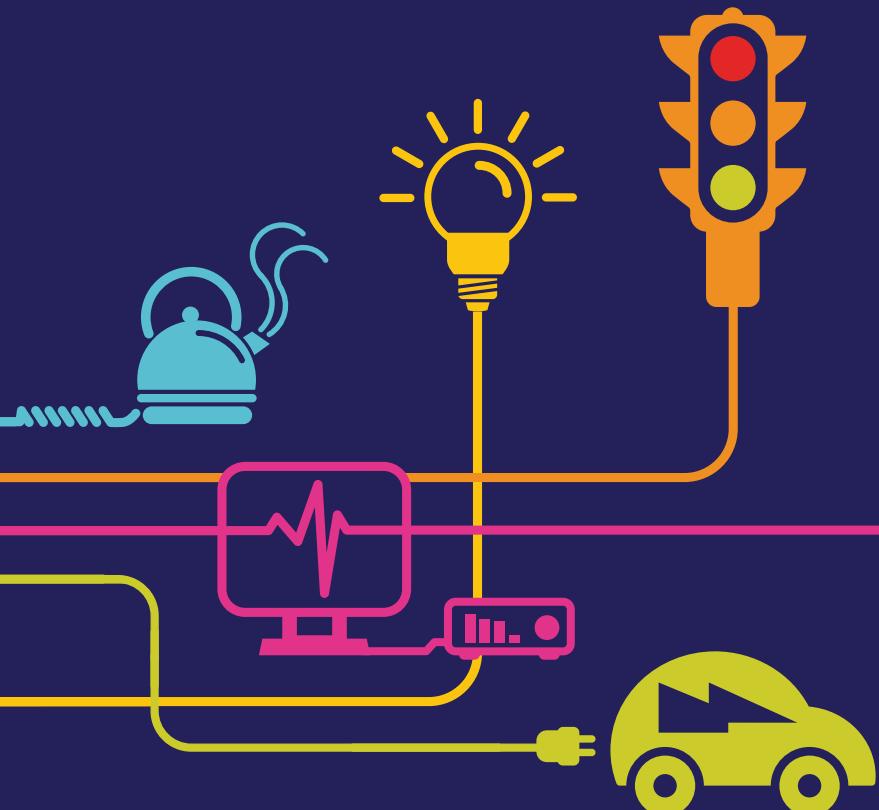


## Environmental Statement Statement of Statutory Nuisance

Hinkley Point C Connection Project

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





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**Hinkley Point C Connection Project**

**MAY 2014**

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# 1 INTRODUCTION

## 1.1 Introduction

1.1.1 This Statement of Statutory Nuisance supports the application by National Grid Electricity Transmission plc (National Grid) under the Planning Act 2008 for the Hinkley Point C Connection (The "Proposed Development") and the associated Development Consent Order (DCO) (the "Application"). This would grant powers to construct and maintain a new 400,000 volt (400kV) and 132,000 volt (132kV) electricity connection across the authorities of West Somerset, North Somerset, Sedgemoor, South Gloucestershire and Bristol (Avon).

1.1.2 The requirement for a Statement of Statutory Nuisance is set out in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (section 5(2)(f)), which states:

*"The application must be accompanied by...a statement whether the proposals engage 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".*

1.1.3 This Statement of Statutory Nuisance describes the relevant nuisances defined in the Environmental Protection Act 1990, which are a result of the Proposed Development. The Statement has been prepared, having regard to the requirements in Overarching National Policy Statement for Energy EN-1, paragraph 4.14.2, for consideration of possible sources of nuisance and how they might be mitigated or limited.

