

**Tillbridge Solar Project  
EN010142**

**Volume 7  
Statutory Nuisance Statement  
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**Regulation 5(2)(q)  
Infrastructure Planning (Applications: Prescribed Forms and  
Procedure) Regulations 2009**

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## Table of Contents

1.	Introduction.....	1
1.1	Background .....	1
1.2	Purpose and Structure of this Statement.....	1
2.	Legislative and Policy Context.....	3
2.1	The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) .....	3
2.2	Environmental Protection Act (EPA) .....	3
2.3	Overarching National Policy Statement for Energy (NPS EN-1).....	4
3.	Assessment of Significance.....	5
3.1	Summary of Matters Engaged .....	5
4.	Matters Engaged and Proposed Mitigation Measures .....	7
4.1	Condition of Site – Sections 79(1)(a) and (e) of the EPA.....	7
	Construction and Decommissioning.....	7
	Operation and Maintenance .....	9
4.2	Air Emissions – Section 79(1)(d) of the EPA .....	9
	Construction and Decommissioning.....	9
	Operation and Maintenance .....	14
4.3	Artificial Light – Section 79(1)(fb) of the EPA.....	14
	Construction and Decommissioning.....	15
	Operation and Maintenance .....	15
4.4	Noise and Vibration – Section 79(1)(g) and (ga) of the EPA.....	15
	Construction and Decommissioning.....	16
	Operation and Maintenance .....	18
5.	Conclusion.....	19
5.1	Potential for Nuisance .....	19
6.	References .....	20

## Tables

Table 3-1: Matters Stated in Section 79(1) of the EPA .....	5
Table 4-1: Mitigation for a High-Risk Site (adapted from IAQM).....	11
Table 4-2: Activity Specific Dust Mitigation Measures.....	13

# 1. Introduction

## 1.1 Background

- 1.1.1 This Statutory Nuisance Statement (the 'Statement') has been prepared on behalf of Tillbridge Solar Ltd, a joint venture between Tribus Clean Energy Limited and Recurrent Energy (a subsidiary of Canadian Solar) (the 'Applicant'), as part of an application for a Development Consent Order (DCO) for Tillbridge Solar Project (hereafter referred to as the 'Scheme').
- 1.1.2 The Scheme will comprise the construction, operation (including maintenance), and decommissioning of ground-mounted solar photovoltaic (PV) arrays. The Scheme will also include associated development to support the solar PV arrays. The Scheme is made up of the Principal Site, the Cable Route Corridor and works to the existing National Grid Cottam Substation. The Principal Site comprises the solar PV arrays, electrical substations, grid balancing infrastructure, cabling and areas for landscaping and ecological enhancement.
- 1.1.3 The associated development element of the Scheme includes but is not limited to access provision; a Battery Energy Storage System (BESS), to support the operation of the ground mounted solar PV arrays; the development of on-site substations; underground cabling between the different areas of solar PV arrays; and areas of landscaping and biodiversity enhancement.
- 1.1.4 The Scheme also includes a 400kV underground Cable Route Corridor of approximately 18.5km in length connecting the Principal Site to the National Electricity Transmission System (NETS) at the existing National Grid Cottam Substation. The Scheme will export and import electricity to the NETS.
- 1.1.5 A full description of the Scheme is included in **Chapter 3: Scheme Description** of the Environmental Statement (ES) [EN010142/APP/6.1]. An overview of the Scheme and its environmental impacts is provided in the ES **Non-Technical Summary** [EN010142/APP/6.4].
- 1.1.6 The Order limits are shown on **Figure 2-1: Order Limits** of the ES [EN010142/APP/6.3] and represent the maximum extent of land to be acquired or used for the construction, operation (including maintenance), and decommissioning of the Scheme.

