The Drax Power (Generating Stations) Order

Land at, and in the vicinity of, Drax Power Station, near Selby, North Yorkshire

Statutory Nuisance Statement

The Planning Act 2008
The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 – Regulation 5(2)(f)

Drax Power Limited

Drax Repower Project

Applicant:	DRAX POWER LIMITED
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EXECUTIVE SUMMARY

This Statutory Nuisance Statement has been written to comply with Regulation 5(2)(f) of the APFP Regulations, which states that any application for a DCO should be accompanied by a statement setting out whether the proposed gas-fired electricity generating station in Drax, North Yorkshire, could cause a statutory nuisance pursuant to Section 79(1) of the Environmental Protection Act 1990 (EPA). If such a nuisance could occur, the statement must set out how the applicant proposes to mitigate or limit the effects. An overview of the Proposed Scheme and the location of the Site is included in Section 1.2.

Section 2 identifies the legislative framework pertinent to statutory nuisance, and those matters which are not considered within this Statement due to the nature of the Proposed Scheme.

Section 3 outlines the likely significant landscape and visual effects identified within the Environmental Statement (which accompanies this DCO Application (Document Ref. No. 6.1)) which may have a bearing on statutory nuisance. It also outlines the mitigation measures which have been identified to reduce the potential statutory nuisance impacts, as outlined in the Environmental Statement

Section 4 outlines the likely negligible and minor effects which may arise from the Proposed Scheme which may give cause for nuisance and any mitigation measures which are proposed for the control of these.

It is concluded in Section 5 that only visual amenity has been assessed within the Environmental Statement as having the potential to lead to significant effects; however, following the embedded mitigation measures outlined in Section 3, no significant visual nuisance effects are anticipated. In addition the operation of the Proposed Scheme is to be regulated by the Environment Agency through an Environmental Permit.

1 INTRODUCTION

1.1 Background

1.1.1. This statement has been prepared on behalf of Drax Power Limited ('Drax' or the 'Applicant'). It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under section 37 of 'The Planning Act 2008' (the 'PA 2008') (Ref 5.3.1).

1.1.2. A DCO is required for the Proposed Scheme as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under sections 14 and 15(2) of the PA 2008.

1.1.3. This Statutory Nuisance Statement ('SNS') provides an explanation of matters set out in Section 79(1) of the Environmental Protection Act ('EPA') 1990 in respect of statutory nuisances which may occur from the Proposed Scheme.

1.1.4. The requirement for such a statement is set out in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations 2009') (Ref 5.3.2) at regulation 5(2)(f), which states: "*the application must be accompanied by…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".*

1.2 The Proposed Scheme

1.2.1. Drax Power Station is located near Selby, North Yorkshire.

1.2.2. Land uses within the Existing Drax Power Station Complex are predominantly associated with the operation of Drax Power Station. This includes a coal stock yard, hard standing, contractors' compounds, car parks, access/service roads and a riverside loading / unloading jetty, which is linked to the River Ouse to the east. Other land uses within the Existing Drax Power Station Complex not directly related to the operation of Drax Power Station and of the adjacent land owned by the Applicant (being the Carbon capture readiness reserve space) comprise open grassland, scrub and farmland.

1.2.3. The Proposed Scheme is to repower up to two existing coal-powered generating units (Units 5 and 6) at the Existing Drax Power Station Complex with new gas turbines that can operate in both combined cycle and open cycle modes. The term "repower" is used as existing infrastructure, such as the steam turbine and cooling towers, that are currently used for the coal fired units, would be reutilised for the new gas fired generating units/stations.

1.2.4. The repowered units (which each constitute a new gas fired generating station) would have a new combined capacity of up to 3,600 MW in combined cycle mode (1,800 MW each), replacing existing units with a combined capacity to generate up to 1,320 MW (660 MW each).

