



# Frodsham Solar

## Statutory Nuisance Statement

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**Planning Act 2008; and Infrastructure Planning (Applications:  
Prescribed Forms and Procedure) Regulations Regulation 5(2)(f)**

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## 1.0 INTRODUCTION

### 1.1 Background

- 1.1.1 This Statutory Nuisance Statement (the ‘Statement’) has been prepared to support an application made by Frodsham Solar Limited (‘the Applicant’) for a Development Consent Order (DCO) for the Frodsham Solar project (‘the Proposed Development’). The application for the DCO will be submitted to the Planning Inspectorate, with the decision whether to grant a DCO being made by the Secretary of State for the Department for Energy Security and Net Zero (hereafter referred to as the ‘Secretary of State’) pursuant to the Planning Act 2008<sup>i</sup>.
- 1.1.2 The Proposed Development is ‘EIA development’ as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the ‘EIA Regulations’)<sup>ii</sup>, requiring an Environmental Impact Assessment (EIA) and so the application is accompanied by an **Environmental Statement (ES)** [EN010153/DR/6.1/6.2/6.3].
- 1.1.3 This Statement has been prepared to address and comply with the requirement in Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the ‘APFP Regulations’)<sup>iii</sup>, which require that a Statement is provided as whether the Proposed Development “*engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them*”.
- 1.1.4 This Statement should be read alongside the other documents submitted as part of the DCO application (which have informed its preparation) and in particular:
- the **Environmental Statement (ES)** [EN010153/DR/6.1 / 6.2 / 6.3];
  - the **Outline Construction Environmental Management Plan (oCEMP)** [EN010153/APP/7.5];

- the **Outline Operational Environmental Management Plan (oOEMP) [EN010153/APP/7.6]**; and
- the **Outline Decommissioning Environmental Management Plan (oDEMP) [EN010153/APP/7.7]**.

- 1.1.5 This 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.
- 1.1.6 The Statement establishes that suitable mitigation measures are included in the **draft DCO [EN010153/DR/3.1]** to ensure that the Proposed Development does not have significant effects that would lead to a statutory nuisance. It is expected that the construction, operation (and maintenance) and decommissioning of the Proposed Development would not cause a statutory nuisance.
- 1.1.7 Additionally, article 8 (Defence to proceedings in respect of statutory nuisance) of the **draft DCO [EN010153/DR/3.1]** includes a provision that would offer a defence against proceedings for a nuisance described in paragraph (g) of section 79(1) of the Environment Protection Act 1990 (noise emitted from premises so as to be prejudicial to health or a nuisance), according to the criteria outlined in article 8.

## 1.2 Document Structure

### 1.2.1 The Statement is structured as follows:

- **Introduction** – provides an introduction to the document and defines the structure of the Statement;
- **Proposed Development** – provides a summary of the Site and Site Context, a description of the Proposed Development;
- **Legislative and Planning Policy Context** – sets out the context to the Statement arising from legislative requirements and those set out in planning policy;
- **Assessment of Matters Potentially Engaged** – assesses the matters set out at section 79(1) of the Environment Protection Act 1990 and whether they are engaged for the Proposed Development;
- **Matters Engaged and Mitigation Measures** – addresses the matters engaged and details the mitigation measures for each matter for the Proposed Development to ensure that they are adequately addressed; and,
- **Conclusion** – concludes the Statement and provides an overall assessment of whether the Proposed Development would be expected to cause a statutory nuisance.

## 2.0 THE PROPOSED DEVELOPMENT

### 2.1 The Proposed Development

- 2.1.1 The Proposed Development comprises a new solar energy generating station and an associated on-site Battery Energy Storage System (BESS) on land at Frodsham Marsh, Frodsham, Cheshire West and Chester ('the Site'). The Proposed Development also includes the associated infrastructure for connection to the local electricity distribution network, as well as a private wire electricity connection that would enable local businesses to utilise the renewable energy generated by the Proposed Development.
- 2.1.2 The current design for the Proposed Development would enable the generation of approximately 147 megawatts (MW) of electricity, as well as the storage of approximately 100 MW of electricity in a BESS. The precise generating capacity and storage capacity would be subject to detailed design, but it should be noted that at present the Grid connection offer from the District Network Operator (DNO) is for 100 MW export and 50 MW import. As noted above, the Proposed Development would also be capable of exporting electricity directly to local businesses.
- 2.1.3 Subject to obtaining the necessary consents, construction is anticipated to commence in early 2028 and be completed in mid-2030. The Proposed Development comprises a temporary development with an operational phase of up to 40 years. Decommissioning activities would therefore commence in 2070, 40 years after final commissioning.
- 2.1.4 A more detailed description of the Proposed Development is provided within **ES Vol 1 Chapter 2: The Proposed Development [EN010153/APP/6.1]**.

