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Tees CCPP Project

The Tees Combined Cycle Power Plant Project
Land at the Wilton International Site, Teesside

Statutory Nuisance Statement

Regulation – 5(2)(f)

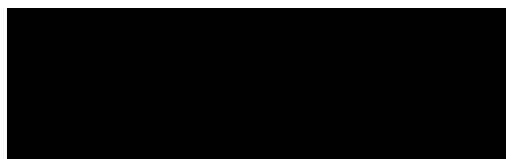
Applicant: Sembcorp Utilities UK
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Tees CCPP, Statutory Nuisance Statement:

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STATUTORY NUISANCE STATEMENT - EXECUTIVE SUMMARY

This Statutory Nuisance Statement has been prepared in accordance with Regulation 5(2) (f) of the *Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2014* (the 'APFP Regulations') as amended. These regulations require an applicant for a Development Consent Order (DCO) to provide a statement as to whether the application engages Section 79(1) (Statutory nuisances and inspections therefor) of the *Environmental Protection Act 1990* ('EPA 1990'). It accompanies the application for the Tees Combined Cycle Power Plant (CCPP) Order (the Application or Project), which involves the construction, operation and maintenance of a natural gas fired combined-cycle gas turbine (CCGT) generating station with an output capacity of up to 1,700 MWe.

This statement explains that, whilst it is not expected that the construction or operation of the Project would engage Section 79(1) of the EPA 1990 by causing statutory nuisances, the draft DCO (DCO reference document reference number 2.1) that accompanies the Application contains a provision at Article 9 to provide a defence to proceedings for statutory nuisance, should they be initiated against the applicant (or its successors) as undertakers under the DCO requirements.

As outlined in the EPA 1990, and according to guidance provided by DEFRA, potential statutory nuisances may include one or more of the following:

- noise;
- artificial light;
- odours;
- insects;
- smoke;
- dust;
- premises;
- fumes or gases;
- accumulations or deposits; and
- keeping of animals in such a place or manner as to be prejudicial to health or nuisance.

Without appropriate mitigation and controls, with the exception of 'keeping of animals', all of the above could potentially result from the construction, operation, maintenance and finally decommissioning of the Project. The Environmental Statement (ES) (DCO documents reference 6.1 to 6.3) has assessed the potential significant effects from a number of elements as specified by Section 79(1) of the EPA 1990 and concluded that the Application will not give rise to any significant adverse effects.

Any potential statutory nuisances would be controlled through the mitigation outlined in the ES and secured through the requirements outlined in Part 2 of Schedule 1 of the Draft DCO. The Project will operate under an

Environmental Permit (as stipulated by the *Environmental Permitting (England and Wales) Regulations 2016*), in addition to having to obtain other consents and licences. Compliance with the other regulatory requirements will further control the risk of statutory nuisance arising from the Project.

1 INTRODUCTION

1.1 OVERVIEW

1.1 This Statutory Nuisance Statement has been prepared in support of Sembcorp Utilities (UK) Limited ('Sembcorp') application for a DCO that has been made to the Planning Inspectorate (PINS) under Section 37 of the Planning Act 2008 (the PA 2008).

1.2 Sembcorp seeks a DCO for the construction, operation and maintenance of a natural gas fired CCGT generating station with an output capacity of up to 1,700 MWe.

1.3 The DCO, if granted, would be known as 'The Tees Combined Cycle Power Plant Order'.

1.2 THE PROPOSED DEVELOPMENT

1.4 The Project site is located on land at Wilton International, a major industrial complex located near Redcar in Teesside, northeast England as outlined in Part 1 of Schedule A of the Draft DCO application (DCO document reference 2.1).

1.5 The Application also includes ancillary and development associated with the power station pursuant to section 115 of the 2008 Act as outlined in Schedule 1 Part 1 of the DCO.

1.6 The DCO will include requirements regarding the approved plans, detailed design, construction methodology and other operational controls to ensure that the proposed development does not give rise to any adverse effects or statutory nuisances. These are set out in Part 2 of Schedule 1 to the DCO.

1.3 STATUTORY NUISANCE REPORT

1.7 Regulation 5(2) (f) of APFP Regulations states that an application for a DCO should be accompanied by a written statement that sets out whether the proposal could cause a statutory nuisance, as defined in the Environmental Protection Act 1990 (the 'EPA 1990'). If such a nuisance could occur, the statement must set out how the applicant proposes to mitigate or limit the effects.

