



Dean Moor Solar Farm

Statutory Nuisance Statement on behalf of FVS Dean Moor Limited

March 2025
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Firma Energy

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DEAN MOOR SOLAR FARM
STATUTORY NUISANCE STATEMENT
PLANNING INSPECTORATE REFERENCE EN010155
PREPARED ON BEHALF OF FVS DEAN MOOR LIMITED

**The Infrastructure Planning (Applications: Prescribed Forms
and Procedure) Regulations 2009, Regulation 5(2)(f)**

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1 Introduction

1.1 Background

- 1.1.1 This Statutory Nuisance Statement ('the Statement') has been produced for FVS Dean Moor Limited (the 'Applicant') to support the application for a Development Consent Order (the 'DCO application') for Dean Moor Solar Farm (the 'Proposed Development') located between the villages of Gilgarran and Branthwaite ('the Site'), which is situated in the administrative area of Cumberland Council (the Council).
- 1.1.2 The Proposed Development is classed as a Nationally Significant Infrastructure for the purposes of the Planning Act 2008¹ (PA 2008) and comprises the construction, operation, and decommissioning of a solar photovoltaic ('PV') energy generating station with a total capacity exceeding 50 Megawatts ('MW') comprising solar PV arrays, grid connection infrastructure, associated infrastructure, and green infrastructure.
- 1.1.3 The Proposed Development will include the following key elements of infrastructure:
- Solar PV panels;
 - Solar PV array mounting structures;
 - Power Conversion System ('PCS') units in the form of inverters and transformers;
 - Grid Connection Infrastructure comprising Customer and DNO Substation buildings and external electrical equipment and ancillary infrastructure within a security fence;
 - Perimeter fencing, gates, CCTV cameras, electrical cabling, and other associated infrastructure;
 - Access from the highway and internal access tracks; and
 - Green infrastructure including landscape planting and ecological enhancements.
- 1.1.4 The generating station would export electricity via an on-site connection to the local Electricity North West Limited ('ENW') (as Distribution Network Operator ('DNO')) grid network. The Proposed Development will have a

¹ Planning Act 2008 c. 29

total capacity exceeding 50MW. A full description of the Proposed Development is set out in Chapter 3 – Site and Proposed Development Description of the Environmental Statement (ES) [REF: 6.1].

- 1.1.5 The location of the Proposed Development is shown in ES Figure 1.1, Location Plan [REF: 6.2]. The Order Limits for the Proposed Development are defined in the DCO as *‘the limits shown on the land plans and work plans within which the authorised development may be carried out and land acquired or used’*.
- 1.1.6 The Order Limits comprise approximately 276.5ha of land located between the villages of Gilgarran and Branthwaite in West Cumbria and constitute the maximum extent of land that will be required to facilitate the construction, operation (and maintenance) and decommissioning of the Proposed Development.
- 1.1.7 The land within the Order Limits (the Site) is described in more detail in ES Chapter 3 and shown on the Location Plan.

1.2 Purpose and Structure

- 1.2.1 This Statement been prepared in compliance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009² (the ‘APFP Regulations’).
- 1.2.2 Regulation 5(2)(f) requires that a DCO application must be accompanied by a statement setting out whether the proposal (i.e. the Proposed Development) engages with one or more of the matters set out in Section 79(1) (statutory nuisances and inspections thereof) of the Environmental Protection Act 1990³ (as amended) (EPA), and if so, sets out how the applicant proposes to mitigate or limit them.
- 1.2.3 The matters in Section 79(1) of the EPA that are considered within this Statement are general Site condition, air quality, waste, artificial light, and noise and vibration during all phases of the Proposed Development.

² Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2009/2264)

