HELIOS RENEWABLE ENERGY PROJECT

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Statutory Nuisances Statement

June 2024

Helios Renewable Energy Project

Statutory Nuisance Statement

Planning Inspectorate Reference: EN010140

June 2024

Prepared on behalf of Enso Green Holdings D Limited

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1 Introduction

1.1.1.1 This Statutory Nuisance Statement (SNS) has been prepared on behalf of Enso Green Holdings D Limited (the 'Applicant') in relation to an application to the Secretary of State ('SoS') for the Department for Energy Security and Net Zero ('DESNZ') under section 37 of the Planning Act 2008 ('the PA2008'). The application seeks a Development Consent Order ('DCO') for the Helios Renewable Energy Project (the 'Proposed Development').

1.1.1.2 The Proposed Development is considered to be an 'Environmental Impact Assessment (EIA) development' under 'Schedule 2' development under paragraph 3(a) of the *Infrastructure Planning (Environmental Impact Assessment) Regulations 2017* (the 'EIA Regulations') as it constitutes '*industrial installations for the production of electricity, steam and hot water*' and is not a project listed in Schedule 1.

1.1.1.3 The Proposed Development is also defined as a Nationally Significant Infrastructure Project ('NSIP') under sections 14(1)(a) and 15(1) and (2) of the PA2008 and will require a DCO from the SoS due to its generating capacity exceeding 50 megawatts (MW). As such this SNS has been prepared to satisfy Regulation 5(2)(f) of the *Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009* (the 'APFP Regulations'), which requires an application for a DCO to be accompanied by "*a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them*".

1.1.1.4 Section 79(1) of the Environmental Protection Act 1990 (EPA) identifies the matters which are considered to be a statutory nuisance, the matters identified in Section 79(1) of the EPA that have been considered within the SNS are: general site condition, air quality, waste, artificial light, and noise and vibration, during all phases of the Proposed Development.

1.2 Proposed Development

1.2.1.1 The Proposed Development comprises the installation of ground mounted solar arrays, battery energy storage system and associated development comprising grid connection infrastructure and other infrastructure integral to the construction, operation (including maintenance) and decommissioning of the development for the delivery of over 50 megawatts (MW) of electricity. The Proposed Development has a design life of 40 years.

1.2.1.2 The DCO Application Order Limits comprise 475 hectares ('ha') of land located to the south-west of the village of Camblesforth and to the north of the village of Hirst Courtney in North Yorkshire ('the Site'), which includes the solar PV equipment, substation, battery electrical storage system (BESS), interconnecting cable corridor, Grid Connection Corridor, green infrastructure and associated site accesses (the 'Site'). The Site is located wholly within the host authority area of North Yorkshire Council ('NYC').

1.3 Purpose and Structure of this SNS

1.3.1.1 The SNS is produced in accordance with Section 158 of the PA2008 which provides statutory authority for:

"(a) carrying out development for which consent is granted by an order granting development consent; or

(b) doing anything else authorised by an order granting development consent"

1.3.1.2 The SNS sets out appropriate mitigation measures to ensure that the Proposed Development has no significant effects that would give rise to a statutory nuisance, and has been informed by the EIA process which includes comprehensive identification and assessment of environmental effects on the environment has been used to inform this Statement.

1.3.1.3 The matters in Section 79(1) of the EPA that have been considered within the SNS are general site condition, air quality, waste, artificial light, and noise and vibration, during all phases of the Proposed Development.

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

- The Environmental statement ('ES') and associated figures and appendices **[EN010140/APP/6.1] [EN010140/APP/6.2]] [EN010140/APP/6.2]**;
- ES Appendix 5.1 Outline Construction Environmental Management Plan **[EN010140/APP/6.2.5.1]**;
- ES Appendix 5.2 Outline Construction Traffic Management Plan] **[EN010140/APP/6.3.5.2];**
- ES Appendix 5.3 Outline Decommissioning Environmental Management Plan **[EN010140/APP/6.3/5.3]**; and
- ES Appendix 2.3 Qualitative Dust Risk Assessment **[EN010140/APP/6.3.2.3]**.

2 Legislative and Policy Context

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

2.1.1.1 This section of the SNS provides an overview of the national legislation and policy relevant to the consideration of nuisance associated with the Proposed Development.