## 1.2 Purpose and Structure of this Statement

- 1.2.1 The Statement is part of a suite of documents which must accompany the DCO application pursuant to Section 55 of the Planning Act 2008 (Ref. 1) and Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) (Ref. 2).
- 1.2.2 Regulation 5(2)(f) requires that an application for a DCO must be accompanied by a statement setting out whether the proposal (i.e. the Scheme) engages one or more of the matters in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act

- 1990 (as amended) (EPA) (Ref. 3). If any of those matters are engaged, the statement must set out how the application proposes to mitigate or limit the effects.
- 1.2.3 The matters in section 79(1) of the EPA that have been considered within this Statement are general site condition, air quality, artificial light, and noise and vibration, during construction, operation and maintenance, and decommissioning of the Scheme.
- 1.2.4 This Statement should be read alongside other documents submitted as part of the DCO application, particularly:
- a. **Framework Construction Environmental Management Plan (CEMP) [EN010142/APP/7.8];**
  - b. **Framework Operational Environmental Management Plan (OEMP) [EN010142/APP/7.9];** and
  - c. **Framework Decommissioning Environmental Management Plan (DEMP) [EN010142/APP/7.10].**
- 1.2.5 This Statement is produced in the context that section 158 of the Planning Act 2008 provides statutory authority for carrying out development or anything else which is authorised by the DCO as a defence against civil or criminal proceedings for nuisance.
- 1.2.6 This Statement sets out appropriate mitigation measures to ensure that the Scheme has no significant effects that would give rise to a statutory nuisance. It is therefore demonstrated that no statutory nuisance effects are considered likely to occur. It is not expected that the construction, operation (and maintenance) and decommissioning of the Scheme would cause a statutory nuisance.
- 1.2.7 Nonetheless, it should be noted that article 7 (Defence to proceedings in respect of statutory nuisance) of the **draft DCO [EN010142/APP/3.1]** contains a provision that would provide a defence to proceedings in respect of statutory nuisance (in respect of sub-paragraph (g) of section 79(1) of the EPA (noise emitted from premises so as to be prejudicial to health or a nuisance), subject to the criteria set out in that article).
- 1.2.8 This Statement is structured as follows:
- a. Section 1: Introduction (this section);
  - b. Section 2: Legislative and Policy Context;
  - c. Section 3: Assessment of Significance;
  - d. Section 4: Matters Engaged and Proposed Mitigation Measures; and
  - e. Section 5: Conclusion.

## 2. Legislative and Policy Context

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

- 2.1.1 Regulation 5(2)(f) of the APFP Regulations (Ref. 2) 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 (EPA) 1990, and if so how the applicant proposes to mitigate or limit them*”.

### 2.2 Environmental Protection Act (EPA)

- 2.2.1 Section 79(1) of the EPA (Ref. 3), as it applies in England, provides that the following matters constitute “statutory nuisances”:

- (a) “*any premises in such a state as to be prejudicial to health or 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 of 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 nuisance;*
- (fb) *artificial light emitted from premises so as to be prejudicial to health or a nuisance;*
- (g) *noise emitted from premises so as to be prejudicial to health or a nuisance;*
- (ga) *noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road;*
- (h) *Any other matter declared by any enactment to be a statutory nuisance.”*

- 2.2.2 For a nuisance to be considered a statutory nuisance, it must unreasonably and substantially interfere with the use or enjoyment of a home or other premises or injure health or be likely to injure health. To be considered a nuisance, an activity must be ongoing or repeated – a one-off event would not usually be considered a nuisance.

## 2.3 Overarching National Policy Statement for Energy (NPS EN-1)

- 2.3.1 The Department for Energy Security and Net Zero (DESNZ) published an updated overarching National Policy Statement for Energy (NPS EN-1) in November 2023, which came into effect on 17 January 2024. Paragraphs 4.14.1 to 4.14.4 state:

*“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 4.14.5 states *“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.”*

### 3. Assessment of Significance

#### 3.1 Summary of Matters Engaged

- 3.1.1 The ES [EN010142/APP/6.1] accompanying this DCO application addresses the likelihood of significant effects arising that could constitute a statutory nuisance as identified in section 79(1) of the EPA.
- 3.1.2 **Table 3-1** outlines each matter stated in section 79(1) of the EPA and describes whether this is covered within this Statement, or is excluded, depending on the assessment within the ES.

