



Planning Inspectorate
Arolygiaeth Gynllunio



Planning Inspectorate

Application by FVS Dean Moor Limited for Dean Moor Solar Farm

The Examining Authority's written questions and requests for information (ExQ1)

Issued on 25 July 2025

The following table sets out the Examining Authority's (ExA's) written questions and requests for information - ExQ1. If necessary, the examination timetable enables the ExA to issue a further round of written questions in due course. If this is done, the further round of questions will be referred to as ExQ2.

Questions are set out using an issues-based framework derived from the initial assessment of principal issues provided as **Annex C** to the rule 6 letter dated 24 June 2025. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which interested parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 1 (indicating that it is from ExQ1) and then has an issue number and a question number. For example, the first question on air quality and emissions issues is identified as Q1.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the Case Team: please contact deanmoorsolar@planninginspectorate.gov.uk and include 'Dean Moor Solar Farm' in the subject line of your email.

Responses are due by Deadline 2: Tuesday 26 August 2025



Abbreviations used:

CVLIA	Cumberland Council commissioned review of Landscape and Visual Impact Assessment	LSE	Likely Significant Effects
DCO	Development Consent Order	LVIA	Landscape and Visual Impact Assessment
dDCO	the draft Development Consent Order	NPS	National Policy Statement
EIA	Environmental Impact Assessment	oCEMP	outline Construction Environmental Management Plan
		oLEMP	outline Landscape Ecological Management Plan
ES	Environmental Statement	oOMP	outline Operational Management Plan
EM	Explanatory Memorandum	RVAA	Residential Visual Amenity Assessment
ExA	Examining Authority	sHRA	shadow HRA
fDMP	framework Decommissioning Management Plan	SAC	Special Area of Conservation
GLVIA3	Guidelines for Landscape and Visual Impact Assessment 3 rd edition	SoCG	Statement of Common Ground
HGV	Heavy Goods Vehicles	SOAEL	Significant Observed Adverse Effect Level
HRA	Habitats Regulations Assessment	SoS	Secretary of State
HEDBA	Historic Environment Desk Based Assessment	SPA	Special Protection Area
LDNP	the Lake District National Park	WHS	the English Lake District World Heritage Site
LGV	Light Goods Vehicles	ZOI	Zone Of Influence
LOAEL	Lowest Observed Adverse Effect Level	ZTV	Zone of Theoretical Visibility



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The Examination Library

References in these questions set out in square brackets (for example [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link: [Examination Library](#)

It will be updated as the examination progresses.

Citation of questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, for example ExQ1 1.0.1 – refers to question 1 in this table.



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ExQ1	Question to:	Question:
1. Biodiversity, ecology and natural environment (including Habitats Regulations Assessment (HRA))		
Q1.0.1	Applicant	<p>Para 8.5.3 of chapter 8 of the Environmental Statement (ES) refers to proposed construction works involving limited clearance of woodland, trees and hedges. Whilst reference is also made to these matters in several other ES chapters and documents, the extent of potential woodland, tree, hedgerow or other habitat removal is unclear. This needs clearly setting out and assessing as appropriate.</p> <p>In addition, please provide a separate vegetation removal plan showing maximum areas of potential vegetation loss.</p>
Q1.0.2	Applicant	Please provide a table which sets out which ecological surveys have been carried out/which are proposed in future, including the type of survey (i.e. desk-based or field), the species surveyed, date of surveys, which stage of the process and the responsible person/organisation for sign off/approval and the mechanism to secure approval.
Q1.0.3	Applicant	Chapter 7 of the ES – Table 7.2 - Dean and Distington Parish Councils suggest that part of the site would be an ideal candidate for heather moorland restoration. Can you set out the extent to which this has been considered and the reasons why, alternatively, the proposed development includes restoration to rough acidic grasses comprising the species set out in the outline Landscape Ecological Management Plan (oLEMP) [APP-145] ?
Q1.0.4	Applicant	<p>See Q4.0.8 for context.</p> <p>Please set out how the oLEMP [APP-145] considers the status and operational life and impacts associated with Potato Pot wind farm (including, but not limited to, consideration of proposed bat and bird habitat and compatibility with the operational wind farm). If these have not been considered, please ensure they are addressed as part of the oLEMP.</p>
Q1.0.5	Applicant	<p>Please outline the current recreational access arrangements within the site (including different user groups such as pedestrians/horse riders), both formal and informal, and the extent to which the site is used recreationally.</p> <p>Please identify how the recreational impacts due to the proposed permissive paths across the site would be managed to achieve the overarching aims of the oLEMP [APP-145] and protected species within the site would not be unduly harmed.</p>
Q1.0.6	Applicant	<p>In relation to the works proposed in Area C, the western boundary includes a buffer zone/exclusion area to ancient woodland [APP-050]. Please provide additional justification for the buffer zone distance/exclusion area sought having regard to relevant policy and guidance, including the Planning Practice Guidance.</p> <p>In particular, details of the existing woodland characteristics and the extent to which the buffer area would protect the woodland and reinforce it through suitable mitigatory planting, whether the permissive paths proposed would be suitable within the buffer zone, and whether a 15m 'minimum' buffer would be adequate in this case.</p> <p>Please also set out precisely how this buffer would be secured and whether the plans and documents provided and to be secured through the Development Consent Order (DCO) would be sufficiently detailed to ensure the buffer zone can be readily identified and measured from the plans and implemented on the ground.</p>
Q1.0.7	Applicant	Please provide a plan which overlays the proposed works plans with the exclusion areas [APP-050] .
Q1.0.8	Applicant	Appendix A of the oLEMP [APP-145] states that sheep grazing is to be provided unless 'not practical or feasible'. Under what circumstances would it not be practical or feasible and how will the feasibility of sheep grazing be determined? What is the mechanism/who is responsible for determining suitability?