### 2.2 The Site

- 2.2.1 The Site is located approximately 500 m to the north of the centre of Frodsham Town Centre within the administrative area of Cheshire West and Chester Council (CWaCC).

- 2.2.2 The Site is defined by a single red line boundary that covers all land expected to be included within the Proposed Development, which in total is approximately 337.5 ha and is shown on **ES Vol 3 Figure 1-1 Site Location [EN010153/APP/6.3]**. This is also referred as the 'Order limits'.
- 2.2.3 The Site contains all of the principal elements of the Proposed Development which are illustrated on **ES Vol 3 Figure 1-2 Proposed Development Areas [EN010153/APP/6.3]** and includes:
- **'Solar Array Development Area (SADA)'** – which would include solar photovoltaic modules and support frames, internal access tracks, cabling, inverters, transformers, the solar array substation (known as the 'Frodsham Solar Substation') and the BESS;
  - **'Main Site Access'** – which would be routed from the west via the Pool Lane roundabout and the access tracks used for the Frodsham Wind Farm. There would be no access to the Site from Frodsham during construction, operation or decommissioning other than for emergency vehicles;
  - **'SPEN Frodsham Substation'** – which is included along with access into the substation in order to provide the SPEN Grid Connection;
  - **'SPEN Grid Connection'** – which would link the on-site Frodsham Solar Substation to the Scottish Power Energy Networks ('SPEN') Frodsham Substation;
  - **'Private Wire Connection'** – which includes land to facilitate future electricity connections to businesses located south-west of the Proposed Development;
  - **'Non-Breeding Bird Mitigation Area'** – which includes land that would be used to mitigate for the potential impacts of the Proposed Development on wetland bird species; and
  - **'Skylark Mitigation Area'** – which includes land that would be used to mitigate for the potential impacts of the Proposed Development on skylark.

- 2.2.4 The closest settlement to the Site is Frodsham on the south side of the M56. To the south-west of Frodsham lies Helsby, approximately 2 km from the Solar Array Development Area.
- 2.2.5 The nearest residential properties to the Solar Array Development Area are within Frodsham beyond the M56 to the south / south-east. Properties on Hawthorn Road and Wayford Mews are located approximately 140m from the Solar Array Development Area. Other properties within 350m of the Solar Array Development Area include those on Williams Way (230m distant) and Waterside Drive (290m distant).
- 2.2.6 Two residential caravan sites are also located off Brook Furlong to the north-west of Frodsham (north of the M56). These lie adjacent to the Order limits. Both sites have been developed without planning permission. In September 2022 CWaCC took enforcement action against the southerly of the two sites, requiring the cessation of the residential use of the Site, and that all unauthorised development is removed and the area restored to grassland. At the same time planning applications for the two sites were submitted to CWaCC (ref 22/03308/FUL – northern site & 22/02292/FUL – southern site) for change of use of the land to a residential caravan site. An appeal against the enforcement notice was submitted by the occupants of the Site. On 26 July 2024 the Inspector appointed for the appeal upheld the enforcement notice and planning permission 22/03308/FUL was refused. There has been no enforcement to date on the northern site, and the planning application remains undetermined on the CWaCC website. At the time of writing, both caravan sites remain in use.
- 2.2.7 Frodsham Primary Academy School lies 150m to the south of the Solar Array Development Area on the outskirts of Frodsham, on Ship Street.

