



Statutory Nuisance Statement

Regulation 5(2)(f)

Document 5.2

On behalf of
Oxfordshire Railfreight Limited

March 2026

**THE OXFORDSHIRE STRATEGIC RAIL FREIGHT INTERCHANGE
AND HIGHWAYS ORDER 202X**

STATUTORY NUISANCE STATEMENT

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

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1. INTRODUCTION

- 1.1 This statement has been prepared on behalf of Oxfordshire Railfreight Limited (the “Applicant”) as part of its application to the Secretary of State pursuant to section 37 of the Planning Act 2008 (as amended) for an order granting development consent (“DCO”) to authorise the construction and operation and use of a Strategic Rail Freight Interchange (SRFI) on land adjacent to the Chiltern Main Line Railway and southwest of Junction 10 of the M40 motorway in Cherwell District, Oxfordshire (the “Application”).
- 1.2 This document is prepared pursuant to the requirements of Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the “APFP Regulations”) and confirms *“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”*.
- 1.3 This statement should be read alongside the other Application documents, in particular the Environmental Statement (“ES”) (Document Reference 6.1 - 6.17). This statement refers to sections of the ES which contain detailed information on the assessment and mitigation of impacts.
- 1.4 The DCO, if granted, will authorise development consent for the following (referred to as the “Proposed Development”)¹:
- 1.4.1 An intermodal rail freight terminal, including rail connections and improvements to the Chiltern Main Line including works to Ardley Tunnel, rail sidings, container storage, heavy goods vehicle (“HGV”) parking and associated buildings;
 - 1.4.2 Up to 603,850 square metres (approximately 6.5 million square feet) of warehousing and ancillary buildings, plus up to 201,283 square metres of additional floorspace in the form of mezzanines;
 - 1.4.3 The retention, regeneration and re-use of Ashgrove Farm and associated buildings, including Ashgrove Cottages as part of a ‘Central Hub’ to provide estate management, training and communal facilities to serve the site;
 - 1.4.4 A secure, dedicated HGV parking area including driver welfare facilities;
 - 1.4.5 New road infrastructure and works to the existing road network, including improvements to M40 J10 and junctions on the A43, provision of the principal site access and associated works on the B430, a bypass to the village of Ardley linking the site directly with M40 J10, a relief road around the north eastern side of the village of Middleton Stoney, a link road connecting the B430 to Camp Road, improvements to M40 J9 and other highway improvements at junctions on the local highway network and related traffic management measures;
 - 1.4.6 New and improved pedestrian and cycle infrastructure both on the Main Site and in the surrounding area connecting the Main Site to local communities;

¹ Please refer to Schedule 1 of the draft DCO (Document 3.1) for more detail.

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- 1.4.7 Demolition of existing structures within the Application Site – the In Vessel Composting Facility (“IVCF”) will be demolished after the lease ends in 2030;
- 1.4.8 Earthworks to create development areas, construct the rail freight terminal and connections to the Main Line and form landscape screen mounding;
- 1.4.9 The retention of key landscape features together with new strategic landscaping, general planting and biodiversity enhancements; and
- 1.4.10 On and off site works associated with utilities including for foul drainage connections.
- 1.5 Section 79(1) of the Environmental Protection Act 1990 (“EPA”) states that subject to various exclusions, the following constitute ‘statutory nuisances’:
- 1.5.1 *any premises in such a state as to be prejudicial to health or a nuisance;*
- 1.5.2 *smoke emitted from premises so as to be prejudicial to health or a nuisance;*
- 1.5.3 *fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;*
- 1.5.4 *any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;*
- 1.5.5 *any accumulation or deposit which is prejudicial to health or a nuisance;*
- 1.5.6 *any animal kept in such a place or manner as to be prejudicial to health or a nuisance;*
- 1.5.7 *any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;*
- 1.5.8 *artificial light emitted from premises so as to be prejudicial to health or a nuisance;*
- 1.5.9 *noise emitted from premises so as to be prejudicial to health or a nuisance;*
- 1.5.10 *noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street; and*
- 1.5.11 *any other matter declared by any enactment to be a statutory nuisance.*
- 1.6 For the purposes of section 79(1), the definition of ‘noise’ includes vibration².
- 1.7 In order for action to be taken the nuisance complained of should either contain a risk to people’s health or interfere with a person’s legitimate use or enjoyment of land.
- 1.8 The matters under section 79(1) which are potentially engaged by the Proposed Development are nuisance cause by emissions, artificial light and noise.

