

A30 Chiverton to Carland Cross TR010026

6.6 STATEMENT OF STATUTORY NUISANCE

Planning Act 2008

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

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**The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009**

**A30 Chiverton to Carland Cross
Development Consent Order 201[x]**

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1 Introduction

- 1.1.1 This Statement of Statutory Nuisance has been prepared to accompany an application by Highways England (the Applicant) for a Development Consent Order (DCO) under section 37 of the Planning Act 2008 for the construction of an 8.7-mile dual carriageway between Chiverton and Carland Cross in Cornwall; this is known as the A30 Chiverton to Carland Cross (the scheme).
- 1.1.2 The scheme comprises the following main features:
- An 8.7 mile (14km), high quality 70mph dual carriageway, connecting to the existing A30 dual carriageway at either end
 - The replacement of Chiverton Cross roundabout with a new, 2 level motorway style roundabout
 - A new, 2 level partial junction at Chybucca, with west-facing slip road connecting to the new dual carriageway
 - Replacement of the existing roundabout at Carland Cross with a 2 level motorway style junction
 - New bridges and accesses across and to the proposed scheme and the existing highway
 - Retention of the existing A30 including the construction of further local roads to maintain connectivity.
- 1.1.3 A detailed description of the scheme is provided in Chapter 2 The Project within the **Environmental Statement** (Volume 6, Document Reference 6.2), and Schedule 1 (Authorised Development) of the **Draft Development Consent Order** (Volume 3, Document Reference 3.1).
- 1.1.4 This Statement has had due regard to the Department for Communities and Local Government (now Ministry of Housing, 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:
- “...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.”*
- 1.1.5 As this Statement comprises a 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** (Volume 6, Document Reference 6.2).

2 Background

2.1 Environmental Protection Act 1990

2.1.1 This Statement identifies the matters set out in Section 79(1) of the Environmental Protection Act 1990 (“the Act”) in respect of statutory nuisance and considers whether the proposed development would engage one or more of those matters.

2.1.2 Where any matters may be potentially engaged the next section of this Statement sets out the proposals for mitigating or limiting them.

2.2 Section 79(1) of the Act

2.2.1 The following text is an extract from Section 79(1) of the Act which sets out those matters which constitute a statutory nuisance in England and Wales:

“..... 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;

(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.”

2.3 Matters that could potentially constitute statutory nuisance

2.3.1 Taking the scheme into account, the only matters prescribed in Section 79(1) that could potentially be engaged as a consequence of the authorised development either at the 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.

2.3.2 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.

2.3.3 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 Assessment of matters that could potentially constitute statutory nuisance

3.1 Dust arising on business premises

- 3.1.1 Section 5.6 of ES Chapter 5 **Air Quality** (Volume 6, Document Reference 6.2) notes that, in the absence of mitigation, there is potential for significant impacts on air quality through the generation of nuisance dust during construction of the scheme.
- 3.1.2 The maximum distance at which dust nuisance may be caused is held to be 200m. Sensitive receptors including residential properties and businesses within 200m of dust producing activities were identified and appropriate mitigation would be implemented where required.
- 3.1.3 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 **Outline CEMP** (Volume 6 Document Reference 6.4 ES Appendix 16.1) recommends appropriate mitigation measures for potential dust impacts. Further detail on such measures is provided in Annex L: Air Quality Management Plan in the **Outline CEMP** (Volume 6 Document Reference 6.4 Appendix 16.1).
- 3.1.4 ES Chapter 5 **Air Quality** (Volume 6, Document Reference 6.2) concludes that, with mitigation measures in place, there would be no significant impacts on air quality during the construction works for the scheme.
- 3.1.5 Accordingly, construction works would not emit dust that would be prejudicial to health and therefore would not give rise any statutory nuisance under the Act.

3.2 Artificial light from premises

- 3.2.1 The majority of construction activity would be undertaken between the hours of 07:30 to 19:30 Monday to Saturday between 1 March and 31 October and 07:30 to 18:00 for the rest of the year. Where necessary, work will be undertaken on Sundays between 08:00 and 13:00. During those working hours, there would be a limited requirement for any artificial lighting of construction areas. Lighting of the compounds and at work sites along the site will be limited.
- 3.2.2 There will be a requirement for limited night-time working for traffic management, bridge beam lifts, demolition operations, surfacing works at tie-in locations and imported materials during the peak holiday seasons to minimise traffic impact during the normal daytime hours. There would be no extended night-time working.
- 3.2.3 Lighting would be managed in compliance with the **Outline CEMP**, in order to minimise the adverse effects of site lighting, for example by directing lights towards the working areas and avoiding light-spill. Production of a construction stage lighting strategy would limit the use of construction lighting and ensure all essential lighting is specified and designed to reduce light spill. This is to include locations of lighting and lighting levels details. Further detail on such measures is provided in Annex E: Outline Ecological Management Plan in the **Outline CEMP** (Volume 6 Document Reference 6.4 Appendix 16.1).

- 3.2.4 Due to the limited duration of any night time works and the application of mitigation measures, it is considered that no statutory nuisance would arise during construction.
- 3.2.5 During operation, the scheme will have no road lighting on the mainline or at the junctions.
- 3.2.6 Accordingly, the impacts of lighting during both construction and operation would not generate a nuisance and nor would it be prejudicial to health under section 79(1) (fb) of the Act.

3.3 Noise emitted from premises or caused by a vehicle, machinery or equipment in a street

- 3.3.1 ES Chapter 11 **Noise and Vibration** (Volume 6 Document Ref 6.2) identifies potential noise impacts during construction. While the ES does identify some potentially large changes in noise for some receptors, it is important to note that in most cases these would be of short duration.
- 3.3.2 ES Chapter 11 **Noise and Vibration** (Volume 6 Document Ref 6.2 ES Chapter 11) outlines mitigation measures for construction noise and vibration- with reference to British Standard BS 5228: 2009+A1:2014 – Code of Practice for noise and vibration control on construction and open sites, Part 1: Noise and Part 2: Vibration- and also with reference to the to the **Outline CEMP**. The majority of these measures are considered good practice measures which local authorities would be likely to require as part of a 'best practice approach'.
- 3.3.3 Annex K of the **Outline CEMP** includes an Outline Noise and Vibration Management Plan (Volume 6 Document Reference 6.4 Appendix 16.1), which sets out measures for the Contractor to control and manage noise and vibration from machinery and construction. The effects of noise and vibration from construction sites will be controlled by introducing management and monitoring processes to ensure that best practicable means are planned and employed during construction.
- 3.3.4 It should also be noted that impacts from construction noise would be directly managed through a Section 61 consent with Cornwall Council in compliance with the Control of Pollution Act 1974.
- 3.3.5 Section 79(6A) (a) of the Act sets out that traffic noise is excluded from the consideration of nuisance and therefore there is no case to address for the operation of the scheme.
- 3.3.6 Although the construction and operation of the scheme has the potential to give rise to both temporary and permanent noise 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 scheme to cause a statutory nuisance under Section 79(1) of the Act.
- 4.1.2 The construction activities that have the potential to create a nuisance would be controlled through the implementation of the **Outline CEMP** (Volume 6 Document Reference 6.4 Appendix 16.1), specifically Annex K.
- 4.1.3 With mitigation in place, none of the statutory nuisances, as identified in section 79(1) of the Act, are predicted to arise.

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