



Mallard Pass

Solar Farm

Mallard Pass Solar Farm

Statutory Nuisance Statement

November 2022

PINS Ref: EN010127

Document Ref: EN010127/APP/7.5

Revision P0

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations
2009 - Reg 5 (2) (f)

Table of Contents

1.0 Introduction	1
1.2. The Order limits	1
1.3. The Proposed Development.....	1
1.4. Purpose and Structure of this Statement.....	2
2.0 Legislative and Policy Context	4
2.1. The APFP Regulations 2009	4
2.2. EPA.....	4
2.3. Overarching National Policy Statement for Energy (NPS EN-1)	5
2.4. Draft Energy National Policy Statements (NPSs)	6
3.0 Assessment of Significance	7
3.1. Summary of Matters Engaged.....	7
4.0 Matters Engaged and Proposed Mitigation Measures	10
4.1. Condition of the Site –Sections 79(1)(a) and (e) of the EPA.....	10
4.2. Air emissions –Section 79(1)(d) of the EPA.....	14
4.3. Artificial Light –Section 79(1) (fb) of the EPA.....	21
4.4. Noise and Vibration –Section 79(1)(g) and (ga) of the EPA.....	22
5.0 Conclusion	29

Tables

Table 3-1 Matters Stated in Section 79(1) of the EPA	7
Table 4-1 Dust Mitigation Measures.....	16

1.0 Introduction

- 1.1.1. This Statutory Nuisance Statement (the Statement) has been prepared by Mallard Pass Solar Farm Limited (the Applicant) as part of an application for a Development Consent Order (DCO) for Mallard Pass Solar Farm.
- 1.1.2. The Proposed Development 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 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.

1.2. The Order limits

- 1.2.1. The Order limits are described in **Chapter 3: Description of Order limits**, of the ES [EN010127/APP/6.1].
- 1.2.2. The Order limits comprise the Solar PV Site, the Grid Connection Route, Mitigation and Enhancement Areas, and Highways Works Site.

1.3. The Proposed Development

- 1.3.1. The Proposed Development comprises the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) array electricity generating facility with a total capacity exceeding 50 megawatts (MW) and export connection to the National Grid. The Proposed Development will be located within the 'Order limits' (the land shown on the Works Plans (see [EN010127/APP/2.2]) within which the Proposed Development can be carried out). Further information on the Proposed Development can be found in **Chapter 5: Project Description of the ES** [EN010127/APP/6.1].

1.4. Purpose and Structure of this Statement

- 1.4.1. 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).
- 1.4.2. 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 Proposed Development) 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.
- 1.4.3. 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 Proposed Development.
- 1.4.4. The Statement should be read alongside other documents submitted as part of the application, particularly:
 - a. the Environmental Statement (ES) **[EN010127/APP/6.1]**;
 - b. the outline Construction Environmental Management Plan (oCEMP) **[EN010127/APP/7.6]**;
 - c. the outline Operational Environmental Management Plan (oOEMP) **[EN010127/APP/7.7]**; and
 - d. the outline Decommissioning Environmental Management Plan (oDEMP) **[EN010127/APP/7.8]**.
- 1.4.5. 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.

- 1.4.6. The Statement sets out appropriate mitigation measures to ensure that the Proposed Development has no significant effects that would give rise to a statutory nuisance.
- 1.4.7. 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 Proposed Development would cause a statutory nuisance.
- 1.4.8. Nonetheless, it should be noted that article 7 (Defence to proceedings in respect of statutory nuisance) of the draft Development Consent Order **[EN010127/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.
- 1.4.9. The Statement is structured as follows:
 - a. Section 1: Introduction;
 - b. Section 2: Legislative and Policy Context;
 - c. Section 3: Assessment of Significance;
 - d. Section 4: Matters Engaged and Proposed Mitigation Measures; and
 - e. Section 5: Conclusion

2.0 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 a 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.

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. In light of the commitment to reduce reliance on fossil fuels in favour of cleaner energy sources set out in the Energy White Paper (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, the Government determined that NPS documents EN-1 to EN-5 required updating. As part of the Energy NPS review process, the Government published a suite of Draft Energy NPSs for consultation on 6 September 2021.
- 2.4.2. In September 2021, (draft) NPS’s for Energy were laid before Parliament. The House of Commons Committee Report, with recommendations to Government, was published in February 2022. The report welcomed the intention to update the NPS for energy in line with Government policy commitments. The report recommended that the revised NPS needed to place greater emphasis on the impact of climate change and the speed at which new infrastructure will need to be built to meet the Government’s net zero target. A summary of the draft NPSs for energy that are expected to be important and relevant to the Secretary of State’s decision, and have therefore been taken into account, is set out in **Chapter 1: Introduction**, of the ES [EN010127/APP/6.1].