² Section 79(7) EPA.

2. ASSESSMENT OF THE ENGAGEMENT WITH MATTERS UNDER SECTION 79(1) ENVIRONMENTAL PROTECTION ACT 1990

2.1 This section considers the following types of impacts which could engage matters under section 79(1):

2.1.1 Emissions from industrial, trade or business premises³ which could engage subsections (1)(c) or (1)(d);

2.1.2 Artificial light emitted from premises, which could engage subsection (1)(fb);

2.1.3 Noise, which could engage subsection (1)(g) if emitted from premises or subsection (1)(ga) if emitted by a vehicle, machinery or equipment in a street⁴.

2.2 Emissions (s.79(1)(c) and s.79(1)(d)) – Air Quality

Construction

2.2.1 During the construction of the Proposed Development, the emissions of dust generated through demolition and construction activities; and exhaust emissions, in particular nitrogen dioxide and particulate matter, from construction traffic have the potential to impact upon local air quality.

2.2.2 ES Chapter 4: Air Quality and Odour includes an assessment of the emission impacts during the construction phase. This assessment includes any emissions that might come within the scope of section 79(1).

2.2.3 The assessment takes into consideration embedded mitigation measures contained in a Construction Environmental Management Plan (CEMP) (see ES Appendix 2.3, Document Reference 6.2C). The relevant embedded mitigation measures are set out in Table 4.22 within ES Chapter 4.

2.2.4 Paragraph 4.6.12 of ES Chapter 4 concludes that with the implementation of mitigation, the residual effects arising from construction phase dust emissions are expected to be negligible and 'not significant' in accordance with Institute of Air Quality Management ("IAQM") guidance.

2.2.5 Paragraph 4.6.13 of ES Chapter 4 concludes that with the implementation of mitigation, the residual effects on human receptors arising from construction traffic emissions are expected to be negligible and 'not significant' in accordance with IAQM and Environmental Protection UK ("EPUK") guidance.

2.2.6 Therefore, based on the findings of ES Chapter 4, following implementation of the CEMP which will be secured through requirement in the DCO (Document Reference 3.1), no nuisance related to dust, nitrogen oxide or particulate matter is anticipated from the construction of the Proposed Development.

Operation

³ 'Premises', as defined in section 79(7) EPA, includes 'land'.

⁴ 'Street', as defined in section 79(7) EPA, as "a highway and any other road, footway, square or court that is for the time being open to the public".

- 2.2.7 ES Chapter 4 also includes an assessment of the emission impacts during the operational phase. The emission impacts assessed that might come within the scope of section 79(1) comprise exhaust emissions, in particular nitrogen dioxide and particulate matter, from road traffic.
- 2.2.8 The assessment takes into consideration embedded mitigation measures contained in a Framework Travel Plan (see ES Appendix 3.2, Document Reference 6.3B).
- 2.2.9 Paragraph 4.6.18 of ES Chapter 4 concludes that with the implementation of mitigation, the residual effects on human receptors arising from the operational phase are expected to be no worse than minor adverse and 'not significant' in accordance with IAQM and EPUK guidance.
- 2.2.10 Therefore, based on the findings of ES Chapter 4, following implementation of the Framework Travel Plan which will be secured through requirement in the DCO (Document Reference 3.1), no nuisance related to nitrogen oxide or particulate matter is anticipated from the operation of the Proposed Development.

2.3 Emissions (s.79(1)(c) and (d)) – Odour

Construction

- 2.3.1 During the construction of the Proposed Development to enable the connection of the rail connection to the existing railway and the construction of the principal site access roundabout, the capped (i.e. inactive) cells "A" and "B" of the Ardley Landfill will be partially excavated and reprofiled. The excavation process has the potential to emit odours by exposing the old waste currently buried in the capped landfill site. Once the excavation process is complete, any remaining open-to-air waste material will be re-capped. The re-capping of these waste materials will be carried out in accordance with an Environmental Permit and pursuant to the Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, presenting an improvement on the current position where the landfill was capped prior to the Directive.
- 2.3.2 ES Chapter 4: Air Quality and Odour includes an assessment of the emission impacts during the construction phase. This assessment includes any emissions that might come within the scope of section 79(1).
- 2.3.3 The assessment takes into consideration mitigation measures contained in an Odour Management Plan (OMP) (see ES Appendix 4.6, Document Reference 6.4F).
- 2.3.4 Paragraph 4.6.1 of ES Chapter 4 concludes that with the implementation of mitigation, the residual effects arising from partial excavation of the Ardley Landfill will lead to no worse than minor adverse and 'not significant' effects in accordance with IAQM and EA guidance.
- 2.3.5 Therefore, based on the findings of ES Chapter 4, following implementation of the OMP which will be secured through requirement in the DCO (Document Reference 3.1), no nuisance related to odour is anticipated from the construction of the Proposed Development.

