East Pye Solar

Statutory Nuisance Statement

Revision 1

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APFP Regulation 5(2)(f)

Contents

1 Introduction

1.1 Background

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

1.1.2 The Scheme falls under the Planning Act 2008 ('PA 2008') (Ref 1) 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.

1.1.3 The location of the Scheme is shown on the **Location Plan [EN0110014/APP/2.1]**. The Order limits presented in the Location Plan comprise approximately 1,212.3 hectares (ha) of land (hereafter 'The Order Limits') and constitutes the maximum extent of land that will be required to facilitate the construction, operation, maintenance, and decommissioning of the Scheme.

1.1.4 Further details on the Scheme and the construction, operational and decommissioning phases can be located in **ES Volume 1, Chapter 4 – The Scheme [EN0110014/APP/6.1.4].**

1.1.5 The Scheme is described in Schedule 1 of the **draft Development Consent Order (DCO) [EN0110014/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 Plans [EN0110014/APP/2.3]**.

1.1.6 The Scheme comprises the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating station with a total capacity exceeding 100 megawatts (MW) and associated development including a Battery Energy Storage System (BESS), up to three 132kV Project Substations and up to three 400kV Project Substations, Grid Connection Infrastructure and a new National Grid Substation.

1.1.7 This Statement sets out appropriate mitigation measures to ensure that the Scheme has no significant effects that would give rise to a statutory nuisance. It is not anticipated that the construction, operation and maintenance, and decommissioning of the Scheme would cause statutory nuisance.

1.2 Purpose and Structure of this Statement

1.2.1 The Scheme is considered to be 'EIA development' as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (Ref 2Ref 2) (the 'EIA Regulations') requiring an Environmental Impact Assessment.

1.2.2 As such this Statement has been prepared to satisfy Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (Ref 3Ref 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 (EPA) 1990 (Ref 4), and if so how the applicant proposes to mitigate or limit them'.

1.2.3 The matters in Section 79(1) of the Environmental Protection Act 1990 (the 'EPA') that have been considered within the Statement are general site condition, air quality waste, artificial light, and noise and vibration, during all phases of the Scheme.

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

- **ES Volume 1 [EN0110014/APP/6.1];**
- **Outline Construction Environmental Management Plan [EN0110014/APP/7.1];**
- **Outline Operational Environmental Management Plan [EN0110014/APP/7.2];**
- **Outline Decommissioning Environmental Management Plan [EN0110014/APP/7.3];**
- **Outline Soil Resource and Management Plan [EN0110014/APP/7.];**
- **Outline Battery Storage Safety Management Plan [EN0110014/APP/7.5];**
- **Outline Construction Traffic Management Plan [EN0110014/APP/7.6]; and**
- **Outline Operational Traffic Management Plan [EN0110014/APP/7.7].**

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

1.2.6 This Statement sets out appropriate mitigation measures to ensure that the Scheme has no significant effects that would give rise to a statutory nuisance during construction, operation, maintenance, and decommissioning.

1.2.7 Nonetheless, Article 7 (Defence to proceedings in respect of statutory nuisance) of the **Draft DCO [EN0110014/APP/3.1)** submitted with the Application, contains a provision that would provide a defence to proceedings in respect of statutory nuisance (in respect of sub-paragraph (g) of Section 79(1) of the EPA (noise emitted from premises so as to be prejudicial to health or a nuisance)), subject to the criteria set out in that article.

1.2.8 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 and maintenance, and decommissioning of the Scheme;
- **Section 4** assesses the risk of the identified matters causing a statutory nuisance; and
- **Section 5** sets out the conclusions of the assessment.

2 Legislative and Policy Context

2.1 The APFP Regulations 2009

2.1.1 Regulation 5(2) (f) of the APFP Regulations states that an application for a DCO must be accompanied by a *'statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them'.*

2.2 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 The Department for Environment, Food & Rural Affairs' Guidance titled *'Statutory nuisances: how councils deal with complaints'* states that for an issue to count as 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 statutory nuisance, the

courts will take in to account whether an activity is ongoing or repeated. A one-off event would not usually be considered a statutory nuisance.