**Table 3-1: Matters Stated in Section 79(1) of the EPA**

<b>EPA Section 79(1) Matter</b>	<b>Matter engaged as a consequence of the Scheme?</b>
(a) any premises in such a state as to be prejudicial to health or a nuisance	This matter is considered further in this Statement.
(b) smoke emitted from premises so as to be prejudicial to health or a nuisance	No smoke is expected to be generated from the Scheme; therefore, this is not considered further within the Statement. Unplanned, emergency scenarios such as an accidental or technical fire are not considered relevant to this Statement.
(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	This matter only applies to private dwellings, as provided for under section 79(4) of the EPA. This matter is therefore not considered further within this Statement.
(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	This matter is considered further in this Statement in relation to dust. The Scheme is not anticipated to have any impact on steam, smell or other effluvia and therefore, those elements are not considered further within this Statement.
(e) any accumulation or deposit which is prejudicial to health or a nuisance	This matter is considered further in this Statement.
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance	The Scheme will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance. Any grazing of livestock will be in accordance with good practice guidance for livestock welfare; therefore, this is not considered further in this Statement.

<b>EPA Section 79(1) Matter</b>	<b>Matter engaged as a consequence of the Scheme?</b>
(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance	There is no indication that the construction, operation (and maintenance), and decommissioning of the Scheme will emanate any insects nor insects be attracted to it. Therefore, this is not considered further within this Statement.
(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in this Statement.
(g) noise emitted from premises so as to be prejudicial to health or a nuisance;	This matter is considered further in this Statement
(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street	This matter is considered further in this Statement
(h) any other matter declared by any enactment to be statutory nuisance	No other matters are considered to be a potential statutory nuisance associated with the construction, operation (and maintenance) or decommissioning of the Scheme.



## 4. Matters Engaged and Proposed Mitigation Measures

### 4.1 Condition of Site – Sections 79(1)(a) and (e) of the EPA

4.1.1 This section considers the risk of the condition of the Site causing a statutory nuisance.

4.1.2 The following constitute a statutory nuisance:

a. Section 79(1)(a) – “*any premises in such a state as to be prejudicial to health or a nuisance*”.

b. Section 79(e) – “*any accumulation or deposit which is prejudicial to health or a nuisance*”.

#### Construction and Decommissioning

4.1.3 The types of construction activities in respect of the Scheme include, but are not limited to:

- a. Site preparation and civil works;
- b. Solar PV array construction;
- c. Construction of on-site electrical infrastructure;
- d. Installation of cables;
- e. Testing and commissioning; and
- f. Landscape and habitat creation.

4.1.4 When the operational phase ends, the Scheme will require decommissioning. All PV panels, mounting poles, on-site cabling, inverters, transformers and concrete foundations to those elements not remaining would be removed from the Principal Site and recycled or disposed of in accordance with good practice and market conditions at that time.

4.1.5 During decommissioning, all infrastructure associated with the Scheme will be removed and recycled or disposed of in accordance with good practice and market conditions at that time. This is with the exception of the cabling in the Cable Route Corridor, which may remain in-situ. The mode of cable decommissioning for the Cable Route Corridor and interconnecting cables will be dependent upon government policy and best practice at that time. Currently, the most environmentally acceptable option is leaving the cables in situ, as this avoids disturbance to overlying land and habitats and to neighbouring communities. Alternatively, the cables can be removed by opening the ground at regular intervals and pulling the cable through to the extraction point, avoiding the need to open up the entire length of the cable route.

4.1.6 In addition, the future of the substations and the Solar Farm Control Centre building would be agreed with the relevant Local Planning Authority prior to commencement of decommissioning. The impact assessment within the **ES**

