Proposed Solar PV Development

Byers Gill Solar
EN010139

8.38 Post-hearing submissions including written submissions of oral cases as heard at ISH8, ISH9, CAH2 and OFH5

Planning Act 2008

APFP Regulation 5(2)(q)

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1. Introduction

1.1. Purpose of this document

1.1.1. This document includes the Applicant's summary notes of submissions made during the course of hearings into the Byers Gill Solar project. It is not intended to represent a complete record of proceedings, which is provided by the recordings and transcripts which are taken by the Examining Authority ("ExA") and provided on the Planning Inspectorate's website for the project. The Applicant has in its notes sought wherever possible to capture a summary of representations made by other interested parties to the examination, based on its notes of those representations.

2. Summary of Applicant's Oral Submissions at ISH8

Table 2-1 Summary of Applicant's Oral Submissions at ISH8

Agenda Item	Topic for Discussion	Summary of Applicant's Oral Submissions at ISH8
1. Welcome, introductions, arrangements for this Issue Specific Hearing (ISH8)		
		1.1 Mr Alex Minhinick introduced himself as a solicitor and partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant's project team present at ISH8, being: Mr Michael Baker (Development Project Manager at RWE), Mrs Mary Fisher (Abseline Landscape architect for the development), Mr David Brown (Charted Town Planner) and Miss Tamsin Sealy (Principal Planner at Arup). 1.2 Ms Lisa Hutchinson introduced herself as Development Manager at Darlington Borough Council ("**DBC**") and introduced Mr Stephen Laws (Landscape architect for DBC), Mr Andrew Casey (Head of Highway Network Management at DBC) and Mrs Carol Wheelan (Environmental Health Manager at DBC). 1.3 Mr Colin Taylor introduced himself as representing Great Stainton Parish Meeting. 1.4 Ms Carly Tinkler introduced herself as a Landscape Consultant for Bishopton Villages Action Group ("**BVAG**"). 1.5 Mr Sean Anderson introduced himself as an interested party. 1.6 Mr Andrew Anderson introduced himself (later during ISH8) as representing BVAG.
2. Purpose of the Issue Specific Hearing		
	The main purpose of the ISH8 is to undertake an oral examination of Environmental Matters in relation to Principle of the Proposed Development, Landscape and Visual effects, the draft Development Consent Order (dDCO) and Cumulative effects.	2 This agenda item was not expressly addressed by the Applicant.

3. Principle of the Proposed Development		
	The ExA will explore the Applicant's proposed overplanting ratio of 1.6, as set out in the Applicant's answer to ExQ2 PPD.2.1 [REP5-031], namely the work carried out by the Applicant in reviewing overplanting levels on other solar farms used as comparators in answering ExQ2 PPD.2.1.	3 The ExA asked the Applicant to respond to the agenda item, and to explain the comparative table submitted by the Applicant in response to ExQ2 PPD.2.1 **[REP5-031]** and how the figure of 4.1 acres per megawatt had been calculated. 3.1 Mr Baker, for the Applicant, explained that the Applicant undertook a comparison exercise using publicly available information for the comparator sites, being the generation capacity and acreage of the projects' planning redline boundaries. Mr Baker noted that, although the Energy Generation and Design Evolution Document **[REP2-010]** identifies the area per megawatt should be measured in direct current (DC), this was not available for the comparator sites and so alternating current (AC) was used. 3.2 The ExA asked the Applicant to explain difference between AC and DC. 3.3 Mr Baker, for the Applicant, explained that DC measures electricity generated by panels, which is then converted to AC for the grid connection, which is measured in AC. Mr Baker explained that DC is more representative of the output of the solar panels, whereas AC is more representative of the electricity being used by the national grid. For the comparison exercise, only AC figures of the grid connection capacity were used as developers do not generally publish the DC capacity of their sites. Mr Baker confirmed that the Applicant has previously published the Proposed Development's DC figures to assist the examination regarding land use and capacity, but that level of information not available for other sites. Mr Baker confirmed that the 180MW capacity of the Proposed Development is measured in AC. 3.4 Mr Baker continued to address the agenda item and explained that, in addition to AC capacity, the other comparative factor was the acreage of other projects. Mr Baker confirmed that the comparative exercised used the planning redline boundary of other projects, but noted that the other solar farms considered are smaller than the Proposed Development and do not have extensive mitigation areas or cable routes. For this reason, the Applicant compared the Proposed Development's solar panel fence line (which is within the order limits) and compared this to the planning redline boundary of the other solar projects. Mr Baker confirmed that the ratio identified for the Proposed Development is 4.1 acres/MW and the average

		acres/MW for the comparator sites was 4.125 acres/MW. Mr Baker concluded that the ratio for the Proposed Development is therefore comparable to those comparator projects. 3.5 The ExA asked the Applicant to clarify whether the projects listed in the comparison table are nationally significant infrastructure projects (NSIPs). 3.6 Mr Baker, for the Applicant, confirmed that all of projects compared by the Applicant were consented or are being considered under the Town and Country Planning Act regime by the local council and are not NSIPs. Mr Baker also confirmed that the Applicant is not aware of any solar NSIPs or NSIP applications within the vicinity of the Proposed Development. 3.7 The ExA asked the Applicant to clarify whether the Proposed Development had been compared with other solar NSIPs. 3.8 Mr Baker, for the Applicant, confirmed that the Applicant has not compared the acres/MW ratio for the Proposed Development with other solar NSIPs because the closest NSIPs are further south than the Proposed Development and so any comparison would need to account for variations in irradiance. 3.9 The ExA asked the Applicant to clarify if the right-hand column of the comparison table should read "acre/MW" instead of "MW/acre". 3.10 Mr Baker, for the Applicant, confirmed that the column header is incorrect. 3.11 The ExA commented that there doesn't seem to be much correlation between the acres/MW ratio and the area for the other solar farms listed in the comparison table and asked the Applicant to explain where there is variability. 3.12 Mr Baker, for the Applicant, explained that the variance reflects the different approaches taken by different solar developers. For example, some developers design for a higher overplanting ratio or a greater pitch between panels. Mr Baker also explained that the variance may be caused by the Applicant's use of the redline planning area identified for the comparative projects, which may include some mitigation areas and therefore increase the calculated ratio. Mr Baker concluded that there is general variability within the solar industry.

		3.13 The ExA noted that the figure used for the Proposed Development does not include the cable route and asked the Applicant to confirm whether the cable routes had been excluded from the "area" of the comparative projects. 3.14 Mr Baker, for the Applicant, confirmed that the comparison calculations included the whole redline area for the other projects, which would include the cable routes. Mr Baker noted that, for the Proposed Development, there are two cable route options and the on-site substation is further away from the grid connection substation, the effect of which is to increases the total area of the Order limits. Mr Baker confirmed that for the comparator projects the Applicant simply used the entire planning redline area, which is the best available information.
	The ExA will then ask questions in relation to the comments provided by the Applicant under ISH2-02 as set out in Response to Hearing Action Points [REP5- 032], particularly focusing on the Applicant's justification for the use of a 1.6 overplanting ratio as opposed to any other ratio, accepting that Footnote 92 of NPS EN-3 clearly allows for overplanting.	3.15 The ExA asked the Applicant to respond to the agenda item and explain its response to hearing action ISH2-02 **[REP5-032]**, which required the Applicant to provide an explanation and justification for the proposed overplanting ratio of 1.6. The ExA also asked the Applicant to start by clarifying the terminology used, including the definition of "overplanting" and how it differs from the "baseline". 3.16 Mr Baker, for the Applicant, explained that the overplanting ratio of 1.6 means that the installed capacity of the Proposed Development, when measured in direct current, is greater than capacity the grid connection capacity by a ratio of 1.6. Mr Baker highlighted that the grid connection is measured in AC at 180MW and the generating capacity of solar panels measured in DC at 288MW. The 1.6 ratio means that the 288MW generating capacity is 1.6 times greater than 180MW grid connection capacity. Mr Baker summarised that the overplanting ratio is trying to express the difference between the grid connection capacity and the installed capacity of the solar panels themselves. 3.17 The ExA asked the Applicant to clarify if "overplanting" means that any level of solar panels above the baseline ratio (i.e. 1.0) would be considered overplanting. 3.18 Mr Baker, for the Applicant, confirmed that any level of generation capacity (measured in DC) that is greater than the 180MW grid connection (measured in AC) would be referred to as overplanting.

		3.19 The ExA displayed the Applicant's overplanting diagram in response to ISH2-02 [REP5-032] and asked the Applicant to clarify whether the lighter blue represents overplanting and whether, practically, the baseline is what in peak conditions would allow the Proposed Development to provide close to the grid connection capacity. 3.20 Mr Baker, for the Applicant, confirmed the light blue line represents the 1.0 baseline. Mr Baker explained that, even with a 180MW generating capacity (measured in DC) on a day with ideal conditions, the Proposed Development would not reach the grid connection capacity of 180MW (measured in AC) with an overplanting ratio of 1.0. Mr Baker confirmed that is the reason why no solar farm would be constructed without some form of overplanting. 3.21 The ExA asked the Applicant to clarify whether the graph shows that the electricity generated by the Proposed Development in optimum conditions comes close to the grid connection capacity of 180MW (AC). 3.22 Mr Baker, for the Applicant, confirmed that is correct. 3.23 The ExA asked the Applicant to clarify whether the purpose of overplanting is to compensate for the fact that the Applicant will only have a very small window of conditions for producing the maximum capacity for export to the grid. 3.24 Mr Baker, for the Applicant, confirmed that is correct.
	The ExA will also ask the Applicant to comment and explain Figure 1.1 Capacity Factor further, particularly how it demonstrates that the proposed 1.6 overplanting is necessary to secure the best available capacity factor needed to achieve optimal use of the grid connection, as opposed to any other level of overplanting.	3.25 The ExA asked the Applicant to justify the proposed overplanting ratio of 1.6 compared to any other ratio, with reference to Figure 1.1 of the Applicant's response to ISH2-02 **[REP5-032].** 3.26 Mr Baker, for the Applicant, explained that Figure 1.1 shows that 1.6 is the ideal overplanting ratio, with reference to the "capacity factor". Mr Baker explained that the "capacity factor" of the Proposed Development represents the utilisation of the grid connection which increases with overplanting, meaning that the greater the capacity factor the more the grid connection is being utilised. It can be understood as the overall percentage that the generating station is generating electricity over a

		year. For example, according to the Department for Energy Security & Net Zero (DESNZ), average capacity factor for a solar farm in the UK in 2023 was 10.2%. 3.27 Mr Baker then explained that Figure 1.1 demonstrates that an overplanting ratio of 1.6 is ideal because the Proposed Development can capture the increase in capacity factor sitting between 17% and 18% in year 1, before the benefits of overplanting start to diminish. If an overplanting ratio of over 1.6 is used, then the benefits of overplanting start to diminish because the electricity generated would have to be 'clipped' to limit what electricity is being provided to the grid. 3.28 Mr Baker clarified that Figure 1.1 does not take into account the use of battery energy storage systems (BESS) which would reduce the diminishing benefit of overplanting beyond a ratio of 1.6 because those clipping losses (i.e. excess generation) can be captured by the BESS and used to discharge into the grid at a later point when the panels are not at peak production. Mr Baker confirmed that the BESS and panels provide a double benefit, but the Applicant has designed the Proposed Development to be able to stand on its own (i.e. without any BESS). 3.29 The ExA asked the Applicant to clarify an overplanting ratio of 1.6 is "ideal" for the Proposed Development, rather than 1.5 or 1.4, for example. 3.30 Mr Baker, for the Applicant, explained that overplanting is also used to manage the effects of degradation over the lifetime of the panels. Each year the solar panels will generate less electricity over time as a consequence of how they operate. If the Proposed Development starts in year 1 with an overplanting ratio of 1.6, by end of project lifespan the overplanting ratio measured following degradation will fall to 1.35. Mr Baker confirmed that, as well as maximising capacity factor at the start of the project, the overplanting ratio is used to maintain the capacity factor throughout the Proposed Development's lifetime. If an overplanting ratio below 1.6 is used at the start of the Proposed Development, the ratio at the end of the Proposed Development's lifespan would not maximise the grid connection. 3.31 Mr Baker further explained that an overplanting ratio of 1.6 maximises the capacity of the Proposed Development before the benefits of overplanting start to diminish. If a lower overplanting ratio was used, the grid connection capacity would not be

		met. Mr Baker explained that if the curve (on Figure 1.1) didn't go down after 1.6, we might have proposed a ratio of 1.8 as being "ideal". However, 1.6 is the point at which the curve starts going down. 3.32 The ExA asked the Applicant to explain why the solid lines shown on Figure 1.1 **[REP5-032]** curve down. 3.33 Mr Baker, for the Applicant, explained that solid lines begin curving down to reflect 'clipping loss', which is the excess generation above the 180MW grid connection that would be clipped by the inverters and transformers, which are limited to 180MW (AC) to reflect the grid connection. In other words, at the point the curves start curving down you are "creating too much" electricity. 3.34 The ExA asked Applicant to clarify what is meant by "creating too much", and to explain why the Proposed Development starts to become less efficient at the point where the curves bend down. The ExA queried whether this is because the excess energy cannot be stored in the BESS, or because the Proposed Development would be producing more energy than could be can exported. 3.35 Mr Baker, for the Applicant, explained that the Proposed Development can stand on its own (i.e. it would remain viable even without constructing the BESS). Mr Baker confirmed that the solid lines on Figure 1.1 **[REP5-032]** would curve less if they took account of BESS, but the Applicant has ensured that design and overplanting ration of the Proposed Development only takes into account what is generated by the solar panels themselves. Mr Baker confirmed that, for the Applicant it would not be worth the capital cost of the additional land or solar panels to construct additional solar panels beyond an overplanting ratio of 1.6. 3.36 The ExA asked the Applicant to clarify whether there is a technical limitation of the panels which starts making the solar farm less productive beyond an overplanting ratio of 1.6. 3.37 Mr Baker, for the Applicant, confirmed the ExA's understanding.

		3.38 The ExA asked the Applicant to explain why the solid orange line on Figure 1.1 **[REP5-032]** starts moving away from the dotted lines at an overplanting ratio of 1.45. 3.39 Mr Baker, for the Applicant, explained that it is about where the movement on the graph becomes more significant. The trend is more pronounced after 1.6, which feeds into the consideration of efficiency of the delivery of a solar farm against its capital costs. Mr Baker explained that the trend beyond an overplanting ratio of 1.6 causes the change in consideration as to whether it is worth adding more panels. When balancing constructing costs and the costs of additional panels vs. revenue generated by the panels, there is a pronounced trend after 1.6 which means a higher overplanting ratio is not worth it. 3.40 Mr Baker explained that in the year 20 (shown by the orange line) and year 40 (shown by the grey line) scenarios show a smaller departure from the dashed to solid lines because the solar panels will have already degraded, meaning that less electricity is being generated, and therefore the clipping loss is less pronounced. 3.41 Mr Anderson, for BVAG, referred to the ExA's first questions in ExQ3s regarding viability and commented that it is not fully understood why an overplanting ratio of 1.6 is optimum, rather than 1.5 or 1.4. Mr Anderson explained his understanding that the source of overplanting is viability, and that the only answer provided by the Applicant is that the net present value is positive. Mr Anderson submitted that the relationship between the panels and inverters is also important, because the panels generate electricity in DC which goes into grid as AC, and the inverters are essential for that movement. Mr Anderson requested the Applicant to clarify if different types of inverter can be used to achieve the same output. Mr Anderson submitted that the proposed overplanting ratio of 1.6 is based on viability and the choice of equipment. 3.42 In response to Mr Anderson's submissions, the ExA clarified that its first questions to the Applicant during ISH8 were linked to ExQ PPD.2.1 and the Applicant's comparison of the acres/MW ratio for the Proposed Development and other solar farms in the area.

		3.43 Mr Anderson, for BVAG, referred to a document from Lichfields which analyses overplanting ratios for a number of solar farms and confirmed that this document had not been submitted into Examination. Mr Anderson requested clarity on the role of inverters, and whether the Applicant could use a more efficient inverter. Mr Anderson submitted that viability is important to question of inverters and noted that the ExA asked the Applicant to provide further information on viability in ExQ3. Mr Anderson noted that the Applicant's response **[REP7-010]** confirmed that the net present value of the Proposed Development is positive. 3.44 The ExA asked the Applicant to explain the efficiency of the inverters to be used for the Proposed Development and what consideration has been given to this. 3.45 Mr Baker, for the Applicant, confirmed that it is in the Applicant's interest to use the best inverter available on the market and that the choice of inverted is not affected by viability. Mr Baker confirmed that the effects of inverters on the overplanting ratio is negligible and does not affect the outcome of overplanting. The purpose of inverters is to invert the electricity from DC to AC and ensure it is being properly transmitted to the grid at 180MW (AC). 3.46 The ExA asked Mr Anderson to clarify if his evidence contradicts the Applicant's position. 3.47 Mr Anderson, for BVAG, responded that the report by Lichfields on comparative overplanting from 2024 shows there are several options for overplanting that come from a desire to maximise energy generation. Mr Anderson explained that where land take becomes cheaper than better technology, then a developer will take more land than is necessary. Mr Anderson submitted that the Applicant has not provided any information on viability making it difficult to understand if viability has influenced the design of the scheme. 3.48 The ExA asked the Applicant to reply to the comments on viability. 3.49 Mr Minhinick, for the Applicant, responded that Mr Anderson's submissions referred to a report that has not been submitted into Examination and that the

		deadline for submission of that document should allow an opportunity for the Applicant to submit a further response. 3.50 The ExA recorded an action for Mr Anderson to submit the Lichfields Document into examination at Deadline 8 on 17 January 2025. 3.51 Mr Minhinick, for the Applicant, went on to refer to the viability of the Proposed Development and submitted that the Applicant has rehearsed the National Policy Statement (NPS) which provides commentary on how financial viability should be taken into account during examination. Mr Minhinick confirmed that the Applicant has explained in response to the Examining Authority's question GCT.3.1 **[REP7-010]** how it has approached financial viability and explained that the Applicant has not submitted detailed information on the technical or financial viability of the Proposed Development because the NPS does not require such information to be submitted where there are no specific reasons in policy for doing so. Mr Minhinick referred to the explanation already given by Mr Baker as to why the proposed overplanting ratio of 1.6 is being promoted and why that is appropriate. 3.52 The ExA asked the Applicant to explain whether the proposed overplanting ratio will lead to the creation of energy that will not be exported or stored in the BESS. 3.53 Mr Baker, for the Applicant, explained that if BESS were not available then the excess energy generated by the Proposed Development over 180MW would be wasted. Mr Baker emphasised that such wastage is accepted across the industry because the bell curve presented is on an "ideal day" and overplanting is also about capturing those times when conditions are not ideal (for example, in the early morning and evening and at times of low irradiance, such as in the winter). It is therefore acceptable to have wasted electricity on "ideal days" to gain the electricity generated outside of those ideal conditions. Mr Baker confirmed, however, that the intention is to capture the excess energy in the BESS.
	The ExA will then ask the Applicant further questions in relation to the proposed number of Panels and the required land take and how the different levels of overplanting will affect overall land take and how this may, in turn, affect the	3.54 The ExA asked the Applicant to respond to the agenda item. 3.55 Mr Baker, for the Applicant, confirmed that the level of land use for the Proposed Development does not directly correlate with the overplanting ratio. Mr Baker explained that to support the Applicant's response to ExQs, the Applicant carried

	location of extent of panel areas. Please also see item 4 of this Agenda.	out hypothetical modelling to show what the variables could have been if an overplanting ratio of 1.0 was used (noting that this would not be a viable solar farm). This modelling concluded that an overplanting ratio of 1.6 requires only 31% more land than an ratio of 1.0. Mr Baker explained that there is no direct correlation between overplanting ratio and land take because various infrastructure that is required to serve a 180MW grid capacity would remain the same even if less solar panels were used. In addition, the Proposed Development offers specific land of mitigation for species found on the site and enhancement areas (for example, recreational areas offered in-line with design principles). So there are technical and planning reasons why the level of land take will not correlate directly with the overplanting ration. Mr Baker further explained that, to support this agenda item, the Applicant calculated that a 1.4 overplanting ratio would only result in a 13% reduction in land. Mr Baker concluded that reducing the overplanting ratio does not necessarily have a significant effect on amount of land required. 3.56 The ExA noted that the Applicant's further work to support the agenda item and recorded an action for the Applicant to submit that work by Deadline 8. 3.57 The ExA asked the Applicant to explain the reduction of land take and overplanting in more detail. 3.58 Mr Baker, for the Applicant, explained that to carry out the hypothetical modelling work the Applicant calculated how panels could be removed from the scheme while meeting the same DC generating capacity as before. The Applicant identified that an overplanting ratio of 1.4 only results in 13% reduction in land take. This is not proportionate to the reduction in overplanting as there are 40% more panels than 1.0 overplanting which doesn't require 40% more land. 3.59 The ExA noted that the generating output and overplanting ratio depends on several factors including, crucially, the efficiency of technology used. The ExA asked the Applicant to explain whether the Applicant is open to considering other types of technology if more efficient technology becomes available between now and construction of Proposed Development, if the DCO is granted? The ExA asked the Applicant to explain how any such commitment could be secured. 3.60 Mr Baker, for the Applicant, emphasised that advancements in technology is the only variable that could reduce land take without affecting the maximisation of the