### 3.0 LEGISLATIVE AND PLANNING POLICY CONTEXT

#### 3.1 APFP Regulations

- 3.1.1 Regulation 5(2)(f) of the APFP Regulations require 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 1990, and if so how the applicant proposes to mitigate or limit them”.*

#### 3.2 Environment Protection Act 1990 (EPA)

- 3.2.1 The Environmental Protection Act 1990<sup>iv</sup> (EPA) sets out at section 79(1) that the following matters constitute “statutory nuisances”:

*“(a) any premises in such a state as to be prejudicial to health or a nuisance;*

*(b) smoke emitted from premises so as to be prejudicial to health or a nuisance;*

*(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;*

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

*(e) any accumulation or deposit which is prejudicial to health or a nuisance;*

*(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;*

*(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;*

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

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

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

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

3.2.2 For a matter to rise to the level of 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*”<sup>v</sup>. A one-off event would not usually be considered a nuisance under the EPA, instead an activity must be “*ongoing or repeated*”.

### 3.3 National Policy Statements

3.3.1 The following NPSs are relevant to the Proposed Development:

- i) Overarching National Policy Statement (NPS) for Energy (EN-1)<sup>vi</sup>;
- ii) NPS for Renewable Energy Infrastructure (EN-3)<sup>vii</sup>; and
- iii) NPS for Electricity Networks Infrastructure (EN-5)<sup>viii</sup> in light of the grid connection.

3.3.2 The Department for Energy Security and Net Zero published draft updates to EN-1, EN-3 and EN-5 on the 24<sup>th</sup> April 2025. The draft documents make no material changes to how statutory nuisance is considered within an application for a DCO.

3.3.3 For the Statement section 4.15 of EN-1 is particularly relevant as it deals with the matter of Common Law and Statutory Nuisance. It states:-

*“4.15.1 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.*

*4.15.2 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.*

*4.15.3 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.*

*4.15.4 The defence is not intended to extend to proceedings where the matter is 'prejudicial to health' and not a nuisance."*

- 3.3.4 Paragraph 4.15.5 then sets out the requirement for the Applicant to provide a Statement addressing possible sources of nuisance under the EPA along with how such nuisances may be mitigated or limited in order for the appropriate requirements to be included within any DCO. The duties of the Secretary of State to assess potential nuisances and the approach to mitigating or limiting the same in any DCO are then set out at paragraphs 4.15.6 and 4.15.7.

## 4.0 ASSESSMENT OF MATTERS POTENTIALLY ENGAGED

4.1.1 The ES [EN010153/DR/6.1 / 6.2 / 6.3] that accompanies this DCO application addresses the likelihood of significant effects arising from the Proposed Development that could constitute a statutory nuisance as identified in section 79(1) of the EPA.

4.1.2 Table 1 below sets out each matter in section 79(1) of the EPA and examines (based on the ES assessment) whether these matters are covered within this Statement or whether any can be excluded as not being relevant for this Statement.

**Table 1.1 Matters potentially engaged under Section 79(1) of EPA**

S79(1) EPA Matters	Matter engaged by Proposed Development?
(a) any premises in such a state as to be prejudicial to health or a nuisance	The Proposed Development has the potential to cause such an impact and so the matter is considered further in this Statement.
(b) smoke emitted from premises so as to be prejudicial to health or a nuisance	The Proposed Development is not expected to generate smoke, so this matter is not considered further in this Statement. Unexpected or emergency situations such as a fire are not relevant to this Statement as they would fall outside of the scope of being a statutory nuisance.
(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	Pursuant to section 79(4) of the EPA this matter does not apply to premises other than private dwellings. So, this matter is not considered further in this Statement.
(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	The Proposed Development has the potential to cause dust impacts so the matter is considered further in this Statement. The development is not anticipated to cause any steam, smell, or other effluvia and so these have not been considered any further in this statement.
(e) any accumulation or deposit which is prejudicial to health or a nuisance	The Proposed Development has the potential to cause such an impact and so the matter is considered further in this Statement.

S79(1) EPA Matters	Matter engaged by Proposed Development?
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance	The Proposed Development would not involve keeping animals directly, and instead only grazing would occur on the Site as part of management of land within the Proposed Development. This would reflect the current use of the land and would not be so intensive as to create a statutory nuisance. So, this matter is not considered further in this Statement.
(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	The Proposed Development is not expected to cause insects to emanate from the Site, so this matter is not considered further in this Statement.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance	The Proposed Development has the potential to cause such an impact and so the matter is considered further in this Statement.
(g) noise emitted from premises so as to be prejudicial to health or a nuisance	The Proposed Development has the potential to cause such an impact and so the matter is considered further in this Statement.
(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street [or in Scotland, road]	The Proposed Development has the potential to cause such an impact and so the matter is considered further in this Statement.
(h) any other matter declared by any enactment to be a statutory nuisance	The Proposed Development is not expected to create a statutory nuisance in respect of any other matters, so this matter is not considered further in this Statement.

