BEACON FEN ENERGY PARK

Planning Inspectorate Reference: EN010151

Statutory Nuisance Statement
Document Reference: 5.3
April 2025

The Planning Act 2008
The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation 5(2)(f)
Environmental Protection Act 1990 s79

Quality information

Prepared by	Checked by	Verified by	Approved by
RS	GS	GS	SR

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Executive Summary

This Statutory Nuisance Statement (the 'Statement') has been prepared by Wardell Armstrong LLP (part of SLR) ('WA') on behalf of Beacon Fen Energy Park Ltd (the 'Applicant') in support of an application for a Development Consent Order (DCO) for Beacon Fen Energy Park (the 'Proposed Development')'. The DCO is to be submitted to the Planning Inspectorate, with the decision whether to grant a DCO to be made by the Secretary of State for Energy Security and Net Zero ('Secretary of State') pursuant to the Planning Act 2008.

The Applicant is seeking development consent for the construction, operation (and maintenance) and decommissioning of the Proposed Development, which will export the electricity generated to the national grid. The Proposed Development comprises the installation of a ground-mounted solar photovoltaic (PV) electricity generating facility, and battery energy storage system (BESS), together with associated grid connection infrastructure. Together, these comprise the 'Solar Array Area', 'Bespoke Access Road' and 'Cable Route'. The Beacon Fen Energy Park, which is located in Lincolnshire, will connect to the nearby Bicker Fen National Grid Substation.

The Proposed Development is defined as a Nationally Significant Infrastructure Project (NSIP) and, therefore, requires a DCO from the Secretary of State due to it meeting the criteria of having a generating capacity exceeding 50 megawatts (MW). As such, this Statement has been prepared to comply with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Regulation 5(2)(f) requires an application for a DCO to 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.*"

The matters in Section 79(1) of the Environmental Protection Act 1990 (EPA) that have been considered within this Statement are general site condition, air quality, artificial light, and noise and vibration, during all phases of the Proposed Development. This Statement sets out the mitigation measures to ensure the Proposed Development has no significant effects that would give rise to a statutory nuisance. This Statement demonstrates that no statutory nuisance effects are considered likely to occur.

1. Introduction

1.1 Introduction

1.1.1 This Statutory Nuisance Statement (the 'Statement') has been prepared on behalf of Beacon Fen Energy Park Ltd (the 'Applicant') as part of an application for a Development Consent Order (DCO) for the Beacon Fen Energy Park (hereafter referred to as the 'Proposed Development').

1.1.2 The Proposed Development comprises the construction, operation (and maintenance) and decommissioning of a solar photovoltaic (PV) electricity generating facility and battery energy storage system (BESS), with associated export and connection infrastructure to the National Grid ('National Grid') Bicker Fen Substation. Together, the Proposed Development is comprised of three main elements, namely: the 'Solar Array Area', 'Bespoke Access Road' and 'Cable Route'.

1.2 Purpose and Structure of this Statement

1.2.1 The Statement is part of a suite of documents that must accompany the DCO Application pursuant to Section 55 of the Planning Act 2008 and Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations).

1.2.2 Regulation 5(2)(f) requires that an application for a DCO must be accompanied by a statement setting out whether the proposal (i.e. the Proposed Development) engages one or more of the matters in Section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990 (as amended) (EPA). If any of those matters are engaged, the statement must set out how the applicant proposes to mitigate or limit the effects.

1.2.3 The matters in Section 79(1) of the EPA that have been considered within the Statement are general site condition, air quality, artificial light, and noise and vibration, during all phases of the Proposed Development.

1.2.4 The Statement should be read alongside other documents submitted as part of the application, particularly:

- The **Environmental Statement (ES) (document reference 6.2 ES Vol.1, document reference 6.3 ES Vol.2 and document reference 6.4 ES Vol.3)**; and
- The **Outline Construction Environmental Management Plan (OCEMP) (Appendix 2.4 Outline Construction Environment Management Plan, document reference 6.3 ES Vol.2, 6.3.7)**.

1.2.5 The Statement is produced in the context that Section 158 of the Planning Act 2008 provides statutory authority for carrying out development or anything else which is authorised by the DCO as a defence against civil or criminal proceedings for nuisance.

1.2.6 The Statement sets out appropriate mitigation measures to ensure that the Proposed Development has no significant effects that would give rise to a statutory nuisance. It is therefore demonstrated that no statutory nuisance

effects are considered likely to occur. It is not expected that the construction, operation (and maintenance) and decommissioning of the Proposed Development would cause a statutory nuisance.

