Great Yarmouth Third River Crossing

Application for Development Consent Order

Document 6.10: Statutory Nuisance Statement

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) ("APFP")

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Foreword

This Statutory Nuisance Statement accompanies an application ("the Application") submitted by Norfolk County Council ("the Applicant") to the Secretary of State for a Development Consent Order ('DCO') under the Planning Act 2008[1].

If made by the Secretary of State, the DCO would grant development consent for the construction, operation and maintenance of a new bascule bridge highway crossing of the River Yare in Great Yarmouth, and which is referred to in the Application as the Great Yarmouth Third River Crossing ("the Scheme").

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) require that an application for a DCO be accompanied by the documents specified at Regulation 5(2)(a) to (r). This is one of those documents and is specified at Regulation 5(2)(f).

[1] References to legislation in this document are to that legislation as amended at the date of this document.

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Glossary of Abbreviations and Defined Terms

BPM	Best Practicable Means
CoCP	Code of Construction Practice
CoPA	Control of Pollution Act
EIA	Environmental Impact Assessment
EPA	Environmental Protection Act
ES	Environmental Statement
GYBC	Great Yarmouth Borough Council
IAQM	Institute of Air Quality Management
NSR	Noise Sensitive Receptor
NCC	Norfolk County Council (other than in its Highway Authority role as promoter of the Scheme).
NMU	Non-Motorised User
PCLO	Port Community Liaison Officer

1 Introduction

1.1.1 Chapter 2 of Volume I of the Environmental Statement (ES) (document reference 6.1) provides a full description of the Scheme, and is accompanied by the General Arrangement Plan (document reference 2.2). Both documents should be read alongside the Statutory Nuisance Statement, as a detailed project description is not provided in this document to prevent unnecessary duplication.

1.1.2 The Scheme involves the construction, operation and maintenance of a new crossing of the River Yare in Great Yarmouth. If constructed, the Scheme would comprise the following principal elements:

- A new dual carriageway road, crossing the River Yare in an east-west orientation, comprising:
  - A new double-leaf bascule bridge providing an opening span to facilitate vessel movement within the river. This would include structures to support and accommodate the operational requirements of the bridge-opening mechanism, including counterweights below the level of the bridge deck. The bridge would be supported on driven piles;
  - New substructures, supported by driven piles, to support the double-leaf bascule bridge within the existing quays either side of the river and within the river itself, requiring new permanent "knuckle" walls, creating cofferdams in the waterway to accommodate their construction;
  - A new five-arm roundabout connecting the new dual carriageway road with Suffolk Road, William Adams Way and the western end of Queen Anne's Road. Sections of the new five-arm roundabout would be supported on driven piles where deep soft ground is encountered;
  - A single-span bridge over Southtown Road, with reinforced earth embankments joining that bridge to the new roundabout at William Adams Way. Southtown Road bridge and the reinforced earth embankments would be supported on driven piles;
  - A single-span bridge to provide an underpass on the eastern side of the river, with reinforced earth embankments joining that single-span bridge to South Denes Road. The underpass and reinforced earth embankments would be supported on driven piles; and
  - A new signalised junction connecting the new road with A1243 South Denes Road.
- The closure of Queen Anne's Road, at its junction with Suffolk Road, and the opening of a new junction onto Southtown Road providing vehicular

and pedestrian access to residential properties and the MIND Centre and Grounds at the eastern end of Queen Anne's Road;

- Revised access arrangements for existing businesses onto the local highway network;
- Dedicated provision for cyclists and pedestrians which ties into existing networks;
- Implementation of part of a flood defence scheme along Bollard Quay that is proposed to be promoted by the Environment Agency, and works to integrate with the remainder of the flood defence scheme;
- A control tower structure located immediately south of the crossing on the western side of the river. The control tower would facilitate the 24/7 operation of the opening span of the new double-leaf bascule bridge;
- A plant room located on the eastern side of the river for the operation of the opening span of the new double-leaf bascule bridge;
- The demolition of an existing footbridge on William Adams Way;
- Associated changes, modifications and/or improvements to the existing local highway network;
- Additional signage, including Variable Message Signs (VMS) at discrete locations, to assist the movement of traffic in response to network conditions and the openings / closings of the double-leaf bascule bridge;
- The relocation of existing allotments to compensate for an area to be lost as a result of the Scheme and other works, including those at the MIND Centre and Grounds; and
- New public realm, landscape, ecology and sustainable drainage measures.

