

**Byers Gill Solar
EN010139**

7.4 Statement of Statutory Nuisance

Planning Act 2008

APFP Regulation 5(2)(f)

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

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1. Introduction

1.1. Purpose of this document

- 1.1.1. This Statement relating to Statutory Nuisance (this Statement) has been prepared to support an application made by RWE (the Applicant) to the Planning Inspectorate (PINS) under section 37 of the Planning Act 2008 for a Development Consent Order (DCO). The decision whether to grant a DCO is to be made by the Secretary of State for Energy Security and Net Zero and, if granted, the DCO would grant consent for Byers Gill Solar (the Proposed Development).
- 1.1.2. This 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), which requires a DCO application to include a statement setting out whether 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 (the EPA). If any of those matters are engaged, the statement must set out how the applicant proposes to mitigate or limit the effects.
- 1.1.3. The matters considered in this Statement include the condition of the premises, dust, waste, artificial light, and noise. The Statement identifies how appropriate mitigation measures are secured via the DCO to ensure that no statutory nuisance effects are considered likely to occur.
- 1.1.4. This Statement is informed by and should be read alongside the other DCO documents, in particular the Environmental Statement (ES) (Volume 6) which includes relevant environmental management plans for the construction, operation and decommissioning of the Proposed Development.

1.2. Overview of the Proposed Development

- 1.2.1. The Proposed Development consists of the construction, operation (and maintenance) and decommissioning of a solar farm capable of generating over 50 megawatt (MW) Alternating Current (AC) of electricity with co-located Battery Energy Storage Systems (BESS), located between Darlington and Stockton-on-Tees in north-east England. The Proposed Development is approximately 490ha and comprises six solar photovoltaic (PV) panel areas (Panel Areas A-F). The solar PV panels would be mounted on a metal frame in groups, fixed in position aligned in East-West rows with panels facing south. An on-site substation would be located within Panel Area C.
- 1.2.2. The Proposed Development includes up to 32.5km of 33kilovolt (kV) underground cabling between the Panel Areas and the on-site substation, as well as approximately 10km of 132kV underground cable to connect the Proposed Development to the grid connection at the existing Norton substation (located to the north-west of Stockton-

on-Tees). The proposals include both on-road and off-road options for the cable routes. A range of supporting infrastructure is required for the Proposed Development, comprising BESS; transformers and inverters for managing the electricity produced; storage containers to hold this equipment; and security measures such as fencing, CCTV and lighting. The Proposed Development includes environmental mitigation and enhancement measures to avoid or reduce adverse impacts on the surrounding environment and nearby communities.

- 1.2.3. The majority of the Proposed Development's planning boundary (the Order Limits) is located within the administrative boundary of Darlington Borough Council, with a section of the cable route situated within the administrative boundary of Stockton-on-Tees Borough Council. A very small section of the Order Limits is within the administrative boundary of Durham County Council.
- 1.2.4. A detailed description of the Proposed Development can be found in ES Chapter 2: The Proposed Development (Document Reference 6.2.2).

2. Legislative and policy context

2.1. The APFP Regulations

2.1.1. Regulation 5(2)(f) of the APFP Regulations states that an application for a DCO must be accompanied by:

“A statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so, how the applicant proposes to mitigate or limit them”.

2.2. The EPA

2.2.1. A statutory nuisance, as defined in the House of Commons Briefing Paper on Nuisance Complaints [1], is a nuisance which ‘must unreasonably and substantially interfere with the use or enjoyment of a home of other premises, or injure health or be likely to injure health’. A one-off event would not usually be considered a nuisance; rather an activity must be ‘ongoing or repeated’.

2.2.2. Section 79(1) of the EPA, as it applies in England and Wales, 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”

- 2.2.3. This Statement is produced in the context that section 158 of the Act provides statutory authority for carrying out the development consented by, or doing anything else authorised by, the DCO. This authority provides a general statutory defence in civil or criminal proceedings for nuisance.
- 2.2.4. Article 8 (Defence to proceedings in respect of statutory nuisance) of the draft DCO (Document Reference 3.1) would provide a specific defence to proceedings in respect of statutory nuisance under section 79(1)(g) 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.

