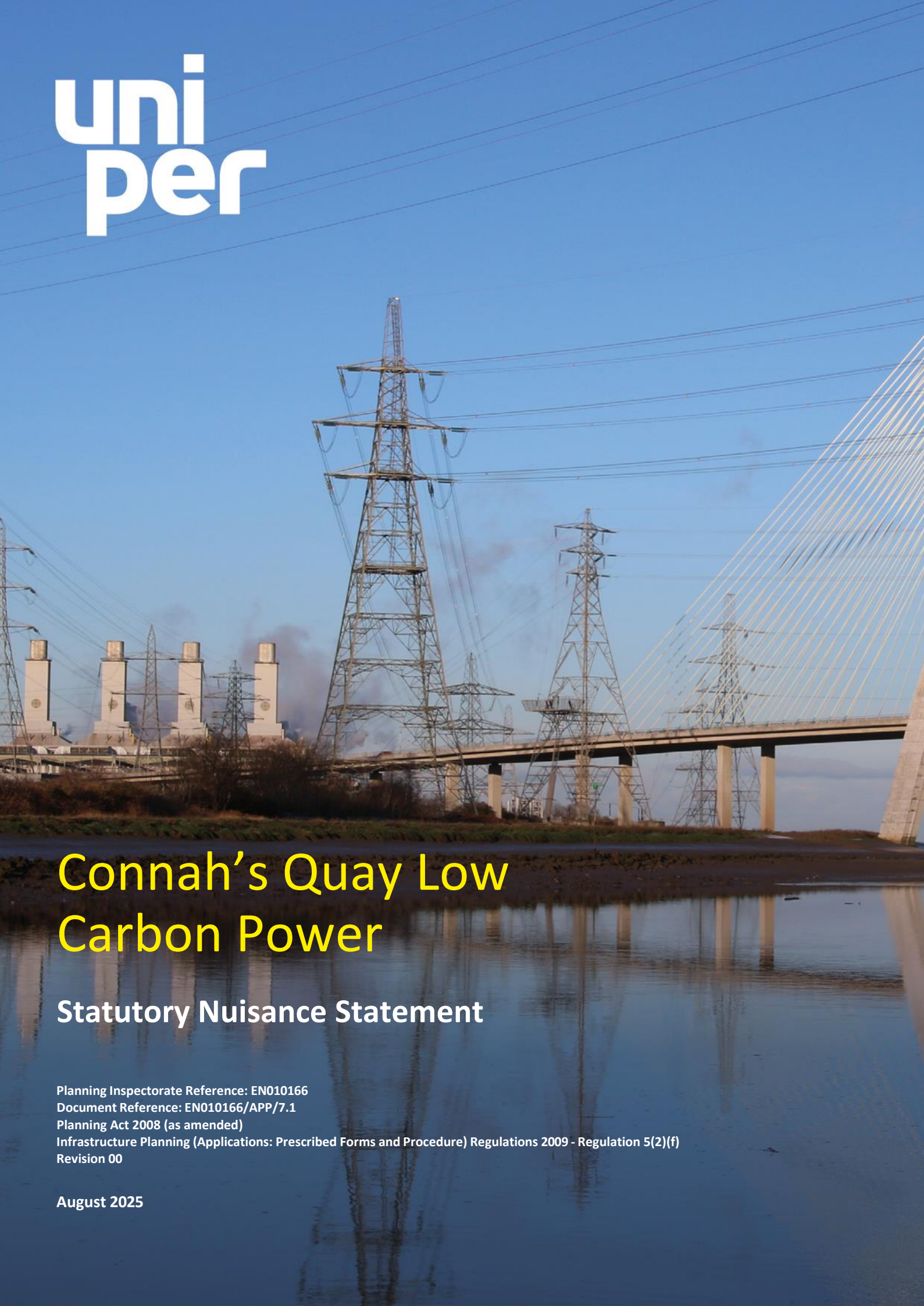

Connah's Quay Low Carbon Power

Statutory Nuisance Statement

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Table of Contents

1. Introduction 1
1.1 Overview 1
1.2 The Purpose and Structure of this Document 2
1.3 The Applicant 2
1.4 What is Carbon Capture and Storage? 3
2. Identification and Assessment of Statutory Nuisance 4
2.1 Legislative Framework 4
2.2 Statutory Nuisance and Nationally Significant Infrastructure Projects 4
2.3 Assessment of Significance 5
3. Potential Nuisance Impacts 7
3.2 EPA 1990 Section 79(1) (a) Any premises in such a state as to be prejudicial to health or a nuisance 7
3.3 EPA 1990 Section 79(1) (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 nuisance 7
3.4 EPA 1990 Section 79(1) (d) Any dust, steam, smell or other effluvia arising on industrial, trade, or business premises and being prejudicial to health or a nuisance, and (e) Any accumulation or deposit which is prejudicial to health or a nuisance 9
3.5 EPA 1990 Section 79(1) (f) Any animal kept in such a place or manner as to be prejudicial to health or a nuisance, and (fa) Any insects emanating from premises so as to be prejudicial to health or a nuisance 11
3.6 EPA 1990 Section 79(1) (fb) Artificial light emitted from premises so as to be prejudicial to health or a nuisance 11
3.7 EPA 1990 Section 79(1) (g) Noise emitted from premises so as to be prejudicial to health or a nuisance, and (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 13
3.8 EPA 1990 Section 79(1) (h) Any other matter declared by any enactment to be a statutory nuisance 15
4. Conclusions 16
4.1 Potential for Nuisance 16
Abbreviations 17
References 18

1. Introduction

1.1 Overview

1.1.1 This **Statutory Nuisance Statement** (**EN010166/APP/7.1**) forms part of the application (the Application) for a Development Consent Order (a DCO), that has been submitted to the Secretary of State (SoS), under Section 37 of 'The Planning Act 2008' (the 2008 Act) (Ref 1).

1.1.2 Uniper UK Limited (the Applicant) is seeking a DCO for the construction, operation (including maintenance), and decommissioning phases of a Connah's Quay Combined Cycle Gas Turbine (CCGT) with Carbon Capture Plant (CCP) (hereafter referred to as the Proposed Development), on land at, and in the vicinity of, the existing Connah's Quay Power Station (Kelsterton Road, Connah's Quay, Flintshire, CH6 5SJ), North Wales (the Order limits).

1.1.3 The Proposed Development would comprise up to two CCGT with CCP units (and supporting infrastructure) achieving a net electrical output capacity of more than 350 megawatts (MW; referred to as MWe for electrical output) and up to a likely maximum of 1,380 MWe (with CCP operational) onto the national electricity transmission network.

