



Lime Down

Solar Park

Statutory Nuisance Statement

September 2025

Revision 1

Planning Inspectorate Reference: EN010168

Document Reference: APP/7.6

APFP Regulation 5(2)(f)



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1 Introduction

1.1 Background

- 1.1.1 This Statutory Nuisance Statement (this Statement) has been prepared to support an application (the 'Application') for a Development Consent Order (DCO) to be submitted under Section 37 of the Planning Act 2008 (PA 2008) (Ref.1) to the Secretary of State for the Department for Energy Security and Net Zero.
- 1.1.2 The Scheme comprises a solar photovoltaic (PV) electricity generating station of over 50 megawatts (MW) and associated development comprising an approximately 500 MW export capacity Battery Energy Storage System (BESS), substations, grid connection infrastructure and other infrastructure integral to the construction, operation and maintenance, and decommissioning phases. Further details on the Scheme are provided in **Environmental Statement (ES) Volume 1, Chapter 3 [EN010168/APP/6.1]**, which accompanies the Application.
- 1.1.3 This Statement has been prepared on behalf of Lime Down Solar Park Limited (the Applicant) and sets out appropriate mitigation measures to ensure that the Lime Down Solar Park (the Scheme) has no significant effects that would give rise to a statutory nuisance. It is not anticipated that the construction, operation and maintenance, and decommissioning of the Scheme would cause statutory nuisance.

1.2 Purpose and Structure of this Statement

- 1.2.1 As the Scheme will generate over 50MW of electricity it is defined as a Nationally Significant Infrastructure Project (NSIP) under 14(1)(a) and 15(2) of the PA 2008 and is therefore required to be authorised by a DCO.
- 1.2.2 The Scheme is considered to be 'EIA development' as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (Ref.2) (the 'EIA Regulations') requiring an Environmental Impact Assessment.
- 1.2.3 As such this Statement has been prepared to satisfy Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (Ref.3) (as amended) (the 'APFP Regulations'), which requires an application for a DCO to 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*".
- 1.2.4 The matters in Section 79(1) of the Environmental Protection Act 1990 (Ref.4) (EPA) that have been considered within this Statement are general

site condition, air quality, waste, artificial light, and noise and vibration, during all phases of the Scheme.

1.2.5 This Statement should be read alongside other documents submitted as part of the application, particularly:

- **Environmental Statement Volume 1 [EN010168/APP/6.1];**
- **Outline Construction Environmental Management Plan [EN010168/APP/7.12];**
- **Outline Operational Environment Management Plan [EN010168/APP/7.13];**
- **Outline Decommissioning Strategy [EN010168/APP/7.14];**
- **Outline Battery Safety Management Plan [EN010168/APP/7.21];**
- and
- **Outline Construction Traffic Management Plan [EN010168/APP/7.22].**

1.2.6 This Statement is produced in accordance with Section 158 of the Planning Act 2008 which provides statutory authority for carrying out development or anything else which is authorised by the DCO, as a defence against civil or criminal proceedings for nuisance.

1.2.7 This Statement sets out appropriate mitigation measures to ensure that the Scheme has no significant effects that would give rise to a statutory nuisance.

1.2.8 Article 7 (Defence to proceedings in respect of statutory nuisance) of the **Draft DCO [EN010168/APP/3.1]** submitted with the Application, 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 so as to be prejudicial to health or a nuisance)), subject to the criteria set out in that article.

1.2.9 This Statement is structured as follows:

- Section 1 provides an introduction to the purpose and structure of this statement;
- Section 2 sets out the relevant planning policy context under which the Scheme is assessed;
- Section 3 details the matters which are considered to be a potential statutory nuisance associated with the construction, operation and maintenance, and decommissioning of the Scheme;
- Section 4 assesses the risk of the identified matters causing a statutory nuisance; and
- Section 5 sets out the conclusions of the assessment.

2 Legislative and Policy Context

2.1 Policy Context

2.1.1 The relevant planning policy for this Statement is set out in the Overarching National Policy Statement for Energy (Ref.5) (EN-1) (NPS EN-1).

2.1.2 NPS EN-1 states, at paragraphs 4.15.1 to 4.15.4, 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.

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.”

