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Ref: EN010139

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23 July 2025

Dear Sir or Madam,

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR BYERS GILL SOLAR

[This decision was made by Parliamentary Under Secretary of State, Dr. Miatta Fahnbulleh MP, on behalf of the Secretary of State for Energy Security and Net Zero]

1. Introduction

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the Examining Authority’s (“ExA”) report dated 23 April 2025. The ExA consisted of three examining inspectors, André Pinto (lead panel member), Max Wiltshire, and Alex Oyebade. The ExA conducted an Examination into the application submitted on 9 February 2024 (“the Application”) by RWE Renewables UK Solar and Storage Limited (“the Applicant”) for a Development Consent Order (“DCO”) (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Byers Gill Solar Project (“the Proposed Development”). The Application was accepted for Examination on 8 March 2024. The Examination began on 23 July 2024 and closed on 23 January 2025. The Secretary of State received the ExA’s Report on 23 April 2025.
- 1.2. On 23 May 2025, the Secretary of State issued an information request seeking information on several matters (“the first information request”)¹. On 6 June 2025, an additional information request was issued by the Secretary of State (“the second information request”) inviting all Interested Parties (“IPs”) to comment on the information received and seeking an update from the Applicant on outstanding land rights agreements².

¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001145-Byers%20Gill%20-%20Information%20Request.pdf>.

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001166-Byers%20Gill%20-%20Second%20Information%20Request.pdf>.

- 1.3. The Order, as applied for, would grant development consent for a solar farm located between Darlington and Stockton-on-Tees, covering an area of approximately 490 hectares (“ha”) which is currently comprised of agricultural fields, interspersed with individual trees, hedgerows, farm access tracks, woodlands, local farm holdings and several different Public Rights of Way (“PRoW”). The Proposed Development encompasses ground mounted solar photovoltaic (“PV”) panels, an on-site Battery Energy Storage System (“BESS”), associated infrastructure as well as underground cable connections between panel areas to connect to the existing National Grid substation at Norton. The Proposed Development has been designed to generate over 50 megawatts (“MW”) alternating current (“AC”) of electricity, and an agreement has been secured with Northern Power Grid for the generation of 180MW of electricity, using an available grid connection at the Norton Substation.
- 1.4. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, as set out in the draft Order submitted with Application.
- 1.5. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website³ is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”). The ExA’s findings and conclusions are set out in Chapters 3 – 6 of the ExA Report, and the ExA’s summary of conclusions and recommendation is at Chapter 7. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER *.*.”].

2. Summary of the ExA’s Report and Recommendation

- 2.1. The principal issues considered during the Examination, on which the ExA has reached conclusions in relation to the case for development consent, are set out in the ExA Report under the following broad headings:
 - The Principle of the Development
 - Alternatives and Site Selection
 - Good Design
 - Socioeconomics
 - Landscape and Visual Effects
 - Biodiversity
 - Historic Environment
 - Noise and Vibration
 - Flood Risk and Water Environment
 - Traffic and Transport
 - Land Use
 - Other Planning Topics
 - Cumulative Effects
- 2.2. The ExA recommended that the Secretary of State should **grant consent** for the application [ER 7.4.2].

³ <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010139>

- 2.3. Except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA Report, and the reasons for the Secretary of State's decision include those given by the ExA in support of their conclusions and recommendations.

3. Summary of the Secretary of State's Decision

- 3.1. Section 104(2) of the 2008 Act requires the Secretary of State, in deciding an application, to have regard to any National Policy Statement ("NPS") which has effect in relation to development of the description to which the application relates, along with local impact reports and other important and relevant matters. Subsection (3) requires that the Secretary of State must decide the application in accordance with any relevant NPS except to the extent that one or more of subsections (4) to (8) apply. The Secretary of State has determined this application in accordance with the relevant NPSs and has concluded that subsections (4) to (8) are not applicable in this case.
- 3.2. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that the public benefits associated with the Proposed Development outweigh the harm identified, and that development consent should therefore be granted.
- 3.3. The Secretary of State has decided, under section 114 of the 2008 Act, to make, with modifications, an Order granting consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations").
- 3.4. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

4. The Secretary of State's Consideration of the Application

- 4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including representations received after the close of the ExA's Examination and responses to the information requests. 554 Relevant Representations ("RRs") were made to the ExA in respect of the Application [ER 1.4.1]. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA and the Secretary of State.
- 4.2. The Secretary of State has had regard to the Local Impact Reports ("LIR") submitted by Darlington Borough Council ("DBC"), Stockton-on-Tees Borough Council ("SBC") and Durham County Council ("DCC"), environmental information as defined in regulation 3(1) of the EIA Regulations and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of the 2008 Act. This includes policies set out in NPSs EN-1, EN-3 and EN-5, as designated on 17 January 2024 ("the 2024 NPSs"), which are "relevant" NPSs in respect of the Application for the purposes of s104(2) of the 2008 Act.

- 4.3. The Secretary of State addresses the 2024 NPSs where relevant within this letter. On 24 April 2025, further revised drafts to NPS EN-1, EN-3 and EN-5 were published⁴ (“the 2025 draft NPSs”). The Secretary of State has considered the 2025 draft NPSs, which are relevant considerations in respect of the Application. There is nothing in these which alters the Secretary of State’s findings in respect of this Application. The Secretary of State has also had regard to the updated National Planning Policy Framework (“NPPF”) from December 2024⁵ which was published after the close of the Examination. The most relevant update from the 2024 NPPF is paragraph 168, which stipulates that significant weight must be given by Local Planning Authorities (“LPAs”) to the benefits associated with renewable and low carbon energy generation when determining planning applications. The Secretary of State considers that the December update reinforces the government’s commitment to low carbon energy and concludes that there are no new policies within the 2024 NPPF which alter his findings in respect of the Application.
- 4.4. The Secretary of State has had regard to the Clean Power Action Plan published on 13 December 2024, which outlines the steps to accelerate the government’s progress towards delivering clean power by 2030.
- 4.5. The Secretary of State agrees with the ExA’s conclusions in respect of the following issues:
- Alternatives and Site Selection – no weight
 - Socioeconomics – little positive weight
 - Traffic and Transport – no weight
 - Other Planning Topics – no weight
- 4.6. The paragraphs below address the matters where the Secretary of State has set out further commentary and analysis beyond that in the ExA’s Report. This includes matters where the Secretary of State considers it is necessary to provide further detail on his rationale for agreeing or disagreeing with the conclusions of the ExA:
- Principle of the Development
 - Good Design
 - Landscape and Visual Effects
 - Biodiversity
 - Historic Environment
 - Noise and Vibration
 - Flood Risk and Water Environment
 - Land Use
 - Cumulative Effects

Principle of the Development

- 4.7. The ExA was satisfied that, in line with the relevant policies found in NPS EN-1, EN-3 and EN-5, there is a compelling case for the delivery of renewable energy at pace, including solar, demonstrating the need for the Proposed Development and its delivery of low carbon

⁴ <https://www.gov.uk/government/consultations/planning-for-new-energy-infrastructure-2025-revisions-to-national-policy-statements>.

⁵ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>.

energy. It also noted the role of solar energy in securing the UK's supply of energy whilst assisting the government in reaching its target to cut GHG emissions to achieve net zero by 2050 [ER 3.2.60]. The ExA further noted relevant provisions in the NPPF, including Section 14, which sets out the need for the planning system to support the transition to a low carbon future, including by supporting renewable and low carbon energy [ER 3.2.19].

- 4.8. In line with paragraph 4.1.3 of NPS EN-1, the ExA considered the urgency of the need for new electricity infrastructure, particularly low carbon, and the presumption in favour of granting consent for energy Nationally Significant Infrastructure Projects ("NSIPs") [ER 3.2.8]. The ExA highlighted the Proposed Development's connection to Norton Substation and the agreement secured for the generation of 180MW of electricity [ER 3.2.31]. The provision of the BESS would enable a flexible supply of energy to the grid [ER 3.2.34].
- 4.9. In meeting the established need, the ExA found that the Proposed Development would do so at speed and would be able to maximise the secured grid connection across the anticipated 40-year lifetime of the development [ER 4.2.8], with a projected 39-month construction period between June 2025 and September 2028 [ER 3.11.18].
- 4.10. The ExA found that the proposed level of overplanting of PV panels is appropriate in order to maximise the use of the grid connection, with the provision of the BESS facilitating this maximisation [ER 3.2.65-66], and in relation to the overall size of the Proposed Development and the technical limitations of the grid connection [ER 4.2.8].

Climate Change

- 4.11. The Applicant's ES Chapter 5 [APP-028] considered the potential effects of climate change on the Proposed Development and any required measures which would be needed to address the Proposed Development's potential impacts on climate change during construction, operation and decommissioning [ER 3.2.36]. The ExA considered the impacts of climate change on the development under 'Other Planning Topics' [ER 3.13.2 et seq.]. The Applicant confirmed it had considered the potential impacts of climate change on the development, including the projected increase in frequency of extreme weather events and the climate change resilience of the development, including measures embedded in the Proposed Development's design and via the Outline Construction and Environment Management Plan ("oCEMP") [ER 3.13.11 et seq.]. The ES confirmed there are no climate risk ratings at moderate or above and that the effect on the Proposed Development is therefore very low to low, which is not significant [ER 3.13.13]. The ExA noted that no substantive concerns about the Applicant's approach were raised by the host local authorities or other statutory bodies and considered that the assessment was based on reasonable assumptions and was proportionate and that the Applicant had satisfied the requirements in paragraphs 4.10, 4.10.13, and 4.10.15 of NPS EN-1 [ER 3.13.15 and ER 3.13.3 et seq.].
- 4.12. The Secretary of State considers that the impact of the Proposed Development on climate change and the reduction in GHG emissions is an intrinsic part of the need case and therefore concludes on need, including impacts on climate change, below from paragraph 4.19.
- 4.13. The Applicant confirmed that the GHG emissions assessment followed a project lifecycle approach, calculating GHG emissions arising from the construction, operation and decommissioning phases of the Proposed Development. The Applicant scoped the key

anticipated GHG emissions sources associated with the Proposed Development and considered the likely activities that will lead to GHG emissions at production, construction, operation and decommissioning phases [ER 3.2.38]. The Applicant concluded that the only significant effects identified were beneficial and related to the production of low carbon energy during operation. Minor adverse effects that were not significant were identified in relation to the release of GHG emissions during construction and decommissioning [ER 3.2.40].

- 4.14. The Applicant's assessment of GHG emissions concluded that there would be 176,590 tonnes of embodied emissions from the manufacture of materials and components (Table 5-8, ES Chapter 5 [APP-028]), 236,597 tonnes of emissions from the construction phase (Table 5-9), 175,110 tonnes from operation (Table 5-10), and 11,854 tonnes from the decommissioning phase (Table 5-11). Against this, the Applicant calculated its contributions per carbon budget as 236,497 tonnes for the 4th budget (2023-2027), 68,809 tonnes for the 5th budget (2028-2032), and 78,339 for the 6th budget (2033-2037) (Table 5-12 and paragraph 5.10.15 [APP-028]. The Applicant has calculated an operational carbon intensity value of 18.6g CO_{2e}/kWh [paragraph 5.10.19, APP-028].
- 4.15. In the Statement of Common Ground ("SoCG") between the Applicant and Bishopton Villages Action Group ("BVAG"), BVAG raised a concern that no life cycle analysis ("LCA") had been applied to the Proposed Development and that the absence of scope 1, 2 and 3 emissions assessment fell below best practice standards. The SoCG records that ES Chapter 4 [APP-027] sets out that the EIA considered construction, operation and decommissioning effects of the Proposed Development and ES Chapter 5 includes an assessment of the Proposed Development's GHG emissions and resilience to climate change in accordance with relevant policy and guidance [ER 3.13.14].
- 4.16. The Applicant confirmed that the energy generated during the operational phase was based upon initial internal modelling and compared against a gas fired Combined Cycle Gas Turbine ("CCGT") generating facility [ER 3.2.39].
- 4.17. The Secretary of State considers that a comparison against predicted grid average carbon intensity, which has been the approach adopted by other solar farm developers, is preferred as a comparator for contextualising GHG emission benefits over an evaluation against a CCGT generating facility. However, the Secretary of State notes that, if a counterfactual of grid average was used, the Proposed Development would nonetheless represent an emissions saving. Whilst the Applicant has not quantified the carbon saving compared to projected grid average, the Secretary of State does not consider this is necessary as it would not change the significance of the effect in EIA terms. Using the methodology adopted by the Applicant in the ES, using either comparator, the Proposed Development would represent a significant beneficial effect due to the low carbon electricity generation during its operation. This is due to the significant amount of greenhouse gas emissions avoided over the lifetime of the Proposed Development, compared to the greenhouse gas emissions from more carbon intensive sources of electricity generation if the Proposed Development did not go ahead. The Secretary of State is therefore satisfied with the Applicant's assessment and concludes that there are carbon-savings and a net beneficial effect overall in relation to GHG emissions.
- 4.18. The ExA concluded that as the Proposed Development is considered low carbon infrastructure, and accords with national policy in principle, it would assist in achieving the

target to cut GHG emissions to net zero by 2050, and clearly meets the need case, that this matter should be given very great positive weight in the planning balance [ER 3.2.67].