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

2.3.1 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).

2.3.2 NPS EN-1 states, at paragraphs 4.15.1 to 4.15.4, that:

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

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

2.3.3 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 (see Section 5.7 on dust, odour, artificial light etc. and Section 5.12 on noise and vibration).

2.3.4 The **Policy Compliance Document [EN0110014/APP/7.15]** assesses the compliance of NPS EN-1 and the Scheme's wider compliance with both national and local planning policies.

3 Assessment of Significance

3.1 Introduction

3.1.1 The likelihood of significant effects arising from the Scheme which could constitute a statutory nuisance, as identified in Section 79(1) of the EPA, are assessed in **ES Volume 1 [EN0110014/APP/6.1.1 – 6.1.18].**

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 Section 4.1.

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

3.1.4 The Scheme is not anticipated to generate smoke and therefore this matter is not considered further within this Statement. With regards to unforeseen emergency situations, namely accidental fire, and emissions from a BESS fire, these are addressed in the **Outline Battery Safety Management Plan (OBSMP) [EN0110014/APP/7.5]** and **ES Volume 1, Chapter 13 - Air Quality [EN0110014/APP/6.1.13]** which accompany the Application.

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

3.1.5 This matter only applies to private dwellings, as provided for under Section 79(4) of the EPA. This matter is therefore not considered further within this Statement.

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

3.1.6 **ES Volume 1, Chapter 13 - Air Quality [EN0110014/APP/6.1.13]**, addresses potential air quality impacts including the matter of dust. The construction dust impact assessment for the Scheme is provided in **ES Volume 3, Appendix 13.1: Construction and Decommissioning Dust Risk Assessment [EN0110014/APP/6.3.13.1]**. Dust is therefore considered further in this Statement. With regards to steam, smell and other effluvia, the Scheme is not anticipated to result in any impacts from these identified matters and therefore these are not considered further within this Statement.

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

3.1.7 **ES Volume 1, Chapter 18 - Other Environmental Matters [EN0110014/APP/6.1.18]** considers the potential waste generated by the Scheme and its impacts. This matter is considered further in this Statement under Section 4.1, 'Condition of the Site'.

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

3.1.8 The Scheme will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance, though should consent be granted, grazing by sheep will be explored. Any grazing of livestock will be in accordance with good practice guidance for livestock welfare as secured within the **Outline Operational Environmental Management Plan (OOEMP) [EN0110014/APP/7.2]** accompanying the application; therefore, this is not considered further in this Statement.

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

3.1.9 **ES Volume 1, Chapter 8 - Ecology and Biodiversity [EN0110014/APP/6.1.8]** assesses that the cessation of intensive arable farming practices (particularly insecticide spraying) and reversion of land within the Scheme to grassland (for at least the lifetime of the Scheme), can be expected to result in increased diversity and abundance of invertebrates and invertebrate prey. This includes a number of pollinating butterfly and bee species which have been shown to have increased diversity and abundance in solar arrays compared to control plots. Given the large extent of habitat that will likely increase in quality, it concludes that the operational impacts of the Scheme will have beneficial effects on a range of invertebrates.

3.1.10 The Scheme is therefore likely to result in an increase in beneficial pollinating insect species. A significant increase in species that are prejudicial to human health or a nuisance is not anticipated. Therefore, this matter is not considered further within this Statement.

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

3.1.11 **ES Volume 1, Chapter 7 - Landscape and Visual [EN0110014/APP/6.1.7]** assesses the potential impacts of temporary construction lighting and operational security lighting. This matter is considered further in this Statement within Section 4.3.

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

3.1.12 **ES Volume 1, Chapter 12 - Noise and Vibration [EN0110014/APP/6.1.12]** assesses the potential noise impacts of the Scheme. This matter is considered further in this Statement within Section 4.4.

'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 **ES Volume 1, Chapter 12 - Noise and Vibration [EN0110014/APP/6.1.12]** assesses the potential noise impacts of the Scheme. This matter is considered further in this Statement within Section 4.4.

