FENWICK SOLAR FARM

Fenwick Solar Farm

EN010152

Statutory Nuisance Statement

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Executive Summary

ES1 This Statutory Nuisance Statement (the 'Statement') has been prepared on behalf of Fenwick Solar Project Limited (the 'Applicant') in relation to an application for a Development Consent Order (DCO) submitted to the Planning Inspectorate, with the decision whether to grant a DCO to be made by the Secretary of State for the Department for Energy Security and Net Zero (the 'Secretary of State') pursuant to the Planning Act 2008 (Ref. 1).

ES2 The Applicant is seeking development consent for the construction, operation and maintenance, and decommissioning of Fenwick Solar Farm (the 'Scheme') which will deliver electricity to the national electricity transmission network. The Applicant is proposing to install a solar photovoltaic (PV) electricity generating facility, combined with a Battery Energy Storage System (BESS) and associated infrastructure to generate electrical energy from the sun. The Solar PV Site, located entirely within the administrative area of City of Doncaster, will connect to the Existing National Grid Thorpe Marsh Substation.

ES3 The Scheme is defined as a Nationally Significant Infrastructure Project (NSIP) and will require a DCO from the Secretary of State due to its generating capacity exceeding 50 megawatts (MW). As such, this Statement has been prepared to satisfy Regulation 5(2)(f) of the Applications: Prescribed Forms and Procedures 2009 (APFP Regulations) (Ref. 1) which 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 nuisance and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them".*

ES4 The matters in Section 79(1) of the Environmental Protection Act 1990 (EPA) (Ref. 3) that have been considered within this Statement are general site condition, air quality, artificial light, and noise and vibration, during construction, operation and maintenance, and decommissioning of the Scheme. This Statement sets out appropriate mitigation measures to ensure the Scheme 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.

1. Introduction

1.1 Background

1.1.1 This Statutory Nuisance Statement (the 'Statement') has been prepared on behalf of Fenwick Solar Project Limited (the 'Applicant') as part of an application for a Development Consent Oder (DCO) for Fenwick Solar Farm (the 'Scheme').

1.1.2 The Scheme is classed as a Nationally Significant Infrastructure Project (NSIP) for the purposes of the Planning Act 2008 (Ref. 1) and requires an application for a DCO. The application for the DCO is being submitted to the Planning Inspectorate with the decision on whether to grant a DCO being made by the Secretary of State for the Department for Energy Security and Net Zero (the 'Secretary of State') pursuant to the Planning Act 2008 (Ref. 1).

1.1.3 The Application is for the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating facility, combined with a Battery Energy Storage System (BESS), with a total capacity exceeding 50 megawatts (MW) and connection to the national grid at the Existing National Grid Thorpe Marsh Substation. The Order limits are shown on **ES Volume II Figure 1-2: Site Boundary Plan [EN010152/APP/6.2]** and represent the maximum extent of land to be acquired or used for the construction, operation and maintenance, and decommissioning of the Scheme. The land within the Order limits (the 'Site') is entirely located within the administrative area of the City of Doncaster.

1.2 Purpose and Structure of this Statement

1.2.1 The Statement is part of a suite of documents which must accompany the DCO Application pursuant to Section 55 of the Planning Act 2008 (Ref. 1) and Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) (Ref. 1).

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 Scheme) 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) (Ref. 3). If any of those matters are engaged, the statement must set out how the application proposes to mitigate or limit the effects.

1.2.3 The matters in Section 79(1) of the EPA (Ref. 3) that have been considered within the Statement are general site condition, air quality, artificial light, and noise and vibration, during construction, operation and maintenance, and decommissioning of the Scheme.

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

a. **Environmental Statement (ES) [EN010152/APP/6.1–6.5]**;

b. **Framework Construction Environmental Management Plan (CEMP) [EN010152/APP/7.7]**;

c. **Framework Operational Environmental Management Plan (OEMP) [EN010152/APP/7.8]**; and

d. **Framework Decommissioning Environmental Management Plan (DEMP) [EN010152/APP/7.9]**.

1.2.5 This Statement is produced in the context that Section 158 of the Planning Act 2008 (Ref. 1) 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 This Statement sets out appropriate mitigation measures to ensure that the Scheme 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 Scheme would cause a statutory nuisance.

