



Great North Road Solar and Biodiversity Park

Statutory Nuisances Statement

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1 INTRODUCTION

1.1 PURPOSE OF THIS STATEMENT

1. This Statutory Nuisance Statement (this Statement), has been prepared on behalf of Elements Green Trent Ltd (the Applicant) to support an application for a Development Consent Order (DCO) to be sent to the Secretary of State for the Department for Energy Security and Net Zero, in accordance with Section 37 of the Planning Act 2008 ('the Act').
2. This Statement sets out the appropriate mitigation measures which will be implemented to ensure that the Great North Road Solar and Biodiversity Park (the Development) has no significant effects that would result in a statutory nuisance.
3. This Statement has been prepared in compliance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the 'APFP Regulations'), which requires an application for a DCO to include:
4. *"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"*.
5. This Statement is informed by and should be read alongside other documents submitted as part of the application, in particular:
 - The Environmental Statement (ES) [EN010162/APP/6.1];
 - The outline Construction Traffic Management Plan (oCTMP; ES Technical Appendix (TA) A5.2 [EN010162/APP/6.4.5.2]);
 - The outline Construction Environmental Management Plan (oCEMP; ES TA A5.3 [EN010162/APP/6.4.5.3]);
 - The outline Fire Safety Management Plan (oFSMP; ES TA A5.4 [EN010162/APP/6.4.5.4]);
 - The outline Operational Environmental Management Plan (oOEMP; ES TA A5.5 [EN010162/APP/6.4.5.5]); and
 - The outline Decommissioning and Restoration Plan (oDRP; ES TA A5.6 [EN010162/APP/6.4.5.6]). The Outline DRP includes provision for a Decommissioning Environmental Management Plan (DEMP), which will provide similar controls and protection to that set out for construction in the oCEMP.
6. For each of the CTMP, CEMP, FSMP, OEMP and DRP, a final version of the document will be prepared, agreed, and approved prior to the commencement of the relevant phase (construction, operation or decommissioning) of the Development, and will provide the same or greater protection for the environment as the measures described in the outline version. Their approval and implementation are secured by DCO Requirements.

1.2 OVERVIEW OF THE DEVELOPMENT

7. The Development comprises the construction, operation, and decommissioning of a solar photovoltaic (PV) electricity generating facility with a total capacity exceeding 50 megawatts (MW) with an electrical storage facility and an associated export connection to the National Grid.
8. The Development would be located to the northwest of Newark, in the Newark and Sherwood district of Nottinghamshire, East Midlands. The Development would be within an area bound by the Order Limits, as shown on ES Figure 1.1 [EN010162/APP/6.3.1.1]. The Order Limits are to the west of the A1, north of the A617, east of Eakring, and south of Egmanton, to the north and northwest of Staythorpe.
9. The Development is described by ES Chapter 5, Development Description, [EN010162/APP/6.2.5], and briefly summarised here. The Development essentially consists of discrete land parcels proposed to be occupied by solar PV panels and associated infrastructure (Work no. 1), connected by cable route areas (Work no. 2). Up to 4 intermediate substations (Work no. 4) will be spaced around the solar areas, and a Battery Energy Storage System (BESS; Work no. 5a) and 400 kV Compound (Work no. 5b) will collate the electrical energy and step up the voltage before cabling it to the National Grid Staythorpe Substation (Work no. 6), likely via the Consented Staythorpe BESS (Work no. 7). Road works (Work no. 8; access) will be undertaken, principally to create passing places and create or upgrade access points. Other areas within the Order Limits are identified for mitigation/enhancement (Work no. 3). The Work Areas are shown on ES Figure 5.1 [EN010162/APP/6.3.5.1] and a summary of mitigation/enhancement measures is shown on ES Figure 5.2 [EN010162/APP/6.3.5.2].