ExQ1	Question to:	Question:
Q1.0.9	Applicant	<p>The ExA requests a plan(s) which shows the proposed maximum parameters along with the features of biodiversity interest having regard to:</p> <ul style="list-style-type: none"> the surveys and findings as set out in Appendix 8.1 – 8.6 of the ES Dean Moor County Wildlife Site boundary along with the areas of biodiversity interest within it.
Q1.0.10	Applicant	<p>Paragraph 1.1.5 of Preliminary Ecological Appraisal and Great Crested Newt Report [APP-150] recommends further botanical survey work in relation to Dean Moor County Wildlife Site. The scope of this further survey work is unclear. The outline Construction Ecological Management Plan (oCEMP) [APP-108] confirms that the National Vegetation Classification Survey [APP-151] may be updated, but this is to focus on three areas of the site and it is not clear whether this in part relates to the further botanical survey work as recommended above in relation to the Dean Moor County Wildlife Site.</p> <p>The ExA request clarity on these points, including the extent to which existing surveys are relevant and the extent to which potential future surveys will be provided in relation to Dean Moor County Wildlife Site, and how such survey work could affect the proposal, and how it is to be secured.</p>
Q1.0.11	Applicant	<p>The ExA appreciate that the Table of Significance 8.7 of ES chapter 8 sets out the potential and residual biodiversity effects in Environmental Impact Assessment (EIA) terms. However, the ExA request a separate table which aligns with the mitigation hierarchy principles and each of the 'potential effects' highlighted in Table 8.7:</p> <ul style="list-style-type: none"> Avoidance – can significant harm be avoided through design/layout? If significant harm cannot be wholly or partially avoided, can it be minimised/mitigated? Please detail. If there would be significant residual harm despite mitigation can this be appropriately compensated. Please detail.
Q1.0.12	Applicant	<p>The application acknowledges that creating Lowland Acid Grassland within Area C will be difficult. How can the ExA be confident that this habitat type is deliverable? If it is not possible to establish this habitat type, how will this affect the overall findings of the ES and Biodiversity Net Gain calculations set out in paragraph 6.1.1 and table 5.1 of the BNG Report [APP-157].</p>
Q1.0.13	Applicant/Cumberland Council	<p>Please set out how the scheme addresses the mitigation hierarchy in relation to the Dean Moor County Wildlife site, noting that part of this site would include solar development (this may be answered as part of Q1.0.11).</p>
Q1.0.14	Applicant	<p>Clarify whether buffer zones are to be provided/necessary, for the purposes of maintenance of the proposed permanent fencing, in relation to hedgerows or other habitat features. Please set out how any such buffer zones would be secured.</p>
Q1.0.15	Applicant/Natural England	<p>Habitats Regulations Assessment</p> <p>The shadow Habitats Regulations Assessment report (sHRA) [APP-156] applies a 10km for European Sites. Confirm whether this search area fully captures:</p> <ul style="list-style-type: none"> European sites and/or qualifying interest features which are located within the potential Zone Of Influence (ZOI) of impacts associated with the proposed development European or Ramsar sites with qualifying mobile features/species whose range (e.g. foraging, migratory, overwintering, breeding or natural habitat range) overlaps with the order limits of the proposed development? For example, at several points in the sHRA (including paragraph 4.3.14 and Appendix C Screening Matrix for Solway Firth Special Protection Area (SPA)) the applicant makes reference to consultation advice from NE which seems to indicate that the site of the proposed development may be functionally linked to the Morecambe Bay and Duddon Estuary SPA. Give this apparent linkage, clarify why this site is not assessed in the sHRA.

ExQ1	Question to:	Question:
Q1.0.16	Applicant	<p>Habitats Regulations Assessment</p> <p>The sHRA [APP-156] screening matrix for River Derwent and Bassenthwaite Lake Special Area of Conservation (SAC) (Appendix C, footnotes a and b) describe mitigation measures in the context of both screening out changes in species distribution during the construction phase, and screening out Likely Significant Effects (LSE) caused by pollution, siltation or changes in species distributions in the operational phase. Clarify whether the mitigation measures proposed are relied upon to reach the conclusion of no LSE, and if so, explain how this accords with <i>CJEU People Over Wind and Sweetman v Coillte Teoranta (C-323/17)</i>?</p>
Q1.0.17	Applicant	<p>Habitats Regulations Assessment</p> <p>What are the conservation statuses of the River Derwent and Bassenthwaite Lake SAC and Solway Firth SPA [APP-156]?</p>
2. Climate Change		
Q2.0.1	Applicant	Chapter 9 - Paragraph 9.3.20 - Why is the 'maximum export capacity' used to calculate carbon saving? Being a 'maximum', this implies that the scheme will not, on average, have an export capacity of 150MW. Please clarify.
Q2.0.2	Applicant	<p>Limited details associated with the scheme's likely generating capacity have been provided including, for example, the approximate number of solar panels to be provided and the likely generating capacity of each. Please provide additional detail.</p> <p>Linked to this, the ratio of the site's capacity relative to export maximum capacity. It would assist if details above could be provided along with a comparator relative to the indicative land take set out at paragraph 3.10.8 of National Policy Statement (NPS) EN-3.</p>
Q2.0.3	Applicant	Limited details have been provided in terms of site-specific considerations, including forecast irradiance levels and other factors which may influence the scheme's load factor, nor have comparative load factors in similar geographical areas been examined. Having regard to this, please justify the use of a national average load factor of 10.2 (paragraph 9.5.14 of ES chapter 9).
Q2.0.4	Applicant	<p>Limited details have been provided of solar panel degradation over the scheme's operational life and the implications of degradation on performance and the scheme's calculated electricity generation.</p> <p>If necessary, further calculations, including updated likely CO2 emissions changes and generating potential, should be provided taking into account panel degradation.</p>
Q2.0.5	Applicant	<p>The ExA request clarity on the following points, all of which are contained within chapter 9 of the ES:</p> <ul style="list-style-type: none"> • an explanation as to the potential 'Scope 3' emissions in the context of the proposal and having regard to <i>R (Finch) v Surrey CC [2022]</i> <i>EWCA Civ 187</i> and any other recent legal judgments • it is unclear why there is no detailed assessment of embedded/embodyed Carbon and whether the approach adopted is sufficiently robust. Please provide justification for the approach adopted with reference to other schemes and/or appropriate guidance or provide a more detailed assessment • the ExA would find a table helpful which clearly sets out the emissions source and anticipated greenhouse gas emissions associated with the scheme during 1) Construction phase, which should include the manufacturing of materials and components 2) Emissions during the operational phase 3) Emissions during decommissioning.

