THE DROVES
SOLAR FARM

The Droves Solar Farm

Statutory Nuisance Statement

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Contents

1 Introduction

1.1.1 This Statutory Nuisance Statement (the 'Statement') has been prepared by The Droves Solar Farm Ltd (the 'Applicant') as part of an application for a Development Consent Order ('DCO') for The Droves Solar Farm (the 'Scheme').

1.1.2 The Scheme falls under the Planning Act 2008 ('PA 2008') and is classified as a Nationally Significant Infrastructure Project ('NSIP') and requires an application for a DCO (the 'DCO Application'). The DCO Application is submitted to the Planning Inspectorate ('PINS') on behalf of the Secretary of State for Energy Security and Net Zero (the 'Secretary of State'), with the decision on whether to grant a DCO being made by the Secretary of State pursuant to the PA 2008.

1.2 Order Limits

1.2.1 The location of the Scheme is shown in the **Location Plan [APP/2.1]**. The Order limits presented in the **Location Plan [APP/2.1]** comprise of 838.77 hectares (ha) of land (hereafter the 'Site') and constitutes the maximum extent of land that will be required to facilitate the construction, operation, maintenance, and decommissioning of the Scheme.

1.2.2 Further details on the Scheme and the construction, operational and decommissioning phases can be located in **ES Chapter 5: The Scheme [APP/6.1]**.

1.2.3 The Scheme is described in Schedule 1 of the **draft Development Consent Order (draft DCO) [APP/3.1]**, where the "authorised development" is divided into work packages. These Work Numbers ('Work No.') are referred to throughout the Environmental Statement ('ES') and correspond to the **Works Plan [APP/2.3]**.

1.3 The Scheme

1.3.1 The Scheme comprises the construction, operation, maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating station and associated development comprising a Battery Energy Storage System (BESS), a Customer Substation, and Grid Connection Infrastructure, including a new National Grid Substation. The Scheme would allow for the generation and export of over 50MW Alternating Current (AC) of renewable energy, connecting into the National Electricity Transmission System (NETS) overhead line that passes through the Site.

1.4 Purpose and structure of this statement

1.4.1 The Scheme is considered to be Environmental Impact Assessment ('EIA') development, as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations

2017 (as amended) **[Ref. 1]**, requiring an EIA. As such, this Statement has been prepared in compliance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations') **[Ref. 2]**.

1.4.2 Regulation 5(2)(f) requires that an application for a DCO must be accompanied by a statement setting out whether the Scheme engages one or more of the matters in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990 (as amended) ('EPA') **[Ref. 3]**. If any of those matters are engaged, the statement must set out how the Applicant proposes to mitigate or limit the effects.

1.4.3 The matters in section 79(1) of the EPA that have been considered within the Statement are general site conditions, air quality, artificial light, and noise and vibration during all phases of the Scheme.

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

- The **ES [APP/6.1 - 6.5]**
- The **outline Construction Environmental Management Plan (oCEMP) [APP/7.6]**
- The **outline Construction Traffic Management Plan (oCTMP) [APP/7.7]**
- The **outline Operational Environmental Management Plan (oOEMP) [APP/7.8]**
- The **outline Operational Traffic Management Plan (oOTMP) [APP/7.9]**
- The **outline Decommissioning Strategy (oDS) [APP/7.10]**
- The **outline Soil Management Plan (oSMP) [APP/7.13]**; and
- The **outline Battery Safety Management Plan (oBSMP) [APP/7.14]**.

1.4.5 The Statement is produced in the context of section 158 of the PA 2008, which provides statutory authority for carrying out development for which a DCO has been granted or anything else authorised by the DCO as a defence against civil or criminal proceedings for nuisance.

1.4.6 The Statement sets out appropriate mitigation measures to ensure that the Scheme has no likely residual effects that would give rise to a statutory nuisance.

1.4.7 Therefore, it was demonstrated that no statutory nuisance effects are considered likely to occur. The construction, operation, maintenance, and decommissioning of the Scheme are not expected to cause a statutory nuisance.