1.1.3 The Scheme also includes works to facilitate the construction, operation and maintenance of the above elements including:

- Creation of temporary construction sites and accesses from the public highway;
- Provision of new utilities and services and the diversion of existing utilities;
- Provision of drainage infrastructure, lighting and landscaping;
- Demolition of a number of existing residential and commercial / business properties; and
- Provision of vessel waiting facilities to the north and south of the new crossing, either as floating pontoons or additional fendering to the existing berths, including any dredging and quay strengthening works that may be required.

2 Statutory Context

2.1.1 This Statement of Statutory Nuisance identifies whether the Scheme engages one or more of the statutory nuisances, set out in section 79(1) of the Environmental Protection Act 1990 ("the EPA") (Ref. 1), and if so, how the Applicant proposes to mitigate or limit such nuisances.

2.1.2 Section 79(1) of the EPA (as it applies in England) provides that the following matters constitute statutory nuisances:

"(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; and

(h) any other matter declared by any enactment to be a statutory nuisance."

2.1.3 Paragraph (h) of Section 79(1) incorporates any statutory nuisances contained in other legislation. The Public Health Act 1936 (Ref. 2) provides that various other matters are statutory nuisances for the purposes of the EPA, including the following, which are potentially relevant to the Scheme:

"any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance" (s.259(1)(a)); and

"any part of a watercourse, not being a part ordinarily navigated by vessels employed in the carriage of goods by water, which is so choked or silted up as to obstruct or impede the proper flow of water and thereby to cause a nuisance, or give rise to conditions prejudicial to health" (s.259(1)(b)).

2.1.4 Section 79 contains other exceptions and definitions in respect of statutory nuisance. The particular exceptions of relevance to the Scheme are:

- Subsection (1)(c), regarding fumes or gases emitted from premises *"…does not apply in relation to premises other than private dwellings"* (s.79(4)), and as such is not engaged in relation to the Scheme*; and*
- Subsection (1)(ga), regarding noise emitted from or caused by a vehicle, machinery or equipment in a street "…*does not apply to noise made by, traffic"* but would apply to construction vehicles and plant (s.79(6A)).

2.1.5 Definitions are set out in Section 79(7), and include the following relevant terms:

- *""dust" does not include dust emitted from a chimney as an ingredient of smoke;*
- *"fumes" means any airborne solid matter smaller than dust;*
- *"gas" includes vapour and moisture precipitated from vapour;*
- *"industrial, trade or business premises" means premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purposes of manufacturing;*
- *"noise" includes vibration;*
- *"prejudicial to health" means injurious, or likely to cause injury, to health;*
- *"premises" includes land and …any vessel";*
- *"private dwelling" means any building, or part of a building, used or intended to be used, as a dwelling;*
- *"street" means a highway and any other road, footway, square or court that is for the time being open to the public."*

3 Potential Breaches of Section 79(1) of the Environmental Protection Act 1990

3.1 Introduction

3.1.1 This section considers the types of impacts associated with the Scheme that could potentially engage one or more of the matters set out in Section 79(1) of the EPA.

3.1.2 The provisions of Section 79(1) of EPA that could potentially be engaged are:

"(d) any dust, steam, smell or other effluvia arising on 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 any enactment to be a statutory nuisance."

3.1.3 The following provisions of the Public Health Act 1936 could potentially be engaged:

- *"any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance"* (s.259(1)(a));
- *"any part of a watercourse, not being a part ordinarily navigated by vessels employed in the carriage of goods by water, which is so choked or silted up as to obstruct or impede the proper flow of water and thereby to cause a nuisance, or give rise to conditions prejudicial to health* (s.259(1)(b))."

3.1.4 The types of impacts associated with the Scheme do not include steam, smell or other effluvia. Dust impacts are discussed further in Section 3.2.

3.1.5 Section 79 (6A) clarifies subsection 79 (1)(ga) ("*noise emitted from or caused by a vehicle, machinery or equipment in a street")* to make clear that it does not apply to noise made by traffic, and therefore traffic noise effects during the operational phase of the Scheme are not referred to in this document.

3.1.6 Chapter 7: Noise and Vibration of the ES (document reference 6.1) assesses the likely noise and vibration impacts associated with the construction and operational phases (including traffic) of the Scheme. Further details of this assessment, where it is relevant to this Statement of Statutory Nuisance, are included in Section 3.3.