2.3. National Planning Policy

Policy Statement for Energy (NPS EN-1)

- 2.3.1. Paragraphs 4.15.1 to 4.15.4 of the Overarching National Policy Statement for Energy (NPS EN-1) state 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.”

- 2.3.2. Paragraph 4.15.5 states that:

“At the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the EPA 1990 and how they may be mitigated or limited should be identified by the applicant so that appropriate requirements can be included in any subsequent order granting development consent”

- 2.3.3. Paragraph 4.15.6 reflects that the Secretary of State (SoS) should consider possible sources of nuisance and how they may be mitigated or limited, so that ‘appropriate requirements can be included in any subsequent order granting development consent.’
- 2.3.4. An assessment of the Proposed Development’s compliance with national and local planning policies is provided in the Planning Statement (Document Reference 7.1) and its appendix, the Policy Compliance Document (Document Reference 7.1.1).

3. Matters potentially engaged under section 79(1) of the EPA

3.1. Potential matters engaged

- 3.1.1. The provisions of section 79(1) of the EPA that could potentially be engaged as a consequence of the Proposed Development have been reviewed, taking into account the assessment reported in the ES (Volume 6 of the DCO application), which considers the likelihood of significant effects arising from the Proposed Development that could constitute a statutory nuisance. All potential sources of statutory nuisance under section 79(1) of the EPA have been considered and some have been discounted as not relevant to the proposed Development. This is set out in the table below.

Table 3-1 Consideration of matters potentially engaged under section 79(1) of the EPA

Matter listed in Section 79(1) of the EPA	Is the matter engaged by the Proposed Development?
(a) any premises in such a state as to be prejudicial to health or a nuisance;	Potentially. 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. Unplanned, emergency scenarios such as an accidental or technical fire are not considered relevant to this Statement. This matter is not considered further in this Statement.
(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	No, this matter does not apply to premises other than private dwellings by virtue of section 79(4). This matter is not considered further in this Statement.
(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;	Potentially. This matter is considered further in this Statement
(e) any accumulation or deposit which is prejudicial to health or a nuisance	Potentially. 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	No. The Proposed Development will not keep animals. This matter is not considered further in this Statement.
(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	No insects are expected to emanate from the Proposed Development. This matter is not considered further in this Statement.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance	Potentially. This matter is considered further in this Statement
(g) noise emitted from premises so as to be prejudicial to health or a nuisance	Potentially. This matter is considered further in this Statement

Matter listed in Section 79(1) of the EPA	Is the matter engaged by the Proposed Development?
(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]	Potentially. This matter is considered further in this Statement
(h) any other matter declared by any enactment to be a statutory nuisance	There are no other matters considered to be a potential statutory nuisance through the Proposed Development. As such this matter is not considered further in this Statement.

3.1.2. The matters identified above as requiring further consideration are assessed in the next section of this Statement.

4. Assessment of matters engaged and proposed mitigation

4.1. Condition of premises

4.1.1. This section of the Statement considers the risk of the condition of the premises causing a statutory nuisance as defined by either section 79(1)(a) or section 79(1)(e) of the EPA:

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

4.1.2. In line with section 79(7) of the EPA, for the purposes of this Statement, ‘the premises’ is considered to mean the land within the Order Limits of the Proposed Development.

Construction

4.1.3. The construction of the Proposed Development will include – but not be limited to - activities such as;

- the trenching and installation of cabling;
- excavation and construction of foundation and access tracks;
- installation of security fencing and CCTV;
- solar panel array construction, including mounting;
- construction of the battery energy storage systems;
- construction of the substation; and
- landscaping and planting.

4.1.4. These construction activities will have the potential to create pollution incidents such as spillages, and result in general litter and waste; both of which can constitute a nuisance under 79(1)(a) and (e) of the EPA.

4.1.5. Various construction control mechanisms are proposed to mitigate these potential nuisances, including set core working hours and construction traffic management. An overview of the relevant mitigation measures and how they are secured is provided in the Mitigation Route Map (Document Reference 7.8). Each management plan has been informed by the environmental impact assessment (EIA) to guide the construction process through environmental controls which promote good construction practice and avoid adverse impacts during the construction phase. The measures secured in the management plans have been embedded into the design of the Proposed Development and are assumed to have been implemented for the purposes of the EIA.

