
EAST YORKSHIRE SOLAR FARM

**East Yorkshire Solar Farm
EN010143**

Statutory Nuisance Statement

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Prepared for:

East Yorkshire Solar Farm Limited

Prepared by:

AECOM Limited

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Executive Summary

- ES1 This Statutory Nuisance Statement (Statement) has been prepared on behalf of East Yorkshire Solar Farm Limited (the Applicant) in relation to an application for a Development Consent Order (DCO) submitted to the Planning Inspectorate, with the decision whether to grant a DCO to be made by the Secretary of State for the Department for Energy Security and Net Zero (Secretary of State) pursuant to the Planning Act 2008.
- ES2 The Applicant is seeking development consent for the construction, operation (including maintenance), and decommissioning of East Yorkshire Solar Farm (the Scheme), which will deliver electricity to the national electricity transmission network. The Applicant is proposing to install ground mounted solar photovoltaic (PV) panel arrays and associated infrastructure to generate electrical energy from the sun. The Solar PV Site, located in the East Riding of Yorkshire, will connect to National Grid's Drax Substation.
- ES3 The Scheme is defined as a Nationally Significant Infrastructure Project (NSIP) and will require a DCO from the Secretary of State due to its generating capacity exceeding 50 megawatts (MW). As such, this Statement has been prepared to satisfy Regulation 5(2)(f) of the APFP 2009, 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 nuisance and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them*".
- ES4 The matters in section 79(1) of the Environmental Protection Act 1990 (EPA) that have been considered within this Statement are general site condition, air quality, artificial light, and noise and vibration, during construction, operation and decommissioning of the Scheme. This Statement sets out appropriate mitigation measures to ensure 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.

1. Introduction

1.1 Background

- 1.1.1 This Statutory Nuisance Statement (the ‘Statement’) has been prepared on behalf of East Yorkshire Solar Farm Limited (the ‘Applicant’) as part of an application for a Development Consent Order (DCO) for East Yorkshire Solar Farm (hereafter referred to as the ‘Scheme’).
- 1.1.2 The Scheme is classed as a Nationally Significant Infrastructure Project (NSIP) for the purposes of the Planning Act 2008 and requires an application for a DCO. The application for the DCO is being submitted to the Planning Inspectorate, with the decision on whether to grant a DCO being made by the Secretary of State for the Department for Energy Security and Net Zero (hereafter referred to as the ‘Secretary of State’) pursuant to the Planning Act 2008.
- 1.1.3 The Application is for the construction, operation (and maintenance), and decommissioning of a solar photovoltaic (PV) electricity generating facility, with a total capacity exceeding 50 megawatts (MW), and export connection to the national grid, at National Grid’s Drax Substation. The Order limits are shown on **Figure 1-2, ES Volume 3 [EN010143/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. The land within the Order limits (‘the Site’) is located within the administrative areas of the East Riding of Yorkshire and North Yorkshire.

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 and Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations).
- 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). 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 the 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 application, particularly:
- a. **The Environmental Statement (ES) [EN010143/APP/6.1–6.4];**
 - b. **Framework Construction Environmental Management Plan (Framework CEMP) [EN010143/APP/7.7];**

- c. **Framework Operational Environmental Management Plan (Framework CEMP) [EN010143/APP/7.8];** and
 - d. **Framework Decommissioning Environmental Management Plan (Framework CEMP) [EN010143/APP/7.9].**
- 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 **[EN010143/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 The Statement is structured as follows:
- a. Section 1: Introduction;
 - b. Section 2: Legislative and Policy Context;
 - c. Section 3: Assessment of Significance;
 - d. Section 4: Matters Engaged and Proposed Mitigation Measures; and
 - e. Section 5: Conclusion.

2. 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 (EPA) 1990, and if so how the applicant proposes to mitigate or limit them*”.