1.1.4 Through a carbon dioxide (CO_2) pipeline, comprising existing and new elements the Proposed Development would make use of CO_2 transport and storage networks owned and operated by Liverpool Bay CCS Limited, currently under development as part of the HyNet Carbon Dioxide Pipeline project (referred to as the 'HyNet CO_2 Pipeline Project'), that will transport CO_2 captured from existing and new industries in North Wales and North-West England, for offshore storage. The captured CO_2 will be permanently stored in depleted offshore gas reservoirs in Liverpool Bay.

1.1.5 For the purposes of the electrical connection, National Grid Electricity Transmission plc (NGET), which builds and maintains the electricity transmission networks, is responsible for the operation and maintenance of the existing 400 kV NGET Substation.

1.1.6 A description of the Proposed Development, including details of maximum parameters, is set out in **Chapter 4: The Proposed Development** (**EN010166/APP/6.2.4**). At this stage in the development, the design of the Proposed Development incorporates a necessary degree of flexibility to allow for ongoing design development.

1.1.7 The Proposed Development is located approximately 0.6 kilometres (km) north-west of Connah's Quay in Flintshire, North-East Wales. The Main Development Area is centred approximately at national grid reference 327347, 371374, and, together with the Proposed CO_2 Connection Corridor, Repurposed CO_2 Connection Corridor, Electrical Connection Corridor, Water Connection Corridor, Construction and Indicative Enhancement Area, and ancillary works to access roads and minor assets, is wholly within the administrative area of Flintshire County Council (FCC).

1.1.8 The Order limits, as shown in **Figure 3-1: Order limits** (**EN010166/APP/6.3**), encompass a total area of approximately 105 hectares (ha).

1.1.9 Around 86.2 ha of the Order limits is focused on the 'Construction and Operation Area', comprising the Main Development Area, construction areas and connection corridors necessary for the construction and operation of the Proposed Development shown in **Figure 3-1: Order limits** (**EN010166/APP/6.3**). A further 18.8 ha of land included for the 'Accommodation Works Areas', comprising areas of works required to facilitate the movement and temporary storage of Abnormal Indivisible Loads (AIL) during construction of the Proposed Development. Further information on the Order limits is provided in **Chapter 3: The Location of the Proposed Development** (**EN010166/APP/6.2.3**).

