



Dean Moor Solar Farm

Applicant Response to OFH Action Points

on behalf of **FVS Dean Moor Limited**

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DEAN MOOR SOLAR FARM
APPLICANT RESPONSE TO OFH ACTION POINTS
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PREPARED ON BEHALF OF FVS DEAN MOOR LIMITED

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1 Introduction

1.1 Overview

- 1.1.1 This Applicant Response to Open Floor Hearing (OFH) Action Points (ARAP-OFH) and has been produced for FVS Dean Moor Limited (the Applicant) to support the DCO application for the Dean Moor Solar Farm ('the Proposed Development') which is located between the villages of Gilgarran and Branthwaite in West Cumbria (the 'Site') and situated within the administrative area of Cumberland Council ('the Council').
- 1.1.2 Specifically, this document has been produced in response to the OFH held by the Examining Authority (ExA) on 13 November 2025, with the Applicant's submissions at the OFH summarised in the Applicant's Written Summary of OFH Oral Submissions (AWSOS-OFH) [D5.9].
- 1.1.3 The Applicant notes that the ExA did not request the Applicant to respond to a formal Action Point (AP) relating to the oral submissions of Interested Parties (IP) at the OFH. However, it was made clear that a written response would be expected, and the Applicant's oral submissions include commitments to a written response, and therefore the Applicant is treating these commitments as AP requirements.
- 1.1.4 There were two Interested Parties at the OFH who raised various points orally. The Applicant committed to provide written responses to some of the matters raised and these form AP1 and AP2 for which the Applicant provides submissions in Table 2.1 to follow.
- 1.1.5 The ExA asked both IPs to confirm in writing at Deadline 5 the points they had raised. The ExA confirmed that the Applicant would be able to respond to the those written submissions at Deadline 6.

2 Open Floor Hearing (OFH) Actions

Table 2.1: Applicant response to OFH actions

Ref:	Applicant response to OFH actions
AP1	<p>Action: <i>Applicant to provide a written submission to address matters raised by the Interested Party, Mr. Malcom Fulton (Mr. Fulton), representing both himself and Ms. Susan Carling (Ms. Carling), as residents of [REDACTED] and the owners of a mixed commercial-residential plot adjoining the southeastern most boundary of Area C.</i></p> <p>Applicant Response:</p> <p><u>Background/Context</u></p> <p>The Applicant notes that some of the matters raised Mr. Fulton in the OFH are the same as, or are very closely related to, matters raised in the Issue Specific Hearing (ISH) for Agenda Item 6(d). For OFH matters which overlap with the ISH actions, the Applicant's written submission for ISH actions AP31 and AP32 in the Applicant Response to ISH Action Points (ARAP-ISH) [D5.12] provide a written response some OFH matters.</p> <p>The Applicant considers that Mr. Fulton did not express a concern with the principle of the Proposed Development, but he has queried its positioning in relation to their property and expressed concern for potential for environmental effects due to proximity. These were primarily visual effects which relate to the matters for which a written submission is provided in the ARAP-ISH.</p> <p>Many of the comments made at the OFH reflect matters raised in early Relevant Representations (RR) by Mr. Fulton [RR-003], Ms. Carling [RR-004], and Miss Fulton [RR-008]. The Applicant's response to these RRs is provided in the Applicant Response to RR (ARRR) [REP1-002] at pages 63 – 67 of the ARRR. While the Applicant considers the ARRR responses remain sound, some matters have moved on because of matters raised during the Examination and this written response provides the Applicant with an opportunity to provide an update.</p> <p>A matter raised in these early RRs and at the OFH is noise impact. Mr. Fulton lives at [REDACTED] which is a potential noise sensitive receptor (NSR). This is a topic where things have advanced since the Applicant's initial response in the ARRR. The other topic Mr. Fulton raised was in relation to glint and glare (G&G). While the Applicant's position on this has not substantively changed there has been some minor advancement. The remainder of this written response will deal with these two issues as potential residential amenity impacts.</p>