2.1.3 With respect to the Applicant’s Assessment and the Secretary of State’s decision making, paragraphs 4.15.5 to 4.15.7 of NPS EN-1 go 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).

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.”

2.2 Legislative Context

2.2.1 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”*.

2.2.2 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;

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

- 2.2.3 For a nuisance to be considered a statutory nuisance, it must unreasonably and substantially interfere with the use or enjoyment of a home or other premises or injure health or be likely to injure health. To be considered a nuisance, an activity must be ongoing or repeated – a one-off event would not usually be considered a nuisance.

3 Assessment of Significance

3.1 Introduction

3.1.1 The likelihood of significant effects arising from the Scheme which could constitute a statutory nuisance, as identified in Section 79(1) of the EPA, are assessed in **ES Volume 1 [EN010168/APP/6.1]**.

3.1.2 Further to the assessment undertaken within the ES, the matters to be addressed, or excluded, within this Statement in accordance with Section 79(1) of the EPA are set out below:

a) any premises in such a state as to be prejudicial to health or a nuisance

3.1.3 This matter is considered further within this Statement within paragraphs 4.1.12 and 4.1.13.

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

3.1.4 The Scheme is not anticipated to generate smoke and therefore this matter is not considered further within this Statement. With regards to unforeseen emergency situations, namely accidental fire, this is addressed in the **Outline Battery Safety Management Plan [EN010168/APP/7.21]** accompanying the Application and emissions from a BESS fire are addressed in **ES Volume 1, Chapter 15: Air Quality [EN010168/APP/6.1]**.

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

3.1.5 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 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

3.1.6 **ES Volume 1, Chapter 15: Air Quality [EN010168/APP/6.1]**, addresses potential air quality impacts including the matter of dust. The construction dust impact assessment for the Scheme is provided in **ES Volume 3, Appendix 15-1: Construction Dust Methodology and Assessment [EN010168/APP/6.3]**. Dust is therefore considered further in this Statement. With regards to steam, smell and other effluvia, the Scheme is not anticipated to result in any impacts from these identified matters and therefore these are not considered further within this Statement.

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

3.1.7 ES Volume 1, Chapter 20: Other Environmental Matters

[EN010168/APP/6.1] considers the potential waste generated by the Scheme and its impacts. This matter is considered further in this Statement under Section 4.1, 'Condition of Site'.

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

3.1.8 The Scheme will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance, though should consent be granted, grazing by sheep will be explored. Any grazing of livestock will be in accordance with good practice guidance for livestock welfare as secured within the **Outline Operational Environmental Management Plan [EN010168/APP/7.13]** accompanying the application; therefore, this is not considered further in this Statement.

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

3.1.9 ES Volume 1, Chapter 9: Ecology and Biodiversity

[EN010168/APP/6.1] assesses that the cessation of intensive arable farming practices and reversion of land within the Scheme to grassland (for at least the lifetime of the Scheme), can be expected to result in increased diversity and abundance of invertebrates and invertebrate prey. This includes a number of pollinating butterfly and bee species which have been shown to have increased diversity and abundance in solar arrays compared to control plots. Given the large extent of habitat that will likely increase in quality, it concludes that the operational impacts of the Scheme will have beneficial effects on a range of invertebrates.

3.1.10 The Scheme is therefore likely to result in an increase in beneficial pollinating insect species. A significant increase in species that are prejudicial to human health or a nuisance is not anticipated. 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

3.1.11 ES Volume 1, Chapter 8: Landscape and Visual [EN010168/APP/6.1]

assesses the potential impacts of temporary construction lighting and operational security lighting. This matter is considered further in this Statement within paragraphs 4.3.3 to 4.3.9.

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

- 3.1.12 **ES Volume 1, Chapter 14: Noise and Vibration [EN010168/APP/6.1]** assesses the potential noise impacts of the Scheme. This matter is considered further in this Statement within paragraphs 4.4.5 to 4.4.18.

h) any other matter declared by any enactment to be statutory nuisance

- 3.1.13 Possible Glint and Glare impacts are not considered within this Statement as natural light is not covered within statutory nuisance legislation (notwithstanding, Glint and Glare is assessed in **ES Volume 1, Chapter 20: Other Environmental Matters [EN010168/APP/6.1]**).