'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 **ES Volume 1, Chapter 18 - Other Environmental Matters [EN0110014/APP/6.1.18]**).

4 Matters Engaged and Proposed Mitigation Measures

4.1 Condition of the Site

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

4.1.2 The following represents a statutory nuisance:

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

Construction

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

- Site preparation and enabling/civil works;
- Installation of Solar PV Panels and arrays;
- Construction of the BESS;
- Construction of electrical infrastructure including project substations;
- Grid Connection Infrastructure activities, including construction of new pylons and removal of existing pylons;
- Fencing and security;
- Construction of the cable routes between the Sites and to the point of connection at the new National Grid substation (cables to be sited within the Cable Route Corridor [CRC]);
- Testing and commissioning of equipment; and
- Landscaping mitigation, planting and habitat creation.

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

4.1.5 Construction control mechanisms proposed include core working hours and traffic management, and these measures are set out in the **Outline**

Construction Environmental Management Plan (CEMP) [EN0110014/APP/7.1] and **Outline Construction Traffic Management Plan (OCTMP) [EN0110014/APP/7.6]** submitted with the Application. The **Outline CEMP [EN0110014/APP/7.1]** has been informed by the EIA and will guide the construction process through environmental controls to promote good construction practice and avoid adverse or nuisance causing impacts during the construction phase.

4.1.6 Following the granting of the DCO, a detailed Construction Environmental Management Plan (CEMP) will be prepared, agreed and approved by the relevant Local Planning Authorities in advance of commencing the enabling works permitted under the DCO. The detailed CEMP will be substantially in accordance with the **Outline CEMP [EN0110014/APP/7.1]**.

4.1.7 A strategy to deal with accidental pollution will be included within the detailed CEMP prior to commencement of construction. A high-level strategy is identified within the **Outline CEMP [EN0110014/APP/7.1].** Any necessary equipment (e.g. spillage kits) would be held on-site, and all site personnel would be trained in their use. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.

4.1.8 To control the waste generated during site preparation and construction, the contractor will separate the main waste streams on-site, prior to transport to an approved, licensed third party waste facility for recycling or disposal.

4.1.9 All waste to be removed from the Order Limits will be undertaken by fully licensed waste carriers and taken to licensed waste facilities for recycling or disposal.

4.1.10 The measures set out in the **Outline CEMP [EN0110014/APP/7.1]** are embedded in the Scheme design and the assessment of effects undertaken. The EIA assumes that those measures are implemented in full. Compliance with the **Outline CEMP [EN0110014/APP/7.1]** will be secured by Requirement 13 in the **draft DCO [EN0110014/APP/3.1]**.

4.1.11 With these measures in place, it is considered that the construction phase of the Scheme will not give rise to impacts which would constitute a statutory nuisance under Section 79(1) (a) or (e) of the EPA.

Operation

General Operational Maintenance

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

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

4.1.13 Along the CRC, operational activity will consist of routine inspections and any reactive maintenance such as where a cable has been damaged.

4.1.14 Such activity will not give rise to impacts which would constitute a statutory nuisance under section 79(1) (a) or (e).

Replacement Activities

4.1.15 During the anticipated 60-year operational life of the Scheme, it is expected that there will be requirement for periodic replacement of some of the electrical infrastructure.

4.1.16 It is not expected that an extensive replacement of all components will be required across the entirety of the Scheme during one period; instead, the programme for replacement of equipment across the Scheme is anticipated 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.

4.1.17 The assessments in the ES chapters confirm that, however the programme of replacements is conducted, the replacement activity would be considerably less intensive than during construction, and any environmental effects identified can be appropriately mitigated with similar measures to those identified for the construction of the Scheme.

4.1.18 Therefore, with reference to the construction and decommissioning sections within this document, such activity will not give rise to impacts which would constitute a statutory nuisance under section 79(1) (a) or (e).

Decommissioning

4.1.19 Decommissioning is expected to take between 12 and 24 months and will be undertaken in phases, and for the purposes of the assessment is expected to occur after the 60-year design life of the Scheme in 2091. The decommissioning of the Scheme is secured in Requirement 21 of the **Draft DCO [EN0110014/APP/3.1]**.