1.4.8 Nonetheless, it should be noted that Article 7 (Defence to proceedings in respect of statutory nuisance) of the **draft DCO [APP/3.1]** contains a provision that would provide a defence to proceedings in respect of statutory nuisance (in respect of sub-paragraph (g) of section 79(1) of the EPA (noise emitted from premises to be prejudicial to health or a nuisance)), subject to the criteria set out in that article.

1.4.9 The remainder of this Statement is structured as follows:

- **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, 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 The APFP Regulations 2009

2.1.1 Regulation 5(2)(f) of the APFP Regulations state 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 therefore) of the Environmental protection Act 1990, and if so, how the applicant proposes to mitigate or limit them".*

2.2 Environmental Protection Act 1990 ('EPA')

2.2.1 Section 79(1) of the EPA, as it applies in England, provides that the following matters constitute *"statutory nuisances"*.

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

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

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

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

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

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

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

(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance

(g) noise emitted from premises so as to be prejudicial to health or a nuisance;

(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street

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

2.2.2 For a nuisance to be considered a statutory nuisance, it must 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.

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

2.3.1 Paragraph 4.15.1 of the Overarching National Policy Statement for Energy (NPS EN-1) **[Ref. 4]** states that:

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

2.3.2 Paragraph 4.15.2 states that:

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

2.3.3 Paragraph 4.15.5 states that:

"At the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the EPA 1990 and how they may be mitigated or limited should be identified by the applicant so that appropriate requirements can be included in any subsequent order granting development consent".

2.3.4 The **Policy Compliance Document [APP/5.6]** assesses the compliance of NPS EN-1 and the wider Scheme's compliance with both national and local planning policies.

3 Assessment of Significance

3.1 Summary of Matters Engaged

3.1.1 The ES accompanying the DCO Application assesses the likelihood of significant effects arising from the Scheme which could constitute a statutory nuisance, as identified in section 79(1) of the EPA.

3.1.2 **Table 3.1** outlines each matter stated in Section 79(1) of the EPA and describes whether this is covered within this Statement or is excluded, depending on the assessment within the ES.

Table 3.1 Matters Stated in Section 79(1) of the EPA

EPA Section 79(1) Matter	Matter engaged as a consequence of the Scheme?
(a) Any premises in such a state as to be prejudicial to health or a nuisance	This matter is considered further in **Section 3** of this Statement.
(b) smoke emitted from premises so as to be prejudicial to health or a nuisance	No smoke is expected to be generated from the Scheme; therefore, this is not considered further within the Statement. Unplanned emergency scenarios such as an accidental or technical fire are not relevant to this Statement due to their infrequent and short nature.
(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	This matter only applies to private dwellings, as provided for under section 79(4) of the EPA. This matter is, therefore, not considered further within the Statement because there is no impact on private dwellings.
(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	This matter is considered further in **Section 4** of this Statement in relation to dust. This matter is assessed in **ES Chapter 16: Other Environmental Matters [APP/6.2]** and **Appendix 1 - Construction and Decommissioning Phase Dust Assessment** to the **oCEMP [APP/7.6]**. The Scheme is not anticipated to cause any effects from steam, smell or other effluvia; therefore, those elements are not considered further within the Statement.

(e) any accumulation or deposit which is prejudicial to health or a nuisance	This matter is considered further in **Section 3** of this Statement.
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance	The Scheme will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance. Any grazing of livestock will be in accordance with good practice guidance for livestock welfare; therefore, this is not considered further in the Statement.
(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	There is no indication that the construction, operation and decommissioning of the Scheme will emanate any insects nor cause insects to be attracted to it. Therefore, this is not considered further within the Statement.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in **Section 4** of this Statement, the **oCEMP [APP/7.6]** and the **oOEMP [APP/7.8]**.
(g) noise emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in **Section 4** of this Statement and **ES Chapter 10: Noise and Vibration [APP/6.2]**.
(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	This matter is considered further in **Section 4** of this Statement and **ES Chapter 10: Noise and Vibration [APP/6.2]**.
(h) any other matter declared by any enactment to be a statutory nuisance	No other matters are considered to be a potential statutory nuisance associated with the construction, operation or decommissioning of the Scheme.

