

Heckington Fen Solar Park

EN010123

Statement in Respect of Statutory Nuisance

Applicant: Ecotricity (Heck Fen Solar) Limited

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STATEMENT IN RESPECT OF STATUTORY NUISANCE

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1 INTRODUCTION

1.1 INTRODUCTION AND SUMMARY

1.1.1 This Statement in Respect of Statutory Nuisance ("**the Statement**") relates to the application by Ecotricity (Heck Fen Solar) Limited ("**the Applicant**") to the Secretary of State under the Planning Act 2008 (as amended) ("**the PA 2008**") for a Development Consent Order ("**DCO**").

1.1.2 The application is for a DCO for the construction, operation, maintenance and decommissioning of Heckington Fen Solar Park (the "**Application**"), a solar photovoltaic (PV) array electricity generating facility and energy storage facility, with a total capacity exceeding 50 megawatts (MW), and an export connection to the National Grid ("**the Project**"). The Project is classified as a Nationally Significant Infrastructure Project ("**NSIP**") under the PA 2008.

1.2 PURPOSE AND STRUCTURE OF THIS STATEMENT

1.2.1 The Statement has been prepared in compliance with the requirements of 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 Project) engages one or more of the matters in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990 (as amended) ("**the 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 This Statement identifies whether the proposed Project engages one or more of the statutory nuisances, set out in section 79(1) of the EPA and if so, how the Applicant proposes to mitigate or limit such nuisances.

1.2.4 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 the respective phases of the Project.

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

1.2.5.1 the Environmental Statement ("**ES**") (document reference 6.1); and

1.2.5.2 the Outline Construction Environmental Management Plan ("**oCEMP**") (document reference 7.7).

1.2.6 This Statement sets out appropriate mitigation measures to ensure that the Project has no significant effects that would give rise to a statutory nuisance. Therefore, through the delivery of mitigation (as described in the ES and oCEMP), it is not expected that the construction, operation, maintenance and decommissioning of the Project would cause a statutory nuisance.

1.2.7 Whilst it is not expected that the Project would cause a statutory nuisance, the draft DCO (document reference 3.1) accompanying the Application contains a provision, Article 7 (*Defence to proceedings in respect of statutory nuisance*), that would provide a defence to proceedings brought under 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 certain criteria outlined under that article.

1.2.8 Section 2 of this Statement sets out the provisions of the EPA and the legislative framework and policy relevant to statutory nuisance. Section 4 considers the potential for the proposals to give rise to statutory nuisances and it is concluded in Section 5 that it is not expected that there would be a breach of Section 79(1) of the EPA during construction, operational or decommissioning activities.

2 LEGISLATIVE AND POLICY CONTEXT

2.1 THE APFP REGULATIONS

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, [EPA 1990] and if so how the applicant proposes to mitigate or limit them.”

2.2 NATIONAL POLICY STATEMENT

2.2.1 Paragraphs 4.14.1 of the current 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.”

2.2.2 Paragraph 4.14.2 states 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 should be considered by the Secretary of State so that appropriate requirements can be included in any subsequent order granting development consent.”

2.3 DRAFT NATIONAL POLICY STATEMENTS (NPS)

2.3.1 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.

2.3.2 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 the existing 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. Further details on the draft Energy NPSs can be found in the Statement of Need and Planning Statement (document reference 7.3).

2.4 THE EPA

2.4.1 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; and*
- (h) any other matter declared by any enactment to be a statutory nuisance.*

2.4.2 For the purposes of Section 79(1) of the EPA, 'noise' includes vibration.

2.4.3 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

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

3 ASSESSMENT OF ENGAGEMENT

3.1.1 The ES (document reference 6.1) for the Project 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 Matters which are considered to be statutory nuisance under Section 79(1) of the EPA are covered within this section or are excluded as in the below table, depending on the assessment within the ES.

Statutory Nuisance Matters, as outlined under Section 79(1), EPA	Engaged with as part of Project
(a) any premises in such a state as to be prejudicial to health or a nuisance	This matter is considered further as part of this Statement. See Section 4.1.
(b) smoke emitted from premises so as to be prejudicial to health or a nuisance	No smoke is expected to be generated at/produced by the Project; therefore, this is not considered further within this Statement. Unplanned, emergency scenarios (including accidental or technical fires) 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 under section 79(4) of the EPA. This matter is therefore not considered further within this Statement.
(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	This matter is considered further as part of this Statement. See Section 4.2.
(e) any accumulation or deposit which is prejudicial to health or a nuisance	This matter is considered further as part of this Statement. See Section 4.1.
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance	The Project 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 and will be controlled by the Landscape Ecological Management Plan, as secured by Requirement 8 of the draft DCO (document reference 3.1); therefore, this is not considered further in this Statement.