		Applicant's grid connection capacity. Mr Baker confirmed that, as set out in the Applicant's response to the ExQ1 PPD.1.13 **[REP2-007]**, the Proposed Development has been put forward on the basis of 570 watt Jinko panels. Mr Baker explained that it is in the Applicant's interest to use the most efficient panels, and that 610 watt panels could potentially be used as these have become commercially viable during development of the Proposed Development. 3.61 Mr Baker clarified that there are limitations on the ability of greater capacity panels to reduce land take. For example, modules may be larger in dimension requiring more rows to accommodate them, or they could require a greater pitch (i.e. the distance between panel rows) if they are more sensitive to loss of yield from shading. 3.62 Mr Baker confirmed that, all other things being equal, the Applicant has committed in section 8.4 of updated Design Approach Document [REP5-024] to review, at the detailed design stage, the design of the Proposed Development and the technology available and remove panels in priority areas identified by the local community, where possible. This commitment is secured through the discharge of Requirement 3 (Detailed design approval) of the dDCO. 3.63 The ExA referred back to the Applicant's hypothetical modelling of an overplanting ration of 1.4 (which the Applicant submitted would reduce land take by 13%) and the Applicant's submissions that the relationship between overplanting and land take is not linear and that the reduction in land take is not significant. The ExA commented that there appears to be a linear relationship between overplanting and land take because a reduced ratio from 1.6 to 1.4 is reduction of 12.4%. The ExA asked the Applicant to explain why a 13% reduction in land take is not significant. 3.64 Mr Baker, for the Applicant, confirmed that a reduction from 1.6 to 1.4 is a difference of 12%. Mr Baker clarified that when referring to the absence of a direct correlation between overplanting ratio and land take, the point being made was that although an increase in overplanting from 1.0 to 1.4 would involve 40% more panels and similarly an increase from 1.0 to 1.6 would involve 60% more panels, an increase from 1.0 to 1.4 would not require 40% more land and likewise an increase from 1.0 to 1.6 does not require 60% more land.

		3.65 Mr Baker, for the Applicant, explained that with the data immediately available an overplanting ratio of 1.6 only requires 31% more land take than a 1.0 ratio. 3.66 The ExA recorded an action for the Applicant to submit to the ExA the additional modelling carried out, including to demonstrate clearly the different levels of overplanting that has been considered and the land area required for ratios of 1.4 and 1.6. 3.67 Mr Minhinick, for the Applicant, clarified that the Proposed Development before the ExA is reliant on an overplanting ratio of 1.6 and that the varying overplanting ratios under discussion are not alternatives being put forward by the Applicant.
	The ExA will give the Local Host Authorities (LHAs) the opportunity to comment.	3.68 Ms Hutchinson, for DBC, referred to the Applicant's proposed commitment to consider advancements in technology and questioned how this commitment would be secured and discharged by the local authority. Ms Hutchinson questioned how those priority areas will be identified and submitted this could be a possible point of disagreement if different villages have competing views about how panels should be removed. 3.69 Mr Minhinick, for the Applicant, explained that the Applicant has already considered how this commitment would be secured and referred to Mr Baker's earlier submissions regarding paragraph 8.4 of the Design Approach Document **[REP5-024]**. Mr Minhinick confirmed that this commitment cross-refers to Requirement 3 of the dDCO, which requires the detailed design to be submitted in accordance with the Design Approach Document. 3.70 Mr Minhinick explained that the Applicant has already engaged with local communities to identify priority areas for panel removal if there becomes an ability to reduce land take due to technological advancements. Those priority areas are identified in correspondence between the parties and paragraph 8.4.7 of the Design Approach Document **[REP5-024].** Mr Minhinick confirmed that the Applicant will continue to engage with local communities and submit the detailed design documents to the local authority at the appropriate time in accordance with Requirement 3 of the dDCO. 3.71 The ExA noted that the Design Approach Document **[REP5-024]** identifies locations for panel set-backs but does not identify a priority order. The ExA asked

		the Applicant to identify how those areas will be prioritised and how disputes may be resolved. 3.72 Mr Baker, for the Applicant, confirmed that the priority areas identified by the local community have not been prioritised at this stage. Mr Baker explained that priority would be considered at later stage once it is known if any land, and how much land, could be reduced. Mr Baker confirmed that the Applicant does not envisage for the local authority to be an arbitrator for deciding priority. Rather, the Applicant would submit its detailed design to the local authority at the detailed design stage. Mr Baker clarified that the Applicant has not included any formal mechanism for resolving disputes because ultimately it is the Applicant's design decision that must be discharged by the Applicant. 3.73 Mr Minhinick, for the Applicant, further clarified that the removal of any panels would be dealt with through discharge of Requirement 3 and the procedure for discharge of DCO requirements is provided in Schedule 2 of dDCO. Mr Minhinick explained that following engagement with local communities the Applicant would put forward its preferred design to the local authority and, in the event of dispute, the Applicant will explain to the local authority the reasoning behind any panel area removals with reference to the decreased impact of those panel areas. 3.74 Ms Hutchinson, for DBC, expressed concern that the local authority may be put in a position of having to resolve any disputes when discharging the detailed design requirement. Ms Hutchinson submitted that it remains to be seen how it the process will work in practice and submitted that DBC is not particularly reassured. 3.75 The ExA recorded an action for DBC to submit in writing at Deadline 8 its position on the proposed mechanism for determining the removal of any panel areas and any alternative mechanism for resolving potential disputes.
	The ExA will then give an opportunity to other IPs to comment on any issues raised under this point of the Agenda.	3.76 Mr Anderson, for BVAG, made submissions relating to the discussion between the ExA and the Applicant regarding the correlation between overplanting and land take. Mr Anderson submitted that a 13% reduction in land take at an overplanting ratio of 1.4 would enable the Applicant to remove most of the best and most versatile (BMV) land in the scheme, also being the land closest to the villages.

		3.77 Mr Anderson submitted that the Applicant's position was not to include the identified priority areas for panel removals in the Design Approach Document **[REP5-024]**, but that these areas are referred to in the Statement of Common Ground. Mr Anderson submitted that the community would like to improve the status of such modifications so that if consent is granted there is higher chance of those modifications being included and not only within control of the Applicant but also within the control of DBC. Mr Anderson submitted that BVAG would like to propose a condition to be included in the dDCO for the local authority to include those modifications. Mr Anderson concluded that the modifications are agreed between the villages and requested the ExA to increase the status of those modifications for future conversations. 3.78 The ExA requested for the information referred to by Mr Anderson to be contained in the Statement of Common Ground submitted at Deadline 8. The ExA invited the Applicant to respond. 3.79 Mr Minhinick, for the Applicant, responded to Mr Anderson's submission that a potential future rationalisation of land take would overlap with BMV land. Mr Minhinick confirmed that it is not the case, due to the arrangement of BMV land within the field patterns. For example, some areas of BMV land are islands within fields, so collating those points doesn't necessarily lead to a neat solution. Mr Minhinick further explained that additional work is ongoing in relation to particular areas of land to be addressed in future Statements of Common Ground between parties. Mr Minhinick confirmed that the Applicant is willing to engage with Mr Anderson on behalf of BVAG but cannot make commitments to agree what those drawings show at this stage. 3.80 The ExA asked the Applicant to confirm whether a cross-reference could be included within the Design Approach Document to the document and information highlighted by Mr Anderson to provide some certainty it will be considered. 3.81 Mr Minhinick, for the Applicant, acknowledged the ExA's suggestion and responded that the Applicant will review and confirm whether the documents referred to by Mr Anderson are in an appropriate form to be incorporated into the Design Approach Document.

		3.82 Mr Anderson, for BVAG, noted that the proposed modifications were submitted to the Applicant on 25 November 2024 and that the community requested for them to be included in Design Approach Document, but that the Applicant had corresponded that this would not be appropriate. 3.83 Mr Anderson, for BVAG, made further submissions to explain his understanding that an overplanting ratio of 1.6 is proposed but at ultimately the decision lies on the benefits and harm caused by the Proposed Development. Mr Anderson submitted that if there is potential to reduce the harm to the community, the community should have an opportunity to input. 3.84 Mr Anderson made further submissions on the principle of the Proposed Development and referred to the distinction between direct and indirect impacts. Mr Anderson noted that the new Planning Practice Guidance (PPG) was published in December 2024 and raises the requirement for all planning applications to consider direct and indirect impacts. Mr Anderson also referred to two recent court cases focussing on environmental impact assessments for energy proposals where indirect impacts were considered as extremely important. Mr Anderson submitted that the application for the Proposed Development has not fully addressed indirect impacts. 3.85 The ExA commented that the ExA had already made clear to the Applicant that the ExA will consider reductions in harm, but that the ExA did not anticipate to review the benefit and harm and compliance of the Proposed Development with national policy in ISH8. The ExA invited the Applicant to respond to Mr Andersons's submissions, allowing that Mr Anderson may submit further written submissions at Deadline 9. 3.86 Mr Minhinick, for the Applicant, noted that if Mr Anderson is to make comments in writing, the Applicant's preference would be for them to be made at the earlier Deadline 8 to enable the Applicant to respond to any points not previously raised. Mr Minhinick acknowledged that the policy referred to by Mr Anderson was the updated PPG, which is not new evidence, but noted that the particular case that Mr Anderson referred to is the case of *Finch,* which went through to the Supreme Court, concerning emissions. Mr Minhinick noted that the Applicant has already

		been asked a written question concerning that case. ***[Post-hearing note:*** *Please eefer to the Applicant's responses to Deadline 8 submissions of DBC]* 3.87 The ExA asked Mr Anderson to confirm whether he was willing to make submissions by Deadline 8 instead of Deadline 9, as the substance of his submissions (being national policy) are not new evidence, but otherwise Deadline 9 is acceptable. 3.88 Mr Anderson, for BVAG, noted that the points addressed by his submissions were raised by BVAG in May 2024, and that second the court case referred to (which confirmed the Finch judgement) was F*riends of the Earth v SoS and Cumbria County Council*. Mr Anderson also referred to paragraph 163 of the National Planning Policy Framework (NPPF). Mr Anderson agreed to make his written submissions by Deadline 8. 3.89 Ms Tinkler, for BVAG, made submissions on two points concerning technology. Firstly, Ms Tinkler referred to the Applicant's submissions that the capacity of the transformers used for the Proposed Development would have a negligible effect on the overplanting ratio. Ms Tinkler submitted that, if a higher capacity inverter is used, that would reduce the ratio, but it would then increase the DC capacity. 3.90 Mr Baker, for the Applicant, responded by explaining that the Applicant's earlier submissions were based on 180MW (AC) grid capacity. Mr Baker explained that the inverters are designed to match that grid capacity and accord with the electrical requirements of the project. Mr Baker acknowledged that the point has been raised in relation to overplanting on TCPA projects to ensure that they are below the 50MW threshold. Mr Baker explained that on such projects inverter capacity may be rated slightly above 49MW to accommodate reactive power, which is an excess of electricity across the site as a result of the operation of the equipment. Mr Baker submitted that this will would not affect the Proposed Development because clipping losses would remain the same. Mr Baker concluded that the inverters will not have an effect on land take or the number of panels required. 3.91 The ExA noted an action for Ms Tinkler to respond in writing at Deadline 8. 3.92 Ms Tinkler, for BVAG, made further submissions, secondly, to request question why Applicant is still using Jinko 570 watt panels when it is known that current

		applications for large scale solar development are proposing 685 watt panels, which Ms Tinkler submitted are commonly used. Ms Tinkler referred to the *Galloway* judgement, concerning a non-material amendment for the use of higher watt panels.
		3.93 Mr Baker, for the Applicant, confirmed that the Proposed Development was submitted to the Planning Inspectorate in February last year following a 'design-fix' in October 2023. Mr Baker confirmed that 570 watt Jinko panels were the best panels for the project at the point of design and submission, which is why the Applicant has now made provision for updates to technology within the Design Approach Document **[REP5-024]**. Mr Baker confirmed that 570 watt Jinko panels remain viable and suitable panel for this project, acknowledging that this may change at the detailed design stage. The Applicant may still use 570 watt Jinko panels at detailed design because of design considerations regarding the dimensions. For example, the 685 watt panels are larger and more rows may be required to accommodate them because they are less power dense. Mr Baker confirmed there are lots of variables.
		3.94 The ExA clarified that the question is not whether 570w panels are viable but whether they are the best option. The ExA noted that exploring those options would be in the best interests of the Applicant to maximise efficiency, and that if panels are more efficient they could require less land.
		3.95 Mr Baker, for the Applicant, confirmed that higher watt panels could require less land which is why a commitment has been included in the Design Approach Document **[REP5-024].** Mr Baker emphasised that this selection process cannot be undertaken at this stage of project, because the assessment of the most efficient panel will be undertaken at detailed design, post-consent. Mr Baker confirmed that it will be in the Applicant's interests to carry out that assessment. Mr Baker emphasised that the design process is front-loaded to ensure that the Proposed Development works as applied for.
		3.96 The ExA commented that it is looking for a clear commitment from the Applicant to investigate those options.
		3.97 Mr Baker, for the Applicant, confirmed that a commitment is already included in the Design Approach Document, and reiterated that a further assessment of panel

		selection needs to be happen at point of detailed design and the procurement process. 3.98 The ExA clarified for the record the Applicant's position that there is a clear commitment to review the best panels included in the Design Approach Document and referred to in the dDCO under requirement 3. 3.99 Mr Tinkler, for BVAG, requested further clarity on when the size of the solar panels would be chosen. 3.100 Mr Baker, for the Applicant, confirmed panel size would be chosen at the detailed design stage with the appointment of a contractor and the procurement process. 3.101 Ms Tinkler, for BVAG, queried whether any discussions about modifications would happen prior to this and inform design decisions. 3.102 Mr Baker, for the Applicant, confirmed that discussions would be held at detailed design to establish what the Applicant is able to offer in terms of quantum of land that could be removed. The Applicant will not be able to establish what land, if any, is available for removal until it has been through the detailed design process. 3.103 Mr Taylor, for Great Stainton Parish Meeting (GSPM), made several submissions. Firstly, Mr Taylor noted that the earlier submission of the Great Stainton Parish Meeting Statement of Common Ground **[REP7-007]** included the document containing priority areas of panels to be removed. Secondly, Mr Taylor noted that the parish meetings have different priority areas and that issue of arbitration will arise. Mr Taylor submitted that it would be helpful to have principles to establish priorities. Thirdly, Mr Taylor questioned how likely is it that there will be an advance in technology as included in the Design Approach Document, or whether the ongoing conversations with the Applicant is a 'sop' to action groups. 3.104 Mr Baker, for the Applicant, confirmed that it is likely that new technology will come forward, which is why the Applicant has included a commitment in the Design Approach Document. Mr Baker acknowledged that the Proposed Development was designed before the planning process started and industry technology moves on quickly. Mr Baker noted the limitations that new technology will not necessarily result in land reduction.

