

Light Valley Solar

Statutory Nuisance Statement

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**Light Valley
Solar**

Infrastructure Planning

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

Light Valley Solar

DCO Submission

Statutory Nuisance Statement

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1 Introduction

1.1 Overview and purpose of the document

- 1.1.1 Light Valley Solar Limited (the ‘Applicant’) has prepared this Statutory Nuisance Statement in relation to an Application for a Development Consent Order (DCO) for the construction, operation, maintenance, and decommissioning of Light Valley Solar (the ‘Proposed Development’).
- 1.1.2 This Statement sets out appropriate mitigation measures to ensure that the Proposed Development would not give rise to a statutory nuisance. It concludes that it is not anticipated that the construction, operation and maintenance, and decommissioning of the Proposed Development would cause statutory nuisance.
- 1.1.3 As the Proposed Development will generate over 100 megawatts (MW) of electricity it is defined as a Nationally Significant Infrastructure Project (NSIP) under 14(1)(a) and 15(2) of the Planning Act 2008 (Ref 1) and therefore must be consented by way of a DCO.
- 1.1.4 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*”.
- 1.1.5 This Statement should be read alongside other documents submitted as part of the Application, particularly:
- 1) Environmental Statement Volume 1 [EN0110012/APP/LVS/06.01];
 - 2) Outline Construction Environmental Management Plan (oCEMP) [EN0110012/APP/LVS/07.02];
 - 3) Outline Operational Environment Management Plan (oOEMP) [EN0110012/APP/LVS/07.03];
 - 4) Outline Decommissioning Environmental Management Plan (oDEMP) [EN0110012/APP/LVS/07.04];
 - 5) Outline Landscape and Ecological Management Plan (oLEMP) [EN0110012/APP/LVS/07.05];
 - 6) Outline Battery Safety Management Plan (oBSMP) [EN0110012/APP/LVS/07.06]; and
 - 7) Outline Construction Traffic Management Plan (oCTMP) [EN0110012/APP/LVS/07.12].
- 1.1.6 This Statement is produced pursuant to Section 158 of the Planning Act 2008 (Ref 1) which provides statutory authority for carrying out development or

anything else which is authorised by the DCO Application, as a defence against civil or criminal proceedings for nuisance.

- 1.1.7 This Statement sets out appropriate mitigation measures to ensure that the Proposed Development would not give rise to a statutory nuisance.
- 1.1.8 The Draft DCO [EN0110012/APP/LVS/03.01] 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 The Order Limits and Proposed Development

Order Limits

- 1.2.1 The Order Limits outline the maximum extent of the land that will be required to facilitate the construction, operation and maintenance, and decommissioning of the Proposed Development and are shown on Figure 1.1: Site Location and Order Limits Plan (ES Volume 2) [EN0110012/APP/LVS/06.02.01.01]. The Order Limits are described in Chapter 2: The Proposed Development (ES Volume 1) [EN0110012/APP/LVS/06.01.02] of the Environmental Statement (ES).
- 1.2.2 The Order Limits cover an area of 1,270 hectares (ha) located within the administrative area of North Yorkshire Council, near Selby The Proposed Development comprises seven distinct Solar Development Sites totalling 900 ha of land.

The Proposed Development

- 1.2.3 The Proposed Development comprises a solar photovoltaic (PV) electricity generating station of over 100 megawatts (MW) and 'associated development' comprising a Battery Energy Storage System (BESS), grid connection infrastructure and other infrastructure integral to the construction, operation and maintenance, and decommissioning phases.
- 1.2.4 The main element of the Proposed Development comprises seven Solar Development Sites (Solar Development Sites 1-4 and 6-8) that will accommodate the Solar PV Panels. A BESS Compound will be located within Solar Development Site 2.
- 1.2.5 The Cable Route Corridor is the area within which the export connection cables (hereafter referred to as the 'Grid Connection Cables') would be located to connect the Solar PV Sites to the National Grid at the existing Monk Fryston Substation (hereafter referred to as the 'Existing National Grid Monk Fryston Substation') and the area within which cables connecting the Solar Development Sites would be located (hereafter referred to as 'Interconnecting Cables') (refer to Figure 2-1: Illustrative Site Layout Plan (ES Volume 2) [EN0110012/APP/LVS/06.02.02.01].

