Submission through NSIP Portal

Deadline 3: 19th September 2024

To:

The Examining Authority

Planning Inspectorate

Attn: Jennifer Savage | Case Manager – National Infrastructure (Environment)

Application by RWE Renewables UK Solar and Storage Limited for an Order Granting Development Consent for the Byers Gill Solar Project. PINS Reference No: EN010139.

The Examining Authority invited all Interested Parties to submit 'Comments on responses to ExQ1 by Deadline 3 by Thursday 19th September 2024 .

This response is submitted on behalf of Bishopton Villages Action Group (BVAG) a registered Interested Party (IP Reference Number 200048675) to the Examining Authority.

BVAG does not necessarily express the views of the local Parish Councils or Meetings, although many of the opinions are shared by the affected community. BVAG includes residents from the villages of Bishopton, Great Stainton, Little Stainton, Brafferton, Whitton, Stillington, Sadberge, Carlton, and Redmarshall.

The response should be read within the context of previous submissions made by BVAG to the Examining Authority as follows:-

(1) BVAG Adequacy of Consultation Representation (February 2024) appended to Darlington Borough Council's response to the Secretary of State (SoS) regarding the Applicant's Adequacy of Consultation.
(2) BVAG Relevant Representations (RR-548) submitted 15th May 2024 and registration as an Interested Party (IP Reference Number 200048675) and summary of RR by Deadline 1 (13th August).
(3) BVAG Response to ExA Rule 6 letter- Written submissions on the Examination Procedure and Timetable (July 2024) including suggested locations for Site Inspections Accompanied and/or Unaccompanied and attaching a map and table of other solar schemes consented in the near area.

(4) BVAG attendance at Preliminary Hearing on 23rd July 2024 and Open Floor Hearing (OFH) 1 on 24th July 2024.

(5) RWE/BVAG Statement of Common Ground and exchange of drafts for submission for Deadline 1 (13th August 2024) submitted by RWE on behalf of the parties.

(6) Written Representations submitted on 29th August 2024 (Deadline 2) consisting of a BVAG Statement of Objection and a separate Landscape & Visual Review, and associated Appendices.

BVAG has previously raised matters in respect of the ExAQ1 in the BVAG WR. These are set out in the Issues Framework and need not be repeated here.

Overall, there remains an inadequacy of information across many areas in the DCO application and contested matters, often but not exclusively due to lack of detailed design and layout. BVAG welcomes that fact that the ExQ1 addresses many of the same questions and the gaps identified by BVAG and the wider community across the villages affected by the proposals.

In conclusion the responses by RWE do not provide sufficient information and it is hoped that further questions will be submitted as part of ExQ2, in addition to those comments made herein.

BVAG continue to work with the applicant through a Statement of Common Ground approach, and welcomes the support provided by the Examining Authority in its engagement with the process.

Please find a table of comments attached. Please do not hesitate to contact me if you have any queries.

[redacted]

Andy Anderson MRTPI FRGS

For and on behalf of Bishopton Villages Action Group

Appendix: Table of Comments Below

Byers Gill Solar Development

Bishopton Villages Action Group Comments on Applicant's Responses to ExA Q1

for Deadline 3 19th September 2024

ExAQ1	Question (summary)	Applicant's Response (summary)	BVAG Comment
GCT.1.6	(Proposed changes to) Central Government Policy and Guidance	Positive spin on changes	Within its Manifesto Labour pledged to 'make Britain a clean energy superpower'. In the first month the Government introduced the Great British Energy Bill into Parliament, setting out proposals to create a publicly owned energy company, backed by £8.3 billion to invest, own, manage, and operate 'clean power' projects. BVAG do not consider that this proposal meets with the principles of the governments policy on energy. In establishing Great British Energy the Government states, "*Great British Energy stems from a simple idea: that the British people should have a right to own and benefit from our natural resources. That these resources belong to all of us and should be harnessed for the common good. We already have public ownership of energy in this country, by foreign governments. The policy of this government is that it is time for the British people to also own things again and build things again.*

