



National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer
Services: 0303 444 5000
e-mail: byersgillsolar@planninginspectorate.gov.uk

To: The Applicant, all Interested Parties

Our Ref: EN010139

Date: 09 May 2024

Dear Sir/Madam

Planning Act 2008 (as amended) – Section 89; and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 9

Procedural Decisions following additional submissions made by the Applicant and request for further information

As set out on the Rule 4 letter [\[PD-001\]](#) published on the 9 April 2024, my name is Andre Pinto and I have been appointed by the Secretary of State (SoS) for Levelling Up, Housing and Communities under delegated powers to be the lead member of the Examining Authority (ExA) which will carry out the Examination of the above application. Mr Max Wiltshire and Mr Alex Oyejade were also appointed as members of the ExA.

Additional Submission

Following the decision of the Secretary of State (SoS) to accept the application for Examination, the ExA has made a procedural decision, on the 08 May 2024, to accept additional submissions [\[AS-001\]](#) to [\[AS-006\]](#), which can be found in the [Examination Library](#). These submissions were made by the Applicant in response to the [Section 51 advice](#) issued on the 08 March 2024.

Further Information

This request is being sent to the Applicant (RWE Renewables UK Solar and Storage Limited). However, should other Interested Parties (IPs) wish to respond to this request, they are welcome to do so.

The ExA acknowledges the Applicant's response to the Section 51 advice [\[AS-001\]](#) to [\[AS-006\]](#) including the submission of a cover letter [\[AS-005\]](#) in which the Applicant summarises their response to the advice given by the Planning Inspectorate. The ExA also acknowledges the Applicant's position, as set out in [\[AS-005\]](#), that it believes that the Explanatory Memorandum [\[APP-013\]](#), the Statement of Reasons [\[APP-014\]](#) and the draft Development Consent Order (dDCO) [\[APP-012\]](#) adequately explains the position in relation to need for the Compulsory Acquisition (CA) of Land or Rights in relation to Land.

However, after reviewing the Applicant's response, the ExA has made a procedural decision to ask the Applicant to submit a separate document setting out, in further detail than that provided so far, the Applicant's proposed approach to land included in the Order, particularly in relation to the identification of land required to deliver the proposed on-road cable route option and how that approach would be secured through the dDCO.

This document should:

- provide further reasoning for the Applicant's current approach to land rights, how and why the Applicant has determined what rights they would require (including CA) to deliver the proposed on-road cable route, particularly in relation to subsoil rights of plots which appears to be vested in third parties rather than in the Highways Authority;
- provide further information and reasoning on its approach in relation to Art 9 and Sch. 3 of the dDCO and why it believes that no further rights than those included are required to carry out the proposed works particularly considering that sub-soil rights, to at least some of the plots (or part), appears to be vested in third parties rather than in the Highways Authority.
- provide further explanation on how these are accurately and clearly reflected in the current Land Plans [\[APP-010\]](#) and the Street Works, Rights of Way and Access Plans [\[AS-002\]](#);
- provide further understanding and clearly set out the definition of the phrase "width of highway" used in Sch. 3, "highway" as defined within Art. 9 and how these differ from each other (if applicable);
- if the definition of "width of highway" in Sch. 3 and "highway" in Art. 9 do differ, then the Applicant is asked to clarify how this distinction has been reflected in the Land Plans [\[APP-010\]](#) and the Street Works, Rights of Way and Access Plans [\[AS-002\]](#) and how both plans clearly demonstrate the exact boundaries of the "width of highway";
- Further to this, in the Explanatory Memorandum [\[APP-013\]](#) and in relation to Art. 9 (Street Works), the Applicant states that the article is substantially found as Art. 8 of the Longfield Solar Farm Order, amongst others. However, the CA and Order Land approach taken at Longfield Solar Farm Order appears to be significantly different from that proposed by the Applicant in relation to Byers Gill. It is therefore requested that the Applicant clarifies which other Development Consent Orders, if any, have adopted a similar approach to CA while also relying on an article such as that substantially found in Art. 9 (Street Works) of dDCO [\[APP-012\]](#) to secure similar powers as those needed to deliver the on-road cable route.

The Applicant is asked to submit the document outlined above and its response to the points raised by the ExA by **20 May 2024**. The information received in response to this request will be published as soon as possible after the 20 May 2024.

Yours faithfully,

Andre Pinto

Lead Member of the Panel of Examining Inspectors