		3.105 Mr Sean Anderson, as an Interested Party, noted the Applicant's clear commitment to consider new technology at detailed design. Mr Anderson submitted that there should be a clear benchmark for current technology sits so that new technology can be measured and quantified. 3.106 Mr Baker, for the Applicant, confirmed that the current design clearly sets out 570 watt panels as the baseline and the Applicant will set out at detailed design any improvement in that technology and any corresponding reduction in land use.
4. Landscape and Visual		
	The ExA will start by asking the Applicant to present the work carried out in response to the Rule 17 request, issued on the 10 December 2024, asking for further information to be submitted in relation to Landscape and Visual matters.	4 The ExA asked the Applicant to respond to agenda item. 4.1 Mrs Fisher, for the Applicant, explained the revisions made to ES Chapter 7: Landscape and Visual **[AS-029],** as set out in paragraphs 2.1.5 to 2.1.7 of the Applicant's Rule 17 response **[AS-031]**. Mrs Fisher explained the colour coded additions and changes made to that chapter as a result of the Rule 17 request, as explained at 7.1.2 of AS-029. 4.2 The ExA asked the Applicant to discuss the effects of the Proposed Development on the settings of settlements. 4.3 Mrs Fisher, for the Applicant, explained that the Applicant has considered the various points made by DBC in hearings, post-hearing notices and in its Local Impact Report (LiR) **[REP1-023]**, together with examples from DBC's previous representations. Mrs Fisher clarified that there is no established methodology for carrying out assessment of effects on settings of settlement. 4.4 Mrs Fisher explained that the Applicant established a method for undertaking its assessment of the setting of settlements, including by reviewing the methodologies used by other applications. Mrs Fisher confirmed that the Applicant did not identify any assessments of the setting of settlements. The Applicant only identified an express distinction between visual setting and character in the assessment carried out for Mallard Pass. 4.5 Mrs Fisher submitted that, in her view, the differing approach to assessment in part reflects the differences between the Applicant and DBC regarding the extent of

		setting. In preparing Landscape and Visual Impact Assessment (LVIA), the Applicant focussed specifically on the character of settlements, which tends to consider a more compact area, whereas DBC are including visual setting across a wider area. 4.6 Mrs Fisher explained that the Applicant compared the settings identified in DBC's LiR **[REP1-023]** and in the Applicant's Figure 7.6 of the ES **[APP-068]**. The differences between the extent of settings identified by parties are shown in ES Appendix 7.8 **[AS-030]**. Mrs Fisher submitted that the primary reason for the differences relates to the Applicant focussing on character, and DBC including the wider visual setting. 4.7 Mrs Fisher then explained the information presented in ES Appendix 7.8 **[AS-030]**. In summary, the insets show with red lines the setting of the villages in relation to their character, as identified by the Applicant in ES Figure 7.6 in the ES **[APP-068]**. Those areas are closely associated with the village so the field pattern tends to be smaller. Most of the settlements in this area have smaller fields of pasture closely around the villages, and containment is also provided by topography and vegetation, which means the landscape feels closely associated with the village. The visual setting of the villages is shown by the blue lines, as identified by DBC in its LiR. The primary extent of views to and from the village will be wider than the character setting. That means, although you can see the village, you don't feel that you are near it. 4.8 Mrs Fisher then explained that the Applicant has adopted DBC's line for visual setting. The Applicant has split the assessment of effects on the character of the villages in two, so there is one assessment on the core of each village and another on the wider setting of each village. Mrs Fisher explained that changes to the assessment of character have been made in ES: Chapter 7 **[AS-029]** because that was previously assessed in Chapter 7 **[APP-030]**. The consideration of visual effects within the setting of the village have been provided in Appendix 7.8 **[AS-030**. For each village there is a diagram showing whether the visual receptors are and a table which lists each of those and draws out the relevant assessment to bring together all receptors within the setting of each village. Mrs Fisher confirmed that all of this material was in the original ES Chapter 7, but has now been brought together.

		4.9 The ExA asked the Applicant to confirm if this includes viewpoints requested by DBC. 4.10 Mrs Fisher, for the Applicant, confirmed that DBC's requested viewpoints have been included - for example, in row 2 of Table 1 of Appendix 7.8 **[AS-030]**. The new viewpoints have been woven through this description because the quotes are taken from the amended ES Chapter 7. 4.11 Mrs Fisher explained that the outcome of the assessment process is confirmed at paragraphs 2.1.5 to 2.1.7 of the Applicant's Rule 17 Response **[AS-031]**. Mrs Fisher confirmed that the Applicant's further work in relation to village settings results in markedly reduced effects on the character of villages, and slightly greater effects on the character of the setting of villages. No new significant effects are identified. Mrs Fisher submitted that this is a slightly different way of reporting the same effects, but there are no differences that matter. Mrs Fisher confirmed the summary table at the end of ES Chapter 7 **[AS-029]** has been updated to reflect the changes and colour-coded to reflect the source of the difference.
	Informed by previous discussions held at the Issue Specific Hearing 4 on Landscape and Visual effects, the Applicant's response to the Rule 17 request, and the Applicant's response to ExQ3, the ExA is likely to want to explore with the Applicant its responses to questions posed by the ExA in relation to the Applicant's assessment of potential effects of the Proposed Development on residential amenity (ExQ3 LSV.3.2, LSV.3.3 and LSV.3.4) due by D7, 10 January 2025.	4.12 The ExA asked the Applicant to respond to the agenda item. 4.13 Mrs Fisher, for the Applicant, summarised the outcome of the Residential Visual Amenity Assessment (RVAA), as set out at paragraph 25 of ES Appendix 7.6 **[APP-137]**. 4.14 The ExA asked the Applicant to explained whether its response to LSV.3.3 **[REP7-010]** is representative of the worst case scenario in each village and, if not, what it it representative of. 4.15 Mrs Fisher, for the Applicant, explained that the worst-case scenario relates to the parameters of the Proposed Development (for example, the tallest possible development in its unmitigated form). That is the primary mechanism by which the "worst case" is considered. 4.16 Mrs Fisher further explained that the RVAA is not an environmental impact assessment but is rather a separate technical assessment. Therefore, the EIA Regulations do not 'add weight' to the application of the "worst case" to the RVAA. Mrs Fisher confirmed that this matter was not adversely commented on during

		scoping for the Proposed Development, and that a similar approach taken in the Mallard Pass application. 4.17 Mrs Fisher went on to explain that the second quote picked-up reflects the distance from study areas, and often the height of development. Tall development is likely to be overbearing, but solar development that is only 3.5m tall is unlikely to be overbearing. Mrs Fisher submitted that it is more likely that people will feel surrounded because solar development can be extensive. Mrs Fisher emphasised that the test requires development not just to be visible but to be uncomfortable, which is a different test to simply the visual change. 4.18 Mrs Fisher confirmed that the methodology automatically considers the worst case scenario because worst-case design parameters are considered and the closest properties are considered. Mrs Fisher submitted that when the person doing the LVIA does the RVAA too, they will be familiar with those properties. Mrs Fisher explained that if, during those assessments, she had identified another property with a more open view of the Proposed Development, it would have been added into the assessment. Mrs Fisher explained that in some instances the properties included in the assessment were beyond the assessment area, because they were not excluded when the design of the Proposed Development changed and they became more distant. Mrs Fisher submitted that it is unlikely that more distant properties would experience overwhelming effects and therefore do not require detailed consideration in the RVAA. 4.19 The ExA referred to the Applicant's response to LSV.3.3, noting Oat Hill Farm, Hilltop House and Cobby Castle Forge, and asked the Applicant to comment on how those were assessed and outcome of that assessment. 4.20 Mrs Fisher, for the Applicant, confirmed that only Hawthorne House [**Post-hearing note:** the property being referred to is Harefield Grange] was assessed in detail and explained that other houses were visited along southern edge of the settlement, and one further around to the east, at the invitation of local residents who specifically asked Mrs Fisher to speak with them and consider their views. Those visits were not part of the accompanied site visit and were separately undertaken by Mrs Fisher following consultation. Mrs Fisher confirmed that the

		results of those visits were not added into the RVAA because those properties are outside the study area and would not have identified effects requiring consideration. 4.21 Mrs Fisher further clarified that for the purpose of the RVAA, the threshold is not whether Hawthorne house [***Post-hearing note:*** *the property being referred to is Harefield Grange*] is significantly affected, but whether the effects would be of the highest magnitude. Mrs Fisher confirmed that it was only the three properties previously mentioned (Oat Hill Farm, Hilltop House and Cobby Castle Forge) that would experience the highest magnitude of effects, not Hawthorne House. 4.22 The ExA asked the Applicant to explain why Oat Hill Farm, Hilltop House and Cobby Castle would experience effects of the highest magnitude. 4.23 Mrs Fisher, for the Applicant, explained that all three properties have close and open views into solar panel areas from windows and parts of the garden, whereas for the properties below that threshold, the views may be more oblique, less aligned with main windows or benefit from a degree of screening. 4.24 The ExA noted the Applicant's submission that Hawthorne House [***Post-hearing note:*** *the property being referred to is Harefield Grange*] is outside the study area but expressed doubt, based on the ExA's visits to other properties located in close proximity to Hawthorne House, that the impact on those houses would be different from the impacts from Hawthorne House. The ExA questioned whether the it will need to take into account of the number of properties that will be similarly effected. 4.25 Mrs Fisher, for the Applicant, submitted that the ExA would not be required to do so because the RVAA considers effects on private amenity and not on the community. Mrs Fisher explained that the effects on areas of public domain are assessed in ES Chapter 7 **[AS-028].** Mrs Fisher submitted that the number of properties effected is not a material consideration - the consideration is whether one or more of the properties is affected to the highest magnitude. 4.26 The ExA asked the Applicant to explain whether it agrees that residential amenity is relevant consideration under the National Policy Statements.

		4.27 The Applicant agreed with the ExA that it would consider the question in relation to residential amenity and would address that later in the hearing, or in the continuation on Thursday should that be appropriate.
	Subject to the Applicant's answer to the ExQ3 questions mentioned above, the ExA may have further questions on the applicability of the Applicant's Environmental Statement Appendix 7.6 Residential Visual Amenity Assessment [APP-137] and the Environmental Masterplan (Revision 4) [REP6b-008] and will want to explore these documents with the Applicant at the Hearing.	4.28 The ExA did not have further questions on the applicability of the Applicant's Environmental Statement Appendix 7.6 Residential Visual Amenity Assessment [APP-137], or the Environmental Masterplan (Revision 4) [REP6b-008].
	The ExA will ask DBC to set out their current position on Landscape and Visual matters, focusing on: • outstanding differences in the methodologies with the Applicant to assess the Landscape & Visual Impacts of the Proposed Development. It will assist the ExA if DBC only discuss differences which lead to a serious variation in the assessment of the impact; and • identifying specific opportunities for further small reductions in panel areas close to sensitive visual receptors which would lead to a large reduction in visual impact.	4.29 The ExA asked DBC to respond to this agenda item. 4.30 Mr Laws, for DBC, then made submissions relating to cumulative effects and worst-case views. Mr Laws submitted that the Applicant has assessed the worst-case views that DBC suggested in its LiR and supplementary information. There are a number of viewpoints which the Applicant has dismissed around Great Stainton for the reason that it won't be possible to see those views on conclusion of the Proposed Development because the footpath will be diverted. Mr Laws submitted that it is not acceptable because the Applicant should be assessing the worst-case. The Applicant makes the argument that it has assessed those worst-case views but that they don't effect the assessment. That is not right because the Applicant has averaged out the effects rather than focus on the worst case, whereas the decision must decide whether any of the impacts of the Proposed Development are unacceptable. 4.31 Mr Laws further submitted that the Applicant also makes the argument that it is the same location so there is the same effect. Mr Laws submitted that views must be assessed, not locations, and that this should make a difference. 4.32 Mr Laws made further submissions relating to the Applicant's assessment of village setting. Mr Laws expressed confusion regarding the Applicant's assessments of setting, noting there are two assessments, one on the village and the surroundings (corresponding to the area to what was done previously in the ES) and the other area which is what is described as the visual setting (which corresponds to what

		DBC has identified). Mr Laws questioned why there are changes between original ES and the new assessment of character and surroundings. Mr Laws submitted that, if the parameters are the same and the same area is being assessed with the same number of panels, there should not be a reduction in effects reported on the villages. 4.33 Mr Laws then made further submissions regarding the geographical area of the village setting. Mr Laws submitted that the assessment should consider not just views but landscape changes as well. Mr Laws expressed disagreement with the Applicant's new assessment of Brafferton, which concludes that the effects on visual setting are moderate or moderate-slight, where as ES Chapter 7 **[APP-030]** acknowledges that virtually every footpath in that area experiences a medium or large effect. Mr Laws also referred to Whinfield solar farm, which Mr Laws submitted comprises 30% of the total assessment area for Brafferton of the visual setting. Mr Laws questioned whether the effects on the setting of Brafferton are less than significant, and why there are changes in the Applicant's recent assessment on character. 4.34 The ExA asked Mr Laws to filter out concerns which don't influence the overall conclusions of the assessments. 4.35 Mr Laws, for DBC, referred to the Applicant's response **[AS-031]** to Ms Tinkler's submissions regarding the assessment of glint and glare and noted the Applicant's position that glint and glare effects from solar panels are considered implicitly in the LVIA. Mr Laws submitted that there is no reference to glint and glare in ES Chapter 7 **[AS-028]**. Mr Laws questioned why the Applicant's photomontages are in poor light conditions if there are no issues with glint and glare. Mr Laws noted the Applicant's conclusion in respect of Great Stainton that there are no long term effects on that section of road because it is assumed that all panels will be screened by existing vegetation. Mr Laws submitted questioned whether the technical assessment would be undermined if the effects of glint and glare are implicit within the LVIA and there are certain assumptions within the Glint and Glare Study **[APP-106].** 4.36 The ExA asked the Applicant to respond to Mr Laws' submissions.

		4.37 Mrs Fisher, for the Applicant, responded to Mr Laws' submissions, each in turn. 4.38 Regarding worst case views and diverted footpaths, Mrs Fisher clarified that the assessment is not the viewpoints. Rather, the assessment is the whole of ES Chapter 7, as informed by the viewpoints. Mrs Fisher confirmed that viewpoints on paths being stopped up will become impossible to access, but the chapter does consider the changes to views from diverted footpaths. Mrs Fisher submitted that the viewpoints are a representation of the Proposed Development from various places, but they are not the sum total of the assessment. 4.39 Regarding village settings, Mrs Fisher explained that the changes to ES Chapter 7 **[AS-029]** arose because the Applicant was asked to provide a specific assessment of effects of the setting of each village, rather than the village and its setting together. The updated assessment was split in two, with one focussing on the core of the village and the second focussing outside. The assessment of visual effects within the setting was then added to the assessment within the village to complete the assessment of visual setting. Mrs Fisher confirmed that was the approach understood to have been requested by DBC and the ExA. 4.40 Regarding the effects on Brafferton, Mrs Fisher noted Mr Laws' reference to the reported effects on the visual setting as 'not significant'. Mrs Fisher submitted that is not correct and explained that the updated assessment in ES Chapter 7 **[AS-029]** identifies the effect on the character of the village setting as 'not significant'. Mrs Fisher confirmed that all visual receptors within 1km of the Proposed Development, including those within the setting of the villages, would experience significant effects, which is agreed with DBC. 4.41 Regarding the Applicant's consideration of Whinfield solar farm, Mrs Fisher confirmed the Applicant would address the matter during the agenda item for cumulative effects. Mrs Fisher confirmed that Whinfield had been taken into account because the LVIA assessment is inherently cumulative. 4.42 Regarding glint and glare, Mrs Fisher explained that in LVIA terms glint and glare is one aspect of the appearance of a solar farm when you look at it, in the same way that wind turbines move. It is an intrinsic characteristic of the development type. Mrs Fisher submitted that the light conditions for the Applicant's photomontages have no bearing on whether glint and glare is considered, rather they are

		representative of the view within the conditions at a point in time. Mrs Fisher confirmed her capability to consider the effects that cannot be seen on the day. 4.43 Mr Minhinick, for the Applicant, made further submissions in response to Mr Laws' reference to "worst case views". Mr Minhinick highlighted for the ExA's attention the Planning Inspectorate's Advice Note 9 on the Rochdale Envelope, which rehearses the genesis of what is referred to as the "worst-case" scenario. Paragraphs 4.9 to 4.13 of the Advice Note confirms that the assessment for EIA should look to establish those parameters likely to result in the maximum adverse effect. Mr Minhinick submitted that there is no suggestion from DBC that those parameters have not been considered by the Applicant; rather, DBC are focussing on the viewpoints from which those effects are considered. Mr Minhinick reiterated that Mrs Fisher has considered those viewpoints. Mr Minhinick submitted that the idea of the "worst case view" is not mandated by guidance and confirmed that the Applicant has considered the worst case scenario across all ES topic areas. 4.44 The ExA referred to previous discussions regarding paragraph 2.10.157 of NPS EN-3 (*Landscape, visual and residential amenity),* which refers to paragraph 5.10.22 of EN-1, and asked the Applicant whether the number of residential receptors needed to be considered. The ExA recorded an action for the Applicant to address this point during the remainder of ISH8 on Tuesday 14 January 2025 or when ISH8 reconvenes on Thursday 16 January 2025. 4.45 Mr Laws, for DBC, submitted that the Applicant's Rule 17 response **[AS-029]** included two incorrect statements. Mr Laws referred to the first few columns of Table 7-13 of that document, which record the effects on the village and the setting of Brafferton during operation of the Proposed Development. Mr Laws submitted that none of those effects are classified as significant, which is a point of disagreement between the Applicant and DBC. 4.46 Mr Laws then referred to Table 7-12 of the original ES Chapter 7 of ES **[APP-030]** and noted that the central rows show changes to the character of Great Stainton. Mr Laws submitted that in the Applicant's updated assessment some of those assessments have been reduced, but it is not understood why. Mr Laws submitted that ultimately it may not make a difference but that the local communities will be concerned to get this correct.

		4.47 Mrs Fisher, for the Applicant, responded by focussing on Brafferton village and referred to paragraphs 7.10.53 to 7.10.58 of the track change ES Chapter 7 **[AS-029].** Mrs Fisher explained that any changes shown in blue relate to the additional viewpoints being considered, whereas the changes in pink relate to the ExA's Rule 17 Request. The original ES Chapter 7 included an assessment of the village and setting as a single receptor. In response to the Rule 17 Request, the Applicant made the changes shown in pink to split the village core away from the setting of the village and provide separate assessments. The updated assessment still assessed village character, but the receptor was split into two (i.e. the doughnut and the hole in the middle). The text shown in black hasn't changed. But there is more of a description of the baseline (in pink). 4.48 Mrs Fisher went then explained that paragraph 7.10.55 includes further assessment of the effects of the Proposed Development on the settlement character of Brafferton during construction, and paragraph 7.10.56 focuses on the effects during operation. Mrs Fisher explained that her additional judgements are shown in pink, including a judgement of negligible effects on the village core because there is no visibility of the Proposed Development from village core. Mrs Fisher clarified that when assessing village and setting separately, the effects of the Proposed Development are on the setting and are moderate, adverse. When the core and the setting are considered together, the majority of the effects fall onto the setting. When the setting is considered alone, the effects are slightly higher. Mrs Fisher reiterated that one receptor – settlement character - has been split into two receptors and a separate judgement given for each. 4.49 Mrs Fisher reiterated that the effects on the character of Brafferton are still not significant. Mrs Fisher referred to the summary Table 7-12 at the end of ES Chapter 7 **[AS-029]** and highlighted that people within the setting of Brafferton (i.e. that are on the public right of way between Lea Hall and Ketton Farm), which is a much larger group of receptors but includes all visual receptor within Brafferton, are identified to experience effects major/moderate, adverse significant effects during all phases. That conclusion has not changed in the revised assessment. Mrs Fisher confirmed that the only change resulting from Appendix 7.8 **[AS-030]** is to identify which receptors within this group fall within the setting of Brafferton.

