



# SUNNICA ENERGY FARM

EN010106

Volume 7

7.5 Statutory Nuisance Statement

APFP Regulation 5(2)(f)

Planning Act 2008

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



Planning Act 2008

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

**Sunnica Energy Farm**

7.5 Statutory Nuisance Statement

|   |                                  |
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| <b>Regulation Reference:</b>                  | Regulation 5(2)(f)               |
| <b>Planning Inspectorate Scheme Reference</b> | EN010106                         |
| <b>Application Document Reference</b>         | EN010106/APP/7.5                 |
| <b>Author</b>                                 | Sunnica Energy Farm Project Team |

| <b>Version</b> | <b>Date</b>      | <b>Status of Version</b> |
|----------------|------------------|--------------------------|
| Rev 00         | 18 November 2021 | Application Version      |

## Executive summary

This Statutory Nuisance Statement (Statement) has been prepared on behalf of Sunnica Limited (the Applicant) in relation to an application for a Development Consent Order (DCO) submitted to the Planning Inspectorate, with the decision whether to grant a DCO being made by the Secretary of State for Business, Energy and Industrial Strategy (Secretary of State) pursuant to the Planning Act 2008.

The Applicant is seeking development consent for the construction, operation (including maintenance) and decommissioning of the Sunnica Energy Farm (the Scheme), which will deliver electricity to the national electricity transmission network. The Applicant is proposing to install ground mounted solar photovoltaic (PV) panel arrays to generate electrical energy from the sun and combine these with a Battery Energy Storage System (BESS). Electricity will be generated at four sites: Sunnica East Site A, near Isleham in Cambridgeshire; Sunnica East Site B, near Worlington and Freckenham in Suffolk; Sunnica West Site A near Chippenham and Kennett in Cambridgeshire; and Sunnica West Site B, near Snailwell in Cambridgeshire (together referred to as the Sites). The Sites will connect to Burwell National Grid Substation, near Burwell in Cambridgeshire and an extension to the substation is proposed to provide this connection.

The Scheme is defined as a Nationally Significant Infrastructure Project (NSIP) and will require a Development Consent Order (DCO) from the Secretary of State for Business, Energy and Industrial Strategy, due to its generating capacity exceeding 50 megawatts (MW). As such this Statement has been prepared to satisfy Regulation 5(2)(f) of the APFP 2009, which requires an application for a DCO to be accompanied by “*a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them*”.

The matters in Section 79(1) of the Environmental Protection Act 1990 (EPA) that have been considered within this Statement are general site condition, air quality, artificial light, and noise and vibration, during all phases of the Scheme. 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 therefore demonstrated that no statutory nuisance effects are considered likely to occur.

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# 1 Introduction

## 1.1 Introduction

- 1.1.1 This Statutory Nuisance Statement (the Statement) has been prepared on behalf of Sunnica Limited (the Applicant) in relation to an application for a Development Consent Order (DCO) submitted to the Planning Inspectorate, with the decision whether to grant a DCO being made by the Secretary of State for Business, Energy and Industrial Strategy (Secretary of State) pursuant to the Planning Act 2008.
- 1.1.2 The Applicant is seeking development consent for the construction, operation (including maintenance) and decommissioning of Sunnica Energy Farm (the Scheme). The Scheme is a new solar energy farm that will deliver electricity to the national electricity transmission network. The Applicant is proposing to install ground mounted solar photovoltaic (PV) panel arrays to generate electricity energy from the sun and combine these with a Battery Energy Storage System (BESS). Electricity will be generated at four sites: Sunnica East Site A, near Isleham in Cambridgeshire; Sunnica East Site B, near Worlington and Freckenham in Suffolk; Sunnica West Site A near Chippenham and Kennett in Cambridgeshire; and Sunnica West Site B, near Snailwell in Cambridgeshire (referred to together as the Sites). The Sites will connect to Burwell National Grid Substation, near Burwell in Cambridgeshire and an extension to the substation is proposed to provide this connection.

