Longfield Solar Farm

Other Documents [PINS Ref: EN010118]

Statutory Nuisance Statement

EN010118/APP/7.5

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Longfield Solar Energy Farm Ltd

APFP Regulation 5(2)(f)

Planning Act 2008

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

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Executive Summary

This Statutory Nuisance Statement (Statement) has been prepared on behalf of Longfield Solar Energy Farm 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 and maintenance, and decommissioning of a solar photovoltaic (PV) array electricity generating facility, electrical storage facility, with export connection to the National Grid Electricity Transmission (NGET), including an extension of the existing Bulls Lodge Substation (known as Longfield Solar Farm, or the Scheme).

The Scheme is defined as a Nationally Significant Infrastructure Project (NSIP) and will require a DCO from the Secretary of State 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 Regulations, which requires an application for a DCO to be accompanied by *"a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them"*.

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.

1. Introduction

1.1 Introduction

1.1.1 This Statutory Nuisance Statement (the Statement) has been prepared by Longfield Solar Energy Farm Limited (the Applicant) as part of an application for a Development Consent Order (DCO) for Longfield Solar Farm The Scheme falls under the Planning Act 2008 and is classified as a Nationally Significant Infrastructure Project (NSIP) and requires an application for a DCO. The application for a DCO (the Application) is submitted to the Planning Inspectorate, on behalf of the Secretary of State for Business, Energy and Industrial Strategy (the Secretary of State), with the decision on whether to grant a DCO being made by the Secretary of State pursuant to the Planning Act 2008.

1.1.2 The Application is for the construction, operation (and maintenance), and decommissioning of a solar photovoltaic (PV) array electricity generating facility, Battery Energy Storage System (BESS) and export connection to the national electricity transmission network (NETS), including extension of the existing Bulls Lodge Substation (the Scheme). The land within the Order limits is located to the north east of Chelmsford and west of Terling, within the administrative areas of Chelmsford, Braintee, and Essex.

1.2 Purpose and Structure of this Statement

1.2.1 The Statement has been prepared in compliance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations).

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

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

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

- the **Environmental Statement (ES) [EN010118/APP/6.1]**; and
- the **Outline Construction Environmental Management Plan (Outline CEMP) [EN010118/APP/7.10]**.

1.2.5 The 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.

1.2.6 The 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. It is not expected that the construction, operation (and maintenance) and decommissioning of the Scheme would cause a statutory nuisance.

1.2.7 Nonetheless, it should be noted that article 7 (Defence to proceedings in respect of statutory nuisance) of the draft Development Consent Order **[EN010118/APP/3.1]** contains a provision that would provide a defence to proceedings in respect of statutory nuisance (in respect of sub-paragraph (g) of section 79(1) of the EPA (noise emitted from premises so as to be prejudicial to health or a nuisance)), subject to the criteria set out in that article.

1.2.8 The Statement is structured as follows:

- Section 1: Introduction;
- Section 2: Legislative and Policy Context;
- Section 3: Assessment of Significance;
- Section 4: Matters Engaged and Proposed Mitigation Measures; and
- Section 5: Conclusion

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 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 or in Scotland, road;

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

2.2.2 For a nuisance to be considered a statutory nuisance, it must unreasonably and substantially interfere with the use or enjoyment of a home or other premises or injure health or be likely to injure health. To be considered a

nuisance, an activity must be ongoing or repeated – a one-off event would not usually be considered a nuisance.[1]

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

2.3.1 Paragraph 4.14.1 of the Overarching National Policy Statement for Energy (NPS EN-1) states that: *"Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, or doing anything else authorised by, a development consent order. 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 (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 of 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"*.

2.4 Draft Energy National Policy Statements (NPSs)

2.4.1 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. This mirrors Section 4.14 of NPS EN-1, except for some minor amendments to the wording e.g. to reflect revised paragraph numbers in the draft NPS and the Secretary of State being the decision maker.