4 Matters Engaged and Proposed Mitigation Measures

4.1 Condition of the Site

4.1.1 This section assesses the risk of the condition of the Site causing a statutory nuisance.

4.1.2 The following represents a statutory nuisance:

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

Construction Phase

4.1.3 The types of construction activities pursuant to the Scheme include, but are not limited to:

- Site preparation and enabling/civil engineering works;
- Installation of Solar PV Panels and arrays;
- Construction of the BESS;
- Construction of electrical infrastructure;
- Fencing and security;
- Construction of the cable routes between the Sites and to the point of connection at the existing National Grid Melksham Substation (constructed within the Cable Route Corridor);
- Testing and commissioning of equipment; and
- Landscaping mitigation, planting and habitat creation.

4.1.4 The construction works have the potential to create pollution incidents such as spillages and create litter and general waste which can constitute a nuisance under the EPA.

4.1.5 Construction control mechanisms proposed include core working hours and traffic management, and these measures are set out in the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]** and **Outline Construction Traffic Management Plan [EN010168/APP/7.22]** submitted with the Application. The **Outline Construction Environmental Management Plan [EN010168/APP/7.12]** has been informed by the Environmental Impact Assessment (EIA) and will guide the construction process through environmental controls to

promote good construction practice and avoid adverse or nuisance causing impacts during the construction phase.

- 4.1.6 Following the granting of the DCO, a detailed Construction Environmental Management Plan (CEMP) will be prepared, agreed and approved by the relevant Local Planning Authorities in advance of commencing the enabling works permitted under the DCO. The detailed CEMP will be substantially in accordance with the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]**.
- 4.1.7 A strategy to deal with accidental pollution will be included within the detailed CEMP prior to commencement of construction. A high-level strategy is identified within Section 3.6 of the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]**. Any necessary equipment (e.g. spillage kits) would be held on-site and all site personnel would be trained in their use. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.
- 4.1.8 To control the waste generated during site preparation and construction, the contractor will separate the main waste streams on-site, prior to transport to an approved, licensed third party waste facility for recycling or disposal.
- 4.1.9 All waste to be removed from the Order Limits will be undertaken by fully licensed waste carriers and taken to licensed waste facilities for recycling or disposal.
- 4.1.10 The measures set out in the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]** are embedded in the Scheme design and the assessment of effects undertaken. The EIA assumes that those measures are implemented in full. Compliance with the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]** will be secured by Requirement 13 in the **Draft DCO [EN010168/APP/3.1]**.
- 4.1.11 With these measures in place, it is considered that the construction phase of the Scheme will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

Operation Phase

General Operational Maintenance

- 4.1.12 During operation, other than in the context of a programme of replacement, activity on the Solar PV Sites would be restricted principally to vegetation management, equipment maintenance and servicing, ad hoc replacement and renewal of any components that fail or reach the end of their lifespan, periodic fence inspection, vegetation management along

accesses, permissive paths and landscape ecological mitigation maintenance, and monitoring to ensure the continued effective operation of the Scheme.

- 4.1.13 Along the Cable Route Corridor, operational activity will consist of routine inspections and any reactive maintenance such as where a cable has been damaged.
- 4.1.14 Such activity will not give rise to impacts which would constitute a statutory nuisance under section 79(1) (a) or (e).

Replacement Activities

- 4.1.15 During the anticipated 60-year operational life of the Scheme, it is expected that there will be requirement for periodic replacement of some of the electrical infrastructure.
- 4.1.16 It is not expected that an extensive replacement of all components will be required across the entirety of the Scheme during one period; instead, the programme for replacement of equipment across the Scheme is anticipated be staged to maintain the electrical export to the National Grid. However, in order to maximise the flexibility for how a programme of replacements may be conducted, for example to coincide with planned repairs to the grid infrastructure, each chapter has considered the relevant worst-case scenario.
- 4.1.17 The assessments in the ES chapters confirm that, however the programme of replacements is conducted, the replacement activity would be considerably less intensive than during construction, and any environmental effects identified can be appropriately mitigated with similar measures to those identified for the construction of the Scheme.
- 4.1.18 Therefore, with reference to the construction and decommissioning sections within this document, such activity will not give rise to impacts which would constitute a statutory nuisance under section 79(1) (a) or (e).