4 Matters Engaged and Proposed Mitigation Measures

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

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

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

Construction and Decommissioning

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

- Grid Connection Infrastructure activities, including construction of new pylons and removal of existing pylons
- Conductor Stringing
- Site Preparation and Enabling/Civil Engineering Works for the Solar PV Site
- Installation of PV Panels, including installation of transformers, inverters and switchgears
- Construction of Electrical Infrastructure, including Customer Substation and National Grid Substation
- Construction of Electrical Cables
- Energy Storage Construction, including the construction of BESS
- Installation of fencing and security; and
- Cabling construction.

4.1.3 During the construction period, a commissioning period would occur and would include testing and commissioning of the process equipment. Commissioning of the PV Panels, BESS Units, and associated infrastructure would involve mechanical and visual inspection, electrical and equipment testing, and commencement of electricity supply into the NETS. Individual sub-systems would be commissioned separately, with each having its own procedures and prerequisite lines, and it may be necessary to commission these

elements separately or at the same time, depending on the end technology utilised at the time of construction.

4.1.4 Following the operational phase, the Scheme will require decommissioning. 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 operational life of the Scheme in 2093. A requirement to decommission the Scheme is secured via a requirement in the **draft DCO [APP/3.1]**. An **oDS [APP/7.10]** has been prepared and submitted with the DCO Application, which sets out the general principles to be followed in the decommissioning phase of the Scheme.

4.1.5 When the operational phase ends, the Solar PV Site would be decommissioned and the land returned to the landowner. All PV Panels, Mounting Structures, above ground cabling (not including the Grid Connection Infrastructure), Conversion Units/33kV Sub-distribution Switch Rooms, BESS and the Customer Substation would be removed from within the Order limits and recycled or disposed of in accordance with good practice and market conditions at that time. Foundations and other below ground infrastructure will be cut to 1.2m below the surface to enable future ploughing. Any piles would be removed. These measures are set out within the **oDS [APP/7.10]**, secured via requirement of the **draft DCO [APP/3.1]**.

4.1.6 The National Grid Substation and the Grid Connection Infrastructure would remain in situ. Mitigation planting specifically required to support the location of the National Grid Substation, as identified on **ES Figure 5.2: Construction Masterplan [APP/6.3]**, would be handed over to National Grid, who would be responsible for its maintenance and management.

4.1.7 Both construction and decommissioning works can create pollution incidents such as spillages, litter, and general waste, constituting a nuisance under the EPA.

4.1.8 Construction phase control mechanisms proposed include normal (or core) hours of working and traffic management. These measures are set out in the **oCEMP [APP/7.6]** and **oCTMP [APP/7.7]**. Both the oCEMP and oCTMP have been informed by the EIA and will guide the construction process, through environmental controls, in order to promote good construction practices and avoid adverse or nuisance causing impacts during the construction phase.

4.1.9 The **oCEMP [APP/7.6]** forms the framework for a detailed Construction Environmental Management Plan. Should development consent be granted, the detailed Construction Environmental Management Plan would be approved by Breckland Council prior to construction.

4.1.10 The **oCTMP [APP/7.7]** forms the framework for a detailed Construction Traffic Management Plan. Should development consent be granted, the detailed Construction Traffic Management Plan would be approved by Breckland Council prior to construction.

4.1.11 As noted above, a detailed Decommissioning Strategy would also be prepared in accordance with the **oDS [APP/7.10]**, which forms the framework for the detailed Decommissioning Strategy. Should development consent be granted, the detailed Decommissioning Strategy would be approved by Breckland Council prior to decommissioning.

4.1.12 Plans to deal with accidental pollution would be included within the detailed Construction Environmental Management Plan, Construction Traffic Management Plan and Decommissioning Strategy prior to the commencement of construction and decommissioning phases, respectively. Any necessary equipment (e.g. spillage kits) would be held on-site, and all site personnel would be trained to use that equipment. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.