³ Environmental Protection Act 1990 c. 43

- 1.2.4 This Statement should be read alongside other documents submitted as part of the DCO application, particularly:
- Environmental Statement (ES) (**REF: 6.1**), in particular Chapter 5 – Construction and Decommissioning Methodology and Phasing;
 - Outline Construction Environmental Management Plan ('OCEMP') (ES Appendix 5.1) [**REF: 6.3**];
 - Outline Construction Traffic Management Plan (OCTMP) (ES Appendix 5.2) [**REF: 6.3**];
 - Outline Operational Management Plan ('OOMP') (ES Appendix 3.1) [**REF: 6.3**];
 - Outline Soil Management Plan ('OSMP') [**REF: 6.3**];
 - Glint and Glare Assessment (ES Appendix 7.9) [**REF: 6.3**];
 - Noise Impact Assessment ('NIA') (ES Appendix 2.6) [**REF: 6.3**];
 - Outline Landscape and Ecology Management Plan ('OLEMP') (ES Appendix 7.7) [**REF: 6.3**]; and
 - Framework Decommissioning Management Plan ('FDMP') (ES Appendix 5.4) [**REF: 6.3**].
- 1.2.5 This Statement is produced in the context that Section 158 of the PA 2008 provides statutory authority for carrying out development or anything else which is authorised by the DCO as a defence against civil or criminal proceedings for nuisance.
- 1.2.6 This Statement, at sections 4-7, sets out the appropriate mitigation measures that have been included within the DCO application to ensure that the Proposed Development would not cause any significant effects that would give rise to statutory nuisance.
- 1.2.7 Notwithstanding the above, article 11 (Defence to proceedings in respect of statutory nuisance) of the draft DCO [**REF: 3.1**] provides a defence to proceedings in respect of statutory nuisance. The defence applies to statutory nuisance that falls under subsections (g) and (ga), subject to the criteria set out in that article.
- 1.2.8 Under article 11(2), compliance with any management plan approved under Schedule 2 (Requirements) of the draft DCO will be sufficient to show that the alleged nuisance could not reasonably be avoided.

1.2.9 These matters have formed the structure of this Statement:

- Introduction;
- Legislative and Policy Context;
- Summary of Matters Engaged;
- Conditions of the Site;
- Air Emissions;
- Artificial Light;
- Noise and Vibration; and
- Summary.

2 Legislative and Policy Context

2.1 The Infrastructure Planning Regulations 2009

- 2.1.1 Section 5(2)(f) of the APFP Regulations¹ 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 thereof) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them.’

2.2 Environmental Protection Act 1990

- 2.2.1 Section 79(1) of the EPA, as it applies in England, states 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 that is prejudicial to health or a nuisance; [(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street [or in Scotland, road];]*
- h. *Any other matter declared by any enactment to be statutory nuisance.’*

2.2.2 *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 statutory nuisance, an activity must be ongoing or repeated. A single event would not usually be considered a statutory nuisance.*

2.3 Overarching National Policy Statement for Energy – EN-1

- 2.3.1 The National Policy Statement (NPS) for Energy (EN-1)⁴, states at paragraphs 4.15.1 to 4.15.4:

‘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 DESNZ. (2023) *Overarching National Policy Statement for energy (EN-1)*. DESNZ. London, UK.

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 14.15.5 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'.

2.3.3 Paragraph 4.5.16 reflects that the Secretary of State should consider possible sources of nuisance and how they may be mitigated or limited, so that *'appropriate requirements can be included in any subsequent order granting development consent.'*

2.3.4 An appraisal of the Proposed Development's compliance with NPS EN-1 is provided within the Planning Statement [REF: 5.5] and the Policy Compliance Document [REF: 5.6].

3 Summary of Matters Engaged

3.1 Introduction

- 3.1.1 The ES which accompanies 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.

3.2 Matters Engaged

- 3.2.1 Table 3.1 outlines each matter identified in section 79(1) of the EPA and described whether this matter has been engaged, and is covered further within this Statement, or whether it has not been engaged, depending on the assessment within the ES.

Table 3.1: Summary of Matters Engaged

EPA Section 79(1) Matter	Matter Engaged?
<i>(a) Any premises in such a state as to be prejudicial to health or a nuisance</i>	This matter may be engaged and has therefore been considered further in Section 4.
<i>(b) smoke emitted from premises so as to be prejudicial to health or a nuisance</i>	No smoke is expected to be generated by the Proposed Development. Therefore, this is not considered herein. Unplanned emergency scenarios are not considered to be relevant to this Statement.
<i>(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance</i>	This matter only applies to private dwellings, as provided for under section 79(4) of the EPA. This matter is therefore not considered further as no private dwellings are expected to be impacted.
<i>(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance</i>	This matter is considered further within Section 5 in relation to dust. The Proposed Development is not anticipated to impact on steam, smell, or any other effluvia. Therefore, these matters are not considered within this Statement.
<i>(e) any accumulation or deposit which is prejudicial to health or a nuisance</i>	This matter may be engaged and is considered further within Section 4.
<i>(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance</i>	The Proposed Development will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance. However, the Site may be available for continued sheep grazing in accordance with a Grazing Management Plan ('GMP'). This matter is not considered further in the Statement.
<i>(fa) any insects emanating from relevant industrial, trade or business</i>	There is no indication that the construction, operation, or decommissioning of the Proposed