## 1.2 Purpose and Structure of the Statutory Nuisance Statement

- 1.2.1 This Statutory Nuisance Statement is part of a suite of documents which must accompany the DCO Application pursuant to Section 55 of the Planning Act 2008 and Regulation 5 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP 2009).
- 1.2.2 The Statement has been prepared in accordance with Regulation 5(2)(f) of the APFP 2009, which requires that an applicant for a DCO provides a statement setting out whether the development proposal could cause a statutory nuisance pursuant to Section 79(1) of the Environmental Protection Act 1990 (EPA). If such a nuisance could occur, the statement must set out how the applicant proposes to mitigate or limit the effects.
- 1.2.3 This Statement is produced in the context that Section 158 of the Planning Act 2008 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.
- 1.2.4 Whilst it is not expected that the construction, operation, maintenance and decommissioning of the Scheme would cause a statutory nuisance, it is further noted that article 7 in Part 2 of the draft Development Consent Order **[EN010106/APP/3.1]** contains “a defence to proceedings in respect of statutory nuisance (in respect of sub-paragraph (g) of Section 79(1) of the Environmental Protection Act” subject to the criteria set out in that article..
- 1.2.5 This Statement is structured as follows:

- a) Chapter 1: Introduction
- b) Chapter 2: Legislative and policy context
- c) Chapter 3: Assessment of Significance
- d) Chapter 4: Proposed Mitigation Measures – Potentially Significant Impacts
- e) Chapter 5: Conclusion

## 2 Legislative and Policy Context

### 2.1 Environmental Protection Act 1990

2.1.1 Section 79(1) of the EPA 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;]*

*[(faa) any insects emanating from 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;]*

*[(fba) artificial light emitted from—*

*(i) premises;*

*(ii) any stationary object,*

*so as to be prejudicial to health or a nuisance;]*

*g) noise that is prejudicial to health or a nuisance;*

*[(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street [or in Scotland, road];]*

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



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

2.2.1 Regulation 5(2)(f) of the APFP 2009 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 the*”.

## **2.3 Overarching National Policy Statement for energy EN-1**

2.3.1 Paragraph 4.14.1 of the “Overarching National Policy Statement for energy EN-1” states that: “*Section 158 of the Planning Act 2008 confers statutory authority for carrying out development 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 defence for proceedings for nuisance under Part III of the EPA (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised. The defence does not extinguish the local authority’s duties under Part III of the EPA to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve 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.*”

2.3.2 Paragraph 4.14.2 states that “*It is very important that, at the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the 1990 Act and how they may be mitigated or limited are considered by the IPC so that appropriate requirements can be included in any subsequent order granting development consent*”.

### **Draft National Policy Statements**

2.3.3 The Government is currently reviewing and updating the Energy NPSs. It is doing this in order to reflect its policies and strategic approach for the energy system that is set out in the Energy White Paper (December 2020), and to ensure that the planning policy framework enables the delivery of the infrastructure required for the country’s transition to net zero carbon emissions. As part of the Energy NPS review process, the Government published a suite of Draft Energy NPSs for consultation on 6 September 2021. Section 4.14 of Draft Overarching National Policy Statement for Energy (EN-1) (Draft NPS EN-1) sets out the principles for common law nuisance and statutory nuisance which mirrors Section 4.14 of NPS EN-1.

### 3 Assessment of Significance

#### 3.1 Summary of Matters Engaged

- 3.1.1 The Environmental Statement (ES) [EN010106/APP/6.1] accompanying this DCO application addresses the likelihood of significant effects arising that could constitute a statutory nuisance as identified in Section 79(1) of the EPA.
- 3.1.2 Table 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 in EPA Section 79(1)**