1.2 The Purpose and Structure of this Document

1.2.1 The purpose of this document is to comply with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) (Ref 2), which states that any application for development consent should be accompanied by a statement setting out whether the development proposal could cause a statutory nuisance pursuant to Section 79(1) of the Environmental Protection Act 1990 (EPA 1990) (Ref 3). If such a nuisance could occur, the statement must set out how the Applicant proposes to mitigate or limit the effects.

1.2.2 This document is structured as follows:

- Section 2 describes the legislative context for the identification of matters which constitute statutory nuisance and the methodology for the assessment of these;
- Section 3 provides a summary of the assessment of the statutory nuisances, using information from the **Environmental Statement** (**ES**) (**EN010166/APP/6.1-6.4**), including any relevant mitigation measures and residual effects, whether embedded within the design of the Proposed Development or additional mitigation secured though requirements within the **Draft DCO** (**EN010166/APP/3.1**); and
- Section 4 presents the conclusions of this statement.

1.3 The Applicant

1.3.1 The Applicant is a UK-based company, wholly owned by Uniper SE (Uniper) through Uniper Holding GmbH. Uniper is a European energy company with global reach and activities in more than 40 countries. With around 7,500 employees, the company makes an important contribution to security of supply in Europe, particularly in its core markets of Germany, the UK, Sweden, and the Netherlands. In the UK, Uniper owns and operates a flexible generation portfolio of power stations, a fast-cycle gas storage facility and two high pressure gas pipelines, from Theddlethorpe to Killingholme and from Blyborough to Cottam.

1.3.2 Uniper is committed to investing around €8 billion (~£6.9 billion) in growth and transformation projects by the early 2030s and aims to be carbon-

neutral by 2040. To achieve this, the company is transforming its power plants and facilities and investing in flexible, dispatchable power generation units. Uniper is one of Europe's largest operators of hydropower plants and is helping further expand solar and wind power, which are essential for a more sustainable and secure future. Uniper is gradually adding renewable and low-carbon gases such as biomethane to its gas portfolio and is developing a hydrogen portfolio with the aim of a long-term transition. The company plans to offset any remaining CO_2 emissions by high-quality CO_2-offsets.

1.4 What is Carbon Capture and Storage?

1.4.1 Carbon capture and storage (CCS) is a key part of the process to reduce carbon emissions in energy generation. It involves the removal and capture of carbon dioxide (CO_2) from power plant emissions, transporting it away to be securely stored underground, often in aquifers or depleted oil and gas fields.

1.4.2 CCUS also refers to carbon capture and storage but with the 'U' referring to utilisation of the captured CO_2. Captured CO_2 can be used for a variety of industrial purposes, such as the production of synthetic fuel and low carbon building materials, or in the food and beverage industry.

2. Identification and Assessment of Statutory Nuisance

2.1 Legislative Framework

2.1.1 Section 79(1) of the Environmental Protection Act (EPA) 1990 (Ref 3) identifies the matters which are considered to be statutory nuisance as follows:

> *"a) any premises in such a state as to be prejudicial to health or a nuisance;*
>
> *b) smoke emitted from premises so as to be prejudicial to health or a nuisance;*
>
> *c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;*
>
> *d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;*
>
> *e) any accumulation or deposit which is prejudicial to health or a nuisance;*
>
> *f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;*
>
> *fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;*
>
> *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; and*
>
> *h) any other matter declared by any enactment to be statutory nuisance."*

2.1.2 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.

2.1.3 Each of these matters is considered within Section 3.

2.2 Statutory Nuisance and Nationally Significant Infrastructure Projects

2.2.1 Section 4.15 of the 'Overarching National Policy Statement for Energy EN1' (Ref 4) states:

"4.15.1 Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, or doing anything else authorised by, a DCO.

4.15.2 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 EPA 1990 (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised.

4.15.3 The defence does not extinguish the local authority's duties under Part III of the EPA 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.

4.15.4 The defence is not intended to extend to proceedings where the matter is 'prejudicial to health' and not a nuisance."

2.2.2 Section 4.15 goes on to state that it is important that at the application stage, the Secretary of State considers sources of nuisance under Section 79(1) of the EPA 1990 (Ref 3) and how these may be mitigated or limited, so that appropriate 'requirements' can be included in any DCO that is granted.