2 LEGISLATION

2.1 OVERARCHING NATIONAL POLICY STATEMENT FOR ENERGY (NPS EN-1)

10. Paragraph 4.15.1 to 4.15.4 of the Overarching National Policy Statement for Energy (NPS EN-1)¹ states that:
11. *“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.*
12. *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.*
13. *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*

¹ DESNZ (2023). Overarching National Policy Statement for Energy (NPS EN-1). Available at: <https://www.gov.uk/government/publications/overarching-national-policy-statement-for-energy-en-1> [accessed on 06/06/2025].

investigate complaints of statutory nuisance and to serve an abatement notice where satisfied of its existence, likely occurrence or recurrence.

14. *The defence is not intended to extend to proceedings where the matter is “prejudicial to health” and not a nuisance.”*
15. Paragraph 4.15.6 to 4.15.7 then goes on to state that:
16. *“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 (see Section 5.7 on dust, odour, artificial light etc. and Section 5.12 on noise and vibration).”*
17. *“The Secretary of State should note that the defence of statutory authority is subject to any contrary provision made by the Secretary of State in any particular case in a Development Consent Order (Section 158(3) of the Planning Act 2008). Therefore, subject to Section 5.7 and Section 5.12, the Secretary of State can disapply the defence of statutory authority, in whole or in part, in any particular case, but in so doing should have regard to whether any particular nuisance is an inevitable consequence of the development.”*

2.2 THE APFP REGULATIONS

18. Regulation 5(2)(f) of the APFP Regulations² states that an application for a DCO must be accompanied by:
19. *“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”*

2.3 THE ENVIRONMENTAL PROTECTION ACT 1990 (EPA)

20. Section 79(1) of the EPA³, as it applies in England and Wales, 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;*

² The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Available at: <https://www.legislation.gov.uk/uksi/2009/2264/contents/made> [accessed on 06/06/2025].

³ Environmental Protection Act 1990. Available at: <https://www.legislation.gov.uk/ukpga/1990/43/section/79> [accessed on 06/06/2025].

- (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 ASSESSMENT OF SIGNIFICANCE

3.1 MATTERS POTENTIALLY ENGAGED UNDER SECTION 79(1) OF THE EPA

- 21. The ES accompanying the application considers the likelihood of significant effects arising from the Development that could constitute a statutory nuisance, as identified in Section 79(1) of the EPA.
- 22. Further to the assessment undertaken in the ES, Table 1 below sets out each matter identified in Section 79(1) of the EPA and describes whether the matter is to be addressed, or excluded, within this Statement.

Table 1 Consideration of matters outlines in Section 79(1) of the EPA

Matter listed in Section 79(1) of the EPA	Is this matter engaged as a consequence of the 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 anticipated to be generated from the Development; therefore, this matter is not considered further within this Statement. With regards to unplanned, emergency situations such as accidental fire, the risk and consequences of this are minimised via the measures in the oFSMP [EN010162/APP/6.4.5.4].
(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	This matter only applies to private dwellings by virtue of section 79(4) EPA. Therefore, this matter is not considered further within this Statement.
(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	This matter is considered further in this Statement.

Matter listed in Section 79(1) of the EPA	Is this matter engaged as a consequence of the Development?
(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 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 good practice guidance for livestock welfare. This is specified in the oOEMP and therefore this matter is not considered further within this Statement.
(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	No insects which could be prejudicial to health or represent a nuisance are anticipated to emanate from the Development. Therefore, this matter is not considered further within this 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 a 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	There are no other matters that are considered to be a potential statutory nuisance associated with the Development. Therefore, this matter is not considered further within this Statement.