3.1.7 Each of these categories of statutory nuisance potentially engaged by the Scheme are considered below.

3.2 Dust Arising on Business Premises and/or Smoke, Fumes or Gases Emitted from Vehicles, Machinery or Equipment

3.2.1 Chapter 6: Air Quality of the ES (document reference 6.1) assesses the likely air quality impacts associated with the construction and operational phases of the Scheme. Operational phase impacts on air quality are expected to be associated with changes to vehicle emissions, caused by the implementation of the Scheme. As part of this assessment, potential dust impacts on receptors during the construction phase have been assessed on human receptors located within 350m of the Application Site.

3.2.2 The assessment of construction dust has been informed by the Institute of Air Quality Management (IAQM) guidance document (Ref. 3). A detailed methodology for the assessment of construction dust is included in Chapter 6: Air Quality of the ES (document reference 6.1). The residual effects from all construction dust-generating activities, following implementation of appropriate mitigation measures, are assessed as being slight adverse at the highest risk receptors.

3.2.3 Mitigation measures in relation to dust and emissions arising during construction are secured through the Outline Code of Construction Practice (CoCP) (document reference 6.16). The Contractor is required by the DCO to prepare and submit a full CoCP for approval to the county planning authority, which must be in accordance with the Outline CoCP.

3.2.4 An example of mitigation measures include, but are not limited to:

- Dust-generating activities (e.g. cutting, grinding and sawing) to be minimised and weather conditions considered prior to conducting potentially dust-emitting activities;
- Fine material not to be stockpiled to an excessive height, in order to prevent exposure to wind and/or dust nuisance;
- Roads and accesses to be kept clean;
- Where reasonably practicable, plant to be located away from site boundaries that are close to residential areas;
- Water will be used as a dust suppressant, where applicable;

- Drop heights from excavators to crushing plant to be kept to a minimum;
- Distances from crushing plant to stockpiles to be kept to the minimum practicable to control dust generation associated with the fall of materials;
- Skips will be securely covered;
- Soiling, seeding, planting or sealing of completed earthworks to be completed as soon as reasonably practicable, following completion of earthworks;
- Dust suppression and the maintenance of the surface of access routes to be appropriate to avoid dust as far as practicable, taking into account the intended level of trafficking;
- Wheel-wash facilities to minimise trackout of dust onto the highway;
- Material will not to be burnt on site; and
- Engines will be switched off when not in operation.

3.2.5 With the mitigation described above in place, both the magnitude and duration of fugitive dust releases are predicted to be reduced throughout the construction phase, to slight adverse at worst, at the highest risk receptors downwind and within 50m of construction activities.

3.2.6 Dust and other emissions during construction are predicted, therefore, to be controlled by the above mitigation measures and to not give rise to any nuisance, nor be prejudicial to health, under section 79(1)(d) of the EPA 1990 (Ref. 1).

3.3 Noise and Vibration

3.3.1 Chapter 7: Noise and Vibration of the ES (document reference 6.1) assesses the likely noise and vibration impacts associated with the construction of the Scheme.

3.3.2 This assessment concludes that, with the inclusion of mitigation measures, residual noise effects during the construction of the Scheme would be very large adverse at the highest risk receptors.

3.3.3 This assessment concludes that, with the inclusion of mitigation measures, residual vibration effects during the construction of the Scheme would be at most, large adverse at the highest risk receptors.

3.3.4 Additionally, the changes in road traffic noise due to construction related traffic are predicted to be very large adverse.

3.3.5 During the operation phase no adverse effects are predicted due to the operation of the bridge opening alarm.

3.3.6 Mitigation measures in relation to noise effects arising during construction are secured through the Outline CoCP (document reference 6.16). The Contractor is required by the DCO to prepare and submit a full CoCP for approval to the county planning authority, which must be in accordance with the Outline CoCP.

