



THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND PROCEDURE) REGULATIONS 2009

Preesall Underground Gas Storage Facility, Lancashire

Statement of Engagement of Section 79(1) of the
Environmental Protection ACT 1990 Matters (Statutory Nuisances)

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The Presall Underground Gas Storage Facility

Statement of Engagement of Section 79(1) of the Environmental Protection Act 1990 Matters (Statutory Nuisances)

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CONTENTS

1.....	INTRODUCTION	1
1.1	Context.....	1
2.....	SUMMARY	3
3.....	SECTION 79 ENVIRONMENTAL PROTECTION ACT 1990.....	5
4.....	POTENTIAL STATUTORY NUISANCES	7
4.1	Fumes or Gases Emitted from Premises (c).....	7
4.2	Any Dust, Steam, Smell or Other Effluvia Arising on Industrial, Trade or Business Premises (d); and Any Accumulation or Deposit (e)	7
4.3	Artificial Light Emitted from Premises (f-b)	7
4.4	Noise Emitted from Premises (g).....	8
4.5	Noise Emitted from or Caused by a Vehicle, Machinery or Equipment in a Street (g-a)	8
5.....	CONCLUSION.....	11

1 INTRODUCTION

1.1 Context

- 1.1.1 This statement is submitted on behalf of Halite Energy Group Limited (the Applicant) pursuant to regulation 5(2) (f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. It accompanies an application to the Infrastructure Planning Commission (IPC) to construct and operate an underground gas storage facility at Preesall, Lancashire ('the Project').
- 1.1.2 This statement is required in order to identify whether the Project may lead to statutory nuisances, as defined in Section 79(1) of the Environmental Protection Act 1990, and if so how the Applicant proposes to mitigate or limit them. It should be read in conjunction with Volumes 1A, 1B, 2A and 2B of the Environmental Statement (ES).

2 SUMMARY

- 2.1.1 This Statement identifies whether the Project may lead to statutory nuisances as defined in Section 79(1) of the Environmental Protection Act 1990.
- 2.1.2 The only categories of potential nuisance which might be engaged are:
- c) Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance*
 - d) Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance*
 - e) Any accumulation or deposit which is prejudicial to health or a nuisance*
 - f-b) 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*
 - g-a) Noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street.*
- 2.1.3 The main potential for the Project to cause statutory nuisance would be during the construction phase of the Project. These potential statutory nuisances would however be controlled with the mitigation suggested in Volume 1A of the ES and the implementation of a Construction Environmental Management Plan (CEMP) and Site Waste Management Plan (SWMP) during the construction phase.
- 2.1.4 Taking into account the nature of the Project including adoption of the proposed mitigation measures, this Statement determines that no receptors would be affected by statutory nuisances and therefore no matters comprised in the Act could be potentially engaged.

3 SECTION 79 ENVIRONMENTAL PROTECTION ACT 1990

3.1.1 The following text is taken from section 79(1) of the Environmental Protection Act 1990 which sets out matters which would constitute a statutory nuisance.

'The following matters constitute "statutory nuisances" for the purposes of this Part (of the 1990 Act) that is to say – ‘

- a) Any premises in such a state as to be prejudicial to health or a nuisance*
- b) Smoke emitted from premises so as to be prejudicial to health or a nuisance*
- c) Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;*
- d) Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance*
- e) Any accumulation or deposit which is prejudicial to health or a nuisance*
- f) Any animal kept in such a place or manner as to be prejudicial to health or a nuisance*
- f-a) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance*
- f-b) 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*
- g-a) Noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street*
- h) Any other matter declared by any enactment to be a statutory nuisance*

3.1.2 Taking into account the description of the Project, the only categories of potential nuisance in section 79 of the Environmental Protection Act 1990 which might be engaged are:

- c) Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance*
- d) Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance*
- e) Any accumulation or deposit which is prejudicial to health or a nuisance*
- f-b) 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*

g-a) Noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street.

3.1.3 The following sections discuss each potential statutory nuisance associated with the Project.

4 POTENTIAL STATUTORY NUISANCES

4.1 Fumes or Gases Emitted from Premises (c)

4.1.1 Predicted air quality concentrations, as presented in Chapter 6: Air Quality of Volume 1A of the ES, indicate that there would not be any significant adverse impacts at any of the selected receptors due to fumes or gases emanating from the sources identified during the construction, construction and operation combined or operation phases of the Project.

4.2 Any Dust, Steam, Smell or Other Effluvia Arising on Industrial, Trade or Business Premises (d); and Any Accumulation or Deposit (e)

4.2.1 Fugitive dust emissions (as identified in Chapter 6 of Volume 1A of the ES) and any accumulation or deposit of dust would be probable, local, long term, occasional and temporary in nature as a result of the construction of the Project. Without mitigation, the impact significance of fugitive dust emissions is considered to range from negligible to moderate adverse at the nearest identified sensitive receptors.