		4.50 Mr Laws, for DBC, expressed further concern that the magnitude of effect on the village of Great Stainton during operation is reported in Table 7-12 **[AS-029]** as negligible. Mr Laws questioned whether the reduced effect on the re-assessment is realistic. 4.51 The ExA commented that it will have to make a judgement on this issue.
	The ExA will ask the BVAG to set out their current position on Landscape and Visual matters, focusing on: • outstanding differences in the methodologies with the Applicant to assess the Landscape & Visual Impacts of the Proposed Development. It will assist the ExA if BVAG only discuss differences which lead to a serious variation in the assessment of the impact; and • identifying specific opportunities for further small reductions in panel areas close to sensitive visual receptors which would lead to a large reduction in visual impact.	4.52 The ExA asked BVAG to respond to this agenda item. 4.53 Ms Tinkler, for BVAG, confirmed that BVAG and the Applicant have reached a SoCG on Landscape **[REP7-008]**. Ms Tinkler explained that paragraph 2.3 of that Statement provides the context to her oral submissions. 4.54 Ms Tinkler submitted that mitigation is something that has already been discussed and comprises the modification of the priority areas. Ms Tinkler explained that in some regards BVAG's position is that additional screening through vegetation isn't sufficient because it is not possible to state which views would be screened in the longer term, unless there is a high degree of permanence (e.g. ancient woodland). Further, Ms Tinkler explained that in Great Stainton, screening an already open view would result in the total loss of that open view. Ms Tinkler confirmed that the removal of panels is more a matter for the communities, because it is not clear that moving panels would help reduce visual effects. 4.55 Ms Tinkler then referred to the Applicant's RVAA **[APP-137]** and the Landscape Statement of Common Ground **[REP7-008]**. Ms Tinkler noted that the parties have agreed significant adverse effects on visual receptors at certain locations – namely Bishopton, Great Stainton, and public rights of way within 1 km of the Proposed Development. On that basis, Ms Tinkler submitted that it must surely be concluded that residential receptors with clear views of the Proposed Development within 1km would also experience significant adverse visual effects. 4.56 Ms Tinkler then referred to Mrs Fisher's comments about NPS EN-1, regarding residential amenity but not residential visual amenity. Ms Tinkler submitted that the Landscape Institute's Guidance states at paragraph 1.2 states that "*Residential visual amenity is one component of 'residential amenity*". Ms Tinkler referred the ExA to paragraphs 6.22 to 6.29 of BVAG's landscape response **[REP2-044]**.

		4.57 Ms Tinkler agreed with submissions by Mr Laws and referred to Mrs Fisher's submissions regarding 7.10.53 of ES Chapter 7 **[AS-029].** Ms Tinkler submitted that when looking at that paragraph, which is under the heading of 'settlement character', it is clear that Mrs Fisher based her assessment on what she could see – i.e. visual effects – as opposed to the character of the settlement. Ms Tinkler submitted that perception is only a part of that assessment, which also includes noise, disturbance and other factors. Ms Tinkler disagreed with Mrs Fisher's justification for that conclusion. Ms Tinkler submitted that if there are significant effects on views, those are evidently the result of significantly adverse effects on the character of the landscape you are looking at, depending on sensitivity of receptor. In the case of public rights of way and residences, there is a high level of sensitivity. Ms Tinkler proposed to make further points regarding glint and glare via written submission. 4.58 Mrs Fisher, for the Applicant, responded to Ms Tinkler's submissions. Regarding the Applicant's reliance on screening, Mrs Fisher confirmed that the Applicant has set out its position regarding hedges in the assessments. In response to the point that hedges can go up and down, Mrs Fisher confirmed the Outline LEMP **[REP5-020]** includes clear commitments to maintain the hedges in a certain condition including to a design height of 2 meters. 4.59 The ExA asked the Applicant to confirm whether the hedgerow maintenance obligations apply throughout the 40-year lifespan of the Proposed Development. 4.60 Mr Minhinick, for the Applicant, confirmed that there are various management measures secure in the Outline LEMP **[REP5-020].** 4.61 Mrs Fisher, for the Applicant, responded to Ms Tinkler's submissions regarding the screening of open views and confirmed there is no direct correlation. 4.62 Mrs Fisher then referred to Ms Tinkler's submissions regarding EN-1 and the Landscape Institute's Guidance and agreed that residential visual amenity is one aspect of residential amenity. 4.63 Mrs Fisher then responded Ms Tinkler's submissions concerning the assessment of the settlement character of Brafferton in ES Chapter 7 **[AS-029]**. One difference between the effects reported is the sensitivity of the receptors. Mrs Fisher

		explained that, when considering Great Stainton and Bishopton, there are a couple of effects which are increased because Bishopton is a more sensitive receptor due to its conservation area and because Great Stainton is more open and elevated with inward and outward visibility, so both villages slightly more sensitive than Brafferton. Mrs Fisher illustrated the difference in effects by explaining that ES Figure 7.6 **[APP-068]** shows that the panel areas just tip into the outer edges of Brafferton's setting to the south-east and north of village, but neither area has a strong visual connection with the village. Whereas at Great Stainton there is a much more extensive area of panels within the setting and those areas have a stronger visual relationship with village. Similarly, in Bishopton there is a more extensive and closer area of solar panels adjacent to key public open space, being Mill Lane and the school. Mrs Fisher submitted that this difference in sensitivity and effects distinguishes the not-significant effect at Brafferton. 4.64 Mr Minhinick, for the Applicant, requested for Ms Tinkler to outline BVAG's points to be submitted in writing regarding glint and glare. 4.65 Ms Tinkler, for BVAG, summarised her submissions regarding glint and glare. Ms Tinkler referred to the ExA's question for the Applicant to confirm whether the solar panels are non-reflective, which the Applicant confirmed. the App confirmed all panels are non-reflective. Ms Tinkler then referred to BVAG's post-hearing submissions **[REP6-036]** and submitted there is no formal guidance for carrying out glint and glare assessments. Ms Tinkler submitted that although panels are absorbing, that is not the same as being non-reflective. Ms Tinkler submitted that BVAG does not agree with footnote 93 of para 2.10.102 of NPS EN-3, which states that "*Most commercially available solar panels are designed with anti-reflective glass or are produced with anti-reflective coating and have a reflective capacity that is generally equal to or less hazardous than other objects typically found in the outdoor environment, such as bodies of water or glass buildings".* Ms Tinkler submitted that the Applicant's Glint and Glare Study **[APP-106]** states that reflections by solar panels have a reflection characteristic similar to that of a mirror. 4.66 Ms Tinkler then submitted that the glint and glare study did not assess effects from public rights of way, as the study focused on residential amenity and not necessarily residential visual amenity and safety in terms of the likelihood of glint and glare impacting drivers, pilots and train drivers. Ms Tinkler submitted that the study

		assumed that there are not many users of the local roads and public rights of way. Ms Tinkler referred to paragraph 2.10.158 of NPS EN-3 which states that the Secretary of State should assess the potential impact of glint and glare on, amongst other things, public rights of way. Ms Tinkler submitted that EN-3 does not state that glint and glare should be restricted to safety matters. 4.67 Ms Tinkler then referred to the Applicant's submissions that glint and glare are considered inherently in LVIA and submitted that there is no mention in the Applicants LVIA of glint and glare. Ms Tinkler submitted that glint and glare does require a different type of assessment and questioned why, if there is no consideration of glint and glare in the LVIA, there was no cross-referencing between the Glint and Glare Study **[APP-106]** and the LVIA **[APP-030]**. Ms Tinkler submitted that the Applicant has not considered relevant effects on relevant receptors, as stated in the Landscape Statement of Common Ground **[REP7-008].** Ms Tinkler concluded that the Proposed Development would give rise to significant adverse effects within 1km including significant adverse effects arising from G&G. 4.68 Mr Minhinick, for the Applicant, confirmed that the Applicant will provide further written comments at the final deadline. 4.69 Mrs Fisher, for the Applicant, responded in-brief to Ms Tinkler's submission that glint and glare is a different type of assessment by confirming that the alternative type of assessment is a glint and glare study, rather than an LVIA. Mrs Fisher also responded to Ms Tinkler's identification of significant visual impacts arising from glint and glare and confirmed that the Applicant does not agree that effects from glint and glare are significant. 4.70 Mr Taylor, for Great Stainton Parish Meeting, submitted that 19 of 27 houses in Great Stainton will be significantly effected, being 70% of the village. Mr Taylor referred to earlier submissions that Hawthorne House will be most significantly effected and submitted that this is incorrect – the most significantly effected house will be Harefield House [***Post-hearing note:*** *the Applicant understands the property being referred to is Harefield Grange].* Mr Taylor also expressed doubt that hedge screening will be effective, noting that it is currently winter and he can see panel areas from his windows.

		4.71 Mrs Fisher, for the Applicant, confirmed that the Applicant meant to refer to Harefield, not Hawthorn – which was corrected in earlier submission to the examination. A revised RVAA will be submitted by the Applicant.
	The Applicant will then be given the opportunity to respond to DBC and BVAG's positions.	4.72 This agenda item was not expressly addressed by the Applicant.
	The ExA then proposes to ask the Applicant to demonstrate how the mitigation hierarchy has been fully applied. The Applicant should focus on justifying that all residual impacts are those that cannot be avoided, reduced or mitigated, with a particular focus on identifying opportunities for further reducing panel areas close to sensitive visual receptors.	4.73 The ExA asked the Applicant to respond to the agenda item. *4.74* Mr Minhinick, for the Applicant, explained the policy context to the Applicant's consideration of the mitigation hierarchy. Mr Minhinick submitted that the Applicant acknowledges that there are a range of residual significant effects associated with the Proposed Development. Despite the approach that it has taken to site selection, the consideration of alternatives, and the careful design of the Proposed Development and the incorporation of reasonable mitigation measures, it has not been possible to address all such residual effects. 4.75 Mr Minhinick submitted that those residual effects are temporary and reversible – albeit it is acknowledged those effects would apply in some cases for many years. That is a situation which has been common with all of the recent solar DCO decisions which have been taken by the Secretary of State – and all of their decision letters on such matters approach the situation within the same framework provided for by the NPS in place at the time of those decisions. Mr Minhinick acknowledged that the Applicant has previously addressed these policy matters and identified a series of key extracts for reference purposes. 4.76 Mr Minhinick referred to NPS – EN-1 and submitted that the NPS recognises that developments of this sort (i.e. NSIPs delivering clean generating capacity to meet net zero) may have some residual significant effects. There is a consistent theme within EN-1 that the delivery of those policy benefits will not be possible without those impacts, and that where they occur the benefits of the development will generally be taken to outweigh those benefits. 4.77 Mr Minhinick then referred to several paragraphs from NPS EN-1, being: 4.77.1 Paragraph 3.1.1, which states: "*This Part of the NPS explains why the government sees a need for significant amounts of new large-scale energy*

		infrastructure to meet its energy objectives and why the government considers that the need for such infrastructure is urgent." 4.77.2 Paragraph 3.1.2, which states "*However, it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts. These effects will be minimised by the application of policy set out in Parts 4 and 5 of this NPS. See also Part 2 of each technology specific NPS.*" 4.77.3 Paragraph 5.10.13, which states "*All proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites.*" 4.78 Mr Minhinick then referred to paragraph 2.10.17 of NPS EN-3, which states "*Along with associated infrastructure, a solar farm requires between 2 to 4 acres for each MW of output. A typical 50MW solar farm will consist of around 100,000 to 150,000 panels and cover between 125 to 200 acres. However, this will vary significantly depending on the site, with some being larger and some being smaller. This is also expected to change over time as the technology continues to evolve to become more efficient. Nevertheless, this scale of development will inevitably have impacts, particularly if sited in rural areas.*" 4.79 Mr Minhinick then referred to several further paragraphs from NPS EN-1, being: 4.79.1 Paragraph 3.3.63, which states: "*Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible.*" *4.79.2* Paragraph 5.10.6, which states "*Projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate."* 4.80 Mr Minhinick then submitted that specific attention is given to the hierarchy of landscape receptors in EN-1 and referred to paragraph 5.10.12, which states

		"*Outside nationally designated areas, there are local landscapes that may be highly valued locally. Where a local development document in England or a local development plan in Wales has policies based on landscape or waterscape character assessment, these should be paid particular attention. However, locally valued landscapes should not be used in themselves to refuse consent, as this may unduly restrict acceptable development.*" 4.81 Mr Minhinick finally submitted that it is clear that impacts on non-designated landscapes and other visual receptors of equivalent sensitivity would be highly unlikely to ever justify the refusal of development consent for renewable energy development. 4.82 Mrs Fisher, for the Applicant, then explained that the Applicant has previously provided a response in relation to the application of the mitigation hierarchy for significantly affected landscape and visual receptors at LSV.1.7 **[REP2-007].** Mrs Fisher noted that the agenda specifically focusses on 'sensitive visual receptors'. 4.83 Mrs Fisher then explained that the mitigation hierarchy for a development does not exist independently for each environmental topic. There is a balance which needs to be made between effects on different receptor types – for example, the use of one area of land may be slightly worse in terms of visual effects but if the only alternative area of land available would give rise to similarly or more detrimental effects on heritage, then a decision needs to be made between the two choices. 4.84 Mrs Fisher submitted that, focussing specifically on 'sensitive visual receptors' as requested, the most sensitive visual receptors are those where views are of national or international value (i.e. within nationally designated landscapes or those looking at nationally or internationally recognised vistas). Mrs Fisher confirmed that none of these are affected by the Proposed Development because such effects were avoided at the outset through site selection. 4.85 Mrs Fisher submitted that the next most sensitive visual receptors are those where views are of regional value. For the Proposed Development, these include people within Bishopton Conservation Area (within the heritage designation), and within the locally designated landscapes in the study area. Mrs Fisher explained that effects on these visual receptors have been:

		4.85.1 avoided, by not siting the Proposed Development within the designated areas; 4.85.2 where effects would be visible, those effects have been reduced via the set back of panels from the school playing fields and from the north east edge of Panel Area E, as set out at Table 4-1 items 7 and 8 in the Energy Generation and Design Evolution Document **[REP2-010]** and by the reduction in solar panel heights from 4.35 to 3.5m maximum; and 4.85.3 mitigated via proposed planting around the panel areas in these locations. 4.86 Mrs Fisher then submitted that the next most sensitive visual receptors are those where views are of Community value. As for any populated part of England, these receptors are widespread across the LVIA study area. The most sensitive receptors in this group are those with a high susceptibility to visual changes – for example, recreational walkers and local residents near their homes. Due to the widespread nature of these receptors, avoidance of effects was not viable, and the Applicant's efforts focussed on reduction and mitigation. Mrs Fisher explained that the primary method of reducing effects was the reduction in the maximum heights of the solar areas, and siting the on-site substation away from villages and public rights of way. Where opportunities were identified to reduce small areas of panels and achieve a marked reduction of effects, these were taken, particularly where these also had a secondary mitigation benefit such as reducing effects on settlement character, or reducing effects for people in their homes. For example, to the south of Brafferton Table 4-1 item 1 in the Energy Generation and Design Evolution Document **[REP2-010]**, and to the south and east of Great Stainton (items 3 and 5 in Table 4-1). Mrs Fisher explained that effects were also mitigated via planting proposals to screen (or partly screen) the Proposed Development and by re-routing public rights of way which would otherwise pass across solar fields between two openly visible areas of solar panels during early operation. 4.87 Mrs Fisher then explained that the next most sensitive group of visual receptors are those of Medium susceptibility, primarily being local road users. Mrs Fisher noted that this group is relatively widespread within the study area and explained that, given the relatively low sensitivity of this receptor group compared to others described above, mitigation focussed on the areas of most open and closest views

		where there were also other mitigation or enhancement opportunities arising – e.g. north of Panel Area F (Table 4-1 item 9 in the Energy Generation and Design Evolution Document **[REP2-010]**), South of Great Stainton (Table 4-2 items 11-13), and Mill Lane (Table 4-2 items 16-17). Mrs Fisher explained that, given the prevalence of roadside hedges, effects for this receptor group were also notably reduced by the reduction in panel area height and would be further mitigated by growing existing hedges around panel areas taller and gapping up where existing hedges are sparse. 4.88 Mrs Fisher then explained that the least sensitive visual receptors are users of main roads and submitted that there are none with notable visibility of the Proposed Development and no mitigation was deemed necessary. 4.89 Mrs Fisher finally addressed private amenity, and explained that views from private property (including homes) are a separate matter as discussed previously submitted that detailed consideration is only required where effects would be of the highest magnitude. Mrs Fisher submitted that for all but three homes, effects of the highest magnitude would be avoided through site selection. For the three homes where effects would be of the highest magnitude (Oat Hill Farm, Cobby Castle Forge and Hilltop House), Mrs Fisher submitted that effects which exceed the RVA threshold have been avoided via a mix of measures to reduce the visual presence and proximity of the panel areas (i.e. via height reduction and set-backs), and would be further mitigated by proposed planting. 4.90 The ExA recorded an action for the Applicant to address residential visual amenity in connection with the NPS when ISH8 reconvenes on Thursday 16 January 2025. 4.91 The ExA asked the Applicant to explain whether the plants to be used for screening have been agree with the local authority as to effectiveness and responsiveness. 4.92 Mrs Fisher, for the Applicant, confirmed that this matter has not been addressed at that level of detail and would be dealt with at detailed design post-consent. 4.93 Mr Anderson, for BVAG, requested for to submit a list of issues or unanswered questions at Deadline 9.