ExQ1	Question to:	Question:
3.	Design	
Q3.0.1	Applicant	The ExA would find it helpful to receive an indicative layout plan of the proposal based on the maximum parameters proposed, including the Design Parameters Document [APP-028] .
Q3.0.2	Applicant	<p>The ExA note that the project design principles set out in table 7.1 [APP-029] do not explicitly refer to concepts of good aesthetics or how the proposed development would relate to its surroundings or local context (see NPS EN-1 paragraphs 4.7.1 and 4.7.2).</p> <p>Moreover, the design parameters [APP-028] do not appear to have considered opportunities to embed these aspects of achieving good design. For example:</p> <ul style="list-style-type: none"> • no reference is made to local materials/context in terms of the options proposed in relation to the materials to be used in the buildings and structures • where bespoke design aesthetics for building and structures are not feasible, the extent to which landscaping/other forms of mitigation could be used to better assimilate or screen features with their surroundings • where paladin/mesh security fencing is necessary, the ways in which this could be assimilated with its surroundings (for example, landscaping), how embedded mitigation could be incorporated to minimise effects (utilising levels or features to screen views). <p>The ExA would ask that the project design principles are reviewed, and consideration be given to the above.</p>
Q3.0.3	Applicant	Please align each of the project design principles as set out in in table 7.1 [APP-029] with the works/work numbers set out in the parameters [APP-028] and explain so that the ExA can fully understand the extent to which the design principles are embedded in all aspects of the proposed development.
4.	Environmental Statement	
Q4.0.1	Applicant	ES chapter 3 - the parameters adopt a 'Rochdale envelope' approach and are based on a 'worst-case'. Please clarify if the ES is based on a worst-case or a 'reasonable' worst-case.
Q4.0.2	Applicant	ES chapter 3 - states that construction could start in 2026 but no timeline to support this start date has been provided. Moreover, this timescale appears unrealistic given the likely timescales for the determination of this application and subsequent DCO requirements which, if granted, may involve the submission of schemes to be agreed with the local planning authority and other bodies/organisations. A more realistic start-date should be provided. A Gantt chart may assist.
Q4.0.3	Applicant	ES chapter 3 - scope of worst-case scenario in relation to construction period needs clarifying. It is stated that the construction period would be 18 months but is this a robust assumption? It may assist to calibrate with other broadly similar projects to support the anticipated timescale.
Q4.0.4	Applicant	ES chapter 3 - reference is made to site conditions and weather impacts which could delay construction, but it is not clear what effect this would have on the construction period, nor the extent to which environmental effects would be lessened or increased in those circumstances. The assumption made is that the 'shorter' 18-month time period would truncate effects, thus resulting in the worst-case. However, construction over a longer period may prolong environmental effects and as such, could this be considered a 'worst-case'?
Q4.0.5	Applicant	Q4.0.2 – Q4.0.4 – the implications for any change to the construction phase will need to be in the analysis contained within each of the ES chapters and all relevant documents.
Q4.0.6	Applicant	Please provide clarity on the status of Lostrigg scheme and a table outlining anticipated construction, operation and decommissioning timelines for the proposal relative to Lostrigg.

