

Steeple Renewables Project

Statutory Nuisance Statement

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Statutory Nuisance Statement

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Statutory Nuisance Statement

Steeple Renewables Project.

On behalf of Steeple Solar Farm Limited.

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1. Introduction

- 1.1. This Statutory Nuisance Statement ('SNS') has been prepared on behalf of Steeple Solar Farm Limited (the 'Applicant') in relation to an application for a Development Consent Order ('DCO') for the Steeple Renewables Project (the 'Proposed Development'). The application for the DCO (the 'DCO Application') is submitted to the Planning Inspectorate, which will provide a recommendation on whether to grant a DCO. The Secretary of State ('SoS') for the Department for Energy Security and Net Zero ('DESNZ') will make a final decision under Section 37 of the Planning Act 2008 ('PA 2008').
- 1.2. The Proposed Development is defined as a National Infrastructure Project (NSIP) under sections 14(1)(a) and 15(1) and (2) of the PA2008 and will require a DCO from the SoS due to its generating capacity exceeding 50 megawatts ('MW').
- 1.3. The Proposed Development comprises the installation of ground mounted solar arrays, associated Battery Energy Storage System ('BESS') and associated development comprising grid connection infrastructure and other infrastructure integral to the construction, operation (including maintenance) and decommissioning of the development for the delivery of over 50MW of electricity. Further details of the Proposed Development are provided in the **Environmental Statement ('ES') Chapter 4: Proposed Development [EN010163/APP/6.2.4]**.
- 1.4. The DCO Application Order Limits comprises 888.31 hectares ('ha') of land (the 'Site') located on land to the East and West of Sturton-le-Steeple village and South of West Burton Power Station wholly within the county of Nottinghamshire. The Proposed Development has a 40 year design life.
- 1.5. This SNS has been prepared to satisfy 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 be accompanied by "*a statement of whether the proposals engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental protection Act 1990, and if so how the applicant proposes to mitigate or limit them*".
- 1.6. Matters in Section 79(1) of the Environmental Protection Act 1990 (EPA) that have been considered within the Statement during all phases of the Proposed Development are:
 - the site's condition (Section 79(1)(a));
 - air quality (Section 79(1)(b)-(c));
 - dust (Section 79(1)(d));
 - waste (Section 79(1)(e));

- artificial light (Section 79(1)(fb); and
- noise and vibration (Section 79(1)(g)-(ga)).

- 1.7. Other documents submitted as part of the Proposed Development, in particular the **ES [EN010163/APP/6.2.0 to EN010163/APP/6.2.19], ES Appendix 4.1 outline Construction Environmental Management Plan (oCEMP) [EN010163/APP/6.3.4], ES Appendix 4.2 outline Decommissioning Plan (oDP) [EN010163/APP/6.3.4], ES Appendix 4.4 outline Operational Environmental Management Plan (oOEMP) [EN010163/APP/6.3.4] and ES Appendix 13.2 outline Construction Traffic Management Plan (oCTMP) [EN010163/APP/6.3.13]** should be read alongside this SNS.
- 1.8. Section 158 of the PA 2008 provides statutory authority for carrying out development or anything else which is authorised by a DCO, as a defence against civil or criminal proceedings for nuisance. The SNS has been produced in that context setting out appropriate mitigation measures to ensure that the Proposed Development has no significant effects that would give rise to a statutory nuisance.
- 1.9. Whilst it is not expected that the Proposed Development would cause a statutory nuisance at any stage of development, Article 7 of the **Draft Development Consent Order [EN010163/APP/3.1]**, submitted alongside the Application, contains a provision enabling 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 so as to be prejudicial to health or a nuisance).
- 1.10. This Statement has been structured as follows:
- Section 1 - Introduction;
 - Section 2 - Legislative and Policy Context, which provides an overview of relevant planning policy the Proposed Development is assessed against;
 - Section 3 - Summary of Matters Engaged considered to have the potential to result in a statutory nuisance associated with the construction, operation, maintenance or decommissioning phases of the Proposed Development;
 - Section 4 - Matters Engaged and Proposed Mitigation, which assesses whether any of the matters identified in Section 79 of the EPA are engaged and propose mitigation measures; and
 - Section 5 – Conclusion, which concludes that the Proposed Development is not expected to breach Section 79 of the EPA during the three phases of development.