1.2.5. Each gas generating station (or unit) would have up to two gas turbines, with each gas turbine powering a dedicated generator of up to 600 MW in capacity. The gas turbines in

each generating station (or unit), therefore, would have a combined capacity of up to 1,200 MW. The gas turbines in each generating station (or unit), in combined cycle mode, would provide steam to the existing steam turbine (through Heat Recovery Steam Generators (HRSGs)) which would generate up to 600 MW per generating station (or unit). Each generating station (or unit) would have up to two HRSGs. This results in a capacity for each generating station of up to 1,800 MW and, should both Units 5 and 6 be repowered, a combined capacity of up to 3,600 MW. The new gas turbine generating stations (or units) have been designated the terms "Unit X" and "Unit Y".

1.2.6. Each of Unit X and Unit Y would have (subject to technology and commercial considerations) a battery energy storage facility with a capacity of up to 100 MW per Unit, resulting in a combined battery energy storage capacity of up to 200 MW. The two battery energy storage facilities would be stored in a single building.

1.2.7. The total combined capacity of the two gas fired generating stations, Unit X and Unit Y, and two battery storage facilities (i.e. the total combined capacity of the Proposed Scheme) is therefore 3,800 MW.

1.2.8. The DCO seeks consent for the following flexibility:

- Repowering of either Unit 5 or 6 and construction of Unit X as a gas fired generating station (this would leave either Unit 5 or 6 (depending on which had been repowered) as a coal-fired unit); or
- Repowering of both Units 5 and 6 and construction of Unit X and Unit Y as two gas fired generating stations.

1.2.9. In the event that a single unit is repowered and Unit X constructed, up to two gas turbines and up to two HRSGs and (subject to technology and commercial considerations) a battery energy storage facility of up to 100 MW storage capacity would be constructed. The size of the building housing the battery storage facility would not change, as the building could house sufficient battery capacity to allow the 100 MW output to be sustained for a longer duration. However, the fuel gas station and gas insulated switchgear required for the Gas Pipeline would be smaller.

1.2.10. In the event that two units are repowered and both Unit X and Unit Y are constructed, then construction works would be undertaken consecutively rather than concurrently. It is assumed for the purposes of this ES that there would be a gap of a year between construction periods, but this could be longer depending on commercial considerations. Unit Y would mirror Unit X, with up to two gas turbines and up to two HRSGs and (subject to technology and commercial considerations) a battery energy storage facility of up to 100 MW storage capacity which would be housed in the building constructed for the battery for Unit X.

1.2.11. In order to repower to gas, a new Gas Pipeline would be constructed from the Existing Drax Power Station Complex to the National Transmission System (NTS) operated by National Grid. Pipeline infrastructure would be the same whether Unit X was constructed or whether Unit X and Unit Y was constructed.

1.2.12. A gas receiving facility (GRF) comprising Pipeline Inspection Gauge (PIG) Trap Facility (PTF), Pressure Reduction and Metering Station (PRMS) and compressor station is proposed south of woodland to the east of New Road.

1.2.13. At the connection to the NTS there will be an above ground installation (AGI) south of Rusholme Lane. The AGI involves a PIG Trap Launching station (PTF-L) which will be operated by Drax, and a Minimum Offtake Connection (MOC), which will be operated by National Grid.

1.2.14. A full description of the Proposed Scheme and the Site is contained in Chapter 3 (Site and Project Description) of the ES.

1.3 The Purpose of this Document

1.3.1. The purpose of this document is to comply with Regulation 5(2)(f) of the APFP Regulations 2009, which states that any application for a DCO should be accompanied by a statement setting out whether the development proposal could cause a statutory nuisance pursuant to Section 79(1) of the EPA (Ref 5.3.5). If such a nuisance could occur, the statement must set out how the applicant proposes to mitigate or limit the effects.

1.3.2. Paragraph 4.14.1 of the 'Overarching National Policy Statement for Energy EN-1' (Ref 5.3.6) states that:

> "*Section 158 of the Planning Act 2008 confers statutory authority for carrying out development or doing anything else authorised by a development consent order. Such authority is conferred only for the purpose of providing a defence in any civil or criminal proceedings for nuisance. This would include defence for proceedings for nuisance under Part III of the EPA (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised. The defence does not extinguish the local authority's duties under Part III of the EPA to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve abatement notice where satisfied to its existence, likely occurrence or recurrence. The defence is not intended to extend to proceedings where the matter is 'prejudicial to health' and not a nuisance.*"

1.3.3. Paragraph 4.14.2 goes on to state that it is very important that at the application stage, the SoS considers sources of nuisance under Section 79(1) of the EPA and how these may be mitigated or limited, so that appropriate 'requirements' can be included in any DCO that is granted.