- 1.2.6 Further details of the Proposed Development are presented in Chapter 2: The Proposed Development [EN0110012/APP/LVS/06.01.02] and the design envelope for the Proposed Development is set out in the Design Parameters and Commitments Document [EN0110012/APP/LVS/05.06] and the limits of deviation shown on the Works Plans [EN0110012/APP/LVS/02.03].

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 Consent Order.

Such authority is conferred only for the purpose of providing a defence in civil or criminal proceedings for nuisance. This would include a defence in proceedings for nuisance under Part III of the Environmental Protection Act 1990 (EPA) (statutory nuisances and clean air).

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

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 (Ref 3) 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 A statutory nuisance, as defined in the House of Commons Briefing Paper on Nuisance Complaints (Ref 7), is a nuisance which “*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*’. A one-off event would not usually be considered a nuisance; rather an activity must be ‘ongoing or repeated”.

2.2.3 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.”*

3 Assessment of significance

3.1 Introduction

- 3.1.1 The likelihood of significant effects arising from the Proposed Development which could constitute a statutory nuisance, as identified in Section 79(1) of the EPA, are assessed in ES Volume 1 **[EN0110012/APP/LVS/06.01]**.
- 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 Proposed Development 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 oBSMP **[EN0110012/APP/LVS/07.06]** accompanying the Application and emissions from a BESS fire are addressed in Appendix 16.5: BESS Fire Emissions Modelling Technical Note (ES Volume 3) **[EN010168/APP/LVS/06.03.16.06]**.
- 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 The construction dust assessment for the Proposed Development is provided in Appendix 16.1: Construction Dust Assessment (ES Volume 3) **[EN0110012/APP/LVS/06.03.16.01]**. Dust is therefore considered further in this Statement. With regards to steam, smell and other effluvia, the Proposed Development 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 Chapter 2: The Proposed Development (ES Volume 1) **[EN0110012/APP/LVS/06.01.02]** considers the potential waste generated by the Proposed Development. 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*

- 3.1.9 The Proposed Development 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 set out within the oLEMP [EN0110012/APP/LVS/07.05] and oOEMP [EN0110012/APP/LVS/07.03] 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*
- 3.1.10 Chapter 6: Biodiversity (ES Volume 1) [EN0110012/APP/LVS/06.01.06] assesses that the cessation of intensive arable farming practices and reversion of land within the Proposed Development to grassland (for at least the lifetime of the Proposed Development), can be expected to result in increased diversity and abundance of invertebrates and invertebrate prey. Given the large extent of habitat that will likely increase in quality, it concludes that the operational impacts of the Proposed Development will have beneficial effects on a range of invertebrates.
- 3.1.11 The Proposed Development 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*
- 3.1.12 Chapter 10: Landscape and Visual (ES Volume 1) [EN0110012/APP/LVS/06.01.10] 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
- 3.1.13 Chapter 11: Noise and Vibration (ES Volume 1) [EN0110012/APP/LVS/06.01.11] assesses the potential noise impacts of the Proposed Development. This matter is considered further in this Statement within paragraphs 4.4.5 to 4.4.19.
- h) any other matter declared by any enactment to be statutory nuisance*
- 3.1.14 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 Chapter 16: Other Environmental Matters (ES Volume 1) [EN0110012/APP/LVS/06.01.16] and in further detail within Appendix 16.4: Glint and Glare Study (ES Volume 3) [EN0110012/APP/LVS/06.03.16.04]).

4 Matters engaged and proposed mitigation measures

4.1 Condition of the premises

4.1.1 This Section assesses the risk of the condition of the premises causing a statutory nuisance.

4.1.2 The following represents a statutory nuisance:

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

4.1.3 In line with Section 79(7) of the EPA, for the purposes of this Statement, ‘the premises’ is considered to mean the land within the Order Limits of the Proposed Development.

Construction phase

4.1.4 The types of construction activities to be undertaken as part of the Proposed Development include, but are not limited to:

- 1) Site preparation and enabling/civil engineering works;
- 2) Installation of Solar PV Panels;
- 3) Construction of electrical infrastructure and on-site cabling;
- 4) Construction of the BESS;
- 5) Fencing and security;
- 6) Construction of the Cable Route Corridor;
- 7) Testing and commissioning of equipment; and
- 8) Landscaping mitigation, planting and habitat creation.

4.1.5 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.