Decommissioning

- 4.1.19 Decommissioning is expected to take between 12 and 24 months and will be undertaken in phases, and for the purposes of the assessment is expected to occur after the 60-year design life of the Scheme in 2089. The decommissioning of the Scheme is secured in Requirement 20 of the **Draft DCO [EN010168/APP/3.1]**.
- 4.1.20 As with the construction phase of the Scheme, there is the potential for the decommissioning works to create pollution incidents such as spillages and also create litter and general waste which can constitute a nuisance under the EPA.

- 4.1.21 An **Outline Decommissioning Strategy [EN010168/APP/7.14]** is being submitted with the DCO Application. This will set out the general principles to be followed in the decommissioning phase of the Scheme. Requirement 20 of the **Draft DCO [EN010168/APP/3.1]** provides that a detailed Decommissioning Strategy should be prepared substantially in accordance with the **Outline Decommissioning Strategy [EN010168/APP/7.14]** and approved by the relevant authorities at the time of decommissioning, in advance of the commencement of decommissioning works, and would include timescales and transportation methods. The detailed Decommissioning Strategy would ensure that decommissioning was undertaken safely and with regard to the environmental legislation at the time of decommissioning, including relevant waste legislation.
- 4.1.22 When the operation and maintenance phase ends, the Solar PV Sites would be decommissioned and the land returned to its original use and condition as far as practicable and returned to the landowner. All Solar PV Panels, mounting piles, cabling, inverters, transformers, switchgear, BESS and substations would be removed from within the Solar PV Sites and recycled or disposed of in accordance with good practice and market conditions at that time. This will include the areas of agricultural land where the soil health, quality and structure may have improved, and the established habitats. Foundations and other below ground infrastructure will be cut to 1 m below the surface to enable future ploughing. Any piles would be removed.
- 4.1.23 The mode of removing the Interconnecting Cables and Grid Connection Cables decommissioning would be dependent upon government policy and good practice at that time. Currently, the most environmentally acceptable option is considered to be leaving the cables in situ, as this avoids disturbance to overlying land and habitats and to neighbouring communities.
- 4.1.24 It is considered that the measures contained within the **Outline Decommissioning Strategy [EN010168/APP/7.14]** will mean that decommissioning 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 Scheme.

Conclusion

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

4.2 Air Emissions

- 4.2.1 Section 79(1)(d) of the EPA states that the following constitutes a statutory nuisance:

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

- 4.2.2 An air quality assessment has been undertaken and is reported in **ES Volume 1, Chapter 15: Air Quality [EN010168/APP/6.1]**. This chapter of the Environmental Statement presents the findings of the Environmental Impact Assessment, focusing on an assessment of the likely significant effects on air quality as a result of the Scheme. The air quality chapter concludes that there are no significant air quality effects during the operation and maintenance, construction and decommissioning of the Scheme.

Construction and Decommissioning

- 4.2.3 The **ES Volume 1, Chapter 15: Air Quality [EN010168/APP/6.1]** assesses the impact of construction and decommissioning on air quality. Construction dust generated from trackout (transportation of dust and dirt onto the public road network), earthworks and construction activities has the potential to adversely affect human health when airborne, and the potential to adversely affect people, property and sensitive ecological habitats through deposition and soiling.
- 4.2.4 The construction dust impact assessment for the Scheme, as outlined in **ES Volume 3, Appendix 15-1: Construction Dust Methodology and Assessment [EN010168/APP/6.3]** has identified high sensitivity human receptors within the Study Area, including residential properties in surrounding villages.
- 4.2.5 The outcome of the dust risk assessment has identified that during the construction phase of the Scheme, the potential risk of dust soiling is high for earthworks, construction and trackout. The potential risk of human health impacts is low for earthworks, construction and trackout.
- 4.2.6 In accordance with the IAQM construction dust guidance, the construction dust risk assessment is used to define appropriate measures relating to aspects such as site management, communication and monitoring to ensure that dust effects are mitigated such that air quality effects are not significant. These measures have been identified in **Table 14 of ES Volume 3, Appendix 15.1: Construction Dust Methodology and Assessment [EN010168/APP/6.3]** and have been incorporated into the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]**, which is secured by a requirement in the draft

DCO. With the application of these measures, air quality effects of construction dust emissions are considered to be not significant.