2. Legislative and Policy Context

- 2.1. This section of the SNS provides an overview of the national legislation and policy relevant to the consideration of potential statutory nuisances associated with the Proposed Development.

Legislative Context

The Environmental Protection Act 1990

- 2.2. 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; and*
 - h) any other matter declared by any enactment to be statutory nuisance.”*
- 2.3. For the purposes of Section 79(1)(g) and (ga), ‘noise’ includes vibration.
- 2.4. Guidance¹ states that “*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*

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

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.”

The Infrastructure Planning (Applications: Prescribed Forms and Procedure Regulations 2009)

- 2.5. 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*”.

Policy Context

Overarching National Policy Statement for Energy EN-1 (‘NPS EN-1’)

- 2.6. NPS EN-1 (January 2024) sets out relevant planning policy for this SNS.

- 2.7. Of particular note, paragraphs 4.15.1 -4.15.4 of NPS EN-1 state:

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

Such authority is conferred only for the purpose of providing a defence in any civil or criminal proceedings for nuisance. This would include a defence for proceedings for nuisance under Part III of the Environmental Protection Act 1990 (EPA) (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised.

The defence does not extinguish the local authority’s duties under Part III of the EPA 1990 to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve an abatement notice where satisfied of its existence, likely occurrence or recurrence.

The defence is not intended to extend to proceedings where the matter is “prejudicial to health” and not a nuisance.”

- 2.8. Paragraph 4.15.5 of NPS EN-1 goes on to state 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 (see Section 5.7 on dust, odour, artificial light etc. and Section 5.12 on noise and vibration)."

2.9. Paragraphs 4.15.6 and 4.15.7 of NPS EN-1 state:

"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 considered by the Secretary of State 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).

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."

3. Summary of Matters Engaged

Introduction

- 3.1. The likelihood of significant effects arising from the Proposed Development that could constitute a statutory nuisance are assessed within the ES submitted in support of this Proposed Development. Further to the ES assessment, matters addressed or excluded within the Statement accord with Section 79(1) of the EPA as set out below:

TABLE 1 MATTERS IN EPA SECTION 79(1)

Reference	EPA Section 79(1) Matter	Matter Engaged
1	a) any premises in such a state as to be prejudicial to health or a nuisance.	This matter is considered further within section 4 of this SNS.
2	b) smoke emitted from premises so as to be prejudicial to health or a nuisance.	Smoke is not anticipated to be generated by the Proposed Development and, consequently, is not considered further within this SNS. Unforeseen emergency situations, such as accidental fires, are addressed in ES Appendix 4.3 outline Fire Risk Management Plan (oFRMP) [EN010163/APP/6.3.4] submitted in support of the Proposed Development.
3	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, and is not considered further within this SNS.
4	d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.	ES Chapter 14: Air Quality [EN010163/APP/6.2.14] assesses potential air quality impacts that includes dust. Dust, steam, smell and other effluvia are not anticipated to be created by Proposed Development but are considered further below within this SNS for completeness.

5	e) any accumulation or deposit which is prejudicial to health or a nuisance.	ES Chapter 17: Miscellaneous Issues [EN010163/APP/6.2.17] considers the potential waste generated by the Proposed Development and its impacts. This matter is considered further in this Statement under Section 4.1, 'Condition of Site'.
6	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. Grazing livestock, such as sheep, used for the maintenance of grass, will be looked after and cared for in accordance with good practice guidance for livestock welfare as detailed in ES Appendix 4.4 outline Operational Environmental Management Plan (oOEMP) [EN010163/APP/6.3.4] secured by a requirement in the DCO. This is not considered further in this SNS.
7	fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.	ES Chapter 7: Ecology and Biodiversity [EN010163/APP/6.2.7] assesses the cessation of intensive arable farming practices and reversion of land within the Order Limits to grassland (for at least the lifetime of the Proposed Development) due to expected increased diversity and abundance of invertebrates. The operational impacts of the Proposed Development will have beneficial effects on a range of invertebrates due to the large extent of habitats created that will likely increase in quality. An increase in beneficial pollinating insect species is likely to occur as a result of the Proposed Development.