1.2.7 Nonetheless, it should be noted that article 7 (Defence to proceedings in respect of statutory nuisance) of the **Draft Development Consent Order [EN010152/APP/3.1]** 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 (Ref. 3) (noise emitted from premises so as to be prejudicial to health or a nuisance), subject to the criteria set out in that article.

1.2.8 The Statement is structured as follows:

a. Section 1: Introduction;

b. Section 2: Legislative and Policy Context;

c. Section 3: Assessment of Significance;

d. Section 4: Matters Engaged and Proposed Mitigation Measures; and

e. Section 5: Conclusion.

2. Legislative and Policy Context

2.1 The APFP Regulations

2.1.1 Regulation 5(2)(f) of the APFP Regulations (Ref. 1) 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 EPA

2.2.1 Section 79(1) of the EPA (Ref. 3), as it applies in England, provides that the following matters constitute 'statutory nuisances':

"(a) any premises in such a state as to be prejudicial to health or 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 of other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

(e) any accumulative 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 inspections emanating from relevant industrial, trade or business premises and being prejudicial to health or nuisance;

(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;

(g) noise emitted from premises so as to be prejudicial to health or a nuisance;

(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road;

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

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 (Ref. 4).[1]

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

2.3.1 Paragraphs 4.14.1 to 4.14.4 of the Overarching National Policy Statement for Energy (EN-1) (November 2023) (Ref. 5) state that:

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

"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 (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 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 Paragraph 4.15.5 states that *"At the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the EPA 1990 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".*

3. Assessment of Significance

3.1 Summary of Matters Engaged

3.1.1 The **Environmental Statement [EN010152/APP/6.1–6.5]** 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 (Ref. 3).

3.1.2 Table 1 outlines each matter stated in Section 79(1) of the EPA (Ref. 3) 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 Environmental Protection Act

Environmental Protection Act Section 79(1) Matter	Matter Engaged as a Consequence of the Scheme?
(a) Any premises in such a state to be prejudicial to health or a nuisance	This matter is considered further in the Statement.
(b) Smoke emitted from premises so as to be prejudicial to health or a nuisance	No smoke is expected to be generated from the Scheme; therefore, this is not considered further within the Statement. Unplanned, emergency scenarios, such as an accidental or technical fire, are not considered relevant to this Statement as these are not expected to occur during normal operations.
(c) Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	This matter only applies to private dwellings, as provided for under Section 79(4) of the EPA. This matter is therefore not considered further within the Statement as no private dwellings are expected to be impacted by fumes or gases.
(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 the Statement in relation to dust. The Scheme is not anticipated to have impact on steam, smell, or other effluvia and, therefore, these elements are not considered further within this Statement.
(e) Any accumulation or deposit which is prejudicial to health or a nuisance	This matter is considered further in the Statement.
(f) Any animal kept in such a place or manner as to be prejudicial to health or a nuisance	The Scheme will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance. Any grazing of livestock will be in accordance with good practice guidance for livestock welfare. Therefore, this is not considered further in the Statement.

Environmental Protection Act Section 79(1) Matter	Matter Engaged as a Consequence of the Scheme?
(fa) Any insects emanating from relevant industrial, trade, or business premises and being prejudicial to health or nuisance	There is no indication that the construction, operation and maintenance, and decommissioning of the Scheme will emanate any insects nor insects be attracted to it in a way that might constitute a nuisance. Therefore, this is 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 in the Statement.
(g) Noise emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in the 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	This matter is considered further in the Statement.
(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 Scheme.

4. Matters Engaged and Proposed Mitigation Measures

4.1 Condition of Site – Section 79(1)(a) and (e) of the Environmental Protection Act

4.1.1 This section considers the risk of the condition of the Order limits causing a statutory nuisance.

4.1.2 The following constitute a statutory nuisance (Ref. 3):

a. Section 79(1)(a) – *"any premises in such a state as to be prejudicial to health or a nuisance".*

b. Section 79(e) – *"any accumulation or deposit which is prejudicial to health or a nuisance".*

Construction and Decommissioning

4.1.3 The types of construction activities in respect of the Scheme include, but are not limited to:

a. Site preparation and civil works;

b. Solar PV Panel construction;

c. Construction of onsite electrical infrastructure;

d. Installation of cables;

e. Testing and commissioning; and

f. Landscape and habitat creation.