1.3.4. Whilst it is not expected that the construction, operation, maintenance and decommissioning of the Proposed Scheme would cause a statutory nuisance, Article 38 of the draft DCO (Document Ref 3.1) accompanying the application contains a provision that would provide a defence to proceedings in respect of statutory nuisance (in respect of sub-paragraph (g) of Section 79(1) of the EPA (noise emitted from premises so as to be prejudicial to health or a nuisance), subject to certain criteria.

1.3.5. This Statement first describes the legislative context for the identification of matters which constitute statutory nuisance and the methodology for the assessment of these. This is followed by a summary of the assessment of the statutory nuisances, using information from

the ES (Document Ref 6.1), including any relevant mitigation measures and residual effects, whether embedded within the design of the Proposed Scheme or secured through requirements within the DCO.

2 APPROACH TO ASSESSMENT OF STATUTORY NUISANCE

2.1 Legislative Framework

2.1.1. Section 79(1) of the EPA identifies the matters which are considered to be statutory nuisance as follows:

(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.
(fba) Artificial light emitted from premises artificial light emitted from premises and any stationary object 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 statutory nuisance.

2.2 Assessment of Significance

2.2.1. The ES (Document Ref 6.1) for the Proposed Scheme addresses the likelihood of significant effects arising that could constitute a statutory nuisance, as identified in Section 79(1) of the EPA. Chapters 3 (Site and Project Description) and 4 (Consideration of Alternatives) describe impact avoidance measures inherent to the proposed design and methods of operation, which address the potential statutory nuisances defined at paragraph 2.1.1 above. Chapters 5 (Transport), 6 (Air Quality), 7 (Noise and Vibration), 10 (Landscape and Visual Amenity), 13 (Waste), 14 (Socio-economics) and their associated appendices (Document Ref 6.2) provide detailed assessments of these potential statutory nuisances and identify mitigation measures where necessary. Embedded mitigation and best practice measures to be implemented during construction are outlined within the Construction Environmental Management Plan (CEMP) (Document Ref 6.5).

2.2.2. The ES provides an assessment of the potential effects on receptors as negligible, minor, moderate or major. Moderate and major impacts are considered to be significant for the purposes of the EIA.

2.2.3. The only matter addressed by the ES which has been assessed as likely to be significant for the Proposed Scheme and which may have a bearing on the EPA is visual amenity. However, it is demonstrated in Section 3 of this document that the Proposed Scheme would

have no significant visual amenity effects that would constitute nuisance effects following the implementation of the identified embedded mitigation measures.

2.2.4. Other potential nuisance aspects have been considered in Section 4 and through embedded mitigation no statutory nuisance effects are considered likely to occur.

2.2.5. Matters which are considered to be statutory nuisance under Section 79(1) of the EPA are covered within Sections 3, 4 or are excluded as outlined in Table 1, depending on whether potentially significant effects were identified within the ES.

Table 1 EPA Section 79(1) Matters and Significance of Effects

EPA Section 79(1) Matter	Section within Statement to be Considered
(a) Any premises in such a state as to be prejudicial to health or a nuisance.	The landscape and visual assessment identified likely significant effects for visual receptors. This matter is therefore considered under Section 3 of this Statement.
(b) Smoke emitted from premises so as to be prejudicial to health or a nuisance	No smoke is expected to be generated during normal operation of the Proposed Scheme. This matter is not considered further within this Statement.
(c)Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance.	The air quality assessment did not identify any significant effects for human receptors from emitted fumes or gases. This matter is therefore considered under Section 4 of this Statement.
(d) Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.	The air quality assessment did not identify any significant effects for human receptors from dust, steam, smell or other effluvia. This matter is therefore considered under Section 4 of this Statement.
(e) Any accumulation or deposit which is prejudicial to health or a nuisance.	The ground conditions assessment did not identify any significant effects for human receptors. This matter is therefore considered under Section 4 of this Statement.
(f) Any animal kept in such a place or manner as to be prejudicial to health or a nuisance.	No animals will be kept at the Proposed Scheme. This matter is not considered further within this Statement.
(fa) Any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.	The nature of the Proposed Scheme provides no indication that insects will emanate from the premises or be attracted to it. This matter is not

