

Planning Inspectorate
Room 4/04 Kite Wing
Temple Quay House (2 The Square)
Temple Quay
Bristol
Avon
BS1 6PN

Our ref: XA/2025/100246/01-L01
Your ref: EN010139
Date: 16 January 2025

Dear Sir

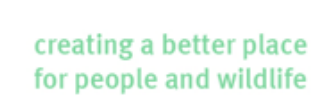
**DEADLINE 8 - COMMENTS ON ANY FURTHER INFORMATION/SUBMISSIONS
RECEIVED BY DEADLINE 7.. BYERS GILL SOLAR. MULTIPLE LOCATIONS
ACROSS DARLINGTON, STOCKTON AND DURHAM**

We write in response to the Examining Authority's invitation to respond to information submitted at Deadline 7.

Please see below the ***Environment Agency & Byers Gill Solar Work Package Tracker*** which shows that the issues raised by the Environment Agency during Pre-Examination and Examination have now been resolved.

Yours faithfully

Mr Lewis Pemberton
Planning Specialist



	<u>Planning Inspectorate Red, Amber, Green (RAG) System</u>
	Agreed - no further discussion needed
	Working on a solution - final position not yet reached
	Not agreed - final position that cannot be agreed and will remain a point of difference

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Overarching Tracker							
Subject	Topics	Baseline Assessment	Impact	Solution	Agreed requirement or assessment updated to resolve issue	Requirement Number in DCO	Note:
Ecology within EA Remit	Outline Construction Environmental Management Plan (CEMP) (mitigation/ management measures to protect Otter and its habitat) (Relevant Representation (RR) Point 4i) [RR - 168]	Agreed	Agreed	Agreed	Agreed	4	6.4.2.6 Environmental Statement Appendix 2.6 Outline Construction Environmental Management Plan (Tracked) [REP5-013] includes the following, which satisfies our concerns outlined in our Relevant Representation regarding otter [RR-168]. <i>'In order to protect otter during construction, the following measures shall be implemented:</i> <input type="checkbox"/> <i>a pre-construction checking survey for otter to be completed in advance of any works within 50 m of any watercourse on the site</i> <input type="checkbox"/> <i>production as part of the detailed CEMP for an Otter Protection Plan (OPP) to be implemented during construction of the Proposed Development. The OPP will include details relating to any proposed watercourse crossings, modifications to existing watercourse crossings and any other in-channel works: i) detailed drawings (location and construction) ii) timing of works iii) methods and materials to be used.'</i>
	Fisheries (Directional Drilling) (RR Point 4ii)	Agreed	Agreed	Agreed	Agreed	4	6.4.2.6 Environmental Statement Appendix 2.6 Outline Construction Environmental Management Plan (Tracked) [REP5-013] includes the following, which satisfies our concerns outlined in our Relevant Representation regarding fisheries and Directional Drilling [RR-168]. <i>'An impact assessment of Directional Drilling on fish and appropriate mitigation will be fully addressed within the CEMP,, if drilling is to take place within the 10m buffer zone of a water course. The assessment should include, but not be limited to, the following:</i> <input type="checkbox"/> <i>The distance from the watercourse that the drilling will take place</i> <input type="checkbox"/> <i>The depth and width of the drilling.</i> <input type="checkbox"/> <i>Vibration and noise impact assessment on potential fish species residing in the watercourses.</i> <i>No phase of the authorised development may commence until a CEMP for that phase has been submitted to and approved by the relevant planning authority, in consultation with the Environment Agency (EA).'</i>

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	Water Framework Directive (WFD) Assessment regarding Directional Drilling (RR Point 3)	Agreed	Agreed	Agreed	Agreed	The WFD Assessment (Revision 3) [REP7-004] states that 'If drilling is required within 10m of a watercourse an impact assessment of the HDD on fish alongside identification of appropriate mitigation will be addressed within the CEMP. The assessment would include the distance from the watercourse that the drilling will take place, the depth and width of the drilling and the vibration and noise impact assessment on potential fish species residing in the watercourse. The Outline CEMP [REP5-012/013] contains a commitment for further engagement with the Environment Agency for the final design of watercourse crossings including any further survey or management requirements.'
	WFD Assessment regarding new surface water outfall (RR Point 3)	Agreed	Agreed	Agreed	Agreed	<i>Deadline 2 Submission - Other Consents and Licences</i> [REP2-005] has been updated. The reference to a new permanent drainage outfall installation has been removed. It is now clear that a new permanent surface water outfall will not be installed.