4.1.3 The following section of this Statement addresses the matters identified above as requiring further consideration.

## 5.0 MATTERS ENGAGED AND MITIGATION MEASURES

### 5.1 Condition of the Site – sections 79(1)(a) and (e) of the EPA

5.1.1 This section addresses both of the following matters in section 79(1):

*“(a) any premises in such a state as to be prejudicial to health or a nuisance;*

*(e) any accumulation or deposit which is prejudicial to health or a nuisance”.*

5.1.2 In line with the requirements of the EPA at section 79(7), for the purposes of this Statement, premises is considered to mean the land within the Order limits.

5.1.3 Each phase of the Proposed Development is addressed separately below.

#### **Construction**

5.1.4 The following is a summary of the construction activities that would take place during the construction phase of the Proposed Development:

- i) Construction of the NBBMA;
- ii) Enabling works;
- iii) Construction of the Solar Arrays;
- iv) Construction of the BESS and Frodsham Solar Substation;
- v) Construction of the Grid Connection;
- vi) Construction of the 132 kV Private Wire Grid Connection; and
- vii) Landscaping and other Associated Works.

5.1.5 **ES Vol 2 Appendix 2-2 Indicative Construction Phasing and Resource Schedule [EN010153/APP/6.2]** illustrates the indicative phasing envisaged for the purposes of the EIA.

5.1.6 Control measures to be implemented during the construction phase are described in the **outline Construction Environmental Management Plan (oCEMP) [EN010153/DR/7.5]** which has been provided as part of the DCO application submission. The oCEMP provides details of the environmental

- mitigation and monitoring identified as part of the EIA and set out in the ES that will be undertaken during the construction of the Proposed Development.
- 5.1.7 The oCEMP includes detail of measures to ensure site security, protection of the public, and to ensure that the Site is kept in a fit and proper state such that risks to the public are properly managed and avoided.
- 5.1.8 Measures are also set out to address the potential for accidental pollution (e.g. from a spillage, damage to equipment etc.) with suitable equipment and spill kits to be maintained and provided in accessible locations to clean up any spills. Fuel or chemicals will also be stored in a suitable manner and contained such that the potential for pollution is addressed. An Emergency Pollution Incident Protocol will be produced prior to construction activities commencing and will form part of the full CEMP. That protocol will be reviewed and updated regularly by the Principal Contractor, and site workers will be trained on its requirements, thus ensuring that the potential for accidental pollution is managed and prevented.
- 5.1.9 The oCEMP includes measures to safeguard the environment and human health from harm which could result from the mobilisation of contaminants which may be present within the soils or shallow groundwater at the Site. This includes undertaking, as necessary, Foundation Works Risk Assessment, Piling Risk Assessment, groundwater risk assessment and remediation. Measures are also included to prevent leaks and spillages of fuel and chemicals from causing contamination of soils or controlled waters.
- 5.1.10 Details of measures to minimise, re-use, and control waste are set out in the oCEMP and will be detailed in a Construction Waste Management Plan (CWMP) that will form part of the final CEMP. The Waste Hierarchy will be applied during the construction phase, and all reasonable steps will be taken to minimise the volume of waste generated. All waste streams will be separated and segregated to maximise potential for re-use and recycling, and waste will be removed from the site by fully licenced waste carriers, with waste taken to licensed facilities for recycling and disposal.

5.1.11 The oCEMP will be developed into a final CEMP which must be in substantial accordance with the oCEMP and will require approval by CWaCC. The Proposed Development must be undertaken in accordance with the approved plan. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.

5.1.12 Thus, the construction phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(a) or (e) of the EPA.

### ***Operation***

5.1.13 The operation of the Proposed Development as a solar farm along with a BESS and associated infrastructure, would not cause the Site as a premises to be in such a state as be prejudicial to human health or cause a nuisance.

5.1.14 An outline Operational Environmental Management Plan (**oOEMP [EN010153/DR/7.6]**) has been prepared and provided as part of the DCO application submission, and it provides details of the necessary environmental mitigation and monitoring identified as part of the EIA and set out in the Environmental Statement (ES) that will be delivered during the operation of the Proposed Development, and ensures that this mitigation is secured and embedded into project delivery.