- 4.2.7 As the predicted construction traffic flows would be below the change criteria in the EPUK and IAQM development control guidance, air quality effects of construction vehicle emissions are considered to be not significant.
- 4.2.8 **ES Volume 1, Chapter 15: Air Quality [EN010168/APP/6.1]** concludes that the likely effects on air quality associated with the decommissioning phase would be similar or less than those risks identified during the construction phase. As such, with the implementation of the relevant mitigation measures outlined within the **Outline Decommissioning Statement [EN010168/APP/7.14]**, the effect of dust emissions during the decommissioning phase is likely to be not significant.

Operation

- 4.2.9 As described in **ES Volume 1, Chapter 15: Air Quality [EN010168/APP/6.1]** there is the potential for fugitive dust emissions to be generated during the operation and maintenance phase, however, the likely effects on air quality associated with the operation and maintenance phase are considered to be similar or less to those risks identified during the construction phase. As such, with the implementation of the relevant mitigation measures as outlined in the **Outline Operational Environmental Management Plan [EN010168/APP/7.12]**, the effect of dust emissions during the operation and maintenance phase is likely to be not significant.
- 4.2.10 As the predicted operational traffic flows would be well below the change criteria in the EPUK and IAQM development control guidance, air quality effects of operation and maintenance phase vehicle emissions during routine maintenance are considered to be not significant.

Conclusion

- 4.2.11 Implementation of the Best Practical Means (BPM) in the **ES Volume 1, Chapter 15: Air Quality [EN010168APP/6.1]** to control all potential emissions, resulting in no likely significant air quality effects, no statutory nuisance from air quality is expected during the operation and maintenance, construction and decommissioning of the Scheme.

4.3 Artificial Light

- 4.3.1 Section 79(1) (fb) states that a statutory nuisance is:

“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 interferes with the wellbeing, comfort or enjoyment of an individual's property on a regular basis. Artificial lights may cause a nuisance if they are not used properly.

Construction and Decommissioning

- 4.3.3 Temporary site lighting would be used during construction to enable safe working during construction in hours of darkness or where natural lighting is unable to reach (such as sheltered/confined areas). Mobile lighting towers with a power output of 8 kilo volt-amperes (kVA) would be used for construction work, along with lighting at the construction compounds while construction is underway.
- 4.3.4 All construction lighting will be deployed in accordance with the following recommendations to prevent or reduce the impact on human and ecological receptors:
- The use of lighting will be minimised to that required for safe site operations (for example during reduced daylight hours in winter months where they fall within core construction working hours);
 - Lighting will utilise directional fittings 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
 - Lighting will be directed towards the middle of the Order Limits rather than towards the boundaries.
- 4.3.5 Measures to control lighting and set out in the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]**.

Operation

- 4.3.6 Lighting is not required within the Solar PV Sites during the operation phase of the Scheme, except during an emergency.
- 4.3.7 All routine maintenance and replacement activities would be scheduled for daylight hours as far as is practicable, and therefore it is anticipated that focussed task specific lighting should only be required in the event of emergency works/equipment failure requiring night-time working or panel cleaning operations.
- 4.3.8 Motion sensing security lighting would be provided within substations and within the BESS Area to be used to maintain safe working conditions in winter months, security purposes, and maintenance activities.
- 4.3.9 The lighting commitments for the operation phase are set out in the **Outline Operational Environmental Management Plan**

[EN010168/APP/7.13], including details on lighting design such that light spill is anticipated to be minimal.

Conclusion

- 4.3.10 For the reasons explained above, it is considered that the construction, operation and maintenance, and decommissioning phases of the Scheme will not give rise to impacts from the site condition which would constitute a statutory nuisance under Section 79(1) (fb).

4.4 Noise and Vibration

- 4.4.1 A statutory nuisance can occur from:

- Section 79(1)(g): *“noise emitted from premises so as to be prejudicial to health or a nuisance”*
- 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 Prolonged, excessive noise on a regular basis can constitute to a statutory nuisance given that it substantially interferes with the well-being, comfort or enjoyment of an individual’s property.

