

Rosefield Solar Farm

Statutory Nuisance Statement

EN010158/APP/5.4
September 2025
Rosefield Energyfarm Limited

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



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1. Introduction

1.1. Background

- 1.1.1. This Statutory Nuisance Statement ('the Statement') has been prepared on behalf of Rosefield Energyfarm Limited ('the Applicant') in relation to the Development Consent Order ('DCO') Application for the construction, operation (including maintenance), and decommissioning of Rosefield Solar Farm (hereafter referred to as the 'Proposed Development').

1.2. The Order Limits

- 1.2.1. The extent of the Order Limits are shown in the **Location, Order Limits and Grid Coordinate Plans [EN010158/APP/2.1]** and the Proposed Development is described in full in **ES Volume 1, Chapter 3: Proposed Development Description [EN010158/APP/6.1]** and shown spatially on the **Works Plans [EN010158/APP/2.3]**.

1.3. The Proposed Development

- 1.3.1. The Proposed Development comprises the construction, operation (including maintenance), and decommissioning of solar photovoltaic ('PV') development and energy storage, together with associated infrastructure and an underground cable connection to the National Grid East Claydon Substation.
- 1.3.2. The Proposed Development would include a generating station with a total exporting capacity exceeding 50 megawatts ('MW').

1.4. Purpose and Structure of this Statement

- 1.4.1. The Statement has been prepared in compliance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations').
- 1.4.2. Regulation 5(2)(f) requires that an application for a DCO must be accompanied by a statement setting out whether the proposal (i.e. the Proposed Development) engages one or more of the matters in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990 (as amended) (the 'EPA'). If any of those matters are engaged, the statement must set out how the applicant proposes to mitigate or limit the effects.
- 1.4.3. The matters in section 79(1) of the EPA that have been considered within the Statement are general site condition, air quality, artificial light, and noise and vibration during all phases of the Proposed Development.
- 1.4.4. The Statement should be read alongside other documents submitted as part of the DCO Application, particularly:

- The **Environmental Statement (ES)** [EN010158/APP/6.1 - 6.4];
- The **Outline Construction Environmental Management Plan (Outline CEMP)** [EN010158/APP/7.2];
- The **Outline Operational Environmental Management Plan (Outline OEMP)** [EN010158/APP/7.3];
- The **Outline Decommissioning Environmental Management Plan (Outline DEMP)** [EN010158/APP/7.4];
- The **Outline Construction Traffic Management Plan (Outline CTMP)** [EN010158/APP/7.5];
- The **Outline Soil Management Plan (Outline SMP)** [EN010158/APP/7.7]; and
- The **Outline Battery Safety Management Plan (Outline BSMP)** [EN010158/APP/7.9].

- 1.4.5. The Statement is produced in the context of section 158 of the Planning Act 2008, which provides statutory authority for carrying out development for which a DCO has been granted or doing anything else authorised by the DCO as a defence against civil or criminal proceedings for nuisance.
- 1.4.6. The Statement sets out appropriate mitigation measures to ensure that the Proposed Development has no likely residual effects that would give rise to a statutory nuisance.
- 1.4.7. Therefore, the Statement demonstrates that no statutory nuisance effects are considered likely to occur. The construction, operation (including maintenance), and decommissioning of the Proposed Development is not expected to cause a statutory nuisance.
- 1.4.8. Nonetheless, it should be noted that article 7 (Defence to proceedings in respect of statutory nuisance) of the **Draft Development Consent Order (Draft DCO)** [EN010158/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 (noise emitted from premises to be prejudicial to health or a nuisance)), subject to the criteria set out in that article.
- 1.4.9. This Statement is structured as follows:
- Section 1: Introduction;
 - Section 2: Legislative and Policy Context;
 - Section 3: Assessment of Significance;
 - Section 4: Matters Engaged and Proposed Mitigation Measures; and
 - Section 5: Conclusion.

2. Legislative and Policy Context

2.1. The APFP Regulations 2009

- 2.1.1. Regulation 5(2)(f) of the APFP Regulations states that an application for a DCO must be accompanied by *“a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them”*.

2.2. Environmental Protection Act 1990 (EPA)

- 2.2.1. Section 79(1) of the EPA, 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 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;”*.

- 2.2.2. For a nuisance to be considered a statutory nuisance, it must unreasonable 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. 1-1]**.

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

2.3.1. Section 4.15 of NPS EN-1 **[Ref. 1-2]** establishes the policy tests and considerations relating to common law nuisance and statutory nuisance.

2.3.2. Paragraph 4.15.1 of NPS EN-1 states that:

“Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, or doing anything else authorised by, a Development Consent Order.”