4.1.4 During decommissioning, all Solar PV Panels, Solar PV Mounting Structures, Field Stations, and concrete foundations to those elements not remaining would be removed from the Order limits and recycled or disposed of in accordance with good practice and market conditions at that time.

4.1.5 This is with the exception of the On-Site Substation, including associated control and metering buildings and 400 kV export cables (i.e. the Grid Connection Cables or Grid Connection Line Drop), the future of which would be agreed with National Grid Electricity Transmission (NGET) and/or the asset owners prior to the commencement of decommissioning. It is common practice for such infrastructure to be retained and used for another purpose after the development they were originally installed to support is decommissioned. Therefore, it is possible that the On-Site Substation and Grid Connection Cables may remain in place/operational after the decommissioning phase of the Scheme. This cannot be confirmed at this time and will depend upon demand closer to the decommissioning date.

4.1.6 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.

4.1.7 Construction control mechanisms proposed include core working hours, traffic management, and these measures are set out in the **Framework CEMP [EN010152/APP/7.7]**. The Framework CEMP has been informed by the Environmental Impact Assessment (EIA) and will guide the construction

process through environmental controls to promote good construction practice to avoid adverse or nuisance causing impacts during construction.

4.1.8 A detailed CEMP will be prepared following granting of the DCO. It would be in line with the commitments set out by the **Framework CEMP [EN010152/APP/7.7]** and would be agreed with the relevant local planning authorities.

4.1.9 A detailed DEMP will also be prepared prior to the commencement of decommissioning. The detailed DEMP will be in accordance with the **Framework DEMP [EN010152/APP/7.9]**.

4.1.10 Plans to deal with accidental pollution would 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 on-site and all site personnel would be trained in their use. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.

4.1.11 To control the waste generated during site preparation and construction, the contractor will separate the main waste streams on-site, prior to transport to an approved, licenced third party waste management facility for recycling or disposal.

4.1.12 A **Framework Site Waste Management Plan (SWMP) [EN010152/APP/7.18]** specifies the waste streams to be estimated and monitored and goals set with regards to the waste produced. The SWMP will be finalised by the appointed Contractor with specific measures to be implemented prior to the start of the construction phase. A Decommissioning Resource Management Plan (DRMP) will also be prepared for the decommissioning phase.

4.1.13 All waste to be removed from the Order limits will be undertaken by fully licenced waste carriers and taken to licenced waste management facilities for recycling and disposal.

4.1.14 The measures set out in the **Framework CEMP [EN010152/APP/7.7]** and **Framework DEMP [EN010152/APP/7.9]** are embedded in the Scheme design and the assessment of effects undertaken. The EIA assumes that those measures are implemented in full. Compliance with the **Framework CEMP [EN010152/APP/7.7]** and **Framework DEMP [EN010152/APP/7.9]** will be secured by requirements in the DCO.

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

Operation and Maintenance

4.1.16 It is considered that the operation and maintenance of the Scheme 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.

4.1.17 During operation and maintenance, activities within the Solar PV Site will be minimal and be restricted principally to vegetation management, equipment maintenance and servicing, replacement of any components that fail, and 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 Scheme and improve its efficiency.

4.1.18 Along the Grid Connection Corridor, operation and maintenance activity will consist of cable route inspections (schedule to be determined) any reactive maintenance such as where a cable has been damaged.

4.1.19 Operation and maintenance of the Scheme will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(a) or (e).

Conclusion

4.1.20 For the reasons explained above and with the mitigation measures described in place, it is considered that construction, operation and maintenance, and decommissioning of the Scheme will not give rise to impacts from the condition of the Order limits which would constitute a statutory nuisance under Section 79(1)(a) or (e).

4.2 Air Emissions – Section 79(1)(d) of the Environmental Protection Act

4.2.1 Section 79(d) (Ref. 3) provides that the following constitutes a statutory nuisance: *"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 was undertaken as part of the EIA and reported in **ES Volume I Chapter 14: Other Environmental Topics [EN010152/APP/6.1]**. The chapter assesses the significance of potential air quality effects during construction and decommissioning, and concludes that with appropriate mitigation, there would be no significant effects in terms of the EIA regulations.