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(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 Project will emanate any insects nor insects be attracted to it. Therefore, this is not considered further within this Statement.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further as part of this Statement. See Section 4.3.
(g) noise emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further as part of this Statement. See Section 4.4.
(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street	This matter is considered further as part of this Statement. See Section 4.4.
(h) any other matter declared by any enactment to be a statutory nuisance	No other matters are considered to be a potential statutory nuisance associated with the construction, operation (and maintenance) or decommissioning of the Project.

3.1.3 When the operational phase ends, the Project will require decommissioning. The effects of decommissioning are similar to, or often of a lesser magnitude than, construction effects. The potential for statutory nuisance is also considered to be similar or less than for the construction phase.

4 MATTERS ENGAGED

4.1 CONDITION OF SITE

4.1.1 This section considers the risk of the condition of the site causing a statutory nuisance (Section 79(1)(a) and (e) of the EPA). The following are statutory nuisances:

- (a) *any premises in such a state as to be prejudicial to health or a nuisance; and*
- (b) *any accumulation or deposit which is prejudicial to health or a nuisance.*

Construction

4.1.2 The construction the Project will be undertaken in phases. The types of construction activities include, but are not limited to:

- 4.1.2.1 Site preparation and civil works;
- 4.1.2.2 Solar PV array construction;
- 4.1.2.3 Construction of onsite energy infrastructure;
- 4.1.2.4 Construction of the cable route;
- 4.1.2.5 Construction of an extension to the National Grid Bicker Fen Substation;

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4.1.2.6 Testing and commissioning; and

4.1.2.7 Landscape and habitat creation.

4.1.3 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.

4.1.4 Construction control mechanisms proposed include core working hours and industry good practice measures. These are secured under the oCEMP (document reference 7.7). A summary of the mitigation measures in the oCEMP and Outline Construction Traffic Management Plan ("**oCTMP**") are as follows:

Activity	Mitigation measure	Document and reference
All relevant construction activities	<p>The construction contractor will manage the construction phase (including waste generation) and take into account the objectives of sustainable resource and waste management. They will seek to use material resources efficiently, reduce waste at source, reduce waste that requires final disposal to landfill and apply the principles of the Waste Hierarchy.</p> <p>This will include (where reasonably practical): working towards a cut and fill balance for excavations; segregation of materials onsite for appropriate re-use; recycling; and recovery, with landfill as a last resort.</p> <p>This will be achieved by a combination of the following measures:</p> <ul style="list-style-type: none"> i. The construction contractor will prepare and implement a Construction Resource Management Plan ("CRMP") as part of the final CEMP(s) which will set out targets for fuel, waste, and energy consumption; ii. All waste transported offsite will be delivered to the appropriately licensed receivers of such materials; and iii. As part of the CRMP, the construction contractor will segregate construction waste to be re-used and recycled where reasonably practicable. All soil to be reused onsite or disposed of offsite will be appropriately characterised by the construction contractor. 	oCEMP (document reference 7.7)

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	Plans to deal with accidental pollution would be included within the final CEMP 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.	
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4.1.5 The oCEMP 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 impacts during the construction phase.

4.1.6 The measures set out in the oCEMP are embedded in the Project design and the assessment of effects undertaken. The EIA assumes that those measures are implemented in full. Compliance with the oCEMP will be secured by Requirement 13 in the draft DCO (document reference 3.1).

Operation

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

4.1.8 During the operational phase, activity on the Project site will be minimal and it is intended that that the Project site will be used for low-density livestock management and ecological enhancement, equipment/infrastructure maintenance and servicing including cleaning and replacement of any components that fail, and monitoring to ensure the continued effective operation and efficiency of the Project.

4.1.9 Along the grid connection route for the Project, operational activity will consist of routine inspections and any reactive maintenance such as where a cable has been damaged.

4.1.10 The Bicker Fen Substation extension will be managed and maintained by National Grid Electricity Transmission Plc under the same provisions as the existing Bicker Fen Substation.

Decommissioning

4.1.11 As with the construction phase, 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.

4.1.12 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.

4.1.13 A detailed Decommissioning and Restoration Plan ("**DRP**") must be prepared and approved by the relevant local planning authorities prior to the commencement of decommissioning. This is secured under Requirement 18 of the draft DCO (document reference 3.1).