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	<p>Noise</p> <p>The Applicant's position on noise has advanced due to questions raised by the ExA. The Applicant's submissions on this topic are found at:</p> <ul style="list-style-type: none"> • The Applicant Response to the EXQ1 (AREQ1) [REP2-010] for Q9.0.1 in Table 10.1 (pages 64-66) and at AREQ1 Appendix J [REP2-011] • The Applicant Response to ISH Agenda Items – Annex A (ARISH-A) [REP3-015] for agenda item 9(a) in Table 9.1 (pages 38-40). <p>The ARISH-A response included a commitment to updating the ES Appendix 2.6 – Noise Impact Assessment (NIA) [REP4-017] to include the additional information/clarification provided in the AREQ1 response/appendix. It also included a commitment to update the ES Appendix 3.1 Outline Operational Management Plan (OOMP) [REP4-019] to secure additional mitigation for this topic. Both documents were submitted at D4.</p> <p>The NIA includes Figures 001 and 002 showing areas where infrastructure could be located to avoid significant noise effects based on the worst-case equipment assessed in the NIA. The NIA shows that the Work No. 2 equipment can be located anywhere in the Work No. 2 area without effects which exceed the Lowest Observable Adverse Effects Level (LOAEL). They also show that the Power Conversion System (PCS) Units of Work No. 1 could be located where effects would exceed the Significant Observable Adverse Effects Level (SOAEL) without mitigation.</p> <p>NIA Figure 003 shows the same but with additional attenuation measures added to the PCS Units which increases the area where the PCS Units could be located without giving rise to effects exceeding the SOAEL. However, this does not remove the possibility of PCS Units being located in a part of Work No. 1 where they could have significant effects on [REDACTED] as a NSR.</p> <p>Although there are locations in Work No. 1 near [REDACTED] where locating PCS units could lead to significant adverse effects, the figures also show that for most of the Site the effects of PCS units would be within or below the LOAEL. The Applicant has flexibility in the placement of PCS Units so there can be confidence in the Applicant's ability to avoid and mitigate effects as required by planning policy through the sensitive siting of equipment and/or the provision of additional attenuation to reduce equipment noise.</p> <p>Because Work No. 1 parameters don't restrict the locations of PCS units where they could have significant effects, the prevention of significant effects is secured by dDCO [REP2-004] [D5.3] via Requirement 12 – Operational Noise.</p>

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	<p>This requires that no part of Work No. 1 may be operational until an updated NIA has been submitted based on the detail design which demonstrates the Work No. 1 equipment will not have a significant operational noise effect. Once approved, the modelled outcomes of the NIA must be complied with throughout the operational period.</p> <p>This means that even though NIA Figures 001-003 show there are Work No. 1 locations where the PCS Units could have significant effects, the PCS Units cannot be located in areas of Work No. 1 where they could have effects exceeding the SOAEL.</p> <p>In addition to Requirement 12, additional safeguards for operational noise have been integrated into the OOMP [REP4-019] (see Table 4.1(A1-A4)). This requires that the Applicant provide details of any mitigation relied on to minimise noise effects and any maintenance requirements (A2). It goes on to establish a commitment to a Noise Verification Report (NVR) to be undertaken within the first year of operation to demonstrate operation within the parameters approved by the Council in the discharge of Requirement 12 (A3). It also sets out protocols for investigation and resolution in the event of a substantiated noise complaint being received (A4).</p> <p>The Applicant considers this is a robust approach which secures the prevention of significant effects and requires that noise effects which are not significant be mitigated and reduced. The inclusion of an NVR provides a way for the Council and nearby residents to be certain that the equipment is operating as modelled for Requirement 12. Further, the corrective action procedure ensures there are clear protocols in place for investigation and resolution of any complaints that may be raised.</p> <p>Construction noise is not considered to have potential for significant effects but controls are included in the Outline Construction Environmental Management Plan (OCEMP) [REP4-021] [D5.14], particularly at Section 7 – Control of Noise and Vibration, to ensure the mitigation hierarchy is followed and best practice is adopted to avoid and minimise construction noise. Noise /mitigation will also be supported by measures in the Outline Construction Traffic Management Plan (OCTMP) [REP2-025].</p> <p>The application's approach to noise has been considered by the Council's Environmental Health Officer (EHO) as per the dSoCG [REP4-015] [D5.18] which affirms the approach to noise assessment and mitigation at CC.EHO. 6 for construction and CC.EHO.15 for operations.</p> <p>The Council has subsequently provided the ExA with reassurance and reinforcement on this matter in the Council's Response to EXQ2 [REP4-030] for Q2.3.4 which asked the Council for their position on the Applicant's assessment and mitigation proposals relating to residential amenity. The Council responded (see pages 10 and 11) on both construction and operational noise and confirmed that '<i>The Council's EHO is satisfied</i></p>