| EPA Section 79(1) Matter   | Matter engaged?  |
|--|--|
| (a) any premises in such a state as to be prejudicial to health or a nuisance  | This matter is considered further in 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 considered relevant to this Statement.  |
| (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 clarified by EPA Section 79(4). This matter is therefore not considered further within the Statement.  |
| (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 this Statement in relation to dust. The Scheme is not anticipated to have any impact on steam, smell or other effluvia therefore, this is 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 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. Grazing livestock (sheep) will be kept in accordance with good practice guidance for livestock welfare; therefore, this is not considered further within the Statement. |
| (fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance                | The construction, operation (including maintenance) and decommissioning of the Scheme will not emanate any insects; therefore, this is not considered further within the Statement.  |
| (faa) any insects emanating from premises and being prejudicial to health or a nuisance  | No insects are expected to emanate from the Scheme; therefore, this is not considered further within the Statement.  |

| EPA Section 79(1) Matter  | Matter engaged?                                      |
|---|--|
| (fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance   | This matter is considered further in this Statement. |
| (g) noise that is prejudicial to health or a nuisance   | This matter is considered further in this Statement  |
| (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 this Statement  |
| (h) any other matter declared by any enactment to be statutory nuisance   | No other matters                                     |

## 4 Matters engaged and proposed mitigation measures

### 4.1 Condition of the Site – EPA Section 79(1)(a) & (e)

4.1.1 This section considers the risk of the condition of the site causing a statutory nuisance.

4.1.2 Part (a) of Section 79 refers to this as, “*any premises in such a state as to be prejudicial to health or a nuisance*”. Part (e) of Section 79 refers to it as, “*any accumulation or deposit which is prejudicial to health or a nuisance*”.

#### **Construction and Decommissioning**

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

- a) Site preparation and civil works;
- b) Solar PV array construction;
- c) Construction of onsite electrical infrastructure;
- d) Construction of cable routes;
- e) Testing and commissioning; and
- f) Landscape and habitat creation.

4.1.4 During decommissioning all equipment and onsite electrical infrastructure will be removed and recycled or disposed of in accordance with environmental good practice and market conditions at that time. The 132kV cables along the cable route and the Burwell National Grid Substation Extension will remain in situ following decommissioning of the main sites.

4.1.5 These works have the potential to create pollution incidents such as spillages and also create litter and general waste which can constitute a nuisance under the EPA.

4.1.6 Construction control mechanisms proposed include core working hours, traffic management, and the Framework Construction Environmental Management Plan (CEMP) in **Appendix 16C** of the ES [EN010106/APP/6.2]. The Framework CEMP has been developed as part of the EIA and will guide the construction process through environmental controls in order to promote good construction practice and avoid adverse or nuisance causing impacts during the construction phase.

4.1.7 The Framework CEMP provides that control measures will be brought forward that are commonly included in such documents, such as a Construction Resource Management Plan (CRMP) and Pollution Prevention Plans.

4.1.8 In order to control the waste generated on-site 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 Prior to the construction works commencing, a CRMP will be prepared by the contractor, which will specify the waste streams to be estimated and monitored and goals set with regards to the waste produced. The CRMP will be finalised with specific measures to be implemented prior to the start of construction, in accordance with the Framework CEMP.
- 4.1.10 All waste to be removed from the Order limits will be undertaken by fully licensed waste carriers and taken to licensed waste facilities for recycling or disposal.
- 4.1.11 The measures set out in the Framework CEMP 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 Framework CEMP will be secured by requirement in the DCO.
- 4.1.12 With these measures in place it is considered that the construction and decommissioning phases of the project will not give rise to impacts which would constitute a statutory nuisance under Section 79(1) (a) or (e).

### **Operation**

- 4.1.13 It is considered that the operation of the Scheme in its built form, as a solar farm, with related infrastructure, will not in itself cause the 'premises' within the Order limits, to be in 'such a state' as to be prejudicial to health or nuisance.
- 4.1.14 During the operational phase, maintenance activity within the Scheme will be minimal and will be restricted principally to vegetation management, equipment maintenance and servicing, replacement of any components that fail, and monitoring. It is anticipated that maintenance and servicing would include the inspection, removal, reconstruction, refurbishment or replacement of faulty or broken equipment and adjusting and altering the solar module orientation to ensure the continued effective operation of the Scheme and improve its efficiency.
- 4.1.15 This phase of the Scheme will not give rise to impacts which would constitute a statutory nuisance under Section 79(1) (a) or (e).