2.2 EPA

- 2.2.1 Section 79(1) of the EPA, as it applies in England, provides that the following matters constitute “statutory nuisances”:
- (a) *“any premises in such a state as to be prejudicial to health or 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 accumulative 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 inspections 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.¹

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

2.3.1 Paragraph 4.14.1 of the Overarching National Policy Statement for Energy (NPS EN-1) states that: “*Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, or doing anything else authorised by, a development consent order. Such authority is conferred only for the purpose of providing a defence in any civil or criminal proceedings for nuisance. This would include a defence for proceedings for nuisance under Part III of the Environmental Protection Act 1990 (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised. The defence does not extinguish the local authority’s duties under Part III of the EPA 1990 to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve an abatement notice where satisfied of its existence, likely occurrence or recurrence. The defence is not intended to extend to proceedings where the matter is “prejudicial to health” and not a nuisance”.*

2.3.2 Paragraph 4.14.4 states that “*It is very important that, at the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the 1990 Act and how they may be mitigated or limited are considered by the IPC [now Secretary of State] so the appropriate requirements can be included in any subsequent order granting development consent”.*

¹ Ares, E & Adcock, A Nuisance Complaints (2018). House of Commons Library. Briefing Paper No CBP 8040

2.4 Draft Energy National Policy Statements (NPSs)

- 2.4.1 The Government is currently reviewing and updating the Energy NPSs. It is doing this in order to reflect its policies and strategic approach for the energy system that is set out in the Energy white paper (December 2020), and to ensure that the planning policy framework enables the delivery of the infrastructure required for the country’s transition to net zero carbon emissions. As part of the Energy NPS review process, the Government published a suite of Draft Energy NPSs for consultation in March 2023. Section 4.14 of Draft Overarching National Policy Statement for Energy (EN-1) (Draft NPS EN-1) sets out the principles for common law nuisance and statutory nuisance.
- 2.4.2 The wording in Draft NPS EN-1 mirrors Section 4.14 of NPS EN-1, except for some minor amendments, e.g., to reflect revised paragraph numbers in Draft NPS EN-1 and the Secretary of State being the decision maker. One change in Draft NPS EN-1 from NPS EN-1 is in Section 5.7 on Dust, Odour, Artificial Light, Smoke, Steam, and Insect Infestation. Paragraph 5.7.2 sets out: *‘Because of the potential effects of these emissions and infestation, and in view of the availability of the defence of statutory authority against nuisance claims described in Section 4.14, it is important that the potential for these impacts is considered by the applicant and Secretary of State’*. The comparable section in NPS EN-1 states these issues are to be *‘considered by the IPC’*.
- 2.4.3 Further details on the Draft and designated NPSs can be found in the **Planning Statement [EN010143/APP/7.2]**.

3. Assessment of Significance

3.1 Summary of Matters Engaged

- 3.1.1 The ES [EN010143/APP/6.1–6.4] 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 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 1. Matters Stated in Section 79(1) of the EPA

EPA section 79(1) matter	Matter engaged as a consequence of the Scheme?
(a) Any premises in such a state to be prejudicial to health or a nuisance	This matter is considered further in the 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.

EPA section 79(1) matter

Matter engaged as a consequence of the Scheme?

(c) Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance	This matter only applies to private dwellings, as provided for under section 79(4) of the EPA. This matter is therefore not considered further within the Statement.
(d) Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance	This matter is considered further in the Statement in relation to dust. The Scheme is not anticipated to have impact on steam, smell, or other effluvia and therefore, these 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 the 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 the statement.
(fa) Any insects emanating from relevant industrial, trade, or business premises and being prejudicial to health or 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 in a way that might constitute a nuisance. Therefore, this is not considered further within the Statement.
(fb) Artificial light emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in the Statement.
(g) Noise emitted from premises so as to be prejudicial to health or a nuisance	This matter is considered further in the 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 the Statement.
(h) Any other matter declared by any enactment to be a 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 onsite electrical infrastructure;
- d. Installation of cables;
- e. Testing and commissioning; and
- f. Landscape and habitat creation.

4.1.4 During decommissioning, the following components of the Scheme, as referred to by Schedule 1 of the **Draft Development Consent Order [EN010143/APP/3.1]** in the locations shown by the **Works Plans [EN010143/APP/2.3]** will be removed and recycled or disposed of in accordance with good practice and market conditions at that time:

- a. Solar PV and related components (Work No. 1);
- b. Onsite substations (Work No. 2); and
- c. Ancillary Infrastructure (Work No 3, 4, 6).

