

Local Planning Authority Response to the ExA's second written questions (ExQ2)

Application by FVS Dean Moor Limited for an order granting development consent for the Dean Moor Solar Farm

	ExA Written Question	Council Response
Q2.1.3	<p>Paragraph 12.45 of the Applicant Response to the Local Impact Report [REP3-008] indicates a legal agreement could be pursued in relation to monitoring. Is the Council satisfied with the applicant's response, which relies on control documents and the draft Development Consent Order (dDCO) requirements, as opposed to a legal agreement?</p>	<p>The Council consider that it is crucial to ensure a suitable monitoring arrangement is in place for the lifetime of the development. Any monitoring fee would need to be secured by appropriate means.</p> <p>The Applicant has set out that the requirement for monitoring would be undertaken and secured by the DCO Requirements which include the production of a CEMP, OMP, LEMP and DMP which are to be substantially in accordance with the outline versions which set out the proposed monitoring measures.</p> <p>The Council notes that the OLEMP secures the regular monitoring of habitats and planting within the Site throughout the operational phase. It is noted that the Applicant has agreed to make monitoring data available to the Council upon request, as well as sharing the outcomes of the repeat surveys and correctional management measures on submission of the LEMP.</p> <p>The Council would require that the LEMP is updated every five years to assess the progress towards the desired habitat conditions set out in the OLEMP. The Council are satisfied that this would place a legal obligation on the Applicant to undertake the monitoring for the duration of the Proposed Development (including construction, operational and decommissioning phases).</p>

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		<p>The Council is in agreement with the Applicant that the monitoring regime as set out in the OLEMP, and particularly the requirement for regular updates based on annual monitoring which will be submitted to the Council for approval, provide security on the delivery of the LEMP and a mechanism of oversight by the Council.</p> <p>On this basis the Council is prepared to accept that it would not be necessary to enter into a separate legal agreement to undertake this monitoring.</p>
Q2.3.2	<p>Please clarify whether you are satisfied with the applicant's updated appraisal of relevant schemes to be considered cumulatively as set out in appendix A (cumulative assessment note) of the applicant response to Cumberland Council's response to ExA's first written questions [REP3 008], and the associated documents.</p>	<p>The Council identified an additional 31 schemes that it considered raised potential cumulative impacts, and which required review. These schemes have now been assessed by the Applicant and the conclusions were set out in the Cumulative Assessment Technical Note submitted by the Applicant as Appendix A of the ARLIR (REP3-008)</p> <p>The Council has considered the additional appraisal work undertaken and agrees with the conclusions of the Technical Note. The Council is satisfied that these additional cumulative schemes do not result in further significant cumulative effects. The Council's consider that the conclusions reached by the Applicant are reasonable and robust given the location and nature of the additional schemes that have been assessed.</p>

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		It has been agreed with the Applicant that further clarity in relation to cumulative effects will be included in the updated version of the dSoCG under LPA.7.
Q2.3.3	Please respond to the applicant's response to the local impact report [REP3-008]. It may be more efficient to include separate sections within the dSoCG, if you are able to agree with the applicant, which addresses each of the points in the local impact report. Otherwise please provide a response in tabulated form.	<p>The Council and the Applicant have had positive engagement throughout the process relating to a number of environmental and planning matters. Further detailed discussions have recently taken place following the Applicants response to the Councils Local Impact Report. This has resulted in an update to the dSoCG to reflect the areas where there is agreement between the Council and the Applicant. The updated dSoCG will be submitted at D4.</p> <p>The following summary sets out the current position on the key topic areas: -</p> <p>Planning Policy</p> <p>The Council notes the Applicants response to the requirements of the relevant planning policies and accepts the conclusions made.</p> <p>Ecology and Biodiversity</p> <p>The outcome of discussions are reflected in the dSoCG (REP3-019) which was submitted at D3.</p> <p>Landscape and Visual Impact</p>