4 MATTERS ENGAGED AND PROPOSED MITIGATION

4.1 CONDITION OF THE SITE

23. This section of the Statement assesses the risk that the condition of the land within the Order Limits during any phase (construction, operation and decommissioning) could cause a statutory nuisance. The following sections of the EPA that relate to this matter define a statutory nuisance as:

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

4.1.1 Construction

24. As part of the Development, the following construction activities will be undertaken over a period expected to be c. 24 months:
- Delivery of equipment, materials and staff to the Order Limits;
 - Construction of the solar panel arrays and associated infrastructure;
 - Construction of the battery energy storage system (BESS);
 - Construction of the intermediate substations, 400 kV compound and electrical infrastructure works at the Consented Staythorpe BESS and National Grid Staythorpe Substation;
 - Trenching and installation of cabling;
 - Construction of access tracks;
 - Installation of CCTV and fencing and gates; and
 - Landscaping and habitat creation.
25. These construction activities have the potential to result in pollution incidents such as the production of waste, litter and spillages (accumulation or deposit), which individually or in combination can constitute a nuisance under the EPA.
26. Multiple construction control mechanisms to mitigate these potential nuisances have been proposed in the oCEMP and oCTMP. These have been informed by the Environmental Impact Assessment (EIA) process, as reported in the ES, and will direct the construction process by implementing environmental controls to promote good construction practices and prevent any adverse or nuisance impacts during the construction phase. These include, for example, dust minimisation and suppression, noise management measures, a pollution prevention plan including use of spill kits and a site waste management plan.
27. With the implementation of the measures outlined above, the construction phase of the Development would not result in impacts that would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

4.1.2 Operation

28. During the operation phase of the Development, which has a duration of up to 40 years, works or activity within the Order Limits will be principally:
- Ecological management and enhancement;
 - Livestock management;

- Infrastructure maintenance and servicing;
 - Infrastructure cleaning, repairs and replacement; and
 - Ongoing monitoring to ensure efficacy.
29. These activities have the potential to result in pollution incidents such as the production of waste, litter and spillages (accumulation or deposit), which individually or in combination can constitute a nuisance under the EPA.
30. Multiple construction control mechanisms to mitigate these potential nuisances have been proposed in the oOEMP. The oOEMP has been informed by the EIA, as reported in the ES, and will direct the construction process by implementing environmental controls to promote good construction practices and prevent any adverse or nuisance impacts during the construction phase. These include a site waste management plan, pollution prevention measures, lighting restrictions and monitoring.
31. With the implementation of the measures outlined above, the operation phase of the Development would not result in impacts that would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

4.1.3 Decommissioning

32. As part of the Development, the following decommissioning activities will be undertaken over a period expected to be up to c. 24 months:
- Construction and then dismantling of temporary compounds to facilitate decommissioning;
 - Dismantling and removal of the solar panel arrays and associated infrastructure;
 - Dismantling and of the battery energy storage system (BESS);
 - Dismantling of the substations (intermediate and 400 kV), breaking of foundations;
 - Excavation and removal of cabling;
 - Dismantling of access tracks;
 - Dismantling and removal of CCTV and fencing and gates;
 - Changes to landscaping and habitats; and
 - Transport of the above away from the Order Limits for re-use, recycling or energy recovery.
33. In a worst case, all of the Development infrastructure would be removed at decommissioning, although there is flexibility proposed over the substations, cabling and tracks, which may remain.
34. These decommissioning activities have the potential to result in pollution incidents such as the production of waste, litter and spillages (accumulation or deposit), which individually or in combination can constitute a nuisance under the EPA.
35. At the end of the operational phase, the Development would be decommissioned. The DEMP (which is required under the DRP – see Section 1.1) will provide similar controls and protection to that set out for construction in the oCEMP. Thus, multiple decommissioning control mechanisms to mitigate these potential nuisances have been proposed. The oDRP has been informed by the EIA, as reported in the ES, and will direct the decommissioning process by implementing environmental controls to

promote good practices and prevent any adverse or nuisance impacts during the decommissioning phase. The oDRP requires that the DRP will include traffic control measures similar to the CTMP at construction stage, controls on dust and noise emissions and a pollution prevention plan.