2.2.3 Whilst, as this document demonstrates, it is not expected that the construction, operation (including maintenance) and decommissioning of the Proposed Development would cause a statutory nuisance, the **Draft DCO** (**EN010166/APP/3.1**) accompanying the Application contains a provision that would provide a defence to proceedings in respect of statutory nuisance (in respect of Section 79(1) of the EPA 1990 (Ref 3) (statutory nuisances and inspections therefor.)), subject to certain criteria.

2.3 Assessment of Significance

2.3.1 The **ES** (**EN010166/APP/6.2**) for the Proposed Development addresses the likelihood of significant effects arising and provides sufficient information to identify whether they could constitute a statutory nuisance, as identified in Section 79(1) of the EPA.

2.3.2 **Chapter 4: The Proposed Development** (**EN010166/APP/6.2.4**) and **Chapter 5: Construction Programme and Management** (**EN010166/APP/6.2.5**) of the ES and the **Framework Construction Environmental Management Plan** (**CEMP**) (**EN010166/APP/6.5**) describe impact avoidance measures embedded to the proposed design and methods of construction.

2.3.3 **Chapter 8: Air Quality** (**EN010166/APP/6.2.8**), **Chapter 9: Noise and Vibration** (**EN010166/APP/6.2.9**), **Chapter 10: Traffic and Transport** (**EN010166/APP/6.2.10**) **Chapter 15: Landscape and Visual Amenity** (**EN010166/APP/6.2.15**), **Chapter 21: Human Health** (**EN010166/APP/6.2.21**) of the ES and their associated appendices (**EN010166/APP/6.4**), where relevant, provide detailed assessments of these potential statutory nuisances and identify mitigation measures where necessary.

2.3.4 Section 3 makes reference to the conclusions of the **ES** (**EN010166/APP/6.1-6.4**) which provides an assessment of the potential effects on receptors as negligible, minor, moderate or major in accordance with the methodology described in **Chapter 2: Assessment Methodology** (**EN010166/APP/6.2.2**) of the ES. Moderate and major effects are considered to be significant for the purposes of the Environmental Impact Assessment (EIA) in accordance with the Infrastructure Planning (EIA) Regulations 2017 (Ref 5).

3. Potential Nuisance Impacts

3.1.1 This section discusses the potential nuisance impacts set out in the EPA 1990 in relation to the Proposed Development and summarises the embedded and additional mitigation measures that would be applied to prevent these.

3.2 EPA 1990 Section 79(1) (a) Any premises in such a state as to be prejudicial to health or a nuisance

3.2.1 A defence is not sought or required in respect of this type of nuisance. Nevertheless, it is considered that:

- the EPA describes a potential statutory nuisance to be caused by '*any premises in such a state as to be prejudicial to health or nuisance';*
- statutory nuisance as a result of poor housekeeping or maintenance could only occur if poor levels of housekeeping or maintenance are in place for example;
- to minimise the risk of any such statutory nuisance from occurring during construction through poor maintenance or housekeeping, management controls would be put in place, such as regular inspections and waste management procedures as detailed in the **Framework CEMP**, including a **Framework Site Waste Management Plan** (**EN010166/APP/6.5**); and
- to minimise the risk of any such statutory nuisance from occurring during operation through poor maintenance or housekeeping, operational and management controls would be put in place, such as the establishment of a preventative maintenance plan, regular housekeeping inspections, waste management procedures and compliance with the requirements of the Environmental Management System (EMS) and Environmental Permit for the Proposed Development. These measures are described in **Chapter 4: The Proposed Development** (**EN010166/APP/6.2.4**) and **Appendix 4-1: Operational / Maintenance Mitigation Register** (**EN010166/APP/6.4**) of the ES.

3.2.2 It is considered that the Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(a) of the EPA 1990.

3.3 EPA 1990 Section 79(1) (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 nuisance

3.3.1 No smoke is expected to be generated from the Proposed Development during normal operation. Fumes and gases that may be relevant are considered in the following sections.

Construction Phase

3.3.2 Construction air emissions are considered in **Chapter 8: Air Quality** (**EN010166/APP/6.2.8**) of the ES. The assessment is supported by **Appendix 8-B: Construction Dust Risk Assessment** and **Appendix 8-C: Air Quality Traffic Assessment** of the ES (**EN010166/APP/6.4**).