3.3.7 These mitigation measures include Best Practicable Means (BPM), as defined under Section 72 of the Control of Pollution Act (CoPA) 1974 (Ref. 4) include, but are not limited to:

- Maintaining good public relations with residents that may be affected by noise from the construction works. Effective means of communication will be established, keeping residents informed of the type and timing of works involved by following the processes noted in section 2.6 of the Outline CoCP;
- Careful planning of construction activities and selection of appropriate plant to reduce noise emissions;
- Careful planning of construction activities and selection of appropriate plant to reduce noise emissions;
- Whenever possible noisy activities should be undertaken during core working hours;
- Where reasonably practicable, fixed items of construction plant should be electrically powered in preference to diesel or petrol driven;
- Whenever reasonably practicable, fabrication would be undertaken off site;
- Noisy plant would be kept as far away as reasonably practicable from sensitive areas (and may need localised acoustic and visual screening);
- As far as reasonably practicable the noise from reversing alarms would be controlled or limited. This would be undertaken through following a hierarchy of techniques:
  - (a) The site layout would be designed to minimise reversing.
  - (b) Banksmen would be utilised to avoid so far as reasonably practicable the use of reversing alarms.
  - (c) Reversing alarms would incorporate, where reasonably practicable, features such as broadband signals to reduce the level of noise.
- All plant, equipment and noise control measures applied to plant and equipment will be maintained in good working order and operated such that noise emissions are minimised as far as reasonably practicable. Every effort would be made to plant, equipment or items fitted with noise control equipment found to be defective, not to be operated until repaired;
- Shutting down equipment when not in use;

- A Toolbox talk and information leaflet would be provided to operatives when working outside of the core working hours set out in the Outline Code of Construction Practice to brief them on the requirements to be considerate to local residents and any specific control measures required with each specific task being undertaken;
- Use of construction hoardings around the noise generating activity up to a height appropriate to ensure attenuation of noise is achieved;
- Where reasonably practicable, use of temporary barriers to screen noisy activities;
- Using silenced equipment where reasonably practicable, in particular, silenced power generators if night-time power generation is required for site security or lighting;
- Ensuring that vehicles do not park or queue for long periods outside Noise Sensitive Receptors (NSRs) with engines running unnecessarily;
- Generators and water pumps required for 24-hour operation would be silenced and/or screened, as appropriate; and
- Where reasonably practicable, soft start procedures for terrestrial piling would be used.

3.3.8 Works outside core hours will be agreed pursuant to an application for 'prior consent' from GYBC under Section 61 of the CoPA.

3.3.9 For working outside core hours, where practicable, silenced equipment and plant will be used, and/or temporary barriers will be installed to reduce noise at NSRs to below BS 522/-1:2009+A1:2014 threshold values where practicable.

3.3.10 During construction works, the mitigation measures to control and reduce noise and vibration emissions to ecological receptors will be included within the Outline CoCP (document reference 6.16) will be followed. Mitigation measures will include the adoption of the measures set out in the Joint Nature Conservation Committee (JNCC) document entitled *'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise'* (2010).

3.4 Artificial Light

3.4.1 Chapter 10: Townscape and Visual of the ES (document reference 6.1) describes the effects from lighting in both the construction and operational phases of the Scheme.

3.4.2 During construction there would be a temporary increase in artificial lighting, localised to the Principal Application Site. This would result from construction

task and security lighting. There is not anticipated to be a notable increase in artificial lighting and it would be seen within the context of that existing along William Adams Way, Southtown Road, minor roads and around the commercial properties. There would be notable increases in artificial lighting for short durations associated with specific tasks. Illumination of works at the River Yare where there are no existing lighting sources could be a notable short-term change. Whilst there would be an increase, the perception of this would be minimal and for a short duration so that significant effects would not arise.

3.4.3 Where reasonably practicable, task lighting would face away from nearby properties. The type of task lighting employed for different activities would vary depending on the nature of those activities and would be commensurate with the works being undertaken. As secured in the Outline CoCP (document reference 6.16), the Contractor would employ the below measures to minimise the effect on the surrounding area and wildlife:

- Minimise glare caused by poorly directed security and flood lighting by positioning lights at less than 70 degrees and directed away from the boundary of any operational construction area. The installation of ballasts or shields on the lights would be used, where appropriate;
- Minimise light spill by avoiding poorly sited lights on the boundary of the development; and
- Minimise sky glow by use of modern flood lights with appropriate shields to avoid light spilling upwards.

3.4.4 The approaches to the Crossing (but not the raise and lower leaves of the bridge deck), would be lit with roadside lighting (in line with current highway standards) using columns and light overspill limited to the carriageway. The lighting, particularly on the approach roads would represent a new lighting source within the context of Great Yarmouth. However, this would not significantly increase the perception of artificial lighting in view. The lighting would appear as cones of light, illuminating the carriageway and traffic. This appearance would extend to the tie in with Williams Adams Way and South Denes Road, both of which have existing street lighting. These changes associated with the Scheme would not significantly increase the perception of lighting in this urban environment.