2.4.2 Further details on the draft Energy NPSs can be found in the Planning Statement [**EN10118/APP/7.2**].

[1] Area, E & Adcock, A Nuisance Complaints (2018). House of Commons Library. Briefing Paper No CBP 8040

3. Assessment of Significance

3.1 Summary of Matters Engaged

3.1.1 The ES **[EN010118/APP/6.1]** accompanying the 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 Stated in Section 79(1) of the EPA

EPA Section 79(1) Matter	*Matter engaged as a consequence of the Scheme?*
(a) any premises in such a state as to be prejudicial to health or a nuisance	This matter is considered further in 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 provided for undersection 79(4) of the EPA. 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 and therefore, those elements are not considered further within the Statement.
(e) any accumulation or deposit which is prejudicial to health or a nuisance	This matter is considered further in this Statement.
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance	The Scheme will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance. Any grazing of livestock will be in accordance with good practice guidance for livestock welfare; therefore, this is not considered further in the Statement.
(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	There is no indication that the construction, operation (and maintenance), and decommissioning of the Scheme will emanate any insects nor insects be attracted to it. Therefore, this is not considered further within the Statement.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in this Statement.
(g) noise emitted from premises so as to be prejudicial to health or a nuisance;	This matter is considered further in this Statement

EPA Section 79(1) Matter	*Matter engaged as a consequence of the Scheme?*
(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 are considered to be a potential statutory nuisance associated with the construction, operation (and maintenance) or decommissioning of the Scheme.

4. Matters Engaged and Proposed Mitigation Measures

4.1 Condition of the Site –Sections 79(1)(a) and (e) of the EPA

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

4.1.2 The following constitute a statutory nuisance:

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

Construction and Decommissioning

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

- Site preparation and civil works;
- Solar PV array construction;
- Construction of onsite electoral infrastructure;
- Construction of cable routes;
- Testing and commissioning; and
- Landscape and habitat creation.

4.1.4 During decommissioning, the following components of the Scheme, as referred to by Schedule 1 of the **Draft Development Consent Order [EN010118/APP/3.1]** in the locations shown by the **Works Plans [EN010118/APP/2.2]** will be removed and recycled or disposed of in accordance with good practice and market conditions at that time:

- Solar PV Array Works Area and related components (Work No.1);
- BESS Compound (Work No.2);
- Longfield Substation (Work No.3);
- Ancillary Infrastructure (Work No. 6)

4.1.5 The construction and decommissioning 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 these measures are set out in the **Outline CEMP [EN010118/APP/7.10]**. The Outline CEMP has been informed by the Environmental Impact Assessment (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 A detailed CEMP will be prepared following granting of the DCO. It would be in line with the commitments set out by the Outline CEMP and would be agreed with the relevant local planning authorities in advance of starting the enabling works within the Order limits.

4.1.8 A detailed Decommissioning Environmental Management Plan (DEMP) will also be prepared prior to the commencement of decommissioning. The detailed DEMP will be in accordance with the **Decommissioning Strategy [EN010118/APP/7.12]**.

4.1.9 Plans to deal with accidental pollution would be included within the detailed CEMP and detailed DEMP prior to commencement of construction and decommissioning. 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.

4.1.10 In order 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.

4.1.11 A Construction Resource Management Plan (CRMP) (secured by the Outline OEMP) 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. A Decommissioning Resource Management Plan (DRMP) will also be prepared for the decommissioning period.

4.1.12 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.

4.1.13 The measures set out in the Outline CEMP and Decommissioning Strategy 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 and Decommissioning Strategy will be secured by requirements in the DCO.

4.1.14 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

4.1.15 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.

4.1.16 During the operational phase, maintenance activity within the Solar Farm Site 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.

4.1.17 Along the Grid Connection Route operational activity will consist of routine inspections (schedule to be determined) and any reactive maintenance such as where a cable has been damaged.

4.1.18 Bulls Lodge Substation Extension will be managed and maintained by NGET under the same provisions as the existing Bulls Lodge Substation.

4.1.19 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

4.1.20 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 –Section 79(1)(d) of the EPA

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

4.2.2 An Air Quality assessment was undertaken as part of the EIA and reported in **Chapter 14: Air Quality** of the **Environmental Statement [EN010118/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 **Chapter 14, Air Quality** of the **ES [EN010118/APP/6.1]** assesses the impact of construction and decommissioning phases of the Scheme on air quality. The assessment confirms there is likely to be no significant impact on local air quality during construction or decommissioning given the volume of traffic proposed and the predicted pollutant concentrations would have a negligible effect on human health and designated ecology sites.During construction there is the potential for emissions of dust and particles due to the following:

- Earthworks (e.g. soil stripping, excavation etc.);
- Construction; and
- Trackout (movement of mud and soil out of the site by construction vehicles).