3.3.3 Emissions from Non-Road Mobile Machinery associated with the Proposed Development would be temporary and localised and would be controlled via the application of appropriate emissions standards and through best practice mitigation measures as detailed in the **Framework CEMP** (**EN010166/APP/6.5**). For these reasons, effects associated with construction phase NRMM emissions are not considered significant.

3.3.4 The impact of construction traffic emissions has been considered within 250 m from the Construction and Operation Area. The effect of construction traffic emissions on human health is considered to be not significant.

3.3.5 It is considered that construction and decommissioning of the Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(b) or (c).

Operational Phase

3.3.6 The pollutants considered within the assessment of air emissions for the main stacks in **Chapter 8: Air Quality** (**EN010166/APP/6.2.8**) are:

- Oxides of Nitrogen (NOx);
- Ammonia (NH_3);
- Carbon Monoxide (CO);
- Amines (as mono-ethanolamine);
- Nitrosamines; and
- Formaldehyde.

3.3.7 The pollutants considered in the assessment of road traffic air quality are nitrogen dioxide (NO_2) and particulate matter (PM_{10} and $PM_{2.5}$).

3.3.8 The study area for the operational development extends up to 15 km from the Main Development Area, in order to assess the potential impacts on sensitive receptors. In terms of human health receptors, the maximum impact of emissions to air from the operational Proposed Development would occur within 2 km of the stacks.

3.3.9 For both the operation of two CCGT Trains with Single Absorbers for Carbon Capture FEED 1 and FEED 2 scenarios, the impact of operational emissions to air on human health, at selected receptors or at the most affected location anywhere outside the Order limits, has been assessed and considered to be not significant.

3.3.10 Impacts on all human health receptors from the N-amines annual mean are predicted to have low or negligible magnitudes for both FEED 1 and 2 scenarios, which is considered to be not significant.

3.3.11 At the most affected location anywhere outside the Order limits, the N-amines annual mean is predicted to have low magnitude impacts for FEED 1 and medium magnitude impacts for FEED 2 at that location. However, this is predicted to be within the Dee Estuary, where no human would be regularly present for time periods relevant to the air quality standards. Therefore, the overall effect is deemed to be not significant.

3.3.12 For the Unabated scenario, the impact of operational emissions to air on human health, at selected receptors or at the most affected location anywhere outside the Order limits, has been assessed as not significant.

3.3.13 Therefore, the overall likely effect on human health arising from impacts on air quality during the operational phase is assessed to be not significant.

3.3.14 It is considered that operation of the Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(b) or (c).

3.4 EPA 1990 Section 79(1) (d) Any dust, steam, smell or other effluvia arising on industrial, trade, or business premises and being prejudicial to health or a nuisance, and (e) Any accumulation or deposit which is prejudicial to health or a nuisance

Dust, Accumulations and Deposits

3.4.1 The scale and nature of the Proposed Development and activities associated with construction and operation have the potential to produce dust. Anticipated dust, accumulations and deposits from construction, operations (including maintenance works) and decommissioning activities at the Proposed Development are described below.

Construction Phase

3.4.2 **Chapter 8: Air Quality** (**EN010166/APP.6.2.8**) concludes that with good practice dust control measures, the generation of fugitive dust emissions from potential dust generating activities (demolition, earthworks, trackout and construction) would be sufficiently controlled to have no significant effects on human health receptors. The recommended good practice dust control measures are detailed in the **Framework CEMP** (**EN010166/APP/6.5**).

3.4.3 Overall, the likely effect of dust impacts from the construction phase is considered to be not significant.

3.4.4 It is considered that the Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(d) or (e) in relation to dust.

Operational Phase

3.4.5 The Proposed Development would be designed such that process emissions to air comply with the Emission Limit Value (ELV) requirements specified in

the Industrial Emissions Directive 2010 (IED) (Ref 6) and where additional, or tighter, the relevant Best Available Techniques Reference Document (BREFs) (Ref 7). This would be regulated by Natural Resources Wales through the Environmental Permit required for the operation of the Proposed Development. The Environmental Permit may also include additional ELV for species not covered under the IED or Large Combustion Plant BREF (Ref 7).

3.4.6 The assessment concludes that plant design (i.e. appropriate stack height and location) and emission control measures (e.g. acid wash) would provide sufficient embedded mitigation to avoid any significant effects. As such, additional mitigation measures are not required for the Proposed Development. No significant effects were identified within the assessment.