- 4.4.3 A noise assessment has been undertaken and is reported in **ES Volume 1, Chapter 14: Noise and Vibration [EN010168/APP/6.1]**. This chapter focuses on an assessment of the likely significant effects on noise and vibration as a result of the Scheme. The noise and vibration assessment concludes that no significant noise or vibration effects are anticipated.

- 4.4.4 Section 79(1)(g) and (ga) are applicable where traffic noise is excluded. Noise related to relevant vehicles, machinery and equipment from the Site and the in the street are included. Traffic noise is specifically excluded from consideration by Section 79(6A)(a) of the EPA and is not considered further.

Construction and Decommissioning

- 4.4.5 **ES Volume 1, Chapter 14: Noise and Vibration [EN010168/APP/6.1]** predicts construction noise and vibration levels at all receptors will not be significant. Noise levels from horizontal directional drilling and vibration levels from vibratory rollers along localised sections of the Cable Route Corridor may be high for a short duration, but with appropriate mitigation and communication over the programme (as discussed below), noise is not considered to be prejudicial to health or a nuisance.

- 4.4.6 The worst-case for construction noise and vibration has been modelled, as if all Solar PV Sites were being built at the same time. In practice, this

will not be the case as construction activity will move across the sites, so no individual receptor will be subject to the reported noise or vibration levels for the full construction period.

- 4.4.7 Noise and vibration effects during the decommissioning phase of the Scheme are anticipated to be similar or less than noise and vibration effects during the construction phase. The decommissioning works would likely be shorter in duration and less intensive, with fewer noise and vibration generating activities than the construction phase (for example, there will be no need for piling). It is assumed that the significance of effects during decommissioning will be equivalent, but no worse than for construction.
- 4.4.8 Construction and decommissioning noise and vibration levels at receptors will vary depending on the locations and types of works taking place. Residents nearby to these receptors are likely to be more tolerable if they are informed of the timings and the durations of the works.
- 4.4.9 Measures to control noise and vibration will be adopted where reasonably practicable. These embedded mitigation measures represent Best Practicable Means (BPM) and will be secured within the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]** for the construction phase and the **Outline Decommissioning Strategy [EN010168/APP/7.14]** for the decommissioning phase.
- 4.4.10 BPM to be put in place to minimise noise and vibration include:
- Ensuring that all appropriate processes, procedures and measures are in place to minimise noise before works begin and throughout the construction programme;
 - All contractors to be made familiar with current legislation and the guidance in BS 5228:2014 (Parts 1 and 2) which should form a prerequisite of their appointment;
 - When works are taking place near sensitive receptors, the screening of noise sources via the erection of temporary screens would be employed where practicable;
 - All construction machinery would be regularly maintained to control noise emissions, with particular emphasis on lubrication of bearings and the integrity of silencers;
 - All construction plant and equipment are to be properly maintained, silenced where appropriate, operated to prevent excessive noise and switched when not in use;
 - As far as practicable, works will be programmed to avoid noisy operations occurring simultaneously near the same sensitive receptor;

- As far as practicable, construction compounds must be located a minimum of 250m from residential receptors (refer to **ES Volume 2, Figure 3-2: Key Construction Phase Features [EN010168/APP/6.2]**);
- Provision of information to the relevant local authority and local residents to advise of potential noisy works that are due to take place; and
- Working hours onsite are Monday to Friday 07:00 – 18:00 and between 08:00 and 13:30 on Saturdays with a potential exception for HDD works where night-time working may be required.

- 4.4.11 A construction noise monitoring scheme will be developed in line with the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]** and agreed with appropriate stakeholders following the appointment of a principal contractor and prior to commencement of construction works. The principles of the noise monitoring regime are set out in the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]** accompanying the DCO application.
- 4.4.12 Requirements for monitoring during the decommissioning stages will be set out and agreed through the Decommissioning Environmental Management Plan which will be secured through Requirement 20 in the **Draft DCO [EN010168/APP/3.1]**. An **Outline Decommissioning Strategy [EN010168/APP/7.14]** is submitted with the DCO application. The noise monitoring scheme is expected to be similar to that for the construction phase.
- 4.4.13 Where necessary, the Applicant will submit an application for prior consent to carry out noisy work under Section 61 of the Control of Pollution Act (Ref.6) to demonstrate that noise and vibration has been minimised as far as reasonably practicable.

