



STATUTORY NUISANCE STATEMENT: 5.9

DECARBONISATION

Cory Decarbonisation Project

PINS Reference: EN010128

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Revision A

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1. INTRODUCTION

1.1.1. WSP has been instructed by Cory Environmental Holdings Limited (hereafter referred to as the Applicant) to prepare a **Statutory Nuisance Statement (Document Reference 5.9)**, as part of an application for a Development Consent Order (DCO) for the Cory Decarbonisation Project to be located at Norman Road, Belvedere in the London Borough of Bexley (LBB) (National Grid Reference/NGR 549572, 180512). The following figures are available in the Environmental Statement (ES):

- **Figure 1-1: Site Boundary Location Plan (Volume 2) of the ES (Document Reference 6.2);** and
- **Figure 1-2: Satellite Imagery of the Site Boundary Plan (Volume 2) of the ES (Document Reference 6.2).**

1.1.2. The Applicant intends to construct and operate the Proposed Scheme to be linked with the River Thames. It comprises of the following key components, which are described below, and further detail is provided within **Chapter 2: Site and Proposed Scheme Description (Volume 1) of the ES (Document Reference 6.1)**:

- The Carbon Capture Facility (including its associated Supporting Plant and Ancillary Infrastructure): the construction of infrastructure to capture a minimum of 95% of carbon dioxide (CO₂) emissions from Riverside 1 and 95% of CO₂ emissions from Riverside 2 once operational, which is equivalent to approximately 1.3Mt CO₂ per year. The Carbon Capture Facility will be one of the largest carbon capture projects in the UK.
- The Proposed Jetty: a new and dedicated export structure within the River Thames as required to export the CO₂ captured as part of the Carbon Capture Facility.
- The Mitigation and Enhancement Area: land identified as part of the **Outline Landscape, Biodiversity, Access and Recreation Delivery Strategy (LaBARDS) (Document Reference 7.9)** to provide improved access to open land, habitat mitigation, compensation and enhancement (including forming part of the drainage system and Biodiversity Net Gain delivery proposed for the Proposed Scheme) and planting. The Mitigation and Enhancement Area provides the opportunity to improve access to outdoor space and to extend the area managed as the Crossness Local Nature Reserve (LNR).
- Temporary Construction Compounds: areas to be used during the construction phases for activities including, but not limited to office space, warehouses, workshops, open air storage and car parking, as shown on the **Works Plans (Document Reference 2.3)**. These include the core Temporary Construction Compound, the western Temporary Construction Compound and the Proposed Jetty Temporary Construction Compound.
- Utilities Connections and Site Access Works: The undergrounding of utilities required for the Proposed Scheme in Norman Road and the creation of new, or the improvement of existing, access points to the Carbon Capture Facility from Norman Road.

1.1.3. Together, the Carbon Capture Facility (including its associated Supporting Plant and Ancillary Infrastructure), the Proposed Jetty, the Mitigation and Enhancement Area, the Temporary Construction Compounds and the Utilities Connections and Site Access Works are referred to as the 'Proposed Scheme'. The land upon which the Proposed Scheme is to be located is referred to as the 'Site' and the edge of this land referred to as the 'Site Boundary'. The Site Boundary represents the Order Limits for the Proposed Scheme as shown on the **Works Plans (Document Reference 2.3)**.

1.2. PURPOSE OF REPORT

1.2.1. The purpose of this document is to comply with regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations 2009')¹, which states that an application for a DCO should be accompanied by a statement setting out 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 ('EPA') 1990². If any of those matters are engaged, the statement must set out how the applicant proposes to mitigate or limit them.

1.2.2. Paragraph 4.15.1 to 4.15.4 of the Overarching National Policy Statement for Energy EN-1 (EN-1)³ 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 (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 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.”

1.2.3. Paragraph 4.15.5 states the importance of considering possible sources of nuisance under section 79(1) of the EPA² and how these may be mitigated or limited, so that appropriate requirements can be included in any DCO that is granted.

1.2.4. Whilst it is not expected that the construction, operation or maintenance of the Proposed Scheme would cause a statutory nuisance, article 42 (defence to proceedings in respect of statutory nuisance) of the **Draft DCO (Document Reference 3.1)** submitted as part of the DCO Application is a provision that would provide a defence to proceedings in respect of statutory nuisance falling within

paragraphs (c), (d), (e), (fb), (g) or (h) of section 79(1) of the EPA ², subject to the criteria set out in that article.

1.3. REPORT STRUCTURE

1.3.1. This document is structured as follows:

- **Section 2** identifies the legislative framework pertinent to statutory nuisance, and those matters which are not considered within this Statement due to the nature of the Proposed Scheme;
- **Section 3** outlines the likely significant effects identified within the Environmental Statement (which accompanies this DCO Application) which may have a bearing on statutory nuisance. It also outlines the mitigation measures which have been identified to reduce the potential statutory nuisance impacts, as outlined in the **ES (Document Reference 6.1)**;
- **Section 4** outlines the likely negligible and minor effects which may arise from the Proposed Scheme which may give cause for nuisance and any mitigation measures which are proposed for the control of these, as outlined in the **ES (Document Reference 6.1)**; and
- **Section 5** provides a conclusion in relation to the potential for nuisance.

2. APPROACH TO THE ASSESSMENT OF STATUTORY NUISANCE

2.1. LEGISLATIVE FRAMEWORK

2.1.1. Section 79(1) of the EPA² identifies the matters which constitute “statutory nuisances” subject to specified caveats, as set out below:

“(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.”