Visual Plume (Steam)

3.4.7 The proposed Connah's Quay Low Carbon Power Abated Generating Station would burn natural gas fuel, and water vapour would form part of the composition of the combustion gases released from the stacks, for all scenarios. Under certain conditions this water vapour can cool and condense in close enough proximity to the stack exit to form a visible plume.

3.4.8 A plume visibility assessment to determine how often the plume release from the stacks might be visible and how long the plume would be, is presented in **Appendix 8-D: Air Quality Operational Assessment** (**EN010166/APP/6.4**).

3.4.9 The unabated scenario produces an overall less visible plume, due to its higher temperature, followed by the Front End Engineering Design (FEED) 1 scenario, which has a lower water content than FEED 2. The FEED 2 scenario has the highest percentage of time a plume is visible as a result of the combined low temperature and higher water content, as well as a higher mass flow rate.

3.4.10 The plume visibility implications have been considered and are concluded to have no significant effect.

3.4.11 It is considered that Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(d) in relation to steam.

Smells

3.4.12 Any nuisance odour emissions during the construction, operation and decommissioning phases of the Proposed Development are not considered to give rise to impacts which would constitute a statutory nuisance under Section 79(1)(d) in relation to smells.

3.5 EPA 1990 Section 79(1) (f) Any animal kept in such a place or manner as to be prejudicial to health or a nuisance, and (fa) Any insects emanating from premises so as to be prejudicial to health or a nuisance

3.5.1 A defence is not sought or required in respect of these types of nuisance as the Proposed Development would not keep any animals or insects in such a place or manner as to be prejudicial to health or a nuisance. Nevertheless, it is considered that:

- due to the operational nature of the Proposed Development, it is not a suitable habitat for vermin or insects based on experience of other similar developments;
- litter on site has the potential to attract vermin or be blown into neighbouring properties. Regular inspections of the Main Development Area, boundary fence, gates and access road in the immediate vicinity of the facility entrance would be carried out. Staff would be encouraged to correctly dispose of litter as part of the site rules and site induction;
- pests and vermin are therefore not expected to create a statutory nuisance; and
- due to the nature of the Proposed Development, no insects are expected to emanate from the Proposed Development or be attracted to it.

3.6 EPA 1990 Section 79(1) (fb) Artificial light emitted from premises so as to be prejudicial to health or a nuisance

3.6.1 A **Lighting Strategy** (**EN010166/APP/7.22**) has been prepared setting out the principles of construction and operational lighting. The detailed CEMP would need to be in general accordance with the **Lighting Strategy** (**EN010166/APP/7.22**) and details of lighting would be submitted to FCC for approval as part of the detailed design approval process (see **Design Principles Document** (**EN010166/APP/7.8**)). The **Lighting Strategy** (**EN010166/APP/7.22**) has been designed in accordance with relevant standards, such as the British Standards Institute (BSI) (Ref 5) and Chartered Institution of Building Services Engineers (CIBSE) (Ref 9), Society for Light and Lighting (SLL) (Ref 10, Ref 11 and Ref 12).

3.6.2 Lighting controls associated with the decommissioning of the Proposed Development would be detailed in the Decommissioning Environmental Management Plan and would accord with relevant standards and guidance at that time.

Construction

3.6.3 The lighting required during construction stage of the Proposed Development would be designed to provide safe working conditions in all areas of the Proposed Development whilst reducing light pollution and the

visual impact on the local environment. This is likely to be achieved by the use of luminaires that eliminate the upward escape of light.

3.6.4 The lighting required during construction stage of the Proposed Development would be designed to reduce unnecessary light spill outside of the Order limits. The detailed CEMP would need to be in general accordance with the **Lighting Strategy** (**EN010166/APP/7.22**) as secured by requirement in the **draft DCO** (**EN010166/APP/3.1**).

3.6.5 Construction temporary site lighting is proposed to enable safe working on the construction site in hours of darkness. Construction temporary lighting would be arranged so that glare is minimised outside of the construction site.

3.6.6 During construction, cranes would be present within the Main Development Area. These cranes would be subject to the requirements of CAP 1096 (Ref 13) which specified the need for notification and en-route obstacle lighting to be up to medium intensity steady red lights displayed by night[1]. The **Framework CEMP** (**EN010166/APP/6.5**) identifies the process that would be followed to notify the Civil Aviation Authority of cranes.