		A significant increase in species that are prejudicial to human health or a nuisance is not anticipated and for that reason this matter is not considered further within this SNS.
8	fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance.	ES Chapter 6: Landscape and Visual Impact and Residential Amenity [EN010163/APP/6.2.6] assesses the potential impacts of temporary construction lighting and operational security lighting. This matter is considered further in section 4 of this SNS.
9	g) noise emitted from premises so as to be prejudicial to health or a nuisance.	ES Chapter 11: Noise [EN010163/APP/6.2.11] assesses the potential noise impacts of the Proposed Development. This matter is considered further in section 4 of this SNS.
10	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.	ES Chapter 11: Noise [EN010163/APP/6.2.11] assesses the potential noise impacts of the Proposed Development. This matter is considered further in section 4 of this SNS.
11	h) any other matter declared by any enactment to be statutory nuisance.	No other matters associated with the Proposed Development are considered to be a potential statutory nuisance.

3.1.1. Only numbers 1, 4, 5, 8, 9 and 10 are relevant to the Proposed Development and therefore taken forward for assessment in Section 4

4. Matters Engaged and Proposed Mitigation

- 4.1. Section 4 of this SNS assesses the potential for statutory nuisance resulting from the Proposed Development relevant to the identified Matters in Table 1 of Section 3 of this SNS.

Condition of the Site and Waste

- 4.2. Matter References 1 and 3, Section 79(1)(a) of the EPA states that the condition of the Site could give rise to a statutory nuisance where it is “in such a state as to be prejudicial to health or a nuisance”. Section 79(1)(e) of the EPA states that waste can give rise to a statutory nuisance where the “... accumulation or deposit ... is prejudicial to health or a nuisance”.

Construction

- 4.3. The construction activities pursuant to the Proposed Development include:
- Site preparation, establishment and enabling works for construction:
 - Ground clearance, where necessary;
 - Installation of security lighting and CCTV;
 - Delivery of construction material, plant and equipment;
 - Establishment of security fencing;
 - Establishment of construction compounds including storage and welfare facilities;
 - Construction of internal access roads;
 - Setting out the position for the infrastructure and equipment;
 - Trenching for cable routes; and
 - Habitat creation.
 - Construction of the Proposed Development:
 - Piling and installation of solar photovoltaic (‘PV’) array foundations;
 - Construction of on-site electrical infrastructure to facilitate the generation of electricity such as solar PV frames and panels, 132 kilovolt (‘kV’) substation and BESS;

- Laying of cables including Point of Connection ('PoC') cable groundworks and string cabling between the solar PV array;
- PoC electrical works;
- Installation of fencing and gates;
- Final installation checks;
- Testing and commissioning;
- Site clearance and compound removal; and
- Landscape planting and ecological enhancements.

4.4. There is a possibility that the construction and decommissioning works create pollution incidents, such as spillages, creation of litter and general waste. However, they do not constitute a nuisance under the EPA.

4.5. Construction control mechanisms proposed include the implementation of a Construction Environmental Management Plan ('CEMP') **ES Appendix 4.1 outline Construction Environmental Management Plan ('oCEMP') [EN010163/APP/6.3.4]** and a Construction Traffic Management Plan ('CTMP') **ES Appendix 13.2 outline Construction Traffic Management Plan ('oCTMP') [EN010163/APP/6.3.13]**. The management plans will outline the environmental controls and best practices to be implemented to minimize an adverse or nuisance causing impacts and will regulate the delivery of materials and the movement of construction personnel. Following the making of the DCO, a detailed CEMP and CTMP will be prepared and submitted to the relevant local planning authorities for approval pursuant to Requirements included in the DCO.

4.6. All contractors tendering for works will be required to demonstrate that their proposals can comply with the content of the detailed CEMP, CTMP and the DCO. If any necessary departures from the detailed management plans are required, the relevant local planning authorities will be notified and changes agreed.

4.7. A strategy to deal with accidental pollution will be included within the detailed CEMP prior to commencement of construction. A preliminary strategy is identified within the OCEMP, the use and location of accidental spill kits will be relayed to the construction personnel and whilst storage of fuels, lubricants or other chemicals on Site is not expected, any relevant materials will be stored in accordance with the appropriate pollution prevention principles to reduce the likelihood of spillage and with an impermeable base and suitable bunding or double skinned tanks.

4.8. As set out in **ES Chapter 8: Hydrology, Hydrogeology, Flood Risk and Drainage [EN010163/APP/6.2.8]** the Proposed Development has been designed to be safe

without increasing flood risk elsewhere. Design mitigation measures include an appropriate sequential design of the site to ensure onsite infrastructure avoids, as far as possible, areas of elevated flood risk and incorporates flood resilient and resistance measures so that equipment can remain operational during times of elevated flood risk. This includes integration of earth bunds to protect on-site substation and BESS, whilst solar panels and inverters are located above design flood level.