3.0 Assessment of Significance

3.1. Summary of Matters Engaged

- 3.1.1. The ES 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 3-1 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 Proposed Development?
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 Proposed Development; 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 under section 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	This matter is considered further in this Statement in relation to dust. The Proposed Development is not

EPA Section 79(1) Matter	Matter engaged as a consequence of the Proposed Development?
or business premises and being prejudicial to health or a nuisance	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 Proposed Development 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.
f. (a) 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 Proposed Development will emanate any insects nor insects be attracted to it. Therefore, this is not considered further within the Statement.
f. (b) 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 Proposed Development?
g. (a) noise that is prejudicial to health or 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 Proposed Development.

4.0 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. The following constitute a statutory nuisance:

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

Construction and Decommissioning

4.1.2. The types of construction activities in respect of the Proposed Development include, but are not limited to:

- a. The establishment of site fencing and primary and secondary temporary construction compound(s);
- b. The upgrade of existing tracks and construction of new tracks required;
- c. The upgrade or construction of crossing points (bridges/culverts) over drainage ditches and below ground utility infrastructure;
- d. Erection of Mounting Structures;
- e. Mounting of PV Modules;
- f. Installation of electrical cables;
- g. Installation of Transformers and Inverters;
- h. Construction of Onsite Substation; and
- i. Construction of onsite electrical infrastructure to facilitate the export of generated electricity.

- 4.1.3. During decommissioning, all the solar infrastructure including PV Modules, Mounting Structures, electrical cables on or near the surface, Inverters, Transformers, Switchgear, fencing, ancillary infrastructure and the Onsite Substation would be removed and recycled or disposed of in accordance with good practice following the waste hierarchy, with materials being reused or recycled wherever possible. All waste will be disposed of in accordance with the legislation at the time of decommissioning.
- 4.1.4. Any requirement to leave the access tracks would be discussed and agreed with the landowners prior to decommissioning. The Solar PV Site along with areas of the Mitigation and Enhancement Areas would be reinstated in accordance with a Decommissioning Environmental Management Plan (DEMP). The DEMP will be required to be in accordance with the **oDEMP** which has been prepared to support the DCO Application.
- 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 **oCEMP**. The **oCEMP** 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 CEMP will be prepared following granting of the DCO. It would be in line with the commitments set out by the **oCEMP** 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 Decommissioning Environmental Management Plan (DEMP) will also be prepared prior to the commencement of decommissioning. The DEMP will be in accordance with **oDEMP** which has been prepared to support the DCO Application.
- 4.1.9. Plans to deal with accidental pollution would be included within the CEMP and 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 **oCEMP**) 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) (secured by the **oDEMP**) 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 **oCEMP** and **oDEMP** are embedded in the Proposed Development design and the assessment of effects undertaken.

The EIA assumes that those measures are implemented in full. Compliance with the **oCEMP** and **oDEMP** 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 Proposed Development 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 Proposed Development 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 Order limits 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 to ensure the continued effective operation of the Proposed Development.
- 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. This phase of the Proposed Development will not give rise to impacts which would constitute a statutory nuisance under section 79(1) (a) or (e).

Conclusion

4.1.19. 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 Proposed Development 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. **Chapter 15: Other Environmental Topics** of the ES [EN010118/APP/6.1] includes details of the air quality assessment was undertaken as part of the EIA. The chapter assessed the effect of potential air quality effects during the construction and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant effects.

Construction and Decommissioning

4.2.3. The Air Quality section in **Chapter 15: Other Environmental Topics** of the ES assesses the impact of construction and decommissioning phases of the Proposed Development 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 as they will be controlled through the measures included within the **oCEMP**, **oCTMP** and **oDEMP**.