Operation

- 2.3.6 Upon occupation of the Proposed Development, including the rail terminal and warehousing, new sensitive receptors will be created within the Application Site. However, as explained in paragraph 4.2.87 of ES Chapter 4, the landfill excavation will have been completed, reprofiled and re-capped before the first year of occupation at the Proposed Development, so will not pose an elevated odour risk during the operational phase.
- 2.3.7 In addition, the Biffa operated IVCF, located within the Main Site boundary, will have permanently ceased operations in 2030, prior to the first year of occupation at the Proposed Development. As noted at paragraph 4.2.88 of ES Chapter 4, the IVCF will not therefore pose an odour risk to future occupiers of the Proposed Development.
- 2.3.8 Paragraph 4.5.108 of ES Chapter 4 concludes that it is anticipated that there will be no odour impacts during the operational phase. It goes on to note that the IVCF has been a frequent source of odour complaints for residents in the nearest settlements and that the cessation of the operation of the IVCF resulting from the introduction of the Proposed Development is likely to lead to an overall betterment in local odour conditions.
- 2.3.9 Therefore, based on the findings of ES Chapter 4, no nuisance related to odour is anticipated from the operation of the Proposed Development.

2.4 Lighting (s.79(1)(fb))

Construction

- 2.4.1 During the construction of the Proposed Development, light pollution may be emitted from various activities to be carried out.
- 2.4.2 ES Chapter 8: Lighting includes an assessment of the impacts of lighting during construction. This assessment includes any impacts that that might engage section 79(1).
- 2.4.3 The assessment takes into consideration embedded mitigation measures contained in the Lighting Strategy (see ES Appendix 8.1, Document Reference 6.8A) and Construction Environmental Management Plan (CEMP) (see ES Appendix 2.3, Document Reference 6.2C). The relevant embedded mitigation measures are set out in Table 8.10 within ES Chapter 8.
- 2.4.4 Paragraphs 8.6.2-8.6.4 and Table 8.12 of ES Chapter 8 conclude that with the implementation of mitigation, the residual effects on human amenity receptors arising from construction phase lighting are expected to be negligible, minor or moderate and 'not significant'. The assessment also applies guidance contained in the Institution of Lighting Professionals ("ILP") Guidance Note 01/21 for the reduction of obtrusive light. The Application Site is found to be broadly characteristic of an E2 (Rural) environmental zone as defined in the ILP guidance. The residual effects will not result in any breaches of E2 environmental zone obtrusive light limits set down in the ILP guidance.

- 2.4.5 Therefore, based on the findings of ES Chapter 8, following implementation of the Lighting Strategy and CEMP which will be secured through requirements in the DCO (Document Reference 3.1), no nuisance related to lighting is anticipated from the construction of the Proposed Development.

Operation

- 2.4.6 ES Chapter 8 also includes an assessment of the impacts of lighting during the operational phase, including any impacts that might engage section 79(1).
- 2.4.7 The assessment takes into consideration embedded mitigation measures contained in the Lighting Strategy (see ES Appendix 8.1, Document Reference 6.8A).
- 2.4.8 Paragraphs 8.6.6-8.6.8 and Table 8.14 of ES Chapter 8 conclude that with the implementation of mitigation, the residual effects on human amenity receptors arising from operational phase lighting are expected to be negligible, minor or moderate and 'not significant'. These effects will not result in any breaches of E2 (rural) environmental zone obtrusive light limits set down in the ILP Guidance.
- 2.4.9 Therefore, based on the findings of ES Chapter 8, following implementation of the Lighting Strategy which will be secured through requirement in the DCO (Document Reference 3.1), no nuisance related to lighting is anticipated from the operation of the Proposed Development.