- 4.1.6. The management plans relevant to the construction phase, and the requirement through which they are secured in the draft DCO (Document Reference 3.1) are listed below:
- Outline Construction Environmental Management Plan (CEMP) (Document Reference 6.4.2.6), Requirement 4
 - Outline Construction Traffic Management Plan (CTMP) (Document Reference 6.4.2.8), Requirement 6
 - Outline Pollution and Spillage Response Plan (Document Reference 6.4.2.9), Requirement 7
 - Outline Materials Management Plan (MMP) (Document Reference 6.4.2.10), Requirement 8
 - Outline Site Waste Management Plan (SWMP) (Document Reference 6.4.2.11), Requirement 9
 - Outline Soil Resources Management Plan (Document Reference 6.4.2.12), Requirement 10
 - Outline Landscape and Ecology Management Plan (LEMP) (Document Reference 6.4.2.14), Requirement 12
 - Outline PRoW Management Plan (Document Reference 6.4.2.15), Requirement 14
 - Arboricultural Impact Assessment (AIA) (Document Reference 6.4.7.5), Requirement 4
- 4.1.7. Where a management plan is provided with the DCO application in outline, it would be developed into a detailed plan following grant of consent and prior to the commencement of the relevant phase of development, as secured in the requirements of the draft DCO (Document Reference 3.1).
- 4.1.8. The construction hours for the Proposed Development would be 08:00 to 18:00 Monday to Friday and 08:00 to 14:00 on Saturday, with no activity on Sundays or bank holidays. This is secured by requirement 15 of the draft DCO (Document Reference 3.1), which allows for only specified exceptions such as emergency works, with notification to the local planning authority.
- 4.1.9. It is considered that with the above measures in place, the construction phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(a) or (e).

Operation

- 4.1.10. It is considered that the activities involved in the operational phase of the Proposed Development will not give rise to premises conditions which are prejudicial to health or which constitute a nuisance.
- 4.1.11. During the operational phase, works or activity within the Order Limits of the Proposed Development will be limited to:
- Live-stock management;
 - Ecological enhancement;

- Infrastructure maintenance and servicing;
- Infrastructure cleaning, repairs and replacement; and
- Ongoing monitoring to ensure efficacy.

- 4.1.12. Along the cable route grid connection for the Proposed Development, operational activity will consist of routine inspections and any reactive maintenance works. During operation of the Proposed Development the infrastructure at the existing Norton substation would be operated and maintained by National Grid.
- 4.1.13. It is considered that the operational phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(a) or (e).

Decommissioning

- 4.1.14. The method and duration of works during the decommissioning phase are expected to be of similar or lesser magnitude than those carried out during the construction phase. The works during decommissioning would include the removal of all solar infrastructure (including the solar PV modules, cabling within the Panel Areas and on-site supporting equipment) from the site to be recycled or disposed of in accordance with good practice and processes at that time.
- 4.1.15. The decommissioning works will have the potential to create minor pollution incidents and create litter and general waste which could constitute a nuisance under subsections 79(1)(a) and (e) of the EPA.
- 4.1.16. Various construction control mechanisms are proposed to mitigate these potential nuisances, through management plans. An overview of the relevant mitigation measures and how they are secured is provided in the Mitigation Route Map (Document Reference 7.8).
- 4.1.17. The management plans relevant to the decommissioning phase, and the requirement through which they are secured in the draft DCO (Document Reference 3.1) are listed below:
- Outline Decommissioning Environmental Management Plan (DEMP) (Document Reference 6.4.2.7), Requirement 5
 - Outline Landscape and Ecology Management Plan (LEMP) (Document Reference 6.4.2.14), Requirement 12
 - Outline PRoW Management Plan (Document Reference 6.4.2.15), Requirement 14
 - Arboricultural Impact Assessment (AIA) (Document Reference 6.4.7.5), Requirement 4
 - Outline Pollution and Spillage Response Plan (Document Reference 6.4.2.9), Requirement 7
- 4.1.18. Where a management plan is provided with the DCO application in outline, it would be developed into a detailed plan following grant of consent and prior to the

commencement of the relevant phase of development, as secured in the requirements of the draft DCO (Document Reference 3.1).

