



To:

Our Ref: EN010139

RWE Renewables UK Solar and Storage Limited  
Natural England  
Durham County Council  
County Durham and Darlington Fire and Rescue Service

Date: 23 May 2025

Dear Sir or Madam,

**Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010**

**Application by RWE Renewables UK Solar and Storage Limited (“the Applicant”) for an Order granting Development Consent for the proposed Byers Gill Solar project (“the Proposed Development”)**

**REQUEST FOR INFORMATION**

1. Following the completion of the Examination on 23 January 2025, the Examining Authority submitted a Report and Recommendation in respect of its findings and conclusions on the above application to the Secretary of State on 23 April 2025. In accordance with section 107 of the Planning Act 2008, the Secretary of State has three months to determine the application.
2. There are issues on which the Secretary of State requests the **Applicant, Natural England, Durham County Council, and County Durham and Darlington Fire and Rescue Service** to provide updates or information as appropriate.

Compulsory Acquisition of Land and Rights

3. **The Applicant** is requested to provide any updates on outstanding objections or representations in respect of Compulsory Acquisition or Temporary Possession matters relating to the following parties:
  - Christopher McKeown and Myra Vasey McKeown; Ann Galvin and Peter Bernard Galvin; Michael John Banks; Alexandra Victoria Louise Swainston and Martin Graham Swainston; Catherine Elizabeth Taylor and James David Daniel; Angeline Marie Hutchinson and Stephen Anthony Hutchinson; Brenda Gray; Rosemary Diane Hodgson and Stewart Phillip Hodgson; Dorothy Angela Morris; Lynsey Anne Oman and Tristram Lindsey Oman; and Ian Smith.

## Badgers

4. The Secretary of State has considered the Outline Construction Environmental Management Plan ("oCEMP") [REP8-012]. **The Applicant** is requested to revise the oCEMP to reflect Natural England's standing advice for badgers and its measures.
5. The Secretary of State notes that Environmental Statement Chapter 6: Biodiversity [APP-029] takes into account the creation of badger access points along the permanent security fence lines to facilitate continued movement across the Order Limits. However, the Secretary of State can find no commitment to the installation of badger access points / gates along permanent security fence lines in the oCEMP. **The Applicant** is requested to provide a revised commitment under BD15 in respect of the above measure, to align with the commitment under Paragraph 6.3.5. of the Outline Landscape and Ecology Management Plan ("oLEMP") [REP8-016].
6. As the Proposed Development is situated in an area of high badger activity, the Secretary of State also requests that **the Applicant** revises the oLEMP to include a commitment prohibiting the use of chemical treatments for earthworms in the general management of land within the Order Limits during the lifetime of the Proposed Development.

## Landscape Ecology and Management Plan ("LEMP") – Requirement 12

7. **The Applicant** and **Natural England** are requested to comment on any concerns relating to the insertion of a new sub-paragraph in Requirement 12 of the DCO, as outlined below:

*"Landscape and ecological management plan (LEMP)*

*(2) The LEMP must include details relevant for the phase of works in relation to - (...) how a minimum of 87.83% biodiversity net gain in habitat units and a minimum 108.12% biodiversity net gain in hedgerow units (calculated using a biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body) for all of the authorised development during the operation of the authorised development will be achieved."*

8. The Secretary of State notes the current oLEMP's provision for ongoing maintenance, summarised in the maintenance programme of Appendix 1 for a 5-year (and, in some instances, beyond) aftercare period following the completion of proposed works. **The Applicant** is asked to comment on the following proposed addition to Requirement 12 of the DCO as outlined below, which aims to ensure that proposed mitigation measures are secured for the 40-year operational life of the Proposed Development:

*"Landscape and ecological management plan (LEMP)*

*(2) The LEMP must include details relevant for the phase of works in relation to –*

*(d) how the landscaping and ecology measures will be managed, maintained, and monitored during the operational life of the authorised development to the date on which the decommissioning and restoration plan is implemented pursuant to requirement 5 (decommissioning and restoration)”.*

9. **The Applicant** is also asked to comment on whether corresponding revisions should be made to the oLEMP to ensure that landscape and ecology measures are applied throughout the operational life of the Proposed Development.

#### Habitat Creation, Maintenance, and Adaptive Management

10. The Secretary of State notes that the oLEMP does not contain details of the adaptive management measures to be taken where specific habitats fail to establish or reach the intended condition. **The Applicant** is requested to revise the oLEMP to provide such measures.
11. The Secretary of State notes that a number of land parcels in relative proximity to settlements and public rights of way are intended as habitat creation and biodiversity enhancement areas. **The Applicant** is requested to provide detail as to whether these areas would be exposed to an adverse level of disturbance from recreational users, and to revise the oLEMP to include any appropriate measures intended to minimise this level of disturbance.