ExQ1	Question to:	Question:
Q4.0.7	Applicant/Cumberland Council	ES chapter 2 – please confirm that the list of cumulative schemes set out in table 2.6 is complete and should be used by the ExA to inform the cumulative assessment, otherwise please provide an alternative list. This was also requested by the ExA in relation to a Statement of Common Ground (SoCG) in the rule 6 letter.
Q4.0.8	Applicant	<p>ES Methodology - there is an overlap between a 'live' planning permission and the proposed development, as the land included in the Potato Pot wind farm consent is also within the proposed Order limits. However, limited consideration has been given to the implications of this planning permission, and its likely temporary nature, in relation to the proposed project:</p> <p>The ExA require the following:</p> <ul style="list-style-type: none"> • details of the Potato Pot wind farm consent and a plan showing the site including red-line boundary along with the anticipated decommissioning and removal date • the implications of its future removal on the EIA methodology and ES chapters in terms of the assumptions made concerning the future baseline and/or environmental effects of the proposal and the assessment scenarios set out in the methodology. <p>The above should take into account the following potential issues, whilst also addressing any other implications for the ES:</p> <ul style="list-style-type: none"> • paragraphs 7.4.1 – 7.4.3 of chapter 7 of the ES confirms that Potato Pot wind farm has been considered as part of the 'baseline'. However, no analysis has been provided in relation to its potential temporary nature and the extent to which the wind farm's future decommissioning and removal would alter the landscape, and the extent to which this would alter the magnitude of change and effects associated with the proposal as assumed as part of the Landscape and Visual Impact Assessment (LVIA) • linked to the above, the visualisations include 'Year 15' but it is not clear whether or not the wind farm would be in situ, nor whether the visualisations represent a robust visual representation of the long-term impact of the scheme given the potential removal of the wind farm • as above, implications for chapter 6 of the ES (Cultural Heritage) • any implications for site access <u>including</u> compulsory acquisition/temporary possession in terms of ensuring that it is possible to decommission and remove the wind farm and restore the site • implications of removal of the wind farm and any cabling or other works required by the planning permission and the impact this would have on the proposal and dDCO • having regard to the above, whether the dDCO is sufficiently robust in terms of provisions in order to adequately facilitate the wind farm operation and decommissioning etc.
Q4.0.9	Applicant	Please describe the extent to which irradiance has influenced the broad site location (i.e. in Cumbria) with reference to paragraph 3.10.10 of NPS EN-3.
5. Historic Environment		
Q5.0.1	Applicant	<p>ES chapter 5 – during the proposed development's operation, significant residual effects are anticipated in relation to the Stone Circle (ref - 1014588). A separate plan is required detailing:</p> <ul style="list-style-type: none"> • the general layout of the features of the asset (the stones and cairn)

ExQ1	Question to:	Question:
		<ul style="list-style-type: none"> a plan showing how the proposed scheme might be developed, based on worst-case (without mitigation), including measurements showing proximity to the asset and any other details of relevance including, but not limited to, topography and existing features a plan showing how the proposed scheme might be developed (with mitigation) including specific measures proposed, including but not limited to landscaping, and any other measures intended to enhance the appreciation of the asset.
Q5.0.2	Applicant	<p>This question is made in response to the applicant's submission at procedural deadline A [PDA-001] , which responded to the ExA request for additional visualisations/photomontages (heritage) set out in annexe E of the rule 6 letter [PD-005]</p> <p>The ExA acknowledge the reasons set out by the applicant as to why they consider additional visualisations are not needed. The ExA appreciate that agreement will be sought with Historic England concerning the viewpoints. In addition, the ExA have also requested a SoCG between the applicant and Historic England as set out in annex E to the rule 6 letter.</p> <p>Notwithstanding this, it should be noted that the ExA's request for visualisations/photomontages was made so that appropriate illustrative/visual material could be provided having regard to heritage significance and any guidance specifically in relation to visualisations and heritage assets.</p> <p>The ExA notes that the applicant's response places some reliance on submitted viewpoints and photomontage locations to support the heritage conclusions set out in the ES. However, the LVIA methodology [APP-119], which supports ES chapter 7 and the viewpoints and photomontage locations, does not refer to any applicable guidance or standards in relation to the methodology for assessing visual effects and heritage assets.</p> <p>Therefore, the photographic material or visualisations in ES chapter 7, where they are produced to support the conclusions drawn in ES chapter 6 (cultural heritage), should include the following:</p> <ul style="list-style-type: none"> why the viewpoints above have been chosen having regard to the significance of the heritage assets and whether the LVIA methodology is appropriate in this context the relevance of the visual effects identified in ES chapter 7 in relation to ES chapter 6 further written analysis of the visual effects having regard to the significance of the heritage assets where there are visual effects identified, the extent to which mitigation has been considered and the effects thereof. <p>On this point, the ExA acknowledge that viewpoints and visualisations have been provided within proximity of Wythemoor Sough. Subject to the above, the existing visual material contained within the ES may be sufficiently robust in this regard.</p> <p>However, in respect of Stone Circle, the ExA is not convinced that the visual relationship between the proposed development and Stone Circle, including the impact on the contribution made by the asset's setting, is represented by view location 3c of the LVIA [APP-128]. This is due to the location of the viewpoint and that it is not a visualisation/photomontage which illustrates the parameters of the development relative to the asset.</p> <p>The ExA would again ask the applicant to review the material submitted having regard to the points raised above.</p>
Q5.0.3	Applicant	<p>The Historic Environment Desk Based Assessment (HEDBA) [APP-112] and ES chapter 6 refer to values set out in Historic England's Conservation Principles 2008 (i.e. historic, evidential, aesthetic and communal) whilst also referring to the values set out in Annex 2 of the National Planning Policy Framework 2024 (i.e. archaeological, architectural, artistic or historic), also referred to in NPS EN-1 footnote 230.</p> <p>The ExA would expect the application to refer to the more recent heritage values as per NPS EN-1 and the National Planning Policy Framework. Please clarify.</p>