4.1.6 Construction control mechanisms proposed include core working hours, dust management measures such as wheel washes, and traffic management, and these measures are set out in the oCEMP [EN0110012/APP/LVS/07.02] and oCTMP [EN0110012/APP/LVS/07.12] submitted with the Application. The oCEMP [EN0110012/APP/LVS/07.02] 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.

- 4.1.7 Following the granting of the DCO Application, detailed Construction Environmental Management Plan (CEMP)(s) will be prepared, agreed and approved by North Yorkshire Council in advance of construction works. The detailed CEMP(s) will be substantially in accordance with the oCEMP [EN0110012/APP/LVS/07.02].
- 4.1.8 A strategy to deal with accidental pollution is provided in the Outline Pollution and Spillage Response Plan [EN0110012/APP/LVS/07.08] which accompanies the Application. A final Pollution and Spillage Response Plan will be developed by the Principal Contractor prior to construction substantially in accordance with the Outline Pollution and Spillage Response Plan as required by the DCO Application. 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.
- 4.1.9 To control the waste generated during site preparation and construction, a Detailed Materials and Waste Management Plan will be produced for the Proposed Development, prior to the commencement of construction, to be substantially in accordance with the Outline Materials and Waste Management Plan [EN0110012/APP/LVS/07.07] which accompanies the Application and provide an overall approach to managing materials and waste generated during the construction phase of the Proposed Development.
- 4.1.10 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.
- 4.1.11 The measures set out in the oCEMP [EN0110012/APP/LVS/07.02], Outline Pollution and Spillage Response Plan [EN0110012/APP/LVS/07.08] and Outline Materials and Waste Management Plan [EN0110012/APP/LVS/07.07] are embedded in the Proposed Development design and the assessment of effects undertaken. The EIA assumes that those measures are implemented in full. Compliance with these management plans is secured by requirement in the Draft DCO [EN0110012/APP/LVS/03.01].
- 4.1.12 With these measures in place, it is considered that 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 phase

General operational maintenance

- 4.1.13 During general operational maintenance activity on the Solar Development 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 Proposed Development.

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

Replacement activities

- 4.1.16 During the anticipated 60-year operational life of the Proposed Development, it is expected that there will be requirement for periodic replacement of some of the electrical infrastructure.
- 4.1.17 It is not expected that an extensive replacement of all components will be required across the entirety of the Proposed Development during one period; instead, the programme for replacement of equipment across the Proposed Development is anticipated to 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.
- 4.1.18 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 Proposed Development.
- 4.1.19 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

- 4.1.20 Decommissioning is expected to take between 12 and 24 months and for the purposes of the assessment is expected to occur after the 60-year design life of the Proposed Development.
- 4.1.21 As with the construction phase of the Proposed Development, 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.
- 4.1.22 An oDEMP [EN0110012/APP/LVS/07.04] is submitted with the DCO Application. This sets out the general principles to be followed in the decommissioning phase of the Proposed Development. The Draft DCO [EN0110012/APP/LVS/03.01] provides that a detailed Decommissioning Environmental Management Plan(s) should be prepared substantially in accordance with the oDEMP [EN0110012/APP/LVS/07.04] and approved by North Yorkshire Council at the time of decommissioning, in advance of the commencement of decommissioning works, and would include timescales and transportation methods. The detailed

Decommissioning Environmental Management Plan would ensure that decommissioning was undertaken safely and with regard to the environmental legislation at the time of decommissioning, including relevant waste legislation.

- 4.1.23 When the operation and maintenance phase ends, the Solar Development 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, and all associated infrastructure (including on-site cabling) to 1.2 m below ground would be removed from within the Solar Development Sites and recycled or disposed of in accordance with legislation, guidance and good practice at that time. Any piles would be removed. Post-decommissioning, the landowners would choose how the land is to be used and managed, the landowner may return all of the land to arable use, although it is likely that established habitats such as hedgerows and woodland would be retained given their potential benefits to agricultural land and the wider farming estate.
- 4.1.24 The mode of dealing with Interconnecting Cables and Grid Connection Cables during 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.
- 4.1.25 It is considered that the measures contained within the oDEMP [EN0110012/APP/LVS/07.04] 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 Proposed Development.