		4.94 The ExA confirmed that if any new evidence is to be submitted, it must be submitted on 17 January to allow for responses, according to the principles of natural justice. 4.95 Mr Minhinick, for the Applicant, noted that the Applicant is awaiting a response to the Statement of Common Ground with BVAG and that a response to this could be the appropriate way to identify any outstanding points. 4.96 Mr Anderson, for BVAG, confirmed that the Statement of Common Ground was being progressed and there the intention was to return the draft statement of common group that evening. 4.97 The ExA explained that it had heard a significant number of arguments about landscape and visual effects and that the ExA will need to strike a balance between the benefit and harm of the Proposed Development. The ExA noted that there has been discussion around communities' requests in that matter and being able to put together some form of protocol for deciding any reduction in land take where allowed by advances in technology. The ExA encouraged the parties to agree some wording for the ExA to consider. 4.98 The ExA recorded an action for the Applicant to resubmit the RVAA **[APP-137]** with the correct property names.
	In the light of the Applicant's responses to questions under item 3 'Principle of the Proposed Development' regarding the proposed level of overplanting, the ExA may explore options for further mitigation to reduce visual impacts of the Proposed Development.	4.99 No further questions were raised by the ExA under this agenda item.
	The ExA will give the Local Host Authorities (LHAs) the opportunity to comment.	4.100 The ExA asked DBC to identify his key substantive concerns with the Applicant's methodology and conclusions regarding the landscape and visual assessment. 4.101 Mr Laws, for DBC, directed the ExA to page 26 of the Applicant's revised Chapter 7 LVIA **[AS-029]** and the indication that DBC's viewpoints 5 and 6 were not applicable. Mr Laws submitted that the views from that location could be the best in the whole study area. Mr Laws acknowledged that not including those viewpoints

		might not affect the overall significance of effect, but expressed concerns that the Applicant "averages out" views across the study area. Mr Laws submitted that the Applicant should take account of the worst-case views and the decision maker may decide that a worst case view is unacceptable. 4.102 Mrs Fisher, for the Applicant, explained that DBC's viewpoints 5 and 6 are the same viewpoint. Mrs Fisher also explained that it was not the case that the views from those viewpoints had not been taken into account by the Applicant and confirmed that they have been. Mrs Fisher acknowledged that there is a technical point which is that viewpoints should be placed where a person will experience the view, and those views are then considered. Mrs Fisher submitted that as viewpoints 5 and 6 will be within the solar farm, they are not representative viewpoints as members of the public will not be able to access that location. 4.103 The parties to examination then spent some time identifying the location of viewpoint 5 and 6, and the Applicant's nearby viewpoint 17, with reference to a number of documents. Those included DBC's Hearing Action Point (ISH4) submission **[REP5-036]**, DBC's appendix to its Local Impact Report Landscape and Visual Amenity **[REP1-021]** and the Applicant's Environmental Statement Figure 7.9 Visualisations 12-18 **[APP-072].** 4.104 The ExA referred to the first row of Table 7-10 of the amended ES chapter 7 **[AS-029]** and noting that it refers to a large magnitude of effect and that the different viewpoint locations discussed during the hearing reflect slight differences in location. The ExA asked Mr Laws to explain what difference in conclusion there would be to that row if the Council's viewpoints were used for visualisation. 4.105 Mr Laws, for DBC, submitted that there would be no difference to the overall conclusion, but that his point was not about the overall significance, it was about the worst case. Mr Laws submitted that the relevant question is whether there are "unacceptable views" contrary to the EIA regulations. Mr Laws reiterated his position that these are the most extensive views across the study area, and the effects on the longer distance views have not been taken into account by the Applicant. 4.106 Mrs Fisher, for the Applicant, acknowledged that views will be blocked by solar panels where a footpath passes through solar panels but submitted that, as

		Viewpoint 17 demonstrates (and as set out in the design documents), the Proposed Development has been designed so that outward views will be retained over the Proposed Development to maintain the longer distance views to the Cleveland hills and the coast. This is clearly shown in the Figure 7.9 **[APP-072]**. Mrs Fisher acknowledged that where a footpath passes through the solar farm, the panels will screen the views but confirmed that this will not be the case for the whole of the route. Mrs Fisher submitted that for the stretch of footpath coming out of Great Stainton village, those longer distance views will be retained and panels have been set back specifically to retain those outwards views. 4.107 Mr Minhinick, for the Applicant, noted the common ground between the Applicant and Mr Laws, being that the Applicant has identified in the EIA and LVIA the likely significant effects of the Proposed Development on the local environment. Mr Minhinick submitted that is one of the core requirements of the EIA Regulations and confirmed the Applicant has done that in the LVIA and has identified likely significant effects, as described by Mary Fisher in this location. Mr Minhinick confirmed those effects are considered and reported on in ES Chapter 7 **[APP-030**]. 4.108 Mr Minhinick then referred to NPS EN-1 within the policy and legal framework and submitted that section 104 of the Planning Act 2008 directs the Secretary of State to make their decisions in accordance with several factors and primarily in accordance with the relevant NPS, where it is in place. Mr Minhinick confirmed that the Applicant has done what the NPS mandates. 4.109 Mr Minhinick further submitted that the Applicant has considered whether any mitigation can be applied to address that effect in accordance with the mitigation hierarchy. Mr Minhinick explained that, as an example of how mitigation is applied, Mrs Fisher explained how consideration has been given to outward views from a footpath to ensure those long-distance views will not be significantly affected by the Proposed Development. Mr Minhinick submitted that mitigation has therefore been applied as required by the NPS. 4.110 Mr Minhinick then referred to Mr Laws' submissions regarding 'unacceptable impacts' and confirmed this as a point of difference between the Applicant and Mr Laws. Mr Minhinick clarified that the Applicant does not recognise those two terms

		forming part of the policy context for the determination of this application. Mr Minhinick explained that where the NPS requires effects to be assessed in the LVIA, which the Applicant has done, the mitigation hierarchy is to be applied and if there are residual effects after the application of mitigation, those go on to be considered by the ExA and the Secretary of State in the wider planning context and are weighed against the benefits of and urgent need for the Proposed Development.
	The ExA will then give the Bishopton Villages Action Group (BVAG) the opportunity to comment. The ExA asks that the BVAG concentrates on the main outstanding areas of disagreement on landscape & visual matters.	4.111 Ms Tinkler, for BVAG, made submissions relating to the consideration of viewpoints. Ms Tinkler submitted that when looking at a photo or illustration of a view, it can seem easy to make decisions about whether a change would be high enough to be significant, but it is important to remember that the level of effect is determined by the value of the view and the view's susceptibility to the change of the type of development proposed. Ms Tinkler submitted that, if there are significant effects on views, that is derived from significant effects on landscape character, and therefore the value of the landscape and its susceptibility to change must be taken into account. 4.112 Ms Tinkler further submitted that an assessment should not rely only on what is seen, as it important to understand that what is being looked at might look ordinary or scrubby but may be valuable for reasons that are not obvious. For example, views from Great Stainton and the proposed mitigation to retain the open view long distance view, albeit across the panels and infrastructure. Ms Tinkler questioned whether the recent discussions about scheme modifications and additional screening would involve those views being screened to alleviate the concerns of the residents of Great Stainton. 4.113 Ms Tinkler then referred to the Applicant's submissions that "unacceptable impacts" do not form part of the policy context and submitted that para 163(b) of the NPPF states that "*When determining planning applications for renewable and low carbon development, local planning authorities should: (b) approve the application if its impacts are (or can be made) acceptable".* 4.114 The ExA noted Ms Tinkler's response and confirmed it was conscious not to rely only on photographs during the site visit. The ExA asked the Applicant to respond to Ms Tinkler's submissions regarding screening.

		4.115 Mr Minhinick, for the Applicant, referred to Ms Tinkler's mention of recent discussions and submitted that those discussions have been in-part the genesis of the additional drafting that has been added to paragraph 8.4 of the Design Approach Document **[REP5-024]**. Mr Minhinick explained the context of the conversation was the applicant talking to local communities about potential reductions that could be made in the future which technological advancements may enable. Mr Minhinick noted that the Applicant has also talked to and offered to the local community the option of additional screening to be provided in certain locations, including around Great Stainton. Mr Minhinick confirmed that additional screening is not part of the Applicant's design because, when reviewing the EIA process and applying the mitigation hierarchy, additional screening in that location might screen solar panels but also have its own negative effects. Mr Minhinick explained that the Applicant understanding is that communities have indicated they do not wish for that sort of additional screening. Mr Minhinick confirmed that none of the parties think the screening will be provided as an additional layer of mitigation. 4.116 Mr Minhinick then responded to Ms Tinkler's submissions regarding the NPPF. Mr Minhinick clarified that the NPPF is the core document for TCPA applications but is not the primary policy for the determination of NSIPs. Rather, the primary policies for NSIPs are the NPS. Mr Minhinick noted that section 104 of the Planning Act 2008 also requires the Secretary of State to take into account any other matters which the Secretary of State thinks are relevant to their decision. Mr Minhinick concluded that the NPS is the primary document for the Application and references to the NPPF should be read in that context. 4.117 Subsequently during ISH8, Mr Minhinick, further clarified that the wording of paragraph 163(b) of the NPPF provided by Ms Tinkler is not in the current version of the NPPF. Mr Minhinick explained that the NPPF dated December 2023 included the words "*approve the application if its impacts are (or can be made) acceptable*", but that the government had released a new version of the NPPF in December 2024 in which the old paragraph 163 is substantively contained in new paragraph 168. Mr Minhinick noted that the phraseology referred to by Ms Tinkler is no longer included and confirmed that current paragraph 168(b) states that "*When determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should: (b) recognise that small-*

		scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions". Mr Minhinick concluded that, regardless of the status of the NPPF, the language pointed to by Ms Tinker is no longer part of the NPPF. 4.118 Mr Taylor, for Great Stainton Parish Meeting (GSPM), confirmed that Mr Minhinick's submissions regarding discussions around additional screening were correct. Mr Taylor noted the difference between the GSPM and the Applicant's position regarding the removal of panel area and submitted that, even if the Applicant's panel areas are removed, there will not need to be the same level of screening to the edge of Great Stainton, which would retain the views. 4.119 The ExA asked Mr Laws to pinpoint specific examples of his disagreement with the Applicant's methodology and the outcome of the Applicant's assessment of character and setting. 4.120 Mr Laws, for DBC, explained that he does not agree with the Applicant's assessment of the setting of Brafferton because the assessment was primarily based on the effect on views. Mr Laws submitted that the effect on setting should also take into account changes in the character of that setting. Mr Laws confirmed that the parties agree on the extent of the visual setting, and that the Applicant has used DBC's defined limits. Mr Laws reiterated his position that the Applicant should account for the effects on the landscape of that setting. Mr Laws submitted that, on the basis of his calculations, 30% of the land within that setting would be panel area and in addition to the Whinfield solar farm, the cumulative effects within that setting. Mr Laws explained his conclusion that the Applicant's assessment on visual setting was understated because only visual changes, and not changes in landscape character and land use, have been assessed. In addition, Mr Laws submitted that the Applicant has not considered the cumulative effects from Whinfield solar farm. 4.121 The ExA asked Mr Laws to clarify his view on whether the Applicant has discharged the requirements of the EIA Regulations for the LVIA. 4.122 Mr Laws, for DBC, responded that there is no agreed methodology for the assessment of setting and that most professionals would agree that it involves the assessment of changes to views and the landscape.

		4.123 Mr Laws referred to a plan showing the viewpoints at Panel Area A including Whinfield Solar Farm and noted that the plan does not show the boundary of the visual setting (i.e. the extent of the receptor being assessed) or the panel areas. 4.124 Mr Laws then referred to ES Appendix 7.8 (Effects on settings of settlements) **[AS-030]**, being the Applicant's plan showing the boundaries of village setting. Mr Laws summarised that the parties agree about the boundaries of visual setting, and the Applicant has then considered the assessment of the views within that setting and used that to conclude assessment of effects on visual setting. Mr Laws submitted that the Applicant should also have taken into account landscape character changes within that boundary area and the fact that Whinfield Solar farm falls within that area. Therefore, the Applicant has understated the effect on visual setting. 4.125 Mrs Fisher, for the Applicant, responded by confirming that the assessment of effects on the character of the setting was in the original ES Chapter 7 **[APP-030]** and relates to the smaller area shown in red on the plan **[AS-030].** Mrs Fisher explained that it is not appropriate to consider character in the wider visual setting because the area of landscape judged to be important to the character of the village is the smaller area outlined in red. The wider area in blue is relevant to the visual setting and wider landscape character area. Mrs Fisher confirmed that the character of the landscape within the blue-line area is considered, and significant reports are reported, in the LVIA (ES Chapter 7), and that the assessment took into account Whinfield solar farm, which forms part of dynamic baseline. Mrs Fisher clarified that the difference between the original ES and revised ES is that the effects in terms of character on red area were split in two to distinguish the core of village from the surrounding landscape. 4.126 Mrs Fisher summarised that the root of the parties' disagreement is that Mr Laws' considers that the Applicant should have reported effects on the wider blue area as part of the effects on the setting of Brafferton, whereas the Applicant has considered those effects as part of the host landscape character area. 4.127 Mrs Fisher reiterated that Whinfield solar farm was considered as part of the dynamic baseline in pall parts of the assessment in the LVIA. The LVIA refers to Whinfield solar farm where it is seen from the view points and taken into account.

		4.128 The ExA noted there is a difference in professional approach to this matter and the ExA will have to form its own conclusion. 4.129 Mr Laws, for DBC, expressed agreement that the parties are unlikely to reach agreement on the significance of effect on the change of the setting of Brafferton. Mr Laws submitted that his comments also apply to other villages, but there is only a difference of opinion with Brafferton. 4.130 Mr Laws made further submissions that the App has also undertaken an assessment of the character of the villages using the same parameters as in the first ES Chapter 7 **[APP-030]**, being the village plus the immediate surroundings, as shown the redline area within ES Appendix 7.8 **[AS-030]**. Mr Laws expressed confusion that, although that is the same area as within the original LVIA, some of the assessments of the villages have now been reduced. Mr Laws referred to Table 7-12 of the updated LVIA **[AS-029]** and questioned why the magnitude of impact for changes to the character of Great Stainton during operation has been reduced from significant to negligible. 4.131 Mrs Fisher, for the Applicant, responded that this discussion illustrates the reason why in the original ES the assessment of effects on the village and setting were included together. Mrs Fisher explained that the separate assessment was only done to provide an explicit assessment of the setting alone., as requested. Mrs Fisher submitted her view that the first assessment, where village and setting were considered together to identify the effect, was the better approach. Mrs Fisher explained that by splitting the core from the surrounding area, the assessment considered the experience of going to the village but being unaware of its setting. The updated assessment of the village comes out as negligible because within the village there are no open views of the Proposed Development. For example, if you were teleported to the village, you may not be aware of the solar farm. Mrs Fisher explained that, as that is not a realistic scenario, it is better to combine the village and the setting, which is more representative if you are a local resident. That is why the assessment of Great Stainton village has gone down, whereas the assessment of Great Stainton setting during operation hasn't increased. In contrast, the effects on the setting of Brafferton during operation have increased as a result of the split

		assessment. Mrs Fisher clarified that effects have been split strictly, to avoid effects being inherited across each other.
	The ExA will then give an opportunity for other IPs to comment on any issues raised under this point of the Agenda. The ExA requests that the IPs concentrate on the main outstanding areas of disagreement.	4.132 No further comments were raised at this point in the agenda.
	[Post-hearing note: *Upon the reconvening of ISH8 on Thursday 16 January 2025, the hearing further addressed the matter of the Applicant's Residential Visual Amenity Assessment (RVAA)*]	4.133 The ExA asked the Applicant to define the RVA threshold with specific reference to the ES and agreed for the Applicant to present its explanation of the Applicant's approach to the RVAA. 4.134 Mrs Fisher, for the Applicant, provided a definition of the RVA threshold with reference to the RVAA in ES Appendix 7.6 **[APP-137]**. Mrs Fisher explained the definition of the threshold in the ES is set out in paragraph 2 of Appendix 7.6, which is an extract of the Landscape Institute's *Technical Guidance Note 2/19: residential visual amenity assessment* (2019), which states – "*Changes in views and visual amenity are considered in the planning process. In respect of private views and visual amenity, it is widely known that, no one has 'a right to a view.' … It is not uncommon for significant adverse effects on views and visual amenity to be experienced by people at their place of residence as a result of introducing a new development into the landscape. In itself this does not necessarily cause particular planning concern. However, there are situations where the effect on the outlook / visual amenity of a residential property is so great that it is not generally considered to be in the public interest to permit such conditions to occur where they did not exist before*." 4.135 Mrs Fisher explained that the Guidance does not define a clear, precise definition of "this happens when" – it is very much a judgment-based approach. However, the Guidance gives are a few examples of development being overbearing or giving the feeling of being completely surrounded. 4.136 Mrs Fisher then explained the conclusion of the RVAA, being that none of the effects that the assessed properties would exceed that threshold, and that none of

		the properties will become an unattractive place to live when judged objectively in the public interest (which is another description of the RVA threshold). 4.137 Mrs Fisher then explained key points from the Applicant's explanatory note ***[Post hearing note:*** *that document subsequently submitted at Deadline 8, but at the time of writing no PINS reference number has been allocated****]*** on the RVAA, being: 4.137.1 the difference between landscape and visual effects and effects on residential visual amenity. Mrs Fisher explained that effects on landscape and visual amenity are impacts on public views and the experience of them is considered in the LVIA. In contrast, residential visual amenity is part of the wider experience of residential amenity in a home and specifically relates to private residences. So there are two separate sets of impacts. 4.137.2 Mrs Fisher explained that there has long been a test in the planning process for considering the relevance of impacts on residential visual amenity, and Mrs Fisher recalled being taught about it as a new landscape architect in approximately 2001-2002 in relation to a housing project. Mrs Fisher explained that she personally deals with this type of assessment very frequently in her work relating to onshore wind farms, where this residential visual amenity is frequently an issue. Mrs Fisher noted that she contributed to the Guidance. 4.137.3 Mrs Fisher explained that the threshold test has long been known as the 'Lavender Test', named after inspector David lavender, who dealt with this point in a series of onshore wind farm appeals in the 2000s. It is a well understood test and basically sets out that visual impacts on private residential amenity are not relevant to planning decisions based on the public interest, except where the impacts would make a home an unattractive place to live when judged objectively in the public interest. Mrs Fisher clarified the distinction with significant effects, as the test is a higher level of impact, and that was quite clearly set out by the Secretary of State in the Burnt House Farm decision, which states: "*the Secretary of State agrees with the inspector that serious harmed living conditions, which might lead to a recommendation for planning permission to be refused in the public interest, is a more stringent requirement than the identification of a significant adverse*

		impact. He further agrees that when assessing the effect on visual outlook, it is helpful to pose the question, would the proposal affect the outlook of these residents to such an extent are you be so unpleasant, overwhelming and oppressive that this would be become an unattractive place to live." Mrs Fisher submitted that this description very clearly provides a sense of the uncomfortable conditions that would need to arise as a result of the visual presence of a development and that is the judgment that the assessor is making in undertaking an RVAA. Mrs Fisher clarified that this is a separate set of considerations that then feeds into the understanding of effects on residential immunity in the round, which incorporates other factors such as noise, blended glare, dust, air quality, as in the LVIA and the EIA. 4.138 The ExA asked the Applicant to explain whether it is relevant for the Secretary of State to consider the number of residential properties that are affected. 4.139 Mrs Fisher, for the Applicant, explained that the number of residential properties affected is only a relevant consideration for residential visual amenity where there are properties that exceed the threshold. Any properties which are below the threshold do not require consideration. Mrs Fisher clarified that if the ExA disagrees with the findings of the assessment and considers that one or more of the properties do exceed the threshold, then the ExA should take them into consideration.
5. Draft Development Consent Order (dDCO)		
	The purpose of this item is to examine the draft DCO (dDCO) articles and schedules.	5 No submissions were made on the agenda for item five.
	The ExA has published a Rule 17 request for further information [PD-015] in relation to the dDCO. Consequently, the issues to be covered under this item of the Agenda will depend greatly on the Applicant's response to the ExA's request and may change from the items included below.	5.1 No submissions were made.
	The ExA will conduct a review of the latest version of the dDCO, due to be received by the 08 January	5.2 No submissions were made.

