

Byers Gill Solar
EN010139

Responses to the Secretary of State's Request for Information – 23 May 2025

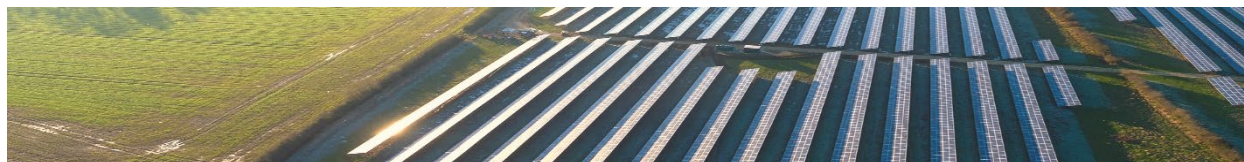
Planning Act 2008

APFP Regulation 5(2)(q)

Infrastructure Planning (Applications: Prescribed Forms
and Procedure) Regulations 2009

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1. Introduction

1.1. Purpose of this document

- 1.1.1. The purpose of this document is to provide the responses of RWE (the Applicant) to the Secretary of State's (SoS) Request for Information issued on 23 May 2025, relating to Byers Gill Solar (the Proposed Development).
- 1.1.2. The response to questions directed at the Applicant can be found in the remainder of this document. Where appropriate, reference is made to any supporting information submitted separately alongside this response or which has previously been provided in support of the application.

2. Responses to the Secretary of State's Request for Information

Table 2-1 Applicant's response to the Secretary of State's Request for Information

| | Question to | Question | Applicant's response |
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| Compulsory Acquisition of Land and Rights | | | |
| 3 | Applicant | <p>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:</p> <p>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.</p> | The Applicant has provided a revised version of the Compulsory Acquisition Negotiation Schedule (Revision 6) in response to this request for information. |
| Badgers | | | |
| 4 | Applicant | <p>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.</p> | The Applicant confirms that the Environmental Statement (ES) has had full regard to the protection afforded to badgers, including under the Protection of Badgers Act 1992 and the standing advice from Natural England. All existing setts have been retained with appropriate buffers (BD13-CEMP, oCEMP [REP8-012]) and the security fencing will not be buried allowing badgers either to push under at low points or use the badger gates provided to continue to forage within fenced off panel areas (BD15-CEMP, oCEMP (Revision 4)). Pre-construction surveys will be undertaken, as secured via commitment BD12-CEMP [REP8-012], to ensure no new setts have become established. The Applicant considers that the oCEMP adequately reflects |

| | Question to | Question | Applicant's response |
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| | | | <p>NE's standing advice for badgers and therefore no further amendments are necessary.</p> <p>It should also be noted that Natural England, as the relevant statutory governing body, has confirmed via their Relevant Representation [RR-373] and Response to the ExA's ExQ1 [REP2-055] that they have no standing objections or outstanding concerns in relation to the Proposed Development, and that any previous concerns raised have been addressed by the Applicant.</p> |
| 5 | Applicant | <p>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.</p> <p>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].</p> | <p>The Applicant has updated commitment BD15-CEMP in the revised oCEMP (Revision 4) to reflect the measures in paragraph 6.3.5 of the revised oLEMP (Revision 4).</p> <p>For completeness, BD15-CEMP now reads:</p> <p><i>"Perimeter security fencing will be implemented early in the construction phase. The fence design will be around individual Panel Areas, to allow the movement of large mammals such as deer through the landscape along retained hedgerow margins around the Panel Areas.</i></p> <p><i>Within the perimeter fencing access points will be installed at strategic locations to allow badgers and other small mammals to pass through the Panel Areas."</i></p> |
| 6 | Applicant | <p>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.</p> | <p>The Applicant has added paragraph 6.3.7 to the revised oLEMP (Revision 4) to reflect a commitment to prohibit the use of chemical treatment for earthworms.</p> <p>For completeness, paragraph 6.3.7 reads:</p> <p><i>"No chemical treatments for the treatment of earthworms shall be used to manage and/or maintain land within the Order Limits during the lifetime of the Proposed Development."</i></p> |