	considered further within this Statement.
(fb) Artificial light emitted from premises so as to be prejudicial to health or a nuisance.	No significant effects are anticipated from light emitted from the premises. This matter is therefore considered under Section 4 of this Statement.
(fba) Artificial light emitted from premises artificial light emitted from premises and any stationary object so as to be prejudicial to health or a nuisance	No significant effects are anticipated from light emitted from the premises. This matter is therefore considered under Section 4 of this Statement.
(g) Noise emitted from premises so as to be prejudicial to health or a nuisance.	The noise assessment did not identify any significant effects for human receptors from noise emitted from premises. This matter is therefore considered under Section 4 of this Statement.
(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.	The noise assessment did not identify any significant effects for human receptors from noise emitted or cause by a vehicle, machinery or equipment. This matter is therefore considered under Section 4 of this Statement.
(h) Any other matter declared by any enactment to be statutory nuisance.	No other matters are considered to be a potential statutory nuisance associated with the construction, operation or demolition of the Proposed Scheme

3 POTENTIALLY SIGNIFICANT IMPACTS

EPA Section 79(1)(a) “any premises in such a state as to be prejudicial to health or a nuisance”

3.1.1. The assessment of effects on landscape and visual amenity is presented within Chapter 10 (Landscape and Visual) and Chapter 17 (Cumulative Effects) of the ES (Document Ref 6.1).

3.1.2. The ES concludes that there is likely to be significant effects upon residents within 3 km of the Proposed Scheme during Stages 0 – 3 of the Proposed Scheme, recreational users of the Trans Pennine Trail and other PRoW within 3 km of the Proposed Scheme during Stages 1 – 3 and users of the local road network within 1 km of the Proposed Scheme during Stages 2 and 3. While significant adverse effects have been identified as likely, these do not constitute a statutory nuisance under EPA Section 79(1)(a) as this is only considered to occur if poor levels of housekeeping or maintenance are applied at the Proposed Scheme.

3.1.3. To minimise risk of any statutory nuisance from occurring through poor maintenance, operational and management controls will be put in place such as the establishment of a maintenance strategy and waste management procedures, working in accordance with the Environmental Permit and the Applicant's environmental management system (EMS) and implementing the measures set out in the Outline Landscape and Biodiversity Strategy (Document Ref 6.7).

3.1.4. The following impact avoidance measures will be incorporated into the design or are standard construction or operational methods:

- Impact avoidance techniques would be implemented, as relevant and appropriate, prior to and during the construction phase of each Work Number. Further details are provided in the Outline Landscape and Biodiversity Strategy and its implementation would therefore be secured by a requirement to the draft DCO (Document Ref. 3.1).
- The Proposed Scheme seeks to retain existing blocks of woodland on and off site that serve as an important screening function in local views.
- The siting of the AGI set back off Rusholme Lane has been in response to a need to reduce visual impacts on immediate residential receptors and recreational users utilising the Trans Pennine Trail/PRoWs on the northern banks of the River Ouse.
- Suitable materials would be used, where possible, in the construction of structures to reduce reflection and glare and to assist with breaking up the massing of the buildings and structures.
- Requirements in Schedule 2 of the draft DCO (Document Ref. 3.1) require the approval by the relevant LPA of the details of the external appearance of Units X and Y, including colour, materials and surface finishes of all new permanent buildings and structures, prior to commencement of development.
- Lighting required during Stages 0-3 of the Proposed Scheme will be designed to reduce unnecessary light spill outside of the Site Boundary. Requirements are included in Schedule 2 of the draft DCO (Document Ref. 3.1) requiring submission and approval of lighting strategies both in relation to temporary lighting during construction and permanent lighting once the Proposed Scheme is operational.
- All new landscape/habitat creation would be subject to a long term (25 year) management and maintenance plan to ensure the full and successful establishment of the planting. The management and maintenance plan would form part of the Outline Landscape and Biodiversity strategy to be approved and implemented pursuant to a requirement in Schedule 2 of the draft DCO (Document Ref. 3.1). The plan would prescribe the maintenance regimes for all different landscape / habitats considering the aims, objectives and functions of each area of planting / habitat.