1.1.4 This Statement should be read alongside the following documents which accompany the Application:

- the Design and Access Statement (**Volume 7.2**), which describes the measures incorporated into the design of the Proposed Development, known as 'embedded measures';
- the Environmental Statement (ES) (**Volumes 5.6 to 5.19**), which reports on likely significant environmental effects during the construction, operation and decommissioning phases and identifies mitigation measures to avoid or minimise effects;
- the Draft Construction Environmental Management Plan (CEMP) (**Volume 5.26**), through which mitigation measures identified will be applied during the construction of the Proposed Development; and
- the Schedule of Operational Mitigation and Enhancements (**Volume 5.27**), which describes the mitigation measures that will be implemented during the operational and decommissioning phases of the Proposed Development.

1.1.5 This Statement of Statutory Nuisance describes the relevant measures from the listed documents to reduce the relevant nuisances defined in the Environmental Protection Act 1990, which could arise as a result of the Proposed Development.



## 2 THE PROPOSED DEVELOPMENT

### 2.1 Proposed Development

2.1.1 The Proposed Development includes the following principal elements which are described in detail at **Volume 5.3.1** of the ES:

- construction of a 57km 400kV electricity transmission connection between Bridgwater in Somerset and Seabank, near Avonmouth, comprising:
  - installation of a 400kV overhead line; and
  - installation of 400kV underground cables.
- modifications to existing overhead lines at Hinkley Point, Somerset;
- construction of three 400kV cable sealing end (CSE) compounds along the route of the connection;
- construction of a 400/132kV substation at Sandford, North Somerset;
- extension of the existing 400kV substation at Seabank;
- the removal of existing 132kV overhead lines and the construction of replacement 132kV overhead lines and 132kV underground cables;
- extensions/modifications to existing 132kV substations at Churchill, Portishead, Avonmouth and Seabank; and
- associated works, for example, temporary access roads, highway works, temporary construction compounds, scaffolds, work sites and ancillary works.



### 3 ENVIRONMENTAL PROTECTION ACT 1990

#### 3.1 Section 79(1), Environmental Protection Act 1990

3.1.1 Section 79(1) of the Environmental Protection Act 1990 describes the definition of statutory nuisance and the matters to be adopted for the assessment.

3.1.2 Section 79(1) states:

*[Subject to subsections (1A) to (6A) below] the following matters constitute "statutory nuisances" for the purposes of this Part, 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 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 nuisance 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."*

3.1.3 Section 79(2) contains exceptions to the above statutory nuisances.

3.1.4 Section 79(2) states:

*...Subsection (1)(b), (fb) and (g) above do not apply in relation to premises —*

*(a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defense, or*

*(b) occupied by or for the purposes of a visiting force;*

*Subsection (1)(b) above does not apply to—*

- (i) smoke emitted from a chimney of a private dwelling within a smoke control area,*
- (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,*
- (iii) smoke emitted from a railway locomotive steam engine, or*
- (iv) dark smoke emitted otherwise than as mentioned above from industrial or trade premises.*

*Subsection (1)(c) above does not apply in relation to premises other than private dwellings.*

*Subsection (1)(d) above does not apply to steam emitted from a railway locomotive engine.*

*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.*

*Subsection (1)(fb) does not apply to artificial light emitted from—*

- (a) an airport;*
- (b) harbour premises;*
- (c) railway premises, not being relevant separate railway premises;*
- (d) tramway premises;*
- (e) a bus station and any associated facilities;*
- (f) a public service vehicle operating centre;*

(g) a goods vehicle operating centre;

(h) a lighthouse;

(i) a prison.]

*Subsection (1)(g) above does not apply to noise caused by aircraft other than model aircraft.*

*Subsection (1)(ga) above does not apply to noise made—*

*(a) by traffic,*

*(b) by any naval, military or air force of the Crown or by a visiting force (as defined in subsection (2) above), or*

*(c) by a political demonstration or a demonstration supporting or opposing a cause or campaign."*



## 4 ASSESSMENT OF NUISANCE

### 4.1 Introduction

4.1.1 In accordance with the environmental assessments in the ES (**Volumes 5.6.1 to 5.16.1**) and the Design and Access Statement (**Volume 7.2**) this Statement of Statutory Nuisance considers the following nuisances under the Environmental Protection Act 1990 to be applicable to the Proposed Development and will be controlled:

- Section 79(1)(b), (c) and (d) relating to air quality and odour;
- Section 79(1)(e) relating to waste and deposits in watercourses;
- Section 79(1)(fb) relating to artificial lighting; and
- Section 79(1)(g) and (ga) relating to noise (and vibration).