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	<p><i>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.'</i></p> <p><u>Glint & Glare (G&G)</u></p> <p>G&G has been scoped-out of the ES as part of an independent chapter on lighting or G&G in-itself, but has been incorporated into the ES as part of to the ES Chapter 7 – Landscape and Visual [REP2-032] findings following the Glint and Glare Assessment (GGA) [REP3-011] [REP3-013]. The GGA considers all potential receptors for G&G effects, including road, aviation, and dwelling receptors.</p> <p>Where the GGA found a geometric potential for G&G effects requiring mitigation it considered whether mitigation already exists or is proposed by the indicative Landscape Strategy Plan [APP-088] and has found that there are no effects which require additional mitigation.</p> <p>A G&G model must be re-run based on the detailed design and layout and the Requirement 6 LEP, which will also consider updating ecological surveys for the condition of existing vegetation relied on for screening. This is secured by the OCEMP [REP4-021] section 4.7 – Lighting.</p> <p>The OCEMP requires that during construction, before any solar panels are installed which rely on mitigation planting which is insufficiently mature, temporary green mesh barriers will be erected to stand in for the vegetation screening until the planting is tall/dense enough to be effective, on its own, and requirements for this will be set out in the final CEMP.</p> <p>The OOMP [REP4-019] (see Table 4.1(H)) requires the maintenance of these barriers alongside the Outline Landscape and Ecology Plan (OLEMP) [APP-145] landscape implementation and maintenance, with planting to be monitored for screening efficacy before the temporary barriers can be removed.</p> <p>The Applicant considers the GGA provides a robust assessment of potential G&G effects on sensitive receptors. The dSoCG with the Council [REP4-015] [D5.18] affirms the approach to G&G at CC.LPA.6.</p> <p>Mr. Fulton can also be assured that the Council is scrutinising environmental impact topics in relation to residential amenity as much as possible ahead of the detailed design. The Council's response to Q2.3.4 EXQ2 [REP4-030] affirmed the Applicant approach while also recommending additional text be provided in the OOMP Table 4.1 to set out a complaints protocol for G&G effects similar to that included for noise. Following this response, the OOMP [D5.13] has been updated to include the measures as recommended by the Council.</p>

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	<p><u>Conclusions</u></p> <p>This WS has sought to provide reassurance on environmental health and amenity matters raised in the OFH, which are relevant to the residential amenity of residents at [REDACTED] and to the interests of all nearby residents. The Applicant is confident that effects can be mitigated through good design as secured by the Proposed Development's parameters and the DCO Requirements.</p> <p>The Applicant can also confirm that there are commitments in both construction and operational phase control documents requiring the Applicant to facilitate continual engagement with the local community through things like the construction phase community liaison group so that the Applicant can be responsive to concerns and continually work to minimise impacts.</p>
AP2	<p>Action: Applicant to provide a written submission to address matters raised by the Interested Party, Mr. James Christopher Howell (Mr. Howell) representing himself as a member of the local community.</p> <p>Mr. Howell raised several topics, reflecting his broad interests in Proposed Development's effects on the local and wider environment, many of which had been raised previously in Mr. Howell's written representations.</p> <p>In this written submission the Applicant, does not seek to re-address topics where a response has already been provided but will endeavour to provide references to the Applicant's previous responses. The Applicant will also provide a response on what it considers to be new matters raised at the OFH. Following any written representation made by Mr. Howell at D5, the Applicant will provide a response to any new matters.</p> <p><u>New Matter 1: Battery Storage</u></p> <p>The Applicant considers that Mr. Howell raised a new matter relating to Battery Energy Storage System (BESS) technology which has not been raised, as his previous representation focused on safety and environmental impacts of BESS being included. In his OFH oral submission Mr. Howell queried whether the solar farm could be viable without BESS, which he considers are essential to solar schemes.</p> <p>The Applicant can confirm that most solar farms consented in the UK do not include a BESS facility. The Applicant considers that hybrid projects are beneficial and important to support Government policy for an upgraded low carbon grid. However, BESS facilities are beneficial and complementary, but not necessary for a solar energy generating station. BESS is less likely to be incorporated into a solar farm where the available land is needed for solar arrays or where it cannot be accommodated by the grid, which was the case for the Proposed Development.</p>