2.3.3. Paragraph 4.15.2 of NPS EN-1 goes on to state that:

“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.”

2.3.4. Under the Applicant Assessment heading, Paragraph 4.15.5 of NPS EN-1 confirms 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...”

2.3.5. The **Planning Statement [EN010158/APP/5.7]** and its appendices, specifically Appendix 4: Policy Compliance Tables, assesses the Proposed Development's compliance with national and local planning policies.

3. Assessment of Significance

3.1. Summary of Matters Engaged

- 3.1.1. The **ES [EN010158/APP/6.1 - 6.4]** accompanying the DCO Application addresses the likelihood of significant effects arising that could constitute a statutory nuisance, as identified in Section 79(1) of the EPA.
- 3.1.2. **Table 3-1** outlines each matter stated in Section 79(1) of the EPA and describes whether this is covered within this Statement or is excluded, depending on the assessment within the ES.

Table 3-1 Matters Stated in Section 79(1) of the EPA

EPA Section 79(1) Matter	Matter engaged as a consequence of the Proposed Development?
a. any premises in such a state as to be prejudicial to health or a nuisance	This matter is considered further in this 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 Proposed Development; therefore, this is not considered further within the Statement. Unplanned emergency scenarios such as an accidental or technical fire are not relevant to this Statement due to their infrequent and short nature.
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 because there is no impact on private dwellings.
d. any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	This matter is considered further in this Statement in relation to dust. The Proposed Development is not anticipated to cause any effects from steam, smell or other effluvia and therefore, those elements are not considered further within the Statement.
e. any accumulation or deposit which is prejudicial to health or a nuisance	This matter is considered further in this Statement.
f. any animal kept in such a place or manner as to be prejudicial to health or a nuisance	The Proposed Development 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.

fa. any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	There is no indication that the construction, operation (including maintenance) and decommissioning of the Proposed Development will emanate any insects nor cause insects to be attracted to it. 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 this Statement.
g. noise emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in this Statement.
ga. noise that is prejudicial to health or nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road	This matter is considered further in this 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 Proposed Development.

4. Matters Engaged and Proposed Mitigation Measures

4.1. Condition of the Site: sections 79(1)(a) and (e) of the EPA

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

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

Construction and Decommissioning

4.1.2. The types of construction activities proposed for the Proposed Development include, but are not limited to:

- Import and delivery of materials to the Site;
- Trenching and installation of Interconnecting Cabling Corridor(s);
- Transformer, Inverter and Switchgear installation and construction. Lorry mounted cranes would be used to lift the equipment into position;
- Foundation excavation and construction for the BESS, Rosefield Substation and Transformer, Inverter and Switchgear, where required;
- Pouring of the concrete foundation base, where required;
- Installation of Transformers that form part of the BESS;
- Construction of control and other buildings that form part of the Main Collector Compound, Satellite Collector Compounds, BESS compound and Rosefield Substation compound; and
- Installation of control, monitoring, and communication systems.

4.1.3. During the construction period, a 6-month commissioning period would occur and involve various stages of testing before the operational (including maintenance) phase of the Proposed Development commences.

4.1.4. Following the operational (including maintenance) phase, the Proposed Development will require decommissioning. During the decommissioning phase, all concrete, hardstanding areas, foundations for the infrastructure and any internal tracks will be removed to a depth of up to 1m. All the below-ground cables below 1m will be left in situ, however, this will be dependent upon the legislation and industry standards at the time of decommissioning. Any above-ground infrastructure will be dismantled and removed per industry best practices. The decommissioned materials will follow the waste hierarchy such that they will be reused where possible before recycling and disposal are considered.