3.1.5. The assessment has concluded that there will be no nuisance caused under matter (a) of EPA Section 79(1).

4 INSIGNIFICANT IMPACTS

EPA Section 79(1)(c) "Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance"

4.1.1. The assessment of air quality is included in Chapter 6 (Air Quality) of the ES (Document Ref 6.1).

4.1.2. The ES concluded that no significant adverse residual effects on human receptors are anticipated from operation of the Proposed Scheme.

4.1.3. The Proposed Scheme is to be operated under one of two scenarios:

- Without additional NOx abatement; or
- With NO_X abatement.

4.1.4. To minimise the risk of any nuisance from emitted particulate matter, fumes or gases, the following mitigation and monitoring measures are to be implemented:

- The Proposed Scheme will be designed and operated to meet the requirements of the Industrial Emissions Directive (IED), and its operations will be regulated by the Environment Agency (EA) under an Environmental Permit. It will be maintained and operated by the Applicant with an established planned preventative maintenance programme.
- Sampling and analysis of exhaust emissions will be carried out to appropriate standards (e.g. ISO, national, or international standards). The need for any monitoring regime will be agreed with the EA and managed via the Applicant's Environmental Permit.

4.1.5. The fuel to be used in Units X and Y is natural gas which will be supplied via a new dedicated pipeline connecting to the National Grid National Transmission System (NTS). The gas will be received at a gas receiving station (the GRF) to treat and depressurise it before being used in Units X and Y. No emissions of natural gas are expected to occur from the gas receiving station or pipeline; likewise the generating station will combust the gas so that emissions of unburnt gas will not occur during normal plant operation.

4.1.6. The assessment has concluded that there are no significant effects arising from air quality impacts which will cause nuisance.

EPA Section 79 (1) (d) Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.

4.1.7. The assessment of air quality is included in Chapter 6 (Air Quality) of the ES (Document Ref 6.1).

4.1.8. As described above, the operation of the Proposed Scheme in accordance with the IED and Environmental Permit, through the activities of the operation and maintenance teams, will minimise the potential for statutory nuisance from atmospheric emissions.

4.1.9. The plant installed within the Proposed Scheme is not expected to give rise to dust or odour emissions during operation as natural gas fuel does not generate dust during combustion. Additionally there is not envisaged to be any loss or release of unburned gas during normal operation.

4.1.10. During operation, a cooling system is required to condense/ cool the steam used in the power generation process once it has been exhausted through the steam turbine, and before it is returned to the boiler for re-use. The Proposed Scheme will make use of the existing cooling system and there will be no change to the current operating system. Best Available Techniques (BAT) for the Proposed Scheme (to balance the environmental effects of the water abstraction and discharge against the efficiency improvements over the use of

air cooling) will be agreed with the EA and regulated by the Applicant's Environmental Permit.

4.1.11. Chapter 10 of the ES notes that plumes from the cooling towers are a temporary but notable feature on the skyline, but it is not considered that they are prejudicial to health and are not considered to constitute a nuisance.

4.1.12. There is potential for dust generation during Site Reconfiguration Works, earthworks, construction and decommissioning activities. However, the dust generated from demolition and construction is predicted to have negligible effects as emissions will be controlled in accordance with industry best practice. The control of dust emissions during construction and application of appropriate mitigation measures will be undertaken through the proposed CEMP (secured by the a requirement to the draft DCO) .

4.1.13. The Considerate Constructors Scheme (CCS) will be adopted to assist in reducing pollution and nuisance from the Proposed Scheme. This is a national initiative set up by the construction industry. Sites that register with the scheme sign up to and are monitored against a Code of Considerate Practice designed to encourage best practice beyond statutory requirements. The scheme is concerned about any area of construction activity that may have a direct or indirect effect on the image of the industry as a whole. The main areas of concern fall into three main categories: the environment, the workforce and the general public. Waste management is a key area of focus and on-site considerations may include:

- How waste is avoided, reduced, reused and/or recycled.
- Whether there is a Waste Management Plan/Strategy and how this is monitored.
- The type of feedback received (if any) as to how much waste on-site is diverted from landfill.