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

4.1.6 Construction control mechanisms proposed include core working hours, traffic management, and these measures are set out in the **Framework CEMP [EN010143/APP/7.7]**. The Framework CEMP has been informed by the Environmental Impact Assessment (EIA) and will guide the construction process through environmental controls in order to promote good construction practice to avoid adverse or nuisance causing impacts during construction.

4.1.7 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**

- [EN010143/APP/7.7]** and would be agreed with the relevant local planning authorities.
- 4.1.8 A detailed Decommissioning Environmental Management Plan (DEMP) will also be prepared prior to the commencement of decommissioning. The detailed DEMP will be in accordance with the **Framework DEMP [EN010143/APP/7.9]**.
- 4.1.9 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.
- 4.1.10 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.
- 4.1.11 A Construction Site Waste Management Plan (SWMP) (secured by the **Framework CEMP [EN010143/APP/7.7]**) 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 SWMP will be finalised with specific measures to be implemented prior to the start of construction. A Decommissioning Resource Management Plan (DRMP) will also be prepared for the decommissioning period.
- 4.1.12 All waste to be removed from the Order limits will be undertaken by fully licenced waste carriers and taken to licenced waste facilities for recycling and disposal.
- 4.1.13 The measures set out in the **Framework CEMP [EN010143/APP/7.7]** and **DEMP [EN010143/APP/7.9]** are embedded in the Scheme design and the assessment of effects undertaken. The EIA assumes that those measures are implemented in full. Compliance with the **Framework CEMP [EN010143/APP/7.7]** and **DEMP [EN010143/APP/7.9]** will be secured by requirements in the DCO.
- 4.1.14 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

- 4.1.15 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.
- 4.1.16 During operation, maintenance activity within the Solar PV Site will be minimal and be restricted principally to vegetation management, equipment maintenance and servicing, replacement of any components that fail, and monitoring. It is anticipated that maintenance and servicing would include the inspection, removal, reconstruction, refurbishment, or replacement of faulty or broken equipment and adjusting and altering the solar module orientation to ensure the continued effective operation of the Scheme and improve its efficiency.

- 4.1.17 Along the Grid Connection Corridor and the Interconnecting Cable Corridor, operational activity will consist of cable route inspections (schedule to be determined) any reactive maintenance such as where a cable has been damaged.
- 4.1.18 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).

Conclusion

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

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

- 4.2.1 Section 79(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 was undertaken as part of the EIA and reported in **Chapter 16: Other Environmental Topics, ES Volume 1 [EN010143/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.

Construction and Decommissioning

- 4.2.3 **Chapter 16: Other Environmental Topics – Air Quality, ES Volume 1 [EN010143/APP/6.1]** assesses the impact of construction and decommissioning of the Scheme on air quality. The assessment confirms there is likely to be no significant impact on local air quality during construction or decommissioning given the volume of traffic proposed and the predicted pollutant concentration would have a negligible effect on human health and designated ecology sites. During construction there is the potential for emissions of dust particles due to the following:
- Demolition and alteration of existing structures at Johnson’s Farm;
 - Earthworks (e.g., soil stripping, excavation etc.);
 - General construction activities (e.g. site preparation, solar PV panel and cables installation); and
 - Trackout (movement of mud and soil out of the site by construction vehicles).
- 4.2.4 Engine exhaust emissions from construction ‘non-road mobile machinery’ (NRMM) have the potential to affect local air quality. Emissions from NRMM will be temporary and localised and will be controlled through good-practice mitigation measures, pursuant to the **Framework CEMP [EN010143/APP/7.7]**. For this reason, and that no unusual plant or machinery will be used, construction NRMM emissions will not be significant and, therefore, these emissions have not been modelled or considered further in the ES.