			The UK Government reconvened the solar taskforce to produce a solar roadmap, highlighting the important contribution of rooftop solar, and consenting almost 2GW of solar energy generation through granting Development Consent Orders for four key projects. BVAG would support British energy projects, especially offshore wind which is considered more efficient and does not swallow up vast acres of agricultural land, and ruin people's homes and landscapes which have provided a living and homes for communities for centuries. The ExA are asked to consider why expanding the budget for the upcoming Contracts for Difference Auction to £1.5bn, up by £500m from last year, the majority is set for offshore wind power.[1] The NPPF Consultation confirms there are suitable and unsuitable areas for utility-scale ground mounted commercial solar. As such LPAs are now encouraged to identify suitable sites and prevent the sprawl of speculative applications in unsuitable areas. The same logic would apply to NSIPs such as Byers Gill which has no bearing to the statutory development plan. In respect of plan-making, Paragraph 160b (now Consultation Draft 161b) would be amended to require LPAs to "identify", rather than "consider identifying", "suitable areas for renewable and low carbon energy sources and supporting infrastructure, where this would help secure their development". As the consultation sets out, this amendment seeks to set a stronger expectation to

[1] https://www.turley.co.uk/comment/nppf-2024-turbo-charging-renewable-energy-generation

			identify sites when producing plans, with allocation providing greater security for development and delivery
GCT.1.7	New WMS on BMV	Ditto	The Applicant states that 6.1% of the total site area for the Proposed Development consists of the Best and Most Versatile agricultural land. On a total site area of 1,210 acres this amounts to 73 acres of best quality English farmland which has taken centuries to form and can be destroyed needlessly by such a proposal – needlessly because there are viable alternatives and already consented schemes, to produce the Governments renewable energy targets to 2030. The ExA was presented at the hearing by local farmers who considered that the land in question was of a higher quality than appeared in the Planning Statement. Government Policy repeated both in EN-3 and the NPPF confirms, and reiterates that "*While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of "Best and Most Versatile" agricultural land where possible. 'Best and Most Versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification*" (EN-3 2.10.29).

			The Application identifies higher grade land, and notwithstanding that this may underestimate presence of BMV land there are several locations where avoiding the use of BMV would bring potential immediate benefits through a removing the DCO site further from settlements. For example, turning to Document APP-083 (RWE ES Fig.9.5 Agricultural Land Classification, the following reductions in BMV land appear to bring immediate reductions in the impact on local villages:- 1. Brafferton - Grade 3a land to immediate south-east of village. 2. Great Stainton – Grade 3a land to immediate east of village. 3. Bishopton – Grade 2 land to north-east and Grade 3a east of Old Stlington. This impact of using BMV land is in addition to the range of impacts then identified in NPS EN-1 and EN-3. The issue of land take is dealt with below. BVAG contend that the DCO could be reduced in size whilst still provide for 180MW using comparative data and Government guidance of 2-4 acres per MW. The Ministerial Statement has provided support for food security. The Government have not reduced

			the protection for BMV in NPS or NPPF, and the current NPPF consultation. A footnote added to the National Planning Policy Framework (NPPF) in 2023 said the availability of land for food should be adequately weighted in the planning process. The current consultation suggests removing this. **Higher grade agricultural land has continued and sufficient protection, and so this footnote is not required.** **The overall aim is sustainable economic growth, not short term, speculative energy installations which can destroy productive agricultural land which has taken centuries to evolve and is irreplaceable.** **Sustainable farming provides food security, jobs, a valued landscape, ecological habitats, and an established setting for heritage.**
N.B	BVAG note for ExA		Anecdotal evidence of a farmer whose family have farmed for generations is that the land benefits from being actively farmed. Dormant land can become reduced in quality and can take many years to become productive again. Topsoil removal should be minimised.
GCT.1.15	*Concerns regarding the effects of the Proposed Development, particularly the solar panels component, on birds and horses and other wildlife*	*The Chapter does not consider livestock such as horses, as livestock does not fall within the remit of a biodiversity assessment. There are not wild horses present in the area.*	The applicant misses the point about horses, which lates to how they would react to panels / other scheme elements (eg fenced corridors) / activities when being ridden through / near arrays. See comment on response to Q TT.1.33.