- 4.9. Pollution prevention measures are included in the design of the Proposed Development such as containment of firewater at the BESS compound and construction compounds with designated refuelling areas. Surface water drainage details include Sustainable Drainage Systems that includes attenuation basins, permeable surfacing, gravel filled trenches, filter drains. and attenuation basins.
- 4.10. Two large detention basins have been strategically placed within the proposed development on land to the west (up-gradient) of Sturton-le-Steeple. Their locations and sizes have been carefully designed to intercept overland flows generated up-gradient of the site, with water held in the basins before being released at a controlled rate to the existing drainage ditches after the peak of the rainfall event. The two basins combined would provide an attenuation capacity of approximately 4300m³ to potentially address the flooding issue reported by the local residents.
- 4.11. In the highly unlikely event of a fire, **ES Appendix 4.3 outline Fire Risk Management Plan (oFRMP) [EN010163/APP/4.3]** describes the drainage strategy for the BESS compound to ensure any potential contaminants in firewater can be contained and will not contribute to the wider water environment. Achieved through a bund around the BESS area and attenuation basins designed to capture runoff from the BESS (and substation) areas, released to local drainage ditches at a controlled greenfield rate, with the option to shut off the outlet for the BESS in the event of a fire or other pollution incident. The attenuation basins in the BESS and substation areas will be lined to prevent infiltration.
- 4.12. Waste streams will be separated on-site to control the waste generated during the site preparation and construction processes. The waste will then be transported to an approved, licensed third-party waste facility for recycling or disposal.
- 4.13. The Contractor will produce a Construction Resource Management Plan (CRMP) (secured by the OCEMP) which will estimate and monitor the waste streams and set goals with regards to the waste produced. The document will conclude with specific measures recommended to be implemented prior to construction starting on site.
- 4.14. Measures set out in the OCEMP are embedded into the design of the Proposed Development and the assessment of the resultant effects has been undertaken. The EIA assumes that those measures are implemented in full.

- 4.15. It is considered that with these measures in place the construction 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.

Operation

- 4.16. During the operational phase of the Proposed Development is not considered to result in the 'premises' within the Order Limits being in 'such a state' as to be prejudicial to health or nuisance.
- 4.17. During operation, maintenance will be minimal and restricted principally to soft landscape management (in line with **ES Appendix 7.14 outline Landscape and Ecological Management Plan (oLEMP) [EN010163/APP/6.3.7]**); equipment maintenance and servicing; replacement of any components where necessary and monitoring. Maintenance and servicing include inspection, removal, reconstruction, refurbishment or replacement of faulty or broken equipment and adjusting and altering the solar module orientation to ensure the Proposed Development operates effectively and that its efficiency is always being improved. All operational works taking place during the lifetime of the Proposed Development will be undertaken in line with the Operational Environmental Management Plan, based on **ES Appendix 4.4 outline Operational Environmental Management Plan (oOEMP) [EN010163/APP6.3.4]**). Following the granting of the DCO, a detailed OEMP will be prepared and submitted to the relevant planning authority for approval prior to the commencement of development on-site. As such 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.

Decommissioning

- 4.18. During the decommissioning phase all the solar infrastructure including PV modules, mounting structures, cabling on or near to the surface, inverter stations, fencing and ancillary infrastructure, and the substation and BESS compound would be removed and recycled or disposed of in accordance with good practice available at the time and following the waste hierarchy. It is expected that the compounds and temporary access tracks will be removed once decommissioning is complete.
- 4.19. There is a possibility that the decommissioning works may create pollution incidents such as spillages and creation of litter and general waste, as with the construction phase of the Proposed Development which could constitute a nuisance under the EPA.
- 4.20. A detailed Decommissioning Plan (DP) will be prepared before the decommissioning process can begin. This document will be written in accordance with **ES Appendix 4.2 outline Decommissioning Plan (oDP) [EN010163/APP/6.3.4]**.
- 4.21. This document will include details of a strategy to deal with any accidental pollution. Any equipment required for this strategy, such as spillage kits, would be held on-site

and all site personnel would be trained to use them. In the event of a suspected pollution incident, the Environment Agency would be informed immediately.