4.2.4 A 'Dust Risk Assessment' (DRA) has been undertaken based on relevant industry (Institute of Air Quality Management (IAQM)) guidance and the

findings are presented within the 'Dust Risk Assessment' section of **Chapter 14: Air Quality** of the ES **[EN010118/APP/6.1]**. Construction of the Scheme will take place over a number of phases and as such potential fugitive emissions may be lower than expected for the size of the Order limits when considering the Order limits in reference to the IAQM guidance.

4.2.5 Taking into account the scale of the Order limits and associated construction works, it is considered prudent to adopt the good site practice for controlling dust as outlined within the IAQM's 'Guidance on the assessment of Dust from Demolition and Construction' document for high risk sites. These measures represent good industry practice and are therefore embedded within the Scheme design.

4.2.6 These good site practice mitigation measures are incorporated into the **Outline CEMP [EN010118/APP/7.10]**. These are also presented in Table 4-1 and Table 4-2 below. These are considered to be embedded mitigation, and represent good industry practice that are part of the Scheme design.

4.2.7 The DRA within **Chapter 14: Air Quality** of the ES **[EN010118/APP/6.1]** concludes that the adequate implementation of good industry practice measures is expected to prevent the occurrence of significant impacts arising from dust generation during the construction phase.

Chapter 14: Air Quality of the ES **[EN010118/APP/6.1]** sets out that decommissioning is expected to generate similar (if not slightly lower) effects to those anticipated during the construction phase, and therefore the mitigation measures proposed for implementation during the construction phase will be appropriate for application to decommissioning. It concludes that impacts on local air quality as a result of dust generation during decommissioning are considered to be negligible and not significant. The **Decommissioning Strategy [EN010118/APP/7.12]** includes measures to the same effect as those contained in the Outline CEMP and summarised in Table 4-1.

Table 4-1 Dust 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.
	Display the head or regional office contact information
	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_{10} continuous monitoring and/or visual inspections.
Site Management	Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce emissions in a timely manner, and record the measures taken.
	Make the complaints log available to the local authority when asked

Activity	Mitigation Measure
	Record any exceptional incidents that cause dust and/or air emissions, either on-site or off-site, and the action taken to resolve the situation in the logbook.
	Hold regular liaison meetings with other high-risk construction sites within 500m of the 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.
	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
	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.
	Agree dust deposition, dust flux, or real-time PM_{10} 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, which is the case for the Order limits, before work on a phase commences.
Preparing and Maintaining the Site	Plan site layout so that machinery and dust causing activities are located away from receptors, as far as is possible.
	Erect solid screens or barriers around dusty activities that are at least as high as any stockpiles on-site where stockpiles are within 100m of receptors.
	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 100m 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 Vehicles / Machinery and Sustainable Travel	Ensure all vehicles switch off engines when stationary where practicable.
	Avoid the use of diesel - or petrol-powered generators and use mains electricity or battery powered equipment where practicable.
	Impose and signpost a maximum-speed-limit of 15mph on surfaced and 10mph on unsurfaced haul roads and work areas (if long haul routes are required these speeds may be increased with suitable additional control measures provided, subject to the approval of the nominated undertaker and with the agreement of the local authority, where appropriate.
	Produce a Construction Logistics Plan to manage the sustainable delivery of goods and materials.
	Implement a Travel Plan that supports and encourages sustainable travel (public transport, cycling, walking, and car-sharing).
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.
	Use Hessian, mulches or tackifiers where it is not possible to re-vegetate or cover with topsoil, as soon as practicable.
	Only remove the cover in small areas during work and not all at once.
Construction	Avoid scabbling (roughening of concrete surfaces) if possible.
	Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place.
	Ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems to prevent escape of material and overfilling during delivery.
	For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.
Trackout	Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the site. This may require the sweeper being continuously in use.
	Avoid dry sweeping of large areas.
	Ensure vehicles entering and leaving sites are covered to prevent escape of materials during transport
	Regular inspection of haul routes and prompt repair (if required) will be undertaken.
	Inspect on-site haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable.
	Record all inspections of haul routes and any subsequent action in a site logbook.
	Install hard surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned.
	Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable).
	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.
	Access gates to be located at least 10 m from receptors where possible.
	Haul routes will be maintained so as to control dust emissions, as far as reasonably practicable. The frequency of cleaning will be suitable for the purposes of suppressing dust emissions from the site boundaries.
	Enforcement of speed limits on haul roads for safety reasons and for the purposes of suppressing dust emissions will be implemented.