GCT.1.16	Re Applicant's design approach, in light of significant adverse landscape and visual effects	*The Applicant has adhered to rigorous technical, functional and safety-led design requirements… the design approach has been shaped by considerations such as the site selection process and factors informing it, and the technical constraints of infrastructure.*	Highlights / confirms the problems with finding alternative acceptable solutions / mitigation measures, especially through siting / layout / design, due to technical constraints (also, economic viability).
GCT.1.17	Impacts of climate change / extreme weather events	Applicant's response does not mention flooding.	This should include reference to future flooding event risks / impacts. See Q EIA.1.5.
GCT.1.20	Re Applicant's claimed *beneficial effect on soil resources*	Development would result in a … *moderate beneficial, significant effect in relation to soil resources.* *This conclusion reflects the fact that leaving the land undisturbed under long term grassland management is likely to lead to benefits to soil health and structure over the lifetime of the Proposed Development.* *It also reflects the potential beneficial effect of returning the Order Limits to agricultural production following decommissioning of the Proposed Development.*	**Soil** Re beneficial effects on soils, see PINS doc ref REP2-044 BVAG Landscape and Visual Review for Deadline 2 paras. 4.2.56 – 88. Re leaving land undisturbed, or 'resting' soil, for long periods: evidence indicates that this does not result in benefits. See doc REP2-044 paras. 4.5.11 – 14. Re beneficial effects of returning to agricultural production, a) this confirms the adverse effects arising from loss of productive arable land; and b) see problems associated with returning land to agricultural production in doc REP2-044 paras. above, and para. 4.5.10. **Supply Chains** The ExA will be aware of the conversations around commercial solar supply chains and the dominance of China in providing global solar equipment, The amount of material required for this project is vast, and unquantified in terms of tonnage and source. Recent references which BVAG would commend to the Examination are :-

			1. **Hansard** *Solar Supply Chains* (Volume 748: debated on Tuesday 16 April 2024). 2. **The Royal United Services Institute** is the world's oldest and the UK's leading defence and security think tank. See report that the UK risks becoming "too reliant" on China for its renewable transition. See new report *'New Energy Supply Chains: Is the UK at Risk from Chinese Dominance*. (2023)" 3. **UN report from the Panel on Critical Energy Transition Minerals** (Sept 2024) This report identifies challenges with current supply chain conditions for the solar and related renewables industry and need to respect people, the environment, and equity for developing countries, BVAG have not included these reports, but they are easily accessible. BVAG can provide copies of the above on request to the Examination. **Employment** The issues around local economic benefits have been questioned in BVAG's WR. It is widely reported that the two problems facing solar energy companies are finding grid connections and finding workers to build them. BVAG would ask that RWE provide employment scenarios and estimates of local jobs, and from how far and wide the workers are likely to come from, including local, regional, UK wide and overseas. This has

			implications for travel patterns, local accommodation and employment benefits.
PPD.1.3	Re capacity / output / size of site.	*The Applicant submits that the Proposed Development is… comparable with the parameters suggested by EN-3.*	See comment on Q PPD1.1.13
PPD.1.5	Re type of PV panels proposed	*The Applicant assumes that N-type panels would be used*	What panel wattage is assumed? See comment on Q PPD1.1.13
PPD.1.13	Re amount of energy generated, can the Applicant please clarify what technology was assumed it would be used for those calculations and how it has arrived at that number, in high level terms?	*This calculation would have assumed the use of 570w Jinko panels.*	**EN-3 was revised earlier this year to say that solar site capacity is measured by the capacity of the inverters in alternating current (AC).** It is therefore an oversight to assume DC. Previously, capacity could be measured either by the combined capacity of installed solar panels (in DC) or of the inverters, which convert the power to AC. The amendment was intended to bring solar into line with other forms of renewable energy development, in which capacity is delivered as AC. The new EN-3 does not suggest that the capacity of solar panels is no longer relevant, and information about solar panel capacity is becoming more critical, because as solar panels become cheaper and more powerful, there is a temptation to overplant sites to deliver at capacity for longer periods, requiring energy to be wasted through clipping.