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Flood Risk	Sequential Test (RR Point 1)	Agreed	Agreed	Agreed	Agreed	Compliance with policy regarding the Sequential Test is not within the remit of the EA. In regard to our Relevant Representation [RR-168] we were simply emphasising the need for the Applicant to demonstrate that the Sequential Test has been passed. The Flood Risk Assessment (FRA) now includes a section on the Sequential Test. It is within the remit of the Local Planning Authority to determine if the Sequential Test has been passed.
	Vulnerability Classification (RR Point 1)	Agreed	Agreed	Agreed	N/A so agreed	The Vulnerability Classification is 'Essential Infrastructure'.
	Exception Test (RR Point 1)	Agreed	Agreed	Agreed	Agreed	We reviewed the hydraulic modelling and the associated outputs and we're happy that the solar panel support frames would not increase flood risk off-site where they are placed in areas that flood (only area D02). We are also happy that the solar panels would be raised sufficiently to be above the 1 in 100 year plus higher central climate change level.
	The development should include an assessment of flood risk over at least 75 years, in line with the PPG (RR Point 1)	Agreed	Agreed	Agreed	Agreed	The Higher Central climate change was assessed for the 2080's epoch which is for the period from 2070 to 2125.
	Climate Change Allowance (RR Point 1)	Agreed	Agreed	Agreed	Agreed	The Higher Central climate change was assessed for the 2080's epoch which is for the period from 2070 to 2125.
	Detailed Flood Modelling (RR Point 1)	Agreed	Agreed	Agreed	Agreed	We have reviewed the Byers Gill modelling and hydrological assessment and do not have any comments to raise with regards to the model construct or the calculated flows. The model construct aligns with the method which was discussed during our meeting with the Applicant and Wallingford Hydrosolutions on the 12th June and the subsequent follow-up methodology dated 14th June 2024. We are happy that the solar panel support frames would not increase flood risk off-site where they are placed in areas that flood, for example solar panel area D02.

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	Watercourse Crossings (not highlighted in RR)	Agreed	Agreed	Agreed	Agreed	<p>The FRA has been updated (which the Applicant will submit to PINS at Deadline 8, 17th January 2025) and states 'the new temporary crossing will have a soffit level above the 1.0% AEP design event. The new operational crossing will have a soffit level above the 1.0% AEP design event plus a higher central climate change allowance of 40% for the Tees management catchment. Prior to construction, these levels will be determined by undertaking hydraulic modelling and agreed alongside the crossing design with the LLFA as part of the ordinary watercourse consent process. The modelling will also determine and demonstrate that the selected crossing design will not result in increased flood risk to third parties. If at the design stage it is decided that instead of detailed modelling, existing flood risk products will be used to determine the crossing soffit levels, it will be clearly justified why this is a suitable proxy and agreed with the LLFA. If the temporary crossing west of Brafferton needs to be reinstalled at the decommissioning phase, flood risk will be reviewed again prior to reinstallation and designed in accordance with policy at that time.</p>
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Groundwater Protection	Directional Drilling and Control Measures (groundwater/ surface water interaction) (RR Point 6)	Agreed	Agreed	Agreed	Agreed	4	6.4.2.6 Environmental Statement Appendix 2.6 Outline Construction Environmental Management Plan (Tracked) [REP5-013] includes the following, which satisfies our concerns outlined in our Relevant Representation [RR-168] regarding Directional Drilling and groundwater/ surface water interaction [RR-168]. 'Further assessment of impacts of Directional Drilling on groundwater and surface water interaction and control measures will be fully addressed within the CEMP. The assessment should include, but not be limited to, the following: <input type="checkbox"/> The depth of drilling. <input type="checkbox"/> The ground conditions/superficial geology where drilling is occurring. <input type="checkbox"/> The likelihood for groundwater to be intersected. The EA will be consulted on this assessment'.
	CEMP to include Bentonite Breakout Plan (new issue not included in RR)	Agreed	Agreed	Agreed	Agreed	4	6.4.2.6 Environmental Statement Appendix 2.6 Outline Construction Environmental Management Plan (Tracked) [REP5-013] includes the following, which satisfies our concerns outlined in our Relevant Representation [RR-168] regarding bentonite breakout, <u>'The contractor will produce a Bentonite Breakout Plan which seeks to assess potential leakages, their effects and proposed mitigation, subject to consultation with the EA.'</u>
	WFD Assessment regarding Directional Drilling (RR Point 3)	Agreed	Agreed	Agreed	Agreed		The WFD Assessment (Revision 3) [REP7-004] states 'Further assessments of the impact of HDD on groundwater and surface water interaction including control measures will be secured via a requirement in the DCO. The assessment will include the depth of drilling, the ground conditions and superficial geology where drilling is to occur and the likelihood for groundwater to be intersected. The Outline CEMP (Document Reference 6.4.2.6) contains a commitment for further engagement with the Environment Agency on this assessment.'

