



Dean Moor Solar Farm

Applicant Response to ISH Agenda Items (Annex A)

on behalf of **FVS Dean Moor Limited**

30 September 2025
Prepared by: TLT LLP
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DEAN MOOR SOLAR FARM
APPLICANT RESPONSE TO ISH AGENDA ITEMS
PLANNING INSPECTORATE REFERENCE EN010155
PREPARED ON BEHALF OF FVS DEAN MOOR LIMITED

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1 Introduction

1.1 Overview

- 1.1.1 This Applicant Response to Issue Specific Hearing (ISH) Agenda Items (Annex A) (ARISH-A) [D3.11] has been produced for FVS Dean Moor Limited (the ‘Applicant’) to support the application for a Development Consent Order (the ‘DCO application’) for Dean Moor Solar Farm (‘the Proposed Development’) located between the villages of Gilgarran and Branthwaite in West Cumbria (the ‘Site’), which is situated within the administrative area of Cumberland Council (‘the Council’).
- 1.1.2 Specifically, this ARISH-A has been produced in response to the Rule 17 Letter (Request for Further Information) [PD-010] issued by the Examining Authority (ExA) on 19 September 2025.
- 1.1.3 The main purpose of the Rule 17 Letter was to request further information from the Applicant and, where relevant, the Council and the Lake District National Park Authority (LDNPA), under rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010. Those topics and points of clarification relating to the Issue Specific Hearing (ISH) were set out in Annex A of the Rule 17 Letter.
- 1.1.4 The Agenda [EV3-001] for the ISH and compulsory acquisition hearing (CAH) contained a series of topics and required points of clarification, which the ExA intended to address during the respective hearings. Following the cancellation of these events, and to ensure that parties can respond to topics, the ExA invited written submissions in response to each of the topics and points of clarification listed in the tables within the respective agendas.
- 1.1.5 Because the ExA was unable to ask questions at an ISH, he could not provide greater clarity in respect of the information that may have been sought in respect of Agenda items. The Applicant has, therefore, sought to provide additional information and clarification where able to do so.

- 1.1.6 If the ExA considers that a point has not been addressed fully or insufficient clarification provided it is understood that the ExA may seek further information, or points of clarification, through the issue of the ExA's further written questions (ExQ2) if required. The Applicant will respond to any further written questions asked by the ExA.
- 1.1.7 A separate written response (ARCAH-B) has been provided to respond to the Annex B agenda items for the CAH [D3.12].

1.2 Overview and Structure of Response

- 1.2.1 This document is divided into the following sections which correspond to the agenda items of Annex A in the Rule 17 Letter:
- The draft Development Consent Order;
 - Environmental Impact Assessment (EIA) and general matters;
 - Design;
 - Landscape and visual;
 - Cultural heritage / historic environment;
 - Climate change;
 - Biodiversity;
 - Noise; and
 - Other matters

2 The draft Development Consent Order (dDCO)

Table 2.1: Applicant Responses to Questions (dDCO)

No.	Agenda Item / Applicant's Response
1(a)	<p>Item: <i>Provide a brief overview of the dDCO (up to approximately 10 minutes) including:</i></p> <ul style="list-style-type: none"> - the overall approach - description of the structure of the dDCO, including the Schedules and why each section is required - how the dDCO, including the description of development, relates to the works plans and other control documents (parameters and management plans) <p>Response:</p> <p>The dDCO [REP2-004], proposed to be the 'Dean Moor Solar Farm Order', ('the Order') is drafted to consent the construction, operation (including maintenance) and decommissioning of the Proposed Development (the authorised development), as described in Schedule 1 to the dDCO. The dDCO has been drafted having regard to guidance including Planning Inspectorate Advice Note Fifteen: drafting Development Consent Orders¹ and precedent established in other made DCOs.</p> <p>The dDCO includes 49 articles across six parts. There are also 14 schedules which are brought into effect by, or relate to, one or more of the articles. References to articles and schedules in this response are for version 2 of the dDCO submitted at Deadline 2 ('D2'). A full explanation of the provisions in the dDCO are set out in the Explanatory Memorandum ('the EM') [REP2-007].</p> <ul style="list-style-type: none"> • Part 1 deals with preliminary matters including Article 2 which sets out definitions used in the dDCO. • Part 2 sets out the principal powers of the Order, including Article 3 which grants development consent for the authorised development to be carried out subject to provisions of the Order, including the Requirements set out in Schedule 2. This part also authorises operation and maintenance of the authorised development (Articles 4, 5 and 6), provides that the benefit of the Order is for the undertaker but may be transferred with, and in certain circumstances without, the consent of the Secretary of State (SoS) (Articles 7 and 8), modifies and disapplies certain legislative provisions (including local legislation set out in Schedule 3) (Article 9) and provides a defence to statutory nuisance claims in respect of noise (Article 10).

¹ Nationally Significant Infrastructure Projects – Advice Note Fifteen: drafting Development Consent Orders (March 202)

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	<ul style="list-style-type: none"> • Part 3 provides powers relating to street works necessary for the authorised development including the carrying out works in streets (Article 11), altering the layout of streets (Article 13), temporarily prohibiting or restricting use of streets (Article 15) and traffic regulation measures (Article 18). These provisions give effect to Schedules 4 to 8. • Part 4 contains three supplemental powers in connection with the authorised development relating to discharge of water (Article 19), protective work to buildings (Article 20) and the authority to survey and investigate land (Article 21). • Part 5 provides the powers of acquisition required for the authorised development including powers to compulsorily acquire land (Article 22) or rights in land (Article 25), extinguish existing rights and take temporary possession of land (Articles 33 and 34). These articles relate only to the Order land, as shown on the Land Plans [AS-007] which identify the type of acquisition sought in respect of each plot of land. Part 5 also includes standard compensation provisions, incorporation of the mineral code and powers in relation to land and apparatus of statutory undertakers. The articles in this part give effect to Schedules 9 to 11. • Part 6 contains various miscellaneous and general provisions. This includes Article 40 which confirms that land within the Order Limits is 'Operational land for the purposes of the Town and Country Planning Act 1990 Act' (TCPA). Article 41, which deals with the interaction with planning permissions within the Order Limits, makes specific reference to the Potato Pot Wind Farm (the Wind Farm) planning permission (ref:2/2012/0594). Article 42 sets out the powers and restrictions that apply in respect of the lopping of trees, shrubs or hedgerows. This part also includes provisions relating to the application of landlord and tenant law, certification of documents relevant to the Order, service of notices under the Order, and arbitration. <p><u>The Schedules:</u></p> <p>Each Schedule identifies its operative article in the Order, in the top right of the Schedule.</p> <ul style="list-style-type: none"> • Schedule 1 – sets out the works comprising the authorised development. <p>Works Numbered 1 to 6:</p> <ul style="list-style-type: none"> o Work No. 1 – is the nationally significant infrastructure project (NSIP) - the ground mounted solar photovoltaic generating station with gross electrical capacity in excess of 50MW. o Works Nos. 2 to 6 are associated development within the meaning of section 115(2) of the Planning Act 2008 <ul style="list-style-type: none"> ▪ Work No.2 - <i>grid connection infrastructure</i> ▪ Work No. 2A - <i>Point of Connection masts</i>

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	<ul style="list-style-type: none"> ▪ Work No. 3 – <i>electrical cabling and other works</i> ▪ Work No. 4 – <i>temporary construction compounds</i> ▪ Work No. 5 – <i>access works to facilitate access to the authorised development</i> ▪ Work No. 6 – <i>green infrastructure works including landscape and biodiversity mitigation works</i> <p>Schedule 1 also includes ancillary works to ensure that the numbered works can be constructed efficiently. These works are permitted only insofar as they are unlikely to give rise to any materially new or different environmental effects from those assessed in the Environmental Statement (ES).</p> <p>The Works Numbers listed in Schedule 1 of the dDCO correspond with the Work Plans [APP-007] which identify the spatial extent of where each Work can be constructed.</p> <p>• Schedule 2 – sets out the Requirements which are controls akin to planning conditions in planning permissions granted under the TCPA.</p> <ul style="list-style-type: none"> ○ Requirement 2 - secures that the DCO grants a time limited consent being 5 years from the Order coming into force. ○ Requirement 3 - requires detailed design approval from the Local Planning Authority (LPA) in respect of the listed matters in Requirement 3(1). That detailed design must be in accordance with the design parameters set out in the Design Parameters Document ('the DPD') [APP-028]. The DPD has been prepared to set out the guiding 'design parameters' for the detailed design of the Works comprising the authorised development. For each of the numbered works the document sets out the parameters which have been assessed and with which the detail design must accord with e.g. height, depth, material type etc. As is usual for projects like this one, a Rochdale Envelope has been used (as described in the Planning Inspectorate's Advice Note 9: Rochdale Envelope) to assess the environmental effects of the Proposed Development within certain parameters. From a legal perspective, the Rochdale Envelope for this application comprises three aspects: <ul style="list-style-type: none"> ▪ The authorised development as set out in Schedule 1 of the dDCO ▪ The Work Plans ▪ The Design Parameters Document. ○ Requirements 4-13 - set out provisions dealing with the approval and implementation of management plans. Those management plans, including the CEMP, CTMP, LEMP, OMP and DMP set out the controls and measures which will govern the construction, operation and decommissioning of the authorised development. Many of the Requirements require these plans to be in accordance with outline plans submitted as part of the Application and approved by the Council in consultation with other relevant statutory parties ○ Requirements 14-17 and Requirements set out in Part 2– set out procedure provisions for the approval of documents under the Requirements and discharge of the Requirements.

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	<ul style="list-style-type: none"> • Schedule 3 (<i>Legislation to be disapplied</i>) – lists the legislation to be disapplied pursuant to Article 9. • Schedule 4 (<i>Streets subject to street works</i>) - sets out the streets that are to be subject to street works pursuant to Article 11 by reference to the Streets and Access Plans [AS-008]. • Schedule 5 (<i>Alteration of streets</i>) - sets out the streets to be altered pursuant to Article 13. Column 1 of the table identifies the street and column 2 provides a description of the proposed alteration and references the Streets and Access Plans which identify the extent of the alterations. • Schedule 6 (<i>Streets to be temporarily closed or restricted</i>) – sets out the street proposed to be temporarily closed or restricted pursuant to Article 15 and references the Traffic Regulation Measures Plan [AS-009] which identifies the extent of the closure/restriction. • Schedule 7 (<i>Access to works</i>) - sets out the accesses to be improved pursuant to Article 16 and references the Streets and Access Plans which identify those accesses. • Schedule 8 (<i>Traffic regulation measures</i>) - sets out the proposed temporary traffic regulation measure pursuant to Article 18 and references the Traffic Regulation Measures Plan which identifies the extent of the measure. • Schedule 9 (<i>Land in which new rights etc. may be acquired</i>) - sets out the land over which new rights may be acquired pursuant to Article 25. The plot numbers in column 1 of the table correlate with the relevant plot numbers shown on the Land Plans [AS-007] and column 2 explains the purposes for which rights over land may be acquired and restrictive covenants imposed. • Schedule 10 (<i>Modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants</i>) – modifies legislation relating to compensation. • Schedule 11 (<i>Land of which temporary possession may be taken</i>) - sets out the land of which only temporary possession may be taken pursuant to Article 33 (<i>Temporary use of land for carrying out the authorised development</i>). The plot numbers in column 1 of the table correlate with the relevant plot numbers shown on the Land Plans and column 2 explains the purposes for which temporary possession may be taken. • Schedule 12 (<i>Acquisition of wayleaves, easements and other rights</i>) - makes provision for the undertaker to act on behalf of statutory undertakers in acquiring wayleaves, easements or other rights for the diversion or relocation of electricity, gas, water, sewerage or telecommunication apparatus pursuant to Article 37. • Schedule 13 (<i>Documents to be certified</i>) - lists the documents that the undertaker must have certified as true copies by the SoS pursuant to Article 43. This schedule will be updated to refer to the latest version of the listed documents before the end of the examination. • Schedule 14 (<i>Protective provisions</i>) - sets out protective provisions for the benefit of statutory undertakers whose apparatus may be affected by the authorised development.