			EN-3 recognises that solar developers may not have final details of proposed site infrastructure at the time of an application. Where this is the case '*Applicants should set out a range of options based on different panel numbers, types and layout*' (paras 2.10.71 - 72). '*Where flexibility is sought in the consent as a result, applicants should, to the best of their knowledge, assess the likely worst-case environmental, social and economic effects of the proposed development to ensure that the impacts of the project as it may be constructed have been properly assessed*' (para 2.6.2). See also para. 20 of Galloway v Durham. It is not clear what wattage EN-3 assumes, but in 2023, manufacturers introduced 750w panels, reflecting rapid increases in the generating capacity of solar technology. The first 600w utility scale panels were introduced in 2000. BVAG's understanding is that there is no distinction between capacity and efficiency, since the performance of panels is determined under the same Standard Test Conditions. The site may have far greater export capacity than assumed. The use of higher capacity panels should enable more energy to be produced from a smaller area of land. EN-3 considered **2-4 acres per MW is the norm**. Recently consented DCO '**Cottam Solar**' is a 600MW installation of some 2,800 acres which is

			4.6 acres/MW – slightly high of the EN-3 estimate but within range. **Byers Gill** proposal Solar installation is 180MW over 1,210 acres which **is 6.7 acres / MW**. **In high level terms the design and technology employed for the Byers Gill proposal requires a far greater land take – by twice the amount - then required for 180MW AC output, when compared to other DCO solar schemes and Government estimates.** **Even with a generous over-planting of 15% this seems disproportionate.** **A reduction of the DCO proposal would reduce the need to use BMV land, and the impacts on residential amenity, as well as reduce a range of other affects such as landscape, visual, ecological and heritage assets.**
PPD.1.14	Case for Local Need	*The applicant prioritises national policy. Local need compliance is stated to have been demonstrated in the Planning Statement. Climate Emergencies of host authorities emphasised.*	**Local views and opinions are expressed by BVAG and the many local residents speaking out against the proposal and contesting the findings of the Environmental Assessment (e.g. on the negative and adverse impacts).** **Darlington Borough Council's Local Impact Report and associated Landscape Review identified a number of 'potential negative impacts and issues for further examination. The**

			Council did not therefore consider at present that the proposal was policy compliant.
EIA.1.3	Re anticipated replacement rates of infrastructure during operation	*Rates were calculated using data provided directly by infrastructure manufacturers*	Could the Applicant please confirm how often the following scheme elements would need to be replaced during operation (assuming 'normal' usage / no damage due to accident / vandalism / hailstones / birds dropping stones etc): a) solar panels, b) inverters, and c) BESS units? **Replacement vs Upgrade** Over a 40-year period technology for solar panels is likely to be continuing to improve . Would the applicant consider replacement due to upgrades or replacing like-for-like due to normal wear and tear. The scenario assumes the latter, but the former could provide for a major rebuild. **Global Security Risks** Given the global dependence on China for Solar Panel equipment can the applicant comment on the risks around maintenance and operations of the project in the event of disruption to solar technology supplies, in the way the UK has experienced disruptions to energy supplies as a result of the conflict in Ukraine.
EIA.1.3	Construction period	*It is not expected that baseline surveys would need to be updated in the context of the*	BVAG consider that the construction period of between 18 and 24 months would be dependent on the availability of materials and labour. Given