ExQ1	Question to:	Question:
Q5.0.4	Applicant	<p>Please set out the status of the HEDBA [APP-112] and the extent to which it forms a Heritage Impact Assessment and if it does not, please set out the key difference between a HEDBA and Heritage Impact Assessment.</p> <p>Please also set out the relationship between the HEDBA and the EIA and how they both complement each other and the extent to which they differ.</p>
Q5.0.5	Applicant	The ExA wish to understand whether the Stone Circle is currently accessible to the public either on a formal or informal basis.
Q5.0.6	Applicant	<p>The ExA require a succinct document or table which articulates the findings of ES chapter 6, HEDBA [APP-112] and Planning Statement [APP-026]. In particular, the ExA wish to see:</p> <ol style="list-style-type: none"> 1) Which heritage assets and their settings would be affected by the proposal. 2) The degree to which the settings of each asset make a contribution to significance and allow significance to be appreciated. 3) The effects of the proposed development, beneficial or harmful, on significance of each asset. 4) Exploration of ways to maximise enhancement and avoid or minimise harm, including specific details as to the measures proposed in each case. 5) The extent of harm both without mitigation and the residual harm. This should be framed in relation to NPS EN-1, identifying the broad level of harm in these terms (substantial/less than substantial) and calibrating by setting out the harm within the broad level (for example, low, moderate, high level of less than substantial harm). 6) The specific public benefits in relation to each asset, where harm is identified. <p>The ExA recognise that many aspects of this assessment have already been documented in chapter 6 of the ES. However, the ExA note that limited detail has been included in terms of potential enhancement (for example, [APP-027] recognises that appreciation of the designated Stone Circle will be enhanced through cultural heritage management strategies, but it is not clear what this management strategy is and how enhancement would be sought). It would assist the ExA if good practice guidance, such as that issued by Historic England (the Setting of Heritage Assets, 2017), was referred to in this respect.</p> <p>The above will ensure identified heritage impacts can be more readily interpreted by the ExA in the context of national legislation, policies and objectives.</p>
Q5.0.7	Applicant	<p>English Lake District World Heritage Site (WHS) – chapter 6 of the ES. The ExA require the following clarification/information:</p> <ul style="list-style-type: none"> • a copy of the relevant Management Plan for the WHS • an understanding of the relevance of the Lake District National Park Partnership's Management Plan 2020-2026 for the purposes of the WHS and for the purposes of identifying the significance of the WHS.
Q5.0.8	Applicant	<p>ES chapter 7 (page 21) confirms that the visual effects from the WHS have been considered within the ES assessment and this considers the visualisations at VLs 13, 13a, 13b and 14. ES chapter 6, which concerns assessment of cultural heritage, does not refer to these viewpoints directly.</p> <p>The LVIA methodology [APP-119] which supports ES chapter 7, does not refer to any applicable guidance or standards in relation to the methodology for assessing the effects on landscapes in a world heritage context.</p> <p>Therefore, the ExA request the following:</p> <ul style="list-style-type: none"> • why the viewpoints above have been chosen having regard to the Outstanding Universal Value/significance of the WHS and whether the LVIA methodology is appropriate in this context • the relevance of the visual effects identified in ES chapter 7 in relation to ES chapter 6 • further written analysis of the visual effects having regard to the significance of the WHS • where there are visual effects identified, the extent to which mitigation has been considered and the effects thereof.

ExQ1	Question to:	Question:
Q5.0.9	Applicant	ES chapter 6 paragraph 6.5.11 states that there is 'no potential for indirect impacts' yet minor adverse impacts are identified in the remainder of the paragraph. Clarify.
Q5.0.10	Applicant	The figure showing Heritage Assets within 3km [APP-076] illustrates that the boundary of Conservation Areas is identical to the boundary of the WHS. Please amend the plan if it is incorrect.
6. Landscape and Visual Effects		
Q6.0.1	Applicant	<p>The ExA recognises that Section 11A National Parks and Access to the Countryside Act 1949, as a result of amendments facilitated by the Levelling-Up and Regeneration Act 2023, seeks to 'further' the statutory purposes for which the National Park has been designated. This differs from the previous duty, which required any relevant authority 'have regard' to the statutory purposes.</p> <p>In addition, paragraph 5.10.8 of NPS EN-1 states:</p> <p><i>The duty to seek to further the purposes of nationally designated landscapes also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. In these locations, projects should be sensitively given the various siting, operational, and other relevant constraints. The Secretary of State should be satisfied that measures which seek to further the purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development.</i></p> <p>The ExA request a statement setting out the effect of the proposed development on the Lake District National Park LDNP having regard to the assessment undertaken as part of ES chapter 7 and the legislative duty and NPS EN-1, as set out above.</p>
Q6.0.2	Applicant	The Landscape Strategy plan [APP-088] includes a number of colour coded features which are similar and difficult to discern (for example, existing and proposed hedgerows). Please amend.
Q6.0.3	Applicant	<p>ES chapter 7 paragraph 7.3.41 refers to Landscape Institute guidance but there is limited analysis of the proposed development in the context of this guidance.</p> <p>It is requested that detailed justification is provided to support the conclusion that <i>'the threshold for RVAA is not met'</i>. Notwithstanding this, the ExA also notes that relevant representations have been received concerning residential visual amenity. Therefore, it may be prudent to carry out a Residential Visual Amenity Assessment (RVAA) or produce an equivalent appraisal so that the ExA have a better understanding of the potential impact on residential visual amenity, particularly given the location of these properties relative to the site.</p>
Q6.0.4	Applicant	<p>ES chapter 7 Schedule of Visual Effect [APP-121] identifies significant effects in relation to viewpoints VL6a/6b. The ExA require the following:</p> <ul style="list-style-type: none"> the extent to which alternative design iterations have been considered to avoid these effects (embedded mitigation) the extent to which additional mitigation has been considered to reduce effects.
Q6.0.5	Applicant	A table is required detailing the distance of the solar panels and/other associated infrastructure from a) the boundary of the nearest dwellings/properties (a plan could be provided instead) b) the distance to dwellings/properties c) the factors that have been considered in determining the suitability of the distance d) any additional mitigation/enhancement proposed in relation to the dwellings/properties.
Q6.0.6	Applicant	Please provide the ExA with a Zone of Theoretical Visibility (ZTV) which includes screening/mitigation associated with the proposed development or clarify which existing ZTV(s) show this.
Q6.0.7	Cumberland Council	The CLVIA page 12 [AS-005] includes a table which alludes to 'locally' in terms of magnitude of impact and degree of significance. Please explain:

ExQ1	Question to:	Question:
		<ul style="list-style-type: none"> whether the table, including the terminology used, is in accordance with Guidelines for Landscape and Visual Impact Assessment 3rd edition (GLVIA 3) guidance or other guidance where the stated 'local' impacts as above are derived from (for example, whether they are taken from the description of landscape changes as set out in the ES, or whether they are landscape and visual judgments made by the author(s) of the CLVIA).
Q6.0.8	Applicant	<p>A response to the CLVIA should be provided, with a particular focus on:</p> <ul style="list-style-type: none"> whether VL2b and VL3c are suitable locations having regard to potential for higher level of effects further east along the road clarification in relation to VL14 as well as grid references and dates of photographs as per para 2.36 of the CLVIA – provide a summary table of significant effects comments on the 'Proposed additional viewpoints' set out on page 20 of the CLVIA the points raised on pages 22 and 23 of the CLVIA.
7. Other/general		
Q7.0.1	Applicant/Cumberland Council	There does not appear to be any provision made for a scheme/plan which promotes local employment and skills. With reference to local policies and NPS EN-1, please set out how the proposal meets requirements in this regard and, if it does not, please set out how policy compliance could be achieved.
Q7.0.2	Applicant	Please provide a contour plan of the site with spot levels both as existing and as proposed on works plans. The purpose is so that the ExA can better understand the land levels across the site relative to the proposal.
Q7.0.3	Applicant	<p>In relation to the Lake District National Park Partnership's Management Plan 2020 – 2026:</p> <ul style="list-style-type: none"> please set out the status of this document for the purposes of decision making the extent to which it is relevant and has been considered in relation to the oLEMP [APP-145] the extent to it has been considered in relation to the scheme's overall design approach, along with the relevance of this document in a design context.
Q7.0.4	Applicant	<p>Section 4.2 of the Glint and Glare Assessment [APP-147] relates to Gilgarran airfield. Notwithstanding the conclusions of this assessment, the ExA would like more information concerning the status of the airfield and its operations, including:</p> <ul style="list-style-type: none"> the operator of the airfield and whether they have been consulted on the proposal the relevance of the airfield being a certified and/or licensed aerodrome in relation to its operations any other information which may assist the ExA in determining the nature and scale of the airfield and its operations.
8. Soils		
Q8.0.1	Applicant	What is the approximate volume of soils to be stripped? Are there potential visual effects associated with soil bunds of up to 3m in height and to what extent has this been considered in landscape and visual terms? Can you clarify to what extent soil bunds are intended to meet the objectives set out in para 1.1.4 of the oLEMP [APP-145] .
9. Noise		
Q9.0.1	Applicant	The Noise and Vibration Impact Assessment [APP-103] relies on the siting of plant associated with 'Works No 1' to ensure that impacts are below 'Significant Observed Adverse Effect Level' (SOAEL) and thus are not significant for the purposes of EIA (secured by requirement 12 of

ExQ1	Question to:	Question:
		<p>the dDCO).</p> <p>Therefore, the mitigation proposed in relation to micro-siting of Works No 1 appears to be predicated on ensuring any noise does not exceed the 'Lowest Observed Adverse Effect Level' (LOAEL). Can you confirm whether the mitigation is intended to ensure no significant effects as opposed to no adverse quality of life or amenity effects?</p> <p>Can you clarify which receptors may experience LOAEL?</p> <p>In respect of LOAEL, the ExA require the scheme to be assessed against the Noise Policy Statement for England (also reflected in Planning Practice Guidance) and the accompanying Noise Exposure Hierarchy Table (Policy EN-1 para 5.12.2 highlights its relevance).</p> <p>The ExA will need to understand the nature and extent of any adverse impacts. If adherence to LOAEL is sought, the ExA need to understand the extent to which additional mitigation has been considered in accordance with the Noise Policy Statement, or if it has not been considered, why?</p>
10. Transportation/Highways		
Q10.0.1	Applicant	<p>The proposed development assumes 3,750 HGVS and 1,250 Light Goods Vehicles (LGVs) trips during construction based on ‘previous experience’ [APP-102]. Clarity needed on this and what examples/experience is relevant, including details as to how the figures have been derived in relation to this project. A table assigning Heavy Goods Vehicles (HGV) and LGV trips to the different construction activities proposed may also assist.</p>
11. The draft Development Consent Order (DCO)		
11.0 Articles		
Q11.0.1	Applicant	<p>General</p> <p>The extent of any flexibility provided by the DCO should be fully explained and set out, such as the scope of maintenance works and ancillary works, limits of deviation and any proposed ability (through tailpieces) of discharging authorities to authorise subsequent amendments.</p> <p>In relation to the flexibility to carry out advance works, any “carve out” from the definition of “commencement” (article 2) should be fully justified and it should be demonstrated that such works are de minimis and would not have environmental impacts which would need to be controlled by requirement. See section 21 of Advice Note 15. Pre-commencement requirements should also be assessed to ensure that the “carve out” from the definition of “commencement” does not allow works which defeat the purpose of the requirement.</p>
Q11.0.2	Applicant	<p>Article 2</p> <p>Please review the definition of ‘order land’ in Article 2 and consider whether it could be more precisely defined so it aligns with the approach used in other made solar Development Consent Orders (DCO) (for example, by reference to the different colouring on the land plans).</p> <p>Article 2(11) is unclearly worded and the explanation in the EM simply duplicates the article.</p> <p>Article 2(12) is unusual particularly as regards 2(12)(a) and it does not appear to achieve the desired result. Specific and worked through examples should be provided.</p>