1.2.7 Whilst it is not expected that the Proposed Development would cause a statutory nuisance, the **Draft DCO (document reference 3.1 Draft Development Consent Order)** accompanying the Application contains a provision, Article 10 (Defence to proceedings in respect of statutory nuisance), that would provide a defence to proceedings brought under 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 outlined under that article.

1.2.8 The Statement is structured as follows:

- Section 1: Introduction;
- Section 2: Legislation and Policy Context;
- Section 3: Assessment of Significance;
- Section 4: Matters Engaged and Proposed Mitigation Measures; and
- Section 5: Conclusion.

2. Legislative and Policy Context

2.1 The AFFP Regulations

2.1.1 Regulation 5(2)(f) of the APFP Regulations states that an application for a DCO 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 (EPA) 1990, and if so how the applicant proposes to mitigate or limit them*".

2.2 The EPA

2.2.1 Section 79(1) of the EPA, as it applies to England, provides that the following matters constitute 'statutory nuisances':

- Section 79(1)(a) – "any premises in such a state as to be prejudicial to health or a nuisance".
- Section 79(1)(b) – "Smoke emitted from premises so as to be prejudicial to health or a nuisance;"
- Section 79(1)(c) – "Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;"
- Section 79(1)(d) – "Any dust, steam, smell of other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;"
- Section 79(1)(e) – "Any accumulation or deposit which is prejudicial to health or a nuisance;"
- Section 79(1)(f) – "Any animal kept in such a place or manner as to be prejudicial to health or a nuisance;"
- Section 79(1)(fa) – "any inspections emanating from relevant industrial, trade or business premises and being prejudicial to health or nuisance;"
- Section 79(1)(g) – "artificial light emitted from premises so as to be prejudicial to health or a nuisance;"
- Section 79(1)(h) – "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;"
- Section 79(1)(i) – "Any other matter declared by any enactment to be a statutory nuisance."

2.2.2 For a nuisance to be considered a statutory nuisance, it must unreasonably and substantially interfere with the use or enjoyment of a home or other premises or injure health or be likely to injure health. To be considered a

nuisance, an activity must be ongoing or repeated – a one-off event would not usually be considered a nuisance.[1]

2.3 Overarching National Policy Statement for Energy (NPS EN-1)

2.3.1 Section 4.15 of the Overarching National Policy Statement (NPS) for Energy (EN-1) states that:

"*Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, 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 a defence for proceedings for nuisance under Part III of the Environmental Protection Act 1990 (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 1990 to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve an abatement notice where satisfied of 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."

2.3.2 Section 4.15.5 states that:

"*At the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the 1990 Act and how they may be mitigated or limited should be identified by the applicant so that appropriate requirements can be included in any subsequent order granting development consent".*"

2.3.3 The way in which the National Policy Statements guide the Secretary of State's decision-making, and the matters which the Secretary of State is required by the Planning Act 2008 (the 2008 Act) to take into account in considering applications, are set out in Sections 4.15 of EN-1.

2.4 National Policy Statement for Renewable Energy Infrastructure (EN-3)

2.4.1 This National Policy Statement, together with the Overarching National Policy Statement for Energy (EN-1), provides the primary policy for decisions by the Secretary of State on the applications received for nationally significant renewable energy infrastructure, including solar photovoltaic (PV) (>50 MW in England and >350MW in Wales).

2.4.2 Applicants are to ensure that their applications and any accompanying supporting documents and information are consistent with the instructions and guidance in National Policy Statement EN-3, EN-1 and any other National Policy Statements that are relevant to the application in question.

[1] Area, E & Adcock, A Nuisance Complaints (2018). House of Commons Library. Briefing Paper No CBP 8040.

2.4.3 Applicants should provide information on relevant impacts as directed by this National Policy Statement and the Secretary of State.

2.5 National Policy Statement for Electricity Networks Infrastructure (EN-5)

2.5.1 National Policy Statement for Electricity Networks Infrastructure (EN-5) is part of a suite of energy infrastructure National Policy Statements and should be read in conjunction with EN-1 and EN-3.

2.5.2 National Policy Statement EN-5, together with the Overarching National Policy Statement for Energy (EN-1), provides the primary policy for decisions taken by the Secretary of State on the applications received for nationally significant electricity networks infrastructure. It will possess relevance for decisions on associated development elements for electricity networks infrastructure includes underground cables at any voltage, transmission systems and substations and converter stations.

3. Engagement

3.1 Summary of Matters Engaged

3.1.1 The ES accompanying this DCO application addresses the likelihood of significant effects arising that could constitute a statutory nuisance as identified in Section 79(1) of the EPA. Table 1 outlines each matter stated in Section 79(1) of the EPA and describes whether this is covered within this Statement or is excluded depending on the assessment within the ES.