2.2. ASSESSMENT OF SIGNIFICANCE

2.2.1. The **ES (Document Reference 6.1)** for the Proposed Scheme addresses the likelihood of significant effects arising that could constitute a statutory nuisance, as identified in section 79(1) of the EPA². **Chapter 2: Site and Proposed Scheme Description (Volume 1)** and **Chapter 3: Consideration of Alternatives (Volume 1)** describe impact avoidance measures inherent to the proposed design and methods of operation, which address the potential statutory nuisances defined in **Paragraph 2.1.1** above.

2.2.2. The following chapters of the **ES (Document Reference 6.1)** and their associated appendices in Volume 3 of the **ES (Document Reference 6.3)** provide detailed assessments of these potential statutory nuisances and identify mitigation measures where necessary, with mitigation and the associated securing mechanism detailed in the **Mitigation Schedule (Document Reference 7.8)**:

- **Chapter 5: Air Quality (Volume 1);**
- **Chapter 6: Noise and Vibration (Volume 1);**
- **Chapter 10: Townscape and Visual (Volume 1);**
- **Chapter 14: Population, Health and Land Use (Volume 1);**
- **Chapter 16: Materials and Waste (Volume 1);** and
- **Chapter 17: Ground Conditions and Soils (Volume 1).**

- 2.2.3. The **ES (Document Reference 6.1)** for the Proposed Scheme provides an assessment of the potential effects on receptors as negligible, minor, moderate or major. Moderate and major effects are considered to be significant for the purposes of the EIA, unless otherwise detailed within the topic chapters.
- 2.2.4. The only matter addressed by the ES which has been assessed as likely to be significant for the Proposed Scheme and which may have a bearing on the EPA is visual amenity. However, it is demonstrated in **Section 3** of this Statement that the Proposed Scheme would have no significant visual amenity effects that would constitute nuisance effects following the implementation of the identified mitigation measures.
- 2.2.5. Other potential nuisance aspects have been considered in **Section 4** of this Statement and through mitigation no statutory nuisance effects are considered likely to occur.
- 2.2.6. Matters which could give rise to statutory nuisance under section 79(1) of the EPA² are considered within **Section 3** or **Section 4** or are excluded as outlined in **Table 2-1** below, depending on whether likely significant effects were identified within the **ES (Document Reference 6.1)**.

Table 2-1: EPA Section 79(1) Matters and Significance of Effects

EPA Section 79(1) Matters	Section within Statement to be Considered
<i>“(a) any premises in such a state as to be prejudicial to health or a nuisance</i>	Chapter 10: Townscape and Visual (Volume 1) of the ES (Document Reference 6.1) identified likely significant effects for visual amenity. This matter is therefore considered in Section 3 .
<i>(b) smoke emitted from premises so as to be prejudicial to health or a nuisance</i>	No smoke is expected to be generated during normal operation of the Proposed Scheme. This matter is not considered further within this Statement.
<i>(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance</i>	Chapter 5: Air Quality (Volume 1) of the ES (Document Reference 6.1) did not identify any significant effects for human receptors from emitted fumes or gases. This matter is therefore considered under Section 4 this Statement.

EPA Section 79(1) Matters	Section within Statement to be Considered
<i>(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance</i>	Chapter 5: Air Quality (Volume 1) of the ES (Document Reference 6.1) did not identify any significant effects for human receptors from dust, steam, smell or other effluvia. This matter is therefore considered under Section 4 this Statement.
<i>(e) any accumulation or deposit which is prejudicial to health or a nuisance</i>	Chapter 16: Materials and Waste (Volume 1) and Chapter 17: Ground Conditions and Soils (Volume 1) of the ES (Document Reference 6.1) did not identify any significant effects for human receptors. This matter is therefore considered under Section 4 this Statement.
<i>(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance</i>	No animals will be kept within the operational areas of the Proposed Scheme. This matter is not considered further within this Statement.
<i>(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance</i>	It is not anticipated that insects will emanate from the Proposed Scheme or be attracted to it. This matter is not considered further within this Statement.
<i>(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance</i>	Chapter 10: Townscape and Visual (Volume 1) of the ES (Document Reference 6.1) of the ES (Document Reference 6.1) did not identify significant effects are anticipated from light emitted from the premises. This matter is therefore considered under Section 4 this Statement.
<i>(g) noise emitted from premises so as to be prejudicial to health or a nuisance</i>	Chapter 6: Noise and Vibration (Volume 1) of the ES (Document Reference 6.1) did not identify any significant effects for human receptors from noise emitted from premises. This matter is therefore considered under Section 4 this Statement.
<i>(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</i>	Chapter 6: Noise and Vibration (Volume 1) of the ES (Document Reference 6.1) did not identify any significant effects for human receptors from noise emitted or caused by a vehicle, machinery or equipment in a street. This matter is therefore considered under Section 4 this Statement.

EPA Section 79(1) Matters	Section within Statement to be Considered
<i>(h) any other matter declared by any enactment to be a statutory nuisance.</i>	No other matters are considered to be a potential statutory nuisance associated with the construction and operation of the Proposed Scheme.

3. LIKELY SIGNIFICANT EFFECTS

3.1. EPA SECTION 79(1) “(A) ANY PREMISES IN SUCH A STATE AS TO BE PREJUDICIAL TO HEALTH OR A NUISANCE”

3.1.1. The assessment of effects on landscape and visual amenity is presented within **Chapter 10: Townscape and Visual (Volume 1)** of the **ES (Document Reference 6.1)**.

CHANGE IN CHARACTER AND VISUAL AMENITY FROM ACCESSIBLE OPEN LAND (CONSTRUCTION PHASE)

3.1.2. The construction activities associated with the Proposed Scheme will likely have direct impacts on the visual amenity of the users of the Accessible Open Land. Users are likely to experience temporary changes due to the introduction of construction activities such as plant, machinery, cranes, and temporary lighting into views.