4.1.2 Section 79(1)(a), (f), (fa) and (h) are deemed not to be applicable to the Proposed Development and will not be considered further in this Statement of Statutory Nuisance.

4.1.3 The identified nuisances could occur as a result of activities during the construction and decommissioning phases of the Proposed Development.

4.1.4 The environmental effects that result from the decommissioning of the Proposed Development often have similar effects to the construction of the Proposed Development. As such, the mitigation measures identified in this Statement of Statutory Nuisance for nuisances caused by construction activities, also apply to decommissioning activities.

4.1.5 The operation of the Proposed Development is unlikely to cause nuisances as defined in Section 79(1). The design of the Proposed Development has embedded mitigation described in the Design and Access Statement (**Volume 7.2**) to reduce any potential nuisances as identified in the Environmental Protection Act 1990. An example of embedded mitigation includes the use of prefabricated acoustic enclosures applied to the transformer and shunt reactor tanks, which are designed to reduce the noise emitted from the equipment to an acceptable level.

4.1.6 The results of the environmental assessments detail the reasons why the operation of the Proposed Development is unlikely to cause nuisances (Visual Effects, **Volume 5.7.1**; Air Quality and Emissions, **Volume 5.13.1**; Noise and Vibration, **Volume 5.14.1**; and the Outline Waste Management Plan (WMP), **Volume 5.26.2**).

4.1.7 This Statement of Statutory Nuisance describes the elements of the construction phase (and as such, the decommissioning phase) of the Proposed Development likely to cause the above nuisances and describes the mitigation measures that will be implemented to control the nuisances.

4.2 **Section 79(1) (b), (c) and (d): Atmospheric Emissions**

4.2.1 **Volume 5.13.1** of the ES predicts that construction activities may affect air quality in a number of ways, which may be broadly classified into:

- exhaust emissions from site plant, equipment and vehicles; and
- fugitive dust emissions from site activities.

## **Sources**

4.2.2 The use of vehicles and equipment powered by internal combustion engines results in the emission of exhaust gases containing the pollutants oxides of nitrogen (NO<sub>x</sub>), particulates (PM<sub>10</sub>), volatile organic compounds (VOCs), and carbon monoxide (CO).

4.2.3 Activities that are considered to be the most significant potential sources of fugitive dust emissions are:

- demolition of existing structures and the size reduction and handling of materials;
- earth moving, due to the handling, storage and disposal of soil and subsoil materials;
- construction aggregate usage, due to the transport, unloading, storage and use of dry and dusty materials (such as cement and sand);
- movement of heavy site vehicles on dry or untreated haul routes; and
- movement of vehicles over surfaces where muddy materials have been transferred off site (for example, on to public highways).

## **Mitigation Measures to Reduce the Risk of Smoke, Fumes, Dust, Steam, Smell or Other Effluvia**

4.2.4 Mitigation measures will be implemented on site to avoid and limit such nuisances. These measures are identified in the ES (**Volume 5.13.1, section 13.7**) and the Draft CEMP (**Volume 5.26.1**). These measures include:

### ***Smoke, Fumes, Dust and Steam***

- a) dusty materials, will be sheeted or prevented in some other way from becoming wind-borne;
- b) wheel cleaning facilities will be provided and road sweeping will be undertaken in accordance with the Draft Construction Traffic Management Plan (CTMP) (**Volume 5.26.5**);
- c) where activities could create dust clouds, dust suppression techniques will be adopted, for example, water sprays and dampening of access roads. Suppression techniques will be used more frequently during periods of dry weather;
- d) waste will be disposed of in accordance with the Outline WMP (**Volume 5.26.2**) and the Site Waste Management Plans;