3.6.7 It is considered that Proposed Development would not give rise to impacts during the construction phase which would constitute a statutory nuisance under Section 79(1)(fb).

Operation

3.6.8 Operational lighting is needed to support safe site access and egress, in addition to undertaking specific tasks safely, efficiently and accurately when insufficient daylight is available. The quality of light would be as important as the quantity of light provided to task areas, meaning that there would be advisable average light levels and uniformities that should be provided to support visual comfort, task visibility and eye adaptation.

3.6.9 The lighting required during the operation stage of the Proposed Development would be designed to reduce unnecessary light spill outside of the Order limits. Details of lighting would be submitted to FCC for approval as part of the detailed design approval process secured by requirement in the **Draft DCO** (**EN010166/APP/3.1**).

3.6.10 The Proposed Development's emissions stacks would also be required to have aviation warning lighting in accordance with Air Navigation Order Article 222 (Ref 14). This warning lighting would consist of 12 medium and low intensity steady red lights per stack displayed by night (48 lights in total).

3.6.11 It is considered that Proposed Development would not give rise to impacts during the operation phase which would constitute a statutory nuisance under Section 79(1)(fb).

[1] 'Night' is defined for civil aviation purposes as the time from half an hour after sunset until half an hour before sunrise.

3.7 EPA 1990 Section 79(1) (g) Noise emitted from premises so as to be prejudicial to health or a nuisance, and (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

3.7.1 Through noise prediction modelling undertaken, **Chapter 9: Noise and Vibration** (**EN010166/APP/6.2.9**) concludes there would be no significant effects related to the construction, operation (including maintenance) or decommissioning of the Proposed Development, with the exception of temporary construction traffic noise impacts at noise sensitive receptors (NSRs) (21 and 22) along the access road to the Main Development Area.

3.7.1 The existing Connah's Quay Power Station has been an operating industrial source in the study area since the original power station began operations in 1954, with the current gas fired power station operating since 1996. Additionally, on the Main Development Area is a gas treatment plant which was an additional industrial sound source in the area until 2023. This is likely to mean that residents currently living in the area are already accustomed to an industrial source.

3.7.2 Best practice methods would be applied during construction, operation (including maintenance) and decommissioning to minimise noise.

Construction Phase

3.7.3 The potential changes in road traffic noise as a result of the construction traffic due to the Proposed Development has been considered. For all traffic links there would be no significant effects, except for receptors on Kelsterton Road which would be subject to a significant effect. As detailed in the **Framework Construction Traffic Management Plan (CTMP) (EN010166/APP/6.6)**, further specific assessment of construction traffic flows on Kelsterton Road would be undertaken following detailed design for each stage of the Proposed Development to determine whether further mitigation is required and this would be agreed with FCC.

3.7.4 If deemed necessary following further assessment , noise monitoring would be undertaken to assess the potential noise impacts of construction traffic along Kelsterton Road.

3.7.5 Where significant construction noise effects have been identified, additional noise-control equipment and further refinement of the construction works programme has been considered and implemented where practicable. As detailed in the **Framework CEMP** (**EN010166/APP/6.5**), appropriate measures would be confirmed through further detailed assessment, as necessary, once construction plant and methods and construction traffic management, have been confirmed.

3.7.1 The level of vibration impact magnitude at different receptors would be dependent upon a number of factors including the distance between the works and receptors, ground conditions, the nature and method of works

required close to receptors and the specific activities being undertaken at any given time. Potentially significant vibration effects have been identified where vibratory rollers are required for establishment of construction laydown areas. This is based on predictions of the use of rollers on high amplitude. As detailed in the **Framework CEMP** (**EN010166/APP/6.5**), where vibratory rollers are to be used within 50 m of receptors these would be required to be used on low amplitude mode and no vibratory rollers to be used with 16 m of NSRs.

3.7.2 Following the implementation of the measures in the **Framework CEMP** (**EN010166/APP/6.5**), it is considered that construction of the Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(g) or (ga).

Operational Phase

3.7.3 Operational sound modelling has been undertaken using available sound level data for the Proposed Development plant and information based on similar projects. Following the implementation of appropriately designed mitigation, no significant noise effects are anticipated at residential receptors

3.7.4 To avoid significant adverse effects at human NSRs the proposed operational sound limit is the rating level to be no higher than the background L_{A90} sound level of no greater than +8 dB (lower where practicable). The operational sound limit is secured through a requirement within the **Draft DCO** (**EN010166/APP/3.1**) as detailed in the **Design Principles Document** (**EN010166/APP/7.8**).