Table 1 Matters Stated in Section 79(1) of the EPA

EPA Section 79(1) Matter	Matter engaged as a consequence of the Proposed Development?
(a) Any premises in such a state to be prejudicial to health or a nuisance.	This matter is considered further as part of this Statement. See Section 4.1.
(b) smoke emitted from premises so as to be prejudicial to health or a nuisance.	No smoke is expected to be generated at/produced by the Proposed Development. This is, therefore, not considered further within this Statement. NB - Unplanned, emergency scenarios (including accidental or equipment fires) are not considered relevant to this Statement.
(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance.	This matter only applies to fumes or gases emitted from 'premises' that constitute private dwellings, as provided for under Section 79(4) of the EPA. This matter is, therefore, not considered further within 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.	This matter is considered further in this Statement in relation to dust. See Section 4.2. The Proposed Development is not anticipated to have impact on steam, smell or other effluvia and, therefore, these elements are not considered further within the Statement.
(e) any accumulation or deposit which is prejudicial to health or a nuisance.	This matter is considered further in this Statement. See Section 4.1.
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance.	The potential for grazing onsite is an option that will be considered during the detailed design stage of the Proposed Development. The Proposed Development will not, however, keep any animals in such a place or manner as to prejudicial to health or a nuisance. Should be grazing be taken forward, any grazing of livestock will be in accordance with good practice guidance for livestock welfare and will be controlled by the

	detailed **Landscape and Ecological Management Plan (LEMP) (document reference 6.3 ES Vol.2, 6.3.19)** at the detailed design stage. It is, therefore, not considered further in the Statement.
(fa) any insects emanating from relevant industrial, trade, or business premises and being prejudicial to health or a nuisance.	There is no prospect that the construction, operation (and maintenance) and decommissioning of the Proposed Development will emanate any insects (nor insects be attracted to it) and this is, therefore, not considered further within the Statement.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance.	This matter is considered further as part of this Statement. See Section 4.3.
(g) noise emitted from premises so as to be prejudicial to health or a nuisance.	This matter is considered further as part of this Statement. See Section 4.4.
(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.	This matter is considered further as part of this Statement. See Section 4.4.
(h) any other matter declared by any enactment to be a statutory nuisance.	No other matters are considered to be a potential statutory nuisance associated with the construction, operation (and maintenance) or decommissioning of the Proposed Development.

4. Matters Engaged and Proposed Mitigation Measures

4.1 Condition of Site – Section 79(1)(a) and (e) of the EPA

4.1.1 This section considers the risk of the condition of the site causing a statutory nuisance. The following constitute a statutory nuisance:

- Section 79(1) (a) – "any premises in such a state as to be prejudicial to health or a nuisance".
- Section 79(1)(e) – "any accumulation or deposit which is prejudicial to health or a nuisance".

Construction and Decommissioning

4.1.2 The construction and decommissioning of the Proposed Development will be undertaken in phases. The types of construction activities include, but are not limited to:

- Site preparation and civil works;
- Construction of solar PV array within the Solar Array Area;
- Construction of onsite energy infrastructure;
- Installation of Cable Route;
- Construction of Bespoke Access Road;
- Construction of an extension to the National Grid Bicker Fen Substation;
- Testing and commissioning; and
- Landscape and habitat creation.

4.1.3 During decommissioning, the following components of the Proposed Development, as referred to by Schedule 1 of the **Draft Development Consent Order (document reference 3.1)** in the locations shown by the **Works Plans (document reference 2.4)**, will be removed and recycled or disposed of in accordance with good practice and market conditions at that time:

- Solar Array Area and related components;
- BESS Compound;
- Onsite substation; and
- Ancillary Infrastructure (including the bespoke access road).

4.1.4 The construction and decommissioning works have the potential to create pollution incidents, such as spillages and also create litter and general waste, which can constitute a nuisance under the EPA.

4.1.5 Construction control mechanisms proposed include core working hours, traffic management and industry good practice measures. These are set out under the **OCEMP (document reference 6.3 ES Vol.2, 6.3.7)** and the **Outline Construction Traffic Management Plan (OCTMP) (document reference 6.3 ES Vol.2, 6.3.57)**.

4.1.6 The **OCEMP** has been informed by the **Environment Statement** and will guide the construction process through environmental controls in order to

promote good construction practice and avoid adverse or nuisance causing impacts during the construction phase.

4.1.7 A detailed **CEMP** will be prepared following granting of the DCO. A requirement of the DCO secures that the detailed **CEMP** must be substantially in accordance with the commitments set out by the **OCEMP** and must be agreed with the relevant planning authorities in advance of starting the enabling works within the Order Limits.