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1(b)	<p>Item: <i>Explain Article 12 and Article 13 of the dDCO to the ExA.</i></p> <p>Response:</p> <p><u>Article 12 - Application of the 1991 Act</u></p> <p>Article 12 is in Part 3 of the dDCO which deals with street works. The first part of this article relates to interaction with the New Roads and Street Works Act 1991 ('the 1991 Act') and the second half relates to interaction with a local permit scheme. An explanation of this article and justification for its inclusion in the dDCO is set out at paragraphs 4.4.3-4.415 of the EM [REP2-007].</p> <p>The 1991 Act sets out the regime under which streets works would normally be carried out. As street works will be carried out under the powers of the Order, Article 12 seeks to regulate the position between the two regimes. Paragraph (1) provides that works carried out under the Order which are equivalent to the description of '<i>major highway works</i>' as set out in section 86(3) the 1991 Act will be treated as '<i>major highway works</i>' for the purposes of that 1991 Act. The reason this is required is because provisions of the 1991 Act would normally only apply to '<i>major highway works</i>' that are carried out by the highway authority. The inclusion of this article in the DCO means that the works carried out by the undertaker meeting that description will also be caught by these provisions. This is important because there are provisions in the 1991 Act that deal with the position where a statutory undertaker has apparatus in the street (e.g. sections 84 and 85). This is clarified in paragraph (2) which provides that references to '<i>the highway authority</i>' in the relevant part of the 1991 Act should be replaced with '<i>the undertaker</i>'.</p> <p>It should be noted that works to streets required for the Proposed Development are relatively minor and would not be considered '<i>major</i>' under the ordinary meaning of the word. However, under section 86(3) of the 1991 Act '<i>major highway works</i>' includes alteration of the width of the highway and also tunnelling under the highway. The Applicant is seeking the power to undertake widening in relation to the accesses to the Site and there is a small section of Gilgarran Road where a cable will need to be undergrounded. Therefore, those works would be considered as '<i>major highways works</i>' under the definition of the 1991 Act.</p> <p>Paragraph (3) disapplies certain provisions of the 1991 Act. In response to the ExA's written question 11.0.10 [REP2-010], the Applicant explained that these provisions need to be disapplied because these are provisions which are intended primarily to regulate a general power for the carrying out of works by utilities undertakers. The Applicant would be undertaking the works under the specific authority granted by the DCO and subject to the further approvals required under the DCO. It would therefore not be appropriate for these provisions to apply. In response to written question 11.0.10 and at paragraphs 4.4.7 and 4.4.8 of the EM [REP2-007], the Applicant has given examples of why the disapplications</p>

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	<p>are necessary. There is precedent for disapplication of provisions of the 1991 Act including in the Mona Offshore Wind Farm Order 2025, the London Luton Airport Expansion Development Consent Order 2025, and the Boston Alternative Energy Facility Order 2023.</p> <p>Paragraphs (4) to (6) apply certain provisions of the 1991 Act (listed in paragraph (5)) to any streets which are temporarily closed under the Order. This is for two reasons: first, it prevents any confusion as to whether works in respect of a temporarily closed street are '<i>street works</i>' for the purposes of the 1991 Act and, secondly, it simplifies the implementation of the works by providing for a single process in respect of streets which are closed and those which are not.</p> <p>Paragraph (7) deals with the position as regards maintenance responsibilities and interaction with Article 14 (Construction and maintenance of altered streets). Paragraph (7)(a) provides that nothing in Article 14 prevents the local highway authority (LHA) from declaring a street in its area a maintainable highway. Paragraph (7)(b) confirms that the Applicant is not to be taken to be the street authority for a street because of maintaining it under Article 14. Paragraph (7)(c) clarifies that the provisions relating to responsibility for maintenance of streets in Article 14 do not affect the standard position in the 1991 Act.</p> <p>Paragraphs (8) to (11) relate to a local permit scheme made by the Council as the LHA. Paragraph (8) confirms that the permit scheme will apply to the carrying out of the authorised development but subject to the same disapplication's of the 1991 Act set out in paragraph (3). Paragraphs (9) and (10) set out some qualifications in respect of the permit scheme. Firstly, that a permit cannot be refused and secondly, that a granted permit may not include conditions for which compliance would constitute a breach the DCO or which would impose a moratoria. These provisions are appropriate because they seek to balance the use of the permit scheme without delaying or impeding the delivery of the Proposed Development. Paragraph (11) sets out the Applicant's right to use the appeals process set out in Part 2 of Schedule 2 of the Order in relation to a permit decision. Other made Orders have modified local permit schemes include the London Luton Airport Expansion Development Consider Order 2025 and the M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022.</p> <p><u>Article 13 - Power to alter layout, etc., of streets</u></p> <p>Article 13 allows the Applicant to alter the layout or carry out works in streets. The article is necessary as the Applicant will need to alter street layouts and establish suitable accesses to ensure that the authorised development can be accessed effectively while ensuring there is minimal disruption to the local highway network.</p>

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	<p>Paragraph (1) grants the Applicant the power to undertake works to the streets set out in Schedule 5. Schedule 5 refers to the Streets and Access Plans [AS-008] which identify those parts of the streets subject to these powers. Schedule 5 sets out that those works are to enhance the existing accesses on Branthwaite Road, Branthwaite Edge Road and Gilgarran Road and to provide some temporary traffic management signage along Branthwaite Edge Road.</p> <p>Paragraph (2) retains a general power to undertake the works listed at (a) to (e) any street within the Order Limits. However, only with the consent of the street authority. As set out in the Applicant's response to Q11.0.11 [REP2-010], this more general power must be retained to ensure that the Applicant has sufficient flexibility at detailed design to implement the Proposed Development. Despite the Applicant's efforts to identify all possible street alterations required at the point of application, it remains possible that additional alterations may be required and it would be disproportionate to require the undertaker to seek a variation to the consent to add additional small alteration areas to Schedule 5, or to have to otherwise seek separate permissions for the works outside of the DCO</p> <p>There is precedent for this article in many made DCOs including the Byers Gill Solar Order 2025, the Oaklands Farm Solar Park Order 2025, the Gate Burton Energy Park Order 2024, the Mallard Pass Solar Farm Order 2024, the Cottam Solar Project Order 2024, the Sunnica Energy Farm Order 2024 and the Longfield Solar Farm Order 2023.</p>
1(c)	<p>Item: <i>Explain Article 32 of the dDCO to the ExA.</i></p> <p>Response:</p> <p><u>Article 32 – Rights under or over streets</u></p> <p>As explained at paragraph 4.6.36 of the EM [REP2-007], the purpose of this article is to allow the Applicant to appropriate and use land above or below streets within the Order land, without having to acquire the street or any right or easement in it. The inclusion of Article 32 therefore reduces the amount of land that needs to be compulsorily acquired for the purposes of the Proposed Development.</p> <p>Paragraph (3) sets out circumstances where the exercise of this power, without full acquisition, is prohibited. Paragraph (4) provides that compensation is payable for any loss or damage caused to an owner or occupier of land affected by the power of appropriation where no acquisition has taken place. Paragraph (5) sets out an exception in relation to the sharing of costs under s85 of the 1991 Act.</p>

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	<p>As set out in the Applicant's response to the ExA's question Q11.0.11 [REP2-010], the Proposed Development includes works to land under streets and the crossing of streets. This article would therefore allow those works to be undertaken without interfering with the ownership of land under and above streets which is often separately held from the highway authority interest in the street itself.</p> <p>This article was included in the Model Provisions and the majority of DCOs made to date. The article is included in all the made Solar DCOs, except the Little Crow Solar Park Order 2022 which does not include any powers related to compulsory acquisition.</p>
1(d)	<p>Item: <i>Explain Article 40 of the dDCO to the ExA.</i></p> <p>Response:</p> <p><u>Article 40 - Operational land for purposes of the 1990 Act</u></p> <p>Article 40 has the effect that land within the Order Limits will be 'operational land' under section 264(3)(a) of the TCPA. The effect of this is to give the Applicant the permitted development rights afforded to a statutory undertaker if planning permission had been granted for the authorised development. Permitted development rights are set out in in Part 15 Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The permitted rights, as set out in Class B, are limited to minor works and are subject to the restrictions in Class B1.</p> <p>This is required to ensure that the Applicant has the appropriate powers to undertake minor but unforeseen development to ensure the effective and safe operation of the Proposed Development, particularly given its operational lifespan. Any works carried out under permitted development rights would still be subject to the controls within the DCO.</p> <p>Article 40 is a Model Provision. It is also included in numerous made DCOs including all made solar DCOs to date.</p>
2(a)	<p>Item: <i>Cumberland Council's input into the dDCO drafting, including their view on provisions/requirements and whether they are deliverable and sufficient to control and mitigate the anticipated effects of the proposed development.</i></p> <p>Response:</p> <p>As part of the development of the dDCO, the Applicant shared a draft with the Council for comment prior to submission of the application. Since making the application, the Applicant has continued to engage with the Council in relation to the dDCO, particularly in relation to the Schedule 2 Requirements, associated management plans and other control documents. The Applicant has also had engagement with the Council regarding</p>

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	<p>the provisions relating to street works (Part 3 and associated Schedules), and to the event of a statutory nuisance (Article 10). This engagement is recorded within the D3 draft Statement of Common Ground (dSOCG) with the Council [D3.14].</p> <p>The Council has provided input on the controls it expects the Proposed Development to be subject to. In some cases, the Council has proposed wording used in planning conditions that the Council would look to apply if this were a TCPA application. The Applicant has engaged with the Council on these and explained where controls the Council has proposed are secured by the relevant DCO Requirements coupled with the associated management plans and other control documents.</p> <p>Engagement with the Council has been a significant influence on the content of the control documents, specifically the Outline Construction Environmental Management Plan (OCEMP) [APP-108], Outline Construction Traffic Management Plan (OCTMP) [REP2-025], Outline Soil Management Plan (OSMP) [APP-110], Landscape Strategy Plan [REP2-046], Outline Landscape and Ecological Management Plan (OLEMP) [APP-145], Outline Drainage Strategy (ODS) [REP2-022], Outline Operational Management Plan (OOMP) [APP-107] and the Framework Decommissioning Management Plan (FDMP) [APP-111]. Further detail on the engagement between the Applicant and the Council on the drafting of the relevant control documents is described this within the Cumberland Council dSoCG (see CC.LPA.10).</p> <p>In summary, engagement with the Council has informed the drafting of the dDCO. The Applicant will welcome any further comments the Council may have on the drafting of the dDCO and will respond to any comments raised.</p>
2(b)	<p>Item: <i>The input of other statutory party's in dDCO drafting.</i></p> <p>Response:</p> <p>Statutory parties had the opportunity to comment on the dDCO during the statutory consultation for the Proposed Development. Prior to submission of the application, the Applicant also shared a later draft of the DCO and draft EM with several parties for comment including the Council, the Environment Agency (EA), Natural England (NE), the Mining Remediation Authority (MRA) and key affected statutory undertakers including United Utilities (UU) and Electricity North West (ENW). Any comments received were considered in preparation of the version of the dDCO submitted with the application.</p> <p>During the application's examination the Applicant has continued to engage with statutory parties regarding the dDCO and has made amendments to the dDCO to address comments, including those made in Relevant Representations (RR), Written Representations (WR) and ongoing direct engagement. These include amendments to the Requirements to provide for pre-application consultation with:</p>