4.1.13 To control the waste generated during Site preparation and permitted preliminary works, the appointed contractor will manage all waste generated by the Scheme, and the waste streams, in accordance with legal requirements, which include the EPA, the Waste (England & Wales) Regulations 2011, the Hazardous Waste (England and Wales) Regulations 2005 and any other associated waste regulations.

4.1.14 A Site Waste Management Plan (SWMP) will be prepared and submitted under a requirement of the DCO, detailing the specific measures to be implemented prior to the start of construction by the appointed contractor(s), based on the information provided within the **oCEMP [APP/7.6]** for the construction phase.

4.1.15 The mitigation measures set out in the **oCEMP [APP/7.6]**, **oCTMP [APP/7.7]** and **oDS [APP/7.10]** are both embedded and additional to the Scheme's design and the assessment of effects undertaken. The EIA assumes that those committed measures are implemented in full. The detailed Management Plans will be prepared in accordance with the oCEMP, oCTMP and oDS and would be secured by the requirements in the DCO.

4.1.16 With the measures under the **oCEMP [APP/7.6]**, **oCTMP [APP/7.7]** and **oDS [APP/7.10]** in place, it is considered that the construction and decommissioning phases 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

4.1.17 It is considered that the operation of the Scheme in its built form, as a solar farm with related infrastructure, will not cause the 'premises' within the Order limits to be in 'such a state' as to be prejudicial to health or a nuisance.

4.1.18 During operation, other than in the context of a programme of replacement, activity on the Solar PV Site 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.

4.1.19 Along the Grid Connection Infrastructure, operational activity may consist of routine inspections, vegetation management, and any reactive maintenance from National Grid.

4.1.20 The frequency of regular maintenance visits would reasonably be expected to be limited to no more than five visits per month to the Solar PV Site. Limited use of HGVs may be required for the ad-hoc replacement of components.

4.1.21 An **oOEMP [APP/7.8]** has been prepared to support the DCO Application. The Outline OEMP sets out the environmental principles to be followed during the operation of the Scheme. The Outline OEMP will be used as the basis for a detailed OEMP, secured via a requirement in the DCO, to be prepared prior to commencement of operation.

4.1.22 This 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.

Conclusion

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

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

4.2.1 Section 79(1)(d) provides that the following constitutes a statutory nuisance, "*any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance*".

4.2.2 As noted in **Table 3-1** above, the Scheme is not anticipated to cause any effects from steam, smell or other effluvia and therefore, those elements are not considered further within this Statement.

Construction and Decommissioning

4.2.3 **ES Chapter 16: Other Environmental Matters [APP/6.2]** discusses potential Air Quality impacts arising as a result of the Scheme. As set out in the **ES Appendix 2.1: Scoping Opinion Request [APP/6.4]**, it was proposed to scope out effects on air quality receptors due to the lack of potential for likely significant effects. In Section 3.5 of **ES Appendix 2.2: Scoping Opinion Response [APP/6.4]**, PINS confirmed that air quality effects are not likely to be significant, on the basis that air quality information was to be provided in the ES. **ES Chapter 16: Other Environmental Matters [APP/6.2]** concludes that the Scheme is not likely to result in significant air quality effects.

4.2.4 The residual effects outlined in the assessment rely on the implementation of controls established within the **oCEMP [APP/7.6]**.

4.2.5 Taking into account the scale of the Order limits and associated construction works, it is considered prudent to adopt the good site practice for controlling dust as outlined within the IAQM's 'Guidance on the Assessment of Dust from Demolition and Construction v2.2' document for high-risk sites.

4.2.6 Assessment of Dust from Demolition and Construction v2.2' document are incorporated into the **oCEMP [APP/7.6]** and are presented in **Table 4-1** below. They are considered to be additional mitigation and represent good industry practices that are part of the Scheme.