4.1.14. The impacts from waste generated from the Proposed Scheme are considered to be very small, as minimal waste arisings are expected during construction or operation. A Site Waste Management Plan (SWMP) will be implemented by the contractor to reduce, re-use and recycle construction waste where feasible. Good practice waste management procedures will also minimise the risk of adverse effects on human receptors from any waste storage, transfer or disposal.

4.1.15. To minimise the risk of any nuisance from any dust, steam, smell or other effluvia arising on the premises of the Proposed Scheme the following mitigation measures are to be implemented:

- Implementation of dust control measures as described within the Outline CEMP during construction, compliance with which is secured by a requirement to the draft DCO (Document Ref 3.1). An outline CEMP (Document Ref 6.5) accompanies the DCO application. A Soils Management Plan (SMP) and a Site Waste Management Plan (SWMP) will form part of the CEMP.
- Implementation of a Construction Traffic Management Plan (CTMP) and Construction Workers Travel Plan (CTWP). These are appended to Chapter 5 (Traffic) of the ES (Document Ref 6.1).

4.1.16. The assessment has concluded that no significant emissions of dust, steam, smell or other effluvia will arise from the Proposed Scheme.

EPA Section 79(1)(e) Any accumulation or deposit which is prejudicial to health or a nuisance.

4.1.17. The assessment of ground conditions, including a conceptual site model of various contaminative substances, is included in Chapter 11 (Ground Conditions) of the ES (Document Ref 6.1). The assessment of waste is included in Chapter 13 (Waste) of the ES.

4.1.18. Chapter 11 of the ES identified a number of possible sources of contamination which could impact on human receptors within the study area. It concluded that with implementation of appropriate mitigation measures, the impact on construction works and end users during all stages of the Proposed Scheme will be insignificant.

4.1.19. Chapter 13 of the ES identifies that waste will be produced from Site Reconfiguration Works and construction activities. It is intended that the majority of demolition material will be reused on Site. There will be sufficient capacity on the Site to reuse clean excavated material therefore the volume of material that will require removal from the Site is not expected to be significant. It will be the contractor's responsibility to work in accordance with a SWMP during construction activities, which will adhere to the Waste Hierarchy. The Applicant will be responsible for applying for any necessary Waste Permits with the EA and working in compliance with these.

4.1.20. To minimise risk of any statutory nuisance from occurring through accumulation or exposure to deposits which are prejudicial to health or a nuisance, the following mitigation measures will be implemented:

- The construction phase will proceed in accordance will all legislation, guidance and best practice (including that which is relevant to the health and safety of construction workers).
- The construction phase will proceed in accordance with a comprehensive CEMP (of which a SWMP will be part of), compliance with which is secured by a requirement to the draft DCO (Document Ref 3.1). An outline CEMP (Document Ref 6.5) accompanies the DCO application.
- The Proposed Scheme will operate in accordance with current pollution prevention industry guidance and controls in relevant permits issued by the EA.
- Site Reconfiguration Works and construction works in Stages 1 and 2 will be undertaken in accordance with the requirements of CDM 2015 (Ref 5.3.7) and all other relevant legislation, guidance and best practice managing occupational exposure to hazardous substances, including:
  - Health and Safety in Construction (HSG150) (Ref 5.3.8).
  - A Guide to Safe Working on Contaminated Sites, R132, CIRIA, 1996 (Ref 5.3.9).
- The appointed Principal Contractor (as defined in the CDM 2015) will be responsible for the completion of Control of Substances Hazardous to Health (COSHH) assessments identifying hazards from and methods preventing or controlling exposure to hazardous substances (for example, through mandatory use of Personal Protective Equipment (PPE)).
- Maintain prohibited access to the Existing Drax Power Station Complex for members of the public.