4.2.4. 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. Trackout (movement of mud and soil out of the site by construction vehicles).
- 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 Proposed Development.
- 4.2.6. These good site practice mitigation measures are incorporated into the **oCEMP**. These are also presented in Table 4-1 below. These are considered to be embedded mitigation, and represent good industry practice that are part of the Proposed Development.
- 4.2.7. The Air Quality section in **Chapter 15: Other Environmental Topics**, of the ES concludes that the dust emission control measures are expected to prevent the occurrence of significant impacts arising from dust generation during the construction phase.
- 4.2.8. Air Quality section in **Chapter 15: Other Environmental Topics**, of the ES sets out that decommissioning is expected to generate similar 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 as set out within the **oDEMP**. It concludes that there are not anticipated to be any significant adverse effects to air quality during the decommissioning of the Proposed Development as a result of the measures in the **oDEMP** and the expected

improvement in baseline air quality conditions at the point of decommissioning. The **oDEMP** includes measures to the same effect as those contained in the **oCEMP** and set out in Table 4-1 below.

Table 4-1 Dust Mitigation Measures

Activity	Mitigation
Communications	<p>Develop and implement a stakeholder communications plan that includes notifying communities before work commences onsite.</p> <p>Display the name and contact details of the Environment Manager(s) accountable for air quality and dust issues onsite. The head or regional office contact information will also be displayed.</p> <p>Prepare a Dust Management Plan (DMP) in support of the CEMP(s). The level of detail will depend on the risk and should include as a minimum the recommended measures set out in the oCEMP.</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 planning authorities upon request.</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>Sheet vehicles carrying dusty substrates.</p> <p>Impose and signpost a maximum-speed-limit of 15mph on surfaced and 10mph on un-surfaced haul roads and work areas.</p> <p>Use enclosed chutes, conveyors and covered skips, where practicable.</p>

Activity	Mitigation
	<p>Minimise drop heights from conveyors, loading shovels, hoppers and other loading or handling equipment and use fine water sprays on such equipment wherever appropriate.</p> <p>Ensure equipment is readily available onsite to clean any dry spillages and clean up spillages as soon as reasonably practicable after the event using wet cleaning methods.</p>
Monitoring	<p>Agree dust monitoring locations and frequency with the local planning authorities as part of the CEMP.</p> <p>Undertake inspections, where receptors (including roads) are nearby and, where access is granted to monitor dust, record inspection results, and make the log available to the local authorities when asked. This should include dust soiling checks of surfaces within publicly available land within 100m of the Order limits, with cleaning to be provided if necessary.</p> <p>Carry out site inspections to monitor compliance with the DMP, record inspection results, and make an inspection log available to the local planning authorities when asked.</p> <p>Increase the frequency of site inspections by the Environment Manager when activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions.</p> <p>Monitoring upwind and downwind of any dusty activities and close to sensitive receptors at the Order limits boundary. If required and where possible commence baseline monitoring at least three months before work on a phase commences.</p>
Preparing the Order limits	<p>Design the layout so that machinery and dust causing activities are located away from receptors, as far as is possible.</p>

Activity	Mitigation
	<p>Erect solid screens or barriers around dusty activities that are at least as high as any stockpiles onsite where stockpiles are within 100m of receptors.</p> <p>Fully enclose the specific operations where there is a high potential for dust production and where construction works are active for an extensive period where operations are within 100m of receptors.</p> <p>Avoid site runoff of water or mud.</p> <p>Keep fencing, scaffolding and barriers clean using wet methods.</p> <p>Remove materials that have a potential to produce dust from the Order limits as soon as possible, unless being re-used onsite. If they are being re-used onsite cover, seed or fence stockpiles to prevent wind whipping.</p>
Operation of Equipment	<p>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.</p> <p>Ensure an adequate water supply onsite for effective dust/particulate matter suppression/mitigation, using non-potable water where possible and appropriate.</p> <p>Ensure equipment is readily available onsite to clean any dry spillages and clean up spillages as soon as reasonably practicable after the event using wet cleaning methods.</p>
Waste	No bonfires and burning of waste materials will be carried out.
Earthworks	<p>Re-vegetate earthworks and exposed areas/soil stockpiles to stabilise surfaces as soon as practicable.</p> <p>Use Hessian, mulches or tackifiers where it is not possible to re-vegetate or cover with topsoil, as soon as practicable.</p>