Table 4-1 – Dust Mitigation Measures

Activity	Mitigation
Communications	• Develop and implement a Stakeholder Communications Plan that includes community engagement before work commences on-site. • Display the name and contact details of person(s) accountable for air quality and dust issues on the Site, this may be the Environmental Manager. • Display the Contractor's head or regional office contact information.
Dust Management	• Develop and implement a Dust Management Plan (DMP), which may include measures to control other emissions, approved by the relevant local authorities.
Site Management	• Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce emissions in a timely manner, and record the measures taken. • Make the complaints log available to the local authority when asked. • Record any exceptional incidents that cause dust and/or air emissions, either on- or off-site, and the action taken to resolve the situation in the logbook. • Hold regular liaison meetings with other high risk construction sites within 500m of the site boundary, to ensure plans are co-ordinated and dust and particulate matter emissions are minimised. It is important to understand the interactions of the off-site transport/deliveries which might be using the same strategic road network routes.
Preparing and maintaining the site	• Plan site layout so that machinery and dust causing activities are located away from receptors, as far as is possible.

	• Erect solid screens or barriers around dusty activities or the site boundary so that are at least as high as any stockpiles on site. • Fully enclose site or specific operations where there is a high potential for dust production and the site is active for an extensive period. • Avoid site runoff of water or mud. • Keep site fencing, barriers and scaffolding clean using wet methods. • Remove materials that have the potential to produce dust from the site as soon as possible, unless being re-used on site. If they are being re-used on-site, cover as described below. • Cover, seed or fence stockpiles to prevent wind whipping.
Operating vehicle/machinery and sustainable travel	• Ensure all off-road vehicles comply with the requirements of the Non-Road Mobile Machinery (NRMM) standards, where applicable. Use stage 4 NRMM as a minimum and stage 5 where practicable. • Ensure all vehicles/machinery are switched off when stationary/not in use. • Avoid the use of diesel- or petrol-powered generators and use mains electricity or battery powered equipment where practicable. • Impose and signpost a maximum-speed-limit of 15mph on surfaced and 10mph on unsurfaced haul roads and work areas (if long haul routes are required, these speeds may be increased with suitable additional control measures provided, subject to the approval of the nominated undertaker and with the agreement of the local authorities, where appropriate). • Produce a Construction Traffic Management Plan to manage the sustainable delivery of goods and materials. • Implement a Travel Plan that supports and encourages sustainable travel (public transport, cycling, walking, and car-sharing). • Signs to direct construction vehicles associated with the Scheme will be installed along the construction traffic route.
Operations	• Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction, e.g. suitable local exhaust ventilation systems.

	• Ensure an adequate water supply on the site for effective dust/particulate matter suppression/mitigation, using non-potable water where practicable and appropriate. • Use enclosed chutes and conveyors and covered skips. • Minimise drop heights from conveyors, loading shovels, hoppers and other loading or handling equipment and use fine water sprays on such equipment wherever appropriate. • Ensure equipment is readily available on site to clean any dry spillages and clean up spillages as soon as reasonably practicable after the event using wet cleaning methods.
Waste Management	• No bonfires or burning of waste materials.
Earthworks	• Re-vegetate earthworks and exposed areas/soil stockpiles to stabilise surfaces as soon as practicable. • Use Hessian, mulches or tackifiers where it is not possible to re-vegetate or cover with topsoil, as soon as practicable. • Only remove the cover in small areas during work and not all at once.
Construction	• Avoid scabbling (roughening of concrete surfaces) if possible. • Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place. • Ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems to prevent escape of material and overfilling during delivery. • For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.
Trackout	• Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the site. • Avoid dry sweeping of large areas. In dry conditions, areas near to the Site access will be sprayed with water supplied to prevent the spread of dust. • Ensure vehicles entering and leaving sites are covered to prevent escape of materials during transport. • Inspect on-site haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable.

	• Record all inspections of haul routes and any subsequent action in a site logbook. • Install hard surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned. • Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable). A wheel washing facility will be provided at each access. This will be located at the end of each access road, ahead of the egress onto the local highway network.

Operation

4.2.7 No permanent on-site staff will be required to operate the Scheme. Additional staff would be attending when required for maintenance, replacement of faulty or end of service life solar equipment, vegetation management activities and cleaning.