EPA Section 79(1) Matter	Matter Engaged?
<i>premises and being prejudicial to health or a nuisance</i>	Development will cause the emanation of insects. Therefore, this matter is not considered further.
<i>(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance</i>	This matter may be engaged and is considered further within Section 6.
<i>(g) Noise emitted from premises so as to be prejudicial to health or a nuisance</i>	This matter may be engaged and has therefore been considered in Section 7.
<i>(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</i>	This matter may be engaged and has therefore been considered in Section 7.
<i>(h) any other matter declared by any enactment to be statutory nuisance</i>	No other matters are considered to be a potential statutory nuisance associated with the construction, operation (and maintenance) or decommissioning of the Proposed Development and so are not considered further.

3.2.2 The matters identified above as requiring further consideration are assessed in the following sections of this Statement.

4 Conditions of the Site

4.1 Introduction

4.1.1 This section considers the risk of the condition of the Site causing a statutory nuisance. For the purposes of this Statement, the 'premises' is considered to mean the land within the Order Limits (the Site) required for the Proposed Development in line with the definition of 'premises' in section 79(7) of the EPA.

4.1.2 As stated in the EPA, the following constitute a statutory nuisance:

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

4.2 Construction and Decommissioning Activities

4.2.1 The construction of the Proposed Development include, but are not limited to, activities such as those listed below:

- Site establishment and enabling works for construction;
- Implementation of temporary construction facilities, security measures, and temporary and permanent access tracks;
- Access widening and upgrades (visibility splays and/or construction to widen/surface);
- Deliveries and construction of the solar farm, including the installation of mounting framework, solar panels, PCS units, and associated infrastructure;
- Cable trenching, ducting, and backfilling;
- Testing commissioning of the generating station equipment and grid connection infrastructure; and
- Green infrastructure including landscaping and biodiversity enhancements.

4.2.2 The decommissioning is anticipated to be similar to the construction phase but in reverse. As such, similar impacts are expected subject to changes in technology and construction techniques.

4.3 Construction and Decommissioning Risks

- 4.3.1 The potential exists for the construction and decommissioning phases to create pollution incidents, such as spillages, and create litter and general waste which can constitute a nuisance under the EPA.
- 4.3.2 The Site has been subject to mining activities, including both open cast mining and historic mine shafts. The construction and decommissioning activities generate risks which without proper management could be prejudicial to the health of construction workers. These risks include ground stability issues and emissions from mine gases.

4.4 Construction and Decommissioning Management Plans

- 4.4.1 The application includes an OCEMP (Appendix 5.1) and FDMP (Appendix 5.4) which have been informed by the ES and outline the environmental controls and best practices to be implemented to minimise any adverse impacts or nuisance arising from the construction and decommissioning of the Proposed Development. The FDMP provides a framework for a future document suite referred to as the 'DMP' to secure an approach to the future management of environmental effects which will include the equivalent best practice measures to those set out in the CEMP.
- 4.4.2 Prior to construction and decommissioning, the Applicant will produce updated versions of these management plans which will be substantially in accordance with the outline versions, and which will be agreed with the Council.
- 4.4.3 The OCEMP and FDMP set out controls on working hours and the measures which would be implemented to control the production of waste, pollution, and materials storage and handling, informed by best practice guidance. The management plans further include measures relevant to noise, air quality, and lighting, with reference to the environmental assessment in the ES, which are discussed in Sections 5, 6, and 7.
- 4.4.4 Plans to deal with pollution prevention and pollution response will be included within the CEMP and DMP suite prior to the commencement of construction and decommissioning respectively. Outline measures to

manage pollution are included at Section 10 of the OCEMP and Section 3 of the FDMP. This includes measures such as necessary equipment (e.g. spillage kits) being held on-Site and material handling and storage requirements applied to waste and any hazardous materials. Should a pollution incident occur, it will be the responsibility of the Principal Contractor to inform the relevant regulatory authorities in accordance with the CEMP.

