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## STATUTORY INSTRUMENTS

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# 2020 No. 474

## The Lake Lothing (Lowestoft) Third Crossing Order 2020

### PART 5

#### MISCELLANEOUS AND GENERAL

##### Defence to proceedings in respect of statutory nuisance

**56.**—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisance) of the Environmental Protection Act 1990 <sup>M1</sup> in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974 <sup>M2</sup>; or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

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##### Commencement Information

**II** Art. 56 in force at 21.5.2020, see [art. 1](#)

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##### Marginal Citations

**M1** 1990 c. 43. There are amendments to section 82(1) which are not relevant to this Order.

**M2** 1974 c. 40. Section 61(9) was amended by paragraph 15(3) of Schedule 14 to the [Environmental Protection Act 1990 \(c. 43\)](#) and by Schedule 24 to the [Environment Act 1995 \(c. 25\)](#). There are other amendments to section 61 which are not relevant to this Order.

**Status:**

Point in time view as at 21/05/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Lake Lothing (Lowestoft) Third Crossing Order 2020, Section 56.