- 4.1.5. The Site would be reinstated in accordance with the **Outline DEMP [EN010158/APP/7.4]**. The **Outline DEMP [EN010158/APP/7.4]** forms the framework for a detailed Decommissioning Environmental Management Plan(s) which would be subject to the approval of the Local Planning Authority at the time of decommissioning.
- 4.1.6. Both construction and decommissioning works can create pollution incidents such as spillages, litter, and general waste, constituting a nuisance under the EPA.
- 4.1.7. Construction phase control mechanisms proposed include normal (or core) hours of working and traffic management. These measures are set out in the **Outline CEMP [EN010158/APP/7.2]** and **Outline CTMP [EN010158/APP/7.5]**. Both the **Outline CEMP** and **Outline CTMP** have been informed by the Environmental Impact Assessment ('EIA') and will guide the construction process, through environmental controls, in order to promote good construction practices and avoid adverse or nuisance-causing impacts during the construction phase.
- 4.1.8. The **Outline CEMP [EN010158/APP/7.2]** forms the framework for a detailed Construction Environmental Management Plan(s). Should development consent be granted, the detailed Construction Environmental Management Plan(s) would be approved by the Local Planning Authority prior to construction.
- 4.1.9. The **Outline CTMP [EN010158/APP/7.5]** forms the framework for a detailed Construction Traffic Management Plan(s). Should development consent be granted, the detailed Construction Traffic Management Plan(s) would be approved by the Local Planning Authority prior to construction.
- 4.1.10. As noted above, a detailed Decommissioning Environmental Management Plan(s) would also be prepared in accordance with the **Outline DEMP [EN010158/APP/7.4]** which forms the framework for the detailed Decommissioning Environmental Management Plan(s). Should development consent be granted, the detailed Decommissioning Environmental Management Plan(s) would be approved by the Local Planning Authority prior to decommissioning.
- 4.1.11. Plans to deal with accidental pollution would be included within the detailed Construction Environmental Management Plan(s), Construction Traffic Management Plan(s) and Decommissioning Environmental Management Plan(s) prior to the commencement of construction and decommissioning phases respectively. Any necessary equipment (e.g. spillage kits) would be held on-site, and all site personnel would be trained to use that equipment. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.
- 4.1.12. To control the waste generated during Site preparation and permitted preliminary works, the Principal contractor will manage all waste generated by the Proposed Development, and the waste streams, in accordance with legal

requirements which include the EPA, the Waste (England & Wales) Regulations 2011, the Hazardous Waste (England and Wales) Regulations 2005 and any other associated waste regulations.

- 4.1.13. As covered in the **Outline Site Waste Management Plan (Outline SWMP)** (which is provided for as **Appendix 1** to the **Outline CEMP [EN010158/APP/7.2]**) and to reduce the potential impacts from materials and waste and to ensure that the Proposed Development complies with its waste obligations, the Principal contractor will apply the principles of the waste hierarchy and adopt best practice measures.
- 4.1.14. The mitigation measures set out in the **Outline CEMP, Outline CTMP** and **Outline DEMP** are both embedded and additional to the Proposed Development's design and the assessment of effects undertaken. The EIA assumes that those committed measures are implemented in full. The detailed Management Plans will be prepared in accordance with the **Outline CEMP, Outline CTMP** and **Outline DEMP** and would be secured by Requirements in the DCO.
- 4.1.15. With the measures under the **Outline CEMP, Outline CTMP** and **Outline DEMP** in place, it is considered that the construction and decommissioning phases of the Proposed Development will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

Operation (including Maintenance)

- 4.1.16. It is considered that the operation (including maintenance) of the Proposed Development in its built form, as a solar farm with related infrastructure, will not cause the 'premises' within the Order Limits to be in 'such a state' as to be prejudicial to health or a nuisance.
- 4.1.17. During the operational (including maintenance) phase of the Proposed Development, on-site activities would include routine servicing, maintenance, and replacement of solar or BESS equipment as and when required, as well as solar panel cleaning and vegetation management.
- 4.1.18. Along the Grid Connection Cabling Corridor, operational activity will consist of routine inspections (schedule to be determined) and any reactive maintenance, such as replacing a damaged cable.
- 4.1.19. The operational (including maintenance) activities would be undertaken in accordance with the **Outline OEMP [EN010158/APP/7.3]**. This includes measures that control the following types of activities: working hours; lighting; parking; security; monitoring and maintenance of electrical equipment (including cleaning of Solar PV modules) and drainage; storage of materials; vegetation management; noise limits; and management of waste.
- 4.1.20. The **Draft DCO [EN010158/APP/3.1]** also secures, under Requirement 14, that no part of Work Nos. 1 to 5 may commence until an operational noise

assessment containing details of how the design of that numbered work has incorporated mitigation to ensure the operational noise rating levels as set out in the **ES [EN010158/APP/6.1 - 6.4]** are complied with for that part has been submitted to and approved by the relevant Local Planning Authority.

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

Conclusion

- 4.1.22. For the reasons explained above, and with the mitigation measures described in place, it is considered that the construction, operation (including maintenance), and decommissioning phases of the Proposed Development will not give rise to impacts related to the Site condition, which would constitute a statutory nuisance under section 79(1)(a) or (e) of the EPA.

4.2. Air emissions: section 79(1)(d) of the EPA

- 4.2.1. Section 79(1)(d) 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. As noted at Table 3-1 above, the Proposed Development is not anticipated to cause any effects from steam, smell or other effluvia and therefore, those elements are not considered further within this Statement.