- 4.2.5 A 'Dust Risk Assessment (DRA) has been undertaken based on relevant industry (Institute of Air Quality Management (IAQM)) guidance and the findings are presented in **Chapter 16: Other Environmental Topics – Air Quality, ES Volume 1 [EN010143/APP/6.1]**.
- 4.2.6 Taking into account the scale of the Order limits and associated construction works, it is considered prudent to adopt the good site practice for controlling dust as outlined with the IAQM's 'Guidance on assessment of Dust from Demolition and Construction' document for high risk sites. These measures represent good industry practice and are therefore embedded in the Scheme design.
- 4.2.7 These good site practice mitigation measures are also incorporated into the **Framework CEMP [EN010143/APP/7.7]**. These are also presented in **Table 2** and **Table 3** below. These are considered to be embedded mitigation and represent good industry practice that are part of the Scheme design. 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 The assessment of likely impacts and effects on air quality (**Chapter 16: Other Environmental Topics – Air Quality, ES Volume 1 [EN010143/APP/6.1]**) concludes that the adequate implementation of good industry practice measures is expected to prevent the occurrence of significant impacts arising from dust generation during construction.
- 4.2.9 **Chapter 16: Other Environmental Topics – Air Quality, ES Volume 1 [EN010143/APP/6.1]** 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. It concludes that impacts on local air quality because of dust generation during decommissioning are considered to be not significant. The **Framework DEMP [EN010143/APP/7.9]** includes measures to the same effect as those contained in the **Framework CEMP [EN010143/APP/7.7]** and summarised in **Table 3**.

Table 2. Dust Mitigation Measures

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 Site. 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 level of detail will depend on the risk and should include as a minimum the highly recommended measures within the IAQM guidance.

Activity	Mitigation Measure
Site Management	The desirable measures should be included as appropriate for the Site. The DMP will need to include monitoring of dust deposition, dust flux, real-time PM ₁₀ continuous monitoring and/or visual inspections.
	Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce remissions 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-site or offsite, and the action taken to resolve the situation in the logbook.
	Hold regular liaison meetings with other high-risk construction sites within 500 m of the Site (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.
	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 activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions.
Preparing and Maintaining the Site	Agree dust deposition, dust flux, or real-time PM ₁₀ continuous monitoring locations with the Local Authority. Where possible commence baseline monitoring at least three months before work commences on a phase. Further guidance is provided by IAQM on monitoring during demolition, earthworks and construction.
	Plan 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 that are at least as high as any stockpiles on-site where stockpiles (if required) are within 100 m of receptors.
	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 100 m of receptors.
	Avoid site runoff of water or mud.
Keep site fencing, barriers and scaffolding clean using wet methods.	

Activity	Mitigation Measure
	<p>Remove materials that have a potential to produce dust from the site as soon as possible, unless being re-used on-site. If they are being re-used on-site cover as described below.</p> <p>Cover, seed or fence stockpiles to prevent wind whipping.</p>
Operating Vehicles / Machinery and Sustainable Travel	<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 miles per hour (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 undertake and with the agreement of the local authority, where appropriate).</p> <p>Produce a Delivery Management System (may also be referred to as a Construction Logistics Plan) to manage the sustainable delivery of goods and materials.</p> <p>Implement a Travel Plan that supports and encourages sustainable travel (public transport, cycling, walking, and car-sharing).</p>
Operations	<p>Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction, e.g., suitable local exhaust ventilation systems.</p> <p>Ensure an adequate water supply on the site for effective dust/particulate matter suppression mitigation, using non-potable water where possible and appropriate.</p> <p>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.</p>
Waste Management	Avoid bonfires and burning of waste materials.

Table 3. Activity Specific Dust Mitigation Measures

Activity	Mitigation Measure
Earthworks	<p>Re-vegetate earthworks and exposed areas/soil stockpiles to stabilise surfaces as soon as practicable.</p> <p>Use Hessian, mulches or tackifiers where it is not possible to re-vegetate or cover with topsoil, as soon as practicable.</p>

Activity	Mitigation Measure
Construction	<p>Only remove the cover in small areas during work and not all at once.</p>
	<p>Avoid scabbling (roughening of concrete surfaces) if possible.</p>
	<p>Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place.</p>
	<p>Ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems to prevent escape of material and overflowing during delivery.</p>
	<p>For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.</p>
Trackout	<p>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.</p>
	<p>Avoid dry sweeping of large areas.</p>
	<p>Ensure vehicles entering and leaving site are covered to prevent escape of materials during transport.</p>
	<p>Inspect on-site haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable.</p>
	<p>Record all inspections of haul routes and any subsequent action in a site logbook.</p>
	<p>Install hard surfaced haul routes, which are regularly damped down with fixed or mobile sprinkler systems, or mobile water bowsers and regularly cleaned.</p>
	<p>Implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable).</p>
	<p>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.</p>
	<p>Access gates to be located at least 10 m from receptors where possible.</p>

Operation

4.2.10 The Scheme is estimated to support three permanent (on-site) operational jobs. Traffic generation from operational staff is not expected to induce significant changes to traffic flows on the local road networks.