### **Conclusion**

- 4.1.16 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 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 Part (d) of Section 79 refers to, "*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 was undertaken as part of the EIA and reported in **Chapter 14: Air Quality** of the Environmental Statement [EN010106/APP/6.1].

The chapter assessed the significance of potential air quality effects during the construction and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant effects in terms of the EIA Regulations.

## Construction and Decommissioning

- 4.2.3 During construction there is the potential for emissions of dust and particles due to the following:
- a) Earthworks (e.g. soil stripping, excavation etc.);
  - b) Construction; and
  - c) Track-out (movement of mud and soil out of the site by construction vehicles).
- 4.2.4 Engine exhaust emissions from construction ‘non-road mobile machinery’ (NRMM) have the potential to affect local air quality. Emissions from NRMM will be temporary and localised and will be controlled through good-practice mitigation measures, pursuant to the Framework CEMP. For this reason and that no unusual plant or machinery will be used, construction phase NRMM emissions will not be significant and, therefore, these emissions have not been modelled or considered further in the Environmental Statement.
- 4.2.5 Mitigation measures provided for by the Framework CEMP will be effectively implemented meaning that no significant dust effects resulting from excavation and construction activities are anticipated beyond the Order limits.
- 4.2.6 The adoption of good site practice will be implemented through measures to control dust as outlined within the Institute of Air Quality Managements (IAQM) ‘Guidance on the assessment of Dust from Demolition and Construction’ document that are appropriate for the level of risk identified in the assessment and the construction phase activities, secured through the Framework CEMP.
- 4.2.7 Mitigation measures appropriate to the assessed level of risk of dust nuisance will be implemented as set out below. These are considered to be embedded mitigation, as they are required in order to ensure no off-site impacts from dust and represent good industry practice that are part of the Scheme design.
- 4.2.8 Identified measures will be set out in the Framework CEMP for the Scheme presented in **Appendix 16C: CEMP** of the Environmental Statement **[EN010106/APP/6.2]** and are summarised in Table 4-1: Air Quality Mitigation Measures below.

**Table 4-1: Air Quality Mitigation Measures**

| Activity       | Mitigation Measure   |
|----------------|--|
| 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 Order limits. This may be the environment manager/engineer or the site manager. |

| Activity                           | Mitigation Measure   |
|------------------------------------|--|
|                                    | <p>Display the head or regional office contact information.</p> <p>Develop and implement a Dust Management Plan (DMP), which may include measures to control other emissions, approved by the Local Authority. The level of detail will depend on the risk and should include as a minimum the highly recommended measures in this document. The desirable measures should be included as appropriate for the site. The DMP may include monitoring of dust deposition, dust flux, real-time PM<sub>10</sub><sup>1</sup> continuous monitoring and/or visual inspections.</p>   |
| Site Management                    | <p>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.</p> <p>Make the complaints log available to the local authority when asked.</p> <p>Record any exceptional incidents that cause dust and/or air emissions, either on- or offsite, and the action taken to resolve the situation in the logbook.</p> <p>Hold regular liaison meetings with other high-risk construction sites within 500 m of the Order limits (if applicable), 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.</p>   |
| Monitoring                         | <p>Undertake daily inspection, where receptors (including roads) are nearby, to monitor dust, record inspection results, and make the log available to the local authority when asked. This should include regular dust soiling checks of surfaces [within publicly available land] within 100 m of the Order limits, with cleaning to be provided if necessary.</p> <p>Carry out regular site inspections to monitor compliance with the DMP, record inspection results, and make an inspection log available to the local authority when asked.</p> <p>Increase the frequency of site inspections by the person accountable for air quality and dust issues on-site when activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions.</p> <p>Agree dust deposition, dust flux, or real-time PM<sub>10</sub> continuous monitoring locations with the Local Authority. Where possible commence baseline monitoring at least three months before work commences on-site or, if it a large site, before work on a phase commences. Further guidance is provided by IAQM on monitoring during demolition, earthworks and construction which will be adhered to through the Framework CEMP.</p> |
| Preparing and Maintaining the Site | <p>Plan site layout so that machinery and dust causing activities are located away from receptors, as far as is possible.</p> <p>Erect solid screens or barriers around dusty activities that are at least as high as any stockpiles on-site where stockpiles are within 100 m of receptors.</p>   |