4.2.2 The definition of nuisance is highly subjective, however, implementation of the mitigation measures set out in Chapter 6 would reduce the impact of fugitive dust emissions to, at worst, slight adverse and is therefore unlikely to result in statutory nuisance or be prejudicial to health.

4.2.3 Mitigation measures employed would be in line with published guideline advice contained within '*The Control of Dust from Construction and Demolition Activities guidance*' (BRE, 2003) and the implementation of a Construction Environmental Management Plan (CEMP) and a Site Waste Management Plan (SWMP) which the Applicant would require strict compliance from any appointed contractor. .

4.3 Artificial Light Emitted from Premises (f-b)

4.3.1 There has been no specific assessment of the effects arising from artificial light emission, although Chapter 14: Seascape, Landscape and Townscape and Visual Amenity of Volume 1A of the ES has considered the potential effects of the Project's operational external lighting on the night time seascape, landscape and townscape of the study area.

4.3.2 In considering the potential impacts on visual receptors, external lighting is just one of a number of issues which are taken in to account when making overall judgements. The operational external lighting would be provided at the plant buildings and infrastructure for safety and operational reasons. Although the roads within application the site would not be lit, low level lighting would be provided to car parking and turning areas. The exterior of the buildings would not require lighting although there would be amenity lighting to doorways. No operational flood lighting is required or proposed. Operational external lighting would be associated with the permanent above ground operational Project

elements and particularly relevant would be the potential effects of the external lighting on the relatively dark night time rural landscape on the east side of the Wyre estuary. In this respect the external lighting associated with the Booster Pump Station would be filtered by a combination of perimeter earth mounding, the Pump Station building itself, the adjacent Preesall Wastewater Treatment Works and over time by establishing scrub planting. The Gas Compressor Compound and the wellheads would in the main be filtered by a combination of perimeter screen mounding and associated planting. Similarly the office building and store at Higher Lickow would be filtered by existing vegetation and over time by new planting.

- 4.3.3 The details of external lighting to be used in the Project after any Development Consent Order (DCO) is granted would be submitted to and approved in writing by the IPC (or its successor body), or the Local Planning Authority, and would be implemented in accordance with the approved details.

4.4 Noise Emitted from Premises (g)

- 4.4.1 Chapter 12: Noise and Vibration of Volume 1A of the ES identifies that there would be no significant adverse impacts at residential dwellings during operation.
- 4.4.2 There is no specific definition of a statutory noise nuisance, other than matters which are 'prejudicial to health or a nuisance'. 'Prejudicial to health' is defined as 'injurious or likely to cause injury, to health' by the World Health Organisation (WHO).
- 4.4.3 Due to the subjective nature of the law of nuisance it is difficult to confidently and consistently appraise the likelihood of nuisance, however noise levels during operation are predicted to be below the Lowest Observed Adverse Effect Level (LOAEL) as defined by WHO during day and night-time periods and would not be prejudicial to health.
- 4.4.4 Noise levels are predicted to be low due to the mitigation measures incorporated into the Project design, such as housing of compressors in buildings and earth bunds acting as noise barriers at the Gas Compressor Compound.

4.5 Noise Emitted from or Caused by a Vehicle, Machinery or Equipment in a Street (g-a)

- 4.5.1 Construction noise levels are predicted to have the potential to have a significant impact during periods when works are undertaken within close proximity to residential dwellings.
- 4.5.2 Activities at the construction compounds for the north and south crossings of the Wyre Estuary are potentially the source of the most significant construction noise impacts with directional drilling expected to take place continuously for a period of approximately 10 weeks for the north crossing and approximately 8 weeks for the south crossing. Night-time noise impacts, particularly at the Harbour Village residential development are predicted to be high.

- 4.5.3 Although construction noise impacts are predicted to have the potential to be significant, mitigation measures would be employed to keep noise and vibration impacts to a minimum. These include the development of a Noise and Vibration Management Plan forming part of the CEMP which the Applicant would ensure any contractor strictly adheres to. Nuisance from construction noise would be managed directly with Section 61 consent with the relevant council.

5 CONCLUSION

- 5.1.1 This report has considered the potential for the Project to cause statutory nuisance under Section 79(1) of the Environmental Protection Act 1990.
- 5.1.2 The main potential for the Project to cause statutory nuisance would be during the construction phase of the Project. These potential statutory nuisances would however be controlled with the mitigation suggested in Volume 1A of the ES and the implementation of a CEMP and SWMP during the construction phase.