- e) materials kept at site, including the stockpiling of soils, will be covered with appropriate measures, for example, membranes, spraying or seeding;
- f) loaded vehicles that are carrying dust generating materials will be covered, for example, with sheets, when leaving site;
- g) there will be no burning of materials on site;
- h) all plant and vehicles will be maintained in good order so that they do not emit dark smoke, grit or dust;
- i) the use of diesel generators will be minimised and mains or battery power will be used where available;
- j) engines will be turned off when vehicles are not in use to avoid 'idling';
- k) the site speed limit will be signposted and will not exceed 10mph;
- l) alternative methods for business travel will be considered by all employees to reduce vehicle use; and
- m) all working areas will be kept in a clean and tidy condition.

### ***Odour***

4.2.5 Covers will be put over items liable to emit odour. Odour monitoring will be undertaken in accordance with the Environment Agency's Horizontal Guidance on Odour H4 (Ref 1.1).

### **Conclusion**

4.2.6 In light of the assessments in the ES and the mitigation measures described above and in the ES (**Volume 5.13.1, section 13.7**) and Draft CEMP (**Volume 5.26.1**), the risk of smoke, fumes, dust, steam, smell or other effluvia are not predicted to cause a nuisance or be prejudicial to health during the construction of the Proposed Development.

### **4.3 Section 79(1)(e): Accumulation or Deposits**

4.3.1 Construction activities of the Proposed Development may result in excavated material and waste, and an accumulation or deposition in watercourses.

### **Sources**

4.3.2 The construction activities, particularly the excavation of the underground cable trenches, will generate a large volume of spoil. The majority of the spoil will be stored on site and reused to backfill the cable trenches. The remaining material will be removed from site. It is anticipated that almost all of the material will be non-hazardous and suitable for reuse.

### **Mitigation Measures to Reduce the Risk of Accumulation of Excavated Materials and Waste or Deposit in Watercourses**

4.3.3 Mitigation measures will be implemented on site to limit such nuisances. These measures are identified in the ES (**Volume 5.9.1, section 9.7 and Volume 5.10, section 10.7**) and the Draft CEMP (**Volume 5.26.1**) and the Outline WMP (**Volume 5.26.2**).

4.3.4 The mitigation measures include, but are not limited to:

- a) a Soil Management Plan and a Drainage Management Plan will be prepared and implemented (Draft CEMP, **Volume 5.26.1**);
- b) topsoil and subsoil movements will only be undertaken in suitable conditions, for example, when it is not too wet, in accordance with the Department for Food and Rural Affairs (DEFRA) guidance (Ref 1.2);
- c) soils will not be stockpiled close to surface water features. Stockpiled soils will be stored to reduce the risk of mixing and covered to reduce the risk of windblown dust, surface water run-off and reduce the risk of overland migration of sediment to surface waters;
- d) road sweeping will be undertaken in accordance with the Draft CTMP (**Volume 5.26.5**), to remove deposits of silt from roads and reduce the risk of migration into surface water gullies and watercourses;
- e) fuels and lubricants will be stored in appropriately bunded static tanks at the temporary construction compound sites and will be located as far as possible to avoid highly sensitive locations;
- f) facilities will be provided for the collection, treatment and disposal of soil and liquid waste, including the monitoring of ground and surface water conditions for spills or surface spoil;
- g) all material brought to site and removed from site will be undertaken in accordance with the Outline WMP (**Volume 5.26.2**), which includes:
  - i) segregation of wastes in order to prevent co-storage of incompatible materials and the mixing of non-hazardous and hazardous wastes;
  - ii) the type of wastes likely to be generated during construction to allow early planning for opportunities to re-use or recycle wastes and to gauge the expected quantities and to allow monitoring;
  - iii) wastes will be stored in appropriately labelled containers suitable for the nature of the waste material;
  - iv) hazardous wastes will be disposed of in accordance with the Hazardous Wastes Regulations 2005;
  - v) the burning of any waste will be prohibited;