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		<p>The outcomes in relation to landscape have been referenced as appropriate within the dSoCG as matters which have been agreed. The dSoCG does highlight where there are minor differences in judgements between the relevant Landscape professionals. The Council agrees that these do not affect agreement on the overall conclusions.</p> <p>The Council made recommendations for further detail to be provided. Following discussions with the Applicant the dSoCG has been updated to explain when that information would be made available. This includes the heights of landscape planting which would be included in the LEMP.</p> <p>The Council would wish to provide feedback as part of the detailed design considerations so that it had an input into the preparation of the documents that are submitted to discharge Requirements.</p> <p>Cumulative Effects</p> <p>See response to Q2.3.2 above.</p> <p>This position will be included in an update to the dSoCG which is to be submitted at D4.</p> <p>Residential Amenity</p> <p>See response to Q2.3.4 below.</p>
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		<p>This position will be included in an update to the dSoCG which is to be submitted at D4.</p> <p>Archaeology and Heritage</p> <p>All issues were addressed within the dSoCG submitted at D2</p> <p>Environmental Health</p> <p>All issues have been addressed. An update to the issue of statutory nuisance has been provided by the Applicants which has been reviewed and agreed by the Councils EHO.</p> <p>This position will be included in an update to the dSoCG which is to be submitted at D4.</p> <p>Transport and Access</p> <p>All issues were addressed within the dSoCG submitted at D2</p> <p>Flood Risk and the Water Environment</p> <p>All issues were addressed within the dSoCG submitted at D2</p> <p>Ground Conditions and Minerals</p> <p>All issues were addressed within the dSoCG submitted at D2</p> <p>Employment and Skills</p>
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		<p>The Council is still involved in discussions with the Applicant on the issues of employment and skills.</p> <p>The Council notes the Applicant's intention to submit an updated OCEMP and OOMP at D4 which would include additional commitments in relation to local employment and skills. The principle of these have been discussed with the Applicant. The Council intends to review these updated commitments and it is anticipated that an updated position on this matter can be included within the next iteration of the dSoCG, which will be submitted at D5.</p> <p>Summary</p> <p>Overall, subject to the issues set out above, the Council is broadly in agreement with the Applicant's statements. This position is reflected in the updated version of the dSoCG which is to be submitted at D4.</p>
Q2.3.4	Please clarify whether you are satisfied with the applicant's overall approach/methodology and conclusions regarding the potential impact of the scheme on the living conditions of occupiers of properties (i.e. residential amenity).	<p>The Council has reviewed the Applicants methodology and assessment of the potential impacts on residential amenity.</p> <p>The Council has undertaken detailed discussions with the Applicant on a number of issues that are likely to affect residential amenity. In response to this the Applicant has provided some clarification, and in some instances the</p>