2.2 Environmental Protection Act 1990

2.2.1.1 Section 79(1) of the EPA identifies the matters which are considered to be a statutory nuisance as follows:

"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;]

[(faa) any insects emanating from 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;]

[(fba) artificial light emitted from—

(i) premises;

(ii) any stationary object,

so as to be prejudicial to health or a nuisance;]

g) noise that is prejudicial to health or a nuisance;

[(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street [or in Scotland, road];]

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

2.3 Overarching National Policy SNS for Energy – EN1

2.3.1.1 National Policy SNS ('NPS') for Energy EN-1, states at paragraphs 4.15.1 to 4.15.4:

"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."

3 Summary of Matters Engaged

3.1.1.1 The ES accompanying this DCO application includes a comprehensive identification and assessment of environmental effects which has been used to inform the consideration of statutory nuisance as identified in Section 79(1) of the EPA. Table 1 outlines each matter identified in Section 79(1) of the EPA and describes whether this is covered within this SNS (engaged), or is excluded, depending on the assessment within the ES.

TABLE 1 MATTERS IN EPA SECTION 79(1)

Reference	EPA Section 79(1) Matter	Matter Engaged?
1	(a) any premises in such a state as to be prejudicial to health or a nuisance	This matter may be engaged and has therefore been considered further in Section 4.2 of this SNS.
N/A	(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 SNS. Unplanned, emergency scenarios such as an accidental or technical fire are not considered relevant to this SNS, a **Battery and Energy Storage System (BESS) Safety Management Plan** has been prepared in **Appendix 3.1 [6.3.3.1]** of the ES.
N/A	(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	This matter only applies to fumes or gases emitted from private dwellings, as clarified by EPA Section 79(4). This matter is therefore not considered further within the SNS.
2	(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	This matter may be engaged and has therefore been considered further in Section 4.3 of this SNS in relation to dust. The Proposed Development is not anticipated to have any impact or produce any steam, smell or other effluvia therefore, this is not considered further within the SNS.
3	(e) any accumulation or deposit which is prejudicial to health or a nuisance	This matter may be engaged and has therefore been considered further in Section 4.2 of this SNS.
N/A	(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, however the Site will be available for sheep grazing by the farm holdings that operate within the DCO Limits. This is not considered further within the SNS.
N/A	(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	The construction, operation (including maintenance) and decommissioning of the Proposed Development will not emanate any insects; therefore, this is not considered further within the SNS.
4	(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance	This matter may be engaged and has therefore been considered further in Section 4.4 of this SNS.
5	(g) noise that is prejudicial to health or a nuisance	This matter may be engaged and has therefore been considered further in Section 4.5 of this SNS.

6	(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street	This matter may be engaged and has therefore been considered further in Section 4.5 of this SNS.
N/A	(h) any other matter declared by any enactment to be statutory nuisance	No other matters are considered in this SNS.

4 Matters Engaged and Proposed Mitigation

4.1.1.1 Section 4 of the SNS discusses the potential for nuisance resulting form the Proposed Development and Site relevant to the identified Matters Engaged in Table 1 of Section 3 of this SNS.

4.2 Conditions of the Site

4.2.1.1 This section considers the potential for the Site to cause a statutory nuisance.

4.2.1.2 Matter References 1 and 3, Part (a) of Section 79 refers to this as “any premises in such a state as to be prejudicial to health or nuisance”. Part (e) of Section 79 refers to it as “any accumulation or deposit which is prejudicial to health or nuisance”

4.2.2 Construction and Decommissioning

4.2.2.1 The construction activities associated with the Proposed Development include:

- Site establishment and enabling works for construction:
    - Ground clearance, where necessary;
    - Installation of security lighting and CCTV;
    - Delivery of construction materials, plant and equipment;
    - Establishment of security fencing;
    - Establishment of construction compounds including storage and welfare facilities;
    - Construction of internal access roads;
    - Setting out the positions for the infrastructure and equipment;
    - Trenching for cable routes; and
    - Habitat creation.
- Construction of the Proposed Development:
    - Piling and installation of solar photovoltaic (‘PV’) array foundations;
    - Construction of on-Site electrical infrastructure to facilitate the generation of electricity such as solar PV frames and panels, 132 kilovolt (‘kV’) substation and BESS;
    - Laying of cables including Point of Connection (‘PoC’) cable groundworks and string cabling between the solar PV array;
    - PoC electrical works;
    - Installation of fencing and gates;

- Final installation checks;
- Testing and commissioning;
- Site clearance and compound removal; and
- Landscape planting and ecological enhancements.