- The decommissioning phase will proceed in accordance with a comprehensive Decommissioning Environmental Management Plan (DEMP), required to be approved and implemented by a requirement to the draft DCO (Document Ref 3.1).
- All construction and operation activities will adhere to the Waste Hierarchy by reusing and/or recycling waste materials in order to reduce the significance of the effect on waste treatment and disposal facilities.
- The principal contractor will be responsible for setting and reviewing waste targets from the outset to ensure that high standards are maintained with the emphasis being on continual improvement.
- Good practice measures in terms of on-site storage will be implemented to assist in reducing unnecessary wastage of material and ensure that high standards are maintained throughout the development process.
- All construction works will be undertaken in accordance with the CCS.
- As part of the encouragement of on-site best practice, the Applicant will ensure that suppliers for the construction phase of the Proposed Scheme are committed to reducing surplus packaging associated with the supply of any raw materials. This includes the reduction of plastics (i.e. shrink wrap and bubble wrap), cardboard and wooden pallets. This may involve improved procurement and consultation with selected suppliers regarding commitments to waste minimisation, recycling and the emphasis on continual improvement in environmental performance. Where practicable, the off-site manufacture/pre-fabrication of building components will be undertaken to help minimise the generation of on-site construction waste.
- Where practicable, waste streams that have the potential to be reused on-site or transported off-site for recycling will be segregated. Although every effort will be made to retain all suitable materials on-site, it is possible that some of these materials cannot be reused or recycled during the construction of the Proposed Scheme. In these situations, the site manager will work to identify suitably licensed waste facilities in order for material to be redistributed to other suitable sites. This represents the most sustainable alternative to landfill disposal.
- During the construction phase of the Proposed Scheme, the contractors will regularly review waste generation estimates, taking into account any changes in legislation, the available waste management facilities' capacity and any advancement in waste treatment technologies.

4.1.21. No significant accumulation or deposit is expected from the Proposed Scheme which would be prejudicial to health or give rise to nuisance.

EPA Section 79(1)(fa) and (fba) Artificial light emitted from premises so as to be prejudicial to health or a nuisance.

4.1.22. Artificial lighting will be required during construction and operation of the Proposed Scheme, for safety and security purposes. However, good practice methods and design measures including directional lighting (directed downwards to minimise light spill) will be employed onsite to minimise off-site lighting effects and minimise light spill from the Site. There is no proposed permanent lighting for the Proposed Scheme which would cause a significant effect on receptors outside of the Site Boundary.

4.1.23. This will be secured through a lighting strategy for both construction and operational activities, to be prepared as a requirement of the DCO (Document Ref 3.1). Through the

use of the strategy, it is considered that the risk of potential statutory nuisance is negligible.

4.1.24. Measures to minimise lighting effects arising from construction activities will also be included within the Outline CEMP, to be secured by a requirement to the draft DCO (Document Ref 3.1).

4.1.25. No significant artificial light emissions are expected from the Proposed Scheme which would give rise to nuisance.

EPA Section 79(1)(g) “Noise emitted from premises so as to be prejudicial to health or a nuisance”

EPA Section 79(1)(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”

4.1.26. The assessment of effects on noise and vibration is presented within Chapter 7 (Noise and Vibration).

4.1.27. The methodology for the operational noise assessment of the generating infrastructure on the Power Station Site the GRF and the AGI for the Gas Pipeline is in accordance with BS4142:2014.

4.1.28. The assessment concludes that with the implementation of mitigation, there are no significant effects anticipated at noise sensitive receptor (NSR) locations during Stages 0 and 1 (Site Reconfiguration Works and construction), Stage 2 (operation of Unit X and construction of Unit Y), Stage 3 (operational stages) or Stage 4 (decommissioning).

4.1.29. The noise assessment has also shown, according to WHO ‘Guidelines for Community Noise’ (Ref 5.3.10) that operational noise levels as a result of the Proposed scheme in amenity areas, such as gardens, are predicted to comfortably meet with recommended values at all NSR locations.

4.1.30. Noise from Site Reconfiguration Works traffic, construction traffic (Stages 1 & 2) and operational traffic using the surrounding road network has been assessed as being insignificant at NSR locations.