Conclusion

- 4.1.26 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 Proposed Development 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 construction dust assessment has been undertaken and is reported in Chapter 16: Other Environmental Matters (ES Volume 1) [EN0110012/APP/LVS/06.01.16] and in further detail within Appendix 16.1: Construction Dust Assessment (ES Volume 3) [EN0110012/APP/LVS/06.03.16.01]. This presents the findings of the Environmental Impact Assessment, focusing on an assessment of the likely

significant effects of construction dust on air quality as a result of the Proposed Development.

Construction and decommissioning

- 4.2.3 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 assessment for the Proposed Development, Appendix 16.1: Construction Dust Assessment (ES Volume 3) **[EN0110012/APP/LVS/06.03.16.01]**, 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 Proposed Development, 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 Section 7 of Appendix 16.1: Construction Dust Assessment (ES Volume 3) **[EN0110012/APP/LVS/06.03.16.01]** and have been incorporated into the oCEMP **[EN0110012/APP/LVS/07.02]**, which is secured by a requirement in the Draft DCO **[EN0110012/APP/LVS/03.01]**. 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 Appendix 16.1: Construction Dust Assessment (ES Volume 3) **[EN0110012/APP/LVS/06.03.16.01]** considers 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 oDEMP **[EN0110012/APP/LVS/07.04]**, the effect of dust emissions during the decommissioning phase is not considered to be significant.

Operation

- 4.2.9 Appendix 16.1: Construction Dust Assessment (ES Volume 3) **[EN0110012/APP/LVS/06.03.16.01]** considers that the likely effects on air quality associated with the operation phase would be less than those risks identified

during the construction phase. As such, with the implementation of the relevant mitigation measures as outlined in the oOEMP [EN0110012/APP/LVS/07.03], 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 Appendix 16.1: Construction Dust Assessment (ES Volume 3) [EN0110012/APP/LVS/06.03.16.01] 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 Proposed Development.

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 interfered 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 an anticipated power output of 8 kilo volt-amperes (kVA) would be used for construction work, along with lighting at the Construction Compounds and temporary laydown areas while construction is underway.
- 4.3.4 All construction lighting will be deployed in accordance with the following to prevent or reduce the impact on human and ecological receptors:
- 1) Lights installed to be of the minimum brightness and/or power rating capable of performing the desired function;
 - 2) Lighting during construction will follow a sensitive design (motion-sensor, downward-directed, low intensity) to minimise light spill towards sensitive ecological receptors;
 - 3) The use of lighting will be minimised to that required for safe site operations;

- 4) 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
- 5) Lighting will be directed towards the middle of the works areas rather than towards the boundaries.

4.3.5 Measures to control lighting are set out in the oCEMP [EN0110012/APP/LVS/07.02] and the oDEMP [EN0110012/APP/LVS/07.04]. It is considered that with these measures in place, the construction and decommissioning phases of the Proposed Development will not give rise to statutory nuisance.

Operation

4.3.6 Regular lighting is not required within the majority of the Solar Development Sites during the operation phase of the Proposed Development, and no lighting is proposed for the Cable Route Corridor.

4.3.7 All routine maintenance 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.

4.3.8 Motion sensing security lighting would be provided within the substation compounds and within the BESS Compound 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 oOEMP [EN0110012/APP/LVS/07.03] including details on lighting design, such that light spill is anticipated to be minimal. It is considered that with these measures, the operation phase of the Proposed Development will not give rise to statutory nuisance.

Conclusion

4.3.10 For the reasons explained above, it is considered that the construction, operation and maintenance, and decommissioning phases of the Proposed Development 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:

- 1) Section 79(1)(g): *“noise emitted from premises so as to be prejudicial to health or a nuisance”*
- 2) 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 Chapter 11: Noise and Vibration (ES Volume 1) [EN0110012/APP/LVS/06.01.11]. This chapter focuses on an assessment of the likely significant effects on noise and vibration as a result of the Proposed Development. The noise and vibration assessment concludes that no significant residual noise or vibration effects are anticipated.
- 4.4.4 It is noted that noise related to relevant vehicles, machinery and equipment from the Site are included in the assessment in Chapter 11: Noise and Vibration (ES Volume 1) [EN0110012/APP/LVS/06.01.11] and no significant effects have been identified, and so no nuisance is expected from these impacts.
- 4.4.5 Traffic noise is specifically excluded from consideration by Section 79(6A)(a) of the EPA and is not considered further.