- 4.2.11 The operation of the Scheme is therefore not anticipated to have a significant impact on local air quality. The effect on air quality during operation will therefore be negligible.
- 4.2.12 No likely significant effects on air quality are therefore predicted during operation of the Scheme.

Conclusion

- 4.2.13 For the reasons explained above and with the implementation of the above measures, no significant effects are expected to occur in relation to air quality matters in EIA terms, including in relation to the health of human receptors, as set out in **Chapter 14: Human Health [EN010143/APP/6.1]**, and **Chapter 16: Other Environmental Topics – Air Quality, ES Volume 1 [EN010143/APP/6.1]**.
- 4.2.14 No claim is therefore envisaged in respect of a statutory nuisance under section 79(1)(d).

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

- 4.3.1 Section 79(1)(fb) provides that the following constitutes a statutory nuisance, “*artificial light emitted from premises so as to be prejudicial to health or a nuisance*”.
- 4.3.2 A statutory nuisance would exist if artificial light substantially 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 16: Other Environmental Topics, ES Volume 1 [EN010143/APP/6.1]**, 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 receptors (including ecology and residents), outside of the Order limits as far as reasonably practicable.
- 4.3.6 In accordance with the **Framework CEMP [EN010143/APP/7.7]**, all construction and decommissioning lighting will incorporate the following measures to prevent or reduce the impact on human and ecological receptors:
- a. Lights installed will be of the minimum brightness and/ or power rating capable of performing the desired function;
 - b. Light fittings will be used that reduce the amount of light emitted above the horizontal (reduce upward lighting);

- c. Light fittings will be positioned correctly, inward facing and directed downwards;
- d. Direction of lights will seek to avoid spillage onto neighbouring properties, highways or waterways;
- e. Direction of lights will seek to avoid spillage onto neighbouring terrestrial or aquatic habitats; and
- f. Passive Infra-Red (PIR) controlled lights (motion sensors) will be used except where temporary focussed task specific lighting is required.

Operation

- 4.3.7 During operation, no part of the Scheme will be continuously lit. Lighting is controlled by the **Framework Operational Environmental Management Plan (OEMP) [EN010143/APP/7.8]**. The use of motion detection security lighting will be utilised, and a sensitive lighting scheme will be developed ensuring inward distribution of light and avoiding light spill on to existing boundary features.
- 4.3.8 Lighting will be directed downward and away from boundaries. Therefore, there will be no lighting at the perimeter of the Order limits and no potential for a statutory nuisance.

Conclusion

- 4.3.9 For the reasons explained above and with the implementation of the above mitigation measures, no claim is envisaged in respect of statutory nuisance under Section 79(1)(fb).

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

- 4.4.1 The following constitute a statutory nuisance:
 - a. Section 79(1)(g) – “*noise emitted from premises so as to be prejudicial to health or a nuisance*”; and
 - b. Section 79(1)(ga) – “*noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in 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 identifies Best Practicable Means (BPM), as defined in section 72 of the Control of Pollution Act 1974, as a basis for defence against enforcement action. Section 82 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 reported in **Chapter 11: Noise and Vibration, ES Volume 1 [EN010143/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, except for temporary noise emissions in the unlikely event of evening/night horizontal directional drilling (HDD) activities for cable installation at specific locations.

- 4.4.5 Regarding the significant noise effect associated with HDD activities identified in **Chapter 11: Noise and Vibration, ES Volume 1 [EN010143/APP/6.1]**, HDD activity is unlikely to occur at night time, and the Construction Contractor shall plan the HDD activities to occur during daytime; however the assessment allowed for every eventuality and based the assessment on the worst case scenario that the activity occurs at night. Even if it were to occur, it would occur over a very limited spatial and temporal period (a matter of hours in any one location) and under the definition in paragraph 2.2.2 it is accepted this would not usually be considered a nuisance.
- 4.4.6 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 (6A)(a) and is not considered further.