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4.1.14 The detailed DRP will be in accordance with the Outline DRP ("oDRP") submitted as part of this Application. The oDRP contains the following mitigation measures to ensure the condition of the site is maintained during the final phase of the Project:

Activity	Mitigation measure	Document and reference
All relevant decommissioning activities	<p>The decommissioning contractor will manage the decommissioning of waste generation, and take into account the objectives of sustainable resource and waste management.</p> <p>They will seek to use material resources efficiently, reduce waste at source, reduce waste that requires final disposal to landfill and apply the principles of the Waste Hierarchy.</p> <p>This will include (where reasonably practical): working towards a cut and fill balance for excavations; segregation of materials onsite for appropriate re-use, recycling; and recovery, with landfill as a last resort. This will be achieved by a combination of the following measures:</p> <ul style="list-style-type: none"> i. The decommissioning contractor will prepare and implement a Site Waste Management Plan ("SWMP") which will set out targets for fuel, waste, and energy consumption; ii. All waste transported offsite will be delivered to the appropriately licensed receivers of such materials; and iii. As part of the SWMP, the decommissioning contractor will segregate decommissioning waste to be re-used and recycled where reasonably practicable. All soil to be reused onsite or disposed of offsite will be appropriately characterised by the decommissioning contractor. <p>Plans to deal with accidental pollution would be included within the DRP 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</p>	oDRP (document Reference 7.9)

	the unlikely event of a suspected pollution incident.	
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4.1.15 As with the construction phase, 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.

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 which would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

4.2 AIR EMISSIONS

4.2.1 This section considers the risk of air emissions from the Project causing a statutory nuisance (Section 79(1)(d) of the EPA). The following is a statutory nuisance:

(d) 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 15: Air Quality of the ES (document reference 6.1.15). 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

4.2.3 Chapter 15: Air Quality of the ES (document reference 6.1.15) assesses the impact of construction and decommissioning phases of the Project 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 mitigation measures proposed. There is expected to be a negligible effect on human health and designated ecology sites.

4.2.4 During construction there is the potential for emissions of dust and particulates due to earthwork activities such as excavation, haulage of materials around site, bund formation, landscaping and concrete batching. The potential for sensitive receptors to be affected by on-site construction activities depends on construction method(s), materials, duration of the construction works, weather conditions and location of works in relation to receptors. The Construction Dust Risk Assessment (included in Appendix 15.2 of the ES), will be used to inform mitigation measures within the oCEMP (document reference 7.7) to minimise dust emission during the construction phase and control impacts.

4.2.5 The effects on air quality of vehicle emissions associated with the construction of the Project have the potential to effect existing sensitive receptors located at the roadside of the proposed construction route, along the A17, for the anticipated construction period of 30 months.

4.2.6 When screened against the relevant criteria for the potential effects to air quality, predicted construction traffic flows are below the screening criteria for detailed assessment. All vehicle movements during the construction phase will be controlled by the oCTMP (document reference 7.10).

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4.2.7 The exhaust emissions from Non-Road Mobile Machinery ("**NRMM**") associated with construction sites connected to the Project may have a significant effect on local air quality. However, during the construction phase, these will be controlled by mitigation measures included in the oCEMP (document reference 7.7).

4.2.8 The relevant mitigation measures contained in the oCEMP and oCTMP are summarised in the following table:

Activity	Mitigation measure	Document and reference
Communications	Develop and implement a stakeholder communications plan that includes community engagement before work commences on site.	oCEMP (document reference 7.7).
	Display the name and contact details of person(s) accountable for air quality and dust issues on the site boundary. This may be the environment manager/engineer or the site manager.	oCEMP (document reference 7.7).
	Display the head or regional office contact information.	oCEMP (document reference 7.7).
Dust Management Plan	Develop and implement a Dust Management Plan (" DMP "), which may include measures to control emissions, approved by the Local Authority. The DMP may include monitoring of dust deposition, dust flux, real-time PM ₁₀ continuous monitoring and/or visual inspections.	oCEMP (document reference 7.7).
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.	oCEMP (document reference 7.7).
	Make the complaints log available to the Local Authority when asked.	oCEMP (document reference 7.7).
	Record any exceptional incidents that cause dust and/or air emissions, either on- or off- site, and the action taken to resolve the situation in the log book.	oCEMP (document reference 7.7).
Monitoring	Undertake daily on-site and off-site 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 check of surfaces such as street furniture, cars, window sills within 100 m of the site boundary, with cleaning to be provided if necessary.	oCEMP (document reference 7.7).
	Carry out regular site inspections to monitor compliance with the DMP,	oCEMP (document reference 7.7).