Construction and decommissioning

- 4.4.6 Chapter 11: Noise and Vibration (ES Volume 1) [EN0110012/APP/LVS/06.01.11] predicts construction noise and vibration levels at all receptors will not be significant. Noise levels from horizontal directional drilling and associated vibration along localised sections of the Cable Route Corridor may be high for a short durations, but with appropriate mitigation and communication over the programme (as discussed below), noise is not considered to be prejudicial to health or a nuisance.
- 4.4.7 The worst-case for construction noise and vibration has been modelled, assuming that all relevant construction works to be carried out during the day occur simultaneously. Night-time works were assessed on an individual basis but also assess a worst-case. In practice, levels of noise and vibration could be somewhat lower than the levels presented as it is unlikely that all activities will occur simultaneously and more likely that activities will be undertaken in sequence (e.g. deliveries to site, earthworks and then piling).
- 4.4.8 Noise and vibration effects during the decommissioning phase of the Proposed Development 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). No significant construction and decommissioning noise effects have been identified after the implementation of embedded mitigation.
- 4.4.9 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.
- 4.4.10 Measures to control noise and vibration will be adopted where reasonably practicable. These embedded mitigation measures represent Best Practicable

Means (BPM) and are secured within the oCEMP [EN0110012/APP/LVS/07.02] for the construction phase and the oDEMP [EN0110012/APP/LVS/07.04] for the decommissioning phase.

4.4.11 BPM to be put in place to minimise noise and vibration include:

- 1) Careful selection of plant and construction methods. Only plant conforming to relevant national, EU or international standards, directives and recommendations on noise and vibration emissions would be used.
- 2) Design and use of site enclosures, housing and temporary stockpiles, where practicable and necessary, to provide acoustic screening at the earliest opportunity.
- 3) Where practicable, doors and gates should not be located opposite occupied noise-sensitive buildings. The mechanisms and procedures for opening doors/gates will minimise noise, as far as reasonably practicable.
- 4) Careful programming so that activities which may generate significant noise are planned with regard to local occupants and sensitive receptors.
- 5) All vehicles and mechanical plant shall be fitted with effective exhaust silencers and shall be maintained in good and efficient working order and operated to minimise noise emissions.
- 6) All compressors and generators shall be 'sound reduced' models fitted with properly lined and sealed acoustic covers which shall be kept closed whenever the machines are in use, and all pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufacturers.
- 7) All machines in intermittent use shall be shut down in the intervening periods between works or throttled down to a minimum. Lorry engines will be switched off, as soon as practicable, when vehicles are stationary.
- 8) Noise emitting equipment which is required to run continuously shall be housed in a suitable acoustic enclosure (see BS5228 (Ref 6) Part 1, Figures B.1, B.2 and B.3).
- 9) Temporary noise barriers will be used to reduce noise levels where appropriate and practicable. Such measures can be particularly appropriate for stationary or near-stationary plant such as pneumatic breakers, piling rigs and compressors. Barriers should be located as close to the plant as possible and, in order to provide adequate attenuation and should have a mass per unit area of at least 7 kg/m².
- 10) Plant and equipment liable to create noise and/or vibration whilst in operation will, as far as reasonably practicable, be located away from sensitive receptors and away from walls reflecting towards sensitive receptors.
- 11) Where night working is required and (with the exception of HDD and emergency works) agreed with North Yorkshire Council, materials for night-time working shall be delivered, where practicable, during normal working

hours and be placed as close as possible to the work area for which they are required.

- 12) Where reasonably practicable, fixed items of construction plant shall be electrically powered in preference to combustion engine driven.
- 13) Putting in place a communication strategy for prior warning of activities with the potential to cause disturbance. During construction, appropriate mechanisms to communicate with local residents will be set up to highlight potential periods of disruption for both noise and vibration. The communication strategy will include a point of contact for the Principal Contractor for any queries or complaints. Any noise or vibration complaints will be investigated and appropriate action taken as required.
- 14) To minimise potential vibration impacts, compaction could be achieved without using a vibratory system, however there may be a resulting increase in the duration of the compaction works.