Construction and Decommissioning

4.2.3 **ES Volume I Chapter 14: Other Environmental Topics [EN010152/APP/6.1]** assesses the impact of construction and decommissioning of the Scheme on 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 predicted pollutant concentration would have a negligible effect on human health and designated ecology sites. During construction there is the potential for emissions of dust particles due to the following:

a. Earthworks (e.g. soil stripping, excavation etc.);

b. General construction activities (e.g. site preparation, Solar PV Panel, and cables installation); and

c. Trackout (movement of mud and soil out of the Order limits by construction vehicles).

4.2.4 Engine exhaust emissions from construction 'non-road mobile machinery' (NRMM) have the potential to affect local air quality. Emissions from NRMM will be temporary and localised and will be controlled through good-practice mitigation measures, pursuant to the **Framework CEMP [EN010152/APP/7.7]**. For this reason, and that no unusual plant or

machinery will be used, construction NRMM emissions will not be significant and, therefore, these emissions have not been modelled or considered further in the ES.

4.2.5 A Dust Risk Assessment (DRA) has been undertaken based on relevant industry (Institute of Air Quality Management (IAQM)) guidance and the findings are presented in **ES Volume I Chapter 14: Other Environmental Topics [EN010152/APP/6.1]**.

4.2.6 Taking into account the scale of the Order limits and associated construction works, it is considered prudent to adopt the good site practice for controlling dust as outlined with the IAQM's 'Guidance on assessment of Dust from Demolition and Construction' (Ref. 6) document for high risk sites. These measures represent good industry practice and are therefore embedded in the Scheme design.

4.2.7 These good site practice mitigation measures are also incorporated into the **Framework CEMP [EN010152/APP/7.7]**. These are also presented in Table 2 and Table 3 below. These are considered to be embedded mitigation and represent good industry practice that are part of the Scheme design. 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.

4.2.8 The assessment of likely impacts and effects on air quality (**ES Volume I Chapter 14: Other Environmental Topics [EN010152/APP/6.1]**) concludes that the adequate implementation of good industry practice measures is expected to prevent the occurrence of significant impacts arising from dust generation during construction.

4.2.9 **ES Volume I Chapter 14: Other Environmental Topics [EN010152/APP/6.1]** sets out that decommissioning is expected to generate similar (if not lower) effects to those anticipated during construction and, therefore, the mitigation measures proposed for implementation during construction will be appropriate for decommissioning as well. It concludes that impacts on local air quality because of dust generation during decommissioning are considered to be not significant. The **Framework DEMP [EN010152/APP/7.9]** includes measures to the same effect as those contained in the **Framework CEMP [EN010152/APP/7.7]** and summarised in Table 3.

Table 2: Dust Mitigation Measures

Activity	Mitigation Measure
Communications	Develop and implement a stakeholder communications plan that includes community engagement before work commences within the Order limits.
	Display the name and contact details of person(s) accountable for air quality and dust issues within the Order limits. This may be the environment manager/engineer or the site manager.
	Display the head or regional office contact information.

Activity	Mitigation Measure
	Develop and implement a Dust Management Plan (DMP), which may include measures to control other emissions, approved by the Local Authority. The level of detail will depend on the risk and should include as a minimum the highly recommended measures within the IAQM guidance. The desirable measures should be included as appropriate for the Scheme. The DMP will need to include monitoring of dust deposition, dust flux, real-time PM_{10} continuous monitoring and/or visual inspections.
Site Management	Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce remissions in a timely manner, and record the measures taken.
	Make the complaints log available to the local authority (City of Doncaster Council) when asked.
	Record any exceptional incidents that cause dust and/or air emissions, either on-site or offsite, and the action taken to resolve the situation in the logbook.
	Hold regular liaison meetings with other high-risk construction sites within 500 m of the Order limits (if applicable), to ensure plans are co-ordinated and dust and particulate matter emissions are minimised. It is important to understand the interactions of the off-site transport/deliveries which might be using the same strategic road network routes.
Monitoring	Undertake daily on-site and off-site inspection, where receptors (including roads) are nearby, to monitor dust, record inspection results, and make the log available to the Local Authority (City of Doncaster Council) when asked. This should include regular dust soiling checks of road surfaces and road cleaning to be provided when necessary.
	Carry out regular inspections to monitor compliance with the DMP, record inspection results, and make an inspection log available to the Local Authority (City of Doncaster Council) when asked.
	Increase the frequency inspections by the person accountable for air quality and dust issues on-site when activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions.
Preparing and Maintaining the Order limits	Plan the layout so that machinery and dust causing activities are located away from receptors, as far as is possible.
	Avoid site runoff of water or mud.
	Keep site fencing, barriers and scaffolding clean using wet methods.