4.1.8 A detailed **Decommissioning Environmental Management Plan (DEMP) (document reference 6.3 ES Vol.2, 6.3.8)** must be prepared prior to the commencement of decommissioning. The detailed **DEMP** must be in accordance with the **Outline DEMP (ODEMP) (document reference 6.3 ES Vol.2, 6.3.8)**.

4.1.9 Plans to deal with accidental pollution will be included within the detailed **CEMP** and detailed **DEMP** prior to the commencement of construction and decommissioning, respectively. Any necessary equipment (e.g., spillage kits) would be held onsite and all site personnel would be trained in their use. In the unlikely event of a suspected pollution incident, the Environment Agency would be immediately informed.

4.1.10 In order to control the waste generated during site preparation and construction, the contractor will separate the main waste streams onsite, prior to transport to an approved, licenced, third-party waste facility for recycling or disposal. All waste to be removed from the Order Limits will be undertaken by fully licensed waste carriers and taken to licenced waste facilities for recycling and disposal.

4.1.11 The measures set out in the **OCEMP** and **ODEMP** are considered in the Environmental Statement as embedded mitigation for the Proposed Development design and this is reflected in the assessment of effects undertaken. The EIA assumes that these measures are implemented in full. Compliance with the **OCEMP** and **ODEMP** will be secured by the requirements in the DCO, as noted above.

4.1.12 With these measures in place, it is considered that the construction and decommissioning phases of the Proposed Development will not give rise to impacts that would constitute a statutory nuisance under Section 79(1)(a) or (e).

Operation

4.1.13 It is considered that the operation of the Proposed Development (in its built form as a solar farm with related infrastructure) will not in itself cause the ‘premises’ within the Order Limits to be in ‘such a state’ as to be prejudicial to health or nuisance.

4.1.14 During the operational phase, maintenance activity within the Solar Array Area will be minimal and will be structured principally to vegetation management, equipment maintenance and servicing, replacement of any components that fail, plus monitoring. It is anticipated that maintenance and servicing would include the inspection, removal, reconstruction, refurbishment or replacement of faulty or broken equipment and adjusting and altering the solar module orientation to ensure the continued effective operation of the Proposed Development and improve its efficiency.

4.1.15 Along the Cable Route for the Proposed Development, operational activity will consist of routine inspections and any reactive maintenance such as where a cable has been damaged.

4.1.16 It is assumed that the Bicker Fen Substation extension will be managed and maintained by National Grid Electricity Transmission Plc under the same principles as the existing Bicker Fen Substation.

4.1.17 This phase of the Proposed Development will not give rise to impacts that would constitute a statutory nuisance under section 79(1)(a) or (e).

Conclusion

4.1.18 For the reasons explained above and with the mitigation measures referred to in place, it is considered that the construction, operation (and maintenance) and decommissioning phases of the Proposed Development will not give rise to impacts from the site condition that would constitute a statutory nuisance under section 79(1)(a) or (e).

4.2 Air Emissions

4.2.1 This section considers the risk of air emissions from the Proposed Development causing a statutory nuisance (Section 79(1)(d) of the EPA). The following is defined as a statutory nuisance:

"*(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.*"

4.2.2 An Air Quality assessment has been undertaken as part of the EIA and reported in **Chapter 16: Air Quality** of the Environmental Statement **(document reference 6.2 ES Vol.1, 6.2.16)**. The chapter assessed the significance of potential air quality effects during the construction and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant effects in terms of the Infrastructure Planning (Environmental Impact Assessment (EIA)) Regulations 2017.

Construction and Decommissioning

4.2.3 **Chapter 16 Air Quality (document reference 6.2 ES Vol.1, 6.2.16)** of the Environmental Statement considers assesses the impact of construction and decommissioning phases of the Proposed Development upon air quality. The assessment confirms there is likely to be no significant impact on local air quality during construction or decommissioning given the volume of traffic proposed and the mitigation measures proposed (within the chapter). There is expected to be a negligible effect on human health and designated ecology sites. During construction there is the potential for emissions of dust and particles due to the following:

- Demolition
- Earthworks (e.g. soil stripping, excavation etc);
- Construction including haulage of materials around the site; and
- Trackout (movement of mud and soil out of the site by construction vehicles).

4.2.4 The potential for sensitive receptors to be affected by onsite construction activities is contingent upon the construction method(s), materials, duration of

the construction works, weather conditions and location of works in relation to receptors.

