
STATUTORY INSTRUMENTS

2022 No. 436

The Little Crow Solar Park Order 2022

PART 2

PRINCIPAL POWERS

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisances) of the Environmental Protection Act 1990⁽¹⁾ in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if —

- (a) the defendant show that the nuisance —
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974⁽²⁾; or
 - (ii) is a consequence of the construction maintenance or decommissioning of the authorised development and cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and cannot reasonably be avoided.

(2) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

⁽¹⁾ 1990 c. 43.

⁽²⁾ 1974 c. 40. Section 61(9) was amended by Section 162 and paragraph 15 of Schedule 3 to the Environment Protection Act 1990 (c. 25). There are other amendments to 1974 Act which are not relevant to this Order.