Activity	Mitigation Measure
	Remove materials that have a potential to produce dust from the Order limits as soon as possible, unless being reused on-site. If they are being reused on-site 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 and there are 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 miles per hour (mph) on surfaced and 10 mph on unsurfaced work areas.
	Produce a Construction Logistics Plan to manage the sustainable delivery of goods and materials.
	Implement a Travel Plan (as part of the **Construction Traffic Management Plan (CTMP) [EN010152/APP/7.17]**) that supports and encourages sustainable travel.
Equipment	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 Order limits for effective dust/particulate matter suppression/mitigation, using non-potable water where practicable and appropriate.
	Use enclosed chutes and conveyors and covered skips.
	Minimise 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 on site 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.

Table 3: Activity Specific Dust Mitigation Measures

Activity	Mitigation Measure
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 re-vegetate or cover with topsoil, as soon as practicable.

Activity	Mitigation Measure
	Only remove the cover in small areas during work and not all at once.
Construction	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.
	For smaller supplies of fine power materials ensure bags are sealed after use and stored appropriately to prevent dust.
Trackout	Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the Order limits. This may require the sweeper being continuously in use.
	Avoid dry sweeping of large areas.
	Ensure vehicles entering and leaving site are covered to prevent escape of materials during transport.
	Inspect on-site haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable.
	Record all inspections of haul routes and any subsequent action in a site logbook.
	Install hard surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned.
	Access gates to be located at least 10 m from receptors where practicable.

Operation and Maintenance

4.2.10 The Scheme is estimated to support two permanent (on-site) jobs during the operation and maintenance phase. Traffic generation from staff during operation and maintenance is not expected to induce significant changes to traffic flows on the local road networks.

4.2.11 The operation and maintenance of the Scheme is therefore not anticipated to have a significant impact on local air quality. The effect on air quality during operation will therefore be negligible.

4.2.12 No likely significant effects on air quality are therefore predicted during operation of the Scheme.

Conclusion

4.2.13 For the reasons explained above and with the implementation of the above measures, no significant effects are expected to occur in relation to air quality matters in EIA terms, including in relation to the health of human receptors, as set out in **ES Volume I Chapter 14: Other Environmental Topics [EN010152/APP/6.1]**.

4.2.14 No claim is therefore envisaged in respect of a statutory nuisance under Section 79(1)(d) (Ref. 3).

4.3 Artificial Light – Section 79(1)(fb) of the Environmental Protection Act

4.3.1 Section 79(1)(fb) (Ref. 3) provides that the following constitutes a statutory nuisance: *"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 interfered with the wellbeing, 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 cause a nuisance if they are not maintained or used properly.

4.3.3 The effects of glint and glare are not covered by statutory nuisance legislation which does not cover natural light. However, these effects are assessed in **ES Volume I Chapter 14: Other Environmental Topics [EN010152/APP/6.1]** and no significant effects are identified with embedded mitigation measures taken into account.

Construction and Decommissioning

4.3.4 Construction temporary lighting, in the form of task specific and fixed 'general' lighting, may be required during core working hours during months with reduced daylight hours.

4.3.5 Artificial lighting will be provided to maintain sufficient security and health and safety for the construction site, whilst adopting mitigation principles to avoid excessive glare, and minimise spill of light to nearby receptors (including ecology and residents), outside of the Order limits as far as reasonably practicable.