4.2.5 The risk of dust soiling and human health effects are not negligible for all activities and so site-specific mitigation will be implemented at the site via a DMP and/or as part of **Appendix 2.4: Outline Construction Environmental Management Plan (CEMP) (Document Ref 6.3 ES Vol.2, 6.3.7)** to ensure dust effects from these activities will be Not Significant. Site-specific mitigation would also be provided within the detailed **CEMP**. Similarly, during the decommissioning phase, site-specific mitigation will be implemented at the Site via the detailed **DEMP**.

4.2.6 No specific requirements for mitigation have been identified for the operational phase.

4.2.7 Any dust monitoring required prior to, during or after construction and decommissioning activities will be approved by the Local Planning Authority prior to being implemented.

4.2.8 Construction of the Proposed Development will likely take place over a number of phases and, as such, potential fugitive emissions may be lower than expected for the size of the Order Limits when considering the Order Limits in reference to Institute of Air Quality Management (IAQM) guidance.

4.2.9 Taking into account the scale of the Order Limits and associated construction works, good site practice for controlling dust as outlined within the IAQM's 'Guidance on the assessment of Dust from Demolition and Construction' document for high-risk sites will be adopted. These measures represent good industry practice and are considered as embedded mitigation within the Proposed Development design.

4.2.10 These mitigation measures are incorporated in **Chapter 16: Air Quality (document reference 6.2 ES Vol.1, 6.2.16)** of the Environmental Statement**,** the **OCEMP Appendix 2.4 (document reference 6.3 ES Vol.2, 6.3.7)** and **Embedded Mitigation (Appendix 2.3) (document reference 6.3 ES Vol,2, 6.3.6)** and summarised in Table 2, below.

Table 2 Air Quality Mitigation

Activity	Mitigation Measure
Communications	Develop and implement a stakeholder communications plan that includes community engagement before work commences onsite. Display the name and contact details of person(s) accountable for air quality and dust issues on the site boundary. This may be the Environment Manager/Engineer or the Site Manager. Display the head or regional office contact information.
Dust Monitoring	Undertake daily onsite and off-site inspection(s), where receptors (including roads) are nearby, to monitor dust, record inspection results, and make the log available to the Local Authority when asked. This should include regular dust soiling check of surfaces such as street furniture and cars within 100 m of the site boundary, with cleaning to be provided if necessary. Increase the frequency of site inspections by the person accountable

	for air quality and dust issues onsite when activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions. Agree dust deposition, dust flux, or real-time PM_{10} continuous monitoring locations with the Local Authority. Where possible, commence baseline monitoring at least three months before work commences on site or, if it is a large site, before work on a phase commences. Cement, sand, fine aggregates, and other powders will be sealed after use, and cleaning will be undertaken as necessary once materials dry. For all activities involving release of silica dust and persons carrying out sweeping activities, all Site operatives will be expected to be face fit tested and wear a suitable Face Fit P3 mask.
Site Management	Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce emissions in a timely manner, and record the measures taken. Make the complaints log available to the Local Authority when asked. Record any exceptional incidents that cause dust and / or air emissions, either onsite or off-site, and the action taken to resolve the situation in the log book. The frequency of site inspections should be increased when activities with a high potential for dust generation are occurring and during extended periods of dry or windy weather. Site management will endeavour to minimise cutting, grinding and sawing on site. Where such activities are required, Site operatives will be required to spray water over the material as it is being cut. Subcontractors will, wherever reasonably practicable, prefabricate materials off-site prior to delivery.
Preparing and Maintaining the Site	Plan site layout so that machinery and dust causing activities are located away from receptors, as far as is possible. Erect solid screens or barriers around dusty activities or the site boundary that are at least as high as any stockpiles onsite. Fully enclose site or specific operations where there is a high potential for dust production and the site is active for an extensive period. Avoid site runoff of water or mud. Keep site fencing, barriers and scaffolding clean using wet methods. Remove materials that have a potential to produce dust from site as soon as possible, unless being reused onsite. If they are being reused cover as described below. Cover, seed or fence stockpiles to prevent wind whipping.
Operating vehicles/machinery and sustainable travel	Ensure all vehicles switch off engines when stationary, where possible (i.e. no idling vehicles). Avoid the use of diesel or petrol-powered generators and use mains electricity or battery powered equipment where practicable. Impose and signpost a maximum speed-limit of 15 mph on surfaced and 10 mph on unsurfaced