5.1.15 During the operational phase of the Proposed Development, maintenance activity would take place, but this would on the whole be minimal and limited largely to vegetation management, cleaning of the solar panels, the maintenance and servicing of equipment and infrastructure on the Site and replacement should any fail or at the end of its service life (where relevant), and monitoring activity. The Grid Connection and Private Wire Connection would require inspections, and reactive maintenance in the event of any issues. There would also be occasions where more significant replacements may be required e.g. replacement of panels, PCUs, BESS units. Whilst similar types of impacts could occur to those during the construction phase, the

magnitude of any impacts are likely to be substantially reduced. Nonetheless, measures have been included in the oOEMP that are similar to the oCEMP to ensure that any significant maintenance campaigns do not cause a statutory nuisance.

- 5.1.16 Measures to address any accidental pollution are set out in the oOEMP, with these to be supplemented by Emergency Pollution Incident Protocol in the full OEMP. A Waste Management Plan will also be prepared to ensure that waste generated during the operational phase is properly managed in accordance with the waste hierarchy.
- 5.1.17 The oOEMP will be developed into a full plan which must be in substantial accordance with the outline and will require approval by CWaCC. The Proposed Development must be undertaken in accordance with the approved plan. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.
- 5.1.18 Thus, the operational phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(a) or (e) of the EPA.

### ***Decommissioning***

- 5.1.19 The following is a summary of the decommissioning activities that would take place during the decommissioning phase of the Proposed Development:
- i) Enabling works;
  - ii) Removal of solar arrays;
  - iii) Removal of the BESS and Frodsham Solar Substation;
  - iv) Removal of fencing;
  - v) Potential changes to the extent of landscaping to allow the Site to return to agricultural use; and
  - vi) Other Associated Works.

- 5.1.20 An outline Decommissioning Environmental Management Plan (**oDEMP**) **[EN010153/DR/7.7]** has been prepared and provided as part of the application submission and it provides detail of the necessary environmental mitigation and monitoring identified as part of the EIA and set out in the ES that will be delivered during the decommissioning of the Proposed Development, and ensures that this mitigation is secured and embedded into project delivery.
- 5.1.21 The oDEMP includes detail of measures to manage the Site during the decommissioning phase, including measures to ensure site security, protection of the public, and to ensure that the Site is kept in a fit and proper state such that risks to the public are properly managed and avoided.
- 5.1.22 Measures are also set out to address the potential for accidental pollution (e.g. from a spillage, damage to equipment etc.) with suitable equipment and spill kits to be maintained and provided in accessible locations to clean up any spills. Fuel or chemicals will also be stored in a suitable manner and contained such that the potential for pollution is addressed. An Emergency Pollution Incident Protocol will be produced prior to decommissioning activities commencing and would form part of the final DEMP. That protocol will be reviewed and updated regularly by the Principal Contractor, and site workers will be trained on its requirements, thus ensuring that the potential for accidental pollution is managed and prevented.
- 5.1.23 Detail of measures to minimise, re-use, and control waste are set out in the oDEMP and will be detailed in a Decommissioning Waste Management Plan (DWMP) that will form part of the final DEMP. The Waste Hierarchy will be applied during the decommissioning phase, and all reasonable steps will be taken to minimise the volume of waste generated, all waste streams will be separated and segregated to maximise potential for re-use and recycling, and waste will be removed from the site by fully licenced waste carriers will be used and waste will be taken to licenced facilities for recycling and disposal.

5.1.24 The oDEMP will be developed into a full plan which must be in substantial accordance with the outline and will require approval by CWaCC. The Proposed Development must be undertaken in accordance with the approved plan. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.

5.1.25 Thus, the decommissioning phase of the project would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(a) or (e) of the EPA.

## 5.2 Emissions and air quality – section 79(1)(d) of the EPA

5.2.1 This section addresses the following matter which constitutes a statutory nuisance in section 79(1)(d):

*“any dust, steam, smell or other effluvia arising on industrial trade or business premises and being prejudicial to health or a nuisance.”*

### **Construction**

5.2.2 Construction phase vehicle movements would be below established thresholds set by the Institute of Air Quality Management (IAQM) where potential significant effects from vehicle emissions would occur. As such, this impact is not considered further in this Statement, as no statutory nuisance would arise.