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	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.	oCEMP (document reference 7.7).
	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 is a large site, before work on a phase commences.	oCEMP (document reference 7.7).
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.	oCEMP (document reference 7.7).
	Erect solid screens or barriers around dusty activities or the site boundary that are at least as high as any stockpiles on site.	oCEMP (document reference 7.7).
	Fully enclose site or specific operations where there is a high potential for dust production and the site is active for an extensive period.	oCEMP (document reference 7.7).
	Avoid site runoff of water or mud.	oCEMP (document reference 7.7).
	Keep site fencing, barriers and scaffolding clean using wet methods.	oCEMP (document reference 7.7).
	Remove materials that have a potential to produce dust from site as soon as possible, unless being re-used on site. If they are being re-used cover as described below.	oCEMP (document reference 7.7).
	Cover, seed or fence stockpiles to prevent wind whipping.	oCEMP (document reference 7.7).
Operating vehicles/machinery and sustainable travel	Ensure all vehicles switch off engines when stationary – no idling vehicles.	oCEMP (document reference 7.7).
	Avoid the use of diesel or petrol-powered generators and use mains electricity or battery powered equipment where practicable.	oCEMP (document reference 7.7).
	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	oCEMP (document reference 7.7).

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	control measures provided, subject to the approval of the nominated undertaker and with the agreement of the Local Authority, where applicable).	
	Produce a Construction Logistics Plan to manage the sustainable delivery of goods and materials.	oCEMP (document reference 7.7).
	Implement a Travel Plan that supports and encourages sustainable travel (public transport, cycling, walking and car-sharing)	oCEMP (document reference 7.7).
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.	oCEMP (document reference 7.7).
	Ensure an adequate water supply on the site for effective dust/particulate matter suppression/mitigation, using non-potable water where possible and appropriate.	oCEMP (document reference 7.7).
	Use enclosed chutes and conveyors and covered skips.	oCEMP (document reference 7.7).
	Minimize drop heights from conveyors, loading shovels, hoppers and other loading or handling equipment and use fine water sprays on such equipment wherever appropriate.	oCEMP (document reference 7.7).
	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.	oCEMP (document reference 7.7).
Waste management	Avoid bonfires and burning of waste materials.	oCEMP (document reference 7.7).
Demolition	Soft strip inside building before demolition.	oCEMP (document reference 7.7).
	Ensure effective water suppression is used during demolition activities.	oCEMP (document reference 7.7).
	Avoid explosive blasting, using appropriate manual or mechanical alternatives.	oCEMP (document reference 7.7).
	Bag and remove any biological debris before demolition.	oCEMP (document reference 7.7).
Earthworks	Re-vegetate earthworks and exposed areas/soil stockpiles to stabilise surfaces as soon as practicable.	oCEMP (document reference 7.7).
	Use Hessian, mulches or trackifiers where it is not possible to re-vegetate	oCEMP (document reference 7.7).

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	or cover with topsoil, as soon as practicable.	
	Only remove the cover in small areas during work and not all at once.	oCEMP (document reference 7.7).
Construction	Avoid scabbling (roughening of concrete surfaces) if possible.	oCEMP (document reference 7.7).
	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.	oCEMP (document reference 7.7).
	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.	oCEMP (document reference 7.7).
	For smaller supplies of fine powder materials, ensure bags are sealed after use and stored appropriately to prevent dust.	oCEMP (document reference 7.7).
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 in continuous use.	oCEMP (document reference 7.7).
	Avoid dry sweeping of large areas.	oCEMP (document reference 7.7).
	Ensure vehicles entering and leaving sites are covered to prevent escape of materials during transport.	oCEMP (document reference 7.7).
	Inspect on-site haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable.	oCEMP (document reference 7.7).
	Record all inspections of haul routes and any subsequent action in a site log book.	oCEMP (document reference 7.7).
	Install hard surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned.	oCEMP (document reference 7.7).
	Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable).	oCEMP (document reference 7.7).