4.1.20 As with the construction phase of the Scheme, there is the potential for the decommissioning works to create pollution incidents such as spillages and also create litter and general waste which can constitute a nuisance under the EPA.

4.1.21 An **Outline Decommissioning Environmental Management Plan (DEMP) [EN0110014/APP/7.3]** is being submitted with the DCO Application. This will set out the general principles to be followed in the decommissioning phase of

the Scheme. Requirement 21 of the **draft DCO [EN0110014/APP/3.1]** provides that a detailed decommissioning environmental management plan should be prepared substantially in accordance with the **Outline DEMP [EN0110014/APP/7.3]** and approved by the relevant authorities at the time of decommissioning, in advance of the commencement of decommissioning works, and would include timescales and transportation methods. The detailed Decommissioning Strategy would ensure that decommissioning was undertaken safely and with regard to the environmental legislation at the time of decommissioning, including relevant waste legislation.

4.1.22 When the operation and maintenance phase ends, the Solar PV Sites would be decommissioned and the land returned to its original use and condition as far as practicable and returned to the landowner. All Solar PV Panels, mounting piles, inverters, transformers, switchgear, BESS and project substations would be removed from within the Solar PV and BESS Sites and recycled or disposed of in accordance with good practice and market conditions at that time. This will include the areas of agricultural land where the soil health, quality and structure may have improved, and the established habitats. Foundations and other below ground infrastructure will be cut to 1 m below the surface to enable future ploughing. Any piles would be removed. The National Grid Substation and the Grid Connection Infrastructure would remain in situ.

4.1.23 The mode of removing the cabling would be dependent upon government policy and good practice at the time. Currently, leaving the cables in situ is seen as the most environmentally acceptable option as it avoids disturbance to overlying land, habitats and neighbouring communities. Alternatively, the cables can be removed by opening up the ground at regular intervals and pulling the cable through the extraction point, leaving the ducting and jointing bays in place. This would avoid the need to open up the entire length of the cable route.

4.1.24 It is considered that the measures contained within the **Outline DEMP [EN0110014/APP/7.3]** will mean that decommissioning will not give rise to impacts which would constitute a statutory nuisance under Section 79(1) (a) or (e) of the EPA, during the decommissioning phase of the Scheme.

Conclusion

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

4.2 Air Emissions

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

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

4.2.2 An air quality assessment has been undertaken and is reported in **ES Volume 1, Chapter 13 - Air Quality [EN0110014/APP/6.1.13]**. This chapter of the ES presents the findings of the EIA, focusing on an assessment of the likely significant effects on air quality as a result of the Scheme. The air quality chapter concludes that there are no significant air quality effects during the operation and maintenance, construction and decommissioning of the Scheme.

Construction and Decommissioning

4.2.3 The **ES Volume 1, Chapter 13 - Air Quality [EN0110014/APP/6.1.13]** assesses the impact of construction and decommissioning on air quality. Construction dust generated from trackout (transportation of dust and dirt onto the public road network), earthworks and construction activities has the potential to adversely affect human health when airborne, and the potential to adversely affect people, property and sensitive ecological habitats through deposition and soiling.

4.2.4 The construction dust impact assessment for the Scheme, as outlined in **ES Volume 3, Appendix 13.1 – Construction and Decommissioning Dust Risk Assessment [EN0110014/APP/6.3.13.1]** has identified high sensitivity human receptors within the Study Area, including residential properties in surrounding villages.

4.2.5 The outcome of the dust risk assessment has identified that during the construction phase of the Scheme, the potential risk of dust soiling is high for earthworks, construction and trackout. The potential risk of human health impacts is medium for earthworks, construction and trackout.

4.2.6 In accordance with the Institute of Air Quality Management (IAQM) construction dust guidance, the construction dust risk assessments 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 **ES Volume 3, Appendix 13.1: Construction and Decommissioning Dust Risk Assessment [EN0110014/APP/6.3.13.1]** and have been incorporated into the **Outline CEMP [EN0110014/APP/7.1]**, which is secured by a requirement in the draft DCO. With the application of these measures, air quality effects of construction dust emissions are considered to be not significant.