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	<ul style="list-style-type: none"> the EA and Natural England in respect of the CEMP (Requirement 4) Natural England in respect of the LEMP (Requirement 7). the EA in respect of the Drainage Strategy (Requirement 8). National Highways in respect of the CTMP (Requirement 5). <p>These amendments were made to the dDCO submitted at D2 [REP2-004] and are set out in the Schedule of Changes to the DCO [REP2-006].</p> <p>Historic England have confirmed they are content with the approach to archaeological work and mitigation as secured by Requirement 9 of the dDCO (See the Historic England dSoCG [REP2-015], Table 2.1 'Matters Agreed').</p> <p>In relation to protective provisions, the Applicant is engaging with UU as to whether additional protective provisions are required. An update on discussions with UU has been provided in response to item (c)1 of the Applicant's response to CAH Agenda Items (Annex B) [D3.12].</p> <p>The Applicant would welcome comments from any other statutory parties on the detailed drafting of the dDCO.</p>
2(c)	<p>Item: <i>Understanding the implications of Article 10 in respect of statutory nuisance.</i></p> <p>Response:</p> <p><u>Article 10 – Defence to proceedings in respect of statutory nuisance</u></p> <p>Article 10 provides a defence for a statutory nuisance claim relating to noise brought under section 82(1) of the Environmental Protection Act 1990 ('the EPA'). This article is explained at paragraphs 4.3.16 - 4.3.20 of the EM [REP2-007].</p> <p>Section 158 of the Planning Act 2008 provides a general defence to nuisance claims subject to any contrary provision made by a particular DCO. This article provides further clarity to the terms of the available defence to a claim brought under section 82(1) of the EPA. Section 82(1) of the EPA creates offences related to statutory nuisance, whereby a party can bring proceedings to Court for an order preventing works being carried out or abatement measures. Section 82(9) provides that it is a defence to any such proceedings '<i>to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance</i>'.</p> <p>Article 10 provides that the undertaker can defend any statutory nuisance claim relating to noise, if it is a consequence of the construction, operation/maintenance, decommissioning of the authorised development and it either (i) cannot reasonably be avoided; or (ii) it is in accordance</p>

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	<p>with a notice provided by the Council or a consent to works under the Control of Pollution Act 1974. The rationale is that if the works are authorised under the DCO, they are subject to appropriate levels of controls and should be permitted to proceed to construction, operation, and decommissioning.</p> <p>Article 10 is based on a Model Provision and has been included in all made solar DCOs to date. Its inclusion is to ensure that NSIPs, such as the Proposed Development, can proceed without delay.</p> <p>Paragraph (2) of Article 10 provides that compliance with the relevant controls and measures set out in control documents including the CEMP, OMP or DMP will be sufficient to show the nuisance cannot be reasonably avoided. The outline versions of these plans contain measures related to the control of noise:</p> <ul style="list-style-type: none"> • OCEMP – mitigation measures to minimise the effects of construction noise set out in section 7.3 • OOMP – operational and maintenance management measures at section 4 table 4.1. • FDMP – measures to minimise noise from decommissioning activities at table 3.1 <p>It is not reasonable or appropriate for there to be a claim of statutory nuisance circumstances where there is compliance with plans which have been approved and are intended to manage matters related to statutory nuisances</p> <p>Paragraph (2) of Article 10 is precededented in Article 44(2) of the Boston Alternative Energy Facility Order 2023, Article 41(2) of the Southampton to London Development Consent Order 2020, Article 58(2) of the LTC Order and Article 47(2) of the Luton Airport Order 2025.</p> <p>Whilst the Statutory Nuisance Statement [APP-024] submitted with the application confirms that the Proposed Development is not anticipated to give rise to statutory nuisance and with the mitigation measures described in place, it remains the case that Article 10 it required in order to give certainty if certain noise arises as part of the development.</p>
2(d)	<p>Item: <i>Article 3 – definition of ‘curtilage’.</i></p> <p>Response:</p> <p>The Applicant does not consider it necessary to define the word ‘<i>curtilage</i>’ in the dDCO. The ordinary meaning of the word applies. Furthermore, none of the made solar DCOs that reference the term ‘<i>curtilage</i>’ define it.</p>

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2(e)	<p>Item: <i>The meaning of 'decommissioning'.</i></p> <p>Response:</p> <p><i>'Decommissioning'</i> is the term used to describe the removal of the authorised development following the 40-year operational period and the return of the Site to its existing use in accordance with a Decommissioning Management Plan (DMP) approved by the Council.</p> <p>Requirement 13 of the DCO provides that no later than six months before the date of intended decommissioning of any part of the authorised development, the undertaker must submit a DMP (which is substantially in accordance with the Framework DMP (FDMP) [APP-111]) to the Council for its approval. Requirement 13 further provides that decommissioning must commence no later than 40 years following the date of final commissioning, which is the date on which the authorised development began generating electricity on a commercial basis.</p> <p>Requirement 13 refers to the date of intended decommissioning of <i>'any part of the authorised development'</i> [emphasis added], to enable part of the Proposed Development to be decommissioned in advance of other parts, if appropriate. The FDMP confirms that the whole of the Proposed Development will be decommissioned. See paragraph 2.2.1 which states <i>"At the end of this period [the operational period], the Proposed Development will be decommissioned, and the Site will be reinstated and returned to the respective landowners."</i></p> <p>No definition of 'decommissioning' has been included in the dDCO. This is not considered necessary and is consistent with precedent in made solar DCOs.</p>
2(f)	<p>Item: <i>The meaning of 'maintain'.</i></p> <p>Response:</p> <p>The Applicant's approach to the definition of 'maintain' is explained at paragraphs 4.2.4 and 4.2.5 of the EM [REP2-007].</p> <p>The dDCO defines 'maintain' in Article 2(1) to include <i>'inspect, repair, adjust, alter, remove, refurbish, replace, improve or reconstruct any part of, but not remove, reconstruct or replace the whole of the authorised development provided that such works do not give rise to any materially new or materially different environmental effects in comparison to those reported in the environmental statement'</i>.</p> <p>There are two restrictions within the definition of 'maintain'. Firstly, the Applicant cannot not remove, reconstruct or replace the whole of the authorised development. Secondly, the prohibition on carrying out maintenance works that would cause materially new or materially different</p>

No.	Agenda Item / Applicant's Response
	<p>environmental effects over and above those identified in the ES. The drafting is intended to cover maintenance activities that are needed to keep the Proposed Development operating and in good condition. It is not intended to enable the Applicant to build a completely new project.</p> <p>The drafting reflects the operational period and the likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards. Therefore, some flexibility must be built-in to what maintenance will involve, particularly to keep up with changing standards and controls and advances in technology.</p> <p>The approach taken in Article 2(1) is clearly established in precedent, including the Byers Gill Solar Order 2025, the Oaklands Farm Solar Park Order 2025, the Heckington Fen Solar Park Order 2025, the Gate Burton Energy Park Order 2024 and the Cottam Solar Project Order 2024.</p> <p>Maintenance activities will also be subject to the controls in the OMP as secured by Requirement 11 of the DCO. This will be approved by the Council and will be substantially in accordance with the OOMP [APP-107] submitted with the application. Where relevant, maintenance will also be subject to controls in the LEMP and Drainage Strategy, both of which will be approved by the Council under Requirements 7 and 8.</p>
2(g)	<p>Item: <i>Any other matters relating to the dDCO.</i></p> <p>Response:</p> <p>N/A https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010155-000253-Rule 17 ExA request for further information.pdf</p>

3 Environmental Impact Assessment (EIA) and general matters

Table 3.1: Applicant Responses to Questions (EIA)

No.	Agenda Item / Applicant's Response
2(a)	<p>Item: <i>The anticipated construction start date and the implications for the Environmental Statement (ES).</i></p> <p>Response:</p> <p><u>Construction Start Date</u></p> <p>As set out in D2.7 Applicant Responses to ExA's Written Questions 1 (AREQ1) [REP2-010], reference Q4.0.2, the earliest possible construction start date for the Proposed Development is described within the ES as 2026. It is acknowledged that a 2026 commencement would require a concerted effort from the Applicant and Council to discharge the relevant pre-commencement Requirements. However, for the purpose of defining the potential earliest possible commencement date for construction within the EIA, 2026 is considered ambitious but not unreasonable. The potential timeline would run as follows:</p> <ul style="list-style-type: none"> • Examination is expected to conclude in December 2025, with a decision from the SoS potentially made in late summer or early autumn 2026. • It is in the Applicant's interest to commence the Proposed Development as soon as possible, as this will enable the commercial operation of the generating station and thereby the Proposed Development's contribution to 2030 net zero targets. • The Applicant could initiate preliminary surveys and prepare details to discharge Requirements prior to consent to enable rapid commencement. There is a reasonable likelihood that this could occur given that the more time-intensive surveys (e.g. ground investigations) will benefit from the longer days and better weather conditions over the spring/summer months than they would if the Applicant were to wait to initiate assessments until Autumn. • This also takes into consideration the statutory 8-week timescale for the Council to discharge Requirements following receipt of necessary information. As the Applicant has embedded commitments for pre-submission engagement with key consultees in the Requirements or via the control documents themselves, the Applicant can support the Council's efficient decision-making through quality submissions that meet consultee expectations. <p>The Applicant also notes that the pre-commencement Requirements embed a degree of flexibility in that they can be fully discharged for parts of the Site, with no requirement that they be discharged for all parts before work can commence in the parts for which they are discharged.</p> <p><u>Construction Period</u></p>

No.	Agenda Item / Applicant's Response
	<p>In the ES, the construction phase has been assessed as an 18-month period. This is considered a robust estimated timeframe as per the response to reference Q4.0.3 of D2.7 Applicant Responses to ExA's Written Questions 1. Whilst the ES allows that the period could be extended, the realistically shortest period of 18 months is considered to represent the worst-case as follows:</p> <ul style="list-style-type: none"> • Construction activities would be more intense during a shorter period and therefore have the potential to result in a greater level of effects in comparison to a longer period. • This period is considered reasonable, even considering conditions which could be expected to slow down construction activities (such as waterlogging). This is explained in ES Chapter 3 [APP-034] (paragraph 3.2.24) and Chapter 5 [APP-036] (paragraphs 5.2.1 and 5.2.2). <p><u>Construction Start Date and its Implications for the ES</u></p> <p>A change to the start date of the construction period would not change the assumed duration of the period for which the likely significant environmental effects have been assessed in the ES. Whilst the Applicant agrees that the potential timeline for commencing construction in 2026 is challenging, it remains feasible and would be to the Applicant's advantage to aim for. It is also the case that in the event of any delays into 2027, a start date which is a matter of months later would not alter the assessment of environmental effects identified in the ES. In addition, the Applicant notes that the DCO must be implemented within 5 years. Excluding factors that might prevent it being commenced until a set point within that period, the Applicant has selected a date for assessment purposes, because it would be impossible to provide an assessment for every possible scenario within the 5-year window.</p> <p><u>Construction Start in relation to Cumulative Effects</u></p> <p>The assessments in the ES considered the likely significant cumulative effects resulting from the Proposed Development and the cumulative schemes identified in Table 2.6 of 6.1 ES Chapter 2 EIA Methodology [APP-033]. Since the ES was prepared an additional 31 cumulative schemes were raised by the Council for consideration as per the AREQ1 [REP2-010] response to Q4.0.7. The Applicant notes that the ExA asked the Applicant to be prepared to share ES Figure 2.1 - Cumulative Schemes within 10km of the Order Limits [APP-044] at the ISH. Based on this request, the Applicant anticipates that the ExA would benefit from insight into the advanced position since the response to Q4.0.7.</p> <p>A review of the additional cumulative schemes has confirmed that there is no change to the cumulative assessment as outlined in the ES and there are no likely significant cumulative effects resulting from the Proposed Development and these additional schemes. Further details are provided in the Cumulative Schemes Note at Appendix A of the Applicant's Response to the Council's Local Impact Report (ARLIR-1) [D3.7]. This is accompanied by an updated ES Figure 2.1 [D3.17] to supersede the version which the ExA had requested be readied for sharing at the ISH.</p>