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	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.	oCEMP (document reference 7.7).
	Access gates to be located at least 10 m from receptors where possible.	oCEMP (document reference 7.7).
Non-road Mobile Machinery	In accordance with Part 4 of the IAQM Control of Dust and Emissions guidance, all NRMM would need to adhere to the emissions standards for NO ₂ and PM ₁₀ set out for NRMM. It is therefore considered the likely effects of construction plant on local air quality would be insignificant.	oCEMP (document reference 7.7).
Construction Traffic Management	Construction traffic numbers, routing and access points are determined by the Construction Transport Management Plan and will be managed by the Site Manager.	oCEMP (document reference 7.7).

4.2.9 Therefore, the air quality assessment concluded that there are no likely significant effects on air quality predicted during the construction phase of the Project.

Operation

4.2.10 The average number of daily movements of vehicles associated with the operation of the Project is expected to be 1-2. Therefore, the operation of the Project is not anticipated to have a significant impact on local air quality and no likely significant effects on air quality are predicted during the operational phase of the Project.

Decommissioning

4.2.11 Chapter 14: Air Quality of the ES (document reference 6.1.15) sets out that decommissioning is expected to generate similar effects to those anticipated during the construction phase. No likely significant effects on air quality are predicted during the operational phase of the Project.

Conclusion

4.2.12 For the reasons explained above and with implementation of the above measures no claim against statutory nuisance is envisaged in respect of a statutory nuisance under s79(1)(d) of the EPA.

4.3 ARTIFICIAL LIGHT

4.3.1 This section considers the risk of air emissions from the Project causing a statutory nuisance (Section 79(1)(d) of the EPA). The following is a statutory nuisance:

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

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4.3.2 A statutory nuisance would exist if artificial light substantially interferes with the well-being, 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 potential for the effects of glint and glare are not covered by statutory nuisance legislation, which does not cover natural light. These effects are however assessed as part of the EIA and reported in Chapter 17: Glint and Glare of the ES (document reference 6.1.17).

4.3.4 Chapter 6: Landscape and Visual of the ES (document reference 6.1.6) assesses the visual impact of construction, operation and decommissioning phases of the Project. The assessment confirms there is likely to be no significant visual impacts caused by the Project's artificial lighting.

Construction and Decommissioning

4.3.5 Artificial lighting for construction purposes may be required to facilitate construction in areas where natural lighting is unable to reach and during core working hours within winter months. The use of artificial lighting will be controlled by the oCEMP (document reference 7.7) in accordance with mitigation summarised in the below table.

Activity	Mitigation measure	Document and reference
Use of artificial lighting as part of construction phase	<p>Lighting units to be directed towards the interior of the solar park and not outside of the boundaries of the order limits, thus away from nearby properties</p> <p>Any artificial lighting to be limited to the operational working hours only. Where security lighting is necessary this shall utilise passive infra-red (PIR) technology controlled and be triggered by movement only.</p> <p>Lighting shall use directional fitting to reduce and minimise any potential light spill and glare. Lighting fittings shall be installed with light hoods/cowls to direct lighting below the horizontal plane. The height of the lighting units / columns to be as small as practical to reduce light spill and glare.</p> <p>Any artificial lighting to be set to the minimum acceptable standards in terms of lux level, current at the time. The location of the lighting columns to be considered in the context of the retained vegetation, potential effects upon the nocturnal species, and to provide maximum screening from the sensitive visual receptors.</p>	oCEMP (document reference 7.7)

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	Only the immediate work area or compound is lit to avoid effects on properties during the construction phase.	
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Operation

4.3.6 There is no permanent lighting proposed as part of the Project except for the localised emergency security lighting in proximity to the substation, energy storage and control buildings. Such lighting would be triggered by movement only or manually turned on, and so would not be active for all hours of darkness. CCTV to be installed along the security fencing associated with the onsite substation and energy storage system would utilise infrared technology

4.3.7 Lighting is controlled by the Outline Landscape and Ecological Management Plan (document reference 7.8).

Decommissioning

4.3.8 Temporary site lighting may also be required during decommissioning in areas where natural lighting is unable to reach (sheltered/confined areas) and during core working hours within winter months. The use of artificial lighting will be controlled by the oDRP (document reference 7.9) in accordance with mitigation summarised in the below table.