4.3.6 In accordance with the **Framework CEMP [EN010152/APP/7.7]** and **Framework DEMP [EN010152/APP/7.9]**, all construction and decommissioning lighting will incorporate the following measures to prevent or reduce the impact on human and ecological receptors:

a. Lights installed would be of the minimum brightness and/or power rating capable of performing the desired function;

b. Light fittings would be used that reduce the amount of light emitted above the horizontal (reduce upward lighting);

c. Light fittings would be positioned correctly, inward facing and directed downwards;

d. The direction of lights would seek to avoid spillage onto neighbouring properties, habitats, highways or watercourses; and

e. Passive Infra-Red (PIR) controlled lights (motion sensors) would be used except where temporary focussed task specific lighting is required.

Operation and Maintenance

4.3.7 Lighting during the operation and maintenance phase is controlled by the **Framework OEMP [EN010152/APP/7.8]**.

4.3.8 The Scheme would not require artificial lighting other than during temporary periods of maintenance/repair and all routine maintenance activities, except panel cleaning, would be scheduled for daylight hours as far as is practicable. Therefore, no part of the Scheme will be continuously lit.

4.3.9 Task specific and fixed 'general' lighting would be used at the On-Site Substation, BESS Area, and at the Operations and Maintenance Hub during the winter months (in early mornings and evenings only), however, spillage of internal lighting would be minimal, and PIR controlled lights (motion sensors) would be used outside of core working hours.

4.3.10 Lighting will be directed downward and away from boundaries and developed through a sensitive lighting scheme to ensure inward distribution of light and avoiding light spill on to existing boundary features. Therefore, there will be no lighting at the perimeter of the Order limits and no potential for a statutory nuisance.

Conclusion

4.3.11 For the reasons explained above and with the implementation of mitigation measures, no claim is envisaged in respect of statutory nuisance under Section 79(1)(fb) (Ref. 3).

4.4 Noise and Vibration – Section 79(1)(g) and (ga) of the Environmental Protection Act

4.4.1 The following constitute a statutory nuisance (Ref. 3):

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

b. 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 street".*

4.4.2 If noise is excessive, prolonged or on a regular basis it may constitute a statutory nuisance. A statutory nuisance would exist where the statutory threshold outlined in Paragraph 4.4.1 is met.

4.4.3 Local Authorities have a duty to investigate and, if necessary, take enforcement against noise or vibration emissions that are identified as a statutory nuisance. Section 80 of the EPA (Ref. 3) identifies Best Practicable Means (BPM), as defined in Section 72 of the Control of Pollution Act 1974 (Ref. 7), as a basis for defence against enforcement action. Section 82 provides for individuals to seek for abatement action to be taken by a magistrate's court against noise nuisance.

4.4.4 An assessment of noise and vibration impacts was undertaken as part of the EIA and reported in **ES Volume I Chapter 11: Noise and Vibration [EN010152/APP/6.1]**. The chapter assesses the significance of potential noise and vibration effects during construction, operation and maintenance, and decommissioning, and concludes there would be no significant noise or vibration effects in terms of the EIA Regulations with appropriate mitigation in place.

4.4.5 The elements relevant to Section 79(1) 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 (6A)(a) and is not considered further.

Construction and Decommissioning

4.4.6 Construction and decommissioning noise levels at surrounding receptors will vary depending on the locations and types of works taking place. Due to the variation in work activities and locations across the Scheme, it is considered that any periods of regular construction noise levels experienced at a receptor would be of a limited duration due to the phased nature of construction (e.g. a few weeks or months, rather than the full duration of the construction period). Occupants of nearby receptors are likely to be more tolerable of these events if they are regularly communicated with and kept informed of timings and duration of high noise generating events.

4.4.7 Measures to control noise and vibration will be adopted. These measures represent BPM and are included as embedded mitigation with the **Framework CEMP [EN010152/APP/7.7]** and **Framework DEMP [EN010152/APP/7.9]**. The detailed CEMP will be prepared prior to construction and the detailed DEMP will be prepared prior to decommissioning as outlined in **ES Volume I Chapter 2: The Scheme [EN010152/APP/6.1]**.