	2025 and will then ask further clarifications from the Applicant on the detailed wording of any articles or specific sections of the dDCO.	
	The ExA will ask the Applicant to confirm how, in light of the latest change request, the dDCO has been updated in order to accommodate and reflect the expansion of the Order limits and, consequently, of powers, particularly in relation to Schedule 3 - Streets subject to Street Works, Schedule 4 - Alteration of Streets, Schedule 2A Counter-notice requiring purchase of land.	5.3 The ExA asked the Applicant to confirm how, in light of the latest change request, the dDCO has been updated in order to accommodate and reflect the expansion of the Order limits and, consequently, of powers, particularly in relation to Schedule 3 - Streets subject to Street Works, Schedule 4 - Alteration of Streets, Schedule 2A Counter-notice requiring purchase of land. 5.4 Mr. Minhinick, for the Applicant, referred to the track changes version of the dDCO submitted at Deadline 6b [REP6b-010] and the accompanying Schedule of Changes REP7b-013. The appendment is reflected by the addition of plot numbers to the relevant Schedule of the dDCO. A new Article, Article 25, has also been included in line with other dDCOs where the acquisition of subsoil interests are expected. This additional Article 25 provides additional clarity but does not fundamentally amend the nature of the rights sought. Mr. Minhinick, for the Applicant, explained that the expansion of the Order Limited is reflected in the revised plans which were submitted as part of the change request, which will be secured in the dDCO if it is made.
	The ExA may ask questions in relation to the applicability of specific Articles and why these have been included in the dDCO and also how issues and concerns raised in the ES have been included and considered as part of the dDCO.	5.5 No submissions were made.
	The ExA will then ask for an update from the Applicant in relation to Schedule 11 Protective Provisions and will ask for comments from any Statutory Undertakers. The ExA will expect these to all be finalised or close to be finalised, considering the EXA's statutory duty to complete the Examination by the end of the period of six months.	5.6 The ExA asked for an update from the Applicant in relation to Schedule 11 Protective Provisions. 5.7 Mr. Minhinick, for the Applicant, referred to the Statutory Undertaker's Position Statement [REP6-016 Revision 5]. Mr. Minhinick, for the Applicant, explained that the Applicant intended to submit an updated version of the dDCO at Deadline 8 and the Statutory Undertaker's Position Statement [REP6-016] which would reflect the progress to be updated on.

		5.8 Mr. Minhinick, for the Applicant, explained that the Applicant's general approach to statutory undertaker's apparatus within the Order limits was to accommodate them within the project design. The Applicant does not presently propose to make alterations or diversions to existing apparatus of statutory undertakers. Mr. Minhinick, for the Applicant, noted that the Applicant is seeking powers to carry out such diversions should they be necessary, subject to the requirements of Schedule 11 Protective Provisions, but the Applicant does not expect to exercise those powers. 5.9 Mr. Minhinick, for the Applicant, explained that the Applicant has already included within Schedule 11 of the dDCO standard form protective provisions which will automatically benefit certain classes of statutory undertakers regardless of any future changes made. Specifically, Part 1 of Schedule 11 relates to electricity, gas, water and sewerage undertakers, Part 2 of Schedule 11 relates to the operators of electronic communications code apparatus, and Part 3 of Schedule 11 relates to lead local flood authorities. Notwithstanding the inclusion of these default protective provisions, the Applicant has been engaging with statutory undertakers for a considerable amount of time to agree any additional bespoke provisions which may be considered necessary to protect their undertakings. 5.10 Mr. Minhinick, for the Applicant, explained that there are 6 statutory undertakers seeking bespoke protective provisions to be included within the dDCO. 5.11 Mr. Minhinick, for the Applicant, explained that progress was being made with National Gas Transmission (NGT) and with the exception of 1 relatively minor point of ongoing discussion the final form of these provisions has been agreed. The Applicant is continuing to engage with NGT on this point, and expects that these provisions will be fully agreed before the close of Examination. Mr. Minhinick, for the Applicant, explained that the Applicant would include the bespoke protective provisions, insofar as they are agreed with NGT save for the one outstanding point in the dDCO at Deadline 8. Mr. Minhinick, for the Applicant, explained that the Applicant's position is that the protective provisions included at Deadline 8 would be adequate to protect NGT's undertaking. 5.12 The ExA referred to REP6-035 from NGT updating the ExA that agreement had not been reached on their bespoke protective provisions.

		5.13 Mr. Minhinick, for the Applicant, explained that the Applicant hoped to provide an update that the protective provisions had been agreed at Deadline 8, or by the final Deadline. 5.14 The ExA asked if NGT had indicated to the Applicant that they would confirm their position in writing directly to the ExA by formally removing their objection. 5.15 Mr. Minhinick, for the Applicant, confirmed that they would request NGT update the ExA directly once the protective provisions are agreed. 5.16 Mr. Minhinick, for the Applicant, explained in relation to National Grid Electricity Transmission Plc (NGET) that the protective provisions have been agreed. They will be included at Deadline 8 in the dDCO, and the Applicant has requested NGET write to the ExA directly to confirm the removal of their objection. 5.17 Mr. Minhinick, for the Applicant, explained that Network Rail have withdrawn their objection to the dDCO [AS-026] on account of changes the Applicant has made to the management plans secured by the dDCO. There are therefore no bespoke protective provisions to include within the dDCO for the protection of Network Rail. 5.18 Mr. Minhinick, for the Applicant, explained that negotiations with Northern Gas Networks (NGN) in relation to protective provisions are ongoing but are less advanced than for the other statutory undertakers. NGN instructed legal advisors at the beginning of January 2025 who the Applicant is now corresponding with. NGN have provided a form of protective provisions for inclusion within the dDCO. The Applicant has requested that a number of provisions of these protective provisions are amended to align with what NGN have agreed in other DCOs. The Applicant is continuing to engage with NGN on these protective provisions, and is hopeful these provisions will be fully agreed before the close of Examination. Mr. Minhinick, for the Applicant, explained that the Applicant's position with respect to the NGN protective provisions in the event that they are not agreed before the close of examination in an annex to the Statutory Undertaker's Position Statement [REP6-016] which will be submitted to the ExA at Deadline 8.

		5.19 The ExA asked the Applicant to provide an indication on the extent of the disagreement on the form of protective provisions provided to the Applicant by NGN. 5.20 Mr. Minhinick, for the Applicant, explained that the Applicant does not consider the amendments it has requested to the form of protective provisions provided by NGN are substantial, and they are largely requests for the drafting to be aligned with what has been agreed by NGN in other DCOs. 5.21 The ExA asked the Applicant if it had an indication of when NGN would respond to the Applicant's suggestions and noted that there is less than 1 week remaining of the Examination. 5.22 Mr. Minhinick, for the Applicant, explained that the Applicant was doing everything possible to advance negotiations but could not say when it might hear from NGN in relation to the proposed amendments. 5.23 Mr. Minhinick, for the Applicant, explained that progress was being made with Northern Powergrid (NPG) and with the exception of 1 relatively minor point of ongoing discussion the final form of these provisions has been agreed. The Applicant is continuing to engage with NPG on this point and expects that these provisions will be fully agreed before the close of Examination. Mr. Minhinick, for the Applicant, explained that the Applicant would include the bespoke protective provisions, insofar as they are agreed with NGP save for the one outstanding point in the dDCO at Deadline 8. Mr. Minhinick, for the Applicant, explained that the Applicant's position is that the protective provisions included at Deadline 8 would be adequate to protect NPG's undertaking. 5.24 The ExA asked if NPG had indicated to the Applicant that they would confirm their position in writing directly to the ExA by formally removing their objection. 5.25 Mr. Minhinick, for the Applicant, explained that they would request this of NPG.
	The ExA will then give opportunity for any relevant Statutory Consultees, Statutory Undertakers or other IPs to comment on any issues raised so far under this point of the Agenda.	5.26 Mr. Minhinick, for the Applicant, explained that progress was being made with Northumbria Water Limited (NWL) and with the exception of a small number of relatively minor points of ongoing discussion the final form of these provisions has been agreed. The Applicant is continuing to engage with NWL on this point and

		expects that these provisions will be fully agreed before the close of Examination. Mr. Minhinick, for the Applicant, explained that the Applicant would include the bespoke protective provisions, insofar as they are agreed with NWL save for the small number of outstanding points in the dDCO at Deadline 8. Mr. Minhinick, for the Applicant, explained that the Applicant's position is that the protective provisions included at Deadline 8 would be adequate to protect NWL's undertaking. Mr. Minhinick, for the Applicant, added that the Applicant is in frequent contact with NWL's legal advisors and it will encourage them to write to the ExA to confirm the position before the close of Examination.
	The ExA will then give an opportunity for all IPs to comments on any issues raised under this point of the Agenda.	5.27 Mr Andrew Casey, of DBC, referred to Article 10(4) of the dDCO regarding disapplication of street works articles which the Applicant removed from the dDCO. Mr. Casey updated that changes to Articles 11 and 12 relating to the quality and timeliness of street works had been agreed with the Applicant. Mr Casey confirmed that DBC were satisfied with this and that they had no other comments on this point. 5.28 Mr Minhinick referred to REP7a-003 and the Schedule of Changes REP7a-006 which show the changes referred to by Mr. Casey. 5.29 Ms Hutchinson, for DBC, confirmed STBC had agreed to the terms of removal of Article 10(4) of the dDCO. 5.30 Mr Minhinick, for the Applicant, referred to the Design Approach Document (DAD) which had previously been referred to in ISH8. Mr Minhinick updated that the Applicant has been in discussions with DBC regarding the potential for future reductions in panel areas as a result of technological advancements in final detailed design of project. The Applicant has put forward some wording to be added to the DAD to capture those principles which the Applicant understands has been agreed by DBC. The Applicant has now shared this drafting with community parties and is intending to include that additional wording in a revised DAD to be submitted at Deadline 8. 5.31 Ms Hutchinson, for DBC, confirmed that a meeting had been held and the wording referred to by the Applicant in the DAD had been agreed.

		5.32 ExA referred to an action from previous hearing regarding application of New Roads and Street Works Act 1991 to street works within the dDCO and whether STBC were content with this. The ExA asked if Ms Hutchinson was willing to speak on behalf of STBC. 5.33 Ms Hutchinson, confirming an email had been received from Helen Boston of STBC confirming STBC is content with the changes made. 5.34 ExA confirmed that the action has now been addressed. 5.35 Mr Colin Taylor on behalf of Great Station Parish Meeting (GSPM) asked if the proposed changes to the DAD have been sent to GSPM. 5.36 Mr Minhinick, indicate that he understood that they have been sent to Bishopston Villages Action Group but have not yet been sent to GSPM on account of an email shortly going over regarding the SoCG and confirmed that they will be sent that day. 5.37 Mr Colin Taylor suggesting the Applicant should also send the drafting to Bishopton Parish Council as well as the Bishopston Villages Action Group. 5.38 Mr Minhinick confirming no objection, and the Applicant took an action to share with Bishopton Parish Council. 5.39 Ms Carly Tinkler, on behalf of Bishopston Villages Action Group, requested Applicant to provide the number of proposed inverters are as set out in Table 2-1 of ES appendix 10.1 FRA and drainage strategy [APP-152]. 5.40 Mr Minhinick, on behalf of the Applicant, confirmed that the figures in the document are correct and the Applicant will check the position and confirm with Ms Carly Tinkler if needed. 5.41 ExA asking for an action but noting Applicant's confirmation that numbers in the ES are correct. 5.42 The ExA recorded an action for Ms Carly Tinkler, for Bishopston Villages Action Group to provide question in writing to the Applicant, and Applicant to reply.

6. Cumulative Effects		
	The purpose of this item is to examine issues linked with the assessment of the cumulative effects of the Proposed Development, focusing particularly on outstanding issues.	6 This agenda item was not expressly addressed by the Applicant.
	The ExA will start by asking the Applicant to present the work carried out in response to the Rule 17 request, issued on the 10 December 2024, asking for further information to be submitted in relation to Cumulative Effects.	6.1 The ExA asked the Applicant to address the agenda item. 6.2 Mr Brown, for the Applicant, explaining the Applicant's understanding that the Rule 17 request of 10 December **[PD-012]** sought updates to ES Chapter 13 Cumulative Effects **[AS-034]**, only where changes to ES Chapter 7 **[AS-029]** brought forward a need for updates. Mr Brown confirmed that the updates made to ES Chapter 7 as part of the Rule 17 request did not require any alterations to the assessment of cumulative effects in ES Chapter 13. However, the Applicant made several other clarificatory amendments to ES Chapter 13 following discussions between the parties concerning cumulative effects at previous issue specific hearings. 6.3 Mr Brown then summarised the changes made to ES Chapter 13 **[AS-034].** 6.3.1 The Applicant added Table 13-10 to summarise the approach taken to ES Chapter 7 and the future baseline. The schemes in Table 13-10 are all part of the short list of cumulative schemes considered as part of the environmental statement within the future baseline of ES Chapter 7. Mr Brown confirmed the intention of Table 13-10 is to make absolutely clear that those developments are in the future baseline of ES Chapter 13. 6.3.2 The Applicant included paragraph 13.5.46 of ES Chapter 13 to confirm that the updates made by to ES Chapter 7 in response to the Rule 17 request did not lead to any changes to the cumulative effect assessment in terms of landscaping visual effects. 6.3.3 The Applicant added some further explanation to Table 13-11 to make clear which schemes form part of the landscape and visual cumulative assessment,

		given that many of the shortlisted schemes are in the future baseline of that chapter, as per Table 13-10.
	Informed by previous discussions held at the Issue Specific Hearing 7 on Cumulative Effects, the Applicant's response to the Rule 17 request, and the Applicant's response to ExQ3, the ExA is likely to want to explore with the Applicant its responses to questions posed by the ExA in relation to the Applicant's assessment of Cumulative Effects of the Proposed Development (ExQ3 CU.3.2 and CU.3.3) due by D7, 10 January 2025.	6.4 The ExA asked the Applicant to respond to the agenda item. 6.5 Mr Brown, for the Applicant, noted that ExQ3 CU.3.2 related to Northumbrian Water Limited's water main project and explained that the Applicant reviewed the points made by DBC on that project at Deadline **[REP6-032].** Mr Brown explained that the Applicant's response to ExQ3 **[REP7-010]** confirmed that the project is located approximately 750m south of the Proposed Development and was always included in the shortlist for cumulative assessment under ES Chapter 13. The Applicant then provide an update on that project, following a request from DBC, and undertook further sensitivity analysis because of the change in status of the project. 6.6 Mr Brown explained that whilst the Applicant appreciates it is a significant scheme, it does follow after the Proposed Development and includes its own cumulative assessment, which considers Byers Gill Solar, as part of its environmental statement. The Applicant has reviewed and agrees with the conclusions of that cumulative assessment, noting that: 6.6.1 Byers Gill Solar is scoped out of landscape and visual assessment because of distance and intervening features. 6.6.2 Byers Gill Solar is scoped-in but only on very specific areas of the network and concludes no cumulative effect. 6.6.3 Byers Gill Solar was considered inherently in all other chapters, or was scoped-out because Byers Gill Solar is not within the zone of influence for the water main project. 6.7 Mr Brown confirmed that, given the work carried out by Northumbrian Water Limited, the Applicant does not consider that any further assessment is necessary at this stage. 6.8 Mr Brown then addressed ExQ3 CU.3.3 and summarised that the question related back to schemes raised by BVAG and how they have been considered cumulatively. Mr Brown confirmed that all 11 schemes identified were considered as part of the

		Environmental Statement either within Chapter 13 or inherently within topic chapters (i.e. within the future baseline). Mr Brown noted that the Applicant's response included a table **[REP7-010]** providing the detail of how those schemes have been considered. 6.9 The ExA referred to the temporary closure of Bishopton Lane when Northumbrian Water Limited are in construction of the water main project and asked the Applicant to explain how communication of any diversions will be managed. 6.10 Mr Brown, for the Applicant, indicated that the situation has probably changed, given the earlier explanations from Mr. Minhinick regarding Articles 9 and 10 of the dDCO and the application of the New Roads and Street Works Act 1991. Mr Brown explained that, given the change, the Applicant will have to go through Darlington Borough Council with any traffic management, and DBC will be going through that process with Northumbrian Water for their scheme, so there will be a natural point of consistency between the projects. Mr Brown explained that, in addition, the Applicant has identified a liaison within the Construction traffic Management Plan **[REP5-017]** both for the Proposed Development and to liaise with other developments that are active in the area at the time of construction. Mr Brown submitted that between those two measures, the potential for conflict with DBC and the other projects will be managed. 6.11 The ExA asked the Applicant to confirm whether the Outline Construction Traffic Management Plan will be updated to reflect the water main project. 6.12 Mr Brown, for the Applicant, confirmed that Requirement 6 of the dDCO requires a full construction traffic management plan to be developed following the appointment of a contractor. Mr Brown explained that, at that point, the Applicant will know the full construction program and activities in a lot more detail than currently. Mr Brown noted that the updated plan will be developed in consultation with DBC, who will either know Northumbrian Water Limited's program at that time, or otherwise the Applicant will liaise with that project to understand the potential interactions.
	The ExA will ask DBC to set out their current position on Cumulative Effects, focusing on outstanding differences with the Applicant. It will	6.13 The ExA asked DBC to respond to the agenda item.