4.1.31. For the construction phase, the following measures will be implemented that will see to minimise the impact of construction noise from the Proposed Scheme:

- Calculations of construction noise from the Gas Pipeline have assumed the use of a 2.2m high site hoarding along the boundary of the Gas Pipeline route at NSRs 1 and 9.
- Since tonal or impulsive noises are considered more annoying than continuous noise sources, plant items will, where practicable, be silenced or otherwise controlled through regular maintenance.
- Inherently quiet plant items will be selected, where practicable.
- High performance acoustic enclosures will be considered for plant items where practicable, not overlooking smaller plant items such as compressors and pumps; measures will be set out in the CEMP.
- When non-normal and emergency operations lead to noise levels in excess of the agreed planning limits, the operator will inform the local authority and residents as soon

as practicable of the reasons for these operations, and the anticipated emergency period.
- Implementation of a Construction Traffic Management Plan (CTMP) and Construction Workers Travel Plan (CTWP). Outlines of these plans are appended to Chapter 5 (Traffic) of the ES (Document Ref 6.1).

4.1.32. These measures will be outlined within the CEMP, to be secured through a requirement contained in Schedule 2 to the draft DCO submitted with the DCO Application (Document Ref 3.1).

4.1.33. During decommissioning, similar mitigation measures to those described above for construction will be implemented, and will be secured via a decommissioning environmental management plan. Again, this plan will be secured through a requirement contained in Schedule 2 to the draft DCO submitted with the DCO Application.

4.1.34. Embedded mitigation for the operation of the Proposed Scheme includes the following:

- The gas turbines and major compressors are to be housed in individual acoustic enclosures, of heavy construction, specified at 85 dB (A) Sound Pressure Level at 1 m.
- Turbine filter and ventilation apertures are to be fitted with high performance silencers and designed such that all sensitive receptors benefit from screening and/or directivity corrections.
- High performance silencers will be installed in the outlet duct(s) between the gas turbines. Due to the impracticality of screening stack noise, discharge noise will be controlled using these silencers that will be tuned to attenuate low frequencies from the gas turbine exhausts.
- Unit transformers and generator transformers will be housed in an appropriate enclosure or three sided pen, to provide full screening to Noise Sensitive Receptors (NSRs).

4.1.35. No significant noise emissions are expected from the Proposed Scheme which would give rise to nuisance.

5 CONCLUSION

Potential for Nuisance

5.1.1. This Statement identifies the matters set out in Section 79(1) of the EPA in respect of statutory nuisance and considers whether the Proposed Development could cause a statutory nuisance.

5.1.2. The only matter addressed by the ES which has been assessed as likely to be significant for the Proposed Scheme and which may have a bearing on the EPA is visual amenity. However, it is demonstrated in Section 3 of this document that the Proposed Scheme would have no significant visual nuisance effects following the implementation of the identified embedded mitigation measures.

5.1.3. Other potential nuisance aspects have been considered in Section 4 and through embedded mitigation no statutory nuisance effects are considered likely to occur.

5.1.4. The operation of the Proposed Scheme will be regulated by the Environment Agency through an Environmental Permit.

Development Consent Order

5.1.5. The draft DCO that accompanies the DCO Application contains a provision in Article 38 that would provide a defence, subject to certain criteria, to proceedings in respect of statutory nuisance falling within Section 79(1)(g) of the EPA (noise emitted from premises so as to be prejudicial to health or a nuisance).

REFERENCES

- Ref. 5.3.1 The Planning Act, 2008.
- Ref. 5.3.2 Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- Ref. 5.3.4: The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations, 2009.
- Ref. 5.3.5: Environmental Protection Act 1990
- Ref. 5.3.6: Department for Energy and Climate Change (DECC), 2011, National Policy Statement for Energy (EN-1).
- Ref. 5.3.7: The Construction Design and Management Regulations 2015.
- Ref. 5.3.8: Health and Safety Executive, 2006, Health and Safety in Construction (HSG150).
- Ref. 5.3.9: CIRIA, 1996, A Guide to Safe Working on Contaminated Sites, R132.
- Ref. 5.3.10: World Health Organisation, 1999, Guidelines for Community Noise