or caused by a vehicle, machinery or equipment in a street.
- 3.1.2 It is noted that statutory nuisance category (c) (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 scheme.
- 3.1.3 It is also noted that statutory nuisance under category (ga) does not apply to traffic (as noted in Section 79 (6(A)) of the Act), but would apply to noise generated by construction vehicles, plant and machinery.
- 3.1.4 Chapter 17 of the Environmental Statement (ES), DCO Document 6.1, details the processes used for the management of environmental effects arising from the Scheme. Appendix 17.1 of the ES (document 6.3) is the Outline Construction Environmental Management Plan (OCEMP) certified to BS EN ISO14001 Environmental Management Systems (BSI, 2004).
- 3.1.5 The OCEMP includes the roles and responsibilities, together with the appropriate control measures, training and briefing procedures, risk assessments and monitoring systems that are to be employed during planning and constructing the works for all relevant topic areas.

#### **3.2 Dust arising on business and residential premises**

- 3.2.1 Paragraph 7.3.5 and Appendix D (Register of Environmental Actions and Commitments) of the OCEMP details the mitigation requirements needed to address any construction dust from the site.
- 3.2.2 With no mitigation, construction activities could have negative impacts on the sensitive receptors, especially during drier months.
- 3.2.3 Effective management to control emissions of dust is a well-defined practice for construction and demolition. The mitigation measures to limit the impact would be applied at all sites where dust producing activities would be taking place. The methods of dust suppression would follow current construction and demolition site best practice.

- 3.2.4 Experience across a range of construction sites has shown that application of best practice mitigation measures would reduce dust impacts to a negligible level (Institute of Air Quality Management, 2014). The resulting dust effects would not generate a nuisance and nor would they be prejudicial to health under Section 79(1) (d) of the Environmental Protection Act 1990.

### **3.3 Artificial light from premises**

- 3.3.1 The OCEMP states that the details on the hours of working are to be provided within the Specification for Highways Works Appendix 1/9. These hours must be confirmed with the JV, the Principal Contractor and in consultation with the local authority Environmental Health Officer.
- 3.3.2 Typical core working hours for the scheme would be between 07:00 and 18:00 on weekdays (excluding bank holidays) and from 07:00 to 13:00 on Saturdays. During daylight there would be no need for artificial lighting on site. This does not limit the Scheme to no Sunday work if needed.
- 3.3.3 There are construction activities that would require night time working, for example working alongside live lanes of traffic.
- 3.3.4 The Register of Environmental Actions and Commitments (contained within the OCEMP) states that any night lighting (relating to site compound security or for night time working) is to be directed and avoid illumination of key foraging areas. Warm white lighting is preferred.
- 3.3.5 The effect of artificial lighting has been considered, with effects predicted to be most significant from localised viewpoints and those views from the west which would view the site looking east where there are relatively few existing light sources. On balance, however, with mitigation in place to minimise 'light spill', effects are considered to be Slight Adverse for a temporary period.
- 3.3.6 Lighting would be kept to a minimum with options for infrared lighting or timers explored for compounds where practicable. A list of the key plant and equipment that would be used in the major areas of the project is provided in the Buildability Report.

- 3.3.7 The temporary A20 carriageway would be lit with temporary lighting equivalent to what is there now, likely to take the form of lighting column with temporary connections to the existing lighting.
- 3.3.8 Night works on the M20 would be lit by temporary mobile tower lights. The access routes through the Scheme would not be lit.
- 3.3.9 Although there will be a Slight Adverse effect for a temporary period, due to the application of mitigation measures included in the OCEMP it is considered that no statutory nuisance would arise during construction.

#### **3.4 Operational road lighting**

- 3.4.1 As a result of a DMRB TA49 assessment, lighting is to be provided for all new junctions in the scheme. This includes Junction 10a and the junction of the A2070 link road with the existing A2070.
- 3.4.2 The lighting provision will adopt lighting columns from 5 to 10m in height in the verge and junction splitter islands, whilst supporting LED lanterns for greater light control and longer life burning. The lanterns would be mounted at zero degree inclination to reduce upward light. Along the A2070 link road the columns are expected to be mounted at the back of verge.
- 3.4.3 The new footbridges will be lit utilising LED handrail lighting while Kingsford Street will utilise lit bollards along its length.
- 3.4.4 During Year 1 of Operation, three of the nine residential receptors identified would experience significant adverse effects. Two of these receptors would experience Moderate Adverse effects in Year 1 given their close proximity and open views to the Main Scheme and one would experience a Large Adverse effect due to unshielded lighting.
- 3.4.5 The potential nuisance created through operational lighting would be reduced through the detailed design of the scheme, minimising the impact of road lighting through careful placement where such a system was deemed essential. The use of modern, controllable light sources with good cut-off properties, coupled with dynamic systems of operation, would reduce the effect of lighting on the surrounding environment.
- 3.4.6 Over time, mitigation planting, including plots of trees and shrubs, standard trees and hedge planting, would mature and help to reduce the visual impact of the Main Scheme. By Year 15 the significance of effect would have reduced to being Non-significant for all residential receptors. (Chapter 7 – Landscaping, ES).