	haul roads and work areas (if long haul routes are required these speeds may be increased with suitable additional control measures provided, subject to the approval of the nominated undertaker and with the agreement of the Local Authority, where applicable). An Abnormal Loads Delivery Management Plan is presented in **Appendix 9.4: Outline Construction Traffic Management Plan (OCTMP) (document reference 6.3 ES Vol.2, 6.3.57)** and sets out measures to manage and mitigate impacts of construction related traffic. An **Outline Construction Staff Travel Plan (OCTP)** has been provided in **Appendix J of Appendix 9.1: Transport Statement (document reference 6.3 ES Vol.2, 6.3.54)** which supports and encourages sustainable travel, including shared minibus and car travel, as well as sufficient parking provisions and EV charging.
Operations	Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction (e.g. suitable local exhaust ventilation systems). Ensure an adequate water supply on the site for effective dust / particulate matter suppression/mitigation, using non-potable water where possible and appropriate. Use enclosed chutes and conveyors and covered skips. Minimize drop heights from conveyors, loading shovels, hoppers and other loading or handling equipment and use fine water sprays on such equipment wherever appropriate. Ensure equipment is readily available onsite to clean any dry spillages and clean up spillages as soon as reasonably practicable after the event using wet cleaning methods.
Waste management	Avoid bonfires and burning of waste materials.
Demolition	Soft strip inside building before demolition. Ensure effective water suppression is used during demolition activities. Avoid explosive blasting, using appropriate manual or mechanical alternatives. Bag and remove any biological debris before demolition.
Earthworks	Re-vegetate earthworks and exposed areas / soil stockpiles to stabilise surfaces as soon as practicable. Use Hessian, mulches or tackifiers where it is not possible to revegetate or cover with topsoil, as soon as practicable. Only remove the cover in small areas during work and not all at once.
Construction	Avoid scrabbling (i.e. roughening of concrete surfaces) if possible. Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place. Ensure bulk cement and other fine powder materials are delivered in enclosed tankers

	and stored in silos with suitable emission control systems to prevent escape of material and overfilling during delivery. For smaller supplies of fine powder materials, ensure bags are sealed after use and stored appropriately to prevent dust. All NRMM of 36kW to 560kW used on-site in construction, maintenance and decommissioning should meet or exceed the latest emission standards in Regulation (EU) 2016/1628, as well as relevant type approval rules (see section 16.3.7).
Trackout	Use water-assisted dust sweeper(s) on the access and local roads to remove, as necessary, any material tracked out of the site. This may require the sweeper being in continuous use. Avoid dry sweeping of large areas. Ensure vehicles entering and leaving the site are covered to prevent escape of materials during transport. Inspect onsite haul routes for integrity and instigate any necessary repairs to the surface as soon as reasonably practicable. Record all inspections of haul routes and any subsequent action in a site log book. Install hard surfaced haul routes that are regularly damped down with fixed or mobile sprinkler systems or mobile water bowsers and regularly cleaned. Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable). Ensure there is an adequate area of hard surfaced road between the wheel wash facility and the site exit, wherever site size and layout permits. Access gates to be located at least 10 m from receptors where possible.
Non-road Mobile Machinery	In accordance with Part 4 of the IAQM Control of Dust and Emissions guidance, all Non-Road Mobile Machinery (NRMM) would need to adhere to the emissions standards for NO_2 and PM_{10} set out for NRMM. It is, therefore, considered the likely effects of construction plant on local air quality would be insignificant.
Construction Traffic Management	Construction traffic numbers, routing and access points are determined by Appendix 9.3 Outline Construction Traffic Management Plan **(document reference 6.3, ES Vol.2, 6.3.78)** and will be managed by the Site Manager. Where possible, procurement processes will aim to minimise multiple deliveries to reduce vehicle emissions and maintain local air quality.

4.2.11 These mitigation measures will be effectively implemented meaning that no significant dust effects resulting from excavation and construction activities are anticipated beyond the Order Limits.

4.2.12 Decommissioning is expected to generate similar (if not slightly lower) effects to those anticipated during the construction phase. The mitigation measures proposed for implementation during the decommissioning phase are detailed

within the **Outline Decommissioning Environmental Management Plan (ODEMP) (document reference 6.3 ES Vol.2, 6.3.8)** will be applied (as appropriate) during decommissioning. Overall, it is considered that impacts on local air quality as a result of dust generation during decommissioning are considered to be negligible and not significant.

Operation

4.2.13 The Proposed Development is estimated to support 12 permanent (onsite) operational jobs. Traffic generation from operational staff is not expected to induce significant changes to traffic flows on the local road networks. During the operational phase, the Applicant anticipates up to six operational staff on site at any time and so vehicle trips are not expected to exceed 36 two-way trips per day. This level of use remains negligible in relation to background traffic, and it is likely that this very low level of traffic generation will be assigned to multiple routes as multiple operational accesses are envisaged. Therefore, the operation of the Proposed Development is not anticipated to have a significant impact on local air quality and no likely significant effects on air quality are predicted during the operational phase of the Proposed Development.