- 4.4.5 Section 9.3 of the OCEMP and Section 3 of the FDMP include the relevant measures to control the waste generated during the Proposed Development's construction and decommissioning. This includes applying the waste hierarchy by promoting waste minimisation, waste segregation, and waste disposal which prioritises recycling and provides for appropriate disposal to a licensed third-party waste management facility via a suitably licensed waste contractor.
- 4.4.6 While the CEMP will be the primary controlling document for construction it is supported by provisions in the OCTMP aimed to reduce consumption (and thereby both traffic and waste) through smart procurement and by the OSMP for management of soil resources.
- 4.4.7 Section 11 of the OCEMP outlines the approach to surveys to be conducted pre-construction, including ground investigations, to ensure that areas of potential geoenvironmental / instability hazards are appropriately avoided, remediated, or otherwise mitigated within the detailed design and control documents. The CEMP would also include procedures to manage the discovery of unexpected contamination, procedures for the erection of exclusion zones around stability hazards, and appropriate RAMS to take into account any potential ground gas hazards identified.
- 4.4.8 The assessment of environmental effects within the ES assumes that the measures outlined in the OCEMP, OCTMP, OSMP, and FDMP are to be implemented in full. The CEMP, CTMP, SMP, and DMP suite must be substantially in accordance with their outlines which are to be secured through the DCO.

- 4.4.9 The construction and decommissioning of the Proposed Development is not anticipated to have a significant effect in relation to the general conditions on Site.

4.5 Operation

- 4.5.1 The activities associated with the operational phase of the Proposed Development are anticipated to be minimal and will primarily comprise green infrastructure maintenance, generating station (including grid connection infrastructure) equipment maintenance and servicing; co-located agricultural use; remote monitoring and regular visual inspections; and drainage and watercourse management.
- 4.5.2 It is anticipated that generating station maintenance would include the inspection, removal, reconstruction, refurbishment or replacement of faulty or broken equipment to allow the continued effective operation of the Proposed Development.
- 4.5.3 Where maintenance works are of a significant scale/nature where controls were required by the CEMP, these will be carried forward and applied to the works in that part of the Site. Where any repair or refurbishment works go beyond regular O&M works and are of a scale where there are effects that are materially different to those identified in the construction assessments of the ES a targeted management plan or similar may be produced and provided to the Council for agreement.
- 4.5.4 During the operational phase, the Proposed Development is not considered to be in '*such a state*' to be prejudicial to health or cause a nuisance.
- 4.5.5 All operational works taking place during the lifetime of the Proposed Development will be undertaken in accordance with the Operational Management Plan (OMP) and Landscape Environmental Management Plan (LEMP) which will be prepared and which must be substantially in accordance with the OOMP (Appendix 3.1) and the OLEMP (Appendix 5.4).

- 4.5.6 The OOMP includes controls on working hours and measures relevant to pollution prevention and waste management. Compliance with the OMP and LEMP will be secured by requirements in the draft DCO. As such, the operational phase of the Proposed Development will not give rise to impacts which constitute a statutory nuisance.

4.6 Summary

- 4.6.1 For reasons explained above and with the mitigation measures described in place, it is considered that no significant effects are expected to occur in relation to the general conditions on Site.
- 4.6.2 No claim in respect of a statutory nuisance under section 79(1)(a) or (e) of the EPA is expected to occur.

5 Air Emissions

5.1 Introduction

- 5.1.1 Section 79(1)(d) of the EPA states 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'.
- 5.1.2 A review of local air quality data was undertaken as part of the EIA and reported in Section 4.4 of the EIA Scoping Report (ES Appendix 2.1) [REF: 6.3]. Solar farms are not intrinsically associated with operational air quality and emissions effects; they generate passively without a fuel source or emissions from energy production. Where solar farms could be associated with emissions is primarily in the construction and decommissioning phases.
- 5.1.3 As per Table 2.7 of ES Chapter 2 – EIA Methodology [REF: 6.1], the Planning Inspectorate in the EIA Scoping Opinion (see ES Appendix 2.2) [REF: 6.3] has agreed to the scoping out of an assessment of air quality effects as a standalone chapter provided that i) sufficient information on dust sensitive receptors and dust suppression techniques were provided and ii) that the ES demonstrates that construction and operational traffic movements will not exceed the Institute of Air Quality Management (IAQM) criteria.