The Secretary of State's Conclusion on the Principle of the Development, including Climate Change

- 4.19. The Secretary of State notes the contribution the Proposed Development would make to the established need for renewable energy generation and to achieving targets for GHG emission reductions. The Proposed Development would also be likely to assist the government in meeting its target of delivering Clean Power by 2030.
- 4.20. NPS EN-1 Paragraph 5.3 sets out the requirements for GHG emissions assessments, which includes providing information on the amount of GHG the project produces and how the emissions have been minimised, but does not require the Applicant to provide an estimate of emissions savings from energy generation. The Secretary of State notes that the Applicant has adequately assessed all adverse impacts and the expected GHG emissions produced by the Proposed Development (as outlined in paragraph 4.14). On this basis, the Secretary of State agrees with the ExA in concluding that the need for the Proposed Development is established. In relation to climate change resilience, the Secretary of State agrees that any identified climate change risks are of very low significance [ER 3.13.9] and have no material impact on the planning balance. In accordance with NPS EN-1, the Secretary of State ascribes the need for the Proposed Development substantial positive weight in favour of making the Order.
- 4.21. Other benefits of the proposal, including matters such as biodiversity and socio-economic factors, are given separate weightings in the planning balance, as signposted in the appropriate sections of this letter.

Good Design

- 4.22. The Secretary of State agrees with the ExA [ER 3.4.19] that the Applicant's approach to good design is in line with the relevant policy requirements set out in NPSs EN-1 (paragraphs 4.7.12 to 4.7.14) and EN-3 (paragraph 2.5.2, and 2.6.1).

PV Panel Reduction

- 4.23. The Secretary of State notes the concerns of BVAG (in BVAG1 of its SoCG) [ER 3.6.78]. In the first information request, the Applicant was asked to confirm if it was possible to include a reasonable technological baseline and set of criteria in their Design Approach Document ("DAD") against which proposals to reduce, or not reduce, panel areas in response to future technological advancements can be assessed by the relevant LPAs. If it was not possible, the Applicant was asked to provide a justification.
- 4.24. The Applicant explained that it had carefully considered this possibility, but as there is no direct correlation between an increase in the capacity of solar modules and the land required to generate electricity, and given the number of variables that need to be considered in the design to achieve the generating output, it would not be possible to provide a simple technological baseline against which to assess any proposed reduction in panel areas⁶. The

⁶ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001151-Responses%20to%20the%20Secretary%20of%20State%20Request%20for%20Information%203%20June%202025%20Issue.pdf>

Applicant noted that it is in its interest to ensure that the most suitable technology is used at the time of construction of the Proposed Development.

- 4.25. In response to the second information request, BVAG reaffirmed that the DAD had been acknowledged by all parties, including DBC (as the enforcing authority) as the mechanism by which reductions in panel areas should be explored due to the relationship between advancing technology and necessary land take⁷. BVAG emphasised that a baseline could be defined using the Jinko 570W panel referenced in the application, with other variables related to output such as tilt angle, configuration, and inter-row spacing taken into account. BVAG argued that, while solar design is complex, there is a clear correlation between panel efficiency and land required, and that every effort should be made to reduce land take through less overplanting, smarter design, and more efficient technology. BVAG further stated that the DAD was intended both to identify ways to reduce land required for the same energy output and to prioritise avoidance of BMV land. In this context, BVAG concluded that the overplanting proposed by the Applicant was excessive compared to industry norms and that the Proposed Development would benefit from a reduced planting ratio to lessen harm. This overall position was endorsed by DBC in their response to the second information request⁸. The Secretary of State has carefully considered BVAG and DBC's position and acknowledges the arguments raised in support of reducing land take, particularly in relation to residential amenity and BMV land. However, he is satisfied that the Applicant has provided a reasoned justification for the limits of technological predictability at this stage, and that the DAD offers a proportionate and flexible approach for relevant planning authorities to assess any design changes prior to construction.
- 4.26. The ExA noted that the significant amount of debate in relation to the reasons for the removal of panel areas following statutory consultation, as detailed in Table 4-2 of the Energy Generation and DAD [REP2-010], and states that this presents valid reasons for why choices were made in relation to the location of panel areas and the evolution of the Applicant's approach, taking into account environmental, social and economic effects including technical and commercial feasibility of the Proposed Development. [ER 3.3.6]. The Secretary of State has reviewed Table 4-2 and notes that the Applicant provides a range of justifications for the removal of specific panel areas, including proximity to residential properties, potential for improved biodiversity outcomes, feedback from statutory consultees and local stakeholders, and access and drainage constraints. The Secretary of State considers that while these justifications could have been more rigorously evidenced in places, Table 4-2 does demonstrate an iterative design process that sought to respond to consultation feedback and minimise impacts. On that basis, the Secretary of State agrees with the ExA that Table 4-2 presents valid reasons for the removal of panel areas and is satisfied that the Applicant's design evolution was appropriately informed by environmental, social and technical considerations.

The ExA's Conclusions on Good Design

- 4.27. The ExA was satisfied that the ES considered the design impacts of the Proposed Development and endeavoured to engage with the Design Council during the detailed

⁷ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001170-BVAG%20Byers%20Gill%20Submission%20Deadline%206th%20July%202025.pdf>

⁸ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001172-Response%20to%20SoS%20questions.pdf>

design of the Proposed Development, in line with the requirements of paragraphs 4.7.13 and 4.7.14 of NPS EN-1 and 2.6.1 of NPS EN-3 [ER 3.4.19]. The ExA held that the Applicant adequately assessed the environmental impact of the design aspects of the Proposed Development by adopting an iterative design approach that was able to respond to consultation on design and siting of the panels and associated electrical infrastructure, including cabling [ER 4.2.14].

- 4.28. The ExA, having regard to the proposed amendments to the DAD [REP8-022] and the associated Requirement 3 of the draft DCO (“dDCO”), considered that the Applicant adequately demonstrated compliance with the relevant design policies set out in NPS EN-1 and EN-3 [ER 3.4.22].

The Secretary of State’s Conclusions on Good Design

- 4.29. The Secretary of State agrees with the ExA’s view that the Applicant has satisfied the NPS EN-1 and EN-3 policy tests. In particular, that the design of the Proposed Development has been developed in a way that is functional, well-integrated with its surroundings, and appropriately responsive to environmental and landscape considerations. Accordingly, the Secretary of State considers that the design of the Proposed Development meets the policy expectations for good design and appropriate siting and is acceptable in planning terms.
- 4.30. The Secretary of State attributes issues relating to Good Design no weight in the planning balance.

Landscape and Visual Effects

- 4.31. NPS EN-1 sets out the government’s policy on landscape and visual effects of energy projects at section 5.10, Landscape and Visual.
- 4.32. Paragraph 5.10.14 of NPS EN-1 states that the Secretary of State will have to judge whether visual impacts on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the project. Paragraph 5.10.29 states the Secretary of State should take into consideration the level of detailed design the applicant has provided, and which is secured in the DCO, and the extent to which design details are subject to future approvals. Paragraph 5.10.30 states that the Secretary of State should be satisfied that local authorities will have sufficient design content secured to ensure future consenting will meet landscape, visual and good design objectives. Paragraph 5.10.36 states that in reaching a judgement, the Secretary of State should consider whether any adverse impact is temporary, such as during construction, and/or whether any adverse impact on the landscape will be capable of being reversed in a timescale that the Secretary of State considers reasonable. Paragraph 5.10.38 states that the Secretary of State should consider whether the consent needs to include requirements incorporating particular design details that are in keeping with the statutory and technical requirements for landscape and visual impacts.

Methodology

- 4.33. The Application included a Landscape and Visual Impact Assessment (Chapter 7 of the ES) [APP-030] (“LVIA”) which details the assessment methodology and the existing environment in the area, including an assessment of village character [ER 3.6.16 et seq.]. Cumulative effects are assessed in ES Chapter 13 Cumulative Effects [APP-036], glint and glare are assessed in Appendix 2.2, Solar PV Glint and Glare Study [APP-106], and a number of other

application documents provide additional information about the landscape and visual impacts [ER 3.6.20].

- 4.34. The ExA noted the concerns raised by DBC and other IPs regarding methodology, in particular viewpoint analysis and village setting assessment. The ExA submitted a Rule 17 Request [PD-012], in response to which the Applicant re-appraised the conclusions of its Landscape and Visual assessment [AS-030] based upon viewpoints and landscape assessment examples suggested by DBC. Having undertaken this exercise, the Applicant stated at paragraph 2.1.7 [AS-030] that “...*the applicant identifies no new or different significant effects compared to its original DCO Application, ...*” [ER 3.6.57]. The ExA agreed with the Applicant’s further findings and considered that there was no reason to question the significant adverse effects identified by the Applicant in its original DCO Application. The Secretary of State has considered the Applicant’s response to the Rule 17 Request, is satisfied that the Applicant’s methodology followed recognised guidance, including the Guidelines for Landscape and Visual Impact Assessment (GLVIA3), and that guidance was considered and applied adequately, taking into account DBC’s suggestions during the Examination. The additional assessment carried out in response to the ExA’s Rule 17 request did not identify any new or different significant effects. On this basis, the Secretary of State agrees with the ExA that the methodology is appropriate and sufficient to support the conclusions of the ES.

Mitigation

- 4.35. NPS EN-1 (paragraph 5.10.26-27) allows that the Secretary of State may decide that the benefits of the mitigation to reduce landscape and/or visual effects outweigh the marginal loss of function and sets out measures which can assist in minimising adverse effects. In respect of the Proposed Development, embedded mitigation measures are detailed in the DAD [APP-165], secured by Requirement 3 of the dDCO, and the outline Landscape Ecology Monitoring Plan (“oLEMP”), secured by Requirement 12. The Proposed Development’s effects are assessed considering the embedded mitigation in ES Chapter 7.10 is in place, with further mitigation, deemed “*essential mitigation*”, also set out in ES Chapter 7.10 [ER 3.6.21 et seq.]. The DAD provides for further detailed design approvals and the oLEMP includes measures to ensure that planting and vegetation meets the design intent throughout the operational period [ER 3.6.28].
- 4.36. In respect of mitigation, the Secretary of State again agrees with the ExA’s findings, which are set out at ER 3.6.97 et seq.