- vi) wastes will be covered to prevent the generation of dust, the spreading of litter and the ingress of rain water;
- vii) all waste carriers will be appropriately licensed; and
- viii) wastes will be disposed of only at sites licensed to receive and disposed of such wastes, sort at sites registered with the Environment Agency as being exempt from licensing.

h) the use of appropriate measures will be adopted as outlined in the Environment Agency Pollution Prevention Guidance (PPGs) to prevent spillage of potentially polluting substances.

- i) guidance for storing and handling materials and products:
  - PPG2: Above ground oil storage tanks;
  - PPG 6: Working at construction and demolition sites;
  - PPG 7: Refuelling facilities; and
  - PPG 26: Drums and intermediate bulk containers.
- ii) guidance for site drainage, dealing with sewage and trade effluents:
  - PPG 3: Use and design of oil separators in surface water drainage systems;
  - PPG 4: Disposal of sewage where no mains drainage is available; and
  - PPG 13: Vehicle washing and cleaning.
- iii) guidance on general good environmental practice:
  - PPG 1: General guide to the prevention of pollution;
  - PPG 5: Works in, near or liable to affect watercourses; and
  - PPG 21: Incident response planning.

## **Conclusion**

4.3.5 In light of the assessments in the ES and the mitigation measures described above and in the ES (**Volume 5.9.1, section 9.7 and Volume 5.10, section 10.7**), the Draft CEMP (**Volume 5.26.1**), and in the Outline WMP (**Volume 5.26.2**) the risk of accumulation of excavated materials and waste or deposits in watercourses are not predicted to cause a nuisance or be prejudicial to health during the construction of the Proposed Development.

## **4.4 Section 79(1)(fb): Artificial Lighting**

4.4.1 During the construction of the Proposed Development, temporary artificial lighting will be required to illuminate the construction site to ensure works can be undertaken safely and to provide security to the site.

## **Sources**

4.4.2 Temporary artificial lighting may be required during daylight hours, particularly during the winter months and for works undertaken outside of daylight hours. Temporary artificial lighting will be required for works proposed to be undertaken

outside of the normal working times (between 0700 and 1900 hours Mondays to Saturdays and between 0700 and 1700 on Sundays), which include:

- the jointing of underground cables;
- the installation and removal of protective netting across highways, railways lines or watercourses;
- the completion of operations commenced during the working hours which cannot safely be stopped;
- start up and close down activities up to 1 hour either side of core working hours;
- oil processing of transformers or reactors in substation and sealing end compound sites; and
- the testing or commissioning of any electrical plant installed as part of the authorised development (Draft CEMP, **Volume 5.26.1**).

### **Mitigation Measures to Reduce the Risk of Nuisances from Artificial Lighting**

4.4.3 The following measures will be implemented, as described in the Draft CEMP (**Volume 5.26.1**):

- a) lights installed will be of the minimum brightness and/or power rating capable of performing the desired function;
- b) light fittings will be used that reduce the amount of light emitted above the horizontal;
- c) the light fittings will be positioned correctly and directed downwards;
- d) the direction of lights will be considered relative to neighbouring properties;
- e) the use of Passive Infrared (PIR) controlled lights will be considered as these may be more acceptable to neighbours than those which are controlled by a time switch or are on all the time; and
- f) unnecessary lights will be switched off.

4.4.4 The control of artificial lighting will be in accordance with Schedule 3, Requirement 8 of the DCO. No stage of the authorised development shall commence until written details of any temporary or permanent external lighting to be installed during that stage, including measures to prevent light spillage, have been submitted to and approved by the relevant planning authority.

4.4.5 The written details must incorporate the mitigation measures in relation to lighting set out in the Biodiversity Mitigation Strategy (BMS) (**Volume 5.26.3**) to reduce effects on habitats and species.