5.2 Construction and Decommissioning

- 5.2.1 The Proposed Development is in a predominantly rural location, and there are few residential receptors located in proximity. It is not located within an Air Quality Management Area (AQMA), which are areas the Council has identified as not meeting air quality objectives.
- 5.2.2 During construction and decommissioning, emissions associated with construction vehicles and plant could lead to a risk of dust generation affecting local receptors, as well as the following activities:
- Earthworks, i.e. for trenching for cable routes, installation of concrete foundations, establishment of construction compounds; and
 - Trackout movements.

Construction Routing

- 5.2.3 Construction routing, as set out within the OCTMP, has been designed to avoid sensitive residential receptors where possible. The Proposed Development will generate an anticipated daily average of 20 HGV trips (40 movements) and eight LGV trips (16 movements) during peak construction activities, as set out within the OCTMP (Appendix 5.2). The number of vehicle movements associated with the decommissioning phase of the Proposed Development are not anticipated to exceed that set out for the construction phase. This is below the threshold criteria requiring an assessment of significant effects in the IAQM 'Land Use Planning and Development Control: Planning for Air Quality' guidance⁵.
- 5.2.4 Therefore, the Proposed Development will not have a significant impact on local roadside air quality because of construction or decommissioning traffic emissions. Air Quality in relation to vehicle emissions was scoped out of the EIA based on no likely significant effects and the implementation of best practice measures which are set out within Section 8 of the OCEMP (ES Appendix 5.1). The OCTMP further includes measures to ensure impacts on receptors are minimised such as measures to minimise traffic volumes, time them to less busy periods, and on-site measures like the prevention of vehicle idling.

Construction and Decommissioning Emissions

- 5.2.5 The majority of on-Site emissions would take place within defined construction compounds associated with vehicles and generators. The Proposed Development does not involve any demolition of structures. The emissions from the decommissioning phase are anticipated to be similar to, or less than, the construction phase and would be managed through a detailed DMP suite likely to mirror construction phase documents.
- 5.2.6 Best practice measures relating to this topic are included within the OCTMP, OSMP, and OCEMP (ES Appendix 5.1) such as locating dust generating activities away from sensitive receptors and undertaking daily inspections to monitor dust as detailed in the IAQM 'Guidance on the

⁵ Institute of Air Quality Management. 2017. Land-Use Planning & Development Control: Planning for Air Quality.

Assessment of Dust from Demolition and Construction'. The OSMP controls soil handling to conserve the quality and quantity of soil resource and in doing so contains measures that help contribute to dust prevention. Best practice measures in the temporary compounds and provisions such as the wheel wash system for vehicles exiting the Site will prevent dirt and debris from being tracked onto the public highway which is unsafe and increases dust generation.

5.2.7 Following implementation of the CEMP, CTMP, SMP, and the DMP suite, along with construction best practice including adherence to the Construction (Design and Management) regime, air quality effects are unlikely to result in a statutory nuisance.

5.2.8 The construction and decommissioning of the Proposed Development is not anticipated to have a significant impact on local air quality and the effect on air quality during these two phases is considered negligible.

5.3 Operation

5.3.1 There will be no permanent operational presence. There are anticipated to be a limited number of operational visits per week for maintenance (comprising 1-2 visits per week consisting of 2-4 vehicular movements) made by LGVs or 4x4 drive vehicles. The Proposed Development will comprise a minimum of two EV charging points which will support the transition of operational vehicles to net zero emissions. Therefore, air quality effects arising from vehicular use on the local road network are not anticipated to be significant.

5.3.2 The operation (and maintenance) of the Proposed Development is not anticipated to have a significant impact on local air quality given the minimal activities on the Site.

5.3.3 No other sources of emissions will be introduced for the Proposed Development during the operational phase. Therefore, no statutory nuisances are considered likely in regard of air quality during the operation of the Proposed Development.

5.4 Summary

- 5.4.1 For reasons explained above and with the mitigation measures described in place, it is considered that no significant effects are expected to occur in relation to air quality matters.
- 5.4.2 No claim in respect of a statutory nuisance under section 79(1)(d) of the EPA is expected.

6 Artificial Light

6.1 Introduction

6.1.1 Part (1)(fb) of Section 79 refers to ‘*artificial light emitted from premises so as to be prejudicial to health or nuisance.*’ A statutory nuisance would exist if article 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.