Glint and Glare

- 4.37. Where a quantitative glint and glare assessment is necessary, applicants are expected to provide an assessment of potential impact (NPS EN-3, paragraph 2.10.104). NPS EN-3 requires the Secretary of State to assess the potential impact of glint and glare on nearby homes, motorists, PRoW, and aviation infrastructure (paragraph 2.10.158).
- 4.38. The ExA noted that the proposed mitigation measures regarding glint and glare were not secured, as noted in the final SoCG with DBC [REP8-029]. DBC requested that the oLEMP and the wording of Requirement 12 was strengthened to reflect their concerns to ensure that all the embedded mitigation is maintained and managed for the lifetime of the development. The ExA agreed with DBC and amended the wording of Requirement 12 of the dDCO and the oLEMP [ER 3.6.88]. The ExA was also satisfied that the moderate impact predicted on

three sections of road and ten dwellings would be reduced to low / none with the planting proposed through Requirement 12 [ER 3.6.103]. As discussed further in relation to Landscape and Visual impacts, below, the Applicant has been consulted in respect of revisions to the oLEMP and has stated that these are not necessary but agrees with the proposed revision to Requirement 12. The Secretary of State has included the ExA's amended wording in the DCO and agrees with the ExA that glint and glare impacts are addressed and mitigated.

Assessment of Likely Significant Effects

- 4.39. Chapter 7.10 of the Applicant's ES presented an assessment of the likely significant effects on landscape and visual receptors resulting from the construction, operation and decommissioning of the Proposed Development. The assessment considered the potential impacts on each receptor following the implementation of embedded mitigation. Where additional mitigation is necessary to address potentially significant effects, essential measures are identified, and the overall significance of residual effects are presented [ER 3.6.24].
- 4.40. The Applicant identified significant adverse effects relating to the following:
- the character of Landscape Character Area ("LCA") Darlington 6, Great Stainton Farmland during operation;
 - the character of Great Stainton village during operation;
 - the character of Bishopston village during construction (if on-road cable route selected, only) and operation Years 1 to 10;
 - views at Great Stainton (during operation) and Bishopston (during years 1 – 10 of operation, changing to a neutral, not significant effect for years 10 – 40 of operation);
 - views from PRow within 1km:
 - Between A167, Salters Lane, Lea Hall and Little Ketton Farm
 - East of Salters Lane between Lea Hall, Newton Ketton, Elstob Lane and Hill House Lane
 - East of Elstob Lane and Hill House Lane, between Bleach House Bank, Stoney Flatt Farm and Gillyflatts
 - East of Bleach House Bank between Stillington, Redmarshall and Stoney Flatt Farm [ER 3.6.25]
- 4.41. The Applicant stated that most significant adverse effects would occur during operation. However, they would be reversible after decommissioning. The Applicant also stated that the Proposed Development is expected to leave a positive legacy, enhancing the landscape fabric and character through denser hedgerows and maturing trees. While this may result in the enclosure of currently open views, the Applicant states that hedgerows could be reduced in height post-operation if reinstating outward views is considered desirable [ER 3.6.27].
- 4.42. The ExA considered that the ES sufficiently captures the significant adverse effects during construction, operation and decommissioning, and it concluded that the benefits of and need for the Proposed Development fundamentally outweigh the visual effects on sensitive receptors, in line with NPS EN-1 5.10.14 [ER 3.6.100]. The ExA also considered that in accordance with paragraphs 5.10.29, 30 and 38 of NPS EN-1, the level of detailed design which the Applicant had provided, which is secured by Requirement 3 of the dDCO is acceptable, and that this provides LPAs with sufficient adequate design detail to ensure that any future consenting aligns with landscape, visual, and good design objectives [ER

3.6.101]. The ExA was satisfied that in accordance with paragraphs 5.10.36 of NPS EN-1, any adverse impact on landscape would be temporary and capable of being reversed in a timescale the ExA considered reasonable [ER 3.6.102].

- 4.43. The Secretary of State is satisfied that the level of detailed design secured by Requirement 3 of the DCO through the DAD and oLEMP meets the expectations of paragraphs 5.10.29, 5.10.30, and 5.10.38 of NPS EN-1, ensuring good landscape and visual outcomes. While significant adverse effects during operation are acknowledged, these impacts are temporary (long-term) and reversible, consistent with paragraph 5.10.36 of NPS EN-1. Accordingly, the Secretary of State considers that the landscape and visual impacts do not outweigh the benefits of the Proposed Development.
- 4.44. The Secretary of State agrees with the ExA and considers that the great need for the Proposed Development outweighs the harm in relation to the identified residual significant effects on landscape character and views from villages and PRoW.
- 4.45. The Secretary of State is also satisfied that the amendment to Requirement 12 of the DCO adequately ensures that all the embedded mitigation is maintained and managed for the full lifetime of the Proposed Development.
- 4.46. However, despite the temporary (long-term) and reversible nature of the residual harm brought about by the Proposed Development to the identified receptors, as the residual effects on landscape character and views from villages and PRoW identified were still significant following embedded mitigation, the Secretary of State agrees with the ExA's view and ascribes this matter great negative weight in the planning balance [ER 3.6.103].

Visualisations

- 4.47. In the first information request, the Applicant was asked whether it was possible to submit clearer and more complete visualisations on submissions APP-071, APP-072, APP-073, and APP-074. The Applicant clarified that the viewpoints and visualisations are a tool to present a proportionate representation of the Proposed Development from various places but are not the sum total of the assessment work carried out and reported in the Applicant's ES [REP9a-001]. Whilst the Secretary of State would expect complete visualisations to be submitted with the application, he is satisfied that the relevant impacts can be adequately reviewed. The Secretary of State is content that the ES, taken as a whole, provides an adequate basis for assessing the likely landscape and visual effects and, accordingly, the documents provided do enable the Secretary of State to reach an informed conclusion in respect of the landscape and visual effects of the Proposed Development.

The Secretary of State's Conclusions on Landscape and Visual Impacts

- 4.48. The Secretary of State recognises that the Proposed Development would give rise to residual significant adverse effects on landscape character and views from nearby villages and PRoWs, particularly during the operational phase. These effects remain despite embedded and essential mitigation measures and are acknowledged as long-term. However, in line with the ExA's findings and NPS EN-1 provisions, the Secretary of State considers that these impacts are nonetheless temporary and capable of being reversed following decommissioning. The Secretary of State is satisfied that the design detail secured by Requirement 3 of the DCO meets the expectations of paragraphs 5.10.29, 5.10.30 and 5.10.38 of NPS EN-1. These documents provide an appropriate framework to ensure future

approvals maintain high standards of visual and landscape design and give LPAs sufficient control over the final form of the development. The Secretary of State concludes that the landscape and visual impacts have been properly assessed, are supported by adequate mitigation, and are temporary (long-term) and reversible in nature. Given the scale and persistence of the residual effects, particularly on sensitive receptors including nearby villages and PRowS, the Secretary of State agrees with the ExA and assigns great negative weight to these impacts in the planning balance. However, the Secretary of State considers that the benefits of the Proposed Development, including need, ultimately outweigh the adverse impacts in relation to the identified residual significant effects on landscape character and views from villages and PRow.

- 4.49. The Secretary of State considers that issues relating to visualisations have been resolved as he is content that the ES, taken as a whole, provides an adequate basis for assessing the likely landscape and visual effects. Accordingly, the Secretary of State does not consider that this affects his conclusion on weighting in respect of Landscape and Visual Effects.

Biodiversity

Badgers

- 4.50. In the first information request, the Applicant was asked to revise the oCEMP to reflect NE's standing advice for badgers and its measures. The Applicant stated in its response that it has had full regard to the protection required to be afforded to badgers and has signposted the steps taken. The Applicant considers that the oCEMP adequately reflects NE's standing advice for badgers, and that therefore no further amendments to the oCEMP are necessary. It noted that NE, as the relevant statutory nature conservation body, has confirmed via RR-373 and response to the ExA's ExQ1 [REP2-055] that it has no standing objections or outstanding concerns in relation to the Proposed Development, and that any previous concerns raised have been addressed by the Applicant. The Secretary of State notes the Applicant's view that the oCEMP adequately reflects NE's standing advice. While the Secretary of State considers that the oCEMP does not contain a high level of detail in respect of the avoidance and mitigation measures for badgers, he notes that further detail is likely to be forthcoming in the production of the final CEMP. In order to ensure that impacts on badgers (and other protected species) as a result of the Proposed Development are avoided and / or effectively mitigated, the Secretary of State has amended Requirement 4(1) of Schedule 2 of the Order to include Natural England ("NE") as a named consultee in the approval of the final CEMP. The Secretary of State is therefore satisfied that the inclusion of detailed avoidance and mitigation measures for badgers will be subject to approval by the relevant planning authority, in consultation with Natural England and the Environment Agency ("EA"), through the approval of the final CEMP. The Secretary of State considers that his concern in this regard has been adequately resolved.
- 4.51. In the first information request, the Applicant was asked to provide a revised commitment under BD15 of the oCEMP to take into account the installation of badger access points / gates along permanent security fence lines, aligning with the commitment under Paragraph 6.3.5. of the oLEMP [REP8-016]. The Applicant updated commitment BD15-CEMP in the revised oCEMP (Revision 4) as follows:

"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. 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”.

The Secretary of State is satisfied with the Applicant’s update and considers that this matter is resolved.

- 4.52. In the first information request, the Applicant was asked to revise 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, due to it being situated in an area of high badger activity. The Applicant added paragraph 6.3.7 to the revised oLEMP (Revision 4):

“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”.

The Secretary of State is satisfied with the Applicant’s update and considers that this matter is resolved.

Landscape and Ecological Management Plan (“LEMP”) – Requirement 12

- 4.53. In the first information request, the Applicant and NE were asked to comment on the proposed insertion of the following sub-paragraph in Requirement 12 of the DCO:

“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.”

- 4.54. NE confirmed it welcomed the approach to securing the net gains in biodiversity and had no concerns with the proposed text. The Applicant explained it did not consider it necessary or appropriate for the wording in Requirement 12 to refer to biodiversity net gains (“BNG”) of 87.83% (area habitat units) and 108.12% (hedgerow units) as these anticipated net gains were predicted to result from habitat creation and enhancement proposals which are contained within the Environmental Masterplan, which is secured by Requirements 3(2)(c) and (e). They considered that Requirement 12 should instead reflect the expected requirement under the Environment Act 2021 for NSIPs to deliver a minimum of 10% BNG. The Applicant noted that several recently made solar DCOs have not required delivery of the full amount of BNG, such as Gate Burton Energy Park and Sunnica Energy Park, and on this basis, the Applicant proposed new wording to be included in Requirement 12 reflecting the minimum 10% of BNG in habitat and hedgerow units. The Secretary of State does not accept the Applicant’s proposed approach. The Secretary of State notes that paragraph 4.1.3 of the Applicant’s BNG Assessment [APP-130] states that that:

“the Proposed Development will result in a 87.93% net gain in area habitat biodiversity units and a 108.12% net gain of hedgerow biodiversity units.” [emphasis added].

Equally, under paragraph 8.1.1 of the oLEMP [REP8-016], the Applicant commits to a post-construction monitoring programme which includes validating the BNG to check that:

“an anticipated biodiversity net gain of approximately 88% for habitat units and 108% of hedgerow habitats is achieved (using metric 4.0), in line with the Environmental Masterplans.”

Furthermore, it is noted that the 88% net gain in area habitat and 108% net gain in hedgerows is relied upon by the Applicant in paragraph 6.10.36 of ES Chapter 6 [APP-029] when concluding that:

“the overall impacts of the operation on habitats are therefore expected to be long-term and of low magnitude, which would result in a beneficial long-term effect, and a significant net gain in biodiversity.”

- 4.55. In order to secure the commitment already made by the Applicant, which supports the conclusion on effects on biodiversity provided in the ES, the Secretary of State has included a new sub-paragraph within Requirement 12 of the Order, but has rounded down the percentages to be secured in order to afford some leeway to account for extenuating circumstances or amendments to the applicable BNG metric. The approach of securing the anticipated BNG is consistent with several recently made solar DCOs, such as Cottam Solar Project, West Burton Solar Farm, Heckington Fen Solar Park, and East Yorkshire Solar Farm.
- 4.56. The Secretary of State notes that neither the Environment Act 2021 nor NPS EN-1 prevent the Secretary of State from requiring a percentage of BNG above the current 10% mandatory minimum. Paragraph 5.4.44 of NPS EN-1 states:

“The Secretary of State should consider what appropriate requirements should be attached to any consent and/or in any planning obligations entered into, in order to ensure that any mitigation or biodiversity net gain measures, if offered, are delivered and maintained.”