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		<p>submission of additional details to set out its approach to the consideration and assessment of these matters.</p> <p>The matters where there is agreement between the Council and the Applicant are set out in the dSoCG. An updated version of this document is to be submitted at D4 to provide clarity on the current position.</p> <p>The Council has considered impacts on residential amenity for both the construction and operational stages of the proposed development.</p> <p>The key considerations are set out below to inform the ExA of the Councils stance.</p> <p><u>Glint and Glare</u></p> <p>Although the Council acknowledge that any final layout for the proposed development has not been set, there are a number of residential properties which lie in close proximity to the site, and these may be affected by the effects of glint and glare.</p> <p>The Applicant has undertaken an assessment of glint and glare. Long term mitigation proposed relates to the addition of planting. The Council notes that the Applicant has acknowledged that planting may take time to mature and so some temporary mitigation is proposed in the form of green mesh barriers until the planting proposed matures to a sufficient height.</p>
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		<p>Whilst the provision of temporary mitigation is welcome the Council will require full details of the temporary measures, including their specific location and details of the time periods that the barriers will be maintained in place to be submitted and agreed by the Council,</p> <p>The Council is satisfied that such measures can be controlled through the control documents secured through the DCO Requirements, including the CEMP, LEP, LEMP and OOMP. It is important that the Council is allowed sufficient opportunity to scrutinise these as part of the DCO discharge process.</p> <p>The Council would also suggest that provision is made to agree a protocol or methodology to deal with any unexpected effects from glint and glare that are experienced once the solar farm is constructed and operational. This could be similar in nature to the provision made for any substantiated complaint made in relation to noise. Such a measure would provide additional reassurances to ensure that residential amenity is adequately protected.</p> <p><u>Residential Visual Amenity</u></p> <p>The Council has been involved in detailed discussions with the Applicant in relation to the potential visual effects of the Proposed Development. This followed on from the review of the Landscape and Visual Impact that was commissioned by the Council to allow a thorough</p>
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		<p>assessment of the potential impacts. These discussions have focussed mainly upon the effects on the residential receptors at Wythemoor Sough, Dean Cross Cottage, Jackie Hill and Colligate.</p> <p>Whilst there is a difference between the Applicants LVIA and the Councils LVIA Review the Council acknowledge that these reflect reasonable differences in professional opinion. There is no major disagreement on the outcomes which undermine the conclusions reached by the Assessment. The minor effects identified can be overcome by agreement to the detailed layout of the proposals, the type and location of the landscaping proposed and the mitigation measures proposed as set out in the OLEMP.</p> <p>The Council has requested additional woodland planting along the west of Branthwaite Edge Road to provide visual screening for both static residents and from the transient views of road users. The Council would expect the Applicant to have regard to its feedback in the preparation of the final LEP and LEMP ahead of the submission to discharge the DCO Requirements.</p> <p>The Agreed position between the Council and the Applicant on these matters is set out in the updated dSoCG which is to be submitted at D4.</p> <p><u>Traffic</u></p>
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		<p>The Council is satisfied with the assessment of the impact of traffic on amenity that has been undertaken. The Highway Authority has been consulted and has had an input into the details set out in the OCTMP.</p> <p>The Council as the Highway Authority is satisfied with the content of the OCTMP.</p> <p><u>Dust, Dirt, & Air Quality</u></p> <p>The Councils EHO has been in active discussion with the Applicant on the content of the OCEMP. The EHO has confirmed agreement to the approach taken by the Applicant on this topic.</p> <p><u>Noise</u></p> <p>The Councils EHO has agreed that the construction OCTMP and OCEMP will provide measures to suitably address noise effects and provide suitable mitigation subject to the Council's review of the final CTMP and CEMP which are to be provided as a DCO Requirement</p> <p>In terms of the operational phase of the development the Council is satisfied that the use of a Noise Impact Assessment (NIA) based on a 'worst-case' operational noise effects scenario is an appropriate level of assessment to consider noise and vibration effects. The Requirement for an updated NIA to be submitted to and agreed by the Council is also welcome. This will provide a</p>
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		<p>mechanism to consider the impacts and agree the mitigation that is to be implemented.</p> <p>In addition to the DCO Requirement 12, the Council welcomes the opportunity to scrutinise the final OMP in relation to detailed noise attenuation measures being provided which requires maintenance and secures the provision of a means by which the Council can ensure acceptable operational noise effects.</p> <p>The Councils EHO is satisfied that the Application's approach to noise assessment and mitigation is appropriate to deal with the adverse noise impacts that may affect the amenity of the occupiers of nearby dwellings.</p> <p><u>Statutory Nuisance</u></p> <p>The Council is pleased to note that the Applicant has prepared a Statutory Nuisance Statement to justify provisions within the draft DCO relating to Statutory Nuisance.</p> <p>The Council agrees that the Applicant has proposed the appropriate embedded and additional mitigation measures identified in the ES and set out in the relevant control documents. These will prevent impacts which have a potential to result in statutory nuisance under Section 79 of the EPA. The Council note that these measures are secured by requirements within the draft DCO.</p>
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		<p><u>Light Pollution</u></p> <p>The Council's EHO has been consulted on the relevant control documents.</p> <p>The Council agree that the use of lighting within the Proposed Development can be acceptable subject to appropriate design and controls to ensure that it is operated in a sensitive way.</p> <p>The Council agree that the final CEMP (for construction) and LEMP/OMP (for operation) are appropriate means by which to control the use of lighting on the site. The Council will review the documents provided as a DCO Requirement to agree any final lighting designs.</p> <p><u>Ground Conditions</u></p> <p>The main issue relating to amenity with regards to ground conditions is the stability of the ground resulting from the former mining activities within the area. These matters have been subject to discussion and agreement with the Mining Remediation Authority. The Council accepts the technical input and conclusions of the MRA on this matter.</p> <p><u>Contamination</u></p> <p>The Councils EHO is satisfied with this approach and the measures proposed to deal with potential contamination to limit the potential effects on residential receptors as set out in the OCEMP.</p>
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		<p>The Council will review the final details that are submitted for the discharge of the DCO.</p> <p><u>Flood Risk</u></p> <p>The main potential effects to residential receptors resulting from the construction of the development would be a potential increase in off-site flood risk.</p> <p>The Council as LLFA is satisfied with the Applicant's approach to the assessment and control of flood risk during construction.</p> <p>The Council is satisfied that the requirement for the measures set out in the OCEMP can be fully considered in association with the discharge of DCO Requirement 4. This provides additional reassurance that flood risk can be mitigated and will not have adverse impacts on residential receptors.</p> <p>The Council as LLFA supports the proposed landscape-led drainage strategy for the development.</p>
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