5.2.3 The **oCEMP [EN010153/DR/7.5]** includes measures to ensure that non-mobile road machinery emissions are managed, along with general management measures in respect of other vehicles and equipment to ensure that it is selected and maintained to minimise and manage emissions.

5.2.4 **ES Vol 2 Appendix 4-2: Construction Dust Assessment [EN010153/DR/6.2]** assesses the potential direct and indirect impacts of the Proposed Development arising from construction dust, and the mitigation measures required to prevent, reduce, or offset the impacts.

5.2.5 The assessment identified that the Site is classified as high-risk of generating dust effects based on IAQM guidance, and therefore, Best Practice Measures to control and manage dust emissions are prescribed in accordance with this rating.

5.2.6 These include, but are not limited to:

- i) implementation of best practice measures to monitor, control, and limit dust and particulates;
- ii) dust suppression and damping;
- iii) control and management of waste and materials on Site such that they are contained and controlled;
- iv) control of excavation and site stripping so that exposed areas are minimised;
- v) minimisation of drop heights and control of material handling activities; completed earthworks and other exposed areas to be covered and revegetated as soon as possible;
- vi) damping down of internal haul roads routes and exposed areas, particularly during prolonged dry spells;
- vii) monitoring, management, and control of internal access routes, hardstanding areas and heavy duty construction matting to ensure that they are provided and maintained in a good condition;
- viii) sheeting of all incoming / outgoing vehicles carrying loose loads; and
- ix) the provision of wheel cleaning facilities before exit onto the public highway.

5.2.7 Site specific-mitigation measures will be specified in a Dust Management Plan, that would form part of the full CEMP, which as specified above is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.

- 5.2.8 Thus, the construction phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(d) of the EPA.

### ***Operation***

- 5.2.9 There would be very limited operational traffic and no activities which are likely to give rise to significant emissions to air during routine operational maintenance.
- 5.2.10 There would be the potential for some dust effects during any significant periodic replacements. However, these effects are likely to be substantially lower in magnitude than those in the construction phase.
- 5.2.11 However, the **oOEMP [EN010153/DR/7.6]** has been prepared, which includes best practice measures to limit the potential for air quality impacts from operational activities. The oOEMP will be developed into a full plan that will require approval by CWaCC. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.
- 5.2.12 Thus, the Operational Phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(d) of the EPA.

### ***Decommissioning***

- 5.2.13 Decommissioning phase vehicle movements would be similar to the construction phase and, as set out above, would be below established thresholds set by the Institute of Air Quality Management (IAQM) where potential significant effects from vehicle emissions would occur. As such this impact is not considered further in this Statement as no statutory nuisance would arise.
- 5.2.14 The **oDEMP [EN010153/DR/7.7]** includes measures to ensure that non-mobile road machinery emissions are managed, along with general

management measures in respect of other vehicles and equipment to ensure that it is selected and maintained to minimise and manage emissions.

5.2.15 The decommissioning works have the potential to involve similar dust-generating activities as construction; thus, the oDEMP includes the provision of a Dust Management Plan that will contain measures similar to those prescribed above for the construction phase.

5.2.16 The oDEMP will be developed into a full plan that will require approval by CWaCC. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.

5.2.17 Thus, the decommissioning phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(d) of the EPA.

### **5.3 Artificial light – section 79(1)(fb) of the EPA**

5.3.1 This section addresses the following matter in section 79(1)(fb) of the EPA:

*“artificial light emitted from premises so as to be prejudicial to health or a nuisance”.*

5.3.2 A statutory nuisance from light would exist where artificial light substantially interferes with the comfort, wellbeing, or enjoyment of an individual’s home or premises. Usually this would mean that a nuisance was being caused on a regular basis. Artificial lights may cause a nuisance if they are not maintained or used properly.

#### **Construction**

5.3.3 Lighting during construction will need to be sufficient to satisfy health and safety requirements, whilst ensuring impacts on the surrounding environment, including from sky glow, glare and light spillage, are minimised. Artificial lighting will only be used during the hours of darkness, during low levels of

light, or during specific construction tasks that require it to ensure health, safety and welfare.