	assist the ExA if DBC only discuss differences which lead to a serious variation in the assessment of the impact.	6.14	Mr Laws, for DBC, explaining that DBC's concerns came to light following the responses to the Rule 17 Letter and in particular that the Applicant in undertaking the landscape cumulative assessment refers to the Planning Inspectorate's Advice Note 17, which is appended to the Applicant's Cumulative Effects Technical Note **[REP6-021].** Mr Laws referred to a paragraph below Table 2 of the Advice Note and submitted that the intention of the Advice Note is not to avoid cumulative effects, but to enable consented schemes to be considered in the future baseline. Mr Laws then referred to paragraph 3.4.1 of the Advice Note and submitted that projects which are consented and under construction can be included in the future baseline. That is, you can predict those schemes will go ahead, but you still have to assess those cumulative effects. Mr Laws further submitted that the EIA Regulations take precedent, so a cumulative assessment is still required.
		6.15	Mr Laws then submitted that ES Chapter 7 is the only topic that has taken this approach in the Environmental Statement – all of the other topics basically assess all the solar farms and other developments.
		6.16	Mr Laws then referred to Table 7-6 of the revised LVIA **[AS-029]** which contains the projects in the future baseline for the LVIA. Mr Laws submitted that there is no assessment of what the effects are on landscape receptors and no assessment of cumulative development. Mr Laws questioned whether cumulative assessment has been carried.
		6.17	Mr Laws then referred to section 7.10 of ES Chapter 7 **[AS-029],** which sets out the assessment of likely significant effects, and submitted that there is no indication of cumulative impacts, and it is unclear whether cumulative impacts have been considered. The App have listed the future projects but there is no assessment of the effects in accordance with PINS advice.
		6.18	Mr Laws then referred to paragraph 7.10.37 and noted that there are references to other solar farms in the description of the baseline Darlington Bishopton Vale character area, but there is no reference to those solar farms in the description of effects.
		6.19	Mr Laws then referred to the Applicant's viewpoint analysis in Appendix 7.4 **[APP-135]** of viewpoint 3 from which it is possible to see Whinfield solar farm, as acknowledged by the Applicant's description. Mr Laws questioned why the right-

		hand in column of Appendix 7.4 states that there are "*no proposals currently in planning would be visible from here*" and submitted that developments in the future baseline should be included as cumulative projects. Mr Laws expressed confusion as to the Applicant's approach and whether the Advice Note has been complied with. 6.20 The ExA asked the Applicant to respond, and to clarify which version of the Advice Note 17 is being referred to. 6.21 Mrs Fisher, for the Applicant, clarified that Advice Note 17 informed the assessment that was undertaken because it was extant at the time. Mrs Fisher confirmed that the updated guidance hasn't changed materially in relation to this aspect of the assessment, so it would not make a difference on this matter. 6.22 Mrs Fisher then made a series of submissions in response to Mr Laws' submissions. 6.22.1 Mrs Fisher identified that the parties agree that it the Applicant has correctly included the relevant projects in the future baseline, but that the difference is the way those projects has been reflected in the assessment. On that basis, Mrs Fisher submitted that the Advice Note is not in dispute. Mr Laws, for DBC, agreed he does not take issue with the projects included in the future baseline. 6.22.2 Mrs Fisher then referred to paragraph 1.2.1 of the Cumulative Effects Technical Note **[REP6-021]** as the driving force behind the consideration of cumulative effects from Schedule 4 of the EIA Regulations which requires the Environmental Statement to provide "*a description of the likely significant effects of the development on the environment resulting from, inter alia … the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources*". Mrs Fisher submitted that the EIA Regulations do not say that the effects of the developments must be added-up in a cumulative effects assessment. 6.22.3 Mrs Fisher explained that the cumulative assessment must focus on the "*likely effects*", which is what drives the inclusion of consented projects into

		the future baseline. If the Proposed Development is constructed, the most likely scenario is that those other developments will have been built already. 6.22.4 Mrs Fisher then explained that both the GLVIA 3 and Advice Note 17 direct that those projects should be included in the future baseline, not in the effects. This reflects the EIA Regulations, which requires us to judge the effects of the Proposed Development, not of the other developments, and not of the baseline. Mrs Fisher clarified that cumulative assessment does not mean 'adding up' the effects of other developments. Rather, those other projects form part of the environment (i.e. the baseline) into which the Proposed Development will take place, and the purpose of the cumulative assessment is to identify the effects of the changes that would happen as a result. Mrs Fisher explained that the assessment should not revisit the effects of consented projects, the effects of which have already been accepted. 6.22.5 Mrs Fisher concluded that the purpose of cumulative assessment is to consider the effects of the Proposed Development in that future context, to ensure that the likely effects of the Proposed Development are realistically considered. Mrs Fisher noted the recent *Cumbria Coal Mine* judgement, which confirms that we are not required to consider *unlikely* scenarios, and further confirmed that the EIA Regulations do not require consideration of the effects of other consented development that has already been approved. 6.23 Mr Laws, for DBC, noted that he has no disagreement with many of Mrs Fisher's submissions, but questioned the definition of "cumulative effects". Mr Laws re-iterated his understanding that the paragraph below Table 2 of the Advice Note requires the assessment of cumulative effects, being the effects of consented development in addition to the Proposed Development. Mr Laws submitted that the Advice Note means that you cannot simply list projects in the future baseline, the effects of those projects have to be understood. 6.24 Mrs Fisher, for the Applicant, clarified that effects arising from projects in the future baseline have been taken account of and consider. That is shown by the description in Appendix 7.4 **[APP-135]** that Whinfield Solar is visible from viewpoint 3, as Mr Laws previously referred to. Mrs Fisher confirmed that there are other parts of the

		assessment which describe how those consented projects would be seen, and how the environment would change when they are built. Those descriptions are taking into account the effects arising from those projects within the baseline. Mrs Fisher submitted that the baseline should not include a judgement of the impact of those other developments, as that would be a description of their effects and not relevant to the consideration of the Proposed Development. Those developments are consented and will be built – the assessment is not intended to re-decide that. Mrs Fisher emphasised there is nothing to say that a cumulative effect is the 'adding up' of different effects of separate developments. 6.25 The ExA referred to Appendix 7.4 **[APP-135]** and asked the Applicant to clarify why the Applicant recognises the key features of the existing view from viewpoint 3, including that Whinfield solar farm will be visible, but in the 'predicted change to view' column identifies that "*no proposals currently in planning would be visible from here*", which appears to be a contradiction of terms. 6.26 Mrs Fisher, for the Applicant, acknowledged that the Applicant could have used better headings in Appendix 7.4 **[APP-135]** and clarified that the "key features of the existing view" column is a description of the current and future baseline. The right-hand column is the prediction of the effects that might arise, with the "Medium-term" and "Permanent" descriptions relating to the Proposed Development and the "Cumulative" description relates to any other short-listed projects 'in planning' that would feed into ES Chapter 13, rather than ES Chapter 7. 6.27 The ExA noted that viewpoint 7 has a cumulative effect, which is the proposed Beaumont Hill housing development that would be located (if consented) in the open fields adjacent to the viewpoint. 6.28 Mr Laws, for DBC, expressed further confusion as to how the Applicant has defined the other existing solar farms as cumulative projects. 6.29 The ExA asked the Applicant to provide further clarity in relation to what projects should be considered in the "cumulative" section of the far-right column of Appendix 7.4 **[APP-135].** 6.30 Mrs Fisher, for the Applicant, further explained the three sub-headings within the "predicted change to view" column. Both the "medium-term" and "permanent"

		sub-headings describe the change to the view that would arise as a result of the Proposed Development. The "Cumulative" sub-heading is the 'feed' to ES Chapter 13 and describes any effects that might arise from other projects in planning that are being consented before the Proposed Development. Those effects are considered in ES Chapter 13, not ES Chapter 7. 6.31 The ExA asked the Applicant to identify where in ES Chapter 13 where the cumulative effects on landscape and visual are set out. 6.32 Mrs Fisher, for the Applicant, explained by way of example the cumulative effect identified at viewpoint 7, where the Beaumont Hill housing development - if consented - would obscure the view, including towards the Proposed Development. Mrs Fisher explained that if the Beaumont Hill development is consented before the application for the Proposed Development is decided, then the cumulative assessment takes into account the fact that the change which would from the Proposed Development to viewpoint 7 will become negligible because you will not be able to see it. You will not be able to see the Proposed Development, because the Beaumont Hill development will be in the way. That is the cumulative effect identified at viewpoint 7. 6.33 The ExA asked the Applicant to further clarify the difference between the Beaumont Hill housing development at viewpoint 7 and the Whinfield solar farm described at viewpoint 3. 6.34 Mrs Fisher, for the Applicant, confirmed that both developments are considered. Whinfield solar farm is consented and has been constructed. So it forms part of the baseline. 6.35 The ExA clarified that the reason Whinfield solar is not considered in the right-hand column of Appendix 7.4 **[APP-135]** is that the Applicant has already taken into consider that development as part of the baseline, so it is not predicted to change the view. Whereas the Beaumont Hill housing development is considered differently, because it is not consented. 6.36 Mrs Fisher, for the Applicant, confirmed the ExA's understanding.

		6.37 The ExA recorded an action for the Applicant to provide a written clarification to assist the ExA in considering cumulative effects. 6.38 Mr Laws, for DBC, reiterated his view that the projects in the future baseline can still have cumulative effects and that the intention of Advice Note 17 is not to avoid the cumulative assessment, in this case, of other consented solar farms. 6.39 Mr Minhinick, for the Applicant, acknowledged Mr. Laws' confusion and clarified that the Applicant's position is that it has explained in its EIA the approach that it has taken to cumulative assessment together with all likely significant effects, and that the EIA accords with the Advice Note. The Applicant does not accept the suggestion that it has avoided assessing cumulative effects. The Applicant has assessed cumulative effects in accordance with the Advice Note and will provide a short statement with the relevant cross references, which will hopefully assist Mr Laws' understanding of the approach taken by the Applicant.
	The ExA will ask BVAG to set out their current position on Cumulative Effects, focusing on outstanding differences with the Applicant. It will assist the ExA if BVAG only discuss differences which lead to a serious variation in the assessment of the impact.	6.40 The ExA asked BVAG to respond to the agenda item. 6.41 Ms Tinkler, for BVAG, explained that the parties have agreed in the Landscape Statement of Common Ground that there would be significant cumulative effects on landscape character and visual amenity, including on the settlements, but that there are differences of opinion regarding the methodology. Ms Tinkler indicated she would respond to the points previously discussed in writing with reference to GLVIA 3. 6.42 Mrs Fisher, for the Applicant, confirmed that the parties have reached agreement regarding the existence of significant effects and clarified that the effects identified in ES Chapter 7 are inherently cumulative, so it is agreed there are significant cumulative effects.
	The Applicant will then be given the opportunity to respond to DBC and BVAG's positions.	6.43 This agenda item was not expressly addressed by the Applicant.
	The ExA will give the Local Host Authorities (LHAs) the opportunity to comment. The ExA asks that the LHAs concentrate on the main outstanding areas of disagreement.	6.44 This agenda item was not expressly addressed by the Applicant.

	The ExA will then give an opportunity for other IPs to comment on any issues raised under this point of the Agenda. The ExA requests that the IPs concentrate on the main outstanding areas of disagreement.	6.45 Mr Norman Melaney, for Bishopton Parish Council, made various submissions, noting that most of his concerns were addressed in earlier discussions. 6.46 Mr Melaney submitted that solar farms are highly inefficient, and the clustering of the development around substations has disastrous consequences for the landscape and local amenity. The cumulative effect intensifies the harm caused. Solar panels dramatically alter views of the countryside and the key features that punctuate it. Mr Melaney submitted that the scale and location of the Proposed Development will have an adverse effect on the surrounding environment and landscape, from Brafferton to Bishopton. Mr Melaney submitted that all of the many objectors have raised concerns with the parish council over the cumulative effect of the proposal, which when combined with other local sites, either operating or in the planning process, total over 4000 acres. Mr Melaney submitted this is significant relating to the area covered and noted that one resident has calculated that if all of these solar developments go ahead, then within a four mile radius around Bishopton, 22.5% of all the land will be occupied by solar panels.
7. Review of issues and actions arising		
		7 The ExA and the parties discussed the action points arising from the hearing.
8. Any other business		
		8 Mr Minhinick, noting the upcoming closure of examination process, made closing submissions on the Applicant's view of the application and the key paragraphs of the NPS for consideration by the ExA and Secretary of State. 8.1 Mr Minhinick directed the ExA to a number of paragraphs of EN-1, being - 8.1.1 Paragraph 3.2.6, which states that "*The Secretary of State should assess all applications for development consent for the types of infrastructure covered by this NPS on the basis that the government has demonstrated that there is a need for those types of infrastructure which is urgent, as described for each of them in this Part.*"

		8.1.2 Paragraph 3.2.7, which goes on to state that "*In addition, the Secretary of State has determined that substantial weight should be given to this need when considering applications for development consent under the Planning Act 2008*". 8.1.3 Paragraph 4.1.3, which states that "*Given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3 of this NPS, the Secretary of State will start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.*" 8.1.4 Paragraph 4.2.4, which identifies that "*Government has therefore concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure.*", which the Proposed Development comprises. 8.2 Mr Minhinick explained the reason for highlighting these paragraphs is that, despite the Applicant's stringent application of the mitigation hierarchy, the Applicant acknowledges that there will be an envelope of likely significant effects arising as part of the Proposed Development in the event that development consent is granted. Mr Minhinick highlighted his earlier submissions on Tuesday 14 January 2025 which reviewed a list of paragraph references which show that the NPSs acknowledge that there may be some effects of those types associated with infrastructure development of this type. 8.3 Mr Minhinick then highlighted Paragraph 4.2.15 of the NPS EN-1 that would be relevant if, when the ExA has finished its consideration of the assessment work and other representations that have been made by parties to the examination, the ExA identifies residual impacts (i.e. likely significant effects) associated with the Proposed Development that remain after the application of the mitigation hierarchy. 8.4 Mr Minhinick explained that paragraph 4.2.15 is the starting point of the guide as to how the Secretary of State has indicated such residual impacts should be considered. It states that where residual "*Where residual non-HRA or non-MCZ impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of infrastructure. Therefore, in all*

		but the most exceptional circumstances, it is unlikely that consent will be refused on the basis of these residual impacts." 8.5 Mr Minhinick submitted that the Applicant's case is that exceptional circumstances do not arise in relation to this application, notwithstanding the Applicant has identified residual impacts. Mr Minhinick confirmed that no case has been brought forward to examination that those residual impacts amount to exceptional circumstances, and certainly no case has been made that they amount to the most exceptional circumstances, which is what is envisaged by paragraph 4.2.15. 8.6 Mr Minhinick then acknowledged that in the ExA's agenda for ISH8 there are number of references to inviting parties to identify the potential for small changes to be made to the Proposed Development which might have a very large benefit in terms of reducing significant effects. The Applicant expects the reason for that invitation corresponds with paragraph 5.10.26 of NPS EN-1, which states that "*There may, however, be exceptional circumstances, where mitigation could have a very significant benefit and warrant a small reduction in function. In these circumstances, the Secretary of State may decide that the benefits of the mitigation to reduce the landscape and/or visual effects outweigh the marginal loss of function*". 8.7 Mr Minhinick submitted that the Applicant has not identified any party making submissions that there are exceptional circumstances which merit consideration of small areas being reduced to secure a very large reduction in effect associated with the Proposed Development. 8.8 Mr Minhinick further submitted that the Applicant has continued to seek to address the residual impacts of the Proposed Development and identified a mechanism by which this may be continue even after consideration of the application by the Secretary of State. That mechanism is contained within paragraph 8.4 of the Design Approach Document **[REP5-024]**, as secured by Requirement 3 of the dDCO, and would see the Applicant review its scheme design at the point of detailed design to identify if there is a technological advancement which allows a smaller area of land to be used, taking account of the other factors set out at paragraph 8.4. 8.9 Mr Minhinick concluded that the Applicant has advanced its case and shown compliance with both the letter and the spirit of the NPSs, and it is the Applicant's

		submission that the recommendation to the Secretary of State should be for the grant of development consent for the Proposed Development. 8.10 Mr Melaney, for Bishopton Parish Council, noted that the Council and BVAG have been asked by the Applicant what changes to the Proposed Development could be accepted. Mr Melaney submitted that when requesting for the Applicant to reduce or move back the panel areas, the Applicant has replied that it will 'think about it', but nothing was put in writing to us at the time, in spite of the Applicant's closing statement. 8.11 Mr Taylor, for Great Stainton Parish Meeting, endorsed Mr Melaney's comments and confirmed that the Parish Meeting takes a very different position to the Applicant in relation to its consideration on substantive effects on the area and what concessions could have been made in relation to panel areas.
9. Closure of the Hearing		
		9 This agenda was not expressly addressed by the Applicant.

3. Summary of Oral Submissions at ISH9

Table 3-1 Summary of Oral Submissions at ISH9

Agenda Item	Topic for Discussion	Summary of Applicant's Oral Submissions at ISH9
1. Welcome, introductions, arrangements for the Issue Specific Hearing 9 (ISH9)		
		1.1 Mr Alex Minhinick introduced himself as a solicitor representing the Applicant, and introduced Mr Michael Baker (Development Project Manager at RWE), Mr David Brown (chief planner from Arup), and Mr Keiran Craddock (Land lead from Ardent). 1.2 Ms Lisa Hutchinson introduced herself as Lead Development Manager at Darlington Borough Council (DBC). 1.3 Ms Helen Boston introduced herself as the Principal Planner at Stockton-on-Tees Borough Council (SBC).
2. Purpose of the Issue Specific Hearing		
	The Applicant has submitted a change request for the inclusion of provisions in the draft Development Consent Order (DCO) for the compulsory acquisition of new rights over subsoil land beneath highway plots which are within the existing Order limits (Change 1). Please see [PD-013] for further details. As a result of Change 1, an Issue Specific Hearing (ISH) is being held: ISH9. The main purpose of the ISH9 is to provide an opportunity for any new additional interested Parties and/or Affected Persons, following the submission of a new written representation or relevant representation, to raise any concerns they might have in relation to the Proposed Development on any of the topics previously covered at Hearings by the ExA, or for	2 No submissions were made on the agenda of the ISH9.

	any Interested Parties (IPs) and/or Affected Persons (APs) to raise any additional concerns they might have in relation to the Proposed Development following from the acceptance of the Applicant's Change 1. A full list of the topics which the ExA has previously held hearings on, is available via the Examination Library here. Please note that the ExA must notify all IPs and APs of any Hearings via a Rule 13 letter and that an Agenda for all Hearings was published at least 5 days in advance of any Hearing being held. An Agenda was not prepared for Open Floor Hearings 3 and 4 as their purpose was to hear the oral representations of Interested Parties who registered their wish to elaborate on their written representations. Therefore the topics covered were up to the participants, not the ExA. If any new additional Interested Parties and/or Affected Persons want to raise any topics in relation to the Proposed Development, they can do so as a new Open Floor Hearing, Open Floor Hearing 5 (OFH5), has been organised. Please see Annex C of [PD-013] here and item 10 of this Agenda.	
3. ISH1		
	The purpose of ISH1 was to provide an opportunity for the ExA to explore the Applicant's overall approach to the Proposed Development and the draft Development Consent Order (dDCO) as submitted into the Examination at the time of the hearing (23 July 2024).	3 No submissions were made.

	Details of this agenda can be found here. Please see Annex F of [PD-003]. The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have additional concerns as a consequence of Change 1 being accepted.	
4. ISH2		
	The purpose of ISH2 was to undertake an oral examination of Environmental Matters in relation to the principle of the Proposed Development, namely: overall generating capacity, energy storage, size, technology, alternatives and site selection; and the Historic Environment, mainly the effects of the proposed development on heritage and archaeology. Details of this agenda can be found here [EV10-001]. The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have additional concerns as a consequence of Change 1 being accepted.	4 No submissions were made.
5. ISH3		
	The purpose of ISH3 was to undertake an oral examination of Environmental Matters in relation to traffic and transport, water environment and flood risk together with compliance with relevant planning policies.	5 No submissions were made.