<sup>1</sup> An air pollutant consisting of small particles with an aerodynamic diameter less than or equal to a nominal 10 micrometer.

| Activity  | Mitigation Measure  |
|---|---|
|   | Fully enclose site or specific operations where there is a high potential for dust production and the site is active for an extensive period where operations are within 100 m of receptors.  |
|   | Avoid site runoff of water or mud.  |
|   | Keep site fencing, barriers and scaffolding clean using wet methods.  |
|   | Remove materials that have a potential to produce dust from the Order limits 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 vehicles switch off engines when stationary - no idling vehicles.  |
|   | 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 15 mph on surfaced and 10 mph 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 authority, where appropriate). |
|   | Produce a Construction Logistics Plan to manage the sustainable delivery of goods and materials.  |
|   | Implement a Construction Travel Worker Plan that supports and encourages sustainable travel (public transport, cycling, walking, and car-sharing).  |
| 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 possible and 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                                    | Avoid bonfires and burning of waste materials.  |

**Table 4-2: Activity Specific Mitigation Measures**

| Activity   | Mitigation Measure   |
|------------|--|
| Earthworks | Re-vegetate earthworks and exposed areas/soil stockpiles to stabilise surfaces as soon as practicable. |



| Activity     | Mitigation Measure   |
|--------------|--|
|              | <p>Use Hessian, mulches or tackifiers where it is not possible to re-vegetate or cover with topsoil, as soon as practicable.</p> <p>Only remove the cover in small areas during work and not all at once.</p>  |
| Construction | <p>Avoid scabbling (roughening of concrete surfaces) if possible.</p> <p>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.</p> <p>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 overflowing during delivery.</p> <p>For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.</p>   |
| Track-out    | <p>Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the site. This may require the sweeper being continuously in use.</p> <p>Avoid dry sweeping of large areas.</p> <p>Ensure vehicles entering and leaving sites are covered to prevent escape of materials during transport.</p> <p>Inspect on-site haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable.</p> <p>Record all inspections of haul routes and any subsequent action in a site logbook.</p> <p>Install hard surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned.</p> <p>Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable).</p> <p>Ensure there is an adequate area of hard surfaced road between the wheel wash facility and the site exit, wherever site size and layout permits.</p> <p>Access gates to be located at least 10 m from receptors where possible.</p> |

4.2.9 Following implementation of the CEMP, which will incorporate the mitigation measures outlined above, the effect on ecology, dust deposition, and human health has been assessed to be not significant.

4.2.10 An assessment of the effect of road traffic emissions on local air quality during the construction phase shows that there is no significant impact on air quality during construction.

- 4.2.11 The effects on air quality are anticipated to be negligible and not significant.
- 4.2.12 The decommissioning phase will be similar in nature, duration, and extent to the construction phase, albeit likely to be shorter and of lower magnitude due to the small amount of decommissioning required; it has therefore not been necessary to separately assess this phase and the effects for assessment purposes are assumed on a conservative basis to therefore be the same as the construction phase. Therefore, the mitigation measures proposed for implementation during the construction phase will be appropriate for application to decommissioning. A DEMP (Decommissioning Environmental Management Plan) will be prepared for the Scheme. The Framework DEMP is available in **Appendix 16E: DEMP** of the Environmental Statement **[EN010106/APP/6.2]**. No significant impacts are therefore predicted to occur during the decommissioning phase.