Construction and Decommissioning

- 4.4.7 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.
- 4.4.8 Measures to control noise and vibration will be adopted. These measures represent Best Practicable Means (BPM) and are included as embedded mitigation with the **Framework CEMP [EN010143/APP/7.7]** and **Framework DEMP [EN010143/APP/7.9]**. The detailed CEMP will be prepared prior to construction and the detailed DEMP will be prepared prior to decommissioning as outlined in **Chapter 2: The Scheme, ES Volume 1 [EN010143/APP/6.1]**.
- 4.4.9 The Construction and Decommissioning contractors will follow BPM to minimise the noise impact upon the 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) which should form a prerequisite of their appointment;
 - c. Ensuring that, 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 construction 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. When piling, use of lower noise piling where reasonably practicable;
 - g. Off-site pre-fabrication where reasonably practicable;
 - h. Regular and effective maintenance by trained personnel will be undertaken to keep plant and equipment working to manufacturer's specifications;
 - i. All construction plant and equipment to be properly maintained, silenced where appropriate, operated to prevent excessive noise and switched off when not in use;
 - j. Loading and unloading of vehicles, dismantling of site equipment or moving equipment or materials around the Site to be conducted in such a manner as to minimise noise generation, as far as reasonably practicable;
 - k. All vehicles used on-site shall incorporate broadband reversing warning devices as opposed to the typical tonal reversing alarms to minimise noise disturbance where reasonably practicable;
 - l. Appropriate routing of construction traffic on public roads and along access tracks to avoid sensitive areas where practicable (see **Chapter 2: The Scheme, ES Volume 1 [EN010143/APP/6.1]** and the **Framework Construction Traffic Management Plan (CTMP), Appendix 13-5 ES Volume 2 [EN010143/APP/6.2]** which also contains figures detailing traffic routing);
 - m. Provision of information to the relevant local authority and local residents to advise of potential noisy works that are due to take place;
 - n. Monitoring of noise complaints and reporting to the Applicant for immediate investigation and action. A display board will be installed on-site, and a website will be set up. These will include contact details for the Site Manager or alternative public interface with whom nuisance or complaints can be lodged. A logbook of complaints will be prepared and managed by the Site Manager;
 - o. Unnecessary revving of engines will be avoided, and equipment will be switched off when not in use;
 - p. Drop heights of materials will be minimised;
 - q. Plant and vehicles will be sequentially started up rather than all together;
 - r. 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;

- s. Works undertaken in Grid Connection Corridor and the Interconnecting Cable Corridor would be undertaken at least 15m from a sensitive receptor where practicable.
 - t. Noise generating activities near residential properties, such as use of power tools or piling, would be limited to the hours between 08:00 and 18:00 from Monday to Friday and between 08:00 and 13:00 on Saturday;
 - u. Core working hours onsite will be 07:00 to 19:00 Monday to Friday and 07:00 to 13:00 on Saturday, but will be shortened if working would necessitate artificial lighting and therefore the working day will be shorter in the months with reduced daylight hours (with the exception of activities such as HDD which require continuous working). There will be no work on a Sunday or Bank Holiday unless crucial to construction (e.g., HDD which must be a continuous activity etc.) or in an emergency; and
 - v. Where high noise generating works are required to be undertaken outside of core daytime working hours, consents will be sought from the relevant local authority under Section 61 of the Control of Pollution Act 1974 for the proposed construction works, excluding non-intrusive surveys. The Section 61 application will set out the specific method of working, calculations of noise levels at nearby receptors, the actual working hours required, noise monitoring locations, details of communication measures and the mitigation measures implemented to minimise noise and vibration impacts.
- 4.4.10 A construction noise mitigation and monitoring scheme shall be developed and agreed with appropriate stakeholders prior to the commencement of construction works, as set out in the **Framework CEMP [EN010143/APP/7.7]**. Noise monitoring will also be undertaken during the decommissioning stages, as described in the **Framework DEMP [EN010143/APP/7.9]**.
- 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 works experienced at sensitive receptors will be not significant, as identified in **Chapter 11: Noise and Vibration, ES Volume 1 [EN010143/APP/6.1]**.
- 4.4.12 Construction working hours on the Solar PV Site will run from 07:00 to 19:00 Monday to Friday, and Saturday 07:00 to 13:00. Noise generating activities near residential properties, such as use of power tools or piling, would be limited to the hours between 08:00 and 18:00 from Monday to Friday and between 08:00 and 13:00 on Saturday. Where on-site works are to be conducted outside the core working hours, they will comply with the restrictions stated in the **Framework CEMP [EN010143/APP/7.7]** and any other restrictions agreed with the relevant planning authorities.
- 4.4.13 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 11: Noise and Vibration, ES Volume 1 [EN010143/APP/6.1]** for construction is therefore considered representative