6.1.2 The effects of glint and glare are not covered by statutory nuisance legislation which does not extend to natural light. However, glint and glare effects have been considered within the Glint and Glare Assessment at ES Appendix 7.9, which concluded that no significant effects are anticipated with respect to glint and glare effects on local road users, residential receptors, and activity associated with the unlicensed general aviation aerodrome in proximity to the Site.

6.2 Construction and Decommissioning

6.2.1 Construction activities are expected to be undertaken during daylight hours and no permanent night-time lighting would be used on Site, with the exception of motion-sensor security lighting. There may be instances where natural light is not sufficient (for example, in sheltered/ confined areas), or core working hours during months with reduced daylight hours. In these instances, temporary lighting will be deployed to maintain security and safe working conditions. Measures to avoid excessive glare and light spill onto nearby sensitive receptors (ecology, and residents) will be implemented as far as reasonably practicable.

6.2.2 Where temporary access lighting is used, it would be directional, cowled, and low intensity to minimise disturbance. Lighting would be switched off at night when construction is not ongoing.

6.2.3 The management of lighting during the construction phase will comply with Section 4.7 of the OCEMP.

6.2.4 No night-time construction work will be permitted that would require the use of night lighting which would otherwise impact on foraging and commuting bats.

6.2.5 The decommissioning phase would involve similar measures as per the FDMP.

6.3 Operation

6.3.1 Lighting during the operation and maintenance of the Proposed Development will be controlled by the OMP and LEMP which will be based on the OOMP and OLEMP and agreed with the Council.

6.3.2 As set out in Section 3.5 of the OOMP, the Proposed Development will not be permanently lit during the operational phase, with lighting limited to motion-activated, cowled, down lighting, affixed above or aside doors of buildings within the Site.

6.3.3 Operational lighting will be installed for emergency purposes only. Temporary emergency lighting during the operational phase may be put in place for specific operational works which take place at night. This lighting would be isolated to the maintenance works being undertaken and would be directional to limit any impact on residents and wildlife on-Site.

6.4 Summary

6.4.1 For reasons explained above and with the mitigation measures described in place, it is considered that no significant effects are expected to occur in relation to lighting matters.

6.4.2 No claim in respect of a statutory nuisance under section 79(1)(fb) of the EPA is expected.

7 Noise and Vibration

7.1 Introduction

- 7.1.1 Section 79(1)(g) refers to ‘noise emitted from the premises so as to be prejudicial to health or a nuisance’ and Section 79(1)(ga) states: ‘noise that is prejudicial to health or nuisance and is emitted from or caused by vehicle, machinery or equipment in a street.’
- 7.1.2 If noise is excessive, prolonged or on a regular basis, it may constitute a statutory nuisance. This would exist if noise substantially interfered with the well-being, comfort or enjoyment of an individual’s property.
- 7.1.3 An assessment of noise and vibration impacts was undertaken as part of the EIA and reported in the Noise and Vibration Impact Assessment (‘NIA’) (ES Appendix 2.6). The NIA assessed the potential noise and vibration impacts of the Proposed Development during the operational phase, and concluded that, with appropriate mitigation, there would be no significant noise or vibration effects.
- 7.1.4 This section considers the elements relating to section 79(1) relating to noise emitted from premises and from vehicles, machinery, and equipment in a street. Traffic noise is specifically excluded from consideration by Section 79 (6A)(a) of the EPA and is not considered further in this Statement.

7.2 Construction and Decommissioning

- 7.2.1 The construction activities set out in Section 4 have been considered in relation to their potential to generate noise and vibration.
- 7.2.2 Noise will be generated by vehicles passing on the LRN to access the Site. Further information on construction routing and expected vehicle types and numbers is set out within the Transport Statement (ES Appendix 2.5) **[REF: 6.3]** and will be controlled by the CTMP as outlined in the OCTMP (ES Appendix 5.2). The routing from the Strategic Road Network (SRN) to the Local Road Network (LRN) and the Site has been designed to avoid Noise Sensitive Receptors (NSR) in built up areas such

as homes or schools. Deliveries to the Site will be scheduled outside of the morning and afternoon peak times wherever possible. The on-Site delivery locations will be located away from noise sensitive receptors

