



Dean Moor Solar Farm

Applicant Response to the ExA's Report on the Implications for European Sites

on behalf of **FVS Dean Moor Limited**

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DEAN MOOR SOLAR FARM
APPLICANT RESPONSE TO THE EXA'S REPORT ON THE
IMPLICATIONS FOR EUROPEAN SITES
PLANNING INSPECTORATE REFERENCE EN010155
PREPARED ON BEHALF OF FVS DEAN MOOR LIMITED

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1 Introduction

1.1.1 This document is the Applicant Response to the Examining Authority's (ExA) Report on the Implications for European Sites ('RIES') ('ARRIES') [D6.10] 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') on approximately 279.50ha of land 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 The ExA published the RIES [PD-016] on 19 November prior to Deadline 5 (D5). The purpose of this document is to set out the Applicant response to the questions, highlighted in bold blue text within the RIES, which are addressed to the Applicant.

1.1.3 As set out within paragraph 1.3.1 of the RIES, the questions are predominantly targeted at the Applicant or Natural England (NE), and any responses will '*... be of great value to the ExA in understanding IP's positions on Habitat Regulations matters. It is stressed that responses to other matters discussed in the RIES are equally welcomed*' The RIES clarifies that comments are expected by D6.

1.1.4 The Applicant refers within this document to the Shadow Habitat Regulation Assessment (sHRA) [REP5-018], updated and submitted at D5 in response to Q2.1.4 of the ExA's Second Written Questions (ExAQ2) [PD-012] (see tracked change version [REP5-019]).

1.1.5 The Applicant has consulted NE on the scope, methodology and assessment conclusions of the sHRA prior to the submission of the application. NE have confirmed agreement with the methodology and conclusions of the Applicant's sHRA within the signed SoCG submitted at D5 [AS-030].

1.1.6 No further changes to the sHRA are expected to be required in response to the RIES, an explanation of which is set out in Table 2.1.

1.2 Overview and Structure of this Document

- 1.2.1 This ARRIES is provided as a tabular response, structured in order of the questions within the RIES.
- 1.2.2 As requested by the ExA, each response refers to the ID of the question.

2 Applicant Response to the RIES

Table 2.1: Applicant Response to RIES Questions

Ref	Question	Applicant Response
Q1	<p><i>The HRA Report does not consider the decommissioning phase. What is the potential for effects of the decommissioning phase on European sites?</i></p>	<p>The sHRA has considered the Proposed Development in all stages (construction, operation and decommissioning) as per paragraph 1.3.2 of the sHRA [REP5-018], although it is acknowledged that decommissioning is not included in supporting tables or Appendix C. Explanation of this, and clarity on the likely significant effects (LSE) relating to the decommissioning phase is provided below.</p> <p>Decommissioning effects are anticipated to be similar in nature to those during construction, though potentially of reduced magnitude. Therefore, it is considered there is no potential for LSE to European Sites during the decommissioning phase of the Proposed Development.</p> <p>The River Ehen Special Area of Conservation (RE) (SAC); Lake Distract High Fells (LDHF) SAC and the North Pennine Dales and Meadows (NPDM) SAC are all distant from the Site, being 6.1km, 8km and 8.9km respectively. As such, most threats and pressures listed in Table 3.2 of the sHRA specific to each SAC would not be applicable during decommissioning (i.e. 'changes in species distributions', 'changes in biotic conditions', 'air pollution', 'grazing', 'outdoor sports and leisure activities', 'problematic native species', 'modification of cultivation practices', 'mowing/cutting of grassland', and 'fertilisation').</p> <p>The removal of solar panels and other infrastructure will not introduce invasive non-native species (INNS) to either the LDHF SAC or NPDM SAC and there is no direct hydrological link which could make this possible through the transportation of soil contaminated with seeds of INNS such as Himalayan balsam. The River Ehen is also in a different catchment such that its qualifying features (Atlantic salmon and freshwater pearl-mussel) will not be impacted directly or indirectly by either by pollution or siltation which might occur because of the removal of solar panels and infrastructure. Although INNS is not listed as a threat for the RE SAC, the absence of a hydrological link will negate any impact. Being in a different catchment rules out effects caused by '<i>Human induced changes in hydraulic conditions</i>'.</p> <p>Considering the decommissioning phase for the River Derwent and Bassenthwaite Lake (RD&BL) SAC and Solway Firth (SF) SPA, there is also no potential for LSE. It is unlikely that pollution, mobilised soils and sediments will occur during</p>

decommissioning due to the environmental management set out in Section 3 of ES Appendix 5.4 Framework Decommissioning Management Plan (FDMP) [[APP-111](#)].