Conclusion

4.2.14 For the reasons explained above and with the implementation of the mitigation measures, no significant effects are expected to occur in relation to air quality, including in relation to the health of human receptors. No claim is therefore envisaged in respect of a statutory nuisance under section 79(1)(d).

4.3 Artificial Light

4.3.1 This section considers the risk of artificial light from the Proposed Development causing a statutory nuisance (Section 79(1)(d) of the EPA). The following is a statutory nuisance:

Section 79 (fb) "artificial light emitted from premises so as to be prejudicial to health or a nuisance."

4.3.2 A statutory nuisance would exist if artificial light substantially interferes with the well-being, comfort or enjoyment of an individual's property. Usually this would mean that lights were causing a nuisance on a regular basis. Artificial lights may also cause a nuisance if they are not maintained or used properly.

4.3.3 The potential for the effects of glint and glare are not covered by statutory nuisance legislation, which does not cover natural light. Any effects associated with glint and glare are, however, assessed as part of the EIA and reported within **Chapter 13: Glint and Glare** of the Environmental Statement **(document reference 6.2 ES Vol.1, 6.2.13)**. This assessment states that any potential effects during operation will not be significant with the current levels of screening and proposed embedded mitigation in place.

4.3.4 **Chapter 6: Landscape and Visual** of the Environmental Statement **(document reference 6.2 ES Vol.1, 6.2.6)** assesses the visual impact of construction, operation and decommissioning phases of the Proposed Development. The assessment confirms there are likely to be no significant

visual impacts caused by artificial lighting associated with the Proposed Development.

Construction and Decommissioning

4.3.5 Temporary artificial lighting for construction and decommissioning purposes may be required to facilitate works in areas where natural lighting is unable to reach (sheltered/confined areas) and during core working hours within winter months. The use of artificial lighting will be managed through the measures set out in the **OCEMP (document reference 6.3 ES Vol.2, 6.3.7)** during construction and the **ODEMP (document reference 6.3 ES Vol.2, 6.3.8)** during decommissioning. These are in accordance with the mitigation summarised in Table 3, below.

Table 3 Artificial Light Mitigation Measures Construction and Decommissioning

Activity	Mitigation Measure
Use of artificial lighting as part of construction phase	Lighting units to be directed towards the interior of the Solar Array Area and not outside of the boundaries of the Order Limits, thus away from nearby properties. Artificial lighting to be limited to the operational working hours, only. Where security lighting is necessary this, shall utilise passive infra-red (PIR) technology controlled and be triggered by movement only. Lighting shall use directional fitting to reduce and minimise any potential light spill and glare. Lighting fittings shall be installed with light hoods / cowls to direct lighting below the horizontal plane. The height of the lighting units / columns to be as small as practical to reduce light spill and glare. Any artificial lighting to be set to the minimum acceptable standards in terms of lux level, current at the time. The location of the lighting columns to be considered in the context of the retained vegetation, potential effects upon the nocturnal species, and to provide maximum screening from the sensitive visual receptors. Only the immediate work area or compound to be lit in order to avoid / limit potential effects on properties during the construction phase.
Use of artificial lighting as part of the decommissioning phase	Any artificial lighting to be set to the minimum acceptable standards in terms of lux level, current at the time. The location of the lighting columns to be considered in the context of the retained vegetation, potential effects upon the nocturnal species, and to provide maximum screening from the sensitive visual receptors. Artificial lighting to be limited to the operational working hours, only. Where security lighting is necessary, this shall utilise PIR technology controlled and be triggered by movement only. Lighting shall use directional fitting to reduce and minimise any potential light spill and glare. Lighting fittings shall be installed with light hoods / cowls to direct lighting below the horizontal plane. The height of the lighting units / columns to be as small as practical to reduce light spill and glare. Lighting units to be directed towards the

interior of the Solar Array Area and not outside of the boundaries of the Order Limits.

Operation

4.3.6 There is no permanent lighting proposed as part of the Proposed Development, except for the localised emergency security lighting in proximity to the Onsite Substation, BESS and control buildings. Such lighting would be triggered by movement, only, or manually turned-on (task-lighting) and so would not be active for all hours of darkness.

4.3.7 Internal-facing closed-circuit television (CCTV) systems will be mounted along the perimeter fencing of the operational areas of the Solar Array Area (anticipated to be 5m high). Motion detection security lighting will also be used along with infrared lighting provided by the CCTV security system to provide night vision functionality for CCTV. No visible lighting will be utilised at the site perimeter fence.

4.3.8 Lighting during operation will be managed through considerate design and **Embedded Mitigation (Appendix 2.3 Embedded Mitigation document reference 6.3 ES Vol. 2, 6.3.6)**.