4.4.8 The Construction and Decommissioning contractors will follow BPM to minimise the noise impact upon the local sensitive receptors. These are likely to involve the following as appropriate:

a. Ensuring all appropriate processes, procedures and measures are in place to minimise noise before works begin and throughout the construction programme;

b. All contractors to be made familiar with current legislation and the guidance in BS 5228 (Parts one and two) (Ref. 8) which should form a prerequisite of their appointment;

c. Ensuring that, where reasonably practicable, noise and vibration are controlled at source (e.g. the selection of inherently quiet plant and low vibration equipment), review of the construction programme and methodology to consider quieter methods, consideration of the location of equipment on-site and control of working hours;

d. Use of modern plant, complying with applicable UK noise emission requirements;

e. Hydraulic techniques for breaking concrete or rocks to be used in preference to percussive techniques, where reasonably practicable (explosives will not be used for breaking of concrete or rocks);

f. When piling, use of lower noise piling where reasonably practicable;

g. Off-site pre-fabrication where reasonably practicable;

h. Regular and effective maintenance by trained personnel to be undertaken to keep plant and equipment working to manufacturer’s specifications;

i. All construction plant and equipment to be properly maintained, silenced where appropriate, operated to prevent excessive noise and switched off when not in use;

j. Loading and unloading of vehicles, dismantling of site equipment or moving equipment or materials around the Order limits to be conducted in such a manner as to minimise noise generation, as far as reasonably practicable;

k. All vehicles used on-site shall incorporate broadband reversing warning devices as opposed to the typical tonal reversing alarms to minimise noise disturbance where reasonably practicable;

l. Provision of information to the relevant local authority and local residents to advise of potential noisy works that are due to take place;

m. Unnecessary revving of engines will be avoided, and equipment to be switched off when not in use;

n. Drop heights of materials to be minimised;

o. Plant and vehicles to be sequentially started up rather than all together;

p. Plant to always be used in accordance with manufacturers' instructions. Care to be taken to site equipment away from noise-sensitive areas. Where practicable, loading and unloading would also be carried out away from such areas;

q. Noise generating activities near residential properties, such as use of power tools, will be limited to the hours between 08:00 and 18:00 from Monday to Friday and between 08:00 and 13:00 on Saturday; and

r. Core working hours on-site would run from 07:00 – 19:00 Monday to Friday and 07:00 to 13:00 on Saturday, daylight hours permitting (see Section 2.6 of **ES Volume I Chapter 2: The Scheme [EN010152/APP/6.1]**).

4.4.9 A construction noise mitigation and monitoring scheme shall be developed and agreed with the relevant local authorities following appointment of a Contractor and prior to the commencement of construction works, as set out in the **Framework CEMP [EN010152/APP/7.7]**. Noise monitoring will also be undertaken during the decommissioning stages, as described in the **Framework DEMP [EN010152/APP/7.9]**.

4.4.10 Based on the distances between the Order limits and surrounding receptors to locations where heavy ground works (excavation, piling, use of vibratory roller) may take place, as well as prior warning being provided to the nearby sensitive receptors on the timings and duration of vibration generating activities, it is considered that vibration from construction works experienced at sensitive receptors will be not significant, as identified in **ES Volume I Chapter 11: Noise and Vibration [EN010152/APP/6.1]**.

4.4.11 Construction working hours on the Solar PV Site will be from 07:00 to 19:00 Monday to Friday, and Saturday 07:00 to 13:00. Noise generating activities near residential properties, such as use of power tools or piling, would be limited to the hours between 08:00 and 18:00 from Monday to Friday and between 08:00 and 13:00 on Saturday. Where on-site works are to be conducted outside the core working hours, they will comply with the restrictions stated in the **Framework CEMP [EN010152/APP/7.7]** and any other restrictions agreed with the relevant planning authorities.

4.4.12 Noise and vibration effects during decommissioning of the Scheme will be similar or less than noise effects during construction. The noise assessment

presented within **ES Volume I Chapter 11: Noise and Vibration [EN010152/APP/6.1]** for construction is therefore considered representative (or an overestimate) of decommissioning. As such, a separate assessment for noise and vibration from decommissioning is not included.

Operation and Maintenance

4.4.13 As stated in the Scoping Report (**ES Volume III Appendix 1-1: EIA Scoping Report [EN010152/APP/6.3]**) and confirmed by the Planning Inspectorate in the Scoping Opinion (**ES Volume III Appendix 1-2: EIA Scoping Opinion [EN010152/APP/6.3]**), no major vibration sources are envisaged to be introduced as part of the Scheme. As such, there will be no associated vibration effects during the operation and maintenance phase. No further assessment of operational vibration has been included in the ES.