The Secretary of State is satisfied that including the wording outlined above fulfils the requirement under NPS EN-1 paragraph 5.4.44 and complies with duties under the Environment Act 2021, and therefore considers this matter is resolved.

- 4.57. In the first information request, the Applicant was also asked to comment on the following proposed addition to Requirement 12 of the DCO, which aimed to ensure that proposed mitigation measures are secured for the 40-year operational life of the Proposed Development. The Applicant considered that the proposed addition to Requirement 12 is consistent with the approach already secured via the oLEMP and therefore raised no objection to its inclusion.

“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)”.*

The Secretary of State is satisfied this matter is resolved and has included the wording as outlined above in Requirement 12 of the Order.

- 4.58. In the first information request, the Applicant was asked to comment on whether corresponding revisions should be made to the oLEMP, in light of the proposed amendment to Requirement 12, to ensure that ecology and landscape measures are applied throughout the operational life of the Proposed Development. The Applicant considered that no additional amendments to the revised oLEMP (Revision 4) were required, as they stated that the oLEMP already secures relevant mitigation measures for the duration of the Proposed Development's lifetime. The Secretary of State notes the Applicant's response and is satisfied that the amendment to Requirement 12 provides the necessary security for ecology and landscape measures, noting also that the oLEMP will be finalised post-consent, having regard to the requirements of the Order.

Habitat Creation, Maintenance, and Adaptive Management

- 4.59. The Secretary of State noted that the oLEMP did not contain details of the adaptive management measures to be taken where specific habitats failed to establish or reach the intended condition. In the first information request, the Applicant was asked to revise the oLEMP to provide such measures. The Applicant considered no further amendments to the revised oLEMP (Revision 4) were necessary, explaining that it would not be possible at this stage to outline the remedial measures required as they would be dependent on the results of monitoring and the reasons for failure. The Applicant stated that the monitoring regime outlined in the oLEMP would be sufficient for monitoring and remedial purposes. It reiterated that the full results of monitoring and any remedial habitat management undertaken will be made available to the LPA as a full audit trail. The Secretary of State is satisfied in this regard. However, he considers that the Applicant should also detail the adaptive management process to be taken where specific habitats fail to establish or reach the intended condition within the final LEMP to be approved by the relevant LPA. To secure this, the Secretary of State has amended Requirement 12 of the Order to require that the LEMP must include details in relation to adaptive management. Additionally, it is noted that the Applicant will stipulate in the final LEMP the minimum number of hibernacula, log/habitat piles, insect hotels, and hedgehog shelters that will be created or installed, as committed to in the oLEMP, to enable the relevant LPA to better enforce these commitments.
- 4.60. In the first information request, the Applicant was also asked to clarify whether a number of land parcels in relative proximity to settlements and PRoW intended as habitat creation and biodiversity enhancement 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 disturbance. The Applicant considered no further amendments to the revised oLEMP (Revision 4) would be necessary, as most of the areas were not proposed to mitigate for species specific issues, so a general level of disturbance from people is anticipated and accepted. The Applicant also noted that mitigation areas for ground nesting birds at West House Farm and Great Stainton have been designed so as to avoid disturbance from public access routes. The Secretary of State is satisfied with the Applicant's response.

Ecological Data Sharing

- 4.61. In the first information request, the Applicant was asked 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 LPAs 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). The Applicant added paragraph 6.1.2 and 8.1.3 (outlined below) 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. The Secretary of State is satisfied with the Applicant's update.

"Paragraph 6.1.2:

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."

"Paragraph 8.1.3:

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."

The Secretary of State's Conclusions on Biodiversity

- 4.62. The Secretary of State considers that the issues explored by way of consultation in relation to Biodiversity have been resolved to his satisfaction. He ascribes Biodiversity limited positive weight in the planning balance.

Historic Environment

Bishopton Conservation Area ("Bishopton CA")

- 4.63. Paragraph 5.9.28 of NPS EN-1 states that any harm or loss of significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification. It also sets out that the Secretary of State should give considerable importance and weight to the desirability of preserving all heritage assets.
- 4.64. Paragraph 5.9.32 of NPS EN-1 requires, where the Proposed Development would lead to less than substantial harm to the significance of designated heritage assets, that this harm should be weighed against the public benefits of the proposal.
- 4.65. The ExA noted that the Applicant's own assessment confirmed that the effects of the Proposed Development on the setting of the Bishopton CA would be a noticeable addition to the landscape [ER 3.8.77].
- 4.66. The ExA considered that whilst the Proposed Development would have no residual effects on any heritage assets during construction phase, during operation it would cause harm to the significance of the Bishopton CA. The ExA noted the existence of a key view towards the motte and bailey castle, but explained that the landscape surrounding Bishopton CA makes a smaller, albeit valid, contribution to its significance and the Proposed Development, specifically Panel Area F, would extend closely to the edge of Bishopton CA, thereby affecting its appearance and the sense of space of that rural area which the ExA found contributes to the setting of the heritage asset [ER 3.8.81]. Additionally, as the proposed new diverted public footpath forming part of the Proposed Development would cut through the middle of Panel Area F, it would be dominated by the proposed landscape screening on

either side, creating a considerably different approach to Bishopton CA for all users of the PRoW and noticeably changing the setting of a designated heritage asset [ER 3.8.82]. Overall, the ExA found that the Proposed Development would cause harm to the significance of the heritage asset by virtue of development within its setting [ER 3.8.84].

- 4.67. The Applicant has assessed the harm as negligible, or of no effect. It argued that whilst the solar PV panels would be a noticeable addition to the landscape, the Proposed Development would not affect the experience of the character and appearance of the conservation area, which is contained within the settlement core [ER 3.8.86].
- 4.68. The ExA agrees with the Applicant to the extent that the harm would be limited as it would not be to a key view or key aspect of the setting of the Bishopton CA, and that the connection between the village and surrounding agricultural fields would still be appreciated from most key viewpoints from Bishopton CA [ER 3.8.90]. The ExA classed this harm to be low level and less than substantial as a result. This conclusion was reinforced by the ability of the fields to be reinstated to their agricultural use after the decommissioning phase [ER 3.8.90].
- 4.69. In summary, considering the Proposed Development is within the setting of the CA and will be visible as one approaches it, the ExA considered that the Proposed Development would cause harm to the Bishopton CA as its setting makes a positive contribution to its overall significance [ER 4.2.37].
- 4.70. The ExA concluded that the less than substantial harm to designated heritage assets is to be weighed against the public benefits of the proposal and subsequently ascribed the harm to the heritage asset moderate negative weight in the planning balance [ER 4.2.38].

Preservation of Archaeological and Heritage Assets

- 4.71. The Secretary of State noted that the outline Decommissioning Environmental Management Plan ("oDEMP") [REP5-015] did not contain any measures to preserve archaeological and heritage assets during decommissioning. In the first information request, the Applicant was asked to revise it to include the outline of such measures including, but not limited to, protection of known and unknown archaeological remains and the Motte and Bailey Scheduled Monument at Bishopton. In response, the Applicant has added Commitment CH1-DEMP to the revised oDEMP (Revision 3), which states that:

"The following measures will be taken to protect the Motte and Bailey Scheduled Monument at Bishopton during decommissioning:

- *Fencing off the scheduled area during decommissioning which includes a 5m buffer to avoid accidental encroachment;*
- *Toolbox talks prior to commencement of work to inform contractors of requirements and procedures; and Archaeological monitoring will take place during works in the vicinity of the monument".*

- 4.72. The Applicant explained that no mitigation and / or management measures, or further monitoring, would be 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. The Secretary of State is satisfied with the Applicant's update and considers it sufficient.

The Secretary of State's Conclusion

- 4.73. The Secretary of State considers that his concern relating to the preservation of archaeological and heritage assets has been resolved to his satisfaction and that it does not impact the Secretary of State's conclusion on weighting in respect of this issue.
- 4.74. The Secretary of State agrees with the ExA's assessment and conclusions in respect of impacts on heritage assets. In particular, he agrees that the Proposed Development would cause less than substantial harm to a designated heritage asset, namely the Bishopton CA due to impacts on its setting, which contributes to its significance.
- 4.75. The Secretary of State affords great weight to the desirability of preserving heritage assets from any harm or loss of significance, including from development within its setting. As a result, he is in agreement with the ExA's conclusions and, having regard to his duty under regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 in his consideration of these issues, ascribes this matter moderate negative weight in the planning balance.
- 4.76. The Secretary of State notes that Chapter 8 of the ES [APP-031] considers preservation by record to be a measure capable of mitigating significant adverse effects, rather than as a best practice measure. This is contrary to the position taken by the Secretary of State in made DCOs such as Sizewell C, Gate Burton Energy Park, and Rampion 2 Offshore Windfarm. As established in these earlier decisions, the Secretary of State does not accept preservation by record as a valid form of mitigation, as such steps are required as part of best practice but do not amount to mitigation of significant adverse effects to archaeological remains. When determining previously made DCOs, the Secretary of State has considered it appropriate to increase the negative weighting ascribed in relation to historic environment to reflect this position. In this case, it is noted that the Applicant has proposed a package of mitigation measures, including micro-siting and floating foundations, and the Secretary of State is satisfied overall that any potential adverse effects will be adequately mitigated. As such, the Secretary of State considers that it would be disproportionate to increase the moderate negative weighting ascribed to historic environment from the moderate weighting given by the ExA, which remains the appropriate weighting in the Secretary of State's opinion.
- 4.77. The Secretary of State notes the Applicant's Archaeological Management Strategy ("AMS"), which has been agreed with DBC and SBC⁹. The Secretary of State has revised Requirement 18 of the DCO to strengthen its provisions to include standard details such as measures for unexpected archaeological discoveries, areas with no known archaeology, and the archaeological watching brief. This has been reflected in paragraph 9 (Modifications to the draft Order) of this letter.

Noise and Vibration

- 4.78. In the first information request, the Applicant was asked to clarify the criteria it used to establish the significance of adverse impacts arising from noise, and whether it has applied the codes of practice as per relevant British Standards BS 4142, BS 6472 and BS 8233 ("BSs"), relevant guidance and NPS policy. The Applicant was also asked to clarify which

⁹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001056-RWE%20-%20Final%20SoCG%203.pdf>

method had been used to assess noise significance and the reasons for any departure (if applicable) from standard practice; and advised that it may wish to update its assessment if necessary to ensure compliance with BS, guidance and policy. The Applicant highlighted that paragraph 11.2.9 of ES Chapter 11 [APP-034] states that noise has been assessed in accordance with: BS 4142 for operational noise, and BS 5228 parts 1 & 2 for construction noise and vibration. The Applicant states that both have been used to determine the threshold of significance in the assessment and are standard practice for developments of this kind. The Applicant considers that its assessment applied the code of practice as per British Standards BS 4142, BS 5228, BS 6472 and BS 8233, guidance and policy and no further updates were necessary.