- 7.2.3 As identified within the Scoping Report (ES Appendix 2.1), noise from pile-driven panel framework can generate high levels of noise, however the resultant noise impact is not expected to be significant due to the separation distance between piling and NSR.
- 7.2.4 Based on noise from the activities outlined above, the effects of construction noise would be adequately mitigated by standard mitigation measures set out within Section 7 the OCEMP (ES Appendix 5.1). These measures comply with the British Standard (BS) 5228:2009+A1:2-14 Code of practice for noise and vibration control on construction and open sites – Noise. The CEMP will set out tailored measures for activities in each part of the Site based on the detailed design.
- 7.2.5 Local residents will be regularly communicated with and kept informed of the timings and duration of high noise generating events, as per Section 7 and Section 13 of the OCEMP.
- 7.2.6 As per Section 7 of the OCEMP, construction works associated with noise will be limited to the core working hours of 08:00 to 18:00 during Monday to Friday, and 08:00 to 13:00 on Saturdays. Other construction works unlikely to generate high noise levels (e.g. Site access and inductions, light vehicle movements) may continue during other day-time periods as per Section 4.2 of the OCEMP. Section 7.1 of the OCEMP sets a further restriction whereby the noisiest activities (e.g. piling) will not occur before 08:30 on a weekday. Where possible, the Principal Contractor will seek to avoid piling activities on a weekend but if the programme cannot fully omit weekend piling it will be restricted to not occur before 09:00.
- 7.2.7 As set out in Section 7 of the OCEMP, given the separation distance from receptors, construction activities are unlikely to give rise to any significant levels of ground-borne vibration. At this stage, the mitigative input is limited to that set out within BS 5228.

- 7.2.8 Noise and vibration effects during decommissioning of the Proposed Development will be similar or less than noise effects during construction. As such, a separate assessment for noise and vibration from decommissioning is not included but further information will be provided in the DMP suite where required to fully address this topic.

7.3 Operation

- 7.3.1 As per Table 2.7 of ES Chapter 2, the Planning Inspectorate agreed in their **Scoping Opinion** (ES Appendix 2.2) to scope out noise and vibration as a standalone chapter topic, subject to the provision of a NIA. An NIA has been prepared following an agreed methodology that reflects the requirements of EN-1, 5.12.6 and is appended to the ES (Appendix 2.6).
- 7.3.2 Solar generating stations are not typically associated with significant noise effects and once operational, can have a low impact presence in the landscape. As the photovoltaic process is passive, the inherent noise effects of a (fixed array) solar farm like the Proposed Development are limited to the HVAC systems of the PCS Units which are dispersed across a Site in Works No. 1 and with aspects of the Grid Connection Infrastructure of Work No. 2.
- 7.3.3 Noise mitigation is provided by the DCO Noise Requirement. This secures the operational generating station being informed by an updated noise model so that PCS Units are not designed in a way that could have significant adverse noise effects (either due to their locations and/or lack of attenuation in the unit itself). This ensures that no noise levels at the SOAEL will arise due to the Proposed Development.
- 7.3.4 The risk of noise from operational activity is low given the low level of activity required to maintain a solar farm. Adherence to general measures included within the OMP will provide for all standard maintenance requirements.

7.4 Summary

- 7.4.1 For reasons explained above and with the mitigation measures described in place, it is considered that no significant effects are expected to occur in relation to noise and vibration matters.
- 7.4.2 No claim in respect of a statutory nuisance under section 79(1)(g) or (ga) of the EPA is expected.

8 Summary

- 8.1.1 In line with Regulation 5(2)(f) of the APFP Regulations, this Statement has identified whether the Proposed Development has engaged one or more of the matters set out in Section 79(1) of the EPA, and thus considered whether the Proposed Development would cause a statutory nuisance.
- 8.1.2 The matters in the EPA that have been considered in this Statement in relation to the Proposed Development are general Site condition, air quality, artificial light, and noise and vibration, during all phases of the Proposed Development. The embedded design and additional mitigation measures identified in the ES and set out in control documents will prevent impacts which have a potential to result in statutory nuisance under Section 79 of the EPA. These measures are secured by requirements within the draft DCO.
- 8.1.3 It is therefore demonstrated that no statutory nuisance effects are considered likely to occur because of the construction, operation (and maintenance) and decommissioning of the Proposed Development.