- 4.22. It will also contain details with regards to waste, estimating and monitoring the waste streams and set goals with regards to the waste produced during decommissioning.
- 4.23. Fully licensed waste carriers will remove all waste generated within the Order Limits to licensed waste facilities for recycling or disposal.
- 4.24. Measures set out in the **ES Appendix 4.2 outline Decommissioning Plan (oDP) [EN010163/APP/6.3.4]** are embedded into the design of the Proposed Development and the assessment of the resultant effects has been undertaken. These measures are secured by a Requirement in the DCO.
- 4.25. It is considered that these measures will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA, during the decommissioning phase of the Proposed Development.

Conclusion

- 4.26. For the reasons set out above, and with the implementation of mitigation measures, the construction, operation, maintenance and decommissioning phases of the Proposed Development will not impact the Site in such a manner, nor will sufficient waste be generated, that would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

Air Quality

- 4.27. Matter Reference 4, 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”

Construction and Decommissioning

- 4.28. **ES Chapter 14: Air Quality [EN010163/APP/6.2.14]** confirms that there is likely to be no significant impact on local air quality during construction or decommissioning, given the predicted volume of traffic and pollutant concentrations and that the effect on human health would be negligible. During construction there is the potential for emissions of dust and particles due:
 - Earthworks (e.g., soil stripping, excavation etc);
 - Construction; and
 - Track out (movement of mud and soil out of the site by construction vehicles).

4.29. The Applicant has committed to producing a Dust Management Plan when detailed construction information is available, as secured within **ES Appendix 4.1 outline Construction Environmental Management Plan (oCEMP) [EN010163/APP/6.3.4]**. This will detail how to practically implement the mitigation measures proposed, including monitoring. **ES Chapter 14: Air Quality [EN010163/APP/6.2.14]** sets out that decommissioning is expected to generate similar (if not slightly lower) effects to those anticipated during the construction phase, and therefore the mitigation measures proposed to be implemented during the construction phase will also be appropriate for the decommissioning phase. The mitigation measures proposed for implementation during the construction phase will be included within the detailed DP prior to decommissioning.

4.30. The Chapter concludes that impacts on local air quality as a result of dust generation during decommissioning are considered to be negligible and not significant.

Operation

4.31. Operational traffic associated with the Proposed Development will be very low (less than 1 daily vehicle movement) limited to a small van or LGH. HGV movements may be required ad hoc if large pieces of plant or equipment need replacing. As land within the Order Limits is not located within or adjacent to an Air Quality Management Area (AQMA), **ES Chapter 14: Air Quality [EN010163/APP/6.2.14]** concludes that traffic air quality impact can be scoped out, according to the “*Indicative criteria for requiring an air quality assessment*” in IAQM Guidance of Land-use planning & development control: Planning for air quality, January 2017.

4.32. Fixed plant, which may give rise to emissions, such as Combined Heat and Power (‘CHP’) or boilers, are not proposed. As a result, there are no emissions associated with the Proposed Development and the direct impacts on air quality are determined to be ‘imperceptible’.

4.33. No likely significant effects on air quality are therefore predicted during the operational phase of the Proposed Development.

Conclusion

4.34. For the reasons explained above no significant effects are expected to occur in relation to air quality matters in EIA terms, including in relation to the health of human receptors, as set out in **ES Chapter 14: Air Quality [EN010163/APP/6.2.14]**. Nor is the Proposed Development expected to produce “*any dust, steam, smell or other effluvia*” that would be “*prejudicial to health or a nuisance*” such that no statutory nuisance under section 79(1)(d) of the EPA is expected to arise.

Artificial Light

- 4.35. Matter Reference 8, Section 79(1)(fb) of the EPA provides that the following constitutes a statutory nuisance, “*artificial light emitted from premises so as to be prejudicial to health or a nuisance*”.
- 4.36. Therefore, a statutory nuisance would arise if artificial light generated from the Proposed Development substantially interferes with the wellbeing, comfort or enjoyment of an individual’s property. Usually this would mean lights were causing a nuisance on a regular basis. Artificial lights may cause a nuisance if they are not maintained or used properly.