| | Question to | Question | Applicant's response |
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| Landscape Ecology and Management Plan ("LEMP") – Requirement 12 | | | |
| 7 | Applicant and Natural England | <p>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:</p> <p><i>"Landscape and ecological management plan (LEMP)</i></p> <p><i>(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."</i></p> | <p>The Applicant confirms that the Proposed Development has been designed to provide biodiversity gain ("BNG") within the Order limits and is willing to include appropriate wording in Requirement 12 to secure delivery of BNG.</p> <p>In the absence of any current legal requirement for the Proposed Development (as a Nationally Significant Infrastructure Project) to deliver BNG, the Applicant submits that the appropriate wording for Requirement 12 should reflect the expected requirement under the Environment Act 2021 for Nationally Significant Infrastructure Projects (NSIPs) to deliver a minimum of 10% BNG. The ongoing Consultation on Biodiversity Net Gain for Nationally Significant Infrastructure Projects by the Department for Environmental, Food & Rural Affairs (DEFRA) proposes for a 10% BNG requirement to apply to NSIP applications from May 2026.</p> <p>The Applicant does not consider it necessary or appropriate for the wording in Requirement 12 to refer to the biodiversity net gains of 87.83% (area habitat units) and 108.12% (hedgerow units). These anticipated net gains are predicted, as set out in Environmental Statement Appendix 6.6: Biodiversity Net Gain Assessment [APP-131], to result from the habitat creation and enhancement proposals contained within the Environmental Masterplan (Revision 5 of which submitted at Deadline 8) [REP8-008]. The underlying habitat proposals are adequately secured by existing Requirements 3(2)(c) and (e), which respectively require the design details to be submitted to the relevant planning authority to accord with the Environmental Masterplan and the principles and assessments set out in the environmental statement. The maintenance and monitoring of those measures are considered in the Applicant's response to question 8, below.</p> <p>The Applicant notes that several recently made DCOs for solar NSIPs have not required delivery of the full amount of BNG expected to result from the consented development.</p> <p>For example, requirement 8(2) of The Gate Burton Energy Park Order 2024 requires the applicant's biodiversity net gain strategy to be substantially in</p> |

| | Question to | Question | Applicant's response |
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| | | | <p>accordance with the outline landscape and ecological management plan (oLEMP). The oLEMP (Revision 3) [REP8-016] provided at paragraph 1.5.4 that “<i>The Applicant will provide at least 10% BNG as part of the Scheme however it is likely that the quantum of BNG will be in excess of that for some habitat types</i>”. This was notwithstanding that the applicant’s BNG Assessment predicts (at paragraph 4.1.1) for the scheme to result in net gains of 70.95% for area-based habitats, 37.24% for hedgerows and a net gain of 14.22% for rivers.</p> <p>Notably, requirement 8(3)(a) of The Sunnica Energy Farm Order 2024 requires the landscape and ecological management to include details of how the plan will secure a minimum of 10% biodiversity net gain during the operation of the authorised development. This was notwithstanding that the applicant’s BNG Assessment (Version 5) predicted an overall net gain (at paragraph 5.1.1) of approximately 37% habitat units, 28% hedgerow units and 11% river units. In paragraph 4.92 of the Decision Letter, the Secretary of State determined that: “...<i>because BNG is not yet a statutory requirement for NSIP developments, the voluntary commitment of the Applicant to the Proposed Development achieving BNG over 10% weighs positively in favour of it. The Secretary of State ascribes the matter of BNG moderate positive weight in the planning balance.</i>”</p> <p>The Applicant further notes that this approach has recently been agreed as suitable by Natural England on the Helios Renewable Energy Project currently undergoing examination. The draft DCO submitted at Deadline 8 included requirement 10(2)(b) as follows -</p> <p>“(2) <i>The LEMP must include—(...)</i></p> <p><i>(b) details of habitat creation including how a minimum of 10% biodiversity net gain in habitat units, calculated using The Statutory Biodiversity Metric published by the Department for Environment, Food and Rural Affairs on 29 November 2023 (or such other biodiversity metric approved by the relevant planning</i></p> |