Construction and Decommissioning

- 4.2.3. **ES Volume 2, Chapter 6: Air Quality [EN010158/APP/6.2]** assesses the impact of the construction and decommissioning phase activities of the Proposed Development on air quality. The assessment confirms that there is likely to be no significant effects on air quality receptors during construction or decommissioning as a result of dust and particulate matter emissions (including the operation of construction equipment) and road traffic exhaust emissions.
- 4.2.4. The residual effects outlined in the assessment rely on the implementation of controls established within the **Outline CEMP [EN010158/APP/7.2]**, **Outline DEMP [EN010158/APP/7.4]** and **Outline CTMP [EN010158/APP/7.5]**.
- 4.2.5. During construction, there is the potential for emissions of dust and particles due to the following:
- Earthworks (e.g. soil stripping, excavation etc.);
 - Construction; and
 - Trackout (movement of mud and soil out of the site by construction vehicles).
- 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 within the IAQM's 'Guidance on the Assessment of Dust from Demolition and Construction v2.2' document for high-risk sites [Ref. 1-3].

- 4.2.7. The good site practice measures outlined within the IAQM's 'Guidance on the Assessment of Dust from Demolition and Construction v2.2' document are incorporated into the **Outline CEMP [EN010158/APP/7.2]** and are presented in **Table 4-2** below. They are considered to be additional mitigation and represent good industry practices that are part of the Proposed Development.
- 4.2.8. **ES Volume 2, Chapter 6: Air Quality [EN010158/APP/6.2]** concludes that emission control measures are expected to prevent the occurrence of significant effects across the construction and decommissioning phases of the Proposed Development. Therefore, the mitigation measures proposed for implementation during the construction phase will also be appropriate for decommissioning, as set out in the **Outline DEMP [EN010158/APP/7.4]**.
- 4.2.9. The assessment contained within **ES Volume 2, Chapter 6: Air Quality [EN010158/APP/6.2]** concludes that there are no anticipated significant adverse residual effects on air quality during the construction and decommissioning phases of the Proposed Development due to the measures in the **Outline CEMP [EN010158/APP/7.2]** and **Outline DEMP [EN010158/APP/7.4]** respectively.
- 4.2.10. The **Outline DEMP [EN010158/APP/7.4]** includes measures to the same effect as those contained in the **Outline CEMP [EN010158/APP/7.2]**, as set out in **Table 4-2** below.

Table 4-2 Mitigation Measures

Activity	Mitigation
Communications	<ul style="list-style-type: none"> Develop and implement a stakeholder communications plan that includes community engagement before work commences on Site. Develop and implement a stakeholder communications plan that includes community engagement before work commences on Site. Display the name and contact details of people accountable for air quality and dust issues with respect to the Proposed Development at the Main Construction Compound. This may be the Environment Manager/engineer or the Site Manager.
Site Management	<ul style="list-style-type: none"> Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce emissions in a timely manner, and record the measures taken.

- Make the complaints log available to the Local Planning Authority when asked.
- Record any exceptional incidents that cause dust and/or air emissions, either on or off Site and the action taken to resolve the situation in the logbook.

Monitoring

- Undertake regular on Site and off Site inspection, where receptors (including roads) are nearby, to monitor dust, record inspection results, and make the log available to Buckinghamshire Council when asked. Monitoring will, where possible, should include regular dust soiling checks of surfaces such as street furniture, cars and windowsills within 100m of the Order Limits in agreement with the relevant homeowners/landowners.
- Carry out regular Site inspections to monitor compliance with the Construction Environmental Management Plan, record inspection results, and make an inspection log available to the Local Planning Authority when asked.
- Increase the frequency of Site 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.
- During the construction, agree dust deposition, dust flux, or real-time PM10 continuous monitoring locations with the Local Planning Authority. Where possible, commence baseline monitoring at least three months before work commences on Site.

Preparing and maintaining the Site

- Plan the Site layout so that machinery and dust causing activities are located away from sensitive receptors, as far as is possible.
- Erect solid screens or barriers around activities where there is a high potential for dust production.
- Avoid runoff of water or mud from the Site. This may include measures such as diverting run-off, installing sediment traps and/or swales.
- Keep Site fencing, barriers and scaffolding clean.