Construction and Decommissioning

- 4.37. Temporary site lighting, in the form of mobile lighting towers with a power output of 8 kilo volt-amperes (kVAs), will be required for construction in areas where natural lighting is unable to reach during core working hours within the winter months. This will help maintain sufficient security and health and safety within the Order Limits, whilst avoiding excessive glare and minimising the spill of light to nearby receptors (including ecological and residents) as far as reasonably practicable. All construction lighting will be deployed in accordance with mitigation principles within **ES Appendix 4.1 outline Construction Environmental Management Plan (oCEMP) [EN010163/APP/6.3.4]** and **ES Appendix 4.2 outline Decommissioning Plan (oDP) [reference EN010163/APP/6.3.4]** including:
- External lighting will be the minimum required for safe site operations;
 - Directional fittings to lighting will be used to minimise outward light spill and glare (e.g. via the use of light hoods/cowls which direct light below the horizontal plane, preferably at an angle greater than 20° from horizontal); and
 - External lighting will be directed towards the middle of the Order Limits rather than towards the boundaries.
- 4.38. A detailed CEMP and DP are secured by a DCO requirement and will be prepared and submitted to the relevant local planning authorities for approval.

Operation

- 4.39. External lighting will be as detailed in **ES Chapter 4: Proposed Development [EN010163/APP/6.2.4]**. During operation, no part of the Proposed Development will be continuously lit and limited to the substation and BESS element of the Proposed Development. A sensitive lighting Proposed Development will be developed including directing external lighting downwards and light spill on to existing boundary features avoided so there will be no lighting at the perimeter of the Order Limits and hence no potential for a statutory nuisance.

Conclusion

- 4.40. For the reasons explained above and with the implementation of the above mitigation measures, no statutory nuisance under Section 79(1)(fb) of the EPA would arise from the construction, operation and decommissioning of the Proposed Development.

Noise and Vibration

- 4.41. Matter references 9 and 10. The following constitute a statutory nuisance in respect of the EPA:
- 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”*.
- 4.42. A statutory nuisance would exist if noise substantially interfered with the well-being, comfort, or enjoyment of an individual’s property. If noise is excessive, prolonged or on a regular basis it may constitute a statutory nuisance.
- 4.43. An assessment of noise and vibration impacts was undertaken as part of the EIA and reported in **ES Chapter 11: Noise and Vibration [EN010163/APP/6.2.11]**. The chapter assesses the significance of potential noise and vibration effects during the construction, operational and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant noise or vibration effects in terms of the EIA Regulations.
- 4.44. The elements relevant to section 79(1)(g) and (ga) 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) of the EPA and is not considered further.

Construction and Decommissioning

- 4.45. **Chapter 11: Noise [EN010163/APP/6.2.11]** predicts construction noise levels at all receptors will be within the 65 dB(A) noise level limit. Construction noise and vibration is temporary, and, on a worst-case bases, the assessment assumes that all construction activities will be happening simultaneously across the Site. Limited receptors would likely experience construction activity on the Site and cable route at any given time as work progresses across the Proposed Development. Therefore, the residual construction noise and vibration effects of the Proposed Development are not significant.
- 4.46. During decommissioning, noise and vibration effects of the Proposed Development will be similar to those during the construction. In both phases noise levels at

surrounding receptors will vary depending on the locations and types of works taking place. Nearby residents are likely to be more tolerable of these events if they are regularly communicated with and kept informed of timings and duration of high noise generating events.

4.47. During both construction and decommissioning phases measures to control noise as defined in Annex B of BS 5228-1 and measures to control vibration as defined in Section 8 of BS 5228-2 will be adopted where reasonably practicable.

4.48. Best Practicable Means ('BPM') are represented by these measures included within the **ES Appendix 4.1 outline Construction Environmental Management Plan (oCEMP) [EN010163/APP/6.3.4.1]** and **ES Appendix 4.2 outline Decommissioning Plan (oDP) [EN010163/APP/6.3.4]**. Examples of BPM to be implemented include:

- Unnecessary revving of engines will be avoided, and equipment will be switched off when not in use;
- Appropriate routing of construction traffic on public roads and along access tracks;
- Drop heights of materials will be minimised;
- Plant and vehicles will be sequentially started up rather than all together;
- Plant will always be used in accordance with manufacturers' instructions. Care will be taken to site equipment away from noise-sensitive areas. Where possible, loading and unloading will also be carried out away from such areas;
- Regular and effective maintenance by trained personnel will be undertaken to keep plant and equipment working to manufacturer's specifications;
- During noisy activities, localised screening of noise generating sources, such as temporary site hoarding should be implemented to minimise any potential impacts on nearby noise sensitive receptors;
- Working hours onsite are likely to be carried out Monday to Friday 07:00 – 18:00 and between 08:00 and 13:30 on Saturdays. However, some activities may be required outside of these times (such as the delivery of abnormal loads, night-time working for cable construction works in public highways or horizontal directional drill activities);
- A construction noise monitoring scheme will be developed and agreed with appropriate stakeholders following appointment of a principal contractor and prior to commencement of construction works through the CEMP (and as part of any Section 61 consent application the Control of Pollution Act 1974). The principles of the noise monitoring regime are set out in **the ES Appendix 4.1**