36. With the implementation of the measures outlined above, the decommissioning phase of the Development would not result in impacts that would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

4.1.4 Conclusion

37. For the reasons outlined above and with the implementation of the described mitigation measures, it is considered that the construction, operation, and decommissioning of the Development will not result in impacts that would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

4.2 AIR EMISSIONS

38. This section of the Statement assesses the risk of air emissions causing a statutory nuisance. The following sections of the EPA that relate to this matter define a statutory nuisance as:
- *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”.*
39. Section 16.2 of ES Chapter 16, Miscellaneous Issues [EN010162/APP/6.2.16] assesses the potential impact of the construction, operation and decommissioning phases of the Development on air quality and from dust. The assessment anticipates that there will not be a significant impact on air local air quality during any phase.

4.2.1 Construction

4.2.1.1 Dust

40. During the construction of the Development, there is the potential for dust and particles emissions due to the following works:
- Earthworks (such as excavation, soil stripping etc.); and
 - Trackout (the movement of soil and mud out of the Development site by construction vehicles).
41. The oCEMP includes for a dust risk assessment to be carried out pre-construction, when specific locations of construction activity are known, followed by good practice mitigation measures for construction dust and Non-Road Mobile Machinery (NRMM), as set out in the Institute of Air Quality Management (IAQM) guidance. These measures, commitments and actions are included in the oCEMP.
42. Section 16.2 of ES Chapter 16, Miscellaneous Issues [EN010162/APP/6.2.16] assesses the potential impact as being not significant; however, with the implementation of mitigation measures to sensitive receptors through the oCEMP, the residual effects of construction dust and exhaust emissions from NRMM would be negligible, and any significant adverse effects would be avoided.

4.2.1.2 NRMM

43. In addition to dust, during the construction of the Development, will be emissions of pollutants from NRMM operating on the construction site. Section 16.2 of ES Chapter 16, Miscellaneous Issues [EN010162/APP/6.2.16] assesses that there will be no likely significant effect from NRMM emissions. The oCEMP includes for good practice mitigation measures for NRMM, as set out in the IAQM guidance⁴, including using modern and well-maintained equipment.

4.2.1.3 Traffic Emissions

44. Section 16.2 of ES Chapter 16, Miscellaneous Issues [EN010162/APP/6.2.16] compares the predicted construction traffic generated by the Development with the screening criteria detailed in the Environment Protection UK (EPUK)/IAQM planning guidance⁵.
45. The traffic flows from construction are predicted to be well below (i.e., c. 6% of) the threshold set out in that guidance that would trigger the need for more detailed assessment. Therefore, construction traffic emissions will not lead to significant effects.
46. Mitigation measures, which include travel planning and Heavy Duty Vehicles (HDV) management during the construction stage, are incorporated into the oCTMP (see Section 1.1) and committed through the DCO Requirement for the CTMP.

4.2.1.4 Construction Summary

47. For the reasons outlined above, it is considered that the construction phase of the Development will not result in impacts that would constitute a statutory nuisance under Section 79(1)(d) of the EPA.

4.2.2 Operation

48. Operation phase traffic movements associated with the Development are anticipated to be very low (typically 15 visits to various parts of the Development per day), across a wide network of A roads and smaller roads. Traffic generation from staff during the operational phase of the Development is not expected to have a significant impact on traffic flows and therefore associated air quality. If any replacement of components is required during the operation phase (such as is likely for the BESS, and possible for up to 10% of solar panels), these will be less than during the construction phase. The oOEMP includes provision for traffic management measures during the operation phase similar to those set out in the oCTMP for construction. As a result, it is expected that there will not be any significant effects on air quality during the operation phase of the Development.

⁴ IAQM (2024). Guidance on the assessment of dust from demolition and construction. <https://iaqm.co.uk/wp-content/uploads/2013/02/Construction-Dust-Guidance-Jan-2024.pdf> [accessed on 01/06/2025].