4.2.2.2 During the decommissioning phase all the solar infrastructure including PV modules, mounting structures, cabling on or near to the surface, inverters stations, fencing and ancillary infrastructure, and the substation and BESS compound would be removed and recycled or disposed of in accordance with good practice available at the time and following the waste hierarchy. It is expected that the compounds and temporary access tracks will be removed once decommissioning is complete.

4.2.2.3 The construction and decommissioning works have the potential to create pollution incidents such as spillages and create litter and general waste which can constitute a nuisance under the EPA.

4.2.2.4 Construction control mechanisms proposed include the implementation of a Construction Environmental Management Plan ('CEMP'), Construction Traffic Management Plan ('CTMP'), and Decommissioning Environmental Management Plan ('DEMP'). The management plans will outline the environmental controls and best practices to be implemented to minimise any adverse or nuisance causing impacts and will regulate the delivery of materials and the movement of construction personnel. An **Outline Construction Environmental Management Plan ('oCEMP') [EN010140/APP/6.3.5.1]**, **Outline Construction Traffic Management Plan ('oCTMP')** (**[EN010140/APP/6.3.5.2]** and an **outline DEMP ('oDEMP') [EN010140/APP/6.3.5.3]** have been prepared and submitted with the planning application. Following the granting of the DCO, a detailed CEMP, CTMP, and DEMP will be prepared and submitted to NYC for approval prior to the commencement of development on-Site, pursuant to Requirements that will be included in the DCO.

4.2.2.5 All contractors tendering for work will be required to demonstrate that their proposals can comply with the content of the detailed CEMP, CTMP, and DEMP and any conditions or obligations secured through the DCO. If any necessary departures from the detailed management plans are required NYC will be notified, as appropriate, and affected parties will be established.

4.2.2.6 A strategy to deal with accidental pollution will be included within the detailed CEMP prior to commencement of construction. A preliminary strategy is identified within the oCEMP, the use and location of accidental spill kits will be relayed to the construction personnel and whilst the storage of fuels, lubricants or chemicals on Site is not expected, any relevant materials will be stored in accordance with the appropriate pollution prevention principles to reduce the likelihood of spillage and with an impermeable base and suitable bunding or double skinned tanks.

4.2.2.7 With regard to waste, all waste material will be put into skips and stored is designated stores areas on Site. All waste generates will be disposed of by a suitably licensed waste contractor. Opportunities will be investigated to maximise the recycling potential of construction materials where practicable. Recyclable materials such as metals, timber, cardboard, cans and glass will be segregated and recycled where possible.

4.2.2.8 Works at the Site are anticipated to require the excavation of soil, depending on the final site arrangement. This is expected in part to be accommodated on Site, as part of the site cut/fill balance. In the event that any material from the Site is identified as not being suitable for use on site, some material may need to be transported away from the site to a suitably licensed site.

4.2.3 Operation

4.2.3.1 During the operational phase, the solar farm and associated infrastructure is not considered to result in the 'premises' within the Order limits, being in 'such a state' as to be prejudicial to health or nuisance.

4.2.3.2 During the operational phase, activity within the Proposed Development will be minimal and will be restricted principally to vegetation management (in line with the **Outline Landscape and Ecological Management Plan (oLEMP) [EN010140/APP/6.3.7.9]**), equipment maintenance and servicing, replacement and renewal of any components that fail, and monitoring and inspection. 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. All operational works taking place during the lifetime of the Proposed Development will be undertaken in line with an Operational Environmental Management Plan, an **Outline Operational Environmental Management Plan ('oOEMP') [EN010140/APP/6.3.5.4]** has been prepared. Following the granting of the DCO, a detailed OEMP will be prepared and submitted to NYC for approval prior to the commencement of development on-Site, pursuant to requirements that will be included in the DCO. As such, the operational phase will not give rise t impacts which constitute a statutory nuisance under section 79(1)(a) or €.

4.2.4 Conclusion

4.2.4.1 For the reasons explained above and with the mitigation measures described in place it is considered that the construction, operation (and maintenance), and decommissioning phases of the project will not give rise to impacts from the site condition which would constitute a statutory nuisance under section 79(1) (a) or (e).