1.8 The *Overarching National Policy Statement for Energy* EN-1 states that Section 158 of the PA 2008 confers statutory authority for carrying out development or other matters authorised by a DCO. 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 EPA 1990 (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised. The defence does not extinguish the local authority's duties under Part III of the EPA 1990 to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve an abatement notice where satisfied to its existence, likely occurrence or recurrence. The defence is not intended to extend to proceedings where the matter is 'prejudicial to health' and not a nuisance.

- 1.9 EN-1 goes on to state that it is very important that at the application stage, the Secretary of State (SoS) considers sources of nuisance under Section 79(1) of the EPA 1990 and how these may be mitigated or limited, so that appropriate 'requirements' can be included in any DCO that is granted.
- 1.10 Whilst it is not expected that the construction, operation, maintenance and decommissioning of the Project would cause a statutory nuisance, Article 9 of the draft DCO contains a provision that would provide a defence to proceedings for statutory nuisance should they be initiated against the applicant or any future operators.
- 1.11 This statement first describes the legislative context for the identification of matters which constitute a statutory nuisance and the methodology for the assessment of these. This is followed by a summary of the assessment of statutory nuisances, using information from the Environmental Statement (ES), including any relevant mitigation measures and residual effects, whether embedded within the design of the Project or secured through requirements within the DCO.

1.12 Section 79(1) of the EPA 1990 identifies the matters which are considered to be a statutory nuisance as follows:

- 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; and
 - 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; and
- H. any other matter declared by any enactment to be a statutory nuisance.

2.1 *ASSESSMENT OF SIGNIFICANCE*

1.13 The ES provides an assessment of the potential effects on receptors as being not significant, and of minor, moderate or major significance. Any impact of negligible magnitude is deemed not to have a significant effect for the purposes of the EIA.

1.14 The only matters addressed by the EPA 1990 which have been assessed as having the potential for significant effects for the Project are identified as air quality (construction dust and operational emissions), noise, visible plumes (for instance of water vapour from the stacks or coolers) and artificial lighting. However, it is demonstrated in this document that the Project would have no significant air quality, noise or artificial lighting nuisance effects following the

implementation of the identified mitigation measures that the Project has committed to implementing.

- 1.15 It is expected that for other potential nuisance aspects, either these will not arise for this type of project and/or the mitigation committed to by the Project will ensure no statutory nuisance effects are likely to occur.

3.1 AIR QUALITY

- 1.16 As set out in *Volume 1, Chapter 7* of the ES, with the proposed mitigation in place, residual air quality impacts from construction, operation and decommissioning of the Project are predicted to be not significant.
- 1.17 In terms of the potential for dust to generate a nuisance during construction according to the criteria, *Section 7.4.2 (Volume 1 of the ES)* shows that the Project is close to existing industrial areas (additionally the Project may be built in two phases whereby construction of the second phase could affect the operation of the first), and these facilities are sensitive to dust ingress and susceptible to damage due to ingress of dust. As a consequence dust mitigation from IAQM (2014) for 'High Risk' sites will be adopted, which will in turn ensure that more distant residential areas benefit from the same mitigation.
- 1.18 Dispersion modelling for operation concludes effects are not significant for the all pollutants. *Section 7.4.3 (Volume 1 of the ES)* shows that for the annual mean NO_x there are no significant effects on human health at any location. For the 1 hour NO_x mean, there is predicted to be a moderate impact at the maximum off-site location. However, due to the Predicted Environmental Concentration being well below 50% of the AQS, due to the low baseline, this is not considered to be significant.
- 1.19 No further mitigation measures are therefore required for operation over and above the base Project design, these being the use of a turbine that meets future BAT NO_x emissions of 30 mg/Nm³ and an appropriate stack height to ensure sufficient dispersion.
- 1.20 During operation, it is not considered that there will be any significant unmitigated issues associated with smells and effluent and these matters were not considered relevant for this type of project or given detailed consideration within the ES.
- 1.21 However, there remains a residual possibility that impacts capable of creating nuisances related to air quality could occur. These might arise:
- as a result of construction of the Project;
 - as a result of testing /commissioning activities and maintenance activities;
or
 - as a result of extraordinary or emergency emissions to air associated with the operation of the Project.
- 1.22 Such matters will be addressed through monitoring, inspection and, where it might be required, corrective actions.

3.2 NOISE

3.2.1 Construction Stage

1.23 As outlined in *Volume 1, Chapter 8* of the ES no significant effects are anticipated as a result of construction activities themselves. Likewise, no significant effect is predicted on any road link which is used by construction traffic.