⁵ EPUK and IAQM (2017). Land Use Planning and Development Control: Planning for Air Quality. <https://www.iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf> [accessed on 01/06/2025].

49. It is therefore considered that the operation phase of the Development will not result in impacts that would constitute a statutory nuisance under Section 79(1)(d) of the EPA.

4.2.3 Decommissioning

50. The method and duration of works required for the decommissioning phase of the Development are anticipated to be similar to those carried out during the construction phase.
51. The mitigation measures outlined above for the construction phase of the Development would be applied during the decommissioning phase, through the DEMP, which is required by the oDRP. Similarly to the construction phase of the Development, the mitigation measures proposed will ensure that air emissions and dust at decommissioning stage will be minimised and not significant.
52. For the reasons outlined above, it is considered that the decommissioning phase of the Development will not result in impacts that would constitute a statutory nuisance under Section 79(1)(d) of the EPA.

4.2.4 Conclusion

53. For the reasons outlined above, and with the mitigation measures described in place, it is considered that the construction, operation, decommissioning phases of the Development will not result in impacts that would constitute a statutory nuisance under Section 79(1)(d) of the EPA.

4.3 ARTIFICIAL LIGHT

54. This section of the Statement assesses the risk of artificial light causing a statutory nuisance. The following sections of the EPA that relate to this matter define a statutory nuisance as:
- Section 79(1) (fb) – “*artificial light emitted from premises so as to be prejudicial to health or a nuisance*”.
55. A statutory nuisance would exist if artificial light substantially interfered with the wellbeing, comfort or enjoyment of an individual’s property. Usually this would mean that lights were causing a nuisance on a regular basis. Artificial lights may also cause a nuisance if they are not maintained or used properly.

4.3.1 Construction

56. Lighting during the construction phase is described and controlled by Section A5.3.4 of the oCEMP. This identifies that, depending on the time of year, temporary artificial lighting may be required during the construction phase of the Development. For example, in the winter months, the short daylight hours may require for temporary lighting to be deployed in locations where it is necessary.
57. Core working hours are proposed to be between 07.30 and 18.00, Monday to Friday, and 08:00 and 13.00 on a Saturday (unless in exceptional circumstances where the need arises to protect plant, personnel or the environment). In addition to this, a start-up and close-down period of up to an hour before and after the core working hours is proposed, which does not

include the operation of plant or machinery likely to cause a noise or visual disturbance.

58. All construction lighting will be deployed in accordance with good practice to reduce or avoid impacts on human and ecological receptors. All artificial lighting will be deployed in accordance with the oCEMP, which sets out the following mitigation principles:
- Lighting being minimised to that required for safe site operations;
 - Lighting will utilise directional fittings to minimise outward light spill; and
 - Lighting will be directed towards the middle of the site rather than towards the boundaries.
59. Very little of the Order Limits is within 100 m of residential properties, which in itself limits the potential for noise, dust, light, etc, that could cause nuisances.
60. For the reasons outlined above, it is considered that the construction phase of the Development will not result in impacts associated with artificial lighting that would constitute a statutory nuisance under Section 79(1) (fb) of the EPA.

4.3.2 Operation

61. Section 5.5.4.3 of the oOEMP sets out that, during operation, no part of the Development will be continuously lit. It is likely that movement-triggered lighting and passive infra-red sensors would be deployed for security purposes at Work No. 4 (Intermediate Substations), 5a (BESS) and 5b (400 kV Compound) and potentially at any other pieces of critical infrastructure, such as inverter/transformer stations. In order to limit impacts on sensitive receptors, lighting would be directed to face away from boundaries.
62. Very little of the Order Limits is within 100 m of residential properties, which in itself limits the potential for noise, dust, light, etc, that could cause nuisances.
63. Glint and glare from solar panels could cause a nuisance if it was sufficiently frequent or of sufficiently long duration, and if it was at a location where people spent a lot of time, such as in a living room or kitchen. ES Technical Appendix A16.1, Glint and Glare [EN010162/APP/6.4.16.1] considers these matters and found few properties with any effects, and none that exceeded the thresholds for acceptability. The modelling process will be repeated on the proposed detailed design, post-consent, and any required mitigation implemented (there are various effective alternatives, should glint and glare be anticipated at that time). This is secured by DCO Requirement.
64. For the reasons outlined above, it is considered that the operation phase of the Development will not result in any impacts associated with artificial lighting that would constitute a statutory nuisance under Section 79(1) (fb) of the EPA.