	<ul style="list-style-type: none"> Remove materials that have a potential to produce dust from Site as soon as possible, unless being re-used on Site. If they are being re-used on Site cover as described below. Cover, seed or fence stockpiles to prevent wind whipping.
Operating vehicle/machinery and sustainable travel	<ul style="list-style-type: none"> Ensure all vehicles switch off engines when stationary - no idling vehicles. Impose and signpost a maximum speed limit of 15 mph on surfaced and 10 mph on unsurfaced haul roads and work areas. Implement a Travel Plan (part of the Outline CTMP [EN010158/APP/7.5]) that supports and encourages sustainable travel.
Construction Operations	<ul style="list-style-type: none"> Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction, e.g. suitable local exhaust ventilation systems. Ensure an adequate water supply on the Site for effective dust/particulate matter suppression/mitigation, using non-potable water where possible and appropriate. Use enclosed chutes and conveyors, and covered skips. 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.
Measures specific to earthworks	<ul style="list-style-type: none"> Re-vegetate earthworks and exposed areas/soil stockpiles to stabilise surfaces as soon as practicable. Use Hessian, mulches or trackifiers where it is not possible to re-vegetate or cover with topsoil, as soon as practicable.

	<ul style="list-style-type: none"> Only remove the cover in stages during work and not all at once.
Measures specific to construction	<ul style="list-style-type: none"> Avoid scabbling (roughening of concrete surfaces) if possible. Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place. Ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems to prevent escape of material and overfilling during delivery. For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.
Measures specific to trackout	<ul style="list-style-type: none"> Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the Site. Avoid any dry sweeping of large areas. Ensure vehicles entering and leaving Site are covered to prevent escape of materials during transport. Record all inspections of haul routes and any subsequent action in a Site logbook. Implement a wheel washing system.
Measures specific to non-road mobile machinery	<ul style="list-style-type: none"> Ensure that any plant used on Site comply with the nitrogen oxides, particulate matter and carbon monoxide emissions standards specified in the Regulation (EU) 2016/1628 of the European Parliament and of the Council (as amended) [Ref. 1-4] as a minimum, where they have net power of between 37kW and 560kW. The emissions standards vary depending on the net power the engine produces.

Operation

- 4.2.11. The Proposed Development is estimated to support up to 10 permanent staff per day, who would typically be on-site during the operational (including maintenance) phase, with additional staff attending when required for

maintenance, replacement of faulty or end of service life solar equipment, vegetation management activities and cleaning.

- 4.2.12. **ES Volume 2, Chapter 6: Air Quality [EN010158/APP/6.2]** concludes that, once operational, the Proposed Development is not expected to generate vehicle movements exceeding the relevant thresholds set out in Environmental Protection UK and Institute of Air Quality Management guidance **[Ref. 1-5]** and Design Manual for Roads and Bridges LA 105 Air Quality **[Ref. 1-6]**. Therefore, it has been concluded that further assessment of operational (including maintenance) phase traffic emissions is not required. The assessment goes on to confirm that the increased road traffic emissions resulting from the Proposed Development are expected to have a negligible impact on air quality, and nearby human receptors and designated sites during the operation (including maintenance) phase.

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, including to the health of human receptors.
- 4.2.14. Therefore, no claim regarding a statutory nuisance under section 79(1)(d) of the EPA is envisaged.

4.3. Artificial Light: section 79(1)(fb) of the EPA

- 4.3.1. Section 79(1)(fb) 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 an individual's property, well-being, comfort, or enjoyment. Usually, this would mean that lights cause a nuisance on a regular basis. Artificial lights may also cause a nuisance if they are not maintained or used properly.

Construction and Decommissioning

- 4.3.3. During the construction phase, temporary site lighting, in the form of mobile lighting towers, will be required in areas where natural lighting is unable to reach (sheltered/confined areas) and during core working hours within winter months. Artificial lighting would be provided to maintain sufficient security and health and safety within the Order Limits, whilst adopting the mitigation principles to avoid excessive glare and minimise spill of light to nearby receptors (including ecological and residential) outside of the Order Limits as far as reasonably practicable.
- 4.3.4. The **Outline CEMP [EN010158/APP/7.2]** controls lighting during the Proposed Development's construction phase to ensure effects are reduced.

- 4.3.5. The final construction phase lighting design will be confirmed at the detailed design stage and will be included under the detailed Construction Environmental Management Plan(s) which would be subject to the approval of the Local Planning Authority prior to construction.
- 4.3.6. The **Outline DEMP [EN010158/APP/7.4]** includes measures to the same effect as those contained in the **Outline CEMP [EN010158/APP/7.2]** and serves to control lighting during the Proposed Development's decommissioning phase to ensure effects are reduced. The **Outline DEMP [EN010158/APP/7.4]** forms the framework for a detailed Decommissioning Environmental Management Plan(s) which would be subject to the approval of the Local Planning Authority at the time of decommissioning.