3.1.3. The value of the Accessible Open Land is medium as they are locally valued landscapes, reasonably attractive, and have moderately valued views for the users of the spaces.

3.1.4. The susceptibility to change for users of Accessible Open Land is medium-high as the nature of the surroundings is a contributor but not a significant factor in the enjoyment of the activity undertaken by users of the Accessible Open Land.

3.1.5. The sensitivity of the users of Accessible Open Land, where recreation and enjoyment of the setting is important, is considered to be medium-high. The size and scale of construction activities will likely occupy a significant portion of views for users of the Accessible Open Land at close distance, however, the duration is short term, temporary and as such the magnitude of impact is moderate. There is likely to be a direct, temporary, short term, Significant effect on the users of the Accessible Open Land during the construction phase.

CHANGE IN VISUAL AMENITY FOR USERS OF PROW WITHIN AND IN THE VICINITY OF THE SITE BOUNDARY (FP1/FP2/FP4) (CONSTRUCTION PHASE)

3.1.6. Users of Public Right of Way (PRoW) within the Site and in the vicinity of the Site Boundary (FP1/FP2/FP4), would experience direct views of construction activities. Whilst the nature of the construction activities would not be entirely out of character for the area, the users of the PRoW, particularly those that cross the Accessible Open Land and users of the England Coast Path (FP3/NCN1) are likely to experience visual impact.

3.1.7. The sensitivity of the users of PRoW within and in the vicinity of the Site Boundary (FP1/FP2/FP4) is considered to be medium as they are local routes of moderate importance. The views from these routes are of low value, without designation at national, regional, or local level and set within an industrial context. However, the surroundings contribute to the appreciation, experience, and visual amenity of the

routes. The size and scale of change is high as the construction activities would be dominant within views from the PRow. The geographical extent is extensive as the construction activities would be experienced at close proximity and affect much of the views, and the duration is short term, temporary. The magnitude of impact is considered moderate. Therefore, there is likely to be a direct, temporary, short term, Significant effect on the users of PRow within and in the vicinity of the Site Boundary (FP1/FP2/FP4).

CHANGE IN CHARACTER AND VISUAL AMENITY FROM ACCESSIBLE OPEN LAND (OPERATION PHASE)

- 3.1.8. As identified above, Accessible Open Land lies within the Site Boundary.
- 3.1.9. The operation phase of the Proposed Scheme would likely have direct impacts on the visual amenity of users of the Accessible Open Land.
- 3.1.10. Users of the Accessible Open Land would have direct views of the Proposed Scheme. These views would likely have impact on the visual amenity of the Accessible Open Land; however, they would be experienced in the context of the industrial nature of the townscape with several other developments of a similar nature and scale, including Riverside 1 and Riverside 2. Embedded mitigation measures support the integration of the Proposed Scheme including design principles to provide planted boundaries appropriate to local character, organise built form and material selection to deliver a visually coherent design, and orientate building massing and structure height to step down from high in the north to low in the south. The mitigation measures consider the quality of views from both Accessible Open Land and reduce the level of adverse impact experienced by the receptors.
- 3.1.11. The sensitivity of the users of Accessible Open Land where recreation and enjoyment of the setting is important is medium-high. The Proposed Scheme would occupy a large portion of views and be a dominant series of features within the views from a close distance. Whilst the embedded mitigation would reduce the magnitude of impact to some extent, the scale and nature of the Proposed Scheme along with the long term and permanent duration result in the magnitude of impact for users of the Accessible Open Land to be major. Therefore, there is likely to be a direct, permanent, long term Significant effect on the users of the Accessible Open Land at Year 1, prior to the establishment of embedded mitigation planting.
- 3.1.12. The proposed planting would establish over time and have an influence on the magnitude of impact on users of the Accessible Open Land where proposed woodland, wood pasture, wetland, meadow and marsh enhance the visual environment of the Accessible Open Land and provide screening to the Proposed Scheme. The magnitude of impact for users of the Accessible Open Land is reduced to moderate-major, therefore there is likely to be a permanent, long term Significant effect on users of Accessible Open Land at Year 15.

CHANGE IN VISUAL AMENITY FOR USERS OF PROW WITHIN AND IN THE VICINITY OF THE SITE BOUNDARY (FP1/FP2/FP4) (OPERATION PHASE)

- 3.1.13. Users of PRoW within the Site and in the vicinity of the Site Boundary (FP1/FP2/FP4), would experience direct views of the Proposed Scheme where the existing open views across the marshland and vegetation of the Accessible and Non-Accessible Open Land form an element of the user's appreciation and experience.
- 3.1.14. The experience of users of PRoW within and in the vicinity of the Site Boundary would likely to be impacted by the introduction of the new built form including the Carbon Capture Plant(s) (particularly the Absorber Column(s) and Stack(s), CO₂ Processing Plant, Intermediate LCO₂ Storage, and Supporting Plant. Whilst the introduction of the Proposed Scheme would be seen in the context of an existing industrial environment, the scale and nature of the built form is likely to be dominant within views and add to the sense of enclosure for users of the PRoW.
- 3.1.15. The sensitivity of the users of PRoW within and in the vicinity of the Site Boundary (FP1/FP2/FP4) is considered to be medium as the PRoW are local routes of moderate importance. The views from these routes are of low value, without designation and set within an industrial context, however the surroundings contribute to the appreciation, experience, and visual amenity of the routes. The size and scale of change is high as the Proposed Scheme would be dominant within views from the PRoW. The geographical extent is extensive as the built form would be experienced at close distance and affect much of the views. The overall magnitude of impact is considered moderate. Therefore, there is likely to be a direct, permanent, long term Significant effect on the users of PRoW within and in the vicinity of the Site Boundary (FP1/FP2/FP4) at Year 1, prior to the establishment of embedded mitigation planting.
- 3.1.16. Proposed planting would establish over time, which would likely partly screen views from the users of the PRoW, however the scale of the Proposed Scheme and distance to receptors result in a relatively small reduction in magnitude of impact. The magnitude of impact at Year 15 would remain moderate (albeit reduced slightly). Therefore, there is likely to be a permanent, long term Significant effect on the users of PRoW within and in the vicinity of the Site Boundary (FP1/FP2/FP4) at Year 15.