## **Conclusion**

4.4.6 In light of the mitigation measures described above, in the Draft CEMP (**Volume 5.26.1**), and in the BMS (**Volume 5.26.3**) the use of artificial lighting is not predicted to cause a nuisance or be prejudicial to health during the construction of the Proposed Development.

### **4.5 Section 79(1)(g) and (ga): Noise (and Vibration).**

4.5.1 **Volume 5.14.1** of the ES identifies the elements of the Proposed Development that are likely to cause nuisance from noise and vibration.

## **Sources**

4.5.2 The elements of the Proposed Development likely to cause nuisance from noise and vibration include the following:

- noise and vibration from construction activities on site; and
- noise and vibration from construction traffic.

## **Mitigation Measures to Reduce Risk of Noise and Vibration**

4.5.3 The ES (**Volume 5.14.1, section 14.6**) and the Draft CEMP (**Volume 5.26.1**) describe the mitigation measures that will be implemented to control nuisances caused from noise and vibration from the construction of the Proposed Development. The mitigation measures include:

- a) construction work will be undertaken in accordance with Schedule 3, Requirement 7 of the DCO;
- b) where advised, consent will be sought under Section 61 of the Control of Pollution Act 1974 ;
- c) loading and unloading activities will be located as far as reasonably possible from residential properties;
- d) mains electricity will be used rather than diesel generators where connection to mains electricity is possible;
- e) exhaust silencing and plant muffling equipment will be fitted and maintained in good working order;
- f) low-noise generators and quieter plant and equipment will be used and will conform to European standards (Ref 1.3);
- g) the bunding (soil stockpiles) and fencing proposed at the construction compounds will also help to attenuate noise;
- h) construction traffic movements will be undertaken in accordance with the Draft CTMP (**Volume 5.26.5**);

- i) reverse alarms will incorporate at least one of the following features: directional sounders, broadband signals, self-adjusting sounders, and/or flashing warning lights;
- j) internal haul roads will be well maintained;
- k) vehicles will not wait or queue on the public highway with engines idling;
- l) engines will be turned off when vehicles are not in use to avoid idling;
- m) plant and equipment will be shut down when not in use;
- n) plant and equipment will be started-up sequentially rather than simultaneously;
- o) the jointing of cables will be undertaken in a covered working area; and
- p) drop heights of materials will be minimised.

## **Conclusion**

4.5.4 In light of the assessments in the ES and the mitigation measures described above and in the ES (**Volume 5.14.1, section 14.6**) and Draft CEMP (**Volume 5.26.1**), noise and vibration resulting from the construction of the Proposed Development, including construction traffic, is not predicted to cause a nuisance or be prejudicial to health.

## 5 CONCLUSION

### 5.1 Conclusion

5.1.1 This Statement of Statutory Nuisance identifies the statutory nuisance matters that may arise as a result of the construction and decommissioning of the Proposed Development in accordance with Section 79(1) of the Environmental Protection Act 1990. The operation of the Proposed Development is unlikely to cause nuisances as defined in Section 79(1). The design of the Proposed Development has embedded mitigation to reduce any potential nuisances.

5.1.2 This Statement considered the following nuisances under Section 79(1) of the Environmental Protection Act 1990 to be applicable to the Proposed Development:

- 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;*
- 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, roads];*

5.1.3 This Statement has identified mitigation measures in accordance with the ES (**Volumes 5.6.1 to 5.16.1**) and the Draft CEMP (**Volumes 5.26**) that will be implemented to control the identified nuisances.

5.1.4 Once mitigation measures have been implemented, it is not expected that there would be any breach of Section 79(1) of the Environmental Protection Act 1990 from the Proposed Development.

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Ref 1.1 Environment Agency, H4 Odour Management, 2011

Ref 1.2 Department for Environment Food and Rural Affairs (DEFRA), Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, 2009

Ref 1.3 European Commission, 2002/49/EC, The Environmental Noise Directive, 2002