- 4.79. The Secretary of State noted the short term moderate adverse effect resulting from construction noise assessed by the Applicant, which the Applicant states is likely to be limited to short periods of time during any working day, during daytime hours, and not for a number of days longer than one month in any location [APP-034] [REP4-012]. In the first information request, the Applicant was asked to provide information regarding the details and durations of works that exceed thresholds. The Applicant explained that moderate adverse effects were predicted at some existing sensitive receptors (“ESR”) for the cable route construction activities. The activities assessed were a worst-case scenario comprising trenching and Horizontal Directional Drilling activities with the noise model considering that all noise sources would 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 were those where the cable route will pass in close proximity to existing residential properties. Standard best available technique (“BAT”) methods were stated in the oCEMP [REP8-012], which include temporary screening where applicable. Temporary screening would reduce noise by up to 10 decibels attenuation depending on a number of factors, reducing noise effects further, along with utilising cable ploughing where possible. 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, the Applicant clarified that it would be 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 applied a worst-case scenario which, whilst unlikely to materialise in practice, meant that a significant residual effect was concluded in the ES as it could not be ruled out at that time.
- 4.80. The Secretary of State has considered the above and whether any further measures are required in the DCO in relation to the management of construction noise. The Secretary of State notes that, as set out in Requirement 15 (Construction hours), construction works may only take place during specified working hours. In addition, the Secretary of State notes that the oCEMP provides for a construction noise monitoring scheme to be developed and agreed with appropriate stakeholders and set out in the CEMP, which will be approved by the relevant planning authority. The Secretary of State notes, however, that the oCEMP does not contain any measures relating to the duration of construction noise impacts at ESRs and he has therefore added Requirement 16 which ensures that the CEMP includes measures to limit the duration of construction noise, in line with the durations predicted by the Applicant and set out in the Environmental Statement Addendum – Construction Noise.
- 4.81. In the first information request, the Applicant was asked to confirm why no mitigation is available or required during construction. Noting that further mitigation may be required as a result of a potentially significant effect, the Applicant was asked to explain how such an effect could be identified and what measures may be taken in response. The Applicant explained that it provided for mitigation during construction, which is secured via the oCEMP [REP8-

012], through the provision of temporary screening as defined in BS 5228 (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). Due to the uncertainties at this stage regarding detailed design and construction methodology, a worst-case scenario was assumed for the assessment which identified potential short term and reversible residual significant effects during construction. The Applicant did not anticipate that the worst-case assumed for the assessment would, in reality, occur, and through commitments NV2-NV4 the contractor would determine the appropriate strategies 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 4(2)(c). Should significant effects be 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 LPA as noted in paragraph 2.3.15 of the CEMP. The Secretary of State concludes that to ensure that residual construction noise effects are appropriately managed, the construction noise monitoring scheme provided for in the oCEMP must include construction noise monitoring, in accordance with BS 5228-1:2009+A1:2014, and he has therefore included provision for this in Requirement 16. The Secretary of State considers that monitoring which is proportionate to the scale and proximity of works to the ESRs will inform the real-time application of best practicable means, e.g. the use of acoustic screening, lower-noise plant and equipment, and construction phasing, along with other additional mitigation as set out in NV3-CEMP. The Secretary of State is satisfied that, through this adaptive approach secured in the DCO and supported by the commitments in the oCEMP, significant noise effects during construction would be effectively controlled and, where they arise, mitigated.

The Secretary of State's Conclusions on Noise and Vibration

- 4.82. The Secretary of State considers that these matters have been resolved to the Secretary of State's satisfaction. He agrees with the ExA's conclusions on this issue and ascribes Noise and Vibration no weight in the planning balance.

Flood Risk and Water Environment

Updated National Flood Risk Assessment

- 4.83. In their letter of 28 February 2025, the EA made the Secretary of State aware of new data it had published after the close of the Examination, following an update to its National Flood Risk Assessment¹⁰. The Flood Map for Planning and Flood Zones were also updated on 25 March 2025. In the first information request, the Applicant was asked to explain whether these updates would have any implications for the conclusions of the ES Chapter 10 – Hydrology and Flood Risk [APP-033] and the Flood Risk Assessment and Drainage Strategy [REP8-019] for the Proposed Development, and to provide revised documents as necessary. In response, the Applicant provided its Technical Note on Impacts of Updated Flood Maps. The Applicant confirmed that the EA's updates present a modest change in the proportions of the Order Limits which are subject to various sources of flood risk. However, the Applicant stated that the updates do not materially alter the Applicant's conclusions on the Sequential and Exception Tests outlined in paragraphs 5.8.9 and 5.8.10 of the 2024 NPS EN-1. Where

¹⁰ This submission has been published on the Examination website as a post-examination submission alongside this decision letter.

the changes introduce modest differences when compared to the mapping utilised at the time of the application, it is considered that these impacts can be controlled as part of the detailed design of the Proposed Development via Requirement 3 of the dDCO.

4.84. In summary, the Applicant considered that:

- No material changes were 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:
 - 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.
 - Four inverters and eight hybrid units can be microsituated as part of the detailed design process to locate them outside of the updated flood zones.
 - A sustainable drainage solution in the vicinity of the proposed substation 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.

4.85. In its response to the first information request, the Applicant highlighted the previous and updated flood maps in the vicinity of Carlton Village (shown in Figure 3)¹¹ in areas which form part of the Order Limits and cover existing access route crossings and underground cable routes. The Applicant explained that the updated flood maps showed a reduced flood extent along the road through Carlton but an increased extent to the south of the village and stated that no changes were proposed to the existing access routes and no ground raising. The Applicant stated that this change to the flood maps did not impact the conclusions in ES Chapter 10 [APP-033]. In response to the second information request, the EA¹² referred to this change in flood risk to the south of the village of Carlton, confirming that this covered the existing access route crossing and 132kV underground cable route area and noting that there would be no ground raising in this area. The EA confirmed that they had no concerns regarding the operational phase of the Proposed Development as the cables would be underground, however, it requested that the Applicant provide further information to understand how flood risk during the construction phase will be managed in the area of increased risk shown in Figure 3, and confirmation as to whether there were any construction laydown areas, stockpiles, or materials present in this area, as construction compounds and materials should be located outside of functional flood plain and ideally outside of Flood Zone 3. The Secretary of State notes the points raised in the EA's submission and notes that a response to this particular point has not been provided by the Applicant. In the absence of clarification, the Secretary of State has considered the Applicant's 8.40 Impacts of Updated Flood Maps¹³ and ES Figure 2.21 Compounds and Access Routes¹⁴ and sought to identify the proposed land use for the area of land referred to by the EA. The Secretary of State

¹¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001155-8.40%20Impacts%20of%20Updated%20Flood%20Maps.pdf>

¹² https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001168-EA_Response_EN010139_XA_2025_100378_01.pdf

¹³ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001168-EA_Response_EN010139_XA_2025_100378_01.pdf

¹⁴ [EN010139-000234-6.3.2.21 Environmental Statement Figure 2.21 Construction Compounds and Access Routes.pdf](#)

considers that Paragraphs 2.1.4 and 2.1.5 of document 8.40 indicate that the only infrastructure within the affected area near Carlton Village consists of existing access routes and underground cables, with no proposals for ground raising, new crossings, or above-ground infrastructure. With no mention of construction laydown areas, stockpiles, or materials in that location, the Secretary of State is satisfied with the Applicant's view that the change in flood extent does not alter the conclusions of the ES. For the avoidance of doubt, however, and in order to ensure that the EA's concerns are addressed and the increased flood risk is appropriately mitigated against, the Secretary of State has added Requirement 19 to the DCO. This requires details to be provided to the LPA, for approval in consultation with the EA, with reference to up-to-date flood data published by the EA, as to how flood risk will be managed during construction and operation in areas of increased flood risk, to be included within the surface and foul water drainage scheme. The Secretary of State has also included provision within Requirement 19(1) which includes the EA as a named consultee in the approval of the surface and foul water drainage scheme. The Secretary of State considers that this will provide opportunities for the EA to address any outstanding concerns before works commence. Overall, the Secretary of State is satisfied that this change in the Flood Map will not cause significant impacts, and any potential impacts can also be addressed as the design of the Proposed Development progresses.

The Secretary of State's Conclusions on Flood Risk and Water Environment

- 4.86. The Secretary of State is satisfied with the Applicant's assessment of the implications from the new flood risk data published by the EA on the conclusions of the ES. The Secretary of State agrees that the Sequential and Exception Tests are satisfied. The Secretary of State agrees with the Applicant that the design changes proposed should be included within the detailed designs to be approved by the relevant LPA in order to mitigate flood risk, as highlighted by both the Applicant and the EA. For the avoidance of doubt, the Secretary of State considers that the Applicant's Technical Note forms part of the Environmental Statement and should be certified as such. The Secretary of State has made amendments to the DCO and considers that this matter has been addressed to his satisfaction. Overall, the Secretary of State agrees with the ExA's conclusions on Flood Risk and the Water Environment, and he ascribes this matter no weight in the planning balance.

Land Use

- 4.87. The 2024 NPS EN-1 and EN-3 set out the policy for the assessment of impacts on land use [ER 3.12.2].
- 4.88. Paragraph 5.11.34 of NPS EN-1 advises that the Secretary of State should ensure that applicants do not site their scheme on Best and Most Versatile ("BMV") land without justification, and where schemes are to be sited on BMV land, the Secretary of State should consider the economic and other benefits of that land [ER 3.12.6]. Paragraph 2.10.32 of NPS EN-3 states that where solar development is sited on agricultural land, consideration may be given as to whether the proposal allows for continued agricultural use and / or can be co-located with other functions to maximise efficiency of land use.
- 4.89. The Applicant established the proportions of each panel area in Agricultural Land Classifications ("ALC") 1, 2 and 3a (all of which constitute BMV land) and 3b (land of moderate quality) in Table 9-6 of ES Chapter 9 – Land Use and Socioeconomics. Grade 3b is the dominant land classification, comprising 425.5ha (93%), with grade 3a at 27.6ha (6%) and grade 2 at 2.4ha (1%) [APP-032]. The extent of BMV agricultural land size required for

the Proposed Development equates to 30ha (7%) of the approximate total of 456ha of agricultural land within its Order limits [ER 3.2.17]. In respect of agricultural land and soil resource, the ExA noted that agricultural uses would cease within the panel and underground cabling areas, although these activities may resume once construction is completed. These uses would not resume in the positions of related equipment (including the BESS, inverters, switchgear, underground cable connections and on-site substation). However, they found that the intensity of land disturbance would be minimal given that the majority (93%) of the land required is moderate quality Grade 3b, thus falling outside of the category of BMV quality, and the proportion of BMV land affected by the associated development is only 0.2ha of subgrade 3a land [ER 3.12.21].

- 4.90. During the Examination period, IPs raised concerns regarding the loss of BMV land [ER 3.12.33]. BVAG considered that much of the land is valuable and irreplaceable farmland, drawing attention to the government policy on food security and the sustainability of taking high quality land out of food production in the UK. In response, the Applicant reiterated that only 6% of the total site area included BMV land, and that the assessment was carried out in accordance with relevant government guidelines and criteria [REP8-029]. NE was satisfied that the Proposed Development is unlikely to result in a significant loss of BMV land and welcomed the requirement in the dDCO for the Applicant to submit to the local planning authority a final iteration of the outline Soil Resources Management Plan ("oSRMP") [ER 3.12.34].
- 4.91. BVAG queried why the Applicant had not taken steps to remove areas of BMV land from the order limits to reduce the panel areas around several parts of the villages to land with less quality, which was endorsed and investigated by the ExA. The Applicant explained that it was not possible to move panels off areas of BMV land to unoccupied spaces within the order limits, as these free spots have been earmarked for the planned essential mitigation for the Proposed Development and have been strategically placed to bring wider benefits [ER 3.12.36].
- 4.92. In relation to cumulative effects, paragraph 13.5.67 of ES Chapter 13 – Cumulative Effects [APP-036] states that, taking into account other developments within the Zone of Influence ('other developments') there will potentially be a cumulative temporary loss of agricultural land which could result in a high magnitude of impact. Paragraph 13.5.68 states that the vast majority of agricultural land within the 'other developments', as with the Proposed Development, have been confirmed as being comprised of subgrade 3b agricultural land with small areas confirmed as subgrade 3a BMV land. As a result, the sensitivity was considered low. These impacts are expected to be managed through individual Soil Resource Management Plans for each 'other development'. However, due to the temporary (long-term) 40-year loss of agricultural land, the ES concludes that there is the potential for a cumulative effect that is moderate adverse in nature, which is significant in EIA terms. It was noted that although this is no worse from a significance perspective than the individual effect assessed for the Proposed Development, the impact would be notably greater due to the additional extent of land potentially lost temporarily. The ES states no further mitigation is available to reduce this effect. However, in ISH6, the Applicant referred to the oSRMP and noted that several other schemes have similar management plans. It stated that if soil is managed properly, ES Chapter 13 records that there could be a cumulative benefit for improved soil health in the longer term when the soil is returned to agricultural use [ER 3.14.17].