Operation

4.2.8 The Scheme is estimated to support eight permanent (on-site) operational jobs. Traffic generation from operational staff is not expected to induce significant changes to traffic flows on the local road network.

4.2.9 The operation of the Scheme is therefore not anticipated to have a significant impact on local air quality. The effect on air quality during this phase will therefore be negligible.

4.2.10 No likely significant effects on air quality are therefore predicted during the operational phase of the Scheme.

Conclusion

4.2.11 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** of the ES **[EN010118/APP/6.1]**.

4.2.12 No claim is therefore envisaged in respect of a statutory nuisance under section 79(1)(d).

4.3 Artificial Light –Section 79(1)(fb) of the EPA

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

4.3.2 A statutory nuisance would exist if artificial light substantially 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.

Construction and Decommissioning

4.3.3 Construction temporary site lighting, in the form of mobile lighting towers with a power output of 8 kilo volt-amperes (kVAs), will be required in areas where natural lighting is unable to reach (sheltered/confined areas) and during core working hours within winter months. Artificial lighting would be provided to maintain sufficient security and health and safety for the Order limits, whilst adopting the mitigation principles described in section 2.6 of the **Outline CEMP [EN010118/APP/7.10]** 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.

4.3.4 In accordance with the **Outline CEMP [EN010118/APP/7.10]** and **Decommissioning Strategy [EN010118/APP/7.12]**, all construction and decommissioning lighting will incorporate the following measures 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 construction site rather than towards the boundaries.

Operation

4.3.5 Lighting is controlled by the **Outline Operational Environmental Management Plan** (OEMP) **[EN010118/APP/7.11]**. During operation, no part of the Scheme will be continuously lit. The use of motion detection security lighting to avoid permanent lighting will be utilised and a sensitive lighting

scheme will be developed ensuring inward distribution of light and avoiding light spill on to existing boundary features.

4.3.6 Lighting will be directed downward and away from boundaries. Therefore, there will be no lighting at the perimeter of the Order limits and no potential for a statutory nuisance.

Conclusion

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

4.4 Noise and Vibration –Section 79(1)(g) and (ga) of the EPA

4.4.1 The following constitute a statutory nuisance:

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

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

4.4.3 An assessment of noise and vibration impacts was undertaken as part of the EIA and reported in **Chapter 11: Noise and Vibration** of the ES **[EN010118/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.

4.4.4 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

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

4.4.6 Measures to control noise and vibration will be adopted. These measures represent Best Practicable Means and are included as embedded mitigation within the **Outline CEMP [EN010118/APP/7.10]** and the **Decommissioning Strategy [EN010118/APP/7.12]**. The detailed CEMP will be prepared prior to

construction and the detailed DEMP will be prepared prior to the decommissioning phase as outlined in **Chapter 2: The Scheme** of the ES **[EN010118/APP/6.1]**.

4.4.7 Examples of Best Practicable Means that would be implemented during construction works to minimise impacts are set out below:

- Ensuring that all appropriate processes, procedures and measures are in place to minimise noise before works begin and throughout the construction/decommissioning programme;
- All contractors to be made familiar with current legislation and the guidance in BS 5228 (Parts 1 and 2) which should form a prerequisite of their appointment;
- Ensuring that, where reasonably practicable, noise and vibration is controlled at source (e.g. the selection of inherently quiet plant and low vibration equipment), review of the construction/decommissioning programme and methodology to consider quieter methods, consideration of the location of equipment on-site and control of working hours;
- Use of modern plant, complying with applicable UK noise emission requirements;
- Hydraulic techniques for breaking to be used in preference to percussive techniques, where reasonably practicable;
- Drop heights of materials will be minimised;
- Plant and vehicles will be sequentially started up rather than all together;
- Off-site pre-fabrication where reasonably practicable;
- Use of screening locally around significant noise producing plant and activities;
- Regular and effective maintenance by trained personnel will be undertaken to keep plant and equipment working to manufacturer's specifications;
- All construction/decommissioning plant and equipment to be properly maintained, silenced where appropriate, operated to prevent excessive noise and switched off when not in use;
- Loading and unloading of vehicles, dismantling of site equipment or moving equipment or materials around the Order limits to be conducted in such a manner as to minimise noise generation, as far as reasonably practicable;
- All vehicles used on-site shall incorporate reversing warning devices as opposed to the typical tonal reversing alarms to minimise noise disturbance where reasonably practicable;
- Appropriate routing of construction/decommissioning traffic on public roads and along access tracks pursuant to the Construction Traffic Management Plan (CTMP);