4.3 Air Quality

4.3.1.1 Matter Reference 2, Section 79(1)(d) of the EPA states 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”.

4.3.1.2 The Planning Inspectorate (‘PINS’) have agreed to the scoping out of an assessment of air quality effects from the EIA however, a qualitative assessment of dust impacts based on relevant guidance has been provided to demonstrate that the measures proposed are consistent with the scale of effects.

4.3.1.3 The **Construction Dust Risk Assessment [EN010140/APP/6.3.2.3]** sets out the construction dust risk assessment of the Proposed Development. The assessment concluded that with the implementation of appropriate mitigation measures it is expected that any residual effects will be ‘not significant’.

4.3.2 Construction and Decommissioning

4.3.2.1 During construction there is the potential for emissions of dust and particles due to the following assessed means:

- Earthworks; and
- Trackout movements.

4.3.2.2 The Proposed Development will generate maximum Average Annual Daily Traffic (‘AADT’) flows of 36 Heavy Duty Vehicle and 158 Light Duty Vehicle (‘LDV’) movements during the construction of the Proposed Development, and removal of waste from the Site. This is below AADT screening criteria for HDVs/LDVs recommended by Environmental Protection UK (‘EPUK’) and the IAQM for use outside an Air Quality Management Area. It is concluded that the Proposed Development will not have a significant impact on local roadside air quality as a result of construction traffic emissions, thus this has been scoped out of further assessment.

4.3.2.3 Engine exhaust emissions from construction non-road mobile machinery (‘NRMM’) have the potential to affect local air quality. The Site is large and is located in a predominantly rural area with few sensitive residential receptors nearby. Thus, NRMM emissions will mostly occur more than 50 m away from sensitive receptors. It is judged that there is no risk of significant effects at existing receptors as a result of on-site machinery emissions and this has thus been scoped out of further assessment.

4.3.2.4 There is no requirement for demolition of and construction of buildings on Site. The principal activities that may produce dust include establishment of construction compounds and internal tracks, trenching for cable routes, and installation of concrete feet and piling. Thus, there is only a risk of dust impacts during earthworks and trackout of dust and dirt by vehicles onto the public highway.

4.3.2.5 Mitigation measures provided for by the oCEMP will be effectively implemented meaning that no significant dust effects resulting from excavation and construction activities are anticipated beyond the Order limits.

4.3.2.6 The adoption of good site practice will be implemented through measures to control dust as outlined within the Institute of Air Quality Managements ('IAQM') 'Guidance on the assessment of Dust from Demolition and Construction' [1]document that are appropriate for the level of risk identified in the assessment and the construction phase activities, secured through the outline CEMP.

4.3.2.7 Mitigation measures appropriate to the assessed level of risk of dust nuisance will be implemented as set out below. Identified measures as set out in the **Construction Dust Risk Assessment [EN010140/APP/6.3.2.3]** and the **oCEMP [EN010140/APP/6.3.5.1]** will be secured by a DCO requirement. These measures are summarised below in Table 2.

TABLE 2 AIR QUALITY MITIGATION MEASURES

Activity	**Mitigation Measure**
Communications	Develop and implement a stakeholder communications plan that includes community engagement before and during work on Site
	Display the name and contact details of person(s) accountable for air quality and dust issues on the Site boundary. This may be the environmental manager/engineer or the site manager.
	Display the head or regional office contact information
Dust Management Plan	A Dust Management Plan ('DMP'), which documents the mitigation measures to be applied, will be developed and approved by NYC prior to commencement, and the DMP will be implemented during works.
Site Management	Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce emissions in a timely manner, and record the measures taken
	Make the complaints log available to NYC when asked
	Record any exceptional incidents that cause dust and/or air emissions, either on- or off- site, and the action taken to resolve the situation in the log book
	Hold regular liaison meetings with other high risk construction sites within 500m of the Site boundary, to ensure plans are co-ordinated and dust and particulate matter emissions are minimised. It is important to understand the interactions of the off-site transport/deliveries which might be using the same strategic road network routes
Monitoring	Undertake daily on-site and off-site inspections where receptors (including roads) are nearby, to monitor dust. Record inspection results and make the log available to the Local Authority when asked. This should include regular dust soiling checks of surfaces such as street furniture, cars and window sills within 100 m of the Site boundary, with cleaning to be provided if necessary
	Carry out regular site inspections to monitor compliance with the DMP, record inspection results, and make an inspection log available to NYC when asked
	Increase the frequency of site inspections by the person accountable for air quality and dust issues on Site when activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions
	Plan the site layout so that machinery and dust-causing activities are located away from receptors, as far as is possible
	Erect solid screens or barriers around dusty activities or the site boundary that are at least as high as any stockpiles on-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
	Avoid site runoff of water or mud
	Keep site fencing, barriers and scaffolding clean using wet methods

[1] IAQM (2024) Guidance on the assessment of dust from demolition and construction (Version 2.2). Available here: Construction-Dust-Guidance-Jan-2024.pdf (iaqm.co.uk) Last Accessed: June 2024.