**[EN010142/APP/6.1]** has been based on the worst-case parameters for each technical topic.

- 4.1.7 The construction and decommissioning works have the potential to create pollution incidents, such as spillages and also create litter and general waste, which can constitute a nuisance under the EPA.
- 4.1.8 Proposed construction and decommissioning management measures are set out in the **Framework CEMP** submitted alongside the DCO application **[EN010142/APP/7.8]** and **Framework DEMP** submitted alongside the DCO application **[EN010142/APP/7.10]** respectively. The **Framework CEMP [EN010142/APP/7.8]** and **Framework DEMP [EN010142/APP/7.10]** have been informed by the Environmental Impact Assessment (EIA), as reported within the **ES [EN010142/APP/6.1]**, and will guide the construction and decommissioning processes through environmental controls in order to promote good construction and decommissioning practices to avoid adverse or nuisance causing impacts.
- 4.1.9 A detailed CEMP will be prepared following granting of the DCO. It would be in line with the commitments set out by the **Framework CEMP [EN010142/APP/7.8]** and would be agreed with the relevant local planning authorities.
- 4.1.10 A detailed DEMP will also be prepared prior to the commencement of decommissioning. The detailed DEMP will be in accordance with the **Framework DEMP [EN010142/APP/7.10]**.
- 4.1.11 Plans to deal with accidental pollution would be included within the detailed CEMP and detailed DEMP prior to the commencement of construction and decommissioning respectively. Any necessary equipment (e.g., spillage kits) would be held on-site and all site personnel would be trained in their use. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.
- 4.1.12 To control the waste generated during site preparation and construction, the Contractor will separate the main waste streams on-site, prior to transport to an approved, licenced third party waste facility for recycling or disposal.
- 4.1.13 A Construction Resource Management Plan (CRMP) (secured by the **Framework CEMP [EN010142/APP/7.8]**) will be prepared by the appointed Contractor, which will specify the waste streams to be estimated and monitored and goals set with regards to the waste produced. The CRMP will be finalised with specific measures to be implemented prior to the start of construction. A Decommissioning Resource Management Plan (DRMP) (secured by the **Framework DEMP [EN010142/APP/7.10]**) will also be prepared for the decommissioning period.
- 4.1.14 All waste to be removed from the Order limits will be undertaken by fully licenced waste carriers and taken to licenced waste facilities for recycling and disposal.
- 4.1.15 The measures set out in the **Framework CEMP [EN010142/APP/7.8]** and **Framework DEMP [EN010142/APP/7.10]** are embedded in the Scheme proposals and the assessment of effects undertaken. The EIA assumes that those measures are implemented in full. Compliance with the **Framework**

**CEMP [EN010142/APP/7.8] and Framework DEMP [EN010142/APP/7.10]** will be secured by requirements in the DCO.

- 4.1.16 With these measures in place, it is considered that construction and decommissioning of the Scheme will not give rise to impacts which would constitute a statutory nuisance under section 79(1)(a) or (e).

### **Operation and Maintenance**

- 4.1.17 It is considered that the operation of the Scheme in its built form, as a solar farm, with related infrastructure, will not in itself cause the ‘premises’ within the Order limits, to be in ‘such a state’ as to be prejudicial to health or nuisance.
- 4.1.18 During operation, maintenance activity within the Principal Site will be limited and restricted principally to vegetation management, equipment maintenance and servicing, replacement of any components that fail, and monitoring. It is anticipated that maintenance and servicing would include the inspection, removal, reconstruction, refurbishment, or replacement of faulty or broken equipment and adjusting and altering the solar module orientation to ensure the continued effective operation of the Scheme and improve its efficiency.
- 4.1.19 Along the Cable Route Corridor and in areas of on-site cabling within the Principal Site, operational activity will consist of cable route inspections (schedule to be determined) and any reactive maintenance such as where a cable has been damaged.
- 4.1.20 All operational activities, including maintenance and servicing, will be undertaken in accordance with the environmental management measures set out within the **Framework OEMP [EN010142/APP/7.9]**.
- 4.1.21 As such, operation and maintenance of the Scheme will not give rise to impacts which would constitute a statutory nuisance under section 79(1)(a) or (e).

## **4.2 Air Emissions – Section 79(1)(d) of the EPA**

- 4.2.1 Section 79(1)(d) provides that the following constitutes a statutory nuisance: *“any dust, steam, smell or other effluvia arising on industrial trade or business premises and being prejudicial to health or a nuisance”*.
- 4.2.2 An air quality assessment has been undertaken as part of the EIA and is reported in **Chapter 6: Air Quality** of the ES **[EN010142/APP/6.1]**. The chapter assessed the significance of potential air quality effects during construction and decommissioning, and concludes that, with appropriate mitigation, there would be no significant effects in terms of the EIA regulations (Ref. 5). There is no potential for likely significant effects on air quality during operation, and as such, an assessment of operational air quality effects has been scoped out of the ES.