| | Question to | Question | Applicant's response |
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| | | | <p>authority in consultation with the relevant statutory nature conservation body), will be achieved during the operation of the authorised development;”</p> <p>Natural England's submission at Deadline 10 of the Helios examination states: “... We note that Requirement 10 (2) (b) includes wording on overall habitat creation, along with securing the minimum 10% biodiversity net gain. We also note that Requirement 10 (1) also still secures consultation with Natural England on the final LEMP. We would not advise on the exact wording that should be used within the DCO, <u>and consider the current wording to be suitable...</u>” [emphasis added]. This is notwithstanding that Chapter 8: Biodiversity of the applicant's Environmental Statement predicts (at paragraph 8.4.109) that the scheme will result in a biodiversity net gains of 55.70% in Habitat Units, 61.11% in Hedgerow Units and 9.05% in watercourse units.</p> <p>On the above basis, the Applicant proposes the below wording (with changes shown in-track) for insertion as new sub-paragraph (2)(c) of Requirement 12 of the draft DCO. The wording requires BNG to be calculated using DEFRA's existing statutory metric, as proposed for NSIPs in the ongoing Consultation:</p> <p>Landscape and ecological management plan (LEMP)</p> <p><i>12. (2) The LEMP must include details relevant for the phase of works in relation to –(...)</i></p> <p><i>(c) how a minimum of 10% biodiversity net gain in habitat units and a minimum 10% biodiversity net gain in hedgerow units, calculated using The Statutory Biodiversity Metric published by the Department for Environment, Food and Rural Affairs on 29 November 2023 (or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body), will be secured during the operation of the whole of the authorised development; and(...)</i></p> |
| 8 | Applicant | The Secretary of State notes the current oLEMP's provision for ongoing maintenance, summarised in the maintenance | The oLEMP [REP8-016] includes a long-term monitoring programme, with scheduled ecological and landscape surveys taking place at key intervals (e.g. |

| | Question to | Question | Applicant's response |
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| | | <p>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:</p> <p><i>"Landscape and ecological management plan (LEMP)</i></p> <p><i>(2) The LEMP must include details relevant for the phase of works in relation to –</i></p> <p><i>(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)'</i></p> | <p>Years 2, 4, 6, 10, and every 5 years thereafter until Year 40), as described in paragraph 8.1.1. Furthermore, in Appendix 1 (Management and Maintenance Schedule) there are management prescriptions for years 0, 1, 2, 3, 4, 5+, every 5 years and every 10 years. Surveys will assess the condition of newly established habitats and the success of mitigation measures against target outcomes, including those required to deliver BNG.</p> <p>Habitat enhancement and habitat creation measures will be managed for a period of 30 years to meet BNG requirements. It is anticipated that these will be extended to cover the 40-year operational period of the Proposed Development.</p> <p>To ensure continued effectiveness, the LEMP will remain a live document, subject to regular review and adjustment. The Applicant has confirmed that management measures will be revisited at the end of the 5-year aftercare period, and subsequently at 10-year intervals, to ensure that they remain appropriate and proportionate to site conditions. Where monitoring indicates that objectives are not being met, management prescriptions will be revised accordingly, in consultation with relevant stakeholders.</p> <p>The Applicant considers the proposed addition to Requirement 12 is consistent with the approach already secured via the oLEMP and therefore raises no objection to its inclusion.</p> |
| 9 | Applicant | 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. | No additional amendments to the revised oLEMP (Revision 4) are considered to be required. |
| Habitat Creation, Maintenance, and Adaptive Management | | | |
| 10 | Applicant | 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 | It is not possible at this stage to outline the remedial measures required as it would be dependent on the results of monitoring and the reasons for failure. For instance, should tree and shrub failures be accounted for because of specific local ground conditions e.g. a persistently waterlogged area, then |