Activity	Mitigation Measure
Preparing and Maintaining the Site	Remove materials that have a potential to produce dust from site as soon as possible, unless being re-used on site. If they are being re-used on-site cover as described below
	Cover, seed, or fence stockpiles to prevent wind whipping
Operating Vehicle/ Machinery and Sustainable Travel	Ensure all vehicles switch off their engines when stationary – no idling vehicles
	Avoid the use of diesel- or petrol-powered generators and use mains electricity or battery-powered equipment where practicable.
	Impose and signpost a maximum-speed-limit of 15 mph on surfaced and 10 mph on un-surfaced haul roads and work areas (if long haul routes are required these speeds may be increased with suitable additional control measures provided, subject to the approval of the nominated undertaker and with the agreement of the local authority, where appropriate)
	Produce a Construction Logistics Plan to manage the sustainable delivery of goods and materials
	Implement a Travel Plan that supports and encourages sustainable staff travel (public transport, cycling, walking and car-sharing)
Operations	Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction, e.g. suitable local exhaust ventilation systems
	Ensure an adequate water supply on the Site for effective dust/particulate matter suppression/mitigation, using non-potable water where possible and appropriate
	Use enclosed chutes, conveyors and covered skips
	Minimise drop heights from conveyors, loading shovels, hoppers and other loading or handling equipment and use fine water sprays on such equipment wherever appropriate
	Ensure equipment is readily available on site to clean any dry spillages, and clean up spillages as soon as reasonably practicable after the event using wet cleaning methods
Waste Management	Avoid bonfires and burning of waste materials
Earthworks	Re-vegetate earthworks and exposed areas/soil stockpiles to stabilise surfaces as soon as practicable
	Use Hessian, mulches or tackifiers where it is not possible to re-vegetate or cover with topsoil, as soon as practicable
	Only remove the cover from small areas during work, not all at once
Trackout	Use water-assisted dust sweeper(s) on the access and local roads, to remove, as necessary, any material tracked out of the site. This may require the sweeper being continually in use
	Avoid dry sweeping of large areas
	Ensure vehicles entering and leaving the Site are covered to prevent escape of materials using transport
	Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable)

4.3.2.8 Following implementation of the a DMP and CEMP, which will incorporate the mitigation measures outlined above, the effect on ecology, dust deposition, and human health has been identified as unlikely to result in a statutory nuisance.

4.3.2.9 The decommissioning phase will be similar in nature, duration, and extent to the construction phase, albeit likely to be shorter and of lower magnitude due to the small amount of decommissioning required. Therefore, a qualitative assessment has been provided for this phase and the effects for assessment purposes are assumed on a conservative basis to therefore be no greater than the construction phase. Therefore, the mitigation measures proposed for implementation during the construction phase will be appropriate for application to decommissioning. A DEMP will be prepared for the Proposed Development. An **oDEMP [EN010140/APP/6.3.5.3]** has been prepared as part of the Application. No significant impacts are therefore predicted to occur during the decommissioning phase.

4.3.3 Operation

4.3.3.1 No major air quality sources are envisaged to be introduced as part of the Proposed Development, there will be no associated operational air quality effects and therefore no further assessment of operational air quality has been included in the ES. It is not expected that operational development traffic would result in significant increases in local road traffic air quality concentrations as there would be a very low number of staff required to visit the Site for maintenance purposes. No likely significant effects on air quality are therefore predicted during the operational phase of the Proposed Development and as such no statutory nuisances are considered likely.

4.3.4 Conclusion

4.3.4.1 With the implementation of the above mitigation measures, the ES did not identify any significant effects in relation to air quality, including in relation to the health of human receptors. Therefore, and for the same reasons, no claim against statutory nuisance is envisaged in respect of a statutory nuisance under section 79(1)(d).