- 4.1.19. It is considered that with the above measures in place, the decommissioning phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(a) or (e).

Conclusion

- 4.1.20. For the reasons explained above, and with the mitigation measures secured in the DCO, it is considered that the construction, operation 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) of the EPA.

4.2. Dust

- 4.2.1. This section of the Statement considers the risk of dust causing a statutory nuisance (Section 79(1)(d) of the EPA). The following is a statutory nuisance:

- 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”.

Construction

- 4.2.2. As outlined in the Environmental Impact Assessment (EIA) Scoping Opinion (Document Reference 6.4.4.2), it is not anticipated that the Proposed Development will result in significant adverse effects in relation to air quality, and that any impacts will be limited to the construction and decommissioning phases only.
- 4.2.3. During construction there is potential for dust generating activities such as excavation, landscape and concrete batching, and exhaust emissions from Non-Road Mobile Machinery (NRMM). ES Appendix 2.4 Construction Dust Assessment (Document Reference 6.4.2.4) has therefore been undertaken and has informed the mitigation measures secured via the Outline CEMP (Document Reference 6.4.2.6) to ensure that dust emission during the construction phase of the Proposed Development is minimised. This is primarily the implementation of best practice measures in line with IAQM guidance ‘Guidance on the assessment of dust from demolition of construction’ 2023.
- 4.2.4. It is considered that with the above measures in place, the decommissioning phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(d).

Operation

- 4.2.5. There is a low likelihood of emissions resulting from the operational phase of the Proposed Development, which are unlikely to give rise to significant air quality effects.
- 4.2.6. It is anticipated that the vehicle trips associated with management and maintenance of the Proposed Development will be low, and below the Environmental Protection UK¹ screening thresholds, which provides guidance for the consideration and management of air quality within infrastructure developments.
- 4.2.7. It is considered that the operational phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(d).

Decommissioning

- 4.2.8. The method and duration of works during the decommissioning phase are expected to be of similar or lesser magnitude than those carried out during the construction phase. ES Appendix 2.4 Construction Dust Assessment (Document Reference 6.4.2.4) has informed the mitigation measures secured via the Outline DEMP (Document Reference 6.4.2.7) to ensure that dust emission during the decommissioning phase of the Proposed Development is minimised. This is primarily the implementation of best practice measures in line with relevant guidance at that time.
- 4.2.9. It is considered that with the above measures in place, the decommissioning phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(d).

Conclusion

- 4.2.10. For the reasons explained above, and with the mitigation measures outlined within supporting documents, it is considered that the construction, operation and decommissioning phases of the Proposed Development will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(d) of the EPA.

4.3. Artificial light

- 4.3.1. This section of the Statement considers the risk of artificial light causing a statutory nuisance (Section 79(1)(fb) of the EPA). The following is a statutory nuisance:
- Section 79(1) (fb) – “artificial light emitted from premises so as to be prejudicial to health or a nuisance”
- 4.3.2. Department for Environment, Food and Rural Affairs (DEFRA) guidance [2] directs that a statutory nuisance would exist if artificial light unreasonably and substantially

¹ EPUK/IAQM. (2017) Land Use Planning and Development Control: Planning for Air Quality.

interferes with the use or enjoyment of an individual's home or other premises, or injures health or is likely to injure health. Usually this would mean that lights were causing a nuisance on a regular basis. Artificial lights may cause a nuisance if they are not maintained or used properly.

- 4.3.3. The potential for the effects of glint and glare are not covered by statutory nuisance legislation, which does not cover natural light. These effects are, however, assessed as part of the EIA and reported in ES Appendix 2.2 Solar Photovoltaic Glint and Glare Assessment (Document Reference 6.4.2.2), which finds that, taking into account secured mitigation such as planting, there would be low or no impacts relating to glint and glare effects.