4.2.8 **ES Chapter 16: Other Environmental Matters [APP/6.2]** discusses potential Air Quality impacts arising as a result of the Scheme. As set out in the **ES Appendix 2.1: Scoping Opinion Request [APP/6.4]**, it was proposed to scope out effects on air quality receptors due to the lack of potential for likely significant effects. In Section 3.5 of the **ES Appendix 2.2: Scoping Opinion Response [APP/6.4]**, PINS confirmed that air quality effects are not likely to be significant, on the basis that air quality information was to be provided in the ES. **ES Chapter 16: Other Environmental Matters [APP/6.2]** concludes that the Scheme is not likely to result in significant air quality effects.

Conclusion

4.2.9 For the reasons explained above, and with the implementation of the above measures, no significant effects are expected to occur in relation to air quality matters, including to the health of human receptors.

4.2.10 Therefore, no claim regarding a statutory nuisance under section 79(1)(d) of the EPA is envisaged.

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

4.3.1 Section 79(1)(fb) provides that the following constitutes a statutory nuisance: "*artificial light emitted from premises so as to be prejudicial to health or a nuisance*".

4.3.2 A statutory nuisance would exist if artificial light substantially interfered with an individual's property, well-being, comfort, or enjoyment. Usually, this would mean that lights cause a nuisance on a regular basis. Artificial lights may also cause a nuisance if they are not maintained or used properly.

Construction and Decommissioning

4.3.3 Temporary site lighting would be used during construction to enable safe working during construction hours within darkness or where natural lighting is unable to reach (such as sheltered/confined areas). Mobile lighting towers with a power output of 8 kilovolt-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
- 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; and
- Lighting will be directed towards the middle of the Order limits rather than towards the boundaries.

4.3.5 Measures to control lighting are set out in the **oCEMP [APP/7.6]** and the **oDS [APP/10]**.

Operation

4.3.6 Lighting is not required within the Solar PV Site during the operational phase of the Scheme.

4.3.7 All routine maintenance activities would be scheduled for daylight hours as far as is practicable. Focussed task specific lighting would only be required in the event of emergency works or equipment failure requiring night-time working.

4.3.8 Motion sensing security lighting would be provided within the Customer Substation, the National Grid Substation, and within the BESS to maintain safe working conditions in winter months, for security purposes, and for maintenance activities.

4.3.9 Closed-circuit television (CCTV) cameras would use night-vision technology, which would be monitored remotely and avoid the need for night-time lighting. For security purposes, pole-mounted, internal-facing CCTV systems installed at heights up to 3m will be deployed around the perimeter of the Site. The CCTV cameras would use night-vision technology, which would be monitored remotely, thereby avoiding the need for night-time lighting of the Solar PV Site.

4.3.10 The lighting commitments for the operational phase are set out in the **oOEMP [APP/7.8]**.

Conclusion

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

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

4.4.1 The following constitute a statutory nuisance:

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

4.4.2 If noise is excessive, prolonged or on a regular basis, it may constitute a statutory nuisance. A statutory nuisance would exist if noise substantially interfered with the well-being, comfort or enjoyment of an individual's property.

4.4.3 An assessment of noise and vibration impacts was undertaken as part of the EIA and is reported in **ES Chapter 10: Noise and Vibration [APP/6.2]**. The chapter presents an assessment of likely significant effects arising from the construction, operation and decommissioning of the Scheme. It concludes that, with appropriate mitigation, there are no residual effects during the construction, operational and decommissioning phases.

4.4.4 The elements relevant to section 79(1) of the EPA are noise emitted from premises (including land), vehicles, machinery, and equipment in a street. Traffic noise is specifically excluded from consideration by section 79(6A)(a) and is not considered further in this document, but is assessed in **ES Chapter 10: Noise and Vibration [APP/6.2]**.

Construction and Decommissioning

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

4.4.6 The **oCEMP [APP/7.6]** and **oDS [APP/7.10]** will control noise and vibration emanating from the Scheme's construction and decommissioning phases. The measures secured within the **oCEMP [APP/7.6]** and **oDS [APP/7.10]** represent Best Practicable Means (as defined by the Control of Pollution Act 1974 **[Ref. 5]**) and are included as additional mitigation.