4.4 Artificial Light

4.4.1.1 Part (1)(fb) of Section 79 refers to "*artificial light emitted from premises so as to be prejudicial to health or nuisance.*" Matter Reference 4. A statutory nuisance would exist if article 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.

4.4.2 Construction and Decommissioning

4.4.2.1 Artificial lighting will be provided to maintain sufficient security and health and safety for the construction site, whilst adopting mitigation principles to avoid excessive glare, and minimise spill of light to nearby receptors (including ecology and residents), outside of the Site as far as reasonably practicable. Whilst a vast majority of construction activities can be undertaken during daylight hours, at certain times of the year some construction lighting may be required to enable work to continue. In these instances, temporary lighting will be deployed, however this will be avoided as far as practical.

4.4.2.2 In accordance with the **oCEMP [EN010140/APP/6.3.5.1]**, all construction lighting will incorporate the following recommendations to prevent or reduce the impact on human and ecological receptors:

- The use of lighting will be minimised to that required for the safety of site operations;
- Lighting will utilise directional fittings to minimise outward light spill and glare; E.g., via the use of light hoods/cowls which direct light downwards (preferably at an angle greater than 20° from horizontal); and
- Lighting will be directed towards the Site rather than towards the boundaries.

4.4.2.3 The decommissioning phase will involve similar mitigation measures. These are set out in the **oDEMP [EN010140/APP/6.3.5.3]**. Following the granting of the DCO, the detailed CEMP and DEMP will be prepared, agreed and approved by the NYC.

4.4.3 Operation

4.4.3.1 During operation, no part of the Proposed Development will be continuously lit. Motion detection lighting and sensors will be used to illuminate areas only when necessary.

4.4.3.2 The utilisation of night vision technology in CCTV cameras will allow for monitoring and security surveillance without the need for continuous lighting at night. Lighting will be designed in a way to reduce impact on sensitive receptors by directing lighting inward and away from boundaries.

4.4.4 Conclusion

4.4.4.1 For the reasons explained above and with the implementation of the above mitigation measures no claim against statutory nuisance is envisaged in respect of statutory nuisance under Section 79(1)(fb) of the EPA 1990.

4.5 Noise and Vibration

4.5.1.1 Section 79(1)(g) refers to "noise emitted from the premises so as to be prejudicial to health or a nuisance" and Section 79(1)(ga) states, "noise that is prejudicial to health or nuisance and is emitted from or caused by vehicle, machinery or equipment in a street." Matter References 5 and 6. 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.

4.5.1.2 An assessment of noise and vibration impacts was undertaken as part of the EIA and reported in **Chapter 11: Noise and Vibration [EN010140/APP/6.1.11]** of the **Environmental Statement**. The chapter assessed the significance of potential noise and vibration effects during the construction, operational and decommissioning phases, and concludes, that with appropriate mitigation, there would be no significant noise or vibration effects in terms of EIA regulations.

4.5.1.3 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 in this SNS.

4.5.2 Construction and Decommissioning

4.5.2.1 Construction noise levels will vary, depending upon the construction activities across the Order limits. **Chapter 11: Noise and Vibration [EN010140/APP/6.1.11]** of the **Environmental Statement** predicts construction noise levels at all receptors are not expected to exceed the adopted 65 dB(A) limit. These receptors were presented as they represent a realistic 'worst-case scenario' due to their proximity to the Site boundary.

4.5.2.2 Best Practicable Means ('BPM') will be applied, as far as reasonably practicable, during construction works to minimise noise and vibration at noise sensitive receptors, including neighbouring residential properties and other sensitive receptors arising from construction activities.

4.5.2.3 This includes, as appropriate:

- Reference to the guidance in British Standard 5228-1:2009+A1:2014 'Code of Practice for Noise and Vibration Control on Construction and Open Sites – Noise' (BS5228) [2] sets out an approach for predicting, assessing and controlling noise levels arising from a wide variety of demolition and construction plant and related activities and with which all contractors should be familiar with.
- Mobile plant and stationary plant items to be routed or located to maximise separation distance from noise-sensitive receptors (where possible), accounting for site-specific constraints;
- Using continuous flight auger piling, at locations where noise-sensitive receptors are within 20m;

[2] British Standard 5228-1:2009+A1:2014 'Code of Practice for Noise and Vibration Control on Construction and Open Sites – Noise' ('BS5228-1') Available at https://www.warrington.gov.uk/sites/default/files/2020-08/cf53_bs_5228_pt1-2009a1-2014.pdf Accessed June 2024