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| | | intended condition. The Applicant is requested to revise the oLEMP to provide such measures. | <p>plant species would be adjusted to respond accordingly. The condition of the habitat that has been assumed will be reached during the operational phase (under the oLEMP [REP8-016]) is highly prescriptive with clear criteria that need to be met to achieve the required condition. Therefore, there should be confidence that the monitoring regime outlined in the oLEMP [REP8-016] will be sufficient to monitor habitat establishment and conditions and be able to prescribe remedial action as required. The full results of monitoring and any remedial habitat management undertaken will be made available to the LPA as a full audit trail.</p> <p>As such, the Applicant therefore considers no further amendments to the revised oLEMP (Revision 4) are necessary.</p> |
| 11 | Applicant | 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. | <p>The most sensitive receptor was ground nesting curlew and the mitigation area at West House Farm has no public access and was identified as an area of mitigation for this reason. In addition, public access routes were routed south of the proposed mitigation field at Great Stainton to avoid disturbance impacts on ground nesting birds.</p> <p>Other mitigation areas are not proposed to mitigate for species specific issues, so a general level of disturbance from people is anticipated and accepted.</p> <p>It should also be noted that Natural England, as the relevant statutory governing body, has confirmed via their Relevant Representation [RR-373] and Response to the ExA's ExQ1 [REP2-055] that they have no standing objections or outstanding concerns in relation to the Proposed Development, and that any previous concerns raised have been addressed by the Applicant.</p> <p>As such, the Applicant therefore considers no further amendments to the revised oLEMP (Revision 4) are necessary.</p> |

| | Question to | Question | Applicant's response |
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| Ecological Data Sharing | | | |
| 12 | Applicant | 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. | <p>The Applicant has added paragraph 6.1.2 and 8.1.3 of the revised oLEMP (Revision 4) to reflect the need to share pre-and-post construction ecological data with the relevant Local Environmental Records Centre(s) and Local Planning Authorities.</p> <p>For completeness, paragraph 6.1.2 now reads:</p> <p><i>“An ecologist will complete a pre-construction survey in advance of works to reconfirm the ecological baseline conditions to identify any new ecological risk or changes to existing known constraints. The walkover will be completed sufficiently in advance of the works to allow for the completion of any additional seasonal surveys (e.g., surveys in support of protected species licences). This data will be 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.”</i></p> <p>For completeness, paragraph now 8.1.3 reads:</p> <p><i>“The data gathered from these surveys will be 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.”</i></p> |
| Preservation of Archaeological and Heritage Assets | | | |
| 13 | Applicant | 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. | <p>Commitment CH1-DEMP has been added to the revised oDEMP (Revision 3), which details the measures that will be taken during decommissioning to protect the Motte and Bailey Scheduled Monument.</p> <p>This states:</p> <p><i>“The following measures will be taken to protect the Motte and Bailey Scheduled Monument at Bishopton during decommissioning:</i></p> <ul style="list-style-type: none"> <i>• Fencing off the scheduled area during decommissioning which includes a 5m buffer to avoid accidental encroachment;</i> |

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| | | | <ul style="list-style-type: none"> • <i>Toolbox talks prior to commencement of work to inform contractors of requirements and procedures; and</i> <p><i>Archaeological monitoring will take place during works in the vicinity of the monument"</i></p> <p>No mitigation and/or management measures, or further monitoring, is required for known and unknown archaeological remains during the decommissioning stage, as identification, mitigation by design and preservation by record will happen during the construction phase.</p> |
| Construction Dust | | | |
| 14 | Applicant and Durham County Council | 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]. | <p>The Construction Dust Assessment (paragraph 7.1.1) (Revision 2) and oCEMP (commitment AQ1-CEMP) (Revision 4) have been updated to require a commitment to monitoring for dust deposition, dust flux and PM10 monitoring, with the locations of such monitoring to be agreed with the relevant planning authorities. This states that the Applicant will:</p> <p><i>"Undertake monitoring for dust deposition, dust flux and PM10 continuous monitoring at locations to be agreed with the relevant Local Planning Authority(s). Pre-construction levels will be surveyed and data shared with the relevant Local Planning Authority(s)."</i></p> |
| Updated National Flood Risk Assessment | | | |
| 15 | Applicant | 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 | <p>The Applicant appreciates that the updated guidance which has been produced by the Environment Agency after the close of the DCO examination will be a relevant planning consideration for the Secretary of State.</p> <p>The Applicant has considered the approach taken by the Secretary of State to considering the implications of the updated guidance for the recently granted East Yorkshire Solar Farm Order 2025 (explained at paragraphs 4.25 to 4.29 of the Decision Letter). The Applicant's flood risk and drainage</p> |