Activity	Mitigation measure	Document and reference
Use of artificial lighting as part of decommissioning phase	<p>Any artificial lighting to be set to the minimum acceptable standards in terms of lux level, current at the time. The location of the lighting columns to be considered in the context of the retained vegetation, potential effects upon the nocturnal species, and to provide maximum screening from the sensitive visual receptors.</p> <p>Any artificial lighting to be limited to the operational working hours only. Where security lighting is necessary this shall utilise passive infra-red ("PIR") technology controlled and be triggered by movement only.</p> <p>Lighting shall use directional fitting to reduce and minimise any potential light spill and glare. Lighting fittings shall be installed with light hoods/cowls to direct lighting below the horizontal plane. The height of the lighting units / columns to be as small as practical to reduce light spill and glare.</p>	oDRP (document reference 7.9)

	Lighting units to be directed towards the interior of the solar park and not outside of the boundaries of the order limits.	
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Conclusion

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

4.4 NOISE AND VIBRATION

4.4.1 This section considers the risk of air emissions from the Project causing a statutory nuisance (Section 79(1)(g) and (ga) of the EPA). The following is a statutory nuisance:

- (g) *noise emitted from premises so as to be prejudicial to health or a nuisance; and*
- (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 12: Noise and Vibration of the ES (document reference 6.1.12). 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) of the EPA 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) of the EPA and is not considered further.

Construction

4.4.5 The following construction activities are considered to be those with the most potential to result in adverse noise effects:

- 4.4.5.1 Construction of tracks and hardstanding areas;
- 4.4.5.2 Installation of mounting frames (including piling);
- 4.4.5.3 Installation of panels;
- 4.4.5.4 Construction of the electrical compound; and
- 4.4.5.5 Trenchless cable installation (i.e. Horizontal directional drilling).

4.4.6 The construction activities considered are those with most potential to result in adverse vibratory effects:

- 4.4.6.1 Piling of PV panel framework; and

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4.4.6.2 Compaction of tracks/hardstanding areas.

4.4.7 The measures set out below will be secured by the oCEMP (document reference 7.7) and implemented as part of the Project and as such constitute mitigation 'embedded' in the design of the Project:

Activity	Mitigation measure	Document and reference
All relevant construction activities	Restriction of working hours, good practice measures. Minimise extent and effects of trenchless work particularly for night-time HDD; liaise with closest affected residents; interrupt drilling at night or investigate alternative techniques, screening and/or temporary re-housing.	oCEMP (document reference 7.7)

Operation

4.4.8 The primary sources of noise from the operational Project are the inverters and transformers across the site in the PV array, the substation and the energy storage facility.

4.4.9 The measures set out below were implemented as part of the design, and as such constitute mitigation 'embedded' in the design of the Project, they are secured by Requirement 15 in the draft DCO (document reference 3.1):

Activity	Mitigation measure	Document and reference
Operational noise generated by the Project's plant	Detailed design and selection of electrical/mechanical plant to achieve suitable noise limits.	Design detail secured under Requirement 15 of the draft DCO (document reference 3.1)

4.4.10 Application of the above embedded mitigation measures are secured by Requirement 15 in the draft DCO (document reference 3.1). This requires that an operational noise assessment (containing details of how the Project has been designed so as to comply with the operational noise rating levels in the ES) has been submitted to and approved by the relevant local planning authorities. This will secure suitable noise levels at neighbouring noise-sensitive locations and minimise operational effects as far as reasonably practicable.

Decommissioning

4.4.11 Decommissioning is likely to involve activities of similar or reduced intensity as for the construction phase and therefore result in comparable noise and vibration effects in the most part; however, trenchless work or piling are unlikely to be required for this phase.

4.4.12 As for construction activities, the mitigation measures for decommissioning activities are secured under the oDRP (document reference 7.9). These are summarised as follows:

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Activity	Mitigation measure	Document reference and
All relevant decommissioning activities	Restriction of working hours, good practice measures.	oDRP (document reference 7.9)

Conclusion

4.4.13 For the reasons explained above and with these measures in place, the construction, operation and decommissioning phases of the project will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(g) and (ga) of the EPA.

5 CONCLUSION

5.1.1 This Statement has been prepared to fulfil Regulation 5(2)(f) of the APFP Regulations. It has considered whether the proposed Project would cause a statutory nuisance as set out in Section 79(1) of the EPA.

5.1.2 Detailed assessments have been undertaken as part of the EIA and the statement reports the conclusions of the ES (document reference 6.1) in relation to general site condition, air quality, artificial light, noise & vibration for the respective phases of the Project.

5.1.3 The embedded design and additional mitigation measures identified within the ES, will prevent impacts which have a potential to result in statutory nuisance under Section 79(1) of the EPA. These measures are secured by requirements contained in the draft DCO (document reference 3.1), which cover relevant matters.

5.1.4 It is not expected that there would be a breach of Section 79(1) of the EPA during construction, operational or decommissioning activities.