outline Construction Environmental Management Plan (oCEMP) [EN010163/APP/6.3.4] ;

- Requirements for monitoring during the decommissioning stages will be set out and agreed through the Decommissioning Plan which is secured through a Requirement in the DCO **ES Appendix 4.2 outline Decommissioning Plan (oDP) [EN010163/APP/6.3.4]**. The noise monitoring scheme is expected to be similar to that for the construction phase; and
- Consideration will also be given to traffic routing, timing, and access points to the DCO Site to minimise noise impacts at existing receptors as detailed construction working methods are developed. Management of Heavy Goods Vehicles (HGV) within the DCO Site and being let onto the highway network will be managed through a Construction Traffic Management Plan (CTMP). The requirement for a detailed CTMP is secured through a Requirement in the DCO, which requires the detailed CTMP to be in accordance with **ES Appendix 13.2 outline Construction Traffic Management Plan (oCTMP) [EN010163/APP/6.3.13]**.

4.49. In conclusion, exceedances of the significant observed adverse effect level are unlikely to take place due to the fact that BPM will be adopted and secured through the CEMP and DP. For example, the use of temporary acoustic barriers can provide approximately 10 dB of noise attenuation which can reduce noise levels to below 65 dB(A) which is the expected daytime noise climate and below 45 dB(A) which is the expected daytime noise climate. The effect of this is that no statutory nuisance resulting from noise and vibration generated by the Proposed Development will arise during the construction and decommissioning phases of the Proposed Development.

Operation

4.50. An operational noise assessment was undertaken based on worst-case assessment criterion and in accordance with the guidance contained within BS 4142.

4.51. The Assessment of Likely Significant Effects section for operational sound within **ES Chapter 11: Noise [EN010163/APP/6.2.11]** indicates that predicted sound levels resulting from the introduction of the Proposed Development are negligible-to-low during both daytime and night-time periods, meeting the typical requirements of BS 4142 and other relevant planning policy and no specific mitigation is required to further reduce operational sound levels as a result. The design of the Proposed Development has been shaped by the results of the assessments. Where possible, the distance from the nearest residential receptors to the substation, BESS, onsite transformers and inverters has been maximised. However, further design measures (such as enclosed/containerised noise generating equipment) may be incorporated into the Proposed Development at the detailed design stage depending on the specific

equipment/plant to be installed in order to ensure that any potential operational sound impacts remain low.

- 4.52. The **ES Appendix 4.5 Outline Design Principle [EN010163/APP/6.3.4]** accompanying the DCO Application secures these measures.
- 4.53. Considering site context, residual operational noise effects of the Proposed Development are not significant. Furthermore, 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. Operational vibration further assessment has not been included in the ES.

Conclusion

- 4.54. For the reasons explained above no significant effects are anticipated in relation to noise and vibration matters in EIA terms, including in relation to the health of human receptors, as set out in **ES Chapter 11: Noise [EN010163/APP/6.2.11]**, during the construction, operation, maintenance and decommissioning phases of the Proposed Development with the mitigation measures implemented such that no statutory nuisance in respect of noise and vibration is expected to arise under section 79(1)(g) or (ga) of the EPA.

5. Conclusion

- 5.1. 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, in accordance with Regulation 5(2)(f) of the APFP Regulations.
- 5.2. Matters in the EPA that have been considered by the Proposed Development include: general site condition, waste, air quality, artificial light, and noise and vibration, during all phases of the Proposed Development (construction, operation, maintenance and decommissioning). Additional mitigation measures and embedded design identified in the ES are secured by Requirements within the draft DCO.
- 5.3. No phase of the Proposed Development is expected to give rise to any statutory nuisance under Section 79(1) of the EPA.

[Town & Country Planning Act 1990 \(as amended\)](#)
[Planning and Compulsory Purchase Act 2004](#)

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