Operation

- 4.3.7. The Rosefield Substation, BESS, Main and Satellite Collector Compounds are to not be permanently lit. However, at the detailed design stage, the lighting for these elements would be designed to take account of health and safety requirements and so, only where necessary, some permanent lighting may be required to accommodate for emergency exits.
- 4.3.8. Otherwise, manually operated or sensor operated lighting would be utilised and would remain switched off unless operatives are on-site and working during dusk/winter periods.
- 4.3.9. CCTV cameras would use night-vision technology, which would be monitored remotely and avoid the need for night-time lighting. For security requirements, Passive Infra-red Detector (PID) systems (or similar) would be installed around the Solar PV field perimeters to provide the CCTV's night vision functionality.
- 4.3.10. The **Outline OEMP [EN010158/APP/7.3]** controls lighting during the Proposed Development's operation (including maintenance) phase to ensure effects are reduced.
- 4.3.11. The final operation (including maintenance) phase lighting design will be confirmed at the detailed design stage and will be included under the detailed Operational Environmental Management Plan(s) which would be subject to the approval of the Local Planning Authority.
- 4.3.12. A sensitive lighting scheme will be developed to ensure inward and downward distribution of light, avoiding light spill onto existing boundary features including residential receptor. The lighting scheme will ensure that there is no potential for a statutory nuisance.

Conclusion

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

4.4. Noise and Vibration: section 79(1)(g) and (ga) of the EPA.

4.4.1. The following constitute a statutory nuisance:

- Section 79 (1)(g): “noise emitted from premises so as to be prejudicial to health or a nuisance”; and
- Section 79(1)(ga): “noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street”.

4.4.2. If noise 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 [Ref. 1-1].

4.4.3. An assessment of noise and vibration impacts was undertaken as part of the EIA and is reported in **ES Volume 2, Chapter 13: Noise and Vibration [EN010158/APP/6.2]**. The chapter presents an assessment of likely significant effects arising from the construction, operation (including maintenance) and decommissioning of the Proposed Development and concludes that, with appropriate mitigation, there are no residual effects during the construction, operation (including maintenance) and/or decommissioning phases.

4.4.4. The elements relevant to section 79(1) of the EPA are noise emitted from premises (including land), vehicles, machinery, and equipment in a street. Traffic noise is specifically excluded from consideration by section 79(6A)(a) and is not considered further in this document but is assessed in **ES Volume 2, Chapter 13: Noise and Vibration [EN010158/APP/6.2]**.

Construction and Decommissioning

4.4.5. Construction and decommissioning phase noise levels at surrounding receptors will vary depending on the locations and types of work taking place. Due to the variation in work activities and locations across the Proposed Development, it is considered that any periods of regular high construction noise levels experienced at a receptor would be of a limited short-term duration. Occupants of nearby receptors are likely to be more tolerant of these events if they are regularly communicated to and kept informed of the timings and duration of high noise-generating events.

4.4.6. The **Outline CEMP [EN010158/APP/7.2]** and **Outline DEMP [EN010158/APP/7.4]** will control noise and vibration emanating from the Proposed Development's construction and decommissioning phases. The measures secured within the **Outline CEMP** and **Outline DEMP** represent Best Practicable Means (as defined by the Control of Pollution Act 1974 [Ref. 1-7]) and are included as additional mitigation.

4.4.7. The detailed Construction Environmental Management Plan(s) will be prepared and approved by the Local Planning Authority prior to construction and the

detailed Decommissioning Environmental Management Plan(s) will be prepared and approved by the Local Planning Authority prior to decommissioning.

4.4.8. Examples of mitigation/enhancement measures that would be implemented during construction and decommissioning phases of works (to minimise noise and vibration impacts) are set out below:

- Where practicable, temporary enclosures will be used to screen all static or semi-static plant from noise sensitive receptor locations;
- All engine compartments or acoustic enclosures are closed whilst engines are running;
- Minimising drop heights of materials i.e. carefully depositing materials;
- Avoiding vehicle movements over irregular surfaces (which tends to create more noise/vibration emissions);
- At all times, workers' shouting or raised voices to be kept to a minimum;
- All plant, equipment and noise control measures applied to plant and equipment to be maintained in good and efficient working order and operated such that noise emissions are minimised as far as reasonably practicable;
- Any plant, equipment or items fitted with noise control equipment found to be defective will not be operated until repaired;
- Machines in intermittent use to be shut down or throttled down to a minimum during periods between works;
- A quiet working ethic will be employed to ensure that all members of the workforce have consideration for the nearby residents;
- Prohibit sounding of vehicle horns to gain access to the Primary and Secondary Construction Compounds;
- The delivery routes set out in the **Outline CTMP [EN010158/APP/7.5]** will be communicated to and adhered to by all suppliers;
- Design the Primary Construction Compound and Secondary Construction Compound layouts to reduce the need for reversing vehicles and ensure that drivers are familiar with the worksite layout;
- Utilise reversing alarms incorporating one or more of the features listed below (or other comparable system):
 - Highly directional sounders
 - Use of broadband sounders
 - Self-adjusting output sounders
 - Flashing warning lights; and
 - Reversing alarms that are set to the minimum output noise level required for health and safety compliance.