### **Construction and Decommissioning**

- 4.2.3 **Chapter 6: Air Quality** of the ES **[EN010142/APP/6.1]** assesses the impact of construction and decommissioning of the Scheme on air quality. In addition, the assessment is supported by the following technical appendices:

- a. **Appendix 6-2: Dust Risk Assessment** of the ES [EN010142/APP/6.2]; and
  - b. **Appendix 6-3: Air Quality Modelling** of the ES [EN01042/APP/6.2].
- 4.2.4 The Scheme will not require any demolition during the construction phase. During construction there is the potential for emissions of dust particles due to the following:
- a. Earthworks (e.g., soil stripping, excavation etc.);
  - b. General construction activities (e.g. site preparation, solar PV panel and cable installation); and
  - c. Trackout (movement of mud and soil out of the site by construction vehicles).
- 4.2.5 **Appendix 6-2: Dust Risk Assessment** of the ES [EN010142/APP/6.2] has been undertaken based on relevant industry (Institute of Air Quality Management (IAQM)) guidance.
- 4.2.6 Taking into account the scale of the Order limits and associated construction works, it is considered prudent to adopt good site practice for controlling dust as outlined with the IAQM's 'Guidance on assessment of Dust from Demolition and Construction' document (Ref. 6) for high-risk sites. These measures represent good industry practice and are therefore embedded in the Scheme proposals.
- 4.2.7 These good site practice mitigation measures are incorporated into the **Framework CEMP [EN010142/APP/7.8]** and are also presented in **Table 4-1** and **Table 4-2** below. These mitigation measures will be effectively implemented meaning that no significant dust effects resulting from excavation and construction activities are anticipated beyond the Order limits.
- 4.2.8 **Chapter 6: Air Quality** of the ES [EN010142/APP/6.1] concludes that the adequate implementation of good industry practice measures is expected to prevent the occurrence of significant effects arising from dust generation during construction. **Chapter 6: Air Quality** of the ES [EN010142/APP/6.1] also sets out that decommissioning is expected to generate similar (if not lower) effects to those anticipated during construction, and therefore the mitigation measures proposed for implementation during construction will be appropriate for decommissioning as well. As such measures presented in **Table 4-1** and **Table 4-2** have also been incorporated within the **Framework DEMP [EN010142/APP/7.9]**. **Chapter 6: Air Quality** of the ES [EN010142/APP/6.1] concludes that impacts on local air quality because of dust generation during decommissioning are considered to be not significant.
- 4.2.9 In addition, the assessment confirms that there is likely to be no significant impact on local air quality during construction or decommissioning as a result of increased traffic from the Scheme during these phases at all modelled receptors.
- 4.2.10 The construction of the decommissioning of the Scheme are not considered to result in effects that would constitute a statutory nuisance as defined with Section 79(1)(d) of the EPA.

**Table 4-1: Mitigation for a High-Risk Site (adapted from IAQM)**

Activity	Mitigation Measure
Communications	Develop and implement a stakeholder communications plan that includes community engagement before work commences on-site.
	Display the name and contact details of person(s) accountable for air quality and dust issues on the Scheme. This may be the environment manager/engineer or the site manager.
	Display the head or regional office contact information.
	Develop and implement a Dust Management Plan (DMP), which may include measures to control other emissions, approved by the Local Authority. The DMP may include monitoring of dust deposition, dust flux, real-time PM <sub>10</sub> continuous monitoring and/or visual inspections.
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 the local authority when asked.
	Record any exceptional incidents that cause dust and/or air emissions, either on- or offsite, and the action taken to resolve the situation in the logbook.
	Hold regular liaison meetings with other high-risk construction sites within 500m of the Scheme (or greater, 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 off-site transport/ deliveries which might be using the same strategic road network routes.
Monitoring	Undertake daily on-site and off-site inspection, where receptors (including roads) are nearby, to monitor dust, record inspection results, and make the log available to the local authority when asked. This should include regular dust soiling checks of surfaces such as street furniture, cars and windowsills within 100m of Scheme, 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 the local authority when asked.
	Increase the frequency of site inspections by the person accountable for air quality and dust issues on-site when