MITIGATION

- 3.1.17. To minimise risk of any statutory nuisance from occurring as a result of the construction phase measures will be put in place such as:
- Construction Phase:
 - Clear directions/signage for any alternative routes and appropriate alternative diversions would be clearly publicised by the Contractor(s) to maintain public access; and
 - Public notices would be issued in advance so to inform local residents and businesses of dates and durations of road and rights of way closures. The Contractor(s) would ensure provision and maintenance of suitable and

sufficient signs and barriers indicating temporary and permanent closures to public accesses and rights of way.

- Hoardings of appropriate appearance erected around the area of construction works to create a visual barrier to construction activities.
- Operation Phase:
 - Relevant design, mitigation, enhancement measures and improvements are described within the **Design Approach Document (Document Reference 5.6)**. The **Design Principles and Design Code (Document Reference 5.7)** are commitments which will govern the of the Proposed Scheme during the detailed design stage. The **Outline Landscape, Biodiversity, Access and Recreation Delivery Strategy (Outline LaBARDS) (Document Reference 7.9)** details the soft landscaping strategy including new and enhanced planting and is secured through a requirement in the **Draft DCO (Document Reference 3.1)**.
 - The offsite access improvements referenced in the **Outline LaBARDS (Document Reference 7.9)** would include provision of improved access, interpretation, and activation on PRoW within accessible open spaces for all seasons, encouraging active and healthy lifestyles, points of engagement and benefit local people, and improved use and amenity value. As discussed in the assessment above, immediate views will be affected by the Proposed Scheme, however, a new circular route proposed will allow users to experience more of the surrounding environment where they have not been able to before. PRoW and access improvements are relevant to the townscape as they benefit human interaction, the way people interact with the environment and contribute to the townscape character. Whilst the offsite improvements will benefit the local townscape, they are considered to be of a scale that will not materially alter the assessment of effect the Proposed Scheme will have on the overall townscape.

SUMMARY

- 3.1.18. Whilst significant adverse effects have been identified as likely, these do not constitute a statutory nuisance under Section 79(1)(a) of the EPA² as this is only considered to occur if poor levels of housekeeping or maintenance are applied at the Proposed Scheme.
- 3.1.19. Statutory nuisance occurring as a result of poor housekeeping or maintenance is not anticipated and the Proposed Scheme would be kept in tidy condition and good working order as a matter of course in connection with its construction. The land used for construction would also be required to be restored in accordance with requirements in the **Draft DCO (Document Reference 3.1)**. The **Outline LaBARDS (Document Reference 7.9)** details the soft landscaping strategy including new and enhanced planting and is secured through a requirement in the **Draft DCO (Document Reference 3.1)**.

4. NOT SIGNIFICANT EFFECTS

4.1. EPA SECTION 79(1) “(C) FUMES OR GASES EMITTED FROM PREMISES SO AS TO BE PREJUDICIAL TO HEALTH OR A NUISANCE”

- 4.1.1. The assessment of air quality is included in **Chapter 5: Air Quality (Volume 1)** of the **ES (Document Reference 6.1)**.
- 4.1.2. A quantitative (dispersion modelling) assessment of impacts from introduced pollutants and changes to the existing pollutants from the Riverside 1 and Riverside 2 combustion units has been undertaken. The assessment of emissions from the Proposed Scheme is based on a dispersion modelling exercise undertaken using the ADMS model (v6.0). **Appendix 5-2: Operation Phase Assessment (Volume 3)** of the **ES (Document Reference 6.3)** contains further details on the atmospheric dispersion model input parameters, assumptions and limitations, post-processing of model outputs and associated sensitivity testing.
- 4.1.3. Combining the emissions from the Carbon Capture Facility, including the backup power generator and vessel movements during operation slightly increases the maximum Predicted Environmental Concentration (PEC) (i.e. the PC plus background concentration or deposition for each scenario) and effects. However, the impacts and contribution from the Proposed Scheme are dominated by the impacts from the Stack(s) emissions. Maximum concentrations and impacts occur in the same areas as those stated in the results of the Carbon Capture Facility alone, and consideration of the combined impacts of Stack(s) plus marine vessels does not change the conclusions of significance outlined for the Stack(s) alone. The effects can, therefore, be described as Not Significant for all pollutants.
- 4.1.4. To further minimise the risk of any statutory nuisance occurring through fumes or gases emitted which are prejudicial to health or a nuisance, the following mitigation measures will be implemented:
- The backup power generator will be positioned as far away from potential exposure of members of the public as practicable. This is secured via the **Design Principles and Design Code (Document Reference 5.7)**. In practice this means locating the generator away from the Site Boundary and/or onsite public right of ways as is practicable. Although there are no modelled significant effects to human health, this will limit any impacts to the general population as best as possible.
 - The technology used in the Carbon Capture Facility will be designed to minimise, as far as is reasonably practicable, the loss of amines into the plume emitted by the Carbon Capture Facility. This is secured via the **Mitigation Schedule (Document Reference 7.8)**.
 - The Environmental Permit that will be required for the operation of the Proposed Scheme will consider detailed operation processes.