Operation

- 4.4.14 An assessment of operational noise was undertaken based on worst-case assessment criteria. Assessments have been undertaken in accordance with the guidance contained within BS 4142 and predicted operational noise levels at the nearest receptors exceeded the background noise levels in many cases, and as such have been assessed within **ES Volume 1, Chapter 14: Noise and Vibration [EN010168/APP/6.1]**.
- 4.4.15 During daytime, operational noise modelling indicates that 25 receptors will be below the Lower Observed Adverse Effect Level (LOAEL), 19 receptors will be between LOAEL and Significant Observed Adverse Effect Level (SOAEL) and no receptors will be above SOAEL.

- 4.4.16 During night-time, operational noise modelling indicates that 29 receptors will be below the LOAEL, 15 receptors will be between LOAEL and SOAEL and no receptors will be above SOAEL.
- 4.4.17 Based World Health Organisation (WHO) guidelines, internal night-time noise levels at all receptors, with a partially open window, are expected to comply with the BS 8233:2014 recommended indoor ambient noise levels for good sleeping conditions. Operation and maintenance noise impacts during both the daytime and night-time periods are assessed as not significant.
- 4.4.18 Vibration from the operation and maintenance phase was classified as not significant due to the lack of vibration generating plant or equipment and therefore scoped out of further assessment within the EIA Scoping Report, that was submitted to the Planning Inspectorate on 17 July 2024. This was accepted in the Planning Inspectorate's Scoping Opinion that was published on 22 August 2024.

Conclusion

- 4.4.19 For the reasons explained above and with the mitigation measures in place, no significant effects are expected to occur in relation to noise and vibration matters in EIA terms, including in relation to the health of human receptors, as set out in **ES Volume 1, Chapter 14: Noise and Vibration [EN010168/APP/6.1]** during the construction, operation and maintenance and decommissioning phases of the Scheme.
- 4.4.20 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 accordance with Regulation 5(2)(f) of the APFP Regulations, this Statement has identified whether the Scheme has engaged one or more of the matters set out in Section 79(1) of the EPA, and thus considered whether the Scheme would cause a statutory nuisance.
- 5.1.2 The matters in the EPA that have been engaged by the Scheme are general site condition, waste, air quality, artificial light, and noise and vibration, during all phases of the Scheme. The embedded design and mitigation measures identified in the ES are secured by requirements contained within the **draft Development Consent Order [EN010168/APP/3.1]**.
- 5.1.3 It is therefore not envisaged that the construction, operation and maintenance, and decommissioning of the Scheme would give rise to any claim in respect of statutory nuisance under Section 79(1) of the EPA.

6 References

- Ref.1 H.M Government (2008). The Planning Act 2008. Available at: [Planning Act 2008](#). Accessed [12/09/2025]
- Ref.2 H.M Government (2017). The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Available at: [The Infrastructure Planning \(Environmental Impact Assessment\) Regulations 2017](#). Accessed [12/09/2025]
- Ref.3 H.M Government (2009). The Infrastructure Planning Applications: Prescribed Forms and Procedure) Regulations 2009. Available at: [The Infrastructure Planning \(Applications: Prescribed Forms and Procedure\) Regulations 2009](#). Accessed [12/09/2025]
- Ref.4 H.M Government (1990). Environmental Protection Act 1990. Available at: [Environmental Protection Act 1990](#). Accessed [12/09/2025]
- Ref.5 Department for Energy Security and Net Zero (2023). Overarching National Policy Statement for energy (EN-1). Available at: <https://assets.publishing.service.gov.uk/media/65bbfdbc709fe1000f637052/overarching-nps-for-energy-en1.pdf> . Accessed [12/09/2025]
- Ref.6 H.M Government (1974). Control of Pollution Act 1974. Available at: [Control of Pollution Act 1974](#). Accessed [12/09/2025]