4.4.7 The detailed Construction Environmental Management Plan will be prepared by the Applicant and approved by Breckland Council prior to construction, and the detailed Decommissioning Strategy will be prepared and approved by Breckland Council prior to decommissioning.

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

- Activities that may give rise to audible noise at the surrounding properties and heavy goods vehicle deliveries to the Site would be limited to the hours 07:00 to 18:00 Monday to Friday and Saturday 08:00 to 13:30 unless otherwise approved in advance by Breckland Council (except in case of an emergency)
- A commitment to liaise directly with local residents and the wider community, e.g., notifying them when particular noisy activities will occur and their duration
- The Site contractors shall be required to employ the Best Practicable Means (BPM) of reducing noise emissions from plant, machinery, and construction activities, as advocated in BS 5228-1. This includes: selection of quieter equipment where reasonably practicable; all plant not in use to be switched off; minimising use of tonal reverse alarms and using broadband alarms where practicable; mobile plant and stationary plant items to be routed or located to maximise separation distance from noise-sensitive receptors (where practicable), accounting for site-specific constraints; all equipment used would be maintained in good working order; and associated noise attenuation such as engine casing and exhaust silencers shall remain fitted at all times
- Users of the PRoW will be informed of any percussive piling or earthworks construction activities planned as part of the reporting of information to local residents.
- Use of alternative techniques such as micro-bore or pipe jacking
- Crossing points requiring potential HDD and associated work areas will be identified and located to maximise distance from dwellings as much as reasonably practicable
- Residents likely to be significantly affected by noise from trenchless works will be kept informed of the likely period during which the work will take place, the times and durations of planned works and the measures that are being taken to minimise noise. On completion of the trenchless works at a particular location, local residents will be informed that the works are complete, and noise effects due to trenchless works will cease
- Monitoring noise from the works and minimising the noisiest drilling work at night where possible and safe to do so
- Exploring options for offering affected residents temporary re-housing should the night time drilling works exceed 65 dBA or 100m of the property
- Any plant and equipment required for operation at night (23:00 - 07:00), e.g. generators or dewatering pumps, shall be silenced or suitably shielded to ensure that the night-time lower threshold of 45dB L_{Aeq} shall not be exceeded at the nearest noise-sensitive receptors; and
- Temporary noise barriers will be installed around trenchless compounds in order to provide screening for sources located at low heights (note, however, that it is likely to be impractical to provide noise barriers that are high enough to screen an entire HDD drilling rig, for example).

4.4.9 The core construction working hours (excluding start-up and shut-down works) are defined as:

- Monday to Friday from 07:00 to 18:00 (daylight hours permitting)
- Saturday from 08:00 to 13:30 (daylight hours permitting); and

4.4.10 No Sunday or Bank Holiday working unless crucial to construction (for example, for Horizontal Directional Drilling (HDD), which must be a continuous activity) or in an emergency.

4.4.11 Some activities may be required outside of these times, such as the delivery of abnormal loads, concrete pours for foundations, night working for cable construction works in public highways and/or HDD activities.

4.4.12 Noise thresholds have been identified for nearby sensitive receptors during construction, presented in **ES Chapter 10: Noise and Vibration [APP/6.2]**, (and based off Annex E of BS5228-1), and the applicable noise thresholds will be defined in the detailed CEMP. Thus, where onsite works are to be conducted outside of the core working hours, they will comply with any restrictions agreed with the relevant planning authority and reflected in the detailed CEMP, particularly regarding the control of noise and traffic. Compliance with these noise limits will ensure adverse effects are unlikely. Abnormal or emergency construction traffic movements may occur outside of normal working hours. In the event of these occurrences, specific noise mitigation measures will be put in place to reduce potential noise impacts at nearby noise sensitive receptors as set out in the **oCEMP [APP/7.6]**.