4.2.7 As the predicted construction traffic flows would be below the change criteria in the Environmental Protection UK (EPUK) and IAQM development control guidance, air quality effects of construction vehicle emissions are considered to be not significant, when considering the Scheme alone.

4.2.8 **ES Volume 1, Chapter 13 - Air Quality [EN0110014/APP/6.1.13]** concludes that the likely effects on air quality associated with the decommissioning phase would be similar or less than those risks identified during the construction phase. As such, with the implementation of the relevant mitigation measures outlined within the **Outline DEMP [EN0110014/APP/7.3]**, the effect of dust emissions during the decommissioning phase is likely to be not significant.

Operation

4.2.9 Air quality effects from operational road traffic and combustion plant emissions have been scoped out of the assessment in **ES Volume 1, Chapter 13 - Air Quality [EN0110014/APP/6.1.13]** on the basis that movements are low. The nature of vehicle movements during the operational phase including the type and scale of maintenance activities, frequency, estimated number of vehicle movements are provided in the **Outline Operational Traffic Management Plan [EN0110014/APP/7.7]** (OOTMP). With the implementation of the relevant mitigation measures as outlined in the **Outline DEMP [EN0110014/APP/7.3]**, the effect of dust emissions during the operation, replacement and maintenance phase is likely to be not significant.

Conclusion

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

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'.

Construction and Decommissioning

4.3.2 Temporary site lighting would be used during construction to enable safe working during construction in hours of darkness or where natural lighting is unable to reach (such as sheltered/confined areas). Mobile lighting towers with a power output of 8 kilo volt-amperes (kVA) would be used for construction work, along with lighting at the construction compounds while construction is underway.

4.3.3 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, preferably at an angle greater than 20° from horizontal); and
- Lighting will be directed towards the middle of the Order Limits rather than towards the boundaries.

4.3.4 Measures to control lighting are set out in the **Outline CEMP [EN0110014/APP/7.1]**.

Operation

4.3.5 Lighting is not required within the Solar PV Sites during the operation phase of the Scheme, except during an emergency.

4.3.6 All routine maintenance and replacement activities would be scheduled for daylight hours as far as is practicable, and therefore it is anticipated that focused task specific lighting should only be required in the event of emergency works/equipment failure requiring night-time working or panel cleaning operations.

4.3.7 Components of the Scheme expected to have motion sensing lighting requirements are: the National Grid Substation, 132kV and 400 kV Project Substations and BESS . Motion sensing lighting will be used for maintenance and security purposes.

4.3.8 The lighting commitments for the operation phase are set out in the **Outline OEMP [EN0110014/APP/7.2]**, including details on lighting design such that light spill is anticipated to be minimal.

Conclusion

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

4.4 Noise and Vibration

4.4.1 A statutory nuisance can occur from:

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

4.4.2 Prolonged, excessive noise on a regular basis can constitute to a statutory nuisance given that it substantially interferes with the well-being, comfort or enjoyment of an individual's property.

4.4.3 A noise assessment has been undertaken and is reported in **ES Volume 1, Chapter 12 - Noise and Vibration [EN0110014/APP/6.1.12]**. This chapter focuses on an assessment of the likely significant effects on noise and vibration as a result of the Scheme. The noise and vibration assessment concludes that no significant noise or vibration effects are anticipated.

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

Construction and Decommissioning

4.4.5 **ES Volume 1, Chapter 12 – Noise and Vibration [EN0110014/APP/6.1.12]** predicts construction noise and vibration levels at all receptors will not be significant. Noise levels from horizontal directional drilling and vibration levels from vibratory rollers along localised sections of the CRC may be high for a short duration, but with appropriate mitigation and communication over the programme (as discussed below), noise is not considered to be prejudicial to health or a nuisance.