		assessment presented in the Environmental Statement	potential risks in the acquisition of materials and hiring of labour has the applicant considered the potential impacts of baseline assessments, including phased works which might result from above. **BVAG are aware that nearby Whitfield Solar construction period has overrun. Widely reported shortages of labour, including difficulties of post-Brexit recruitment from traditional construction labour sources; and materials constraints, mean the 18-24 months proposed period should be test against higher scenarios.** It is not clear how a walk-over survey is sufficient to replace and update ecological surveys to the same quality of information about local habitats.
EIA.1.4	Geophysical Surveys	*Limit of surveys*	BVAG have already commented in the WR about the lack of surveys around the Scheduled Monument of the Bishopton Motte and Bailey.
BIO.1.1	Can the Applicant explain omissions/inconsistencies or else update ES Chapter 6 to include a full assessment of these receptors?	*the appointment of an Ecological Clerk of Works (ECoW) et al* - *construction to advise on protecting valued biodiversity features.* - *and provide practical, site-specific and proportionate advice on* - *how to achieve compliance with environmental legislation.* - *- should ground clearance of habitat suitable for amphibian and reptiles be*	BVAG have raised concerns over the lack of independence of the proposed ECoW who would be a direct employee of RWE (the applicant) and faced with pressures resulting from construction timetables which would conflict with ecological compliance and protection. It is not clear what level of resources the ECoW would command, and the extent of tasks required during the 18-24 months of construction taking

		required, then this will be undertaken at the right time of year to avoid the hibernation period of amphibians - i.e. avoid the period: October to March. - *The ECoW to supervise works and relocate any reptiles/amphibians found;- no nighttime work is to take place within 30 m of watercourses/waterbodies (the period when otters are most active); and*	place over 6 days of the week, during all seasons, including during darkness. BVAG proposed that ecological supervision should be **independent** and suggested outside bodies be included in this role on-site funded by the applicant. **Overall BVAG is concerned over the lack if independent assessment of ecological assets and local residents have expressed that the ES does not reflect the wildlife within the landscape as they experience and know it.** **Should consent be granted the lack of independent supervision during construction and operations will exacerbate and compound the potential and significant damage to ecological assets.**
DES.1.1	Design and mountings	*Use of ground fixed and ballast on archaeological sensitive areas.*	The applicant proposes 3.2% ballast potentially rising to 5%. It is not clear how the ballast areas have been decided. As costs rise with ballast areas are these decisions costs driven, or heritage driven ? **Steel Mountings and Life Cycle** Like PV Solar, the mountings whether fixed or ballast, require large amounts of galvanised steel. This can be imported raw and galvanised in the UK or imported direct for use. The quantities are enormous and BVAG would ask the applicant to comment on the quantities, supply chain and transportation of manufacture of these and if this has been considered in assessing the benefits or carbon emissions of the proposal.

			Embedded Carbon on such a project would be significant.
DES.1.8	Search corridor 6km and 12 km	*The 6km radius was extended to 12km following initial identification of potential available land given constraints and landowner interests*	Search corridors are frequently quoted at 2km for solar installations under 50MW which seek consent through local planning authorities. Clearly the scale of the project would influence the search corridor. Would the applicant comment on the extent to which the scheme remains viable – and therefore what would be the maximum corridor which could potentially provide for a viable scheme - and look to exclude BMV land and even utilise potential brownfield and grey belt land. The relationship between MW , acres (scale) and search corridor provide a rationale behind the search for alternative rather than 'convenient' sites. The community was not consulted during the site selection process which, if included as part of the site selection process would have improved the sites chosen, as well as its acceptability. The community would also have been able to share knowledge of potential adverse environmental impacts across a range of issues.
DES.1.3	Has the Applicant considered more powerful panels that would create a reduced land take?	*While there are more powerful panels available, they are typically not any more efficient, which means they are physically larger than the 570Wp panels*	See comments on Q PPD.1.13.
DES.1.6	Re containers and transport	*Larger items such as replacement transformers or inverters would be ordered as required and delivered to the site from a centralised location; it is expected this would be very infrequent.*	See question in Q EIA.1.3 regarding frequency of replacement.