Construction

- 4.3.4. During the construction phase of the Proposed Development, it is envisaged that temporary artificial lighting may be used intermittently during the construction phase for select operations, in isolated locations only at the construction compounds. For example, this may be required to facilitate construction where there is limited natural light during core working hours within winter months.
- 4.3.5. The use of artificial lighting will be controlled by measures in the Outline CEMP (Document Reference 6.4.2.6) and secured through requirement 4 of the draft DCO (Document Reference 3.1). The Outline CEMP states that artificial lighting will be provided to maintain sufficient security and health and safety for construction areas, whilst adopting the necessary mitigation hierarchy to continue to protect ecological and residential receptors. Measures would include directional fittings to minimise light spill and glare, using lighting that conforms to best practice guidelines and minimising the use of lighting to that required for safe operations.
- 4.3.6. It is considered that with the above measures in place, the construction phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(fb).

Operation

- 4.3.7. During the operational phase, no permanent lighting is proposed as part of the Proposed Development, except for the localised emergency security lighting in proximity to the substation and energy storage systems. Such lighting would be triggered by movement only or manually turned on, and so would not be active for all hours of darkness. The CCTV to be installed along the security fencing associated with the onsite substation and energy storage system would utilise infrared technology. ES Chapter 7 Landscape and Visual (Document Reference 6.2.7) confirms that as a result, there would be no significant effects relating to lighting.
- 4.3.8. During operational, the use of artificial lighting is controlled by the Outline Landscape and Ecology Management Plan (LEMP (Document Reference 6.4.2.14) and secured via

requirement 12 of the draft DCO (Document Reference 3.1). Similar to the measures during construction, the Outline LEMP secures measures such as conforming to best practice guidelines to minimising light spill, including into adjacent habitats and preventing disturbance to bats; minimising light spill; and using directional fittings.

- 4.3.9. It is considered that with the above measures in place, the operational phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(fb).

Decommissioning

- 4.3.10. Similar to the construction phase of the Proposed Development, temporary lighting may also be required during the decommissioning phase, in particular where there is limited natural light and during core working hours within the winter months.
- 4.3.11. The use of artificial lighting during decommissioning will be controlled by the Outline DEMP (Document Reference 6.4.2.7) secured under requirement 5 of the draft DCO (Document Reference 3.1). Measures secured in the Outline DEMP would reflect those in the Outline CEMP and described above.
- 4.3.12. It is considered that with the above measures in place, the decommissioning phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(fb).

Conclusion

- 4.3.13. For the reasons explained above, and with the mitigation measures outlined within supporting documents, it is considered that the construction, operation and decommissioning phases of the Proposed Development will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(fb) of the EPA.

4.4. Noise and Vibration

- 4.4.1. This section of this Statement considers the risk of noise and vibration causing a statutory nuisance (Section 79(1)(g) and (ga) of the EPA). The following is a statutory nuisance:
- Section 79(1) (g) – “noise emitted from premises so as to be prejudicial to health or a nuisance”; and
 - Section 79(1) (ga) – “noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street.”
- 4.4.2. If noise is excessive, prolonged or on a regular basis it may constitute a statutory nuisance. DEFRA Guidance [3] states that a statutory nuisance would exist if noise unreasonably and substantially interferes with the use or enjoyment of an individual’s property, or injures health or is likely to injure health.

- 4.4.3. An assessment of noise and vibration impact was undertaken as part of the EIA and reported in ES Chapter 11 Noise and Vibration (Document Reference 6.2.11). The chapter assessed the significance of potential noise and vibration effects during the construction, operational and decommissioning phases. It concludes that there would be a significant effect in relation to noise during construction, which is considered further below.
- 4.4.4. The elements relevant to Section 79(1) of the EPA are those relating to noise emitted from the premises (including land) and from vehicles, machinery and equipment in a street [3]. Traffic noise is specifically excluded from consideration of section 79(1)(ga) nuisance by section 79(6A)(a) and is not considered further in this Statement.