	Details of this agenda can be found here [EV11-001]. The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have additional concerns as a consequence of Change 1 being accepted.	
6. ISH4		
	The purpose of ISH4 was to undertake an oral examination of Environmental Matters in relation to Landscape and Visual matters, and the dDCO as submitted into the Examination at the time of the hearing (16 October 2024). Details of this agenda can be found here [EV12-001]. The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have additional concerns as a consequence of Change 1 being accepted.	6 No submissions were made.
7. ISH5		
	The purpose of ISH5 was to undertake an oral examination of the dDCO as submitted into the Examination at the time of the hearing (26 November 2024). Details of this agenda can be found here [EV13-001]. The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have	7 No submissions were made.

	additional concerns as a consequence of Change 1 being accepted.	
8. ISH6		
	The purpose of ISH6 was to undertake an oral examination of Environmental Matters in relation to Land Use and Socioeconomics together with compliance with relevant planning policies. Details of this agenda can be found here [EV14-001]. The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have additional concerns as a consequence of Change 1 being accepted.	8 No submissions were made.
9. ISH7		
	The purpose of ISH7 was to undertake an oral examination of Environmental Matters in relation cumulative effects. Details of this agenda can be found here [EV15-001]. The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have additional concerns as a consequence of Change 1 being accepted.	9 No submissions were made.
10. OFH1, OFH2, OFH3, OFH4, OFH5		
	The purpose of any of the Open Floor Hearings held so far (OFH1 to OFH4) was to hear the oral representations of Interested Parties who registered their wish to elaborate on their written	10 No submissions were made.

	representations on the Proposed Development, therefore an Agenda was not set for OFH3 or OFH4. However an agenda was set for OFH1 and OFH2, as part of the Rule 6 Letter [PD-003] which can be found here. A new Open Floor Hearing (OFH5) has been organised to provide an opportunity for any new additional interested Parties and/or Affected Persons, following the submission of a new written representation or relevant representation, to raise any concerns they might have in relation to the Proposed Development, or for any Interested Parties and/or Affected Parties to raise any additional concerns they might have in relation to the Proposed Development following from the acceptance of the Applicant's Change 1 The ExA will therefore ask if any new additional interested Parties and/or Affected Persons would like to raise any concerns they might have in relation to the Proposed Development. The ExA will then ask if any Interested Parties and/or Affected Persons want to raise any additional concerns they might have in relation to the Proposed Development following from the acceptance of the Applicant's Change 1.	
11. Review of issues and actions arising		
		11 The ExA asked the Applicant to run through action notes from the day. 11.1 Mr. Minhinick for the Applicant noted as an action arising from CAH2 – The Applicant to update Compulsory Acquisition Schedule (Change Only) [REP6b-021] with affected parties to ensure that it refers to all representations which have been

		submitted to the Examination. Mr. Minhinick updated that the Applicant intended to submit these updates at Deadline 8a. 11.2 The Examining Authority confirmed that would be acceptable. ExA requested that the Applicant set out clearly within the update to Compulsory Acquisition Schedule (Change Only) [REP6b-021] what their approach has been in relation to Change 1. The ExA would to be satisfied that all persons potentially affected by change 1 had the opportunity to provide meaningful comments. 11.3 Mr Minhinick submitted that it is the Applicant's position that all persons affected by Change 1 had the opportunity to provide meaningful comments, which would be reflected in the updated Compulsory Acquisition Schedule (Change Only) [REP6b-021].
12. Any other business		
		12 No submissions were made.
13. Closure of the Hearing		
		13 No submissions were made.

4. Summary of Oral Submissions at CAH2

Table 4-1 Summary of Oral Submissions at CAH2

Agenda Item	Topic for Discussion	Summary of Oral Submissions at CAH2
1. Welcome, introductions, arrangements for the Compulsory Acquisition Hearing 2 (CAH2)		
		1.1 Mr Alex Minhinick introduced himself as a solicitor representing the Applicant, and introduced Mr Michael Baker (Development Project Manager at RWE), Mr David Brown (chief planner from Arup), and Mr Keiran Craddock (Land lead from Ardent). 1.2 Ms Lisa Hutchinson introduced herself as Lead Development Manager at Darlington Borough Council (DBC). 1.3 Ms Helen Boston introduced herself as the Principal Planner at Stockton-on-Tees Borough Council (SBC).
2. Purpose of CAH2		
	The Applicant has submitted a change request for the inclusion of provisions in the draft Development Consent Order (DCO) for the compulsory acquisition of new rights over subsoil land beneath highway plots which are within the existing Order limits (Change 1). The ExA has accepted the change into Examination. Please see [PD-013] for further details. As a result of Change 1, a Compulsory Acquisition Hearing (CAH) is being held, in relation to the additional land or rights sought only, to: • ensure adequate examination of the provisions within the dDCO seeing to authorise the CA of land and/ or rights over land; • assess whether the conditions relating to the land and/ or rights being required for the Proposed	2 No submissions were made on the agenda of the CAH2

	Development or required to facilitate or be incidental to that development are met; • assess whether there is a compelling case in the public interest for the land to be acquired compulsory; and • To discharge the ExA's duty to hear persons affected by CA and TP proposals (Affected Persons (APs)) who request to be heard.	
3. The Applicant's case for CA and TP		
	The ExA will ask the Applicant to present and justify its case for CA and TP of additional land linked to Change 1 including addressing the following matters: • How the relevant statutory and policy tests under the Planning Act 2008 (PA2008) (including s.122, s123, s127, s132 and s138) and Department for Communities and Local Government guidance related to CA would be met. • Identification of the powers sought and their purpose. • The Applicant's strategy and criteria for determining whether to seek powers for CA of land, CA of rights or TP of land. • Consideration of alternatives to CA and /or TP of land, including for the on-road cabling route. • Human rights considerations.	3 The ExA asked the Applicant the relevant statutory and policy tests under the Planning Act 2008 (PA2008) (including s.122, s123, s127, s132 and s138) and Department for Communities and Local Government guidance related to CA, and how they had been met in relation to Change 1. 3.1 Mr Minhinick, for the Applicant, provided document references for CR1-012 (Change Application Summary Report), REP6b-015 (Track change version of the Statement of Reasons which was submitted as part of the change request). 3.2 Mr Minhinick, for the Applicant, explained that Change 1 relates to Applicant's request for additional CA powers to acquire rights over certain subsoil interests within the Order limits. Mr Minhinick, for the Applicant, explained that Change 1 is described in detail in section 2.1 of the Change Application Summary Report (CR1-012). Mr Minhinick, for the Applicant, explained the new powers would allow the Applicant to compulsorily acquire rights in subsoil land beneath highway plots within existing Order limits. Mr Minhinick, for the Applicant, explained, taking account of submissions made by DBC, the Applicant acknowledges there is uncertainty of the depth of highway strata for on-road cabling works. The CA powers are sought as a contingency in the event that the on-road cables are eventually required within land beneath existing highway strata. 3.3 The ExA noted that the additional CA powers are sought by the Applicant in Change 1 as a contingency and that they may not be used. The ExA asked the Applicant to explain how this contingency is reflected in the DCO. 3.4 Mr Minhinick, for the Applicant, explained this contingency is adequately dealt with by Requirement 3 of the DCO which requires detailed design of scheme to be fixed

		and approved by the relevant highway authority. Mr Minhinick, for the Applicant, explained that the Applicant would not seek to rely on the additional powers sought in the event that it was not necessary to lay cables beneath the strata of the highway, as there would be no practical purpose for doing so. The outcome of this is that it is not necessary to amend the drafting of the DCO to further account for this contingency. Mr Minhinick, for the Applicant, explained that it is very common in the DCO context for compulsory acquisition powers to be granted which may not ultimately be used; for example voluntary agreements to acquire the relevant interests in land may be reached. The Applicant seeks these powers in Change 1 in case they are required, but to the extent that they are not required they will not be used. As with all powers of compulsory acquisition, in the event they are not exercised they would expire after five years by virtue of the relevant Article of the draft DCO [***Post hearing note**: Article 22*].
		3.5 Mr Minhinick, for the Applicant, explained how the Change 1 application complies with the statutory tests referring to REP6b-015 (Track change version of the Statement of Reasons which was submitted as part of the change request). Mr Minhinick, for the Applicant, explained the Applicant's case for compulsory acquisition is set out in section 5 of the Statement of Reasons, with the policy tests specifically addressed in section 5.2. The compelling case in the public interest for the grant of the CA powers is set out in section 5.4 of the Statement of Reasons. The reasonable prospect of funding is addressed in section 5.6.
		3.6 The ExA asked Applicant to rehearse for approach for criteria to seek powers for CA, CA of rights or TP of land included within the requested Change 1.
		3.7 Mr Minhinick, for the Applicant, confirmed that in event the contingent rights for subsoil cabling were acquired, they would be permanent rights for the lifetime of the development. Temporary possession would not therefore be a feasible alternative to compulsory permanent acquisition. Mr Minhinick, for the Applicant explained the approach taken is to seek CA of rights which will be sufficient and adequate for purposes required by the Applicant being the laying and maintaining of cables in that land. Therefore, the Applicant is not seeking CA in relation to freehold interests, as it does not consider this would be justified.
		3.8 The ExA asked the Applicant to explain the approach taken to considering Human Rights.

		3.9 Mr Minhinick,, for the Applicant, explained that Human Rights considerations are covered in section 5.7 if the Statement of Reasons and that the Applicant's case for CA is compliant with the relevant articles of the Human Rights Act 1998.
	The ExA will invite submissions from APs affected by CA or TP as a consequence of additional land or rights sought arising from Change 1 and who wish to raise general matters in relation to the Applicant's case.	3.10 No submissions were made.
4. Site specific issues for the Applicant		
	The ExA will ask the Applicant to provide a brief update on progress of negotiations with APs as a consequence of additional land or rights sought arising from Change 1, and set out in the Compulsory Acquisition Schedule (Change Only) [REP6b-021].	4 The ExA asked the Applicant to provide a brief update on progress of negotiations with APs as a consequence of additional land or rights sought arising from Change 1, and set out in the Compulsory Acquisition Schedule (Change Only) [REP6b-021]. 4.1 Mr Minhinick, for the Applicant, referred to Table 4.1 within the Consultation Report for the Change Application [REP6b-020] which records the engagement and responses which have taken place between the Applicant and AP recording any progress on the status of those discussions. 4.2 The ExA shared Compulsory Acquisition Schedule (Change Only) [REP6b-021]. 4.3 The ExA requested an update in relation to site reference 25 (Christopher McKeown and Myra Mckeown in light of the landowner's representation. 4.4 Mr Baker, for the Applicant, explained that at the previous Deadline it responded to Myra Mckeown in relation to the access to her land, High House Farm. The Applicant noted that Myra Mckeown's representations related to Change 2. The Applicant explained that is was discussing heads of terms with Christopher and Myra Mckeown for a voluntary agreement to ensure that their access is managed appropriately during the construction process. 4.5 The ExA referred to REP6-045 and stated that it considers the intention of the representation was to object to the grant of CA over land and rights in relation to plot 1/ 2, though it acknowledged this is not explicitly stated. The ExA asked the Applicant to confirm these representations were being considered. 4.6 Mr Minhinick, for the Applicant, confirmed that those representations had been considered and responded to in REP7-011.

		4.7	The ExA referred to site 38 owned by Alexandra and Marton Swainston. The ExA asked the Applicant to explain why in light of REP4-030 the Applicant refers to that AP as not objected expressly to CA powers over plot 3/6.
		4.8	Mr Baker, for the Applicant, explained wrote to AP on the 27 September and then the CA hearings were held in October. REP4-030 was made to the Examination in October the hearings. Mr. Baker, for the Applicant, explained that the Applicant has since communicated directly with the AP which is reflected in the CR1-012 (Change Application Summary Report).
		4.9	The ExA noted that REP4-030 is a D4 representation received on 24 October. In terms of change request, submission of the CA Schedule was submitted a significant time after that. The ExA asked the Applicant to explain why the timings referred to by the Applicant explain that discrepancy.
		4.10	Mr Baker, for the Applicant, explained that the REP4-030 was a representation to the ExA as a post hearing submission, rather than an objection to the communications which were subsequently sent by the Applicant to the AP. Therefore REP4-030 was not interpretated by the Applicant as an objection to the grant of CA powers over plot 3/6.
		4.11	The ExA explained that it was still unclear why some AP's were still referred to as not objecting to the grant of CA powers in the CA Schedule, where it was clear from their representations that they did object.
		4.12	Mr Minhinick, for the Applicant, explained that the Applicant understood that confusion had been caused by the presentation of the status of the AP's representations in the CA Schedule. The Applicant would take an action to update the CA Schedule to include the references to all communications recorded in the examination library so that the position is clear. The update will also fully explain the approach taken to updating the CA Schedule. Mr Minhinick, for the Applicant, explained that the situation has arisen because of the timing at which representations were made and in some cases to whom those representations were directed. For example, in some instances, parties wrote directly to the ExA to object (and the Applicant may not have had those at time of preparing updates to the CA Schedule), however some communication took place directly between the Applicant and APs.

		4.13 The ExA noted that whatever approach the Applicant takes in relation to the objection of the CA of land in relation to Change 1 must be consistent throughout and must allow for opportunities for APs to understand and comment fully on the implications of the change request.
5. Site specific representations by APs		
	The ExA will ask new APs affected by Change 1 [REP6b-021] to briefly set out outstanding concerns, if any, in relation to CA and/ or TP for the land which they own and/ or occupy that have not been addressed by the Applicant.	5 No submissions made.
	The ExA will ask questions to the Applicant in relation to engagement and any outstanding concerns in relation to CA and/ or TP of land for those APs included in the Compulsory Acquisition Schedule (Change Only) [REP6b-021].	5.1 No submissions made.
	Considering previous comments made the Darlington Borough Council and Stockton-On-Tees Borough Council in their capacity as highways authority, please see CAH1 [EV9-001], the ExA will ask highway authorities to comment on the Applicant's approach to CA and TP of Land, following from the Change 1.	5.2 The ExA asked relevant highway authorities to comment on the Applicant's approach to CA and TP of Land, following from the Change 1. 5.3 Ms Helen Boston, for SBC, confirmed they had no objection in relation to the inclusion of CA powers in Change 1. 5.4 Mr Jacob Moat, for SBC, no objections in relation to Change 1. Just to make sure any works undertaken on the highway are under the New Roads and Street Works Act 1991. Helen Boston, for SBC, requested that reference to the requirement for works undertaken to be in compliance with the provisions of the New Roads and Street Works Act 1991 be included in the DCO. 5.5 Mrs Lisa Hutchinson, for DBC, confirmed that they did not object to Change 1 but agreed reference to the New Roads and Street Works Act 1991 should be made in the DCO. 5.6 Mr Minhinick, for the Applicant, responding to both SBC and DBC, explained that New Roads and Street Works Act 1991 is referred to in Article 9 and 10 which incorporate that legal framework into the DCO. Mr Minhinick, for the Applicant,

		explained that Applicant has updated the DCO since the last set of hearings during which DBC's lead highway representative, Mr Casey, raised concerns with provisions of Article 10 disapplying elements of New Roads and Street Works Act 1991. Mr Minhinick referenced REP7a-003 which is the amended track change version of the DCO submitted on 8 January in response to the ExA's Rule 17 request. Mr Minhinick noted that the particular changes are on pages 10 and 11 that updated document, where the provisions referred to by Mr. Casey disapplying parts of the New Roads and Street Works Act 1991 have been removed. 5.7 The ExA noted that this will be picked in DCO item when ISH8 Is resumed.
6. Site Specific issues from Statutory Undertakers		
	The ExA will ask Statutory Undertakers to briefly set out any outstanding concerns in relation to CA and/ or TP of land included as a result of Change 1 which they own and/ or occupy that have not been addressed by the Applicant.	6 No submissions made.
	The ExA may ask questions of Statutory Undertakers about matters arising from written and oral submissions.	6.1 No submissions made.
	The Applicant will be provided with a right of reply.	6.2 No submissions made.
7. Review of issues and actions arising		
		7 The ExA asked the Applicant to run through action notes from the day. 7.1 Mr. Minhinick for the Applicant noted as an action arising from CAH2 – The Applicant to update Compulsory Acquisition Schedule (Change Only) [REP6b-021] with affected parties to ensure that it refers to all representations which have been submitted to the Examination. Mr. Minhinick updated that the Applicant intended to submit these updates at Deadline 8a. 7.2 The Examining Authority confirmed that would be acceptable. ExA requested that the Applicant set out clearly within the update to Compulsory Acquisition Schedule (Change Only) [REP6b-021] what their approach has been in relation to Change 1.

		The ExA would to be satisfied that all persons potentially affected by change 1 had the opportunity to provide meaningful comments. 7.3 Mr Minhinick submitted that it is the Applicant's position that all persons affected by Change 1 had the opportunity to provide meaningful comments, which would be reflected in the updated Compulsory Acquisition Schedule (Change Only) [REP6b-021].
8. Any other business		
		8 No submissions were made.
9. Closure of the Hearing		
		9 No submissions were made.

5. Summary of Applicant's Oral Submissions at OFH5

Table 5-1 Summary of Applicant's Oral Submissions at OFH5

Agenda Item	Topic for Discussion	Summary of Applicant's Oral Submissions at OFH5
1. Welcome, introductions, arrangements for this Open Floor Hearing (OFH5)		
		1.1 No submissions were made.
2. Purpose of the Open Floor Hearing		
	The Applicant has submitted a change request for the inclusion of provisions in the draft Development Consent Order (DCO) for the compulsory acquisition of new rights over subsoil land beneath highway plots which are within the existing Order limits (Change 1). Please see [PD-013] for further details. As a result of Change 1, an additional Open Floor Hearing (OFH) is being held: OFH5. The main purpose of the OFH5 is to provide an opportunity for any new additional interested Parties and/or Affected Persons, following the submission of a new written representation or relevant representation, to raise any concerns they might have in relation to the Proposed Development, or for any Interested Parties (IPs) and/or Affected Persons (APs) to raise any additional concerns they might have in relation to the Proposed Development following from the acceptance of the Applicant's Change 1. Oral submissions should be based on representations previously made in writing by the particular	2 No submissions were made.

	participant, either as a consequence of being identified as a new additional interested Parties and/or Affected Persons or made as a consequence of additional issues or concerns being identified due to the ExA's acceptance of Change 1. However, representations made at the hearing should not simply repeat matters previously covered in a written submission, but rather provide further detail, explanation and evidential corroboration to help inform the ExA	
3. OFH5		
	The ExA will ask if any additional APs or IPs wish to raise any concerns and if any APs or IPs have additional concerns as a consequence of Change 1 being accepted.	3 No submissions were made.
4. Review of issues and actions arising		
		4 The ExA asked the Applicant to run through action notes from the day. 4.1 Mr. Minhinick for the Applicant noted as an action arising from CAH2 – The Applicant to update Compulsory Acquisition Schedule (Change Only) [REP6b-021] with affected parties to ensure that it refers to all representations which have been submitted to the Examination. Mr. Minhinick updated that the Applicant intended to submit these updates at Deadline 8a. 4.2 The Examining Authority confirmed that would be acceptable. ExA requested that the Applicant set out clearly within the update to Compulsory Acquisition Schedule (Change Only) [REP6b-021] what their approach has been in relation to Change 1. The ExA would to be satisfied that all persons potentially affected by change 1 had the opportunity to provide meaningful comments. 4.3 Mr Minhinick submitted that it is the Applicant's position that all persons affected by Change 1 had the opportunity to provide meaningful comments, which would be

		reflected in the updated Compulsory Acquisition Schedule (Change Only) [REP6b-021].
5. Any other business		
		5 No submissions were made.
6. Closure of the Hearing		
		6 No submissions were made.