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To the Applicant
c/o Michael Baker, DCO Project
Manager, RWE Renewables UK Solar
and Storage Limited
(By email only)

Your Ref:
Our Ref: EN010139
Date: 08 March 2024

Dear Michael,

Planning Act 2008 (as amended) – Section 51

Application by RWE Renewables UK Solar and Storage Limited for an Order Granting Development Consent for the Byers Gill Solar project

Advice following issue of decision to accept the application for examination

On 07 March 2024 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

Consultees identified on a precautionary basis

Given the individual circumstances of this case, the Planning Inspectorate advises taking a precautionary approach to consultation under s42(1)(a) of PA2008 to ensure that all persons potentially affected by, or potentially likely to have an interest in the application are given the opportunity to participate fully in the Examination of the application. On this basis, the Applicant may wish to serve notice on the bodies listed in Box 6 of the section 55 checklist when it serves notice of the accepted application under s56(2)(a) of the PA2008; unless there is a specific justification why this is not necessary.

Given the individual circumstances of this case, and taking a precautionary approach to ensure that all persons potentially affected by, or potentially likely to have an interest in, the application are given the opportunity to participate fully in the examination of the application, the Planning Inspectorate suggests that the Applicant may wish to include the above bodies

amongst those on whom they serve notice of the accepted application under s56(2)(a) of the PA2008; unless there is a specific justification why this is not necessary.

Minor errors and omissions

There are minor errors and omissions, reflected in Box 30 of the acceptance checklist.

Draft Development Consent Order (Doc 3.1)

The Inspectorate following a review of the application documents has identified some minor errors between the submitted **Application Form (Doc 1.3)**, the **draft Development Consent Order** and the **Environmental Statement (Doc 6.2)**. The Applicant is advised to undertake a review of their application documents to ensure consistency across all documents. By way of example, the application form states that underground cabling will be up to 31km, whilst the Environmental Statement suggest this would be 32.5km and another 10km.

The Applicant may also wish to ensure consistency within the draft DCO when cross-referencing between the relevant Articles and Schedules as noted in the section 55 checklist, which may require amending, prior to the start of the Examination.

Street Works, Rights of Way and Access Plans (Doc 2.3)

The Inspectorate notes that there appears to be a lack of consistency across the plan sheets regarding street names and additionally there are some named streets which are referenced in the **draft Development Consent Order** that do not appear to have been labelled on the plans, e.g. sheet 7 and 8, Elstob Lane. The Applicant may wish to review the **Street Works, Rights of Way and Access Plans** and amend to ensure consistency and that all roads listed are labelled across all plans.

It has also noted that the legend is not consistent with the approach taken for the Land Plans in terms of listing only the details as reflected on the sheet. The key reflects various types of street works, even though the relevant sheet appears to not show the streets works as depicted in the legend. The legend on each sheet should be limited to what is present on that particular part of the plans; e.g. sheet 1, legend should not include 'A' streets subject to street works'. Consistency must be evident across all plans.

The order of the sheets in the **Street Works, Rights of Way and Access Plans** is not consistent with that of the Key Plan included in the **Works Plans (Doc 2.2)** or the **Land Plans (Docs 2.4)**. In addition, the **Street Works, Rights of Way and Access Plans** does not appear to actually match the layout of the key plan and does not appear to correspond to the order in which the sheets of the **Street Works, Rights of Way and Access Plans** are actually set out.

Works Plans (Doc 2.2)

The **draft Development Consent Order** refers to "Works No. 5" under Schedule 1 as works connecting Work No. 4 to Work No. 6. Upon review of **Works Plans** Sheet 7 of 13 it doesn't appear that Works No. 5 connects directly to Work No. 4, but instead Work No. 3. The Applicant may wish to review these plans and ensure consistency with the **draft Development Consent Order**.

Schedule 3 of the **draft Development Consent Order** uses “street”, “highway” and “width of highway” interchangeably. “Street” and “highway” are defined differently in Article 2. The Applicant should review the drafting and amend/clarify as appropriate.

In relation to the proposed alternative on-road cable route, for some plots (for example but not limited to 2/6, 3/6, 7/6) part of the subsoil up to half width of public highways is in private ownership. The Applicant should review these when carrying out its review of Schedule 3 to ascertain whether the powers sought in Article 9 are sufficient as currently drafted or whether the Applicant will need CA of the relevant sub-soil or any other additional rights not secured at the moment. The Applicant’s reasoning should also clearly be set out in the in the relevant application documents including the **Statement of Reasons (Doc 4.1)**.

Land Plans (Docs 2.4) and Statement of Reasons (Doc 4.1)

The Applicant’s approach to the identification of land over which the Applicant does not propose to exercise power of Compulsory Acquisition, secure further rights to use the land or any land in relation to which it does not propose to extinguish easements, servitudes and other private rights, is not fully understood in relation to the on-road cable route which will require a trench to be excavated into the road verge.

Although the Applicant appears to be relying on Article 9 and Schedule 3 of the **Draft Development Consent Order**, Schedule 3 refers to works beneath the width of highway which appears to imply that the works to excavate the road trench may not be secured through Schedule 3. It is advised that the Applicant clarifies this matter further within the **Statement of Reasons**.

The Applicant should review their approach and make any amendments deemed necessary to ensure that a clear situation with these matters is reached.

Flood Risk Assessment (Doc 6.4.10.1)

Paragraph 3.1.6 of the **Flood Risk Assessment** states that the underground cables are proposed to cross underneath watercourses at two locations (E:436811, N:520703 and E:439526, N:521493) and will therefore cross Flood Zone 3. However, the Flood Risk Assessment does not state whether this is Flood Zone 3a or 3b. The Flood Risk Assessment should clearly distinguish between Flood Zones 3a and 3b.

Design Approach Document (Doc 7.2)

It is noted that throughout the **Design Approach Document (DAD)**, that reference is made to specific “Plate” numbering, which the Inspectorate believes to be references to figures, plans or other documents, however all these “Plates” appear to be omitted from the DAD e.g., Plate 2-1 referenced in **paragraph 2.1.3** of the DAD is not provided overleaf i.e. page 5 of 55. The Applicant should ensure they submit and updated DAD inclusive of all Plates as referenced in the document, as this appears to be an oversight.

Please pay close attention to the advice set out in this letter and act on it accordingly. It is requested that you action these points before the commencement of the Relevant

Representation period. This will contribute towards a more efficient examination and give any future Examining Authority comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

Simon Raywood

Simon Raywood

Case Manager

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