- 4.93. The ExA was satisfied that the ES adequately addressed 5.11.34 of the NPS by ensuring that built structures necessitating soil stripping and disturbance would be directed towards the lower quality land to avoid adversely impacting any BMV land [ER 3.12.37]. The ExA was satisfied that the mitigation measures included in Requirement 3 of the dDCO would be sufficient to mitigate any negative impacts in relation to contamination of BMV land to an acceptable level. The ExA was also satisfied that the Applicant has adopted an acceptable ALC method and justified the inclusion of the small amount of BMV land [ER.3.12.40]. However, given that the Proposed Development would result in temporary (long-term) and reversible loss of agricultural land, and given that the BMV land to be lost would have served other agricultural activities in the 40-year operational lifetime of the Proposed Development, the ExA ascribed the loss of BMV agricultural land a little negative weight in the planning balance in the making of the Order [ER 3.12.41].

Sand and Gravel

- 4.94. In the first information request, the Applicant was asked to confirm whether the impacts of the Proposed Development on sand and gravel were considered in its assessment and, if not, the reasons for the omission. The Applicant confirmed that impacts on sand and gravel were considered within ES Chapter 9 Land Use and Socioeconomics [APP-032]. This included an assessment of the Proposed Development's potential effects on the identified limestone, sand and gravel resources within the Tees Valley Minerals and Waste Core Strategy DPD (2011), within parts of Panel Area C and D. The temporary sterilisation was considered to be a minor adverse effect, however the resources would remain in situ and could be extracted following decommissioning of the Proposed Development. The principle of this was agreed within the signed SoCG with DBC [REP8- 029]. The Secretary of State is satisfied with this update.

The Secretary of State's Conclusions on Land Use

- 4.95. The Secretary of State has considered all relevant policy contained within the 2024 NPSs relating to land use, including in the context of solar generation.
- 4.96. The Secretary of State has considered the effects of the Proposed Development on limestone, sand and gravel and is satisfied that the development would not sterilise or prejudice the future extraction of the mineral resource.
- 4.97. The Secretary of State notes that there would be a loss of agricultural and BMV land as a result of the Proposed Development which would be temporary (long-term) and reversible, and he agrees with the ExA's conclusion that this should carry negative weight in the planning balance. However, as the potential cumulative effects with the other developments are considered moderate adverse in nature, which is significant, and due to the lack of mitigation available to reduce this effect, the Secretary of State has decided to increase the weighting ascribed to this matter to moderate negative weight in the planning balance.

First Information Request – Responses Not Addressed Above

- 4.98. In the first information request, the Applicant and IPs were invited to provide updates or information on various matters¹⁵. Responses were received on 4 June 2025 and are considered where appropriate in the relevant sections of the letter above. The remaining matters are discussed in detail below.

Construction Dust

- 4.99. The Applicant was asked to 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 needed to include baseline monitoring before work on each phase commences. DCC were also invited to confirm whether this resolved the outstanding issue (DCC 14) in their SoCG with the Applicant submitted at Deadline 8 [REP8-028]. The Construction Dust Assessment (paragraph 7.1.1) (Revision 2) and oCEMP (commitment AQ1-CEMP) (Revision 4) was subsequently updated by the Applicant 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: *“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).”* DCC did not respond to the request from the Secretary of State for comment. The Secretary of State is satisfied with the Applicant’s update and considers that this matter is resolved.

Battery Fire Safety Management Plan (“BFSMP”)

- 4.100. The Applicant and County Durham and Darlington Fire and Rescue Service (“CDDFRS”) were asked to provide an update on whether they had reached an agreement on the Outline Battery Fire Safety Management Plan (oBFSMP) [APP-117].
- 4.101. The Applicant stated that CDDFRS were consulted with regard to the oBFSMP and details of that consultation is set out within the document. Further, the signed SoCG with DBC [REP8-029] details agreement on Requirement 10 (now requirement 11), which requires the BFSMP to be submitted to and approved by the relevant planning authority and does not require further engagement with CDDFRS, as the BFSMP must accord with the oBFSMP [APP-117]. On 2 June 2025, CDDFRS provided a submission in response to the first information request confirming that the oBFSMP responded to requests made by CDDFRS, and that a meeting was held on 12 October 2023 with the Applicant to discuss the proposed BESS and associated fire safety measures and, though no formal position of agreement had been reached on the BFSMP¹⁶, they remain open to continued consultation and welcome the Applicant’s commitment to ongoing engagement as the design progresses. The Secretary of State is satisfied with the Applicant’s position on this matter.

¹⁵ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001145-Byers%20Gill%20-%20Information%20Request.pdf>

¹⁶ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001162-Response%20from%20County%20Durham%20and%20Darlington%20Fire%20and%20Rescue%20Service.pdf>

Second Information Request – Additional Matters Raised by an Interested Party

4.102. In response to the second information request, Mrs Melanie Turner submitted an email concerning the exclusion of her property and her neighbour's, which she states are located close to the proposed substation, from the cumulative impact assessment for the Proposed Development¹⁷. These representations have not clarified the nature of the development which it is alleged has been left out of the cumulative effects assessment, or the nature of the cumulative impacts which the development in question would give rise to, when considered alongside the Proposed Development. We note the advice in PINS Advice Note 17¹⁸, followed in Chapter 13 of the Applicant's ES [APP-036], that the assessment of cumulative effects should consider developments that are 'existing and / or approved'. From Mrs Turner's representations it is not possible to identify with certainty the properties she has referred to. There is no information before the Secretary of State to indicate that any relevant existing or approved development has been omitted from the Applicant's assessment. The Secretary of State has noted Mrs Turner's request that the substation be relocated or fully screened and is content that detailed design considerations can be appropriately addressed under the requirements set out in the DCO.

5. Habitats Regulations Assessment

- 5.1. This is a record of the Habitats Regulations Assessment ("HRA") that the Secretary of State has undertaken under the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") in respect of the Proposed Development and its associated infrastructure. For the purposes of these regulations the Secretary of State is the competent authority.
- 5.2. The Habitats Regulations aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation ("SACs"). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the United Kingdom and internationally. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs together form part of the UK's National Site Network ("NSN").
- 5.3. The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively with SACs and SPAs referred to in this decision letter as "protected sites").
- 5.4. Regulation 63 of the Habitats Regulations provides that:

"... before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with

¹⁷ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001171-Interested%20Party%20Reference%2020048680.pdf>

¹⁸ <https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-cumulative-effects-assessment?utm>

other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives."

And that:

"In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be)."

- 5.5. The Proposed Development is not directly connected with, or necessary to the management of a protected site. Therefore, under regulation 63 of the Habitats Regulations, the Secretary of State is required (as the competent authority) to consider whether the Proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any protected site. If likely significant effects ("LSE") cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the protected site in view of its Conservation Objectives.
- 5.6. The Applicant submitted a Habitats Regulations Assessment No Significant Effects Report ("the Applicant's HRA Report") [APP-130] with the Application and supporting ES.
- 5.7. The Applicant's HRA Report identified four protected sites within a 10km Zone of Influence ("Zoi") of the Order Limits boundary:
 - Teesmouth and Cleveland Coast SPA (located approximately 5.4km east of the Proposed Development);
 - Teesmouth and Cleveland Coast proposed Ramsar site (located approximately 5.4km east of the Proposed Development);
 - Teesmouth and Cleveland Coast Ramsar site (located approximately 7.2km east of the Proposed Development); and
 - Thrislington SAC (located approximately 10km north of the Proposed Development).
- 5.8. NE, in RR-373, agreed with the protected sites and qualifying features identified by the Applicant. The protected sites and qualifying features identified were not disputed by any other IPs by the close of the Examination [ER C.1.6]. As there were no significant revisions to the Applicant's HRA Report and no IPs disputed the Applicant's conclusions, the ExA decided that a Report on the Implications for European Sites ("RIES") would not be required [ER C.1.6].

LSE from the Proposed Development Alone and In-Combination with Other Plans and Projects

- 5.9. In Sections 4.2 – 4.5 of the Applicant's HRA Report, the Applicant identified impact pathways of the Proposed Development considered to have the potential to result in LSE alone on the identified protected sites. In Section 5, the Applicant identified impact pathways of the Proposed Development considered to have the potential to result in LSE on the identified protected sites, in-combination with other plans and projects.
- 5.10. The Applicant's HRA Report concluded that LSE alone and in-combination with other plans and projects on the qualifying features of the identified protected sites could be ruled out.

- 5.11. The Applicant considered that as the Proposed Development is over 5km away from the nearest protected site, it will not result in direct habitat loss within these sites and, given the scale of the Proposed Development, will not result in disturbance impacts (e.g. noise, vibration, dust, or light spill) on the identified protected sites during construction and operation of the Proposed Development.
- 5.12. In relation to functionally linked land, the Applicant noted that no species listed as individual qualifying features of Teesmouth and Cleveland Coast SPA, Ramsar site or proposed Ramsar site were recorded during the wintering and breeding bird surveys. The Applicant considered that the habitats within the Order Limits are generally unsuitable for the qualifying species and are highly unlikely to support any significant populations of these species. The Applicant noted that large wintering waterfowl aggregations have been recorded approximately 1.5km south-east of the Order Limits but considered that displacement of this aggregation very unlikely given the low numbers recorded within or in the immediate vicinity of the Order Limits.
- 5.13. The Applicant also highlights the embedded best practice measures within the oCEMP and oLEMP – such as, no construction activities will take place within the 10m buffer zones of watercourses/waterbodies (HFR10) and the installation of noise attenuating barriers (NV3) – that would minimise potential impacts from the Proposed Development alone or in-combination with the other identified cumulative developments.
- 5.14. NE [REP2-055] agreed with the conclusions of the Applicant's HRA Report. The conclusions were also not disputed by any other IPs during the Examination [ER C.2.14].
- 5.15. Based on the information before it, the ExA was satisfied that the correct impact-effect pathways on each protected site had been assessed and was satisfied with the approach to the assessment of alone and in-combination LSE [ER C.2.15].

The Secretary of State's Conclusion on the HRA

- 5.16. Having carefully considered all the information before him, the Secretary of State concludes that the potential for LSE alone or in-combination with other plans and projects on the identified protected sites can be ruled out. This conclusion and its reasoning are consistent with the advice provided by NE and the ExA's recommendation [ER C.2.23].

6. Land Rights and Related Matters

- 6.1. The Secretary of State notes that to support the delivery of the Proposed Development, the Applicant is seeking powers of CA and TP of land and rights. The Applicant is seeking the following:
- CA powers limited only to permanent rights over land comprising the off-road cable routes and rights in subsoil interests of the on-road cable routes [ER 5.4.2]. There is no proposed permanent acquisition of land as part of the Proposed Development.
 - TP powers enabling the Applicant to take TP of land to carry out and thereafter maintain the scheme [REP6b-014/15].
- 6.2. At ER 5.6.1 to ER 5.6.35 the ExA sets out details of the Affected Persons ("APs") with outstanding unresolved objections, including general opposition to the Proposed Development and objections or concerns about CA and TP proposals.

- 6.3. At ER 5.6.36 onwards, the ExA addresses the position in respect of Statutory Undertakers, and at ER 5.7.1 onwards addresses the position in respect of Special Category Land.
- 6.4. The Secretary of State's first and second information requests sought updates as to the status of objections which were unresolved at the end of the Examination.