| | Question to | Question | Applicant's response |
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| | | Proposed Development, and to provide revised documents as necessary. | <p>specialists have carried out a similar comparison exercise of the original and updated guidance and prepared a separate Technical Note to accompany these responses.</p> <p>The Technical Note shows that the updates to the Flood Map for Planning and flood zones data from the Environment Agency present a modest change in the proportions of the Order Limits which are subject to various sources of flood risk. This change has not changed the conclusions made within Environmental Statement Chapter 10 [APP-033] or the Flood Risk Assessment and Drainage Strategy [REP8-019].</p> <p>The Applicant's position is that updates do not materially alter the Applicant's conclusions on the Sequential and Exception Tests which are outlined in paragraphs 5.8.9 and 5.8.10 of the 2024 NPS EN-1. Where the changes introduce modest differences when compared to the mapping utilised at the time of the application, it is considered that the impacts of these changes can be accommodated as part of the detailed design of the Proposed Development, controlled via Requirement 3 of the draft DCO. In summary:</p> <ul style="list-style-type: none"> • No material changes identified as a result of updates to the Flood Map for Planning. • The following changes at detailed design will be required as a result of updated surface water and minor watercourse flood risk data: <ul style="list-style-type: none"> ○ A small area of PV modules in the northern corner of Field E01 can be locally raised if needed within the maximum height parameter of 3.5m to bring them above predicted flood levels. ○ 4 inverters and 8 hybrid units can be micrositied as part of the detailed design process to locate them outside of the updated flood zones. |

| | Question to | Question | Applicant's response |
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| | | | <ul style="list-style-type: none"> ○ A sustainable drainage solution in the vicinity of the proposed substation which is now shown to be within a shallow area of surface water flooding associated with an overland flow route. This could include a swale or similar feature within the parameters of the original design / assessment. <p>Specifically in relation to the Flood Risk Assessment [REP8-019] provided in Support of the application and the key tests within it:</p> <p><u>Sequential Test</u></p> <p>The Applicant explained in part 3.7 of the FRA [REP8-019] that it satisfied the Sequential Test by steering the development towards areas of lower flood risk. A series of alternative locations for the Proposed Development were considered and it is concluded that no other sites are reasonably available within the search radius that are at a lower flood risk. That conclusion was not disputed or criticised by the Environment Agency in its final submissions to the DCO examination [REP8-036]. It is the Applicant's position that the modest changes in the proportions of the Order Limits which are subject to various sources of flood risk (as described in the Technical Note) do not affect the conclusions of the FRA in this regard.</p> <p><u>Sequential Approach</u></p> <p>The Applicant followed a sequential approach to steer the Proposed Development within the Order Limits to the areas with the lowest risk of flooding, using the data and information available at the time of assessment and design as set out within Section 3.8 of the FRA. The final location of the Proposed Development continues to lie on land which is mostly within lower risk Flood Zone 1 and it is considered that the modest changes which have emerged through the updated information (as described in more detail in the accompanying Technical Note) can be appropriately managed through the detailed design process (Requirement 3) and therefore conclusions of the FRA on the sequential approach remain unchanged.</p> |