- 4.1.5. Overall, the ES concluded no significant adverse effects on human receptors anticipated from the construction or operation of the Proposed Scheme in relation to emitted fumes or gases.
- 4.2. EPA SECTION 79(1) “(D) ANY DUST, STEAM, SMELL OR OTHER EFFLUVIA ARISING ON INDUSTRIAL, TRADE OR BUSINESS PREMISES AND BEING PREJUDICIAL TO HEALTH OR A NUISANCE”**
- 4.2.1. The assessment of air quality is included in **Chapter 5: Air Quality (Volume 1)** of the **ES (Document Reference 6.1)**.
- 4.2.2. For the construction phase, an assessment of the likely significant impacts on local air quality due to the generation and dispersion of dust and PM₁₀ has been undertaken with reference to the relevant guidance set out in **Chapter 5: Air Quality (Volume 1)** of the **ES (Document Reference 6.1)**. The assessment covers those pollutants that may accumulate in the environment. Health effects may arise through exposure via direct inhalation of pollutants and via the ingestion of locally grown foodstuffs. The health effects of those pollutants for which the primary risk of health effects of emissions to air arises via direct inhalation, such as NO₂, SO₂, PM₁₀, PM_{2.5}, amines and degradation products, are assessed by comparison to the air quality standards set for the protection of human health in UK regulations and/or non-statutory Environment Agency Environmental Assessment Levels.
- 4.2.3. For the operational phase, a human health risk assessment has been undertaken which considers the potential effects of changes in exposure to emissions to air of trace metals, dioxins, furans and dioxin-like PCB with the Proposed Scheme. The assessment covers those pollutants that may accumulate in the environment. Health effects may arise through exposure via direct inhalation of pollutants and via the ingestion of locally grown foodstuffs. The health effects of those pollutants for which the primary risk of health effects of emissions to air arises via direct inhalation, such as NO₂, SO₂, PM₁₀, PM_{2.5}, amines and degradation products, are assessed by comparison to the air quality standards set for the protection of human health in UK regulations and/or non-statutory Environment Agency Environmental Assessment Levels.
- 4.2.4. For the construction phase, the assessment of effects on dust soiling concluded there is likely to be a direct, temporary, short term, Not Significant effect on nearby places of work. For the assessment of effects on human health there is likely to be a direct, temporary, short term, Not Significant effect on nearby places of work. To further minimise the risk of any statutory nuisance occurring through dust, steam, smell or other effluvia which are prejudicial to health or a nuisance, the following mitigation measures, amongst others, will be implemented:
- Site Management:
 - hold regular liaison meetings with other high risk construction sites within 200m of the Site Boundary (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 offsite transport/deliveries which might be using the same strategic road network routes; and

- the developer and the appointed Contractor(s) are to actively monitor the Site to ensure the control of dust and emissions. Dry and windy conditions increase the likelihood of dust and emissions being produced and dispersed, so extra Site monitoring will take place during these times.
- Monitoring:
 - undertake daily onsite and offsite inspection, where receptors within 100m of Site Boundary (including roads) are nearby, to monitor dust, record inspection results, and make the log available to LBB when asked; and
 - agree dust deposition, dust flux, or real-time PM₁₀ continuous monitoring locations with the LBB. Where possible commence baseline monitoring at least three months before work commences onsite. Further guidance is provided by IAQM⁴ on monitoring during demolition, earthworks and construction.
- Preparing and Maintaining the Site:
 - fully enclose site or specific operations where there is a high potential for dust production and the site is active for an extensive period.
 - hoardings, keep site fencing, barriers and scaffolding clean using wet methods.
 - remove materials that have a potential to produce dust from site as soon as possible, unless being reused onsite. If they are being reused onsite cover as described below.
 - cover, seed or fence stockpiles to prevent wind whipping.
- Measures Specific to Demolition:
 - soft strip inside buildings before demolition (sheet piling walls and windows in the rest of the building where possible to provide a screen against dust).
 - ensure effective water suppression is used during demolition operations. Handheld sprays are more effective than hoses attached to equipment as the water can be directed to where it is needed. In addition, high volume water suppression systems, manually controlled, can produce fine water droplets that effectively bring the dust particles to the ground.
 - avoid explosive blasting, using appropriate manual or mechanical alternatives.
 - bag and remove any biological debris or damp down such material before demolition.
- Measures Specific to Construction:

- avoid scabbling (roughening of concrete surfaces) if possible.
- ensure aggregates are stored in bunded areas and, where practicable, are not allowed to dry out.
- ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems.
- for smaller supplies of fine powder materials, ensure bags are sealed after use and stored appropriately to prevent dust.
- Measures Specific to Trackout:
 - ensure vehicles entering and leaving sites are covered to prevent escape of materials during transport by re-using existing access points where possible/practicable.
 - use water-assisted dust sweeper(s) on the access and local roads to remove, as necessary, any material tracked out of the Site.
 - install hard surfaces haul routes which are regularly damped down and cleaned.
 - implement a wheel-washing system with rumble grids to dislodge accumulated dust and mud prior to leaving the Site. Ensure there is an adequate area of hard surfaced road between the wheel wash facility and the Site exit.
 - avoid dry sweeping of large areas.
 - ensure vehicles covering dusty materials are covered before leaving the Site.

4.2.5. The above measures are secured by the **Outline Code of Construction Practice (Outline CoCP) (Document Reference 7.4)**.