- 5.3.4 Appropriate lighting will also be deployed and operated to ensure that suitable access arrangements can be maintained at the access/egress points and within the site, that Site security can be maintained, and that the site office, construction compounds, and laydown areas are adequately lit. Specific lighting will also be required at some construction locations e.g. PCUs, transformer units, BESS and Frodsham Solar Substation compound.
- 5.3.5 Lighting will not be operated outside of the specified construction working hours (except for security lighting). Lighting will utilise directional fittings and cowls to minimise outward light spill and glare.
- 5.3.6 The Site is located at a considerable distance from residential receptors, in an environment that is already subject to significant sources of artificial light, such as the nearby industrial facilities, the M56, and the urban area of Frodsham. Nonetheless, the **oCEMP [EN010153/DR/7.5]** sets out measures to control any light spill from the Site.
- 5.3.7 The oCEMP will be developed into a full plan that will require approval by CWaCC and will include further detail on lighting. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.
- 5.3.8 Thus, the construction phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(fb) of the EPA.

### **Operation**

- 5.3.9 The SADA would not be artificially lit, save as described below. Temporary mobile task lighting may be required for maintenance during periods of low light. However, this would be brought onto Site for short periods of time and would not be used routinely.

- 5.3.10 The Frodsham Solar Substation and the BESS compounds would have inward-facing security lighting installed. This would be operated with passive infrared (PIR) detectors or would be turned on manually for maintenance in low-light conditions or in the event of an emergency.
- 5.3.11 Lighting will be directional and designed in line with the guidance and principles set out in ILP GN01/2021 'Reduction of Obtrusive Light'. This will include use of appropriate luminaires and lighting levels for the purpose of the lighting, and hoods and cowls to reduce light spill beyond the area targeted for lighting.
- 5.3.12 The **oOEMP [EN010153/DR/7.6]** sets out the measures to be used to control operational lighting which will be developed into a full plan that will require approval by CWaCC. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.
- 5.3.13 Glint and glare effects are not covered by statutory nuisance legislation, as it does not encompass natural light. However, those effects are assessed in detail in **ES Vol 2 Appendix 4-3: Glint and Glare Assessment [EN010153/DR/6.2]**, with no significant effects identified taking into account the embedded mitigation measures.
- 5.3.14 Thus, the operational phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(fb) of the EPA.

### ***Decommissioning***

- 5.3.15 The decommissioning works have the potential to result in lighting impacts similar to those in the construction phase. As such the **oDEMP [EN010153/DR/7.6]** includes measure to control lighting impacts.
- 5.3.16 Lighting will be required to meet health and safety requirements for site operatives. However, pursuant to the oDEMP, this will be deployed such that impacts on the surrounding environment, including from sky glow, glare and

light spillage, are minimised. Artificial lighting will only be used during the hours of darkness, during low levels of light, or during specific construction tasks that require it in order to ensure the health, safety and welfare of all.

- 5.3.17 Appropriate lighting will also be deployed and operated to ensure that suitable access arrangements can be maintained at the access/egress points and within the site, that Site security can be maintained, and that the site office, construction compounds, and laydown areas are adequately lit. Specific lighting will also be required at some decommissioning locations e.g. PCUs, transformer units, BESS compound and Substation compound.
- 5.3.18 Lighting will not be operated outside of the specified construction working hours (except for security lighting). Lighting will utilise directional fittings and cowls to minimise outward light spill and glare.
- 5.3.19 The oDEMP will be developed into a full plan that will require approval by CWaCC and will include further detail in respect of lighting. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.
- 5.3.20 Thus, the decommissioning phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under section 79(1)(fb) of the EPA.

## **5.4 Noise emissions – sections 79(1)(g) and (ga) of the EPA**

- 5.4.1 This section addresses both of the following matters in section 79(1) of the EPA:

*“(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 [F6or in Scotland, road];”.*

- 5.4.2 If noise is excessive, prolonged or on a regular basis it may constitute a statutory nuisance. A statutory nuisance would exist if noise substantially interfered with the well-being, comfort or enjoyment of an individual's property.
- 5.4.3 An assessment of noise and vibration impacts of the Proposed Development is provided in **ES Vol 2 Appendix 4-1: Noise Impact Assessment (NIA) [EN010153/DR/6.2]**. This assesses the significance of noise and vibration effects during the construction, operation and decommissioning phases of the Proposed Development. The findings for each phase are summarised below.
- 5.4.4 Traffic noise is specifically excluded from consideration of statutory nuisance by section 76(6A)(a) of the EPA and so this is not considered further in this Statement.