<b>Activity</b>	<b>Mitigation Measure</b>
	<p>activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions.</p>
	<p>Agree approach to monitoring with the Local Authority ahead of construction commencing. Data will be collected before any work commences on-site to provide a comparative baseline should real-time airborne particulate or dust deposition monitoring be required.</p>
<p>Preparing and Maintaining the Site</p>	<p>Plan site layout so that machinery and dust causing activities are located away from receptors, as far as is possible.</p>
	<p>Fully enclose site or specific operations where there is a high potential for dust production and the site is active for an extensive period where operations are within 100m of receptors.</p>
	<p>Avoid site runoff of water or mud.</p>
	<p>Keep site fencing, barriers and scaffolding clean using wet methods.</p>
	<p>Remove materials that have a potential to produce dust from the Order limits as soon as possible, unless being re-used on-site. If they are being re-used on-site cover as described below</p>
<p>Operating vehicle/machinery and sustainable travel</p>	<p>Ensure all vehicles switch off engines when stationary - no idling vehicles.</p>
	<p>Avoid the use of diesel- or petrol-powered generators and use mains electricity or battery powered equipment where practicable.</p>
	<p>Impose and signpost a maximum-speed-limit of 15 mph on surfaced and 10 mph on unsurfaced haul roads and work areas (if long haul routes are required these speeds may be increased with suitable additional control measures provided, subject to the approval of the nominated undertaker and with the agreement of the local authority, where appropriate).</p>
	<p>Produce a Construction Traffic Management Plan to manage the sustainable delivery of goods and materials.</p>
<p>Operations</p>	<p>Implement a Travel Plan that supports and encourages sustainable travel (public transport, cycling, walking, and car-sharing).</p>
	<p>Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction, e.g. suitable local exhaust ventilation systems.</p>

<b>Activity</b>	<b>Mitigation Measure</b>
	Ensure an adequate water supply on the site for effective dust/particulate matter suppression/mitigation, using non-potable water where possible and 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.

**Table 4-2: Activity Specific Dust Mitigation Measures**

<b>Activity</b>	<b>Embedded Dust Good Practice Measures</b>
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 in small areas during work and not all at once.
Construction	Avoid scabbling (roughening of concrete surfaces) if possible.
	Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place.
	Ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems to prevent escape of material and overfilling during delivery.
	For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.
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 continuously in use.
	Avoid dry sweeping of large areas.
	Ensure vehicles entering and leaving sites are covered to prevent escape of materials during transport.
	Inspect on-site haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable.

<b>Activity</b>	<b>Embedded Dust Good Practice Measures</b>
	Record all inspections of haul routes and any subsequent action in a site logbook.
	Install hard surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned.
	Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable).
	Ensure there is an adequate area of hard surfaced road between the wheel wash facility and the site exit, wherever site size and layout permits.
	Access gates to be located at least 10m from receptors where possible.

## **Operation and Maintenance**

- 4.2.11 Traffic generation from operational staff and maintenance work is not expected to induce significant changes to traffic flows on the local road network.
- 4.2.12 The operation of the Scheme does not involve any significant emissions of air pollutants on-site.
- 4.2.13 No significant effects on local air quality, including through dust generation, are therefore predicted during operation of the Scheme. The operation of the Scheme would therefore not result in effects that would constitute a statutory nuisance as defined with Section 79(1)(d) of the EPA.

## **4.3 Artificial Light – Section 79(1)(fb) of the EPA**

- 4.3.1 Section 79(1)(fb) provides that the following constitutes a statutory nuisance, “*artificial light emitted from premises so as to be prejudicial to health or a nuisance*”.
- 4.3.2 A statutory nuisance would exist if artificial light substantially interfered 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.
- 4.3.3 The effects of Glint and Glare are not covered by statutory nuisance legislation, which does not cover natural light. These effects are however assessed in detail within **Chapter 17: Other Environmental Topics** of the ES [EN010142/APP/6.1] and **Appendix 17-2: Glint and Glare Assessment** of the ES [EN010142/APP/6.2], and no significant effects are identified, with embedded mitigation measures taken into account.



## Construction and Decommissioning

- 4.3.4 Construction temporary lighting, in the form of task specific and fixed 'general' lighting, may be required during core working hours during months with reduced daylight hours.
- 4.3.5 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 residential receptors, outside of the Order limits as far as reasonably practicable.
- 4.3.6 In accordance with the **Framework CEMP [EN010142/APP/7.8]** and **Framework DEMP [EN010142/APP/7.10]** all construction and decommissioning lighting will incorporate the following measures to prevent or reduce the impact on residential receptors:
- a. The use of lighting will be minimised to that required for safe Site operations;
  - b. Lighting will be controlled by infrared settings;
  - c. Lighting will utilise directional fittings to minimise outward light spill and glare (e.g. via the use of light hoods/cowls which direct light below the horizontal plane, preferably at an angle greater than 20° from horizontal); and
  - d. Lighting will be directed into the Order limits rather than towards land outside of the Order limits.
- 4.3.7 With the above measures in place, it is unlikely that artificial light from temporary construction lighting during construction and decommissioning would interfere with the wellbeing, comfort, or enjoyment of an individual's property. The construction of the decommissioning of the Scheme are not considered to result in effects that would constitute a statutory nuisance as defined with Section 79(1)(fb) of the EPA.