- 4.4.12 Construction activities required outside the normal hours (including Sunday and Bank Holiday working), except for HDD and emergency works, will require written approval from North Yorkshire Council.
- 4.4.13 A communication strategy will be developed in the detailed Construction Environmental Management Plan, in line with the monitoring requirements detailed within the oCEMP [EN0110012/APP/LVS/07.02] and agreed with appropriate stakeholders following the appointment of a principal contractor and prior to commencement of construction works.
- 4.4.14 Requirements for monitoring during the decommissioning stages will be set out and agreed through the detailed Decommissioning Environmental Management Plan required by the Draft DCO to be developed in substantial accordance with the oDEMP [EN0110012/APP/LVS/07.04] submitted with the DCO Application.
- 4.4.15 It is considered that with the BPM measures committed to, the construction and decommissioning phases of the Proposed Development will not give rise to a statutory nuisance under s79(1)(g) or (ga).

Operation

- 4.4.16 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 some cases, and as such have been assessed within Chapter 11: Noise and Vibration (ES Volume 1) [EN0110012/APP/LVS/06.01.11].
- 4.4.17 During daytime, operational noise modelling indicates that sound levels at four receptors are predicted to exceed the background sound level by approximately 1-3 decibels (dB). However, the exceedance over the background is relatively small and the ratings remain well below the World Health Organisation (WHO) outdoor living guidelines of 50 dB. In addition, all 40 receptors will be below the

Lower Observable Adverse Effect Level (LOAEL) and the Significant Observed Adverse Effect Level (SOAEL).

- 4.4.18 During night-time, operational noise modelling indicates that sound levels at 15 receptors are predicted to exceed the background sound levels by approximately 1-5 dB. At only five receptors there is predicted to be an exceedance of the background sound levels by approximately 6-8 dB, which is between LOAEL and SOAEL. No receptors will be above SOAEL and the highest predicted rating of 39 dB is below the WHO Night Noise Guidelines for Europe of 40 dB.
- 4.4.19 Based on 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 therefore assessed as not significant.
- 4.4.20 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 (PINS) on 11 November 2024. This was accepted in the PINS' EIA Scoping Opinion that was published on 19 December 2024.
- 4.4.21 It is therefore considered that the operational phase of the Proposed Development will not give rise to a statutory nuisance under s79(1)(g) or (ga).

Conclusion

- 4.4.22 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 Chapter 11: Noise and Vibration (ES Volume 1) [EN0110012/APP/LVS/06.01.11] during the construction, operation and maintenance and decommissioning phases of the Proposed Development.
- 4.4.23 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 Proposed Development has engaged one or more of the matters set out in Section 79(1) of the EPA and thus considered whether the Proposed Development would cause a statutory nuisance.
- 5.1.2 The matters in the EPA that have been engaged by the Proposed Development are general site condition, waste, air quality, artificial light, and noise and vibration, during all phases of the Proposed Development. The embedded design

and mitigation measures identified in the ES are secured by requirements contained within the Draft DCO [**EN0110012/APP/LVS/03.01**].

- 5.1.3 It is therefore not envisaged that the construction, operation and maintenance, and decommissioning of the Proposed Development would give rise to any claim in respect of statutory nuisance under Section 79(1) of the EPA.

References

- Ref 1 UK Government, "Planning Act," 2008. [Online]. Available at: <https://www.legislation.gov.uk/ukpga/2008/29/contents>
- Ref 2 UK Government, "The Infrastructure Planning (Environmental Impact Assessment) Regulations," 2017. [Online]. Available at: <https://www.legislation.gov.uk/uksi/2017/572/regulation/14>
- Ref 3 UK Government, "The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009," 2009. [Online]. Available at: <https://www.legislation.gov.uk/uksi/2009/2264/contents/made>
- Ref 4 UK Government, "Environmental Protection Act 1990". 1990. [Online]. Available at: <https://www.legislation.gov.uk/ukpga/1990/43/contents>
- Ref 5 UK Government, "Overarching National Policy Statement for energy (EN-1), 2025". 2026. [Online]. Available at: <https://www.gov.uk/government/publications/overarching-national-policy-statement-for-energy-en-1-2025/overarching-national-policy-statement-for-energy-en-1-2025-accessible-webpage>
- Ref 6 British Standards, "BS 5228:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites - Noise (Part 1) and Vibration (Part 2), British Standard Institution," 2014.
- Ref 7 E. A. a. A. Adcock, "Nuisance Complaints Parliamentary Briefing Paper No CBP 8040," 6 March 2018. [Online]. Available at:

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