4.2.6. For the operational phase, the human health risk assessment, concluded that taking into account the inherent conservatism built into the risk assessments and with a maximum impact from the Proposed Scheme being 1% of the relevant risk criterion, the effects of the Proposed Scheme on human health are Not Significant. The operational phase mitigation measures are as shown in **Section 4.1**.

4.2.7. Overall, the ES concluded no significant adverse effects on human receptors anticipated from the construction or operation of the Proposed Scheme in relation to dust, steam, smell or other effluvia.

4.3. EPA SECTION 79(1) “(E) ANY ACCUMULATION OR DEPOSIT WHICH IS PREJUDICIAL TO HEALTH OR A NUISANCE”

4.3.1. The assessment of waste is presented in **Chapter 16: Materials and Waste (Volume 1)** of the **ES (Document Reference 6.1)**. The assessment of ground conditions, including a conceptual site model of various contaminative substances, is included in

Chapter 17: Ground Conditions and Soils (Volume 1) of the ES (Document Reference 6.1).

- 4.3.2. **Chapter 17: Ground Conditions and Soils (Volume 1) of the ES (Document Reference 6.1)** identified a number of potential sources of contamination which could impact on human receptors within the study area. It concluded that with implementation of appropriate mitigation measures, the impact on construction workers during the construction of the Proposed Scheme would be Not Significant. There are not considered to be any potentially significant effects regarding ground conditions and soils during the operation phase as it is anticipated that any contamination identified during the construction phase will be remediated in line with national and local planning policy upon consideration of the proposed end use.
- 4.3.3. **Chapter 16: Materials and Waste (Volume 1) of the ES (Document Reference 6.1)** identified that waste will be produced and disposed of during the construction and operation phases. It concluded that with implementation of appropriate mitigation measures, the effect during the construction and operation of the Proposed Scheme would be Not Significant.
- 4.3.4. To minimise the risk of any statutory nuisance occurring through accumulation or exposure to deposits which are prejudicial to health or a nuisance, the following mitigation measures, amongst others, would be implemented:

Construction Phase:

- a ground investigation would be undertaken to inform detailed design. Depending on information gathered through this ground investigation, monitoring of groundwater and surface water may be recommended before construction commences, during construction works and post-construction. Should contamination be identified which is considered to pose a risk to sensitive receptors then remediation will be undertaken, pursuant to a DCO requirement.
- the measures set out in the **Outline Site Waste Management Plan (Document Reference 7.10)** ensure that wastes will be correctly segregated to maximise recycling. Wastes will be responsibly managed in full adherence to local and national policy and legislation. The Site Waste Management Plan will be prepared in substantial accordance with the Outline SWMP.
- A Materials Management Plan will also be prepared prior to construction commencing (post-consent).
- The following measures are secured by the **Outline CoCP (Document Reference 7.4)**:
 - general good construction working practices would be implemented such as dust suppression, including potentially contaminated dust, (damping down), windbreak netting around excavations and/or perimeter fencing, covering stockpiles with tarpaulins, wheel washing and road sweeping to prevent local residents and employees in the vicinity of the earthworks from being exposed to windblown dusts, vapours and asbestos fibres.

- appropriate stockpile segregation, locations and containment measures would be implemented to minimise the exposure of surface water and groundwater from contaminated run-off and local neighbours from windblown dusts, vapours and asbestos fibres.
- a protocol for managing unexpected ground contamination that may be encountered during construction would be implemented.
- construction staff would be required to wear PPE such as gloves and face masks (where appropriate) to prevent dermal contact and inhalation or ingestion.
- appropriate site hygiene facilities will be put in place and the presence of contaminants, and the associated risks will be explained to construction staff undertaking groundworks before they begin work.
- fuel storage onsite would be carried out under best practice i.e. integrally bunded containers. Plant refuelling would be carried out using best practice techniques and any spills to be controlled with spill kit.
- management of water that collects onsite or within excavations.
- appropriate management measures for polluting substances that are being brought on site and used as part of the construction process.
- appropriate management measures for sediments in surface water runoff generated in construction and laydown areas.
- appropriate management measures for accidental leakage and/or spillage incidents of oils/hazardous substances.
- incorporation of hydrocarbon interceptors into the Site drainage system at high-risk areas, such as parking, unloading and refuelling areas, to remove hydrocarbons and oils from surface water prior to discharge. The **Outline Drainage Strategy (Document Reference 7.2)** details how new drainage will capture surface run-off once operational.
- the Contractor(s) will reuse excavated arisings on the Proposed Scheme where suitable. If not suitable, it will be taken offsite for reuse, unless circumstances dictate it must be disposed to landfill.
- the dredged arisings will be managed in accordance with relevant legislation and will be disposed of offsite (via vessel and only if dredged arisings are deemed suitable for this disposal method and conform with the permits for disposal sites). The removal of the dredged arisings will be undertaken by an appropriately licenced waste carrier. The removal of the dredged arisings will be undertaken by an appropriately licenced waste carrier.
- all surplus steel used for reinforcement (rebar) and sheet piling during construction will be taken offsite for recycling.
- the following actions to be applied to the demolition of Munster Joinery:

- steel framework from the demolition of Munster Joinery may be suitable for reuse on the Proposed Scheme. If not suitable, it will be taken offsite for recovery or recycling.
- profiled metal sheeting (from the walls and roof) and glass (windows) of Munster Joinery are not suitable for reuse on the Proposed Scheme, these items will be taken offsite for recovery or recycling.
- the existing concrete yard slab will be lifted and crushed onsite for reuse; any metal rebar within the concrete yard slab will be removed and taken offsite for recycling.
- the drainage pipework is not suitable for reuse on the Proposed Scheme and will be taken offsite for recycling, unless circumstances dictate it must be disposed to landfill.
- existing palisade fencing will be retained onsite during the construction phase and the potential to align new fencing to this existing fencing is currently being explored. Any fencing that is to be removed will be taken offsite for recycling.
- the electronic gate will be retained onsite for the duration of the construction phase. This may be retained onsite following construction if suitable to meet security requirements.
- existing galvanised steel wheel guides and ram protection bollards will be removed and taken offsite for recycling.