4.4.13 During the decommissioning phase of the Scheme, it has been assumed that the resultant noise levels would be broadly similar to the construction phase, as it is envisaged that similar plant and works have the potential to be used. Therefore, the residual effects during the decommissioning phase are unlikely to be any greater than those reported for the construction phase, following the implementation of appropriate additional mitigation measures. On this basis, **ES Chapter 10: Noise and Vibration [APP/6.2]** reports that there are no significant residual noise and vibration effects anticipated across the Scheme's construction and decommissioning phases.

Operation

4.4.14 No major vibration sources are envisaged to be introduced as part of the Scheme, and as such, there will be no associated operational vibration effects. No further assessment of operational vibration has been included in the ES.

4.4.15 **ES Chapter 10: Noise and Vibration [APP/6.2]** assesses noise as an operational phase matter. The assessment concludes that, with embedded and additional mitigation measures in place, there would be no residual adverse noise effect on all receptors, which is considered to be not significant in EIA terms.

4.4.16 The following embedded mitigation measures have been incorporated into the Scheme's design for the operational phase:

- Placement of National Grid Substation, Customer Substation, and Battery Energy Storage System, (Field 27 & 24), has been selected to maximise separation distances to residential receptors as far as reasonably possible
- Acoustic barrier of 3.5m height is proposed along the western boundaries of Field 27 and partially along the western side of Field 24, between the Battery Energy Storage System and the PRoW
- Minimum separation distance of 15m between Conversion Units in the Solar PV Site to the PRoW have been incorporated; and
- Minimum separation distance of 250m for Conversion Units in the Solar PV Site to residential receptors have been incorporated.

4.4.17 Acoustic barriers should be constructed using a suitably dense material, with no holes or gaps around or underneath.

Conclusion

4.4.18 For the reasons explained above, and with these embedded and additional mitigation measures in place, no significant residual adverse effects are expected to occur in relation to noise and vibration matters, as set out in **ES Chapter 10: Noise and Vibration [APP/6.2]** during the construction, operation and decommissioning phases of the Scheme.

4.4.19 Section 10.11 of **ES Chapter 10: Noise and Vibration [APP/6.2]** presents an assessment of cumulative effects between the Scheme and other existing and/or approved developments on noise and vibration. The cumulative effect assessment finds that the Scheme, cumulatively with the High Grove Solar, would result in a significant adverse effect at the 'The Off Barn' high-sensitive receptor. However, the cumulative effects assessment concludes that it is likely that noise levels can be controlled through the implementation of additional mitigation measures to suitable levels at 'The Off Barn' receptor when considered cumulatively with the neighbouring High Grove Solar Farm, such that residual levels would represent at most a minor impact, which is considered not significant, in EIA terms.

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 line with Regulation 5(2)(f) of the APFP Regulations, this Statement has identified whether the Scheme 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 the Scheme has engaged are general site conditions, air quality, artificial light, and noise and vibration during all phases of the Scheme. The embedded design, management plans, and mitigation measures identified in the ES will prevent impacts that have the potential to result in a statutory nuisance under section 79 of the EPA. These measures are secured by requirements contained within the **draft DCO [APP/3.1]**.

5.1.3 It is not expected that the construction, operation and decommissioning of the Scheme would give rise to any claim in respect of statutory nuisance under Section 79(1) of the EPA.

References

Ref 1 Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Available at: https://www.legislation.gov.uk/uksi/2017/572/contents

Ref 2 Infrastructure Planning Applications: Prescribed Forms and Procedures) Regulations 2009 (as amended). Available at: https://www.legislation.gov.uk/uksi/2009/2264/contents/made

Ref 3 Environmental Protection Act 1990 (as amended). Available at: https://www.legislation.gov.uk/ukpga/1990/43/contents

Ref 4 Department for Energy Security and Net Zero (2024). Overarching National Policy Statement for energy (EN-1). Available at: https://www.gov.uk/government/publications/overarching-national-policy-statement-for-energy-en-1

Ref 5 Control of Pollution Act 1974. Available at: https://www.legislation.gov.uk/ukpga/1974/40

THE DROVES
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