The ExA's Conclusions on Land Rights and Related Matters

- 6.5. Overall, the ExA concluded the following [ER 5.8.5]:

- there is a clear need for all the land included in the Book of Reference ("BoR") to be subject to CA and TP, the land sought for the proposed development and subject to CA would be land required for the purposes of section 122(2)(a) and (b) of the PA2008 and the tests set out in that section are met;
- the application site is selected appropriately, all reasonable alternatives to CA have been explored and that there are no alternatives which ought to be preferred;
- there is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe, and the extent of land over which powers are sought would be no more than is reasonably required and it is proportionate to the needs of the Proposed Development;
- the private loss to those affected is in part mitigated through the selection of the land, minimisation of the extent of the rights and interests to be acquired and the inclusion, where relevant, of protective provisions in favour of those affected;
- the Proposed Development represents a significant public benefit, and in all cases, relating to individual objections and issues, CA and TP is justified to enable its implementation;
- in relation to all SUs, the ExA is satisfied that the measures included in the dDCO are sufficient to ensure that there would be no serious detriment to the carrying on of the SUs undertaking. As such, the ExA considers that the tests set out in Section 127 and Section 138 of the PA2008 are met;
- the powers sought by the applicant in relation to SUs are necessary for the Proposed Development and consistent with s138 of the PA2008;
- adequate and secure funding would be likely to be available for CA;
- the Examination has ensured a fair and public hearing and any interference with human rights arising from implementation of the Proposed Development would be for a legitimate purpose that would justify such interference in the public interest and to a proportionate extent;
- compensation would be available for quantifiable loss;
- in respect of Special Category Land, the Order land, when burdened with the Order rights, would be no less advantageous to the persons in whom it is vested, other persons entitled to rights of common or other rights, and the public, as per section 132(3), and the works fall under section 131(4b) of the PA2008 [ER 5.7.1 et seq.]; and
- in considering whether there is a compelling case in the public interest to acquire the land (s122(3) of the PA2008), the ExA took into account the Applicant's case for CA and TP, the individual issues and objections raised, and all submissions made to the Examination.

- 6.6. The ExA was ultimately satisfied that there is a compelling case in public interest for CA and TP powers, and that the Proposed Development would comply with the PA2008 [ER 5.8.7 et seq.].

The Secretary of State's Conclusions on Land Rights and Related Matters

- 6.7. At the close of the examination a number of parties had unsigned agreements, and the ExA recommended that the Secretary of State should seek updates [ER 5.6]. These are considered accordingly below.

Conclusion on Affected Persons ("APs")

- 6.8. On 16 April 2025, Timothy Wood and Victoria Jane Wood provided an update in a post-examination submission confirming that they wished to withdraw their objection to the Proposed Development as their previous concerns had been resolved.¹⁹
- 6.9. The ExA set out the outstanding objections raised by affected parties at [ER 5.6.5] onwards. In the first information request, the Applicant was asked to provide updates on outstanding objections or representations from APs in respect of CA or TP matters. On 4 June 2025, the Applicant confirmed the following information²⁰:

Christopher McKeown and Myra Vasey McKeown:

- The Heads of Terms have been agreed and signed. Negotiations are ongoing regarding options for access, which are likely to exchange in July 2025.

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:

- The objections have not been withdrawn from the respective parties.

Ann Galvin and Peter Bernard Galvin; Brenda Gray; Rosemary Diane Hodgson and Stewart Phillip Hodgson; Dorothy Angela Morris; Lynsey Anne Oman and Tristram Lindsey Oman; Ian Smith; Catherine Mary Brannen and Joseph Eric Brannen; Paul Mason and Sarah Louise Gardner; Jean Melville Hetherington and Norman Hetherington; Nicholas Hetherington; and Demi Hetherington:

- The respective landowners previously submitted RRs which object to the Proposed Development.

Carol Wade:

- The landowner has submitted RR-066 which objects to the Proposed Development. As stated in Table 4-1 of Change Request Consultation Report [REP-6b020] Ms Wade contacted the Applicant regarding boundaries shown on the provided plans. This was acknowledged by the Applicant and the relevant boundaries were subsequently updated.

¹⁹ This submission has been published on the Examination website as a post-examination submission alongside this decision letter.

²⁰ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001151-Responses%20to%20the%20Secretary%20of%20State%20Request%20for%20Information%203%20June%202025%20Issue.pdf>

- 6.10. In response to the second information request, Thomas Kemp submitted an email concerning Reference 176 of the CA Schedule, in relation to plot 3/6²¹. Thomas Kemp stated that there was a possibility of a pipe or cable being brought up Nelsons Lane, Brafferton, which is used to access adjoining land and would impact their daily agricultural tasks. The Secretary of State has considered the respondent's query and notes that Works 3/6 relate to adopted highways in the vicinity of Aycliffe Lane, The Green, and High House Lane, and not Nelsons Lane, which does not appear to be within the Order Limits. While there is no identified record of Nelsons Lane being affected, the Secretary of State considers that any temporary access disruption during construction should be appropriately managed and is satisfied that, if necessary, these matters can be addressed through the temporary closure procedures secured in the DCO.
- 6.11. The Secretary of State acknowledges the Applicant's various updates on resolved matters with APs. The Secretary of State has carefully considered the analysis set out in the ExA's Report and the conclusions set out therein [see ER 5.6.17, 5.6.24, 5.6.35] and agrees that there is a compelling case in the public interest for the powers sought by the Applicant to be acquired compulsorily.

Conclusion on Statutory Undertakers ("SUs")

- 6.12. The ExA noted that the EA did not raise any concerns relating to land rights and all issues between the Applicant and the EA had been resolved by the end of the Examination [ER 5.6.43-44].
- 6.13. The ExA noted that protective provisions ("PPs") had not been formally agreed between the Applicant and Northern Powergrid by the end of the Examination [ER 5.6.57]. However, on 1 April 2025, Northern Powergrid provided an update in a post-examination submission confirming that it had reached agreement in respect of protective provisions to be included in the DCO and wished to withdraw its objection to the Proposed Development.²² The drafting in the dDCO has therefore been included by the Secretary of State in the final DCO.
- 6.14. In his second information request, the Secretary of State wrote to the Applicant seeking an update on whether agreement had been reached with Northern Gas Networks ("NGN") in respect of the form of the protective provisions between the Applicant and NGN. On 4 July 2025, the Applicant confirmed that agreement had not yet been reached on the form of protective provisions to be included for the protection of NGN's apparatus, though negotiations were ongoing and the parties exchanged comments on a near final form on Monday 30 June which was expected to complete soon²³.
- 6.15. The Secretary of State has considered the PPs which have been included in the dDCO and the analysis provided by the Applicant in the SU Position Statement [REP8-023] in respect of the points of disagreement between the Applicant and NGN. He has also considered the

²¹ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001169-Compulsory%20Acquisition%20Schedule_%20Ref%20176_%20in%20relation%20to%20plot%20Ref%203_6.pdf

²² This submission has been published on the Examination website as a post-examination submission alongside this decision letter.

²³ [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001173-Response%20to%20the%20Secretary%20of%20State%20Request%20for%20Information_6%20July%202025%20Draft%20\(1\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010139/EN010139-001173-Response%20to%20the%20Secretary%20of%20State%20Request%20for%20Information_6%20July%202025%20Draft%20(1).pdf)

ExA's observations at [ER 5.6.46 et seq.]. The Secretary of State notes that NGN did not make any submissions to the Examination.

- 6.16. The Secretary of State accepts the rationale provided by the Applicant in respect of the drafting in paragraphs 101, 104, 105 and 107. He concludes that the PPs included at Part 8 of Schedule 11 in the dDCO are appropriate and would not cause NGN to suffer serious detriment. Accordingly, these PPs have been included in the final DCO.
- 6.17. The Secretary of State notes that no other SUs objected to the Application, and therefore concludes that, overall, the issues relating to SUs have been satisfactorily addressed.

Conclusion on Special Category Land

- 6.18. Section 132 of the PA2008 states that an Order granting development consent that authorises the CA of a right over open space would be subject to special parliamentary procedure unless the SoS is satisfied that one of the subsections applies. Subsection 132(3) applies if the Order land, when burdened with the Order right, would be no less advantageous to the persons in whom it is vested, other persons entitled to rights of common or other rights, and the public [ER 5.7.1].
- 6.19. This Order includes, and concerns plots 13/14 and 13/16, which are designated as a Country Park in the ownership of SBC, which forms part of the southern extent of the Wynyard Woodland Park. As the Country Park is land used for the purposes of public recreation, it falls within the definition of Open Space and therefore engages section 132 of the PA2008 [ER 5.7.2].
- 6.20. The plots comprise 1,644 square metres of land to be used temporarily with rights to be acquired permanently for the installation and thereafter the maintenance of off-road electrical cables in these plots [ER 5.7.3].
- 6.21. The ExA agreed with the Applicant that the physical effect of the CA powers sought would be restricted to cable installation maintenance and would be marginal, in terms of extent and duration. The ExA concluded that when burdened with the right the land will be no less advantageous than it was before to the persons in whom it is vested or the public, and the exception in section 132(3) applies and replacement land is not necessary. The ExA also held that these works would be considered to fall under section 131(4b) given the land is required for the Proposed Development which is a temporary (long-term) use of land and therefore the Order should not be subject to Special Parliamentary Procedure [ER 5.7.4 et seq.].
- 6.22. The Secretary of State agrees with the ExA's assessment and is satisfied that the rights sought over plots 13/14 and 13/16, while affecting Open Space land, are limited, and are necessary for the delivery of the Proposed Development. The Secretary of State is content that section 131(4b) is engaged and that the land is required for a temporary (long-term) purpose. Accordingly, the Secretary of State is satisfied that the Order should not be subject to Special Parliamentary Procedure

The Secretary State's Conclusion on Land Rights

- 6.23. The Secretary of State agrees with the ExA's conclusion that there is a compelling case in the public interest for CA and TP and that the Proposed Development would comply with the PA2008.

- 6.24. The Secretary of State has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.
- 6.25. The Secretary of State is satisfied with the application for CA and TP powers because the rights sought are for identified legitimate purposes and are compatible with human rights tests and he considers that the DCO secures land rights powers appropriately in relation to the relevant legislation and policy.

7. Secretary of State's Consideration of the Planning Balance and Conclusions

- 7.1. The Secretary of State has ascribed the following weightings in the overall planning balance in respect of the following issues:
- Principle of Development – substantial positive weight
 - Alternative and Site Selection – no weight
 - Good Design – no weight
 - Socioeconomics – limited positive weight
 - Landscape and Visual Effects - great negative weight
 - Biodiversity – limited positive weight
 - Historic Environment – moderate negative weight
 - Noise and Vibration – no weight
 - Flood and Risk Water Environment – no weight
 - Traffic and Transport – no weight
 - Land Use – moderate negative weight
 - Other Planning Topics including Climate Change Adaptation and Resilience; Fire Risk Safety and Security; and Waste – no weight
- 7.2. The Secretary of State has considered the cumulative effects of the project and agrees with the ExA's conclusion set out at ER 3.14.42 et seq. that cumulative effects do not weigh for or against the Proposed Development. The exception to this is the issue of Land Use. In this respect, the Secretary of State has concluded that the cumulative impacts do affect the weighting to be given to this issue.
- 7.3. The Secretary of State also considered the view expressed by DBC, which stated that the combination of the Proposed Development and other cumulative solar schemes would generate significant landscape and visual impacts on the rural highway network within the 3km study area. DBC highlighted that the ES identified visual effects on every section of road assessed, ranging from moderate / minor to moderate, and concluded that such effects should be considered significant [ER 3.14.20]. However, the Secretary of State has also had regard to the Applicant's updated assessments, including the Addendum Viewpoint Analysis [AS-032], and notes the ExA's conclusion that the design approach and proposed mitigation are sufficient to avoid significant adverse cumulative effects. The Secretary of State is therefore satisfied that, when considered in combination with other relevant developments, the Proposed Development would not result in significant cumulative landscape and visual effects.

- 7.4. The weighting originally ascribed by the ExA to Land Use has been increased by the Secretary of State from little negative to moderate in the planning balance, as discussed in paragraph 4.97 above.