(or an overestimate) of decommissioning. As such, a separate assessment for noise and vibration from decommissioning is not included.

Operation

- 4.4.14 As stated in the Scoping Report (**Appendix 1-1, ES Volume 3 [EN010143/APP/6.2]**) and confirmed by the Planning Inspectorate (PINS) in the Scoping Opinion (**Appendix 1-2, ES Volume 3 [EN010143/APP/6.2]**), no major vibration sources are envisaged to be introduced as part of the Scheme and as such there will be no associated operational vibration effects. No further assessment of operational vibration has been included in the ES.
- 4.4.15 Operational embedded noise mitigation measures include the following:
- a. Plant selection;
 - b. Design, location and orientation of Field Stations, and the Grid Connection Substations to minimise noise at receptors.
- 4.4.16 The **Outline Design Principles Statement [EN010143/APP/7.4]** and **Framework Operational Environmental Management Plan (OEMP) [EN010143/APP/7.8]** commit to maximum noise impacts at receptors during operation, which are not to be exceeded. This approach to noise mitigation for the Scheme operation is considered to represent adoption of BPM.

Conclusion

- 4.4.17 For the reasons explained above and with these mitigation measures in place, no significant effects are expected to occur in relation to noise and vibration matters in EIA terms, except for temporary noise emissions in the unlikely event of evening/ night HDD activities as set out in **Chapter 11: Noise and Vibration, ES Volume 1 [EN010143/APP/6.1]** during the construction, operation (and maintenance) and decommissioning of the Scheme. No significant effects associated with noise and vibration are expected to occur in relation to the health of human receptors as set out in **Chapter 14: Human Health, ES Volume 1 [EN010143/APP/6.1]** during the construction, operation (and maintenance) and decommissioning of the Scheme.
- 4.4.18 The significant effect associated with HDD is not likely, and if it did occur, would be limited spatially and temporally (a matter of hours in any one location), and therefore does not constitute a statutory nuisance. As BPM has been adopted for the construction, operation and decommissioning of the Scheme, no claim against statutory nuisance in respect of noise and vibration is therefore envisaged in respect of a statutory nuisance under section 79(1)(g) or (ga).

5. Conclusion

5.1 Potential for Nuisance

- 5.1.1 In line with Regulation 5(2)(f) of the APFP Regulations, this Statement has identified whether the Scheme has engaged one or more of the matters set

out in Section 79(1) of the EPA, 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 embedded design and additional 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.
- 5.1.3 It is not expected that the construction operation (and maintenance) and decommissioning of the Scheme would cause a statutory nuisance.

Abbreviations

Abbreviation/Term	Definition
APFP	Applications: Prescribed Forms and Procedure
BPM	Best Practicable Means
CEMP	Construction Environmental Management Plan
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order
DEMP	Decommissioning Environmental Management Plan
DRA	Dust Risk Assessment
NPS	National Policy Statement
DRMP	Decommissioning Resource Management Plan
EPA	Environmental Protection Act 1990
IAQM	Institute of Air Quality Management
mph	miles per hour
NRMM	Non-road mobile machinery
NSIP	Nationally Significant Infrastructure Project
OEMP	Operational Environmental Management Plan
PINS	Planning Inspectorate
PV	Photovoltaic
SWMP	Site Waste Management Plan