No.	Agenda Item / Applicant's Response
	<p><u>Lostrigg Solar Development Potential Construction Timeline and Potential for Cumulative Effects</u></p> <p>As the Lostrigg Solar development is the nearest cumulative scheme to the Proposed Development, an overview of the Lostrigg Solar potential consent and construction timeline in relation to the Proposed Development's construction period is set out below:</p> <ul style="list-style-type: none"> • The applicant for Lostrigg Solar, RWE Renewables UK Solar and Storage Ltd (RWE), has withdrawn the project from the DCO process. This is because, as a 99.9MW solar energy generating station, Lostrigg Solar would not exceed the revised DCO thresholds which come into effect in January 2026, and therefore that proposed development could be progressed as a Town and Country Planning Act 1990 (TCPA) application; • It is unknown when RWE might make an application to the Council, but the earliest this could be is 1 January 2026. Based on the timeframes for a major development planning application, a decision could be as early as April 2026, although it is reasonable to expect that a project of this scale may take longer. It is also reasonable to expect that any TCPA consent would entail pre-commencement conditions which would need to be discharged ahead of a start of construction for Lostrigg Solar; • The Applicant's expectation, based on the Proposed Development start date as assessed in the ES (2026), and the way in which the grid connection queue operates, is that fully concurrent construction programmes are highly unlikely, with potential overlap limited to the end of construction for the Proposed Development with the start of construction for Lostrigg Solar. Nevertheless, the ES for the Proposed Development has appropriately assessed the worst case of fully concurrent construction periods and included mitigation measures for this where relevant. <p>The ES identified that the Proposed Development is anticipated to result in significant adverse cumulative effects (construction and operational) with Lostrigg Solar in respect of Cultural Heritage (see ES Chapter 6 – Cultural Heritage [REP2-027] section 6.8) and Landscape & Visual (see ES Chapter 7 – Landscape and Visual Impact [REP2-032] section 7.8), and significant beneficial cumulative effects (operational) in respect of Climate Change (see ES Chapter 9 – Climate Change [APP-040] section 9.8)). All other effects were assessed to be not significant.</p> <p>While discussion of this topic in relation to the ES can be found in the relevant chapters, for the purpose of former ISH Agenda Item 2(a), a further topic of relevance is transport, as both schemes rely on shared parts of the strategic road network (SRN) and local road network (LRN). Transport is scoped out of the ES for the Proposed Development, but is assessed via the Appendix 2.5 Transport Statement (TS) [APP-102], which has been relied on to inform the measures of the ES Appendix 5.2 - Outline Construction Traffic Management Plan (OCTMP) [REP2-025].</p> <p>Within the TS there has been consideration of the potential cumulative impact on Lillyhall Roundabout and A595 (the SRN) as well as part of the Branthwaite Road (the LRN) after the roundabout. The results of the worst-case cumulative assessment identified that the impact on the SRN and LRN is not anticipated to be significant. This was confirmed through engagement with RWE, where it was agreed that the cumulative impact was</p>

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	<p>can be managed through cooperation during the construction phase, secured via construction traffic management plans of both schemes. This is secured via the OCTMP; paragraph 6.4.1 states:</p> <p><i>'It is acknowledged that there may be some overlap between construction programmes of the Proposed Development and other developments in the vicinity of the Site such as Lostrigg Solar. As such, collaborative measures may be adopted depending on the nature of the overlap and environmental effects. The identification of any schemes with which to collaborate will be kept under review in advance of the preparation of the CTMP.'</i></p>
3(b)	<p>Item: <i>Proposed permissive paths – applicant to explain how they are to be secured and what their status would be during operation and following decommissioning.</i></p> <p>Response:</p> <p>The proposed PP respond positively to the opportunities identified through consultation regarding off-road connectivity and recreational access. The extent to which public engagement has informed the Site's green infrastructure strategy is detailed in section 6.3 of the DAD [APP-029].</p> <p><u>Securing mechanism for the implementation and management of the Permissive Paths</u></p> <p>The Applicant has proposed two permissive paths (PP), the indicative locations of which are illustrated on the Landscape Strategy Plan (LSP) [REP2-046] and within Figure 7.7b of the Outline Landscape and Ecological Management Plan (OLEMP) [APP-145].</p> <p>The PP are secured via the OLEMP (Requirement 7) and the LSP (Requirement 6). Paragraph 4.1.3 of the OLEMP confirms <i>'two new permissive paths are proposed, the indicative routes for which are shown on Figure 7.7b: Permissive Paths.'</i> and, at paragraph 4.19, confirms <i>'the final routes of the permissive paths will be detailed within the LEP'</i>. Requirement 7 secures the submission and approval of a final LEMP which must be <i>'substantially in accordance with the OLEMP'</i>. Requirement 6 secures the submission and approval of a LEP.</p> <p>The PP, and any associated elements such as signage, information boards, or benches, will be implemented and maintained in accordance with details to be provided in the final LEMP and/or OMP (Requirement 11) as appropriate (see section 4 of the OOMP in relation to PP maintenance).</p> <p><u>Status of the PP during operation</u></p> <p>The status of the PP will be as Permissive Paths. They will be formally identified as such to the Council and for users via signage Signs will distinguish the PP from a public right of way (ProW) to ensure users are clear that the path is open to them at the discretion of the Applicant only.</p>

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	<p>The PP are expected to be accessible throughout the operational phase of the Proposed Development. The PP will be closed for maintenance as required and at least one day a year to reinforce the status of the routes as PP rather than PRow. Users will be notified of planned closures in advance in accordance with the OMP which will include details of how notification will be provided. Based on monitoring it will be open to the Applicant may to make minor adjustments to the route to optimise the user experience and protect habitats either side.</p> <p><u>Status following decommissioning</u></p> <p>Upon decommissioning, the dDCO provides that the land is to be re-instated to its previous use and returned to the owner. As established by the FDMP [APP-111] paragraph 2.3.5, <i>'any request from the landowner to leave certain aspects such as permissive paths, signage, and internal access tracks would be discussed as part of the decommissioning planning process, with details of retained features included in the DMP.'</i></p> <p>Following decommissioning the landowner may or may not allow continued use of the routes. As PP, the landowner would have the ability to withdraw access, and this is outside the control of the Applicant. However, the Applicant notes that the positions of the PP are intentionally located in areas that may be less likely to interfere with material operations of the farm.</p> <p>At this stage the assumed position is that the DMP will set out details of removal of any the PP and associated infrastructure (e.g. signage, ground reinforced grid) unless otherwise agreed with the landowner in which case details of retained elements would be set out for the Council's approval. At this stage the Applicant considers that the provision of the PP will only be in association with the period of the temporary consent and cannot make any commitments or assumptions as to their status or existence beyond the period in which the land is in the Applicant's control.</p>
3(c)	<p>Item: <i>Potato pot wind farm.</i></p> <p>Response:</p> <p>A timeline of the Potato Pot Wind Farm's ('the Wind Farm') operational lifetime and decommissioning is set out below:</p> <ul style="list-style-type: none"> • The Wind Farm was commissioned and registered as 'live' with Ofgem on 25th August 2016. • The Wind Farm planning consent (ref: 2/2012/0594) Condition 2 limits the lifetime of the Wind Farm to 25 years from the start of operations. Its lifetime will therefore end on 25th August 2041, and it must be decommissioned in accordance with Condition 3 of the planning consent. • Condition 3 requires that no less than 9 months before the end of the operational lifetime (i.e. no later than 25th December 2040), the operator must submit a decommissioning management plan to the Council for approval covering topics including transport, biodiversity, and restoration.

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	<ul style="list-style-type: none"> • The approved Condition 3 plan must be implemented no less than 18 months from the end of the consent (18 months from 25th August 2041, which means no later than 25th February 2043). • Condition 4 also requires that decommissioning obligations could be triggered earlier in the event of a continual period (9 months) of non-export, after which the operator must submit details of repair or removal within the following 3 months. <p>The Applicant is aware that it may be of interest to the Wind Farm's operator to seek to extend the lifetime of the wind energy generating station and/or to re-power through updated technology in some fashion. Any changes to the existing consent would at the very least require a new planning consent but possibly also new grid and land agreements. The Applicant cannot consider every possible speculative future scenario that could come forward in the next 10-15 years and as such, in accordance with the EIA Regulations, has based the ES assessments on the consented position set out in the decision notice and relevant application documents for ref. 2/2012/0594.</p> <p>The ExA's Written Questions 1 [PD-007] raised several questions relating to the Wind Farm and how it was considered in the ES. These include:</p> <ul style="list-style-type: none"> • Q1.0.4 - how the Wind Farm was accounted for in relation to the landscape strategy (particularly the LSP [REP2-046]) and OLEMP [APP-145] • Q4.0.8 – a broad inquiry into how the ES has considered the 'live' Wind Farm planning consent and its requirement for decommissioning, particularly in relation to landscape and visual effects, along with inquiries into how the Wind Farm has factored-in to the dDCO. <p>In the AREQ1 [REP2-010], the Applicant has provided a comprehensive response on these matters, setting out the approach across the relevant ES Chapters. Absent further clarification from the ExA, the Applicant is uncertain as to what additional insights may have been sought in the ISH.</p> <p>The Applicant notes that the D2 submissions include a WR from Vantage RE Limited (Vantage RE) [REP2-061], the Wind Farm owner/operator. The response to this is provided in the Applicant Response to REP2-061 [D3.5]. The Vantage RE WR raises the matter of the potential for the Wind Farm to be repowered, which the Applicant has taken to mean the extension of the lifetime of the wind energy generating station and/or new (replacement) wind turbine technology. The Applicant does not consider that extension of the lifetime of the existing Wind Farm would present any issues for the Proposed Development which will be designed to accommodate the current Wind Farm and its maintenance and decommissioning.</p> <p>The footprint of the Wind Farm and operational/decommissioning requirements of the Wind Farm operator have been accounted for by the Proposed Development in as far as reasonably possible based on publicly available information and confidential information provided by Vantage RE. Hybrid solar and wind energy sites are not uncommon, and the Applicant does not foresee reasons why the two generating stations cannot co-exist, or that an extended lifetime of the Wind Farm would undermine the ES assessment of environmental effects for the Proposed Development.</p>

4 Design

Table 4.1: Applicant Response to Questions (Design)

No.	Agenda Item / Applicant's Response
4(a)	<p>Item: <i>The applicant's approach to achieving good design with regard to the design approach document [APP-029] and the applicant's response set out in Q3.0.2 [REP2-10].</i></p> <p>Response:</p> <p>The AREQ1 [REP2-010] response to Q.3.0.2 explains that compliance with the NPS EN-1 is set out within the Design Approach Document (DAD) [APP-029] which describes the hierarchy of vision and Project Design Principles (DP) which have shaped the Proposed Development, and how the Applicant has embedded good design within the design process, including through governance arrangements which have embedded good practice throughout the design lifecycle, including into those aspects which will occur post consent. The DAD further sets out the '<i>design response</i>' for relevant design-related topics, and how the Project DPs are secured by the Work Plans [APP-007], the Design Parameters Document (DPD) [APP-028] and by the dDCO [REP2-004], primarily through the DCO Requirement control documents</p> <p>The DAD describes Applicant's decision-making process, demonstrating the Applicant's commitment to 'good design' within the site selection and design process in general, including the following examples:</p> <ul style="list-style-type: none"> • Paragraph 5.3.3: The site selection process was informed by a preliminary Zone of Visual Influence, which identified the potential visibility of land in the vicinity of the Point of Connection. The land included within the Order Limits was selected as it had lower visibility to sensitive receptors; • Paragraph 5.4.12: Where land was not excluded from the Site that was determined to be more sensitive, it was subsequently excluded from including more intrusive features such as Work No. 1 Solar PV infrastructure. Solar was avoided in the south of Area C, because it is more sensitive for landscape and ecology reasons, but it was retained within the Order Limits for Biodiversity Net Gain (BNG) purposes; • Paragraph 5.4.24: Siting the Grid Connection Infrastructure (Work No 2) in the centre of the Site, further from Noise Sensitive Receptors, and maximising the opportunity for natural screening, thereby reducing potential visual impacts; • Section 6.8: Explains how watercourses and waterbodies within the Site have been treated as an opportunity for biodiversity enhancement.