| | Question to | Question | Applicant's response |
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| | | | <p>Despite the changes which have emerged, particularly in relation to surface water flooding, there is sufficient flexibility within the DCO to ensure that sensitive equipment can be micro-sited through detailed design or mitigation measures (e.g. sustainable drainage solutions) can be implemented to ensure that a sequential approach to design can continue to be followed at that detailed design stage. It will be possible to ensure that there continues to be no sensitive electrical infrastructure within areas of flood risk through this micro-siting or engineering design, with the Proposed Development continuing to demonstrate how development within fluvial or surface water flood risk zones is either not impacted by flood risk or how it has been mitigated. The mitigation which would be applied at that detailed design stage is described in more detail in the accompanying Technical Note.</p> <p><u>Exception Test</u></p> <p>In relation to the exception test, it remains the case that the Proposed Development will deliver significant sustainability and community benefits whilst also being safe for its lifetime and not impacted flood risk on site or off site. Through the detailed design process, the infrastructure will be positioned as to not impede flow routes and will continue to have a negligible impact on floodplain storage, meaning the exception test continues to be satisfied as per Section 3.9 of the FRA.</p> <p>The Applicant confirms that the Flood Risk Assessment and Drainage Strategy [REP8-019] for the Proposed Development, supplemented by the Technical Note provided with this response, remains an appropriate flood risk assessment in support of the DCO Application.</p> |
| Photovoltaic Panel Reduction | | | |
| 16 | Applicant | 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 | The Applicant has carefully considered the possibility of deriving a reasonable technological baseline and set of criteria against which proposals to reduce, or not reduce, panels areas in response to future technological advances could be assessed. |

| | Question to | Question | Applicant's response |
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| | | 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. | <p>The principal technological advancement for solar panel technology relates to the capacity of each individual solar module. The submitted design for the proposed development was based on 570w modules being used. This capacity may increase by the detailed design stage of the proposed development.</p> <p>However, there is no direct correlation between an increase in the capacity of solar modules and the land required to generate electricity. Considerations for modules with higher power ratings include dimensions and therefore power density, module performance and efficiency, module cost and availability. These factors in turn impact design aspects such as module configuration, tilt angle, quantity of modules, interrow spacing and ultimately have an effect on the overall generation of the site. The overall generation must then be considered with respect to the viability of the proposed development and therefore cannot be considered for assessment in isolation.</p> <p>Given the number of variables that need to be considered in the design to achieve the generating output, it is not possible to provide a simple technological baseline against which to assess any proposed reduction in panel areas. The intention of the mechanism included in section 8.4 of the Design Approach Document is to ensure that any ability to reduce the panel area is focused in the priority areas identified. It is not the intention to enforce a reduction in the panel area required to meet the required generation capacity of the proposed development. It should be noted that it is in the Applicant's interest to ensure that most suitable technology is used at the time of construction of the Proposed Development.</p> |
| Battery Fire Safety | | | |
| 17 | Applicant and County Durham and Darlington | 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 | County Durham and Darlington Fire and Rescue Service (CDDFRS) were consulted with regarding the outline Battery Fire Safety Management Plan (oBFSMP) [APP-117] prior to the submission of the DCO application. Detail of consultation with CDDFRS is outlined within the oBFSMP [APP- |

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| | Fire and Rescue Service | agreement on the Outline Battery Fire Safety Management Plan [APP-117]. | 117]. An email from CDDFRS is appended to this document which confirms that the oBFSMP responds to requests made by CDDFRS. Furthermore, the signed Statement of Common Ground with Darlington Borough Council [REP8-029] details agreement on Requirement 11, which requires the Battery Fire Safety Management Plan to be submitted to and approved by the relevant planning authority and does not require further engagement with CDDFRS as the Battery Fire Safety Management Plan must accord with the oBFSMP [APP-117], as secured through Requirement 11. |
| Landscape and Visual | | | |
| 18 | Applicant | 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. | The Applicant wishes to stress the scale of work and length of time required to prepare visualisations. APP-071, APP-072, APP-073 and APP-074 comprise a total of 178 annotated existing views, wirelines and photomontages across various years of the Proposed Development post-construction. In particular, it should be noted that the annotated existing views and photomontages visually demonstrate the change in landscape when comparing the existing views and what the views would look like should the Proposed Development receive development consent and be constructed. The photomontages are provided as an overlay onto the relevant photography, but it is not the purpose of the annotated existing views or wirelines to take that approach. For example, Viewpoint 19a (sheet 4 of APP-073] demonstrates the change in view on Elstob Lane at Year 1. The Applicant also wishes to reiterate that viewpoints, and visualisations for these, are a tool to present a proportionate representation of the Proposed Development from various places, but they are not the sum total of the assessment work which has been carried out and is reported in the Applicant's Environmental Statement [REP9a-001]. The visualisations provided in APP-071, APP-072, APP-073 and APP-074 were considered appropriate by the Planning Inspectorate to accept the application for examination in March 2024, The Applicant's position is that its visualisations follow relevant industry guidance and best practice, and are adequate to assess the likely significant environmental effects of the Proposed Development. In that context, taking account of the volume of visualisations comprised in the documents referred to, and the lengthy process which |