- Toolbox talks carried out by the Principal Contractor to ensure that all members of the workforce are aware of potential noise impacts on the sensitive receptors in the surrounding area.
- Separate authorisation/section 61 consents (under the Control of Pollution Act 1974 [Ref. 1-7]) would be obtained predominantly for works beyond the core construction hours, which would include agreed construction noise limits for nearby noise sensitive receptors; and
- Toolbox talks carried out by the Principal Contractor to ensure that all members of the workforce are aware of potential noise impacts on the sensitive receptors in the surrounding area.

- 4.4.9. Construction working hours on-site will run from 07:00 to 19:00 Monday to Friday, with working days consisting of one 12-hour shift with employees travelling to and from Site an hour on either side of these times (i.e. between 6am - 7am and 7pm - 8pm).
- 4.4.10. Between 07:00 - 08:00 and 18:00 - 19:00 Monday to Friday and 07:00 – 08:00 on Saturdays, noisier activities (such as piling) would be restricted depending on the construction activity proposed to take place and its proximity to sensitive receptors.
- 4.4.11. Activities such as trenchless/Horizontal Directional Drilling and Abnormal Indivisible Load (AIL) deliveries could be required outside of the assumed day-time construction hours (i.e. evening, Sundays, Bank Holidays or at night). These works and any associated mitigation measures will be agreed upon with the relevant planning authority prior to these works, in accordance with the **Outline CEMP [EN010158/APP/7.2]**.
- 4.4.12. Noise thresholds have been identified for nearby sensitive receptors during construction, presented in **ES Volume 2, Chapter 13: Noise and Vibration [EN010158/APP/6.2]** (and based off Annex E of BS5228-1), and the applicable noise thresholds will be defined in each of the detailed CEMP(s). Thus, where onsite works are to be conducted outside of the core working hours, they will comply with any restrictions agreed with the relevant planning authority and reflected in the detailed CEMP(s), in particular regarding the control of noise and traffic. Compliance with these noise limits will ensure adverse effects are unlikely. Abnormal or emergency construction traffic movements may occur outside of normal working hours. In the event of these occurrences, specific noise mitigation measure will be put in place to reduce potential noise impacts at nearby noise sensitive receptors as set out in the **Outline CEMP [EN010158/APP/7.2]**.
- 4.4.13. During the decommissioning phase of the Proposed Development, it has been assumed that the resultant noise levels would be broadly similar to the construction phase, as it is envisaged that similar plant and works have the potential to be used. Therefore, the residual effects during the decommissioning phase are unlikely to be any greater than those reported for construction phase,

following the implementation of appropriate additional mitigation measures. On this basis, **ES Volume 2, Chapter 13: Noise and Vibration [EN010158/APP/6.2]** reports that there are no significant residual noise and vibration effects anticipated across the Proposed Development's construction and decommissioning phases.

Operation

- 4.4.14. No major vibration sources are envisaged to be introduced as part of the Proposed Development, and as such, there will be no associated operational vibration effects. No further assessment of operational vibration has been included in the ES.
- 4.4.15. **ES Volume 2, Chapter 13: Noise and Vibration [EN010158/APP/6.2]** assesses noise as an operational (including maintenance) phase matter. The assessment concludes that, with embedded and additional mitigation measures in place, there would be an up to minor adverse residual noise effect on all receptors (including high sensitivity receptors), which is considered to be not significant in EIA terms.
- 4.4.16. Embedded mitigation measures include the:
- maximisation of the separation distance between proposed infrastructure and surrounding sensitive receptors, where practicable;
 - use of equipment with low noise emissions, where feasible; and
 - the orientating of noise emitting equipment to reduce noise level beyond the Order Limits.
- 4.4.17. To ensure that unacceptable noise impacts do not arise, transformers within the Satellite Collector Compound in Field B23 (South) in Parcel 1 would be locationally limited within a subarea (Work No. 3B) of Work No. 3 of the **Draft DCO [EN010158/APP/3.1]**. This is to ensure that this equipment (together with the acoustic fencing) within this Satellite Collector Compound would not give rise to unacceptable noise impacts. Schedule 1 of the **Draft DCO [EN010158/APP/3.1]** secures Work No. 3B.
- 4.4.18. Prospective design solutions, including final plant locations and selections, will not be progressed if the associated noise levels post-mitigation result in any significant adverse effects i.e. no greater than the adopted criteria of 40 dB LAr daytime and 35 dB LAr night-time at high sensitivity receptors, as secured by a Requirement in Schedule 2 of the **Draft DCO [EN010158/APP/3.1]**.
- 4.4.19. In the case of the main transformers being a major component of the acoustic emissions from the Proposed Development, it is proposed that a minimum 5 dB(A) reduction is obtained at source through refinement of the engineering requirements in order to adopt lower noise emitting transformers.