4.3.3 Decommissioning

65. Section 5.6.6 of the oDRP, which describes the measures to be set out in a DEMP includes a description and controls of lighting at the decommissioning phase.
66. Core working hours are proposed to be between 07.30 and 18.00, Monday to Friday, and 08:00 and 13.00 on a Saturday (unless in exceptional circumstances where the need arises to protect plant, personnel or the environment). In addition to this, a start-up and close-down period of up to an hour before and after the core working hours is proposed, which does not include the operation of plant or machinery likely to cause a noise or visual disturbance.
67. Depending on the time of year, some work lighting may be required to facilitate decommissioning during the working hours. The vast majority of decommissioning activities will be undertaken during daylight hours. In winter, the short daylight hours may require some temporary lighting to be deployed during decommissioning, however this will be avoided as far as practicable.
68. It is anticipated there will be a presumption against lighting in sensitive areas without seeking the advice of specialists such as the Environmental Clerk of Works (this depends on the habitats and species present at that time, which may have increased relative to the current baseline as a result of the habitat enhancements proposed). The DEMP will be drafted in line with best practice measures for lighting at the time of writing to reduce or avoid impacts on human receptors.
69. For the reasons outlined above, it is considered that the decommissioning phase of the Development will not result in impacts associated with artificial lighting that would constitute a statutory nuisance under Section 79(1) (fb) of the EPA.

4.3.4 Conclusion

70. For the reasons outlined above, and with the mitigation measures described in place, it is considered that the construction, operation, decommissioning phases of the Development will not result in impacts associated with artificial lighting that would constitute a statutory nuisance under Section 79(1)(fb) of the EPA.

4.4 NOISE AND VIBRATION

71. This section of the Statement assesses the risk of noise and vibration causing a statutory nuisance. The following sections of the EPA that relate to this matter define a statutory nuisance as:
 - 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*”.
72. If noise is excessive, prolonged or occurs 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.

73. The elements relevant to section 79(1) are those relating to noise emitted from premises (which includes land) and from vehicles, machinery and equipment in a street. Traffic noise is specifically excluded from consideration by section 79 (6A) (a) and is not considered further.
74. ES Chapter 12, Noise and Vibration [EN010162/APP/6.2.12] provides an assessment of potential noise and vibration effects. Noise and vibration thresholds are set based on commonly accepted British Standards BS4142, for industrial and commercial sound, and BS 5228, for noise and vibration on construction sites. Compliance with the noise and vibration thresholds will ensure that adverse impacts are unlikely. An assessment of construction/decommissioning and operation phase noise was undertaken using worst-case assumptions. The Chapter concludes that during the construction, operation and decommissioning phases of the Development, predicted noise and vibration effects would not be significant.