| | Question to | Question | Applicant's response |
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| | | | would be involved in reproducing them, the Applicant is not in a position where it has been able to provide a revised set of visualisations within the limited period allowed by the consultation letter. The Applicant would also require express direction on the manner in which the existing visualisations are considered to be inadequate, such that it could address those specific concerns. |
| Noise and Vibration | | | |
| 19 | Applicant | 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. | <p>The assessment provided in ES Chapter 11 [APP-034] states in paragraph 11.2.9 that noise has been assessed in accordance with:</p> <ul style="list-style-type: none"> • BS4142 for operational noise • BS5228 parts 1 & 2 for construction noise and vibration <p>Both of the above are standard practice for developments of this kind and have been used to determine the threshold of significance in the assessment.</p> <p>BS6472 has been referred to in the assessment (paragraph 11.10.16) but as stated refers to continuous vibration over a 16 hour day and vibration levels are likely to be below the threshold for complaints in relation to continuous vibration. The assessment then considers vibration in accordance with BS5228-2 and concludes that vibration levels are likely to be below the negligible threshold (paragraph 11.10.25 – 29).</p> <p>BS8233 is referenced in paragraph 11.2.9. It relates to internal noise levels in buildings and is usually referred in industrial type assessments to provide context when BS 4142 outcomes are contentious, for example it is implied in paragraphs 11.10.40, 11.10.53 and 11.10.54, although not specifically referenced.</p> <p>The Applicant considers that the assessment has applied the code of practice as per British Standards BS 4142, BS 6472 and BS 8233, guidance and policy and no further updates are necessary.</p> |

| | Question to | Question | Applicant's response |
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| 20 | Applicant | <p>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.</p> | <p>As identified in the construction noise addendum [REP4-012], moderate adverse effects are predicted at some existing sensitive receptors (ESRs) for the cable route construction activities. The activities assessed are a worst-case scenario comprising trenching and Horizontal Directional Drilling activities with the noise model considering that all noise sources will be operating together with an on-time of 100% for machinery, for a duration of one month. The ESRs identified as subject to likely moderate adverse effects in that worst case scenario are where the cable route passes in close proximity to existing residential properties. Standard best available techniques (BAT) methods are stated in the oCEMP [REP8-012], which includes temporary screening where applicable. Temporary screening can provide up to 10dB attenuation depending on a number of factors, which will reduce the noise effects further. Furthermore, utilising cable ploughing where possible will further reduce the duration of the noise impact at ESRs as the process is faster. Given the proximity of some of the ESRs to the cable route it is inevitable that significant noise levels could be experienced, but at this stage, it is impossible to predict the precise noise level, the duration of elevated noise level or the effect of the BATs identified within the CEMP. The Applicant has applied a worst case scenario, which whilst unlikely to materialise in practice, means that a significant residual effect was concluded in the ES as it could not be ruled out at that time. As reported in the Planning Statement (paragraphs 5.12.8, 6.1.13-14) [APP-163], these effects would be short term and reversible, and does not present an unacceptable risk that negate the presumption in favour of development for critical national priority infrastructure as identified in National Policy Statement EN-1.</p> |
| 21 | Applicant | <p>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.</p> | <p>The oCEMP [REP8-012] confirms at 2.3.4 that “<i>Measures to control noise as defined in Annex B of BS 5228:2009+A1:2014 ‘Code of practice for noise and vibration control on construction and open sites - Part 1: Noise’ [1] and measures to control vibration as defined in Section 8 of BS 228:2009+A1:2014 ‘Part 2: Vibration’ [2] will be adopted where reasonably practicable. These measures represent ‘Best Practicable Means’ (BPM) (as defined by section 72 of the Control</i></p> |