ExQ1	Question to:	Question:
Q11.0.3	Applicant	<p>Article 3</p> <p>The stated objective is that the applicant should not be constrained by the Order limits although any development/activities outside those limits would still be subject to the limits of deviation (see article 7). This is highly unusual and only one possible precedent has been given in the Explanatory Memorandum (EM) [APP-013] in para 4.3.1.</p> <p>What then is the purpose of the Order limits (as defined) and what works, specifically, might take place outside the Order limits?</p> <p>If there are specific plots of land that are relevant to these extra activities, why can't they simply be brought within the Order limits?</p> <p>It is unclear how a “proportionate search of local legislation which applies in reasonably close proximity to land within the Order limits” would not have identified any issues.</p>
Q11.0.4	Applicant	<p>Article 5</p> <p>This gives the power to maintain the authorised development “except to the extent that this Order or an agreement made under this Order provides otherwise”. Please confirm where the Order (or an agreement to be made under it) provides otherwise?</p>
Q11.0.5	Applicant	<p>Article 7</p> <p>The exception in para (1) needs to be justified for this particular project but has not been in the EM.</p> <p>How, exactly, would the undertaker “demonstrate to the SoS's satisfaction” e.g. would there need to be some sort of change to the made DCO?</p>
Q11.0.6	Applicant	<p>Article 8 and 9</p> <p>The applicant should provide full justification as to why powers to transfer the benefit of the Order without the benefit of SoS consent (to those listed in 9(3)) are necessary.</p> <p>Where the purpose of the provision is to enable such person(s) to undertake specific works authorised by the DCO the transfer of benefit should be restricted to those works. If the provision seeks to permit transfer of compulsory acquisition powers the applicant should provide evidence to satisfy the Secretary of State that such person has sufficient funds to meet the compensation costs of the acquisition.</p>
Q11.0.7	Applicant	<p>Article 9</p> <p>The ExA notes that Article 9(6) provides for a notification period of five business days in the event of a transfer of the benefit of the order in circumstances where the consent of the SoS is not required. The ExA notes that other solar DCOs include a minimum period of 14 working days for the undertaker to notify the SoS of a transfer not requiring consent.</p> <p>Please amend this provision so that it accords with the majority of other made solar DCOs or provide an explanation as to why, in the context of this particular application, a shorter period should be applied.</p>

ExQ1	Question to:	Question:
Q11.0.8	Applicant	<p>Article 10</p> <p>The guidance in section 25 of Advice Note 15 should be followed and, if not already provided, additional information sought such as:</p> <ul style="list-style-type: none"> the purpose of the legislation/statutory provision the persons/body having the power being disapplied an explanation as to the effect of disapplication and whether any protective provisions or requirements are required to prevent any adverse impact arising as a result of disapplying the legislative controls (by reference to section 120 of and Schedule 5 to the Planning Act 2008) how each disappplied provision constitutes a matter for which provision may be made in the DCO. <p>Where the consent falls within a schedule to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 evidence will be required that the regulator has consented to removing the need for the consent in accordance with S150 of the Planning Act 2008.</p> <p>Schedule 3</p> <p>It is necessary to explain how the provisions which are still in force are inconsistent with the dDCO and need to be disapplied.</p>
Q11.0.9	Applicant	<p>Article 11</p> <p>Reliance is placed on the oCEMP [APP-108], outline operational management plan (oOMP) [APP-107] and the framework decommissioning management plan (fDMP) [APP-111] and future iterations of these control documents. Which of the measures contained within these documents and any other control documents are intended to manage matters relating to statutory nuisance?</p> <p>If the defence has been extended to other forms of nuisance under section 79(1) Environmental Protection Act 1990, the same will apply to those nuisances.</p> <p>This article also sometimes refers to legislation that has been repealed and should refer to extant legislation only.</p> <p>Paragraph 2 (as referred to in paragraph 4.3.22 of the EM) appears to be unusual and needs to be justified.</p>
Q11.0.10	Applicant	<p>Article 13</p> <p>This article seeks to modify the application of the New Roads and Street Works Act 1991 rather than simply covering the more usual ‘Street Works’ provisions common in most made DCOs. Please set out the rationale for the modification in the context of this scheme (noting that the other schemes referred to in the EM are not comparable solar schemes).</p>
Q11.0.11	Applicant	<p>Article 14</p> <p>This is a wide power – authorising alteration etc. of any street within the Order limits. It should be clear why this power is necessary, and consideration given to whether or not it should be limited to identified streets.</p>

ExQ1	Question to:	Question:
Q11.0.12	Applicant	<p>Article 16</p> <p>Notwithstanding other precedents, justification should be provided as to why the power is appropriate and proportionate having regard to the impacts on pedestrians and others of authorising temporary working sites in these streets.</p> <p>The ExA also question whether there is a conflict between 16(3) (which says that the applicant can use a temporarily closed street as a working site) and 16(4) (which require it to provide reasonable access for pedestrians).</p>
Q11.0.13	Applicant	<p>Article 18</p> <p>The private roads in question should be identified, ideally in a schedule, so the landowners understand what is expected.</p>
Q11.0.14	Applicant	<p>Article 20</p> <p>Please explain the implications of section 146 of the Planning Act 2008 on this provision.</p>
Q11.0.15	Applicant	<p>Article 21</p> <p>Paragraph 4.5.6 of the EM [APP-013] explains that this article is required in the event that works to buildings are required to rectify the impact of the Proposed Development. The applicant is asked to identify these buildings.</p> <p>The applicant is also asked to identify whether or not any of the buildings in question are listed buildings and, in such circumstances, the relationship between the provision sought and legislation relating to listed buildings.</p> <p>Please also explain the relationship between this provision and the limits of deviation/order limits provisions as set out in the dDCO.</p>
Q11.0.16	Applicant	<p>Article 23, 26</p> <p>These provisions (and any relevant plans) should be drafted in accordance with the guidance in Advice Note 15, in particular sections 23 (extinguishment of rights) and 24 (restrictive covenants). Please check.</p>
Q11.0.17	Applicant	<p>Article 27, 28</p> <p>There is significant overlap between the articles although the first deals with the extinguishment of private rights and the other gives the power to override private rights. Why are both needed?</p>
Q11.0.18	Applicant	<p>Article 33</p> <p>Irrespective of prior precedent and “<i>notwithstanding the effect of the Housing and Planning Act 2016</i>”, why does this provision remain necessary?</p>