3.4.5 The additional public realm lighting along Southtown Road and along Cromwell Road would introduce localised but small scale increases in artificial lighting, which would be additional to the existing street lighting but not anticipated to result in significant effects. The use of sensor controls could limit lighting only to when it is needed and thus reduce effects further.

3.4.6 Therefore, new lighting is unlikely to significantly increase the perception of lighting in the construction or operational phases and is not predicted to give

rise to any nuisance, nor be prejudicial to health under section 79(1)(fb) of the EPA 1990 (Ref. 1).

3.5 Statutory Nuisances under the Public Health Act 1936

3.5.1 The Scheme would not give rise to any statutory nuisance under section 79(1)(h) of the 1990 Act in respect of section 259 of the Public Health Act 1936, which relates to:

(a) *"any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health"* and/or (b) *"any part of a watercourse…which is so choked or silted up as to obstruct or impede the proper flow of water".*

3.5.2 Mitigation measures in relation to protect surface water from pollution during construction of the Scheme are set out in the Outline CoCP (document reference 6.16). The Contractor is required by the DCO to prepare and submit a full CoCP for approval to the county planning authority, which must be in accordance with the Outline CoCP. These mitigation measures include, but are not limited to:

- A temporary surface water drainage strategy to be prepared for the construction stage to ensure that surface run-off would not directly enter existing watercourses;
- The use of soft start piling techniques to minimise the disturbance and subsequently mobilisation of contaminated sediment within the River Yare during construction of the bridge substructures;
- Temporary cut-off drains would be used uphill and downhill of the working areas to prevent clean runoff entering and dirty water leaving the working area without appropriate treatment;
- All drains within the Scheme Extent would be identified and labelled and measures implemented to prevent polluting substances from entering them;
- Areas with a greater risk of spillage (e.g. vehicle maintenance and storage areas for hazardous materials) would be carefully sited (e.g. away from drains or areas where surface waters may pond);
- Emergency response plans would be developed and spill kits made available on site;
- Measures to be put in place to prevent pollution from construction plant, vehicles and machinery, including refuelling in designated areas on an impermeable surface, with appropriate cut-off drainage located away from watercourses; plant to be maintained in a good condition with wheel washing in place, all refuelling would be supervised and carried out in a

designated area. In the event of plant breakdown drip trays would be used during any emergency maintenance and spill kits would be available on site;

- All fuel, oil and chemicals would be stored in a designated secure area, with secondary containment provided;
- Fuels and potentially hazardous construction materials would be stored in bunds that have areas with external cut-off drainage; fuel would be stored in double skinned tanks with 110% capacity;
- Construction plant would be checked regularly for oil and fuel leaks, particularly when construction works are undertaken in or near the existing site waterbodies;
- Waste fuels and other fluid contaminants would be collected in leak-proof containers prior to removal from construction site to an approved recycling processing facility;
- Oil absorbent booms would be made available on site and deployed in the event of a significant spillage;
- Procedures to control dust and contain debris associated with demolition works;
- Control and treatment measures would be inspected regularly to ensure they are working effectively;
- Concrete wash out would only take place at designated concrete washout areas; and
- Surface water run-off and excavation dewatering would be captured and settled out prior to disposal to sewer as appropriate. Any contaminants to be removed prior to disposal.

4 Conclusion

4.1.1 This Statement of Statutory Nuisance identifies the matters set out in Section 79(1) of the EPA 1990 (Ref. 1) in respect of statutory nuisances and considers whether the Scheme would engage one or more of those matters.

4.1.2 With mitigation in place, as described above, it is not expected that there would be a breach of Section 79(1) of the EPA 1990 (Ref. 1) during construction or operational activities.

4.1.3 The construction activities that have the potential to create a nuisance would be controlled through the full CoCP which would be produced by the Contractor. The full CoCP would be produced in compliance with the Outline CoCP (document reference 6.16) which sets out the high-level obligations by which the Contractor must abide and secures the construction-related mitigation identified in the ES. The production of the full CoCP would be a requirement of the DCO (document reference 3.1).

5 References

Ref. 1: Environmental Protection Act 1990

Ref. 2: The Public Health Act 1936

Ref. 3: Institute of Air Quality Management (2014) Guidance on the assessment of dust from demolition and construction Version 1.1.

Ref. 4: HM Government (1974), Control of Pollution Act 1974.

Ref. 5: The British Standards Institution (2014), BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites. Part 1: Noise.