- Using 'silenced' plant and equipment;
- Switching off engines where vehicles are standing for a significant period of time;
- Fitting of acoustic enclosures to suppress noisy equipment as appropriate;
- Select quieter plant units where possible;
- Operating plant at low speeds and incorporation of automatic low speed idling;
- Selecting electrically driven equipment in preference to internal combustion powered, hydraulic power in preference to pneumatic and wheeled in lieu of tracked plant;
- Properly maintaining all plant (greased, blown silencers replaced, saws kept sharpened, teeth set and blades flat, worn bearings replaced, etc.);
- Considering the use of temporary screening or enclosures for static noisy plant to reduce visual impacts (refer to Chapter 7 Landscape and Views of the ES for further details);
- Certifying plant to meet any relevant EC Directive standards;
- Undertaking awareness training of all contractors in regard to BS5228 (Parts 1 and 2) which would form a prerequisite of their appointment; and

4.5.2.4 Provide site specific induction inclusive of good neighbourly behaviour and follow the Considerate Construction Scheme requirements.

4.5.2.5 Contractors would be required to ensure that works are carried out in accordance with Best Practice Means as stipulated in the 1974 Act. A full explanation of measures to control construction noise and vibration will be incorporated within the detailed CEMP.

4.5.2.6 With regard to the potential effects of vibration from piling activities impacting upon existing utilities in the area, particular attention would be given during the preparation of the detailed CEMP to the safeguarding of the in-ground services near the Site. At this stage, the mitigative input is limited to that set out within BS5228, which is summarised below.

- Where reasonably practicable, low vibration working methods would be employed and consideration given to the most suitable plant;
- Vibration would be controlled at source via methods such as mechanical isolation and the spread of vibration would be limited by breaking potential transmission pathways i.e. common structures; and
- Where processes could give rise to potentially significant levels of vibration, on-site vibration levels would be regularly monitored.

4.5.2.7 The detailed CEMP will set out a scheme for monthly reporting of information to local residents to advise of potential noisy works that are due to take place.

4.5.2.8 Noise effects during the decommissioning phase of the Proposed Development, which would occur at the end of the Proposed Development's modelled operational lifespan of 40 years, are anticipated to be similar to those predicted for the Proposed Development's construction phase, which have been predicted to be of negligible to minor adverse significance (not significant). Many of the Proposed Development's construction phase activities will be replicated for the decommissioning phase, but in reverse. There is the potential for benefits from technological advancements that are likely to have occurred in the intervening period between the Proposed Development's construction and decommissioning that would be anticipated to reduce noise generation, as well as the duration of the required activities.

4.5.3 Operation

4.5.3.1 The Proposed Development has been designed, such that all noise generating plant is optimally located and distributed throughout the Site, in order to ensure acoustic effects at sensitive receptors are minimised. This approach, coupled to the adoption of appropriate candidate plant specifications, to be adopted as design targets effectively designs out the operational noise effects of the Proposed Development.

4.5.3.2 No further mitigation measures beyond those already stipulated as embedded and to be adopted as part of the Proposed Development are considered necessary to mitigate the effects of operational noise or vibration. These measures are discussed in **Chapter 11: Noise and Vibration [EN010140/APP/6.1.11]** of the **Environmental Statement**.

4.5.4 Conclusion

4.5.4.1 For the reasons explained above and with the mitigation measures in place, no significant effects are expected to occur in relation to noise and vibration matters in EIA terms, including in relation to the health of human receptors, as set out in **Chapter 11: Noise and Vibration [EN010140/APP/6.1.11]** of the **ES**. As informed by the ES, it is considered that no claim against statutory nuisance in respect of noise and vibration is therefore envisaged is respect of a statutory nuisance under section 79(1)(g) or (ga) of the EPA.

5 Conclusion

5.1.1.1 In line with Regulation 5(2)(f) of the APFP Regulations, this SNS 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.

5.1.1.2 The matters in the EPA that have been considered in this SNS in relation to the Proposed Development are general site condition, air quality, artificial light, and noise and vibration, during all phases of the Proposed Development. Section 4 of this SNS sets out appropriate mitigation measures to ensure that the Proposed Development would have no significant effects and would not give rise to a statutory nuisance. It is therefore demonstrated that no statutory nuisance effects are considered likely to occur.