4.4.14 Operational embedded noise mitigation measures include the following:

a. Plant selection;

b. Design, location and orientation of Field Stations, On-Site Substation, and BESS Area to minimise noise at receptors.

4.4.15 The **Outline Design Principles Statement [EN010152/APP/7.4]** and **Framework OEMP [EN010152/APP/7.8]** commit to maximum noise impacts at receptors during operation and maintenance which are not to be exceeded. This approach to noise mitigation for the Scheme operation is considered to represent adoption of BPM.

Conclusion

4.4.16 For the reasons explained above and with mitigation measures in place, no significant effects are expected to occur in relation to noise and vibration matters in EIA terms during the construction, operation and maintenance, and decommissioning phases with appropriate mitigation in place, as set out in **ES Volume I Chapter 11: Noise and Vibration [EN010152/APP/6.1]**. Therefore, no significant effects associated with noise and vibration are expected to occur in relation to the health of human receptors during the construction, operation and maintenance, and decommissioning of the Scheme.

4.4.17 As BPM would be adopted for the construction, operation and maintenance, and decommissioning of the Scheme, no claim against statutory nuisance in respect of noise and vibration is therefore envisaged in respect of a statutory nuisance under Section 79(1)(g) or (ga) (Ref. 3).

5. Conclusion

5.1 Potential for Nuisance

5.1.1 In line with Regulation 5(2)(f) of the APFP Regulations (Ref. 1), this Statement has identified whether the Scheme has engaged one or more of the matters set out in Section 79(1) of the EPA (Ref. 3) and thus considered whether the Scheme would cause a statutory nuisance.

5.1.2 The matters in the EPA (Ref. 3) that have been engaged by the Scheme are general site condition, air quality, artificial light, and noise and vibration, during construction, operation and maintenance, and decommissioning. The embedded design and additional mitigation measures identified in the **Environmental Statement [EN010152/APP/6.1–6.5]** will prevent impacts which have a potential to result in statutory nuisance under Section 79 of the EPA (Ref. 3). These measures are secured by requirements obtained within the draft DCO.

5.1.3 It is not expected that the construction, operation and maintenance, and decommissioning of the Scheme would cause a statutory nuisance.

6. References

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Ref. 2 HMSO (2009). The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Available at: https://www.legislation.gov.uk/uksi/2009/2264/contents/made. [Accessed 29 July 2024].

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Ref. 4 Ares, E and Adcock, A Nuisance Complaints (2018). House of Commons Library. Briefing Paper No CBP 8040.

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Ref. 6 Institute of Air Quality Management (2023). Guidance on the assessment of dust from demolition and construction. Available at: https://iaqm.co.uk/wp-content/uploads/2013/02/Construction-dust-2023-BG-v6-amendments.pdf. [Accessed 29 July 2024].

Ref. 7 HMSO (1974). Control of Pollution Act 1974. Available at: https://www.legislation.gov.uk/ukpga/1974/40. [Accessed 29 July 2024].

Ref. 8 British Standards Institute (BSI) (2014). BS 5228:2009+A1:2014 – Code of practice for noise and vibration control on construction and open sites - Noise. London: BSI. Available at: https://knowledge.bsigroup.com/products/code-of-practice-for-noise-and-vibration-control-on-construction-and-open-sites-noise/standard. [Accessed 29 July 2024].

Abbreviations

Abbreviation/Term	Meaning
APFP	Applications: Prescribed Forms and Procedure
BESS	Battery Energy Storage System
BPM	Best Practicable Means
CEMP	Construction Environmental Management Plan
DCO	Development Consent Order
DEMP	Decommissioning Environmental Management Plan
DMP	Dust Management Plan
DRMP	Decommissioning Resource Management Plan
EIA	Environmental Impact Assessment
EPA	Environmental Protection Act
ES	Environmental Statement
IAQM	Institute of Air Quality Management
MW	Megawatts
NGET	National Grid Electricity Transmission
NRMM	Non-Road Mobile Machinery
NSIP	Nationally Significant Infrastructure Project
OEMP	Operational Environmental Management Plan
PIR	Passive Infra-Red
PV	Photovoltaic
SWMP	Site Waste Management Plan

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