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Surface Water Quality	WFD Assessment regarding new surface water outfall (RR Point 3)	Agreed	Agreed	Agreed	Agreed		Deadline 2 Submission - Other Consents and Licences [REP2-005] has been updated. The reference to a new permanent drainage outfall installation has been removed. It is now clear that a new permanent surface water outfall will not be installed.
	Construction Environment Management Plan (CEMP) in relation to Construction Surface Water Management Plan (RR Point 5)	Agreed	Agreed	Agreed	Agreed	4	The Construction Surface Water Management Plan (CSWMP) and water quality monitoring requirements will be part of the CEMP (not a separate management plan) secured under commitment HFR2-CEMP within the oCEMP [REP5-012]. This ensures that the EA will be consulted on the CSWMP and water quality monitoring requirements.
	WFD Assessment (RR Point 3)	Agreed	Agreed	Agreed	Agreed		The residual effects assessed within ES Chapter 10 Hydrology and Flood Risk (Document Reference 6.2.10) of the ES of reduced water quality from increased sediment loads and acidification with runoff from disturbed ground, soil heaps and excavations and as a result of accidental spillage/loss of chemicals and other construction materials will be controlled through mitigation measures implemented through the Outline CEMP).

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Development Consent Order (DCO)	Disapplication of Flood Risk Activity Permits (FRAP) under the Environmental Permitting Regulations (2016) (RR Point 2)	Agreed	Agreed	Agreed	Agreed	Article 7b of the dDCO [REP2-030] (disapplication and modification of legislative provisions) regarding the disapplication of Regulation 12 (requirement for Environmental Permit) of the Environmental Permitting (England and Wales) Regulations 2016(a) in relation to carrying out a Flood Risk Activity Permit (FRAP) has been removed. The Applicant no longer seeks to pursue disapplication of a FRAP.
	EA to be consulted on CEMP - 'No phase of the authorised development may commence until a CEMP for that phase has been submitted to and approved by the relevant planning authority, <i>in consultation with the Environment Agency.</i> ' RR Point 4i)	Agreed	Agreed	Agreed	Agreed	4 Schedule 2, Part 1, Requirement 4 (Construction environment management plans (CEMP) of the dDCO [REP2-030] has been updated which now addresses this issue.
	<p>"site preparation works" on page 6 of the draft dDCO include:</p> <p>•(c) remedial work in respect of any contamination or other adverse ground conditions.</p> <p>Such works are pre-commencement activities that could be undertaken without the controls that only apply following commencement. This means that these works could take place without the CEMP (Requirement 4) being approved or in place.</p>	Agreed	Agreed	Agreed	Agreed	4 (c) remedial work in respect of any contamination or other adverse ground conditions has been removed from the "site preparations works" on page 6 (Interpretation) of the updated version of the draft Development Consent Order (dDCO) (Clean) [REP6-002] . These works will now take place in line with CEMP Requirement.