## Operation and Maintenance

- 4.3.8 Operational lighting is controlled by the **Framework OEMP [EN010142/APP/7.9]**. During operation, permanent security lights with motion detectors will be used for security purposes around the electrical infrastructure, emergency access points to facilities within the Scheme and potentially at other pieces of critical infrastructure. No areas are proposed to be permanently lit. During overnight maintenance personnel will use portable lighting sources. Therefore, there will be no lighting at the perimeter of the Order limits and no potential for a statutory nuisance. On this basis it is unlikely that artificial light during operation of the Scheme would interfere with the wellbeing, comfort, or enjoyment of an individual's property. The operation of the Scheme is therefore not considered to result in effects that would constitute a statutory nuisance as defined with Section 79(1)(fb) of the EPA

## 4.4 Noise and Vibration – Section 79(1)(g) and (ga) of the EPA

- 4.4.1 The following constitute a statutory nuisance:

- a. Section 79(1)(g) – “*noise emitted from premises so as to be prejudicial to health or a nuisance*”; and
  - b. Section 79(1)(ga) – “*noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in street*”.
- 4.4.2 If noise is excessive, prolonged or on a regular basis it may constitute a statutory nuisance. A statutory nuisance would exist where the statutory threshold outlined in paragraph 4.4.1 is met.
- 4.4.3 Local Authorities have a duty to investigate and, if necessary, take enforcement against noise or vibration emissions that are identified as a statutory nuisance. Section 80 of the EPA (Ref. 3) identifies Best Practicable Means (BPM), as defined in section 72 of the Control of Pollution Act 1974 (Ref. 5), as a basis for defence against enforcement action. Section 82 of the EPA provides for individuals to seek for abatement action to be taken by a magistrate’s court against noise nuisance.
- 4.4.4 An assessment of noise and vibration impacts was undertaken as part of the EIA and is reported in **Chapter 13: Noise and Vibration** of the ES **[EN010142/APP/6.1]**. The chapter assessed the significance of potential noise and vibration effects during construction, operation and maintenance, and decommissioning, and concludes that, with appropriate mitigation, there would be no significant noise or vibration effects in terms of the EIA Regulations (Ref. 5).
- 4.4.5 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) of the EPA and is not considered further.

## **Construction and Decommissioning**

- 4.4.6 Construction and decommissioning noise levels at surrounding receptors will vary depending on the locations and types of works taking place. Due to the variation in work activities and locations across the Scheme, it is considered that any periods of regular construction noise levels experienced at a receptor would be of a limited duration due to the phased nature of construction (e.g., a few weeks or months, rather than the full duration of the construction period). Occupants of nearby receptors are likely to be more tolerable of these events, if they are regularly communicated to and kept informed of timings and duration of high noise generating events.
- 4.4.7 Measures to control noise and vibration will be adopted. These measures represent Best Practicable Means (BPM) and are included as embedded mitigation within the **Framework CEMP [EN010142/APP/7.8]** and **Framework DEMP [EN010142/APP/7.10]**.
- 4.4.8 The construction and decommissioning contractors will follow BPM to minimise any noise impacts upon local sensitive receptors. These are likely to involve the following, as appropriate:
- a. Ensuring that all appropriate processes, procedures and measures are in place to minimise noise before works begin and throughout the construction programme.