### **Operation**

- 4.2.13 No major air quality sources are envisaged to be introduced as part of the Scheme and as such there will be no associated operational air quality effects. No further assessment of operational air quality has been included in the ES.
- 4.2.14 It is not expected that operational development traffic would result in significant increases in local road traffic air quality concentrations as there would be a very low number of staff required to visit site for maintenance purposes.
- 4.2.15 No likely significant effects on air quality are therefore predicted during the operational phase of the Scheme.

### **Conclusion**

- 4.2.16 For the reasons explained above and with implementation of the above measures no significant effects are expected to occur in relation to air quality matters in EIA terms, including in relation to the health of human receptors, as set out in **Chapter 14: Air Quality** and **Chapter 15: Human Health and Wellbeing Impact Assessment** of the Environmental Statement **[EN010106/APP/6.1]**.
- 4.2.17 In consequence, and for the same reasons, no claim against statutory nuisance is envisaged in respect of a statutory nuisance under section 79(1) (d).

## **4.3 Artificial Light**

- 4.3.1 Part (fb) of Section 79 refers to, “*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 interferes with the wellbeing, comfort, or enjoyment of an individual’s property. Usually this would mean that lights were causing a nuisance on a regular basis. Artificial lights may cause a nuisance if they are not maintained or used properly.
- 4.3.3 The effects of Glint and Glare are not covered by statutory nuisance legislation, which does not cover natural light. These effects are however assessed in detail within **Chapter 16: Other Environmental Topics** of the Environmental Statement **[EN010106/APP/6.1]** and no significant effects are identified, with embedded mitigation measures taken into account.

## Construction and Decommissioning

- 4.3.4 Construction temporary site lighting, in the form of mobile lighting towers, will be required in areas where natural lighting is unable to reach (sheltered/confined areas), and during core working hours within winter months.
- 4.3.5 Artificial lighting will be provided to maintain sufficient security and health and safety for the construction site, whilst adopting mitigation principles to avoid excessive glare, and minimise spill of light to nearby receptors (including ecology and residents), outside of the Order limits as far as reasonably practicable.
- 4.3.6 In accordance with the Framework CEMP, all construction lighting will incorporate the following recommendations to prevent or reduce the impact on human and ecological receptors:
- a) The use of lighting will be minimised to that required for safe site operations;
  - b) 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
  - c) Lighting will be directed towards the middle of the construction site rather than towards the boundaries.

## Operation

- 4.3.7 During operation, permanent lighting with motion sensors will be installed within the substations and BESS compounds. No area of the compound will be continuously lit during operation. Lighting is controlled by the Framework Operational Environmental Management Plan (OEMP). The closed circuit television (CCTV) system will utilise infra-red lighting. Therefore, there will be no lighting at the perimeter of the Sites and no potential for a statutory nuisance.

## Conclusion

- 4.3.8 For the reasons explained above and with the implementation of the above mitigation measures no claim against statutory nuisance is envisaged in respect of statutory nuisance under Section 79(1) (g)g and (ga).

## 4.4 Noise and Vibration – EPA Section 79(1)(g) & (ga)

- 4.4.1 Part (g) of Section 79 refers to “*noise that is prejudicial to health or a nuisance*”.
- 4.4.2 Part (ga) of Section 79 refers to “*noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street*”.
- 4.4.3 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.
- 4.4.4 An assessment of noise and vibration impacts was undertaken as part of the EIA and reported in **Chapter 11: Noise and Vibration** of the Environmental Statement [EN010106/APP/6.1]. The chapter assessed the significance of

potential noise and vibration effects during the construction, operational and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant noise or vibration effects in terms of the EIA Regulations.

- 4.4.5 The elements relevant to section 79(1) are those relating to noise emitted from premises (which includes land) and from vehicles, machinery and equipment in a street. Traffic noise is specifically excluded from consideration by section 79 (6A) (a) and is not considered further.