ExQ1	Question to:	Question:
Q11.0.19	Applicant	<p>Article 34, 35</p> <p>Temporary possession is not itself compulsory acquisition. Please justify why wider powers are sought (i.e. any other Order land, which also allows temporary possession of land not listed in Schedule 11). See article 34(1)a(ii)) explaining why this is necessary and appropriate and explain what steps they have taken to alert all landowners, occupiers, etc. within the Order limits to this possibility.</p> <p>Given the parliamentary approval to the temporary possession regime under the Neighbourhood Planning Act 2017 (NPA), which were subject to consultation and debate before being enacted, should any provisions relating to notices/counter notices which do not reflect the NPA proposed regime (not yet in force) be modified to more closely reflect the incoming statutory regime where possible? As examples:</p> <ul style="list-style-type: none"> the notice period that will be required under the NPA 2017 Act is 3 months, substantially longer than the 14 days required under article 34. Other than prior precedent, what is the justification for only requiring 14 days' notice in this case? under the NPA 2017, the notice would also have to state the period for which the acquiring authority is to take possession. Should such a requirement be included in this case? powers of temporary possession are sometimes said to be justified because they are in the interests of landowners, whose land would not then need to be acquired permanently. The NPA 2017 Act provisions include the ability to serve a counter-notice objecting to the proposed temporary possession so that the landowner would have the option to choose whether temporary possession or permanent acquisition was desirable. Should this article make some such provision – whether or not in the form in the NPA 2017?
Q11.0.20	Applicant	<p>Article 42</p> <p>The ExA question the necessity of this provision on the basis that it creates potential ambiguity. See recent SoS decision and DCO - Mona Offshore Wind. Consideration should be given to its omission or further justification provided.</p>
Q11.0.21	Applicant	<p>Article 44</p> <p>The ExA question the necessity of this provision concerning potential human remains given the SoS recent conclusions on this matter in respect of Mona Offshore Wind, in that there are already suitable legislative measures in place to deal with any findings. Consideration should be given to its omission or further justification provided.</p>
Q11.0.22	Applicant	<p>Article 50</p> <p>There is a missing word in the first sentence (which paragraphs are referred to?)</p>
11.1 Schedule 1 – Authorised development		
Q11.1.1	Applicant	<p>Definitions are provided for various aspects of the work but no definition of substation, control building or communication mast is given. Please check all definitions that are necessary have been provided and either provide an updated dDCO or provide justification for the approach as currently drafted.</p>

ExQ1	Question to:	Question:
12.	Compulsory acquisition and related matters	
Q12.0.1	Applicant	There are a number of plots identified in the Book of Reference [APP-016] which are unregistered/unknown. Please provide an update on efforts to establish these owners/interests and details on what further steps will be undertaken to identify these owners/interests.
Q12.0.2	Applicant	<p>With reference to the relevant representation [RR-014] the ExA wishes to understand:</p> <ul style="list-style-type: none"> • which plot(s) are affected with reference to the Book of Reference [APP-016] • what rights are being sought • how the freehold mines and minerals rights and ability to exploit them as referred to could be affected having regard to nature of the proposed development, notwithstanding the proposed incorporation of the mineral code as per the dDCO • outcome of any further negotiations carried out with the affected person(s).
13.	Waste	
Q13.0.1	Applicant	<p>The ES provides a description of how waste would be managed but does not provide types and quantities of waste for all phases as requested by the Planning Inspectorate Scoping Opinion [APP-097]. In line with Schedule 4 of the Environmental Impacts Assessment Regulations and the NPS EN-1, the following information is required:</p> <ul style="list-style-type: none"> • the anticipated types and volumes of waste from the proposed development • the proposed on-site waste management strategy • an assessment of the impact of the waste generated on the capacity of waste management facilities, including consideration of other waste arising in the area.
14.	Air quality	
Q14.0.1	Applicant and Cumberland Council	<p>ES Chapter 2, Table 2.7 [APP-033] notes that a Construction Dust Risk Assessment was not undertaken, citing limited proximity of sensitive receptors and the inclusion of dust mitigation measures within section 8 of the oCEMP [APP-108]. It further indicates that this approach was agreed with the Environmental Health Officer at Cumberland Council, with supporting correspondence provided in ES Appendix 2.9 [APP-106]. However, the correspondence does not clearly confirm whether Cumberland Council agreed to the scoping out of the Construction Dust Risk Assessment.</p> <p>Could both the applicant and Cumberland Council please supply further evidence of this agreement? If such agreement is not confirmed, the applicant is requested to provide a qualitative dust impact assessment, based on relevant guidance, to demonstrate that the proposed mitigation measures are proportionate to the anticipated scale of effects.</p>