4.4.6 The worst-case for construction noise and vibration has been modelled, as if all Solar PV Sites were being built at the same time. In practice, this will not be the case as construction activity will move across the sites, so no individual receptor will be subject to the reported noise or vibration levels for the full construction period.

4.4.7 Noise and vibration effects during the decommissioning phase of the Scheme are anticipated to be similar or less than noise and vibration effects during the construction phase. The decommissioning works would likely be shorter in duration and less intensive, with fewer noise and vibration generating activities than the construction phase (for example, there will be no need for piling). It is assumed that the significance of effects during decommissioning will be equivalent, but no worse than for construction.

4.4.8 Construction and decommissioning noise and vibration levels at receptors will vary depending on the locations and types of works taking place. Residents nearby to these receptors are likely to be more tolerable if they are informed of the timings and the durations of the works.

4.4.9 Measures to control noise and vibration will be adopted where reasonably practicable. These embedded mitigation measures will be secured within the **Outline CEMP [EN0110014/APP/7.1]** for the construction phase and the **Outline DEMP [EN0110014/APP/7.3]** for the decommissioning phase.

4.4.10 Measures to be put in place to minimise noise and vibration include:

- Working hours agreed with the local planning authority will be adhered to, namely Monday to Friday from 07:00 to 18:00 (daylight hours permitting); Saturday from 08:00 to 13:30 (daylight hours permitting); and No Sunday or Bank Holiday working unless crucial to construction;
- Where practicable, construction deliveries would be coordinated to avoid HGV movements during the typical peak morning (08:00 to 09:00) and peak afternoon (17:00 to 18:00) hours;
- Contractors would be required to ensure that works are carried out in accordance with Best Practice Measures (BPM);
- The proposals in regard to general noise mitigation would be in accordance with BPM as specified in BS 5228 and would comprise the following, where possible:
  - Using 'silenced' plant and equipment, as appropriate.
  - Switching off engines where vehicles are standing for a significant period of time.
  - Fitting acoustic enclosures to suppress noisy equipment, as appropriate.
  - Operating plant at low speeds and incorporating automatic low speed idling.
  - Selecting less noisy equipment where practicable, such as: electrically-driven rather than internal combustion powered plant hydraulic powered rather than pneumatic equipment; and wheeled rather than tracked vehicles.
  - Properly maintaining all plant (greased, blown silencers replaced, saws kept sharpened, teeth set and blades flat, worn bearings replaced etc).
  - Where necessary and appropriate, use temporary screening or enclosures for static noisy plant to reduce impacts.

- Certifying plant to meet any relevant EC Directive standards.
- Undertaking awareness training of all contractors in regard to BS 5228 (Parts 1 and 2) as a prerequisite of their appointment.

- The precise locations and requirements for Horizontal Directional Drilling (HDD) works will only be confirmed once a principal contractor is appointed. To manage the risk of significant noise effects, particularly during potential night-time activity, a staged approach to mitigation will be applied in accordance with the **Outline CEMP [EN0110014/APP/7.1]**.

- To reduce noise propagation, temporary acoustic barriers will be installed around the HDD working area where appropriate. Where the screening fully obstructs line of sight between the source and receptors, reductions of approximately 5 to 10 dB may be achievable.

4.4.11 A construction noise monitoring scheme will be developed in line with the **Outline CEMP [EN0110014/APP/7.1]** and agreed with appropriate stakeholders following the appointment of a principal contractor and prior to commencement of construction works. The principles of the noise monitoring regime are set out in **Outline CEMP [EN0110014/APP/7.1]** accompanying the DCO application.

4.4.12 Requirements for monitoring during the decommissioning stages will be set out and agreed through the Decommissioning Environmental Management Plan (DEMP) which will be secured through Requirement 21 in the **Draft DCO [EN0110014/APP/3.1]**. An **ODEMP [EN0110014/APP/7.3]** is submitted with the DCO application. The noise monitoring scheme is expected to be similar to that for the construction phase.

4.4.13 Where necessary, the Applicant will submit an application for prior consent to carry out noisy work under Section 61 of the Control of Pollution Act (Ref 6) to demonstrate that noise and vibration has been minimised as far as reasonably practicable.