1.24 Noise was modelled and assessed against British Standard (BS) 5228 for the construction of the plant. The results show that the levels at sensitive receptors are below the BS 5228 criterion of 65 dB LAeq and therefore no significant effects are expected as a result of construction activities.

1.25 Construction traffic was also assessed as not having the potential for significant adverse noise effects.

3.2.2 Operational Phase

1.26 For the operational phase noise was modelled and assessed against BS 4142 and BS8233 criteria.

1.27 The Project has the potential to result in noise impacts at the closest residential receptors to the site. These include Grangetown, Lazenby and Lackenby.

1.28 The most important potential impacts are from the operation of the Project which will result in noise from fixed equipment during the night when baseline noise levels are likely to be lowest.

1.29 Mitigation measures which are embedded in the Project design include:

- procuring low noise equipment (transformers, cooling tower fans etc); placing key external sources such as cooling towers as far from receptors as possible; and
- the retention of a noise barrier which provides noise reduction to residents in Lazenby and the provision of a noise barrier on the western site boundary to reduce noise at Grangetown.

1.30 There remains a residual possibility that impacts capable of creating a nuisance within the scope of sub-paragraphs (g) and (ga) could occur. These might arise as a result of operation of the Project. Such matters will be addressed through monitoring, inspection and, where it might be required, corrective actions, especially during the commissioning stages of the Project.

3.3 VISIBLE PLUMES

1.31 The project has the potential to result in the emission of visible plumes during operation. Normally, water vapour in the plume which is generated as a

combustion product will be in vapour phase as the plume temperature decreases. However, when ambient temperature is low or relative humidity is high water may condense into droplets forming visible plumes. The potential for visible plumes has been assessed using dispersion modelling, based upon the water content of the plume. The ADMS model has been used for this exercise, using the same set up as the Aermid model as report in *Chapter 7* of the Environmental Statement. The results show that visible plumes will occur rarely, less than 1% of the year, and when they do will rarely exceed the confines of the site boundary.

3.4 LIGHTING

- 1.32 As set out in *Volume I, Chapter 11* (Landscape and Visual Amenity) of the ES there is potential for project lighting to have a nuisance effect during construction and operation. It is predicted that these effects will not be significant.
- 1.33 All site lighting, during all phases of the Project, will be directed downwards and inwards to reduce light pollution off-site. The design of the lighting will provide the minimum safe level required for security and operational purposes. Lighting design will be undertaken for both construction and operation by a professional design engineer, in compliance with guidance issued by the Institution of Lighting Engineers *Guidance notes for the reduction of obtrusive light* (Institute of Lighting Engineers - GN01: 2011)) and the publication by Department for Communities and Local Government (DCLG) *Lighting in the Countryside: Towards Good Practice*.
- 1.34 Requirements included in Schedule 2 to the draft Order (DCO document reference 2.1) secure the approval and implementation of lighting schemes for the construction and operational stages. Site lighting for all stages of development has been assessed as not having a significant adverse effect on local amenity or other receptors.

- 1.35 This Statement identifies the matters set out in Section 79(1) of the EPA 1990 in respect of statutory nuisance and considers whether the Project could cause a statutory nuisance.
- 1.36 The only matters addressed by the EPA 1990 which have been assessed in the Environmental Impact Assessment (EIA) as having the potential for significant effects are air quality, noise, visible plumes and lighting. However, it has been demonstrated in *Section 4* of this document that the Project would have no significant air quality, noise or lighting nuisance effects following the implementation of the identified embedded mitigation measures.
- 1.37 The operation of the Project will be regulated by the Environment Agency (EA) through an Environmental Permit.
- 1.38 The draft DCO that accompanies the application contains a provision in Article 9 that would provide a defence to proceedings for statutory nuisance should they be initiated against the applicant or its successors as undertakers under the terms of the DCO.
- 1.39 However, it should be noted that, in any event, the provisions of Article 9 of the draft DCO do not provide an absolute defence. To benefit from the defence it is necessary to have in place and to successfully operate the appropriate mitigation and management systems as described in this Statement, in the draft DCO, and in the ES, which have been submitted as part of the Application.

Mitigation measures for the Project will be secured by the appropriate DCO requirements. As a result, it is not expected that the construction, operation or decommissioning of the Project would engage Section 79(1) and give rise to any statutory nuisance under the EPA 1990, following the implementation of appropriate mitigation.

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