Operation Phase:

- Operational measures, including maintenance, will be set out in an Operational Environmental Management Plan (Operational EMP), which will be prepared prior to the Proposed Scheme commencing operation which is secured by a requirement in the **Draft DCO (Document Reference 3.1)**:
 - arisings associated with the Proposed Scheme (during maintenance dredging) will be managed in accordance with relevant legislation and will be disposed of offsite (via vessel and only if dredged arisings are deemed suitable for this disposal method and conform with the permits for disposal sites). The removal of the dredged arisings will be undertaken by an appropriately licenced waste carrier.
 - Riverside 1 and/or Riverside 2 would be used for the treatment of residual wastes; subject to waste composition and acceptance criteria and operational availability. If capacity is not available, alternative recovery facilities will be considered.

4.3.5. Overall, the ES concluded no significant adverse effects on human receptors anticipated from the construction or operation of the proposed scheme in relation to any accumulation or deposit.

4.4. EPA SECTION 79(1) "(FB) ARTIFICIAL LIGHT EMITTED FROM PREMISES SO AS TO BE PREJUDICIAL TO HEALTH OR A NUISANCE"

- 4.4.1. During the construction phase, temporary artificial lighting will be used to provide a safe working site during hours of darkness. The Contractor(s) will follow relevant legislation and guidance to ensure potential adverse effects from temporary artificial lighting required are minimised. The principles for ensuring appropriate use of lighting during the construction phase are set out in the **Outline CoCP (Document Reference 7.4)**.
- 4.4.2. During the operation phase, artificial lighting infrastructure including lighting columns will be required onsite. Pole top luminaires have been provided for the new roads, carpark and turning areas, on approximately 6m poles. The Absorber Column(s), part of the Carbon Capture Facility, will also include navigational lighting. The Proposed Jetty lighting is likely to include a combination of 6m pole top luminaires and bollard type lighting. The above will be compliant with the obtrusive light requirements set out in BS EN 12464-2:2014⁵. Further details on lighting can be found in the **Outline Lighting Strategy (Document Reference 7.3)** which has been developed and included within the Application; a **Draft DCO (Document Reference 3.1)** requirement requires that a full Lighting Strategy is brought forward for approval by LBB in substantial accordance with this outline strategy. Additional information on lighting infrastructure is included in the **Design Approach Document (Document Reference 5.6)**.
- 4.4.3. **Chapter 10: Townscape and Visual (Volume 1)** of the **ES (Document Reference 6.1)** includes an assessment the effects of this lighting on the night sky and on the character of the townscape have been considered. The Institution of Lighting Professionals (ILP) 'Guidance Notes for the Reduction of Obtrusive Light'⁶ provides the basis for comparative analysis when defining whether an installation will be obtrusive to the environment and neighbouring properties. It assists in quantifying and providing acceptable maximum limitations for light intrusion, sky glow and glare from exterior lighting installations. The Site and the surrounding area are considered to be within environmental zone E4: High District Brightness, due to the urban and industrial nature of the area with high levels of night-time activity. Examples of this zone include town and city centres and other commercial areas. Given the above, it is considered that townscape will be of low sensitivity to the introduction of further sources of lighting of the nature of the Proposed Scheme during both the construction and operation phases and Not Significant.
- 4.4.4. Overall, the use of artificial lighting for the Proposed Scheme during construction and operation is not anticipated to constitute a statutory nuisance. No significant artificial light emissions are expected from the Proposed Scheme which would have the potential to give rise to a statutory nuisance.

4.5. EPA SECTION 79(1) “(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”

- 4.5.1. The assessment of effects on noise and vibration is presented in **Chapter 6: Noise and Vibration (Volume 1)** of the **ES (Document Reference 6.1)**.
- 4.5.2. For the construction phase, an assessment of temporary construction noise effects has been undertaken in line with the guidance contained in BS 5228:2009+A1:2014⁷, and in consideration of the Lowest Observed Adverse Effect Levels (LOAEL) and Significant Observed Adverse Effect Levels (SOAEL). In addition, an assessment of noise effects arising from construction vehicles on the surrounding road network has been undertaken based on the principles of LA 111⁸. All road traffic noise predictions have been undertaken based on the principles of the calculation methodology presented in the Calculation of Road Traffic Noise⁹.
- 4.5.3. For the operation phase, noise resulting from the operation phase of the Proposed Scheme has been assessed in accordance with BS 4142:2014+A1:2019¹⁰. The detailed methodology for assessing industrial sources in line with BS 4142:2014+A1:2019¹⁰ has been set out in **Appendix 6-3: Supplementary Acoustics Legislation, Policy and Guidance (Volume 3)** of the **ES (Document Reference 6.1)**. A detailed acoustic model of the Proposed Scheme and surrounding area has been produced to calculate the specific noise level at the nearest residential properties and compared against the noise emission targets based on design information available to date.
- 4.5.4. For the construction phase, construction noise is likely to have a direct, temporary, short term Not Significant effect on all landside receptors. With regards to construction traffic the assessment results indicate that with construction vehicles on the surrounding road network, the increase in noise levels are likely to have a direct, temporary, short term Not Significant effect. The adoption of Best Practicable Means (BPM), as defined in the Control of Pollution Act 1974, is a fundamental mitigation measure. The manifestation of BPM are a series of noise and vibration control measures that are incorporated within the **Outline CoCP (Document Reference 7.4)**; the implementation of which, will result in noise and vibration impacts during construction being avoided or reduced.
- 4.5.5. The most relevant measures demonstrating BPM with respect to noise and vibration are set out below:
- during construction, standard working hours for the landside activities are Monday to Friday 07:00 to 19:00. On Saturdays, standard working hours are 07:00 to 13:00, with no working on Sundays or Bank Holidays. The working hours do not apply to construction works where these are (a) are carried out within existing buildings or buildings constructed as part of Proposed Scheme; (b) are carried out