| | Question to | Question | Applicant's response |
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| | | | <p><i>of Pollution Act 1974) (COPA) [3] to manage noise and vibration emissions from construction activities."</i> Standard practice mitigations measures are therefore proposed by the Applicant.</p> <p>The Applicant clarifies that there is no ongoing noise monitoring currently in place at the site of the Proposed Development. Only the background sound levels at the time of the noise surveys are required to establish the baseline condition for the noise assessment.</p> <p>Paragraph 5.2.13 of NPS EN-1 states that the Secretary of State should consider whether mitigation measures are needed for construction and operational noise, which are provided by the oCEMP as outlined above in respect of construction activities. More detail is provided in response to question 22 below. However, as regards monitoring during the construction phase, for the reasons outlined in ES Chapter 11 Noise and Vibration [APP-034], no monitoring is proposed or considered required. In particular it is not proposed to undertake noise and vibration monitoring during the construction phase due to the likely moderate and short-term impact of noise and no likely vibration impact.</p> <p>Due to the low predicted noise levels during the operational phase, noise monitoring of the Proposed Development is not considered necessary for the operational phase. This would not normally be a requirement for this type of development.</p> |
| 22 | Applicant | 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. | <p>The Applicant has provided for mitigation during construction, which is secured via the oCEMP [REP8-012], through the provision of temporary screening as defined in BS5228 (commitment NV2); additional mitigation such as noise barriers or selection of equipment with lower sound power levels if required (commitment NV3); and, relocation of horses for equestrian businesses in the vicinity of Panel Area F if required (commitment NV4).</p> <p>As referred to in response to question 20 above, due to uncertainties at this stage regarding detailed design and construction methodology, a worst-case scenario was assumed for the assessment which identifies potential for</p> |

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| | | | residual significant effects during construction, That would be short term and reversible. It is not anticipated that the worst-case assumed for the assessment would, in reality, occur, and the contractor would determine through commitments NV2-NV34 the appropriate strategies to employ to mitigate construction noise once the detailed design and construction methodology is established. Such information would be provided in the CEMP as required via Requirement 3(c). Should the contractor identify that significant effects are likely to arise in any location, prior consent under Section 61 of the Control of Pollution Act 1974 (COPA 1974) would be sought from the local planning authority as expressly identified at paragraph 2.3.15 of the CEMP. As stated in the Other Consents and Licenses document [REP9-008], it is not anticipated that Section 61 consent would be required, as the conclusions of the noise assessment are based on a worst-case scenario that is unlikely to occur in reality and was established as there are aspects of construction that have not been fixed prior to detailed design and appointment of the contractor. |
| Land Use | | | |
| 23 | Applicant | 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. | Impacts on sand and gravel were considered within ES Chapter 9 Land Use and Socioeconomics [APP-032]. This included an assessment of the potential effects of the Proposed Development on the identified mineral resources of limestone, sand and gravel within the Tees Valley Minerals and Waste Core Strategy DPD (2011), within parts of Panel Area C and D. The effect on these resources is considered to be Minor Adverse as there would be a temporary sterilisation, however the resources would remain in situ and could be extracted following decommissioning of the Proposed Development. The principle of this has been agreed within the signed Statement of Common Ground with Darlington Borough Council [REP8-029]. |

A.1 Correspondence with County Durham and Darlington Fire and Rescue Service (CDDFRS)

From: [REDACTED] >

Sent: 02 February 2024 09:51

To: [REDACTED] >

Cc: [REDACTED]
[REDACTED]

Subject: Re: Draft and Confidential - Byers Gill Solar - Outline Battery Fire Safety Management Plan

You don't often get email from [REDACTED] [Learn why this is important](#)

Hi [REDACTED]

I have read through the Battery Fire Safety Management Plan and took note of Table 1 s 17 - 19) and the responses to the NFCC guidance for consultations on these types of installations.

The responses you have given support the requests we made during our October 2023 meeting. I would be very grateful if you could continue to keep CDDFRS informed as this Infrastructure panning application continues to proceed through the various phases until project completion.

Regards

[REDACTED]

[REDACTED]

Station Manager,
Emergency Response and Resilience Planning Manager
Headquarters
Durham

Tel: [REDACTED]

Mob: [REDACTED]