- Provision of information to the relevant local authority and local residents to advise of potential noisy works that are due to take place; and
- Monitoring of noise complaints and reporting to the Applicant for immediate investigation and action. A display board will be installed on-site and a website will be set up. These will include contact details for the Site Manager or alternative public interface with whom nuisance or complaints can be lodged. A log book of complaints will be prepared and managed by the Site Manager.
- Construction working hours on the Solar Farm Site will run from 07:00 to 19:00 Monday to Saturday. Construction working hours on the Bulls Lodge Substation Extension will run from 07:00 to 19:00 Monday to Saturday with the exception of overhead line works which will run from 07:00 to 19:00 Monday to Sunday.
- Unnecessary revving of engines will be avoided, and equipment will be switched off when not in use.
- 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

4.4.8 A construction noise mitigation and monitoring scheme shall be developed and agreed with appropriate stakeholders prior to commencement of construction works, as set out in the **Outline CEMP [EN010118/APP/7.10]**. Noise monitoring will also be undertaken during the decommissioning stages, as described in the **Decommissioning Strategy [EN010118/APP/7.12]**.

4.4.9 Based on the distances between the Order limits and surrounding receptors to locations where heavy ground works (excavation, push piling) may take place, it is considered that vibration from construction works experienced at sensitive receptors will be below the Lowest Observable Adverse Effect Level (LOAEL) and therefore not significant, as identified by **Chapter 11: Noise and Vibration** of the **ES [EN010118/APP/6.1]**.

4.4.10 Construction working hours on the Solar Farm Site will run from 07:00 to 19:00 Monday to Saturday, with working days consisting of one 12-hour shift. Where on-site works are to be conducted outside the core working hours, they will comply with the restrictions stated in the Outline CEMP and any other restrictions agreed with the relevant planning authorities.

4.4.11 Construction working hours on the Bulls Lodge Substation Extension will run from 07:00 to 19:00 Monday to Saturday with the exception of overhead line works which will run from 07:00 to 19:00 Monday to Sunday.

4.4.12 Noise and vibration 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 and vibration from the decommissioning phase is not included.

Operation

4.4.13 As stated in the Scoping Report included at **Appendix 1A** of the ES **[EN010118/APP/6.1]**, and confirmed by the Planning Inspectorate (PINS) in the Scoping Opinion included at **Appendix 1B** of the ES **[EN010118/APP/6.1]**, 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.

4.4.14 Operational phase embedded noise mitigation measures include the following:

- Solar PV modules will be mounted on fixed structures which will not produce any noise emissions.
- The design of the Scheme has incorporated measures such as distancing of inverters away from sensitive receptors, and locating the BESS compound in an area away from large concentrations of receptors as well as towards the A12 where existing ambient noise levels are higher (such that noise emissions from the BESS are less impactful).
- The embedded design will ensure the use of acoustic barriers around inverters within 250m of receptors R2, R3, R5, R6 R8, R9, R10, R15, R16, R19, R21 and R23 identified in **Chapter 11: Noise and Vibration** of the ES **[EN010118/APP/6.1]**. These may comprise close-boarded impervious wooden fencing or a similar construction, which can provide at least 10 dB of attenuation to noise emissions from inverters.

Conclusion

4.4.15 For the reasons explained above and with these mitigation measures in place, no significant effects are expected to occur in relation to noise and vibration matters in EIA terms, including in relation to the health of human receptors, as set out in **Chapter 11: Noise and Vibration** and **Chapter 15: Human Health** of the ES **[EN010118/APP/6.1]** during the construction, operation (and maintenance) and decommissioning phases of the Scheme.

4.4.16 No claim against statutory nuisance in respect of noise and vibration is therefore envisaged in respect of a statutory nuisance under section 79(1)(g) or (ga).

5. Conclusion

5.1.1 In line 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, air quality, artificial light, and noise and vibration, during all phases of the Scheme. The embedded design and additional mitigation measures identified in the ES will prevent impacts which have a potential to result in statutory nuisance under section 79 of the EPA. These measures are secured by requirements contained within the draft DCO.

5.1.3 It is not expected that the construction, operation (and maintenance) and decommissioning of the Scheme would cause a statutory nuisance.