Activity	Mitigation
	<p>Only remove the cover in small areas during work and not all at once.</p>
<p>Construction Works</p>	<p>Minimise 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 appropriately with suitable emission control systems to prevent escape of material and overfilling during delivery.</p> <p>For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.</p>
<p>Track-out</p>	<p>Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the Order limits. This may require the sweeper being continuously in use.</p> <p>Minimise dry sweeping of large areas.</p> <p>Ensure vehicles entering and leaving the Order limits are covered to prevent escape of materials during transport.</p> <p>Inspect onsite 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 permeable surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned.</p>

Activity	Mitigation
	<p>Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the Order limits where reasonably practicable).</p> <p>Ensure there is an adequate area of hard surfaced road between the wheel wash facility and the Order limits exit, wherever Order limits size and layout permits.</p> <p>Access gates to be located at least 10m from receptors where possible.</p>

Operation

- 4.2.9. The Proposed Development is estimated to support four 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.
- 4.2.10. The operation of the Proposed Development 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.
- 4.2.11. No likely significant effects on air quality are therefore predicted during the operational phase of the Proposed Development.

Conclusion

- 4.2.12. 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, including in relation to the health of human receptors.
- 4.2.13. 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. Lighting is controlled by the **oCEMP**. Temporary construction 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. Artificial lighting will be provided to maintain sufficient security and health and safety within the Order limits, whilst adopting mitigation principles to avoid excessive glare, and minimise spill of light to nearby receptors (including ecology and residents) as far as reasonably practicable.

Operation

- 4.3.4. Lighting is controlled by the **oOEMP**. During operation, no part of the Proposed Development will be continuously lit. The use of motion detection security lighting to avoid permanent lighting will be utilised at the Onsite Substation and a sensitive lighting scheme will be developed ensuring inward and downward distribution of light, avoiding light spill on to existing boundary features.
- 4.3.5. No areas of the PV Arrays are proposed to be continuously lit. For security requirements, Passive Infra-red Detector (PID) systems (or similar) will be

installed around the perimeter of the PV Arrays to provide night vision functionality for the CCTV.

- 4.3.6. 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:

- a. Section 79 (1) (g) - “*noise emitted from premises so as to be prejudicial to health or a nuisance*”; and
- b. 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 10: Noise and Vibration** of the ES. The chapter assessed the significance of potential noise and vibration effects during the construction, operation and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant noise or vibration effects.

- 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 Proposed Development, 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 **oCEMP** and the **oDEMP**. The CEMP(s) will be prepared prior to construction and the DEMPS(s) will be prepared prior to the decommissioning phase.
- 4.4.7. Examples of Best Practicable Means that would be implemented during construction and decommissioning works to minimise impacts are set out below:
- a. Ensuring that all appropriate processes, procedures and measures are in place to minimise noise before works begin and throughout the construction programme;

- b. All contractors to be made familiar with current legislation and the guidance in BS 5228 (Parts 1 and 2) (2014) (or equivalent) which should form a prerequisite of their appointment;
- c. 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 programme and methodology to consider quieter methods, consideration of the location of equipment onsite and control of working hours;
- d. Use of modern plant, complying with applicable UK noise emission requirements;
- e. Hydraulic techniques for breaking to be used in preference to percussive techniques, where reasonably practicable;
- f. Drop heights of materials will be minimised;
- g. Unnecessary revving of engines will be avoided, and equipment will be switched off when not in use;
- h. Plant and vehicles will be sequentially started up rather than all together;
- i. Offsite pre-fabrication where reasonably practicable;
- j. Use of screening locally around significant noise producing plant and activities. Screening would be designed to minimise landscape and visual impacts;
- k. Regular and effective maintenance by trained personnel will be undertaken to keep plant and equipment working to manufacturer's specifications;
- l. All construction plant and equipment to be properly maintained, silenced where appropriate, operated to prevent excessive noise and switched off when not in use;

- m. Loading and unloading of vehicles, dismantling of 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;
- n. All vehicles used onsite shall incorporate reversing warning devices as opposed to the typical tonal reversing alarms to minimise noise disturbance where reasonably practicable;
- o. Appropriate routing of construction traffic on public roads and along access tracks pursuant to the CTMP;
- p. Provision of information to local planning authorities and local residents to advise of potential noisy works that are due to take place;
- q. Section 61 Consents would be obtained for the Proposed Development which would include agreed construction noise limits for nearby noise sensitive receptors;
- r. Monitoring of noise complaints and reporting to the Applicant for immediate investigation and action. A display board will be installed onsite. These will include contact details for the Site Manager or alternative public interface with whom complaints can be lodged. A logbook of complaints will be prepared and managed by the Site Manager; and
- s. Consideration will also be given to traffic routing, timing and access points to the Order limits to minimise noise impacts at existing receptors following appointment of a principal construction contractor, and as construction working methods are developed. The contractors will issue a project route map and delivery schedule to control construction traffic. Management of heavy goods vehicles (HGVs) within the Order limits and being let onto the highway network will be managed through the CTMP developed pursuant to the oCTMP. The relevant access route road surface will be checked prior to use.