Operation

4.4.14 **ES Volume 1, Chapter 12 - Noise and Vibration [EN0110014/APP/6.1.12]** assesses noise and vibration 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.

4.4.15 The following embedded mitigation measures have been incorporated into the **Outline OEMP [EN0110014/APP/7.2]**:

- Solar inverters will only operate during daytime and early morning hours (between 04:00 hours and 07:00 hours) to reduce noise during night-time hours;

- A 4m high acoustic fence will be included around the BESS container;
- Reduced fan speed duty has been included in the assessment for BESS during night-time and early morning periods and is controlled via an automated timer system;
- Cooling fans associated with BESS Containers have been assumed as being orientated away from nearby receptors. The directivity of the containers provides localised screening and maximises directionality such that noise propagates away from receptors;
- Acoustic silencers, attenuators or acoustic enclosures have been included for the assessment of BESS Inverters to reduce sound levels at source;
- Inverters can be designed to mitigate tonal elements during the detailed design stage.

4.4.16 The Site layout has been designed to maximise the distance between work areas including BESS, 132kV substations, 400kV substations and the National Grid Substation to nearby noise sensitive receptors, which forms part of the embedded mitigation.

4.4.17 Further additional mitigation measures have been incorporated into the Scheme's design for the operational phase namely, the use of low-noise inverter models, acoustic enclosures, relocation or reorientation of plant, or installation of noise barriers, subject to further detailed design and assessment.

Conclusion

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

5 Conclusion

5.1.1 In accordance with Regulation 5(2) (f) of the APFP Regulations, this Statement has identified whether the Scheme has engaged one or more of the matters set out in Section 79(1) of the EPA and thus considered whether the Scheme would cause a statutory nuisance.

5.1.2 The matters in the EPA that have been engaged by the Scheme are general site condition, waste, air quality, artificial light, and noise and vibration, during all phases of the Scheme. The embedded design and mitigation measures identified in the ES are secured by requirements contained within the **draft DCO [EN0110014/APP/3.1]**.

5.1.3 It is therefore not envisaged that the construction, operation and maintenance, and decommissioning of the Scheme would give rise to any impacts that would constitute a statutory nuisance under Section 79(1) of the EPA.

References

Ref 1. H.M. Government (2008). The Planning Act 2008. Available at: Planning Act 2008. Accessed [16/10/2025].

Ref 2. H.M Government (2017). The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Available at: The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Accessed [16/10/2025].

Ref 3. H.M Government (2009). The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Available at: The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Accessed [16/10/2025].

Ref 4. H.M Government (1990). Environmental Protection Act 1990. Available at: Environmental Protection Act 1990. Accessed [16/10/2025].

Ref 5. Department for Energy Security and Net Zero (2025). Overarching National Policy Statement for energy (EN-1). Available at: Overarching National Policy Statement for Energy (EN-1) – December 2025. Accessed [12/01/2026].

Ref 6. H.M Government (1974). Control of Pollution Act 1974. Available at: Control of Pollution Act 1974. Accessed [16/10/2025].

Abbreviations

Abbreviation/Term	Definition
APFP	Applications: Prescribed Forms and Procedure
BESS	Battery Energy Storage System
CEMP	Construction Environmental Management Plan
CRC	Cable Route Corridor
DEMP	Decommissioning Environmental Management Plan
DCO	Development Consent Order
EIA	Environmental Impact Assessment
EPA	Environmental Protection Act
EPUK	Environmental Protection UK
ES	Environmental Statement
IAQM	Institute of Air Quality Management
kilo Volt-Amperes	kVA
MW	Megawatt
NPS EN-1	National Policy Statement for Energy
NSIP	Nationally Significant Infrastructure Project
OBSSMP	Outline Battery Storage Safety Management Plan
OCEMP	Outline Construction Environmental Management Plan
OCTMP	Outline Construction Traffic Management Plan
ODEMP	Outline Decommissioning Environmental Management Plan
OOEMP	Outline Operational Environmental Management Plan
PA	Planning Act
PV	Photovoltaic