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	<p>While BESS is an important part of the net zero grid transition, BESS technology is not necessary for the Proposed Development's significant climate change benefits to be realised and there is nothing in the NPS EN-3 policy for solar PV as '<i>critical national priority</i>' infrastructure linking this to the inclusion of battery technology on a solar farm site.</p> <p><u>New Matter 2: Subsidies</u></p> <p>The other new matter relates to subsidies and concern that public money is being used for the development of the scheme. The Applicant can confirm that the Applicant is an independent company, and no public subsidies have been relied on for the Proposed Development.</p> <p><u>Previous Representations and Responses</u></p> <p><i>IP Submissions</i></p> <p>The IP has made several written representations for which the Applicant has previously provided written responses. This includes:</p> <ul style="list-style-type: none"> • A statutory consultation (s42) response recorded in the Consultation Report Appendix 6 [APP-022] at Appx 6.20 (page A140 – A191) • A Relevant Representation (RR) in the pre-Examination period [RR-002] • A Written Representation (WR) at D2 [REP2-062] • A WR accessed as an Additional Submission (AS) on 08 October 2025 [AS-019] • A WR accepted as an AS on 12 November 2025 [AS-023] <p><i>Applicant Responses</i></p> <ul style="list-style-type: none"> • The Applicant response to Mr. Howell's s42 submission in Consultation Report (CR) Appendix 6 [APP-022] at 6.20 (pages A140 – A191). • The Applicant Response to RRs (ARRR) [REP1-002] addresses matters raised by Mr. Howell's RR in Table 4.6 (pages 69-72). <p>The ARRR includes the Applicant's response to matters also raised in the OFH including in relation to the reasons for the Proposed Development and Site selection, flood risk, local benefits, policy for large scale ground mounted solar, impact on designated landscapes (the Lake District National Park (LDNP) and Solway Firth Area of Outstanding Natural Beauty (AONB), and benefits to climate change mitigation.</p>

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	<ul style="list-style-type: none"> The D3 Applicant Response to D2 Written Representations (ARWR-D2) for JCH [REP3-007] addresses matters raised in Mr. Howell's D2 representation. Where the matters were like those in previous submissions and addressed in the ARRR or S42 response the Applicant provided references to those documents, (including specific pages numbers in CR Appendix 6) where a response had been provided. <p>Topics covered in the ARWR-2, some of which were raised in the OFH, include the DCO decision making process, solar farm Site selection, the Site's coal mining history, flood risk and drainage, ecology and biodiversity (particularly protected birds), and designated landscapes.</p> <ul style="list-style-type: none"> The D4 Applicant Response to D3 Written Representations (ARWR-D3) [REP4-005] acknowledged Mr. Howell's AS-019 submission but noted at paragraph 1.1.11 that the content of the D3 WR was substantively similar to previous WR and therefore the Applicant did not consider matters had been raised for which a new response could be provided. Topics in that AS include community benefit (lack thereof), Site suitability, flood risk, biodiversity and habitat impacts, and climate change mitigation. Mr. Howell's representation accepted as AS-023 is responded to in the ARWR-4 [D5.6] provided at Deadline 5. The primary matters raised include impacts on designated landscape and heritage interests. The Applicant considers these have been previously responded to sought to provide some additional information, particularly on the Solway Firth Special Protection Area (an ecological designation) and the Solway Coast National Landscape (formerly AONB) as a landscape designation, as well as providing references to relevant dSoCG. <p><u>General Comments on Responses and the DCO Process</u></p> <p>The Applicant appreciates Mr Howell's passion for the local area and his depth/breadth of knowledge. The Applicant has tried to respond effectively and provide cross-references to where matters raised have been addressed either in application documents themselves or in written submissions as part of the Examination.</p> <p>The Applicant notes his commentary on the nature of the DCO process and recognises that engagement with a DCO may not feel as straightforward as engaging with a Town and Country Planning Act application determined by the Council. However, as the ExA advised in the OFH, the ExA will take on board feedback received, and will report matters to the Secretary of State as the decision maker.</p> <p>The Applicant will continue to respond to any additional written representations Mr. Howell may make. However, the Applicant can only respond to new matters and not matters raised previously even if, regrettably, the Mr. Howell is not satisfied with a previous response.</p>