2.5 Noise (s.79(1)(g) and (ga))

- 2.5.1 The elements of the assessment which are relevant to s79(1) are those relating to noise emitted from premises (which includes land) and those caused by a vehicle, machinery or equipment in a street. These are encompassed within the assessment of construction and operational noise residual effects contained in ES Chapter 5: Noise and Vibration.
- 2.5.2 Notably, section 79(6A)(a) EPA provides that noise made by traffic is excluded from consideration of nuisance. Accordingly, traffic noise is not relevant to the consideration of s79(1)(ga) and is not mentioned below.

Construction

- 2.5.3 During the construction phase, various demolition and construction activities will be undertaken which may generate noise. A range of plant and machinery will be used.
- 2.5.4 ES Chapter 5 includes an assessment of the likely noise and vibration effects of the Proposed Development during its construction. This assessment includes any impacts that that might engage section 79(1).
- 2.5.5 The assessment takes into consideration embedded mitigation measures contained in the Construction Environmental Management Plan (CEMP) (see ES Appendix 2.3, Document Reference 6.2C). The relevant embedded mitigation measures are set out in paragraph 5.5.1 within ES Chapter 5.

- 2.5.6 Within paragraphs 5.5.10-5.5.31, 5.6.1-5.6.2 and 5.6.12-5.6.13 of ES Chapter 5, it is recognised that some adverse effects will occur but that construction noise levels will vary considerably throughout the works programme depending on the different activities being undertaken and how they are distributed across the site. However, it is concluded that with the implementation of mitigation, the residual effects on sensitive receptors arising from construction noise are expected to be 'not significant'.
- 2.5.7 Paragraphs 5.5.32-5.5.35, 5.6.2 and 5.6.12-5.6.13 of ES Chapter 5 consider construction vibration and note that only piling has been identified as having the potential to give rise to vibration that may cause adverse effects. The only element of the Proposed Development for which piling may be required is the construction of foundations for the bridge over the railway and for the retaining wall between the rail terminal and the railway. It is noted that the nearest receptor to the north of these works is located at over 115 metres from where the activities will occur. It is concluded that with the implementation of mitigation, the residual effects on sensitive receptors arising from construction vibration are expected to be 'not significant'.
- 2.5.8 Therefore, based on the findings of ES Chapter 5, following implementation of the CEMP which will be secured through requirements in the DCO (Document Reference 3.1), no nuisance related to construction noise or vibration is anticipated from the construction of the Proposed Development.

Operation

- 2.5.9 ES Chapter 5 also includes an assessment of the impacts of noise and vibration during the operational phase, including any impacts that might engage section 79(1).
- 2.5.10 The assessment takes into consideration embedded mitigation measures within the Proposed Development, which are set out in paragraphs 5.5.2-5.5.6 of ES Chapter 5.
- 2.5.11 Within paragraphs 5.5.71-5.5.78, 5.5.85, and 5.6.9-5.6.11 of ES Chapter 5, it is recognised that some adverse noise effects on sensitive receptors may arise from activities carried out on the Main Site. However, with the implementation of mitigation, the residual effects on sensitive receptors arising from operational noise within the Main Site are predicted to be 'not significant'.
- 2.5.12 Within paragraphs 5.5.64-5.5.68 and 5.6.6-5.6.8 of ES Chapter 5, it is concluded that there would only be small changes to the operational railway noise levels experienced at the closest sensitive receptors which would be 'not significant'.
- 2.5.13 Within paragraphs 5.5.86-5.5.91 and 5.6.14 of ES Chapter 5, it is concluded that a negligible increase in ground borne vibration may be experienced at the closest sensitive receptors which would be 'not significant'.
- 2.5.14 Therefore, based on the findings of ES Chapter 5, following implementation of mitigation embedded in the Proposed Development, no nuisance related to noise or vibration is anticipated from the operation of the Proposed Development.

3. CONCLUSION

- 3.1 This statement reports the conclusions of the ES in respect of potential statutory nuisance resulting from the construction and operation of the Proposed Development.
- 3.2 In respect of each category of potential statutory nuisance, due to the proposed mitigation detailed in the ES and secured by the DCO, it is considered that no statutory nuisance will result from the construction or operation of the Proposed Development.
- 3.3 Whilst this statement concludes that no statutory nuisance is likely to occur, the Applicant has included in its draft DCO, an article (based on the standard model provisions for DCOs) which would provide a defence against cases of nuisance in order that the defence can be relied upon in circumstances where a statutory nuisance cannot be avoided.