- b. All contractors to be made familiar with current legislation and the guidance in BS 5228 (Parts 1 and 2) (Ref. 8 and Ref. 9) which should form a prerequisite of their appointment.
  - c. Where reasonably practicable, noise and vibration are controlled at source (e.g. the selection of inherently quiet plant and low vibration equipment), review of the works programme and methodology to consider quieter methods, consideration of the location of equipment on-site and control of working hours.
  - d. Use of modern plant, complying with applicable UK noise emission requirements.
  - e. Hydraulic techniques for breaking concrete or rocks to be used in preference to percussive techniques, where reasonably practicable.
  - f. Drop heights of materials will be minimised.
  - g. Plant and vehicles will be sequentially started up rather than all together.
  - h. Off-site pre-fabrication where reasonably practicable.
  - i. Use of screening locally around significant noise producing plant and activities.
  - j. Regular and effective maintenance by trained personnel will be undertaken to keep plant and equipment working to manufacturer's specifications.
  - k. All construction plant and equipment to be properly maintained, silenced where appropriate, operated to prevent excessive noise and switched off when not in use.
  - l. Loading and unloading of vehicles, dismantling of site equipment or moving equipment or materials around the Order limits to be conducted in such a manner as to minimise noise generation, as far as reasonably practicable.
  - m. All vehicles used on-site shall incorporate reversing warning devices as opposed to the typical tonal reversing alarms to minimise noise disturbance where reasonably practicable.
  - n. Provision of information to the relevant local authority and local residents to advise of potential noisy works that are due to take place.
  - o. Unnecessary revving of engines will be avoided, and equipment will be switched off when not in use.
  - p. Plant will always be used in accordance with manufacturers' instructions. Care will be taken to site equipment away from noise-sensitive areas. Where possible, loading and unloading will also be carried out away from such areas.
- 4.4.9 A construction noise monitoring scheme shall be developed as per requirements of the **Framework CEMP [EN010142/APP/7.8]**. Monitoring during the decommissioning phase will be undertaken in accordance with the **Framework DEMP [EN010142/APP/7.10]**.
- 4.4.10 With the above measures in place, no likely significant effects due to construction and decommissioning noise have been determined on sensitive receptors adjacent to the Order limits.

- 4.4.11 Based on the distances between the Order limits and surrounding receptors to locations where heavy ground works (excavation, piling, use of vibratory roller) may take place, as well as prior warning being provided to the nearby sensitive receptors on the timings and duration of vibration generating activities, it is considered that vibration from construction and decommissioning works experienced at sensitive receptors will be not significant, as explained in **Chapter 13: Noise and Vibration** of the ES [EN010142/APP/6.1].
- 4.4.12 Noise and vibration effects during decommissioning of the Scheme will be similar or less than noise effects during construction. The noise assessment presented within **Chapter 13: Noise and Vibration** of the ES [EN010142/APP/6.1] for construction is therefore considered representative (or an overestimate) of decommissioning.
- 4.4.13 The construction of the decommissioning of the Scheme are not considered to result in effects that would constitute a statutory nuisance as defined with Sections 79(1)(g) and 79(1)(ga) of the EPA.

### **Operation and Maintenance**

- 4.4.14 There is not anticipated to be any noticeable impulsive or intermittent characteristics from plant noise emissions experienced at the surrounding receptors. This is because the Scheme design has been developed to locate BESS compounds sufficiently far from sensitive noise receptors to avoid significant noise effects.
- 4.4.15 **Appendix 13-4: Noise Modelling** of the ES [EN010142/APP/6.2] confirms that operational noise from plant is not likely to be significant at sensitive receptors adjacent to the Order limits. As such, **Chapter 13: Noise and Vibration** of the ES [EN010142/APP/6.1] concludes that any operational noise effects experienced at sensitive receptors will not be significant. The operation of the Scheme is therefore not considered to result in effects that would constitute a statutory nuisance as defined with Sections 79(1)(g) and 79(1)(ga) of the EPA.

## 5. Conclusion

### 5.1 Potential for Nuisance

- 5.1.1 In line with Regulation 5(2)(f) of the APFP Regulations (Ref. 2), this Statement has identified whether the Scheme has engaged one or more of the matters set out in Section 79(1) of the EPA (Ref. 3), and thus considered whether the Scheme would cause a statutory nuisance.
- 5.1.2 The matters in the EPA that have been engaged by the Scheme are general site condition, air quality, artificial light, and noise and vibration, during construction, operation and maintenance, and decommissioning of the Scheme. The mitigation measures identified in the ES will prevent impacts which have a potential to result in statutory nuisance under section 79 of the EPA. These measures are secured by requirements obtained within the **draft DCO [EN010142/APP/3.1]**.
- 5.1.3 As such, it is not expected that the construction, operation (and maintenance) and decommissioning of the Scheme would cause a statutory nuisance.

## 6. References

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