- 4.4.8. Based on the distances between the Works extents and surrounding receptors to locations where heavy ground works (piling, drilling or vibratory rolling techniques) may take place, it is considered that vibration from construction works experienced at sensitive receptors will be of a low magnitude of impact and therefore not significant, as identified by **Chapter 10: Noise and Vibration** of the ES.
- 4.4.9. Core construction hours will run from 07:00 to 19:00 Monday to Saturday, and no working on Sundays or Bank Holidays. Heavy Goods Vehicle (HGV) deliveries to the Order limits and works likely to generate substantial levels of noise, aside from Horizontal Directional Drilling (HDD), would be limited to daytime hours of 07:00 to 19:00 during weekdays or Saturday mornings (until 13:00 hours), unless otherwise agreed with the relevant local authority.
- 4.4.10. Working days will be one 12-hour shifts, with employees travelling to and from the Order limits an hour either side of these times (i.e. between 06:00 and 07:00, and 19:00 and 20:00). Where onsite works are to be conducted outside the core working hours, this will be agreed with the relevant planning authority
- 4.4.11. If percussive piling is used, within close proximity of Noise Sensitive Receptors, for the foundations of the Mounting Structures, this should be further restricted (when works are undertaken within 400m of residential properties) to no more than two periods of four hours each with at least one hour of no piling between these four-hour periods and restricted to the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 12:00 on Saturdays.
- 4.4.12. HDD drilling could be required outside of the assumed day-time construction hours (i.e. evening, Sundays, Bank Holidays or at night).

- 4.4.13. Trenchless/HDD works will be completed in the shortest practical timescale and night-time noise generation minimised. To minimise the potential impacts on noise sensitive receptors, HDD will be at a minimum distance of 500m from the nearest residential property.
- 4.4.14. If night-time operation is required, the closest residents to the works shall be notified of the start and completion of the works. The HDD plant would be installed and operated such that noise levels do not exceed a level of 45dB LAeq at the closest neighbouring noise-sensitive locations during night-time operation. Depending on the plant used, location, pit depth etc., this may require the use of acoustic screening using temporary solid barriers with a height of at least that of the drilling equipment, located in proximity (around 10m or less) of the trenchless drilling work.
- 4.4.15. Noise and vibration effects during the decommissioning phase of the Proposed Development 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

- 4.4.16. No major vibration sources are envisaged to be introduced as part of the Proposed Development and as such there will be no associated operational vibration effects. No further assessment of operational vibration has been included in the ES.
- 4.4.17. Operational phase embedded noise mitigation measures include measures such as distancing of Solar Stations away from noise sensitive receptors.

Further mitigation identified within the Noise and Vibration Chapter of the ES requires that the detailed design of the Proposed Development, including final plant locations and selections, will be controlled through a requirement of the DCO that establishes suitable noise limits at the boundary of the Order limits. This should be determined such that cumulative rated noise levels L_Ar, including the applicable character correction, do not exceed 35dB at neighbouring properties.

Conclusion

- 4.4.18. 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, including in relation to the health of human receptors, as set out in **Chapter 10: Noise and Vibration** and **Chapter 14: Socio-economics** of the ES during the construction, operation (and maintenance) and decommissioning phases of the Proposed Development.
- 4.4.19. 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).

5.0 Conclusion

- 5.1.1. In line with Regulation 5(2)(f) of the APFP Regulations, this Statement has identified whether the Proposed Development has engaged one or more of the matters set out in Section 79(1) of the EPA, and thus considered whether the Proposed Development would cause a statutory nuisance.
- 5.1.2. The matters in the EPA that have been engaged by the Proposed Development are general site condition, air quality, artificial light, and noise and vibration, during all phases of the Proposed Development. The embedded design, management plans and 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 Proposed Development would cause a statutory nuisance.