5 Landscape and Visual

Table 5.1: Applicant Responses to Questions (Landscape & Visual)

No.	Agenda Item / Applicant's Response
5(a)	<p>Item: <i>The impact of the proposed development on the Lake District National Park (LDNP) having regard to the national park's statutory purposes (see Q6.0.1 of REP2-10) – what is the view of the LDNP authority?</i></p> <p>Response:</p> <p>This matter was raised in the ExA's first written questions [PD-007] and addressed by the Applicant in the AREQ1 [REP2-010] response to Q6.0.1 confirming the important consideration given to the LDNP as a designated National Park (see also the response to Q5.0.2, Q5.0.7, and Q5.0.8 in relation to the LDNP which is also designated as the English Lake District WHS)</p> <p>The dSoCG with LDNPA [D3.13] records LDNPA's agreement that '<i>The Applicant has had regard to the provisions of section 11A National Parks and Access to the Countryside Act 1949</i>'. And that '<i>The Applicant has sought to avoid harm to the LDNP through measures that have been embedded in the design of the Proposed Development or secured as additional mitigation</i>'. It concludes: '<i>The Secretary of State (as relevant authority) can therefore be content that the duty in section 11A has been complied with.</i>'</p> <p>As described within the dSoCG, the LDNP was a key consideration from the inception of the project, influencing Site selection and the siting of infrastructure within the Site (as set out in section 5 of the DAD [APP-029]). The Applicant has sought to minimise effects on the LDNP through careful siting and the development of an appropriate and proportionate landscape strategy. This mitigation is secured via the LSP [REP2-046] and OLEMP [APP-145] alongside the DPD [APP-028] and parameters for the extents of development within the Works Plans [APP-007]. No significant adverse residual landscape impacts to the LDNP are reported across the construction, operational and decommissioning phases of the Proposed Development.</p> <p>The dSoCG with the LDNPA [D3.13] also includes the following key points:</p> <ul style="list-style-type: none"> • The LDNPA have affirmed the methodology of ES Chapter 7 – Landscape and Visual [REP2-032] and its associated appendices in relation to the soundness of its assessment and its conclusions. • The LDNPA agree that the Applicant has collaborated with the LDNPA on the development of a landscape strategy (see the LSP) intended to help break up long distance views through the introduction of new and enhanced existing landscape features throughout the Site.

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	<ul style="list-style-type: none"> The LDNPA agrees with the Applicant's conclusion that '<i>in summary, no significant adverse residual landscape impacts to the LDNP are reported across the construction, operational and decommissioning phases of the Proposed Development.</i>' The LDNPA agrees that the design of the Proposed Development has been carefully considered with respect to minimising the impact on the LDNP based on the LSP and the exclusion of generating station equipment from the elevated plateaus within the southern part of Area C. The LDNPA have agreed that the assessment of impacts to the Lake District as a World Heritage Site ('WHS') has been appropriately considered in ES Chapter 6 - Cultural Heritage [REP2-027] and ES Chapter 7 - Landscape and Views and that there will be less than substantial harm to the WHS.
5(b)	<p>Item: <i>The effects of the proposed development, in visual terms, on residential receptors including Cumberland Council's view</i></p> <p>Response:</p> <p>Following engagement with the Council since the submission of its LIR, [REP2-058] it is the Applicant's understanding that there is overall agreement on the conclusions of effects, and that any remaining minor differences of professional judgement would not change the conclusions. The Applicant's position on these matters, based on the LIR and subsequent engagement is set out in the ARLIR-1, [D3.7]. This has been reinforced by the agreement of an updated dSoCG [D3.14] which confirms all matters relating to landscape raised in the Council's LVIA Review [AS-005] and LIR [REP2-058] are addressed and agreed in as much as possible ahead of the discharge of DCO Requirements.</p> <p>The visual assessment is set out in Appendix 7.4 Schedule of Visual Effects [REP2-036]. This includes several representative view locations (VL) selected to represent views from nearby residential properties. Furthermore, the Applicant's position on visual effects for nearby residential properties in response to residential visual amenity is set out in the AREQ1 [REP2-010] in relation to Question 6.0.3.</p> <p>The Council undertook a Landscape and Visual Impact Assessment - Review [AS-005] (the 'LVIA Review') of ES Chapter 7 [REP2-032] and its appendices. The Applicant and the Council have engaged further, with outcomes set out within the D3 ARLIR-1 and updated dSoCG [D3.14]. The following points have been agreed between the Applicant and the Council in relation to the assessment of effects on residential receptors:</p> <ul style="list-style-type: none"> Wythemoor Sough (as represented by VL9). - At the operation Year 1 scenario it is agreed that there is a major significant effect. The Applicant concludes a lower magnitude accounting for difference in methodology, with the Applicant identifying a moderate magnitude of effect, this representative of a clearly noticeable change, and the Council concluding a high magnitude of change accounting for a very noticeable visual change. The Applicant considers the visual change does not represent a complete change as the long-distance views are preserved and therefore it is appropriate to conclude that this is a clearly noticeable change rather than dominant change. Dean Cross Cottage (as represented by VL6a/b). - At the operation Year 1 scenario it is agreed that there is a major significant effect. The Applicant concludes a lower magnitude accounting for difference in methodology, with the Applicant identifying a moderate magnitude of effect, this representative of a clearly noticeable change, and Cumberland Council LVIA Review concluding a high magnitude of change accounting for a very

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	<p>noticeable visual change. The Applicant considers the visual change does not represent a complete change as the long-distance views to the south and east including those to the LDNP are unaffected and therefore a clearly noticeable change rather than dominant change is appropriate.</p> <ul style="list-style-type: none"> • Jackie Hill (as represented by VL7). - At the operation Year 1 scenario it is agreed that there is a major significant effect. The Applicant concludes a lower magnitude accounting for difference in methodology the Applicant's methodology identifying a moderate magnitude of effect representative of a clearly noticeable change, and the Council concluding a high magnitude of change accounting for a very noticeable visual change. The Applicant considers the setback of the Proposed Development's intrusive features (e.g. Work No. 1) and the preservation of views to the elevated plateaus and the woodlands, including Saw Mill Quarry Wood, means these would remain as backdrop features to the view which results in a clearly noticeable change rather than dominant visual change. • Collingate (as represented by VL2b). – At the operation Year 1 scenario it is agreed that there is a minor, non-significant effect. The Applicant concludes a lower magnitude accounting for difference in methodology, with the Applicant identifying a negligible magnitude of effect representative of a barely perceptible change, and Council concluding a low magnitude of change accounting for a perceptible visual change. The Applicant considers the views are generally curtailed by intervening vegetation and/or landform. <p>As per the ARLIR-1, which reflects the response to the LIR based on subsequent engagement with the Council, it is the Applicant's view that while the Applicant's LVIA and the Council's LVIA Review offer different conclusions on some points, and there are points which are not agreed, these reflect reasonable differences in professional judgement between independent landscape experts and do not represent a more fundamental conflict or serious concerns with ES Chapter 7 – Landscape and Visual and its associated appendices.</p> <p>There is no major disagreement as to outcomes which undermine the overall conclusions of the application for this topic. It is the Applicant's understanding that outstanding matters relating to landscape and visual effects are minor and relate to subjects like the detailed positioning and type of landscaping described within the landscape strategy (the LSP [REP2-046]) and OLEMP [APP-145] mitigation. The Applicant has explained to the Council that this reflects the outline nature of these control documents, and the details can be resolved through the discharge of Requirements, and are not fundamental issues necessitating a revised approach to Chapter 7. That the Council accepts this position is reflected in the updated dSoCG, with this agreed subject to the Council's expectation that the Applicant will have regard for the Council's feedback in the preparation of the final LEP and LEMP ahead of the submission to discharge the DCO Requirements.</p>

No.	Agenda Item / Applicant's Response
5(c)	<p>Item: <i>The landscape and visual impact assessment – the methodology and the extent to which there is agreement/disagreement between the applicant and Cumberland Council on methodology and outputs.</i></p> <p>Response:</p> <p>The Applicant has worked collaboratively with the Council in agreeing approach and methodology throughout the pre-application process including non-statutory consultation and in statutory consultation in association with the PEIR. The details of consultation as it has informed the Applicant's approach to ES Chapter 7 – Landscape [REP2-032] and associated appendices, including the selection of VL, is set out in section 7.3.</p> <p>The LVIA Review [AS-005] which informed the LIR [REP2-058] was undertaken by Galpin Landscape Architecture ('Galpin') on behalf of the Council. This was prepared post-consultation, and was received by the Applicant after the start of the Examination. The Applicant has therefore had a reduced period to respond to the additional opinions received. However, in support of the collaborative approach the Applicant has sought to take on board the feedback in the LVIA Review, with updates being made to Chapter 7 documents at D2 in response to comments and has benefitted from direct engagement to inform the D3 ARLIR-1 [D3.7] and dSoCG [D3.14].</p> <p>In summary, it is the Applicant's view that Council and the Applicant are broadly agreed on matters including, methodology, ZTV's, landscape receptors, mitigation proposals, and assessment conclusions including cumulative effects. It is understood that the Council has some outstanding comments on the detail provided regarding mitigation as set out in the OLEMP, and the inclusion of some visual receptors / additional VL, but as per the response to 5(b) above, it is the Applicant's understanding that these ongoing discussions relate to granular detail as opposed to fundamental differences of opinion on outcomes and approach to assessment.</p> <p>The Applicant considers the remaining matters are relatively minor, and importantly, that overall there is agreement with the Council on the conclusions of effects, and that differences of judgements regarding the selection of VL would not change these conclusions. This has been reinforced by the agreement of an updated dSoCG [D3.14] which confirms all matters relating to landscape raised in the Council's LVIA Review and LIR are addressed and agreed in as much as possible ahead of the discharge of DCO Requirements.</p>
5(d)	<p>Item: <i>Any other landscape and visual matters.</i></p> <p>Response:</p> <p>N/A</p>

6 Cultural heritage / historic environment

Table 6.1: Applicant Responses to Questions (Cultural Heritage)