The FDMP provides a framework for a future DMP, which will include a suite of documents to comply with relevant legislation at the time of decommissioning, and is expected to include a Decommissioning Environmental Management Plan (DEMP) similar in scope to the Construction Environmental Management Plan (CEMP) (see OCEMP [[AS-026](#)] which will include ecological management, pollution prevention, materials management, and waste management, amongst other topics (Paragraph 3.1.5 of the FDMP)).

Further, the environmental enhancements included as part of the Proposed Development along the banks of the watercourses, and which may be retained post works, such as riparian planting and vegetated buffers, will improve the capture of any mobilised sediments or pollutants during decommissioning, and prevent them from reaching watercourses. Given the Proposed Development is at the very top of the River Marron catchment, which itself enters the lower part of the River Derwent system, it is likely that any mobilised sediment or minor pollution event would be significantly diluted before it reached the main stem of the river and not have an LSE on the rest of the protected Site in the wider catchment. Consequently '*Changes in species distributions*' which include otter, Atlantic salmon and lamprey species would not occur during decommissioning. The absence of instream works will negate any impacts associated with changes in hydraulic conditions.

The SF SPA is 5km from the Proposed Development and most threats and pressures will not occur during the decommissioning phase of the Proposed Development and have indeed been discounted at the construction and operation stages (Table 3.3 of the sHRA).

'*Other ecosystem modifications*' were considered as part of the Appropriate Assessment due to the presence of herring gull which form part of the bird assemblage, specifically '*Article 4.2 non-breeding assemblage*' and the potential for the Site to be Functionally Linked Land (FLL). However, given the absence of LSE during construction and operation, and the reduced scope of works associated with decommissioning, not least habitats used previously would become available to foraging birds, impacts associated with this pathway are considered negligible.

Given the distance from the Site to the European designated areas, the nature of the identified threats and pressures specific to each designated area, that impacts associated with construction will be greater than decommissioning and which

		have been comprehensively covered, and with the adoption of control documents as part of the DMP, it is concluded that there will be no LSE during decommissioning.
Q.2	<p><i>The HRA report assumes an absence of in stream and bankside works as the basis for avoiding any impacts to aquatic species including fish and plants (paragraph 5.2.12). Given the potential (albeit unlikely) for in-stream works to occur (and the resultant mitigation secured in the oCEMP) explain further why there is no risk to the qualifying features of the RD&BL SAC qualifying features, or provide an assessment of LSE from this impact pathway and the information to inform an appropriate assessment.</i></p>	<p>Data provided from fish surveys has indicated that the fish assemblage and population size on Thief Gill, a tributary of the River Marron, and at a point closest to the Proposed Development is very limited. This concurs with the information included in paragraph 5.2.18 of the sHRA [REP5-018] which outlines the limited suitability of the watercourses on Site for Atlantic salmon and lamprey species and which was derived from field data collected to inform this application.</p> <p>The need for in-stream works is limited because the Site has an established internal access track network, and this features a number of existing crossings, the locations of which are identified in the Work Plans [APP-007] as Work No. 3. These are the only locations that can be used as crossings, with no new culverts or other works required which could require in-stream works. Any in-stream works would therefore be of a limited scale, only to repair/reinforce and maintain existing culverts. Such works would be small scale and only to ensure existing crossings can be used safely and are in a suitable condition so as to prevent degradation which could affect the watercourse channel. These are a scale of works not dissimilar to what would be required, over the years, in association with the existing agricultural use which depends on these crossings.</p> <p>Such works would be limited to existing crossings and would only be done in accordance with a secondary permit/consent from the Council as Lead Local Flood Authority, as set out in the OCEMP [AS-026] (section 12.3) and would be governed by the CEMP's ecological management requirements (as per OCEMP section 5.5), including Ecological Clerk of Works (ECoW) supervision, along with any other requirements of the Risk Assessment and Method Statements (RAMS) associated with the LLFA's Ordinary Watercourse Consent (OWC) .</p> <p>The location of any such works would be for existing crossings on Site watercourses, at a location over 5km from the SAC. The SAC spans approximately 1,794ha and comprises many watercourses each supporting a diversity of fish, including those listed as qualifying species. Should such small scale works be needed to facilitate water crossings, the distance from the SAC, along with the limited suitability of the section of Thief Gill within the Site to support qualifying aquatic features of the SAC, there is no potential for LSE to occur.</p> <p>Furthermore, any works to watercourses during construction will be carried out in accordance with the CEMP which will be subject to consultation with the Environment Agency and Natural England. It is not expected that such works would be required for decommissioning although if any upgrades/repairs are needed over the operational phase or as part of the</p>