3.4.7 Although there will be Moderate and Large Adverse effects during year 1 of operation, due to the application mitigation planting, it is considered that over time and by year 15, statutory nuisance would be reduced to a non-significant effect for all residential receptors.

### **3.5 Noise emitted from premises or caused by a vehicle, machinery or equipment**

3.5.1 The construction and operation of the Scheme has the potential to give rise to both temporary and permanent noise and vibration impacts at sensitive receptors in the area. This in turn may generate adverse effects.

3.5.2 A noise and vibration assessment has been undertaken of the impact and effects arising from the Scheme and is contained within Chapter 11 of the ES.

3.5.3 The assessment has been undertaken in accordance with DMRB HD 213/11, and has also had regard to the requirements of the National Planning Policy Framework (NPPF);

3.5.4 Environmental assessment regulations and the NPPF require that the assessment considers the significance of effects on noise and vibration sensitive receptors resulting from predicted noise and vibration impacts. NPPF requirements regarding single objective noise-based measures will be based upon those adopted for other recent infrastructure schemes. The concept of lowest observable adverse effect level (LOAEL) and significant observable adverse effect level (SOAEL), introduced by National Policy Statement for England (NPSE) and further elucidated in National Planning Policy Guidance (NPPG), have been defined for the Scheme based upon noise insulation threshold levels, WHO guidance, and, for construction noise and vibration, guidance from BS5228 Parts 1 and 2.

3.5.5 For the Main Scheme and for the Alternative Scheme, the construction noise assessment indicates that with mitigation there will be no significant effects.

3.5.6 For both Main Scheme and Alternative Scheme, the construction vibration impact indicates that there will be no significant effects.

3.5.7 For the Main Scheme and for the Alternative Scheme the operational noise assessment for both indicate that there will be residual properties at, or above SOAEL, but that these are adjacent to existing roads.

3.5.8 Although the construction and operation of the Scheme has the potential to give rise to both temporary and permanent noise and vibration impacts, with the provision of mitigation measures it is considered that no statutory nuisance would arise during construction or operation.

## 4. Conclusion

- 4.1.1 This Statement has considered the potential for the proposed development to cause a statutory nuisance under Section 79(1) of the Environmental Protection Act 1990.
- 4.1.2 The construction activities that have the potential to create a nuisance would be controlled through mitigation as prescribed in the OCEMP, Appendix 17.1 of the ES.
- 4.1.3 The potential nuisance created through operational lighting would be reduced through the detailed design of the scheme, minimising the impact of road lighting through careful placement where such a system was deemed essential. The use of modern, controllable light sources with good cut-off properties, coupled with dynamic systems of operation, would reduce the effect of lighting on the surrounding environment.
- 4.1.4 With mitigation in place, none of the statutory nuisances identified in Section 79(1) of the Environmental Protection Act 1990 are predicted to arise.

## 5. Bibliography

B S I (2009). BS 5228-1:2009+A1:2014, Code of practice for noise and vibration control on construction and open sites.

B S I (2013). BS 5489-1:2013, Code of practice for the design of road lighting. Lighting of roads and public amenity areas.

Control of Pollution Act (1974).

DEFRA (2010). Noise Policy Statement for England (NPSE). Environmental Protection Act (1990).

Highways Agency (2007). Design Manual for Roads and Bridges Volume 11, Section 3, part 1 Air Quality.

IAQM (2014). Guidance of the assessment of dust from demolition and construction. Institute of Air Quality Management.

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations (2009) No.2264.

Institute of Lighting Professionals (2011). GN01 Guidance Notes for the Reduction of Obtrusive Light.

Noise Insulation Regulations (as amended 1988) (1975). Planning Act (2008).