No.	Agenda Item / Applicant's Response
6(a)	<p>Item: <i>EIA methodology – sensitivity/value of designated heritage assets.</i></p> <p>Response:</p> <p>This matter was raised in the Historic England (HE) RR [RR-016] and addressed by the Applicant in a series of meetings with HE and formalised in the D2 Cultural Heritage Technical Note [REP2-057] (minutes of the pre-submission discussed can be found at APP-118). This Technical Note confirms the categorisation of designated heritage assets regarding sensitivity/value in the context of the wider EIA methodology.</p> <p>The sensitivity of cultural heritage receptors has been assigned within the EIA on a basis which is consistent with the methodology (as presented within ES Chapter 6 - Cultural Heritage [REP2-027]). This approach ensures that the methodology set out in ES Chapter 6 aligns with the overarching EIA methodology for the ES as detailed in ES Chapter 2 – EIA Methodology [APP-033]. The approach to assigning value to assets of medium sensitivity is consistent with other methodologies for recently granted solar DCO applications, such as Cottam Solar Farm and Longfield Solar Farm (as well as other current DCO applications such as One Earth Solar Farm).</p> <p>Following consultation with Historic England, it was suggested that a five-point scale could have been used. It is the view of HE that this approach would be more appropriate given the reference made to the Design Manual for Roads and Bridges (DMRB) LA1062 within the methodology of the HEDBA and Chapter 6. HE considers that by introducing an additional 'Sensitivity / Value' of "Very High" would align with guidance set out in DMRB LA104 (although it was noted that this guidance is for large linear schemes). It is judged that if used this alternative scaling of sensitivity/value of designated heritage assets would give the same conclusions as detailed in the original ES Chapter 6 - Cultural Heritage, as set out within the Cultural Heritage Technical Note.</p> <p>The Council has commented on heritage matters within the LIR [REP2-058]. In general, these confirm the approach taken to the assessment of heritage effects and conclude by indicating the Proposed Development would have a "neutral impact" on heritage.</p>

No.	Agenda Item / Applicant's Response
6(b)	<p>Item: <i>Matters agreed/disagreed between applicant and Historic England, LDNP and Cumberland Council.</i></p> <p>Response:</p> <p>The Applicant's D2 submissions included dSoCGs with Historic England [REP2-015], the LDNPA [REP2-016], and the Council (via the Council's Historic Environment Officer (EHO) [REP2-012], all of which relate to cultural heritage / historic environment interests. Since then, the dSoCG with the Council [D3.14] and LDNPA [D3.13] have been updated. A D3 submission of a HE dSoCG update is delayed for administrative reasons, with the Applicant given to understand through direct engagement that all matters are agreed.</p> <p>These reflect broad agreement between relevant stakeholders as to the Proposed Development's approach to assessment as per ES Chapter 6 – Cultural Heritage [REP2-027] and associated appendixes, the conclusions of the assessment in relation to the potential for effects on these interests, and confirmation of less than substantial harm to receptors including designated heritage assets (e.g. Listed Buildings, the Stone Circle and Cairn Scheduled Monument, and the English Lake District WHS). There is also agreement as to the application's approach to archaeological remains as per the Archaeological Mitigation Plan (AMP) [APP-117]. It is the Applicant's understanding that the Council's LIR [REP2-058] also affirms the application's position on cultural heritage interests, concluding that the Proposed Development would have a '<i>neutral impact</i>' on heritage and complies with Policy s27 of the LPP1.</p> <p>Although there is general agreement as to the soundness of the assessment and mitigation measures, based on the ExQ1 [PD-077] and ongoing engagement with relevant stakeholders including HE and the Council's HEO, the Applicant made updates to ES Chapter 6 and associated appendixes at D2. The Applicant's understanding of the advanced position with the relevant stakeholders since D2 is as follows:</p> <ul style="list-style-type: none"> • Historic England – The D2 dSoCG included agreement on all matters, with the caveat that HE would review the Applicant's D2 Cultural Heritage Technical Note [REP2-057], updated ES Chapter 6, and HEDBA [REP2-030]. The approach to these additional materials was discussed and the outcomes have been affirmed, with the agreement documented in the forthcoming HE dSoCG. It is the Applicant's understanding that there are no outstanding matters to be agreed, and this will make the SoCG with HE 'final', but it will remain as a draft in the event of any other matters arising in the examination which may need to be captured ahead of final sign-off. • The Council - The dSoCG with the Council has been updated to reflect their comments on heritage matters within the LIR which have provided additional affirmation of the application's approach. It is the Applicant's understanding that there are no additional outstanding matters and this can make the dSoCG with the Council 'final' in relation to cultural heritage, but as that dSoCG covers a number of other topics it will remain as a draft.. • The LDNPA – The dSoCG has been agreed on all matters, including those matters relating the historic environment. This includes the assessment conclusions and the approach to the assessment of heritage effects, which include consideration of effects on the setting of the WHS. ES Chapter 6 concludes that there would be a minor adverse visual effect over a 40 year period, translating to less than substantial harm to the WHS. It is the

No.	Agenda Item / Applicant's Response
	Applicant's understanding that this will make the dSoCG with the LDNPA 'final' in relation to cultural heritage, but it will remain as a draft in the event of any other matters arising in the examination which may need to be captured ahead of final sign-off.
6(c)	<p>Item: <i>Details including clarification on the visualisations requested at first written questions (ExQ1) by the ExA and provided by the applicant at deadline 2.</i></p> <p>Response:</p> <p>This matter was raised in the ExQ1 [PD-007] and addressed by the Applicant in response to Q5.0.2 in the AREQ-1 [REP2-010] confirming the important consideration setting of the Stone Circle in relation to the Proposed Development.</p> <p>Overall, the sensitivity of cultural heritage receptors was assigned on a basis which is consistent with the methodology presented within ES Chapter 6 - Cultural Heritage [REP2-027]. The information provided at the original submission regarding the setting of designated heritage assets is in line with standard practice of demonstrating the findings of the Site visit and the judgement of the heritage professional.</p> <p>While the requested visualisations could have tangential usefulness, they would not be part of a primary evidence base for heritage assessment considerations which rely upon an experiential appreciation of the asset within its physical context as the primary source of information regarding 'setting'. The setting's importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance. As explained in the HE guidance on setting, '<i>The true effect of a development on setting may be difficult to establish from plans, drawings and visualisations</i>'. It was considered that the Accompanied Site Inspection (ASI) would provide a stronger appreciation of the experience of the asset within the landscape context than visualisations would provide.</p> <p>Due to the cancellation of the hearings and ASI, the Applicant took the opportunity to revisit the Stone Circle and take further photos from locations in the vicinity of the Stone Circle not accessible from public paths. These photos have been used to prepare photosheets and visualisations and are included at Appendix A of this document. The photosheets show the existing situation, and the potential extent of the Site. The visualisations also identify the visible land where the solar infrastructure within Work No. 1 could be located (identified with a blue opaque layer). The Applicant's intention is that these will provide the ExA with further context and understanding of the setting of the Stone Circle, to help compensate for the lack of ASI, and supplement the existing information relating to the Stone Circle provided within the HEDBA. It is noted that the visualisations are not 3d visualisations, in the same style as those prepared previously for public consultation purposes, and are provided as a visual aid to the ExA. While it is noted that this information has not been provided to relevant consultees, such as Historic England, they have confirmed the conclusions as to effects on designated heritage assets, including the Stone Circle within the dSoCG provided at D2 [REP2-015].</p>

No.	Agenda Item / Applicant's Response
6(d)	<p>Item: <i>Any other matters relating to cultural heritage/historic environment.</i></p> <p>Response:</p> <p>N/A</p>

7 Climate Change

Table 7.1: Applicant Responses to Questions (Climate Change)

No.	Agenda Item / Applicant's Response
7(a)	<p>Item: <i>Climate change assessment methodology, including the applicant's responses to the ExQ1 (see table 3.1 of REP2-10).</i></p> <p>Response:</p> <p>The AREQ1 [REP2-010] addresses the methodology applied in ES Chapter 9 – Climate Change [APP-040] directly in response to Q2.0.5 as well as indirectly in responses to Q2.0.1 – Q2.0.4.</p> <p>The assessment methodology is as agreed during EIA Scoping and PEIR stages. The principal guidance is the Institute of Sustainability and Environmental Professionals (ISEP previously Institute for Environmental Management and Assessment (IEMA)) guidance² which provides information on approach including how significance of effects should be determined.</p> <p>A quantitative assessment has been undertaken where sufficient reliable data is available to enable the Applicant to make a meaningful assessment. A qualitative assessment has been undertaken where it is not. Any limitations and assumptions with regards to the assessment methodology are set out in ES Chapter 9 in accordance with the requirements of the EIA Regulations.</p> <p>The AREQ1 provides additional clarification on specific points relating to the methodology and assurance that the approach is in accordance with relevant legislation, case law guidance, and with the approach taken in other similar DCO projects, where it is appropriate to make a comparison. The key point made is that introducing quantification, where detail is not available or assumptions are broad, would only result in a highly speculative assessment which would neither be of use to the decision-making process nor alter the overall conclusions with respect to the significance of effects.</p>

² IEMA (2022). Assessing Greenhouse Gas Emissions and Evaluating their Significance.

No.	Agenda Item / Applicant's Response
7(b)	<p>Item: <i>The figures and assumptions as set out in the ES having regard to the export capacity and the 'Dean Moor Carbon Calculations' [APP-161] document and the extent to which they apply to the proposed development specifically.</i></p> <p>Response:</p> <p>The solar farm export capacity (MW) used within the ES Appendix 9.3 Dean Moor Carbon Calculations [APP-161] is specific to the Proposed Development as a solar energy generating station with a 150MW export capacity as per the grid connection agreement with ENW as the Distribution Network Operator.</p> <p>The AREQ1 [REP2-010] response to question Q2.0.1 confirms the use of the 150MW figure as the export capacity for the Proposed Development in the ES Chapter 9 – Climate Change [APP-040] assessment and provides clarification on why this is an appropriate figure for the assessment calculations relating to the Proposed Development's energy output.</p> <p>The assessment is based on the Proposed Development's specific export capacity (MW), but is not specific beyond that. More specific output modelling will only be available post-consent as part of the detailed design process once specific technology options can be specified for a specific layout, and an engineering design can account for the influential characteristics of the Site and technology as per EN-3 paragraphs 2.10.59 - 2.10.62.</p> <p>The MW export capacity based on the ENW connection agreement, alongside a load factor that accounts for weather conditions and efficiency losses within the system, has been used by ES Chapter 9 to determine the Proposed Development's output (in MWh) for the purpose of carbon calculations. The use of maximum export capacity as a proxy for annual output is consistent with made solar DCO projects such as Oaklands Farm Solar Park whereas other DCOs such as Byers Gill do not state how the estimated MWh output used in assessments are determined.</p> <p>The AREQ1 response to Q2.0.3 also provide clarification on why a National Load Factor has been used as a proxy value for utilisation for the carbon calculations at paragraphs 9.3.17 – 22 of ES Chapter 9. For these calculations the forecast for the average carbon intensity of the national grid in 2027 and fossil fuel sources have been used to provide context of the wider energy generation sector, which is in line with ISEP guidance that requires appropriate contextualisation to be undertaken.</p> <p>What this means is that carbon saving calculations have considered the contribution of the Proposed Development as an offset to the reliance on the current national grid energy mix, and an additional calculation of carbon offsetting against the same amount of energy from only fossil fuel sources. This is because it is recognised that the national grid mix already benefits from a mix of energy from fossil fuels and clean energy</p>