#### Ecological Data Sharing

12. The Secretary of State requests **the Applicant** to revise the oLEMP to ensure pre-construction and post-construction ecological data is shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and Local Planning Authorities to ensure that future environmental records of the area are accessible and accurate, in accordance with best practice detailed in guidance from Chartered Institute of Ecology and Environmental Management (CIEEM) guidance.

#### Preservation of Archaeological and Heritage Assets

13. The Secretary of State notes that the Outline Decommissioning Environmental Management Plan (“oDEMP”) [REP5-015] does not currently contain any measures to preserve archaeological and heritage assets. **The Applicant** is requested to revise the oDEMP to detail the outline measures to preserve archaeological and heritage assets including, but not limited to, protection of known and unknown archaeological remains and the Motte and Bailey Scheduled Monument at Bishopton.

#### Construction Dust

14. The Secretary of State requests **the Applicant** revise the Construction Dust Assessment [APP-108] and oCEMP to provide for dust deposition, dust flux, and PM10 continuous monitoring, with the locations of such monitoring to be agreed with the relevant planning authorities. This must include baseline monitoring before work on each phase commences. **Durham County Council** are invited to confirm

whether this resolves the outstanding issue (DCC 14) noted in their Statement of Common Ground with the Applicant submitted at Deadline 8 [REP8-028].

#### Updated National Flood Risk Assessment

15. The Secretary of State notes that the Environment Agency has published new data following an update to the National Flood Risk Assessment. The Flood Map for Planning and flood zones were also updated on 25 March 2025. **The Applicant** is invited to explain whether the updates have any implications for the conclusions of the Environmental Statement Chapter 10 [APP-033] and the Flood Risk Assessment and Drainage Strategy [REP8-019] for the Proposed Development, and to provide revised documents as necessary.

#### Photovoltaic Panel Reduction

16. The Secretary of State notes the concerns raised by Bishopton Villages Action Group and Darlington Borough Council on BVAG1. **The Applicant** should confirm if it is possible to include a reasonable technological baseline and set of criteria in their Design Approach Document against which proposals to reduce, or not reduce, panel areas in response to future technological advancements can be assessed by the relevant local planning authorities. If it is not possible, the Applicant should provide justification for that position.

#### Battery Fire Safety

17. The Secretary of State requests that **the Applicant** and **County Durham and Darlington Fire and Rescue Service** provide an update on whether they have reached agreement on the Outline Battery Fire Safety Management Plan [APP-117].

#### Landscape and Visual

18. **The Applicant** should advise if it is possible to submit clearer and more complete visualisations on the following submissions: APP-071, APP-072, APP-073, APP-074. If possible, all visualisations should be provided as an overlay onto the relevant photography. If this is not possible, the Applicant should set out detail as to why.

#### Noise and Vibration

19. **The Applicant** is asked to clarify the criteria used to establish significance, and whether it has applied the code of practice as per British Standards BS 4142, BS 6472 and BS 8233 ("BSs"), guidance and NPS policy. **The Applicant** is requested to clarify which method has been used to assess noise significance and the reasons for any departure (if applicable) from standard practice. The Applicant may wish to update its assessment if necessary to ensure compliance with BS, guidance and policy.
20. The Secretary of State notes the moderate adverse effect resulting from construction noise assessed by the Applicant, restricted to momentary daytime hours for up to one month. **The Applicant** is requested to provide information regarding the details and durations of works that exceed thresholds. This may be included in an assessment provided under paragraph 19 of this letter.

21. **The Applicant** is asked to confirm whether monitoring is in place and the reasons for any departure (if applicable) from standard practice set out in BSs, guidance and NPS policy.
22. **The Applicant** is requested to confirm why no mitigation is available or required during construction. Noting that further mitigation may be deemed required as a result of a potentially significant effect, **the Applicant** is requested to explain how any potentially significant effect could be identified and what measures may be taken in response.

#### Land Use

23. The **Applicant** is requested to confirm whether the impacts of the Proposed Development on sand and gravel were considered in its assessment, and if not, the reasons why.
24. Responses to the requested information should be submitted by email only to [byersgillsolar@planninginspectorate.gov.uk](mailto:byersgillsolar@planninginspectorate.gov.uk) by 23.59 on 3 June 2025.
25. Responses will be published on the Byers Gill Solar project page of the National Infrastructure Planning website: <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010139> as soon as possible after 3 June 2025.
26. This letter is without prejudice to the Secretary of State's consideration of whether to grant or withhold development consent for the Byers Gill Solar project or any part of the project. Nothing in this letter is to be taken to imply what the eventual decision might be or what final conclusions the Secretary of State may reach on any particular issue which is relevant to the determination of the application.

Yours faithfully

*James Dawkins*

Head of Planning

Energy Infrastructure Planning Delivery