### ***Construction***

- 5.4.5 The NIA identifies the potential noise impacts arising from movement of soil and excavations, piling works, construction of infrastructure and the solar PV and BESS equipment, operation of plant and machinery, vehicle movements, and general site activity. The NIA predicts that impacts at residential noise sensitive receptors would be of negligible impact in accordance with the methodology set out in BS 5228-1:2009+A1:2014 'Code of practice for noise and vibration control on construction and open sites'.
- 5.4.6 Nonetheless, in accordance with BS5228-1:2009+A1:2014, best practicable means would be employed to control the noise generation (e.g. using equipment that is regularly maintained, where practicable use equipment fitted with silencers or acoustic hoods).
- 5.4.7 Details of measures that could be used to manage and mitigate noise are set out in the **oCEMP [EN010153/DR/7.5]** and include: controls on hours of operation during the construction phase, management and control measures for construction activities and equipment (to meet Best Practice), careful choice of piling rigs to minimise noise and vibration, and careful routing of

deliveries and measures to control noise arising from delivery activity on the Site will be utilised. A Construction Noise Management Plan (CNMP) will be prepared as part of the full CEMP.

5.4.8 The oCEMP will be developed into a full plan that will require approval by CWaCC. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.

5.4.9 Thus, the construction phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under sections 79(1)(g) and (ga) of the EPA.

### ***Operation***

5.4.10 The NIA identifies the potential noise impacts arising from the PCUs, inverters, BESS, and transformers. During daytime and night-time hours a low impact magnitude is predicted in accordance with the methodology set out in BS4142: 2014+A1:2019 'Methods for rating and assessing industrial and commercial sound', with the residual baseline significantly higher than the Site rating level. The NIA demonstrates that during night-time periods, the maximum noise levels generated by the Proposed Development are below sleep disturbance limits specified in World Health Organisation guidelines.

5.4.11 The **oOEMP [EN010153/DR/7.6]** sets out measures to control noise from maintenance activity that would occur during the operational phase e.g. from regular inspection and maintenance of equipment and any significant periodic replacements. The oOEMP also sets out measures to investigate any complaints relating to noise to identify the source and resolve it within a reasonable timeframe.

5.4.12 The oOEMP will be developed into a full plan that will require approval by CWaCC. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.

- 5.4.13 Thus, the operational phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under sections 79(1)(g) and (ga) of the EPA.

#### ***Decommissioning***

- 5.4.14 The decommissioning phase is not considered separately as any noise impacts would be at most the same and in reality less than the construction phase, so its findings in respect of the construction phase would be applicable to decommissioning as well.
- 5.4.15 The oDEMP includes measures to control noise during the decommissioning phase. The outline plan will be developed into a full plan that will require approval by CWaCC. This is secured via a Requirement in Schedule 2 of the **draft DCO [EN010153/DR/3.1]**.
- 5.4.16 Thus, the decommissioning phase of the Proposed Development would not give rise to impacts that would constitute a statutory nuisance under sections 79(1)(g) and (ga) of the EPA.

## 6.0 CONCLUSION

- 6.1.1 In accordance with Regulation 5(2)(f) of the APFP Regulations, this Statement has considered whether the Proposed Development would engage one or more of the matters set out in section 79(1) of the EPA, and thus whether the Proposed Development could cause a statutory nuisance.
- 6.1.2 In summary, the matters engaged by the Proposed Development are the condition of the Site, emissions and air quality, artificial light, and noise emissions. The assessment of potential for the Proposed Development to cause a statutory nuisance in respect of these matters is assessed in the light of the mitigation measures that are set out in the ES and other supporting documents for the DCO application. It is concluded that these measures would prevent, reduce, or avoid impacts that would have the potential to result in a statutory nuisance. These measures are secured by requirements within the **draft DCO [EN010153/DR/3.1]**.
- 6.1.3 Thus, it is concluded that the Proposed Development is not expected to cause a statutory nuisance during its construction, operation or decommissioning.

## 7.0 REFERENCES

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