with the prior approval of the relevant planning authority; or (c) are associated with an emergency.

- however, marine construction activities are expected to be 24 hours and 7 days a week.
- display the name and contact details for a nominated site contact for the public on the Site to deal with complaints and engaging with local residents.
- the selection of quiet and low noise/vibration equipment and methodologies, where practicable.
- no percussive piling will be undertaken in Works Area 1E (Supporting Plant) as shown on the **Works Plans (Document Reference 2.3)**. Any piling in Works Area 1E (Supporting Plant) will be undertaken using continuous flight auger, unless otherwise approved by LBB.
- optimal location of acoustic screening to minimise adverse noise effects.
- optimal location of equipment onsite to minimise noise/vibration disturbance.
- the provision of acoustic enclosures around static plant, where necessary.

4.5.6. During the operation phase, operational noise is likely to have a direct, permanent, long term Not Significant on all other landside receptors. To further minimise the risk of any statutory nuisance occurring through noise emitted which are prejudicial to health or a nuisance, the following mitigation measures, amongst others, will be implemented:

- A Noise Mitigation Plan will be prepared and an Operational EMP and secured through the prior to operation of the Proposed Scheme to detail the final mitigation measures to demonstrate that only Not Significant effects would arise. This is secured by a requirement of the **Draft DCO (Document Reference 3.1)**.
- The following mitigation measures have been reviewed and are incorporated in the **Mitigation Schedule (Document Reference 7.8)** for one of these measures to form part of an Operational EMP. Any one measure would provide the attenuation required to result in a reduction in noise levels:
 - locating the ASHP fans further away and behind the water heating facility, such that the building acts as a barrier to the noise from the fans; or
 - selecting quieter ASHP fans to achieve a cumulative rating level of not more than 5 dB above the background sound level at 1m from any nearby sensitive receptor; or
 - erecting an acoustic barrier around the ASHP fans to achieve a cumulative rating level of not more than 5 dB above the background sound level at 1m from any nearby sensitive receptor.

4.5.7. Overall, no significant noise emissions are expected from the Proposed Scheme which would give rise to nuisance.

5. CONCLUSIONS

- 5.1.1. In line with regulation 5(2)(f) of the APFP Regulations¹, this document identifies the matters set out in section 79(1) of the EPA² in respect of statutory nuisance and considers whether the Proposed Scheme could cause a statutory nuisance.
- 5.1.2. The only matter addressed by the **ES (Document Reference 6.1)** which has been assessed as likely to be significant for the Proposed Scheme and which may have a bearing on the EPA is visual amenity. However, it is demonstrated in **Section 3** of this Statement that the Proposed Scheme would have no significant visual nuisance effects following the implementation of the mitigation measures.
- 5.1.3. Other potential nuisance aspects have been considered in Section 4 and through the application of appropriate mitigation no statutory nuisance effects are considered likely to occur.
- 5.1.4. The operation of the Proposed Scheme would be regulated by the Environment Agency through an Environmental Permit.
- 5.1.5. The **Draft DCO (Document Reference 3.1)** that accompanies the DCO Application contains a provision in article 42 that would provide a defence, subject to certain criteria, to proceedings in respect of statutory nuisance falling within section 79(1) of the EPA².

6. REFERENCES

- ¹ UK GOV. (2009). 'Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations'. Available at: [The Infrastructure Planning \(Applications: Prescribed Forms and Procedure\) Regulations 2009 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/2009/1231751000000001/eng/full/text.html)
- ² UK GOV. (1990). 'Environmental Protection Act'. Available at: [Environmental Protection Act 1990 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/1990/1231751000000001/eng/full/text.html)
- ³ Department of Energy Security & Net Zero. (2024). 'Overarching National Policy Statement for Energy (EN-1)'. Available at: <https://www.gov.uk/government/collections/national-policy-statements-for-energy-infrastructure>
- ⁴ Institute of Air Quality Management. (2018). 'Guidance on Monitoring in the Vicinity of Demolition and Construction Sites'. Available at: [REDACTED]
- ⁵ British Standards Institution. (2014). 'BS EN 12464-2:2014 – Light and lighting. Lighting of work places - Outdoor work places'.
- ⁶ Institution of Lighting Professionals. (2011). 'Guidance Notes for the Reduction of Obtrusive Light'.
- ⁷ British Standards Institution. (2014). 'BS 5228:2009+A1:2014 Noise and vibration control on construction and open sites Part 1: Noise. Part 2: Vibration'.
- ⁸ Highways England, Transport Scotland, Welsh Government and the Department for Infrastructure Northern Ireland. (2020). 'Design Manual for Roads and Bridges, LA 111 revision 2. Noise and Vibration'.
- ⁹ Department of Transport and Welsh Office. (1988). 'Calculation of Road Traffic Noise'.
- ¹⁰ British Standards Institution. (2019). 'BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound'.



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