No.	Agenda Item / Applicant's Response
	<p>sources, and the Proposed Development's contribution to UK climate change targets are in relation to decarbonisation and displacement of fossil fuel sources from this mix. This is a standard approach used within other solar DCO projects, including Oaklands, Byers Gill, and West Burton.</p> <p>It should be noted that the carbon intensity figures for both the national grid and fossil fuel sources account for direct operational emissions only and do not include emissions from construction, operational and maintenance activities, or transport. These carbon intensity figures are therefore not directly comparable to lifecycle emissions for a specific scheme.</p> <p>This further demonstrates that quantifying emissions for each lifecycle stage of the Proposed Development is not necessary to reach reasoned conclusions on the role of the Proposed Development's contribution to a trajectory to net zero by 2050, and therefore the significance of effects in relation to carbon emissions.</p>
7(c)	<p>Item: <i>The extent and reasonableness of any 'overplanting' proposed.</i></p> <p>Response:</p> <p>As per footnote 92 (excerpt below) of NPS EN-3, 'overplanting' describes the situation in which the maximum installed generating capacity of solar panels (measured in direct current (DC) is larger than the facility's export capacity of PCS units (measured in alternating current (AC). This is because it is the combined inverter capacity that determines the export capacity of the generating station, rather than the number/ rating of solar panels, as confirmed in Footnote 91 in relation to capacity thresholds for NSIP vs TCPA. (excerpt below).</p> <p>Footnote 91: <i>'The combined maximum AC capacity of the installed inverters may only exceed the aforementioned thresholds for the sole purpose of overcoming reactive power consumption within the solar farm between the inverters and the connection point'</i></p> <p>Footnote 92: <i>"Overplanting" refers to the situation in which the installed generating capacity or nameplate capacity of the facility is larger than the generator's grid connection. This allows developers to take account of degradation in panel array efficiency over time, thereby enabling the grid connection to be maximised across the lifetime of the site. Such reasonable overplanting should be considered acceptable in a planning context so long as it can be justified and the electricity export does not exceed the relevant NSIP installed capacity threshold throughout the operational lifetime of the site and the proposed development and its impacts are assessed through the planning process on the basis of its full extent, including any overplanting.'</i></p> <p>Overplanting will be part of the Proposed Development as it is as it is for all large-scale solar energy generating facilities. However, as described in the AREQ1 [REP2-010] response to Q2.0.2, the output per MW for the Proposed Development is in line with national policy (EN-3 excerpt below), and does not suggest an unreasonable level of overplanting.</p>

No.	Agenda Item / Applicant's Response
	<p>EN-3, 2.10.17: <i>'Along with associated infrastructure, a solar farm requires between 2 to 4 acres for each MW of output. A typical 50MW solar farm will ... cover between 125 to 200 acres. However, this will vary significantly depending on the site, with some being larger and some being smaller...'</i></p> <p>125-200 acres suggested by EN-3 as typical for a 50MW solar energy generating station would therefore be 375-600a (or 152 – 243ha) for a 150MW facility. To provide further context, for comparison with the ratios described in EN3, the Proposed Development has an export capacity of 150MW and the Site is 276.5 ha, which is 682 acres and equates to 4.5 acres per MW. In applying this simplistic calculation this is a higher ratio of acres per MW than EN-3 suggests is typical. However, the total Site area includes 90.59ha (223.85ha) of Work No. 6, which is set aside for Green Infrastructure (32% of the Site) as well as land in Area D which includes the public highway. Work No. 1 – Solar PV is approximately 167ha / 414acres which would equate to 2.76 acres per MW, which is close to the mid-point of the range noted as typical in EN-3.</p> <p>Overplanting is an essential aspect in the design of solar projects to fully optimise the performance of the generation equipment for output via the available grid connection. Further reasons for overplanting, in addition to those described in EN-3 Footnote 92 (above), are as follows:</p> <ul style="list-style-type: none"> • The need for generation to meet self-consumption demand (e.g. HVAC for the PCS, monitoring and security infrastructure, etc.) and to cover transmission and conversion losses that occur between the photovoltaic process which occurs at the panels themselves and the export to the grid. (transmission from panels > inverters/transformers > the grid + the conversion from DC > AC and LV > MV > HV); • Performance optimisation to help compensate for sub-optimal factors including topography, shading, and weather (hot weather and cloud cover reduce efficiency); • To some extent overplanting can also be used to reduce the effect of degradation in solar panel efficiency over time ('wear and tear') enabling the Proposed Development to maintain a level of export over the lifetime, as acknowledged in para. 2.10.55 of NPS EN-3. <p>The Applicant cannot provide any further details on any proposed overplanting because details will be unknown until the final design following important future assessments like geotechnical surveys and archaeological trenching.</p>

8 Biodiversity

Table 8.1: Applicant Responses to Questions (Biodiversity)

No.	Agenda Item / Applicant's Response
8(a)	<p>Item: <i>Update on the latest position from Cumberland Council having regard to the Local Impact Report [REP2-058].</i></p> <p>Response:</p> <p>Whilst this Agenda Item may be read as being addressed to the Council for a response, the Applicant believes it would be beneficial to the ExA if the Applicant also sets out its's understanding of latest position following the ongoing engagement between the Council and the Applicant.</p> <p>Following receipt of the Council's LIR [REP2-058] the Applicant met with the Council and its biodiversity specialists (Tetra Tech) on 10 September 2025 to discuss the three main themes raised, namely: the shadow Habitat Regulations Assessment (sHRA) [APP-156], BNG as per the BNG Report and Metric [APP-157], and the protected species survey reports included as Appendix 8.1 to 8.6 of the ES Biodiversity Chapter 8 [REP2-053]. The D3 ARLIR-1 [D3.7] includes a response to the biodiversity matters raised in the LIR based on a review of the LIR and the subsequent engagement with the Council which included a meeting and correspondence between Tetra Tech and the ES Chapter 8 author.</p> <p>Prior to the meeting, the Applicant provided the Council a draft of the ARLIR-1 to help inform discussions. Further clarifications on protected species surveys and sHRA approach were emailed to Tetra Tech after. Following an appraisal of the additional information provided by the Applicant, to the Council it is the Applicant's understanding that all matters relating to biodiversity and raised in the LIR have been agreed and there are no changes to the conclusions set out in ES Chapter 8 – Biodiversity and its associated appendices. This is reflected in the ARLIR-1 and the updated Cumberland Council dSoCG [D3.14] which were absent from the D2 dSoCG [REP2-012].</p>
8(b)	<p>Item: <i>Peat management and protection measures having regard to the comments received from Natural England at deadline 2, particularly the suitability of the methodology, peat exclusion areas and proposed mitigation.</i></p> <p>Response:</p> <p>The Applicant and Natural England (NE) have had positive discussions regarding peat resources across the Site, and have agreed an approach to dealing with this as a matter 'under discussion' for NE in the D2 dSoCG [REP2-018], which was highlighted in the WR [REP2-060].</p> <p>On 10th September 2025 NE wrote to the ExA ahead of the ISH [AS-018] to confirm that an approach to resolving this issue has been agreed:</p> <p><i>'It was agreed between the applicant and NE (during a meeting on 08/09/25) that the applicant will provide further clarity on the peat survey results to give a clearer indication of the presence of peat across the site. NE also advised ensuring cross referencing with the outline Soil Management Plan</i></p>

No.	Agenda Item / Applicant's Response
	<p><i>(oSMP) and providing a clearer methodology for how peat soils will be handled, as well as outlining the requirements for post-consent surveys. NE will need to review this information prior to providing further advice to the ExA.'</i></p> <p>The Applicant's response to the NE WR [D3.4] provides a more detailed overview of the discussions and how this matter is being addressed. The Applicant is also providing an updated NE dSoCG [D3.16] which reflects engagement between the Applicant and NE since the WR raised unresolved matters around peat resources (peat deposits and peaty soils). Through productive meetings and written correspondence there has been agreement on the steps to be taken by the Applicant for resolution. This includes agreement on the principle of what will be done (the scope of which is also agreed), with the next version of the dSoCG to close things out subject to NE review of the updates which will occur to the OSMP [APP-110] complemented by the OCEMP [APP-108].</p> <p>To aid the ExA a brief summary of issues and outcomes is provided below.</p> <p><u>Suitability of the methodology</u></p> <p>Discussions with NE have confirmed that NE are satisfied by the methodology of the Peat Survey Report (PSR) [APP-173] which confirms locations of peat deposits for engineering design purposes, and the Agricultural Land Classification (ALC) Survey [APP-105] for ALC grading purpose which provides insight into soil characteristics, including the presence of peaty soils. NE have confirmed that further updated surveys or ground investigations are not required or recommended as a pre-determination matter and the existing surveys are fit for purpose. The issue NE rightly raised was on the lack of clarity and dispersed nature of information that is relevant to the OSMP [APP-110] and efficacy of the future SMP. A means to resolve this through revisions to the OSMP has been agreed with NE as per the updated dSoCG.</p> <p><u>Mitigation and Exclusion Areas</u></p> <p>Regarding the proposed mitigation and exclusion areas, NE and the Applicant are aligned that the approach to excluding areas of identified peat deposits, and soil management measures via the OSMP for peaty soils will be appropriate for mitigating effects on peat resources across the Site. NE have confirmed no additional exclusion areas are required, but the OSMP should make clear that the final SMP will also incorporate any new data arising from the pre-construction surveys that inform the peat resource baseline. Along with this the Applicant will strengthen language and add additional context for peat resource protections where relevant. This approach been agreed with NE as per the updated dSoCG.</p>

No.	Agenda Item / Applicant's Response
8(c)	<p>Item: <i>Habitat Regulation Assessment matters – Cumberland Council latest position.</i></p> <p>Response:</p> <p>Whilst this Agenda Item may be read as being addressed to the Council to for a response, the Applicant believes it would be beneficial to the ExA if it also sets out the Applicant's understanding of latest position following the ongoing engagement between the Council and the Applicant.</p> <p>Following a meeting between the Applicant, the Council and its biodiversity specialists (Tetra Tech) on 10 September 2025, the Council confirmed to the Applicant that it would defer to Natural England [D3.7] (See the NE dSoCG [D3.16], RR [RR-009] for the NE affirmation of the methodology and conclusions of the sHRA [APP-156]).</p> <p>It is the Applicant's understanding that following the meeting and additional correspondence, the Council have agreed that there will be no Likely Significant Effects (LSE) on the River Derwent and Bassenthwaite Lake Special Area of Conservation (SAC) and Solway Firth Special Protection Area (SPA). It is understood that the Council agrees with the Applicant's conclusions on all matters relating to the sHRA and does not require any revisions to that document or ES Chapter 8 – Biodiversity [REP2-053] in relation to this matter. This is reflected in Appendix C of the ARLIR [D3.7] which includes a review by Tetra Tech following the 10.09.25 meeting, which is reinforced by the updated Cumberland Council dSoCG [D3.14].</p>

9 Noise

Table 9.1: Applicant Responses to Questions (Noise)

No.	Agenda Item / Applicant's Response
9(a)	<p>Item: <i>Clarification on the applicant's responses at deadline 2 (see Q9.0.1 of REP2-010).</i></p> <p>Response:</p> <p>Operational noise and vibration was scoped out of the ES on the basis that significant effects due to the Proposed Development were not anticipated to occur. This approach aligned with 3.1.10 of the Scoping Opinion [APP-097] which requested that the ES should demonstrate that the Proposed Development should not result in significant noise and vibration impacts. The ES Appendix 2.6 Noise and Vibration Impact Assessment (NIA) [APP-103] was prepared on this basis, which is why the assessment focussed on avoiding significant impacts (i.e. the resultant operational noise level being below the Significant Observable Adverse Effects Level (SOAEL) at receptors).</p> <p>A response to ExA's question Q9.0.1 was provided in the AREQ-1 [REP2-010] and its Appendix J [REP2-011] which sought to expand the NIA reporting to provide further clarity on whether significant effects will be avoided, and whether adverse effects can be mitigated. Appendix J includes two figures including Figure 001 'Q9.0.1 Receptor Noise Risk – PCS', and Figure 002 'Q9.0.1 Receptor Noise Risk - POC Compound'.</p> <p>The final equipment selection and detailed layout have not yet been determined at this stage. Therefore, to understand whether adverse or significant adverse effects are likely because of operational noise, calculations have been undertaken to determine at what distances from noise sensitive receptors (NSR) would noise generating equipment need to be sited for such effects to be avoided.</p> <p>This process has been based on considering the background sound level measured at receptors, to consider a set of preliminary (Low Observable Adverse Effects Level (LOAEL) and SOAEL values, due to operation of noise generating equipment (e.g. Work No 2 Grid Connection Infrastructure (POC compound) which would be located in Work Area 2 as defined by the Work Plans [APP-007] and the PCS Units of Work No 1 which could be located anywhere within Work Area 1 subject to appropriate consideration of environmental constraints A brief overview of what the Figures show is provided below, with a fuller discussion to be provided in the updated NIA being prepared for D4.</p> <p>The amber areas in Appendix J, Figures 001 and 002 indicate that, if the respective PCS or POC equipment is sited in these locations, then sound levels at NSR could be above the LOAEL, but below the SOAEL, and therefore result in an adverse effect. Likewise, the green areas</p>