Conclusion

4.3.9 For the reasons explained above and with implementation of the mitigation measures, no claim against statutory nuisance is envisaged in respect of statutory nuisance under Section 79(1)(fb) of the EPA.

4.4 Noise and Vibration

4.4.1 This section considers the risk of noise and vibration from the Proposed Development causing a statutory nuisance (Section 79(1)(g) and (ga) of the EPA). The following is a statutory nuisance:

Section 79(1) (g) "noise emitted from premises so as to be prejudicial to health or a nuisance"; and

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."

4.4.2 If noise levels are excessive, prolonged or occur on a regular basis, they may constitute a statutory nuisance. A statutory nuisance would exist if noise levels substantially interfered with the well-being, comfort or enjoyment of an individual's property.

4.4.3 An assessment of noise and vibration impacts has been undertaken as part of the EIA and reported in **Chapter 10: Noise and Vibration** of the Environmental Statement **(document reference 6.3 ES Vol.2, 6.3.10)**. The chapter assessed the significance of potential noise and vibration effects during the construction, operational and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant noise or vibration effects.

4.4.4 The elements relevant to Section 79(1) of the EPA are those relating to noise emitted from premises (which includes land) and from vehicles, machinery and equipment in a street. Traffic noise is specifically excluded from consideration by Section 79(6A)(a) of the EPA and is not considered further.

Construction and decommissioning

4.4.5 The following construction activities are considered to be those with the most potential to result in adverse noise effects:

- Construction of tracks and hardstanding areas;
- Installation of mounting frames (including piling);
- Installation of panels;
- Construction of the electrical compound; and
- Trenchless cable installation.

4.4.6 The following construction activities considered are those with most potential to result in adverse vibratory effects:

- Piling of PV panel framework; and
- Compaction of tracks/hardstanding areas.

4.4.7 Decommissioning is likely to involve activities of similar (or reduced) intensity as for the construction phase and, as such, result in comparable noise and vibration effects in the most part. However, trenchless work and / or piling are unlikely to be required for this phase.

4.4.8 The measures set out below will be secured via the OCEMP (document reference 3.6.7) and the ODEMP (document reference 3.6.8), implemented as part of the Proposed Development. They constitute embedded mitigation within the design of the Proposed Development.

Table 4 Noise and Vibration Mitigation Measures Construction and Decommissioning

Activity	Mitigation Measure
All relevant construction activities	Restriction of working hours. Adoption of good practice measures. Minimise extent and effects of trenchless work particularly for night-time HDD. Where work outside of times is necessary prior notification will be provided to the relevant local planning authority.
All relevant decommissioning activities	Restriction of working hours. Adoption of good practice measures.

Operation

4.4.9 The primary sources of noise from the operational Proposed Development are the inverters and transformers within the Solar Array Area of the Site, as well as the Onsite Substation and the BESS. The mitigation measures set out in Table 5, below, will be implemented as part of the design and, as such, constitute embedded mitigation for the Proposed Development.

Table 5 Noise and Vibration Mitigation Measures Operational

Activity	Mitigation Measure
Operational noise generated by the plant	Detailed design and selection of electrical / mechanical plant to achieve suitable noise limits. Mitigation measures (if required) will be designed so that noise impacts at the nearest existing sensitive receptors will be below the

onset of the Significant Observed Adverse Effect Level (SOAEL) as specified in Table 10-10 of **Chapter 10 – Noise and Vibration (document reference 6.3 ES Vol.2, 6.3.10)**.

Conclusion

4.4.10 For the reasons explained above and with the mitigation measures in place, the construction, operation and decommissioning phases of the Proposed Development will not give rise to impacts that would constitute a statutory nuisance under Section 79(1)(g) and (ga) of the EPA.

5. Conclusion

5.1.1 This Statutory Nuisance Statement has been prepared to fulfil Regulation 5(2)(f) of the Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) and has considered whether the Proposed Development would cause a statutory nuisance as set out in Section 79(1) of the Environmental Protection Act 1990 (EPA).

5.1.2 Detailed assessments have been undertaken as part of the Environmental Impact Assessment (EIA) for the Proposed Development and this Statement reports the assessment findings detailed within each of the relevant technical chapters of the Environmental Statement pertaining to general site condition, air quality, artificial light, noise and vibration for the construction, operation and decommissioning phases of the Proposed Development.

5.1.3 The embedded mitigation (including design proposals) and any additional mitigation measures identified within the Environmental Statement will prevent impacts that have a potential to result in statutory nuisance under Section 79(1) of the EPA. These measures are secured by requirements contained in the draft DCO.

5.1.4 It is not expected that there would be a breach of Section 79(1) of the EPA during construction, operational or decommissioning activities.