	<p>decommissioning and reinstatement, the same construction phase controls would apply including the CEMP governance requirements (or the future DEMP version) and the requirement for consent from the Council as LLFA.</p> <p>The application for the Council's OWC includes a design and RAMS for the works, including for applicable environmental protections beyond those contained in the CEMP (see OCEMP paragraph 12.3.29). The RAMS would include input from the appropriate environmental specialist, likely the ECoW once the location of crossings are determined and civil engineering survey determine the condition of the existing crossings which will inform a requirement for and design of any in-stream works to be taken forward for OWC. The RAMS would make provision for the use of coffer dams, de-watering and fish rescue where appropriate.</p> <p>Agreement on the impacts on, and mitigation of the RD&BL SAC is set out within row EA17 of the EA SoCG [AS-032].</p>
Q.3 <i>Given the need for a Biosecurity Management Plan in the oCEMP, explain further why there is no risk to the qualifying features of the RD&BL SAC qualifying features, or provide an assessment of LSE from this impact pathway and the information to inform an appropriate assessment.</i>	<p>As set out in Table 3.3 of the sHRA [REP5-018], due to the separation from the Site, nature and scale of the Proposed Development, and the absence of INNS on Site, no risk from INNS to the RD&BL SAC have been identified and there is no potential for LSE.</p> <p>The Biosecurity Management Plan (BMP) is implemented as a best practice measure for developments of this scale and is included in the OCEMP [AS-026] for Site protection, rather than specifically to mitigate impacts on European Sites.</p> <p>The BMP's primary function is to prevent the introduction of contaminated materials that could compromise biodiversity within the Site, such as soil containing seeds or rhizomes of INNS brought to Site on unclean plant and machinery. No INNS have been identified on Site, and the BMP is a precautionary measure designed to maintain this status.</p> <p>Should contamination occur during construction, it will be promptly managed and eradicated to prevent further spread. The outline Landscape and Ecological Management Plan (OLEMP) (ES Appendix 7.7) [REP5-016] also provides protocols for managing INNS during the operational phase (Paragraph 3.11.24 to 3.11.27). With ongoing annual ecological monitoring and the safeguards established by the BMP, the risk of INNS establishment is negligible. Consequently, the Proposed Development will not impact the RD&BL SAC.</p>
Q.4 <i>Update table 4.2 and appendix C of the HRA Report to rectify the identified</i>	<p>This question relates to a discrepancy referred to in paragraph 2.4.1 of the RIES, which was identified by the ExA within Q2.1.4 of ExAQ2. The question acknowledges that the Applicant has recognised the discrepancy within the screening</p>

	<p><i>discrepancy described above.</i></p>	<p>matrices in section 4.2 of the SHRA [REP5-018] and the assessment in section 5 of the SHRA in relation to (RD&BL), and within the AREQ2 [REP4-004], committed to addressing this discrepancy.</p> <p>This update has been incorporated into the main report and issued as [REP5-018] at D5. The Applicant consulted NE on the change to Table 4.2, who agreed that this '<i>doesn't impact the conclusions of the shadow HRA, and is purely a documentation discrepancy rather than the absence of accurate assessment, we don't require any update to the SoCG.</i>'</p>
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