- 4.4.20. As secured in the **Outline OEMP [EN010158/APP/7.3]**, the following noise barriers will be implemented during the operational (including maintenance) phase to minimise noise emissions:
- 3.5m high barrier around the BESS container areas;
 - 5m high barrier around sections of the boundary of the Rosefield Substation;
 - 3.5m high absorptive barriers around Central Inverters that are impacting upon noise-sensitive receptors; and
 - Introduction of enclosures and/or barriers around the main transformers within the Rosefield Substation and Satellite Collector Compound
- 4.4.21. Barriers should be constructed using a suitably dense material, with no holes or gaps around or underneath.
- 4.4.22. Further, the **Draft DCO [EN010158/APP/3.1]** also secures, under Requirement 14, that no part of Work Nos. 1 to 5 may commence until an operational noise assessment containing details of how the design of that numbered work has incorporated mitigation to ensure the operational noise rating levels as set out in the **ES [EN010158/APP/6.1 - 6.4]** are complied with for that part has been submitted to and approved by the relevant Local Planning Authority.

Conclusion

- 4.4.23. For the reasons explained above, and with these embedded and additional mitigation measures in place, no significant residual adverse effects are expected to occur in relation to noise and vibration matters, as set out in **ES Volume 2, Chapter 13: Noise and Vibration [EN010158/APP/6.2]** during the construction, operation (including maintenance) and decommissioning phases of the Proposed Development.
- 4.4.24. 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) of the EPA.

5. Conclusion

- 5.1.1. 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.
- 5.1.2. The matters in the EPA that the Proposed Development has engaged are general site condition, air quality, artificial light, and noise and vibration across all phases of the Proposed Development. The embedded design, management plans, and mitigation measures identified in the **ES [EN010158/APP/6.1 – 6.4]** will prevent impacts that have the potential to result in statutory nuisance under section 79(1) of the EPA. These measures are secured by Requirements contained within the **Draft DCO [EN010158/APP/3.1]**.
- 5.1.3. It is not expected that the construction, operation (including maintenance) and decommissioning of the Proposed Development would cause a statutory nuisance.

5.2. References

- Ref. 1-1** Department for Environment, Food & Rural Affairs. (2015). Statutory nuisances: how councils deal with complaints. Available online: <https://www.gov.uk/guidance/statutory-nuisances-how-councils-deal-with-complaints>
- Ref. 1-2** Department for Energy Security and Net Zero. (2023). Overarching National Policy Statement for Energy (NPS EN-1). Available online: <https://www.gov.uk/Government/publications/overarching-national-policy-statement-for-energy-en-1>
- Ref. 1-3** Institute of Air Quality Management. (2024). Assessment of dust from demolition and construction 2024 V2.2. Available online: <https://iaqm.co.uk/wp-content/uploads/2013/02/Construction-Dust-Guidance-Jan-2024.pdf>
- Ref. 1-4** European Union. (2016). Regulation - 2016/1628 - EN - EUR-Lex (as amended in 2022). Available online: <https://eur-lex.europa.eu/eli/reg/2016/1628/oj/eng#:~:text=Regulation%20%28EU%29%202016%2F1628%20of%20the%20European%20Parliament%20and, and%20repealing%20Directive%2097%2F68%2FEC%20%28Text%20with%20EEA%20relevance%29>
- Ref. 1-5** Environmental Protection UK and Institute of Air Quality Management (2017). Land-Use Planning and Development Control: Planning for Air Quality. Available online: <https://www.iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf>
- Ref. 1-6** National Highways (2024). Design Manual for Roads and Bridges LA 105 Air Quality. Available online: <https://www.standardsforhighways.co.uk/search/af7f4cda-08f7-4f16-a89f-e30da703f3f4>
- Ref. 1-7** UK Government. (1974). Control of Pollution Act 1974. Available online: <https://www.legislation.gov.uk/ukpga/1974/40/contents>



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