Construction

- 4.4.5. ES Chapter 11 Noise and Vibration (Document Reference 6.2.11) identifies that following sources of noise and vibration during construction:
- construction traffic, including heavy goods vehicle (HGV) trips to and from the Proposed Development; and
 - construction activities, including preparatory works, and installation of solar PV modules and supporting equipment. These may include activities such as site clearance and ground excavation, which could all be sources of noise and vibration.
- 4.4.6. It identifies that construction of the Proposed Development will be transient in nature and best working practice measures will be implemented in line with relevant industry guidance, known as 'Best Practicable Means' (BPM) to ensure the effects associated with noise and vibrations will be less significant. These BPM will be secured via ES Appendix 2.6 Outline CEMP (Document Reference 6.4.2.6). The Outline CEMP also identifies the use of additional mitigation such as noise barriers around noise sources, or selection of equipment with lower sound power levels as required and as agreed with the local planning authority.
- 4.4.7. Taking into account the proposed mitigation, ES Chapter 11 Noise and Vibration (Document Reference 6.2.11) identifies that there would be a short-term moderate adverse effect due to construction noise which is considered to be significant in EIA terms. This is due to potential exceedances of noise thresholds as defined in British Standard 5228, given the potentially small distances between the construction activities and residential dwellings in some locations and at some times. However, this is likely to be limited to short periods of time during any working day and not for a number of days longer than 1 month, due to the transient nature of the construction. Construction will also be during daytime hours only. As such, it is considered that the significant effect reported in ES Chapter 11 Noise and Vibration (Document Reference 6.2.11) would not constitute a statutory nuisance, as it would not be prolonged or regular and would not be of an extent that would unreasonably and substantially interfere with use/enjoyment of a property or pose a risk to health.

- 4.4.8. It is considered that with the above measures in place, the construction phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(g) or (ga).

Operation

- 4.4.9. The primary sources of noise from the operational phase of the Proposed Development are the inverters and transformers across the site in the photovoltaic array, the on-site substation, and BESS.
- 4.4.10. Inverters and any other sources of noise associated with the operational phase of the Proposed Development have been located as far as reasonably possible to a minimum of 300m from existing sensitive receptors, within the design, to minimise potential noise levels at the receptors. The inverters will also be housed within containers which will further reduce the noise levels at source. These measures are secured via implementation of detailed design in accordance with the design principles outlined in the Design Approach Document (Document Reference 7.2) under DCO Requirement 3 (Document Reference 3.1).
- 4.4.11. It is considered that with the above measures in place, the operational phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(g) or (ga).

Decommissioning

- 4.4.12. During the decommissioning phase, the intensity/duration of work is expected to be similar to or lower than the construction phase and would be subject to the same guidelines and mitigation measures. There would likely be use of similar equipment for removal of the Proposed Development and fewer site preparation and earthworks, meaning the potential effects will be similar or lower. Therefore, as reported in ES Chapter 11 Noise and Vibration (Document Reference 6.2.11), a significant adverse effect is identified during the decommissioning phase. Mitigation measures as identified above for the construction phase are secured for the decommissioning phase via the Outline DEMP (Document Reference Document Reference 6.4.2.7).
- 4.4.13. As during construction, due to its short-term and localised nature, it is considered that the significant effect reported in ES Chapter 11 Noise and Vibration (Document Reference 6.2.11) would not constitute a statutory nuisance.
- 4.4.14. It is considered that with the above measures in place, the decommissioning phase of the Proposed Development will not give rise to a statutory nuisance on the premises under s79(1)(g) or (ga).

Conclusion

- 4.4.15. For the reasons explained above, and with the mitigation measures outlined within supporting documents, it is considered that the construction, operation and decommissioning phases of the Proposed Development will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(g) or (ga) of the EPA.

5. Conclusion

- 5.1.1. This Statement has been prepared to fulfil Regulation 5(2)(f) of the APFP Regulations. It has considered whether the Proposed Development would engage one or more of the matters set out in Section 79(1) of the EPA. It has identified that the Proposed Development has the potential to engage the following matters: the condition of the premises, dust, artificial light, and noise and vibration.
- 5.1.2. The assessment of the potential for these matters to result in statutory nuisance has considered the conclusions of the relevant assessments reported in the ES (Volume 6 of the DCO application) and taken into account the embedded and essential mitigation measures secured via the DCO (Document Reference 3.1). These mitigation measures seek to prevent, reduce or avoid impacts which have a potential to result in statutory nuisance under Section 79(1) of the EPA.
- 5.1.3. This Statement concludes that it is not expected that the construction, operation or decommissioning of the Proposed Development would cause a statutory nuisance.

References

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