3.7.5 Noise effects at non-residential receptors (identified as two educational facilities), would experience no significant effects during the operational phase, with predicted external specific sound levels below the $L_{Aeq,T}$ external criterion.

3.7.6 There is expected to be a low change in road traffic noise levels (at worst) as a result of the operation of the Proposed Development. This would be not significant.

3.7.7 Following the implementation of the operational sound limit, it is considered that the operation of the Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(g) or (ga).

Decommissioning Phase

3.7.8 The effects of decommissioning noise are considered to be comparable to, or less than, those associated for construction activities.

3.7.9 Decommissioning would require submission of a Decommissioning Environment Management Plan (DEMP) to the relevant planning authority for its approval, secured by a Requirement to the DCO. Appropriate best practice mitigation measures would be applied during any decommissioning work and documented in a DEMP.

3.7.10 Following the implementation of the appropriate best practice measures to be detailed in the DEMP, it is considered that construction of the Proposed

Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(g) or (ga).

3.8 EPA 1990 Section 79(1) (h) Any other matter declared by any enactment to be a statutory nuisance

3.8.1 It is considered that traffic and abnormal indivisible loads are the only other matter associated with the Proposed Development which could give rise to statutory nuisance. It should be noted that emissions and noise and vibration effects of traffic and abnormal indivisible loads are already considered within Sections 3.3 and 3.8 respectively.

Traffic and Abnormal Indivisible Loads

3.8.2 Traffic and the effect of abnormal indivisible loads during construction, operation (including maintenance) and decommissioning of the Proposed Development have been assessed and is reported in **Chapter 10: Traffic and Transport** (**EN010166/APP/6.2.10**).

3.8.3 A **Framework Construction Traffic Management Plan** (**CTMP**) (**EN010166/APP/6.6**) has been developed for the Proposed Development to detail how traffic would be managed during the construction phase. No mitigation has been identified to be required to manage operational phase traffic.

3.8.4 No significant adverse effects on other road users have been identified during construction, operation (including maintenance) or decommissioning.

3.8.5 Following the implementation of the measures in the **Framework CTMP** (**EN010166/APP/6.6**), it is considered that construction of the Proposed Development would not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(h).

4. Conclusions

4.1 Potential for Nuisance

4.1.1 This Statement has identified the matters set out in Section 79(1) of the EPA 1990 in respect of statutory nuisance and considers whether the Proposed Development could cause a statutory nuisance.

4.1.2 Potential nuisance aspects have been considered in Section 3 of this Statement and, through embedded and additional mitigation secured by requirement of the **Draft DCO** (**EN010166/APP/3.1**), no statutory nuisance effects are considered likely to occur.

4.1.3 The operation of the Proposed Development would be regulated by Natural Resources Wales through an Environmental Permit and would undergo regular monitoring and reporting. Embedded and additional mitigation would be secured by requirement of the **Draft DCO** (**EN010166/APP/3.1**). As a result, it is not expected that the construction, operation (including maintenance) or decommissioning of the Proposed Development would engage Section 79(1) and give rise to any statutory nuisance under the EPA 1990. It is, therefore, appropriate to include a defence against statutory nuisance proceedings within the **Draft DCO** (**EN010166/APP/3.1**).

Abbreviations

Abbreviation	Term
AIL	Abnormal Indivisible Loads
APFP Regulations	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
BREFs	Best Available Techniques Reference Document
BSI	British Standards Institute
CCGT	Combined Cycle Gas Turbine
CCP	Carbon Capture Plant
CCS	Carbon capture and storage
CCUS	Carbon capture, usage and storage
CEMP	Construction Environmental Management Plan
CIBSE	Chartered Institution of Building Services Engineers
CO	Carbon Monoxide
CO_2	Carbon Dioxide
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order
DEMP	Decommissioning Environment Management Plan
ELV	Emission Limit Value
EMS	Environmental Management System
EPA	Environmental Protection Act
ES	Environmental Statement
FCC	Flintshire County Council
FEED	Front End Engineering Design
IED	Industrial Emissions Directive
km	kilometres
NGET	National Grid Electricity Transmission plc
NH_3	Ammonia
NO_x	Oxides of Nitrogen
NSR	noise sensitive receptors
PM_{10} and $PM_{2.5}$	particulate matter
SLL	Society for Light and Lighting
SoS	Secretary of State

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