4.4.1 Construction

75. The potential for noise during the construction phase includes:
- Operation of onsite plant;
 - Piling of the solar PV mounting poles;
 - Earthworks and movement of materials; and
 - Generators and general construction activity noise.
76. The oCEMP includes a section on the control of construction noise and vibration. This sets out that a Construction Noise Management Plan (CNMP) will be developed pre-construction based on the finalised location of construction activities and equipment to be used on site. The CNMP will identify specific mitigation measures required to ensure the noise and vibration thresholds are not exceeded. The oCEMP identifies a suite of measures that will be included in the CNMP, including:
- Construction activities are anticipated to be between 07:30 and 18:00 Mondays to Fridays, and 08:00 to 13:00 on Saturdays (unless in exceptional circumstances where need arises to protect plant, personnel or the environment);
 - Deliveries of plant and materials by HGV to site shall only take place by designated routes and within times agreed with the Council as secured in the oCTMP;
 - The site contractors shall be required to employ best practicable means of reducing noise emissions from plant, machinery and construction activities, as advocated in BS 5228;
 - Non-tonal and / or directional reversing alarms will be used;
 - Where necessary and practicable, noise from fixed plant and equipment will be contained within suitable acoustic enclosures or behind acoustic screens;
 - All sub-contractors appointed by the principal contractor will be formally obliged by contract to comply with all environmental noise and vibration conditions; an understanding and commitment to compliance with (legislation and good practice) will be a pre-requisite to appointment; and

- All plant and equipment will be properly maintained and operated to prevent excessive noise and vibration and will be switched off when not in use.

77. For the reasons outlined above, and with the mitigation measures described in place, it is considered that the construction phase of the Development would not result in impacts resulting from noise and vibration that would constitute a statutory nuisance under Section 79(1) (g) or (ga) of the EPA.

4.4.2 Operation

78. The assessment in ES Chapter 12, Noise and Vibration [EN010162/APP/6.2.12], which used reasonable worst-case assumptions, concluded that the noise limits would not be exceeded for the design assessed. The as-built Development will also comply with the consented noise limits, and this will be demonstrated by an assessment of the detailed design, with design changes or mitigation will be implemented as required. This is secured by DCO Requirement, which requires an operational noise assessment to be submitted to the Council prior to each phase of the Development being commenced based on the final layout and equipment selection for that phase. The operational noise assessment is required to demonstrate how the noise rating levels set out in the ES will be met.
79. Given the above, it is considered that the operation phase of the Development will not result in any noise impacts that would constitute a statutory nuisance under Section 79(1) (g) or (ga) of the EPA.

4.4.3 Decommissioning

80. The method and duration of works required for the decommissioning phase of the development are anticipated to be similar or of less magnitude to those carried out during the construction phase.
81. The oDRP includes a section on the control of noise and vibration comparable to that described above for the oCEMP for the construction phase. The mitigation measures outlined above for the construction phase of the Development would therefore be applied during the decommissioning phase.
82. For the reasons outlined above, it is considered that the decommissioning phase of the Development will not result in impacts due to noise or vibration that would constitute a statutory nuisance under Section 79(1) (g) or (ga) of the EPA.

4.4.4 Conclusion

83. For the reasons outlined above, and with the mitigation measures described in place, it is considered that the construction, operation, decommissioning phases of the Development will not result in impacts resulting from noise and vibration that would constitute a statutory nuisance under Section 79(1) (g) or (ga) of the EPA.

5 CONCLUSION

84. In accordance with Regulation 5(2)(f) of the APFP Regulations, this Statement has assessed whether the Development has engaged one or more of the matters set out in Section 79(1) of the EPA. This Statement has identified that the Development could potentially engage with the following types of statutory nuisance set out in the EPA: general site condition, air quality, artificial light, and noise and vibration.
85. The above matters have been considered during the Development design process, the production of outline management plans and the design of mitigation measures that, together, aim to prevent impacts that could result in statutory nuisance under Section 79(1) of the EPA.
86. The mitigation required to ensure that no statutory nuisance would occur is secured through the following:
- oCTMP;
 - oCEMP;
 - oFSMP;
 - oOEMP;
 - oDRP; and
 - DCO Requirement 15 that requires operational noise to be below the noise rating levels set out in the ES.
87. This Statement concludes that it is not considered that the construction, operation and decommissioning of the Development would result in any impacts that would constitute a statutory nuisance under Section 79(1) of the EPA.