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	<p>indicate that, if the respective PCS or POC equipment is sited in these locations, then sound levels at NSR could be below the LOAEL, and therefore result in no adverse effect.</p> <ul style="list-style-type: none"> • Figure 002 for the POC infrastructure indicates that noise associated with Work No 2 is not expected to give rise to noise levels which would be above the LOAEL or the SOAEL, as its location as defined by Work Area 2 is entirely within the green area of the figure. This means the Grid Connection Infrastructure, which will have a maximum area of 1.2 ha (as per the DPD [APP-028]) can be located anywhere within the 8.95ha area of Work Area 2. • Figure 001 for the PCS units also indicates that PCS units could be installed in large areas of the Site (in green) and not give rise to noise levels which are at or above the LOAEL or SOAEL for NSR. Although it is recognised that if quieter equipment is specified in the final design, and/or additional mitigation is added to the equipment such as cowls or damping plates, this could increase the areas where the PCS could be located where effects would be below the LOAEL and therefore at the No Observable Adverse Effects Level (NOAEL), such that applying a location/extent parameter akin to that of Work No. 2 is not recommended as necessary at this stage. . <p>The purpose of the provision of the Appendix J Figure 001 '<i>Q9.0.1 Receptor Noise Risk – PCS</i>', and Figure 002 '<i>Q9.0.1 Receptor Noise Risk - POC Compound</i>' is to demonstrate that even without considering quieter options or additional attenuation, there remains a large area of the Site that will be available for the Applicant to design-out adverse effects on NSR through sensitive siting of equipment. The conclusion of the NIA as supported by these additional figures is that it is possible to avoid significant adverse effects, and to reduce and mitigate adverse effects, through implementation of appropriate mitigation and siting of equipment.</p> <p>In relation to how the mitigation of impacts is secured, Requirement 12 of the dDCO [REP2-005] requires a noise assessment to be undertaken to demonstrate that there will be no significant operational noise effects associated with Work No.1 (inclusive of the PCS units), and the assessment is to be submitted and approved by the Council. The Council would therefore have an opportunity to consider the impacts and mitigation which are to be implemented.</p> <p>Table 4.1 of the Outline Operational Management Plan Ref 6.3 [APP-107] outlines the operations and maintenance management measures with respect to noise. It states that in the event of a substantiated noise complaint being received by the Council, this would initiate a process as set out in the OOMP, beginning with an assessment to be agreed with the Council. This would provide findings as to the occurrence of unacceptable noise effects. In the event the complaints are validated the Applicant will provide a mitigation strategy for the Council to approve. The mitigation strategy would need to be fully implemented within a period agreed with the Council. It is in the Applicant's interest to ensure that no noise complaints arise from the Proposed Development, as this could disrupt the operation of parts of the generating station, and it is much more difficult to apply post-hoc mitigation than to design-out a risk of complaints from the start, which is what Requirement 12 is intended to secure.</p>

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	<p>It is proposed that the NIA will be updated to include the additional information provided within the response for D2 to ensure that the assessment is entirely within that document and not dispersed across written responses. This includes the LOAEL distances, as well as the figures indicating the LOAEL and SOAEL zones, indicating where equipment can be sited to avoid impacts based on the noise level of the equipment as assessed in the NIA. At present the Applicant intends to provide this at D4 absent any additional noise matters being raised by the ExA in further written questions which may have some bearing on NIA content.</p> <p>Along with this the Applicant proposes to update the language of the OOMP to include</p> <ul style="list-style-type: none"> • A commitment that the final OMP will provide the details of any noise mitigation measures relied on beyond sensitive siting of equipment, and any associated maintenance for attenuation equipment such as noise barrier fencing, cowls, louvres, or damping plates. • The OOMP will further provide a commitment that within 12 months of the commencement of the full operation of the generating station (the date of final commissioning in the dDCO) the Applicant will provide a Noise Verification Report (NVR) demonstrating 'real life' compliance with the operational noise levels approved by the Council via the discharge of DCO Requirement 12. The Applicant proposes this be within 12 months to ensure the NVR assessment can be undertaken when the generating station is likely to be at its noisiest in the longer hotter summer days when HVAC is at full load. • The OOMP will require that the NVR be submitted to the Council as part of OMP compliance, with this to thereafter inform the operational noise baseline in the event of any noise complaints that trigger the process currently set out in Table 4.1. • The D4 update to the NIA will set out further details as to the applicable standards and methodologies for the Requirement 12 NIA and new OOMP commitment, with the OOMP to require that the NVR be undertaken in accordance with the standards set out in the application's NIA. <p>The Applicant has proposed these additional measures because it is acknowledged that while the Applicant's best practice intention, which assesses and designs-out adverse effects to prevent adverse effects and complaints (and thereby risks to normal commercial operations) can be realised without commitments in the control documents, the commitments provide a securing mechanism that can provide reassurance to local NSRs and the Council. This means that in addition to the existing strong complaint response procedure in Table 4.1, there is certainty that good design in relation to noise effects will be considered from the start through careful siting and/or effective additional attenuation options. The commitment to a NVR means the noise levels agreed by the Council for Requirement 12 based on a model are being met by the actual operational scheme. The Council's support of the applications approach to noise impact assessment and mitigation is provided by the updated dSoCG [D3.14] (see CC.EHO.1, CC.EHO.6 and CC.EHO.14).</p>

10 Other Matters

Table 10.1: Applicant Responses to Questions (Other Matters)

No.	Agenda Item / Applicant's Response
10(a.1)	<p>Item: - ...<i>applicant to update ExA on hydraulic analysis and other matters outstanding with Environment Agency</i></p> <p>Response:</p> <p>The position on matters relating to flood risk and the water environment has advanced since the Environment Agency (EA)'s RR [RR-017] and the D2 dSoCG [REP2-014] as per the updated D3 dSoCG [D3.15].</p> <p>The outstanding issue was that In the absence of detailed fluvial (river) modelling, the EA 'Risk of Flooding from Surface Water' (RoFSW) mapping was used in the ES Appendix 2.4 FRA & ODS [REP2-022] as a proxy for the fluvial flood risk. The EA's RR raised concerns that there was a potential gap in the Applicant's reliance on the RoFSW for baseline information, where the ordinary watercourses combine and transition to a 'fluvial' flood risk within the Site, shortly upstream of the Lostrigg Beck.</p> <p>Following this the Applicant and EA agreed the methodology of further hydrologic analysis to validate the proxy status of the RoFSW mapping, which was undertaken and provided at D2 as the Technical Note 'Hydraulic Analysis of Flood Flows in Ordinary Watercourses' [REP2-024] along with corresponding updates to the FRA.. Since the D2 submissions the EA have confirmed the FRA Appendix D analysis is reasonable, follows the agreed approach, and has addressed the EA's concerns on this matter. This means the FRA's use of the RoFSW as a proxy is agreed and no changes will be required to the FRA's assessment of flood risk. Formal confirmation of this advanced position will be reflected in the forthcoming EA dSoCG update.</p> <p>In relation to '<i>other matters outstanding</i>', as a result of this analysis and ongoing engagement relating to outcomes the EA have asked the Applicant to make targeted amendments/additions to text within the OCEMP [APP-108] and ODS on matters relating to flood risk, drainage design, water quality, impacts on fish (mitigation), watercourse crossings, and the discovery strategy for contaminated land. These changes will represent strengthening existing language and reinforcing existing measures rather than introducing new topics.</p> <p>The Applicant and the EA have reach agreement on all of these matters in terms of what the EA would like to see added and the Applicant's intention to make the revisions. The updated dSoCG reflects broad agreement on all of these matters subject to the EA's final review of the revised text, meaning that they will remain as matters '<i>under discussion</i>' but are agreed in principle. While the Applicant recognises that full</p>

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	<p>resolution will be subject to the EA's consideration of the revisions, there is a clear understanding as to what the EA expect and the Applicant envisages no impediments to meeting EA expectations.</p> <p>The Applicant believes that the only potentially outstanding matters are where the EA will review the updates made to Requirement 4 (CEMP) and Requirement 8 (ODS), amended in line with EA recommendations. The language regarding the Discovery Strategy within the OCEMP has been updated as recommended by the EA. It remains under discussion whether the language will also be updated to specifically name the EA as a consultee, as the Applicant considers it may not be appropriate given that the Environmental Protection Act 1990 (EPA 1990) places the contaminated land regime under Part 2A of the EPA 1990 under the enforcing authority of the Council as per government guidance on this matter (DEFRA, 2012)³. The Applicant considers the Council is likely to consult with the EA as recommended by the guidance, and is happy to provide details to the EA if the discovery strategy is triggered, but is concerned about a request for the CEMP to commit to an a layer of oversight beyond the requirements of the EPA 1990 legislation.</p>
10(a.2)	<p>Item: ...<i>applicant to update ExA on anticipated further survey work relating to Lillyhall roundabout expected September 2025.</i></p> <p>Response:</p> <p>Through constructive dialogue with National Highways (NH) the Applicant has collected traffic data at the Lillyhall roundabout to provide further reinforcement of the Transport Statement (TS) [APP-102] conclusions and the resultant measures of the OCTMP [REP2-025].</p> <p>The data collection was originally scheduled to take place in w/c 7th July 2025. However, due to roadworks on the A595 south of the Lillyhall roundabout the survey was postponed and data collection was undertaken in September 2025 to avoid the 2025 educational holiday period and ensure the surveys took place in a neutral month. NH has confirmed that it accepts the scope and format of the data collection exercise.</p> <p>The data collection surveys consisted of:</p> <ul style="list-style-type: none"> a) One day vehicle turning count and queue length surveys at Lillyhall roundabout use video capture and analysis. This included all vehicle types and non-motorised users (pedestrians and cyclists). The survey took place on Wednesday 17th September from 07:00 to 19:00. It is hoped that this will provide an indication of the flow of traffic through the junction and show whether there are any periods of network congestion. b) Seven-day Automatic Traffic Count (ATC) surveys capturing traffic flow and speed by vehicle type with one ATC on each arm of Lillyhall roundabout. The survey took place between Wednesday 17th September and Tuesday 23rd September (inclusive).

³ Department for Environment Food & Rural Affairs (2012) Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance

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	<p>Following completion of the surveys the data will be assimilated and analysed in the w/c 29th September and used to further appraise the forecast effects of the Proposed Development.</p> <p>The results will be discussed with NH and the outcome from the appraisal will be recorded through either a standalone technical note or an update to the OCTMP to be provided at D4. If necessary, language will be added to the OCTMP final CTMP secured by Requirements 5 of the dDCO [REP2-004] will take the outcome of the survey into account in the design of the management measures that will be consulted on with NH in advance of the submission to discharge the CTMP Requirement.</p> <p>The dSoCG with NH [REP2-019] submitted at D2 will be updated to reflect NH's position on the outcome of the appraisal, and any measures to be included within the OCTMP as a result. It was not possible to provide resolution sooner due to the timing of the survey and the need for data processing and analysis. The Applicant expects an updated dSoCG to be provided along with survey details at D4.</p>