### **Construction and Decommissioning**

- 4.4.6 Construction noise levels will vary, depending upon the construction activities across the Order limits. The construction activities considered to be those with the most potential to result in adverse noise and vibration effects which may lead to nuisance are heavy grounds works (excavation and push piling), in close proximity to surrounding receptors.
- 4.4.7 Measures to control noise and vibration will be adopted. These measures represent Best Practicable Means and are included as embedded mitigation within the Framework CEMP (see **Appendix 16C** of the Environmental Statement [EN010106/APP/6.2]) and will be able to be included in a DEMP which will be prepared prior to the decommissioning phase. The Framework DEMP is available in **Appendix 16E: DEMP** of the Environmental Statement [EN010106/APP/6.2].
- 4.4.8 The construction contractor will follow Best Practicable Means to minimise the noise impact upon the local sensitive receptors. These are likely to involve the following as appropriate:
- a) Unnecessary revving of engines will be avoided, and equipment will be switched off when not in use;
  - b) Appropriate routing of construction traffic on public roads and along access tracks;
  - c) Drop heights of materials will be minimised;
  - d) Plant and vehicles will be sequentially started up rather than all together;
  - e) Where practicable use of mobile barriers, enclosures, and/or using local screening (e.g. existing buildings, land features) to partially attenuate sound propagation from equipment;
  - f) Plant will always be used in accordance with manufacturers' instructions. Care will be taken to site equipment away from noise-sensitive areas. Where possible, loading and unloading will also be carried out away from such areas; and
  - g) Regular and effective maintenance by trained personnel will be undertaken to keep plant and equipment working to manufacturer's specifications.

- 4.4.9 A construction noise mitigation and monitoring scheme shall be developed and agreed with appropriate stakeholders prior to commencement of construction works as part of the Section 61 consent application process. Requirements for monitoring during the decommissioning stages will be outlined in the DEMP (see **Appendix 16E: DEMP** of the Environmental Statement [EN010106/APP/6.2]).
- 4.4.10 Core construction working hours will run from 07:00 to 19:00 Monday to Saturday, with working days as one 12-hour shift, with employees travelling to and from the Order limits outside of these times. Where on-site works are to be conducted outside the core working hours, they will comply with the restrictions stated in the relevant detailed CEMP, and any other restrictions agreed with the relevant planning authorities.
- 4.4.11 Noise effects during the decommissioning phase of the Scheme will be similar or less than noise effects during the construction phase. The noise assessment presented within the ES for the construction phase is therefore considered representative (or an overestimate) of the decommissioning phase. As such a separate assessment for noise from the decommissioning phase is not included.

### **Operation**

- 4.4.12 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..
- 4.4.13 At this stage no specific noise mitigation measures have been included for operational plant. However, based on the proposed plant installations it is assumed that plant will be designed and selected to have no tonal, impulsive or intermittent features.

### **Conclusion**

- 4.4.14 For the reasons explained above and with these mitigation measures in place, the construction, operation and decommissioning phases of the Scheme no significant effects are expected to occur in relation to noise and vibration matters in EIA terms, including in relation to the health of human receptors, as set out in **Chapter 11: Noise and Vibration** and **Chapter 15: Human Health and Wellbeing Impact Assessment** of the Environmental Statement [EN010106/APP/6.1].
- 4.4.15 In consequence, and for the same reasons, will not give rise to impacts which would constitute a statutory nuisance under section 79(1) (g) and (ga).

## 5 Conclusion

### 5.1 Potential for Nuisance

- 5.1.1 In line with Regulation 5(2)(f) of the APFP 2009, 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 could cause a statutory nuisance.
- 5.1.2 The matters in the EPA that have been engaged by the Scheme are general site condition, air quality, artificial light, and noise and vibration, during all phases of the Scheme. Section 4 of this Statement sets out appropriate mitigation measures to ensure that the Scheme would have no significant effects and would not give rise to a statutory nuisance.
- 5.1.3 It is therefore demonstrated that no statutory nuisance effects are considered likely to occur.