HAQ.1.3	Re BESS	Refers to various submitted documents.	BVAG remains concerned about the risks to human and environmental health resulting from incidents such as a BESS thermal runaway event. See doc REP2-044 Section 4.4.
HEN.1.5	ZTV Study and Bishopton Motte and Bailey	*There is some theoretical visibility between the Scheduled Monument Motte and Bailey castle, but the '…actual extent of the visibility on the ground will be less than that suggested by this plan.'*	**BVAG strongly disagree**. The Bishopton Castle is a key landmark and heritage asset marking a community's sense of place and continued settlement for at least 1,500 years. The applicant's (ES Ch.8 Heritage) " *concluded that the principal significance of the asset is determined by its archaeological interest*" clearly misunderstands the value of the asset. BVAG contend that the proposed industrial landscape created by a solar energy installation will fundamentally change its setting, and value to understand the 'power and influence' which the tribal leaders held over the surrounding land, which until now is seen within a rural setting with views to Bishopton village. The applicant has sought to underplay the Conservation Area and heritage assets which the local residents are best placed to understand the significance of through everyday experience. The Heritage assessment is incorrect when it states, "*The change made by the development will alter that landscape, however, it will not be an appreciable or noticeable change from the asset or in conjunction with the asset.*" The statement goes against the understanding of BVAG and contradicts itself.

			BVAG's position is set out in the WR and will be expanded upon in the Open Hearing.
LSV.1.7	Mitigating significant adverse landscape and visual effects	Applicant sets out mitigating measures for significant effects.	The findings of BVAG's Landscape and Visual Review (doc. REP2-044) agree with the Applicant's LVIA, that the proposed development would give rise to significant adverse landscape and visual effects, many of which could not be adequately mitigated. It is hoped that this can be agreed at an early stage.
LSV.1.9	Why has it *not been possible to locate the panels further away in order to reduce the impacts?*	*… the proposed planting would achieve a material reduction in effects of the Proposed Development on open views across the nearby fields after the early operational period such that from Years 10-40 the panels would be mostly screened*.	The Applicant's response is specifically *in relation to Bishopton School and playground*, but the same applies at many other locations. The LVIA has failed to realise that where currently open views are screened (by planting / other mitigating measures), the result is the loss of the view, which would result in a significant adverse visual effect. The visual mitigation of removing panels has created additional traffic and highways concerns about the potential construction of a proposed new school car park. BVAG would ask RWE to provide an update as to this proposal which raises concerns re • Flooding • Livery Businesses • Construction traffic on Mill Lane
TT.1.23	Re existing access point to the southern section of Panel Area A	*The Outline CTMP [APP-112] highlight[s] that use of the access will need further consideration by*	BVAG is very concerned about the various significant adverse effects likely to arise from

		the Principal Contractor, when appointed, to ensure it can operate safely.	proposed access to the site, but specifically, access to Area A south and north. Insufficient survey, analysis and assessment has been carried out to establish whether access to Area A is feasible as proposed, or at least, without giving rise to extensive and permanent adverse effects on landscape, views, biodiversity as a minimum. See doc. REP2-044 paras. 4.2.2 - 37. These matters need to be addressed during the Examination, not when a contractor is appointed.
TT.1.24	As above	As above	As above
TT.1.33	Re Applicant's claim that *due to a negligible increase in traffic on the LRN, the impact on pedestrian, horse riding and cyclist amenity will not be material, and, if at all, only in isolated locations.*	The Applicant concludes *that there is expected to be a low level of impact from construction traffic on the amenity of pedestrians, horse riders and cyclists, and that the effect is not significant.*	BVAG is very concerned about the various significant adverse effects on these and other receptors likely to arise from construction traffic at several locations. See for example doc. REP2-044 paras. 4.2.2 - 37. **, and regarding horses specifically, paras. 4.8.2 ii), and 6.64.** BVAG are very concerned about the lack of a commitment by RWE and their contractors to repair the damage to public highways which will result from construction works and would be liable for funding for repairs to Darlington Borough Council (i.e. local taxpayers). No mention is made of a commitment to repair damage in the CTMP. **N:B**: The ExA are encouraged to drive by the Whitfield Solar project to see an example of the damaged caused to the public highway by solar construction traffic. It would need only 5-10 mins to cover the route from already suggested itinerary.