The Secretary of State's Planning Balance

- 7.5. All NSIPs will have some potential adverse impacts which need to be carefully considered and weighed against the benefits of the development in question. In the case of the Proposed Development, most of the potential impacts have been assessed by the ExA as having not breached 2024 NPS EN-1, EN-3 and EN-5, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that all relevant mitigation measures have been appropriately secured.
- 7.6. In his planning balance, the Secretary of State accords substantial positive weight to the Proposed Development's contribution towards increasing the national supply of renewable energy and meeting the urgent national need for low-carbon infrastructure, as set out in NPS EN-1 and EN-3. The Secretary of State also attaches limited little positive weight to the biodiversity net-gain associated with the Proposed Development and ecological enhancements secured through the DCO, as well as limited positive weight to socio-economic benefits, including opportunities for employment in the local area. Against this, the Secretary of State acknowledges that the Proposed Development will cause less than substantial harm to the significance of the Bishopton CA, due to impacts on its setting, and agrees with the ExA that this harm should be given moderate negative weight in the planning balance. The Secretary of State also recognises the temporary (long-term) loss of agricultural land, including a proportion of BMV land, for the 40-year lifetime of the Proposed Development, taking into account the reversibility of the land use. However, as the potential cumulative effects with other developments were considered to be moderate adverse in nature and due to the lack of mitigation available to reduce this effect, the Secretary of State has increased the weighting in this regard from limited to moderate negative weight in the planning balance. In relation to landscape and visual impacts, the Secretary of State accepts the ExA's finding that there would be significant adverse effects relating to the character of the areas, views from the villages and PROW. Additionally, as these residual effects remain significant following embedded mitigation, the Secretary of State, in agreement with the ExA, ascribes this matter great negative weight in the planning balance [ER 3.6.103], notwithstanding that these effects would be reversible at the end of the Proposed Development's 40-year operational lifetime.
- 7.7. For the avoidance of doubt, the Secretary of State has not given any weight in the planning balance to the Applicant's provision of a Community Benefit Fund.
- 7.8. The Secretary of States conclusions are as follows. He is satisfied that the harm identified in respect of landscape and visual impacts is offset by the overall benefits of the Proposed Development, including need, as required by NPS EN-1 5.10.35. The Secretary of State is also satisfied that the less than substantial harm that has been identified in respect of a heritage asset is outweighed by the public benefits of the Proposed Development, as required by NPS EN-1 5.9.32. Taking into account all of the matters set out above, the Secretary of State is satisfied that the identified adverse impacts, taken together, are significantly outweighed by the overall benefits of the Proposed Development. In particular, the Secretary of State considers that the harms identified in this case do not outweigh the substantial positive weight attributed to the Proposed Development's contribution to the

national supply of renewable energy and the urgent need for low-carbon infrastructure. The Secretary of State is therefore satisfied that the planning balance is in favour of granting development consent.

- 7.9. The Secretary of State is also satisfied that the mitigation measures necessary to minimise or avoid environmental and other impacts, as required by the relevant NPS policies, have been appropriately secured through the draft Order and associated certified documents. The Secretary of State considers that the need for the Proposed Development has been clearly demonstrated and sufficiently assessed by the Applicant in accordance with the policy tests set out in the 2024 NPS EN-1, EN-3 and EN-5.
- 7.1. For these reasons, the Secretary of State concludes that development consent should be granted for the Byers Gill Solar project. The Secretary of State further considers that there is a compelling case in the public interest for the compulsory acquisition and TP powers sought, in accordance with section 122 of the Planning Act 2008.
- 7.10. The Secretary of State has therefore decided to accept the ExA's recommendation to make the Order granting development consent, including the modifications set out in paragraph 9 of this document.
- 7.11. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant Development Plans, the LIRs submitted by DBC, SBC, and DCC, the NPSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

8. Other Matters

Equality Act 2010

- 8.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender; gender reassignment; disability; marriage and civil partnerships²⁴; pregnancy and maternity; religion and belief; and race.
- 8.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.

²⁴ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- 8.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the proposed Development.
- 8.4. The Secretary of State is confident that, in taking the recommended decision, the Secretary of State has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

- 8.5. The Secretary of State notes the “*general biodiversity objective*” to conserve and enhance biodiversity in England, under section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the application consistent with furthering that objective, having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992 when making this decision.
- 8.6. The Secretary of State is of the view that the ExA’s Report, together with the Environmental Statement considers biodiversity sufficiently to inform the Secretary of State in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving and enhancing biodiversity.

9. Modifications to the draft Order

- 9.1. Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order.
- 9.2. The Secretary of State has removed the definition of “work” in Article 2, paragraph 1. There is no unified use of the definition and clarity is provided in Article 1, paragraph 3.
- 9.3. The Secretary of State has removed paragraph 2, Article 3. The disapplication provision is vague and disapplications are considered and captured elsewhere in the Order.
- 9.4. The Secretary of State has amended Article 4 to confirm maintenance is limited to the Order limits and to those effects dealt with in the Environmental Statement.
- 9.5. The Secretary of State has removed Article 6(4)(b) from the draft Order, which sought to allow the Applicant to transfer the benefit of the Order to a holding company or subsidiary without the consent of the Secretary of State. If the applicant is to transfer the benefit of the Order to a holding company or subsidiary, the Secretary of State would expect that company to be holder of a licence under section 6 of the Electricity Act 1989 and therefore considers this additional exemption from the need for consent to be unnecessary.
- 9.6. The Secretary of State has amended paragraph 7, Article 6 to provide a reasonable period of time.

- 9.7. The Secretary of State has removed paragraph 3, Article 9. This has been removed because 'apparatus' is defined in the interpretation section, and that definition is considered to be appropriate for the purposes of Article 9.
- 9.8. The Secretary of State has amended Article 10 to provide for statutory undertakers' apparatus and ensure appropriate management, reinstatement and safety measures are applied to works under this Article.
- 9.9. The Secretary of State has amended paragraph 4 sub-paragraph b, Article 11 to provide that the power to alter streets requires the consent of the street authority, including in circumstances when the street authority is not a public authority.
- 9.10. The Secretary of State has added Article 18 paragraph 8 to clarify that the Order does not permit certain potentially harmful water discharge activities.
- 9.11. The Secretary of State has added Article 25, paragraph 2. There is no CA of mining rights so the Secretary of State considers this paragraph necessary.
- 9.12. The Secretary of State has amended Article 31, paragraph 11, to reflect the exception relating to landscaping.
- 9.13. The Secretary of State has removed the previous paragraph 7 under Article 38, dealing with Regulation 6 of the Hedgerow Regulations 1997. This is to avoid duplication of powers.
- 9.14. The Secretary of State has removed Article 44 (inconsistent planning permissions) because it is not necessary.
- 9.15. The Secretary of State has amended Requirement 4, paragraph 1 of Schedule 2 to provide for consultation with the Environment Agency and Natural England as the appropriate authorities.
- 9.16. The Secretary of State has amended Requirement 4, paragraph 2, sub-paragraph i of Schedule 2 to provide for consultation with the Environment Agency as the appropriate authority.
- 9.17. The Secretary of State has amended Requirement 5, paragraph 1 of Schedule 2 to provide certainty as to the amount of notice required to be provided to the relevant planning authority, and to ensure the amount of notice is adequate.
- 9.18. The Secretary of State has amended Requirement 10 of Schedule 2 to provide for consultation and approval by the appropriate authorities and securing implementation of the battery safety management plan.
- 9.19. The Secretary of State has amended Requirement 11 of Schedule 2, paragraph 2, sub-paragraphs g and h to provide for biodiversity and adaptive management.
- 9.20. The Secretary of State has added Requirement 15 (construction noise) of Schedule 2 and Requirement 3, paragraph 1, sub-paragraph l to ensure construction noise levels are monitored and controlled in accordance with the British Standards.
- 9.21. The Secretary of State has amended Requirement 17 of Schedule 2 to secure and confirm additional details to be incorporated into the archaeological mitigation strategy.

- 9.22. The Secretary of State has added Requirement 18 of Schedule 2 (surface and foul water drainage) to ensure details of the surface and foul water drainage scheme are secured in consultation with the Environment Agency. This is in response to the Environment Agency's consultation response dated 19 June 2025. The Applicant did not provide further information, so this requirement provides for changes related to surface and foul water drainage required as a result of updated flood maps.
- 9.23. The Secretary of State has amended paragraph 8, sub-paragraph 1, Part 1 of Schedule 11 to clarify the position on costs.
- 9.24. The Secretary of State has amended paragraph 12, Part 2 of Schedule 11. The definition of "conduit system" is amended to "infrastructure system" with an updated reference to the code to reflect the Communications Act 2003.
- 9.25. The Secretary of State has removed the definition of the "1991 Act" from Part 4, Part 5, Part 6 and Part 8 of Schedule 11. The definition is already present in Article 2, paragraph 1.
- 9.26. The Secretary of State has amended paragraph 7 of Schedule 12 to reflect the Secretary of State's preference that the default position should be that any arbitration hearing and documentation is publicly accessible, rather than private as previously provided, subject to confidentiality or disclosure exceptions in sub-paragraphs (2) and (3).
- 9.27. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments, changes in the interests of clarity and consistency and changes to achieve consistency with other DCOs.

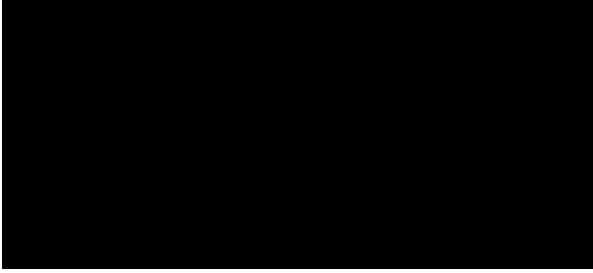
10. Challenge to decision

- 10.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

11. Publicity for decision

- 11.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 11.2. Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition CA notice shall be a local land charge. Section 134(6A) also requires the CA compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the Order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the Order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely,



David Wagstaff OBE

Head of Energy Infrastructure Development

[This decision was made by Parliamentary Under Secretary of State, Dr. Miatta Fahnbulleh MP, on behalf of the Secretary of State for Energy Security and Net Zero]

ANNEX A: LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, **an Order granting development consent** or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order or decision is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010139>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AC	Alternating Current
AEoI	Adverse Effects on Integrity
ALC	Agricultural Land Classifications
AMS	Archaeological Management System
AP	Affected Persons
BAT	Best Available Technique
BESS	British Energy Security Strategy
BFSMP	Battery Fire Safety Management Plan
Bishopton CA	Bishopton Conservation Area
BNG	Biodiversity Net Gains
BoR	Book of Reference
BS	British Standards
BMV	Best and Most Versatile
BVAG	Bishopton Villages Action Group
CA	Compulsory Acquisition
CCGT	Combined Cycle Gas Turbine
CDDFRS	Country Durham and Darlington Fire and Rescue Service
DAD	Design Approach Document
DBC	Darlington Borough Council
DCC	Durham County Council
DCO	Development Consent Order
dDCO	Draft Development Consent Order
EIA	Environmental Impact Assessment
ESR	Existing Sensitive Receptors
ExA	The Examining Authority
GLVIA3	Guidelines for Landscape and Visual Impact Assessment
Ha	Hectares
HRA	Habitats Regulations Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
LCA	Life Cycle Analysis
LEMP	Landscape and Ecological Management Plan

LIR	Local Impact Report
LPA	Local Planning Authority
LSE	Likely Significant Effect
MW	MegaWatt
NE	Natural England
NGN	Northern Gas Networks
NPS	National Policy Statement
NPS EN-1	National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPPF	National Planning Policy Framework
NSN	National Site Network
NSIP	Nationally Significant Infrastructure Project
oCEMP	Outline Construction and Environment Management Plan
oDEMP	Outline Decommissioning Environmental Management Plan
oLEMP	Outline Landscape Ecology Monitoring Plan
oSRMP	Outline Soil Resources Management Plan
PA2008	The Planning Act 2008
PSED	Public Sector Equality Duty
PRoW	Public Right of Way
PV	Photovoltaic
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SAC	Special Area of Conservation
SBC	Stockton-on-Tees Borough Council
SoCG	Statement of Common Ground
SPA	Special Protection Area
SU	Statutory Undertaker
TP	Temporary Possession
Zol	Zone of Influence