

**Byers Gill Solar**  
**EN010139**

# 8.12 Comments on Deadline 2 Submissions including Written Representations and Responses to ExQ1

Planning Act 2008

APFP Regulation 5(2)(q)

Infrastructure Planning (Applications: Prescribed Forms  
and Procedure) Regulations 2009

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# 1. Introduction

## 1.1. Purpose of this document

- 1.1.1. This document provides comments from RWE (the Applicant) on the Written Representations and the responses to the first written questions (ExQ1) submitted by Interested Parties at Deadline 2 (29 August 2024) of the Examination of Byers Gill Solar (the Proposed Development). This document also provides an update on matters discussed at earlier Deadlines, where there has been progression since the submissions made at that time, and where this falls outside of the Statement of Common Ground (SoCG) process.
- 1.1.2. This document does not respond to the Written Representations provided by Bishopton Villages Action Group (BVAG) including the associated landscape and visual report, as provided under documents REP2-042 to REP2-047. This is because these Written Representations, which are of particular length and detail, are responded to separately under Document 8.13 submitted at Deadline 3.

## 2. Comments on Written Representations

2.1.1. The table below provides the Applicant's comments on the Written Representations made at Deadline 2.

**Table 2-1 Applicant comments on Written Representations at Deadline 2**

Examination Library Reference	Interested Party	RWE Response
REP2-051/052	Myra McKeown / McKeown Family	<p>The representation seems to highlight a number of matters, including:</p> <ol style="list-style-type: none"> <li>1. Street naming / identification of place – The submission suggests that images within the application have been mis-labelled. The Applicant confirms that published information has been used to identify and label street names on the various plans forming part of the application and the images in Environmental Statement Appendices 7.2: Illustrative Views [APP-133] and 8.1: Historic Environment Desk-based Assessment [APP-144]. Names were drawn from the Darlington Borough Council (DBC) List of Streets and Adopted Highway information which is hosted on DBC's local authority website (<a href="https://www.darlington.gov.uk/transport-and-streets/list-of-streets-and-adopted-highways-map/">https://www.darlington.gov.uk/transport-and-streets/list-of-streets-and-adopted-highways-map/</a> &lt;last accessed 13/09/24&gt;). If there are specific instances where this information has not been accurately represented the Applicant would be happy to review these and make necessary updates. We do not believe that this would materially affect the overall conclusions drawn in assessment work undertaken.</li> <li>2. Public rights of way (PRoW) - The submission suggests there is 'at least one omission' in relation to PRoW within the study area. The Applicant confirms that data on PRoW was drawn from data published by DBC on DBC's local authority website (<a href="https://www.darlington.gov.uk/transport-and-streets/rights-of-way/where-are-rights-of-way/">https://www.darlington.gov.uk/transport-and-streets/rights-of-way/where-are-rights-of-way/</a> &lt;last accessed 13/09/24&gt;) and through enquiries and discussions with PRoW Officers at the local authorities. Site visits were also undertaken. The Applicant has reviewed the PRoW data and has not identified that any PRoW are missing. Furthermore, no omissions have been identified by DBC as local highway authority or any other party to date. As above, if there are considered to be omissions in terms of baseline data, the Applicant would be happy to consider these and provide any updates to plans / assessments as necessary.</li> </ol> <p>The Applicant does not have any specific comments to make on the other matters raised within the representations at this time.</p>
REP2-059	Victoria Wood	i) Section 2 Health and safety issues (paragraphs 2.1 to 2.20)

Examination Library Reference	Interested Party	RWE Response
		<p>The Applicant notes the concern raised by Victoria Wood that, in their view, health and safety has not been considered sufficiently, including in relation to noise, traffic, and glint and glare, and that management plans do not specifically consider the Cobby Castle business.</p> <p>The health and safety of the local community has been considered carefully within the application documents, including management plans which will ensure that all reasonable mitigation is implemented to limit adverse effects to health or safety created as a result of the construction and operational phases of the Proposed Development. Management plans are included in the DCO application which secure the implementation of measures during construction, operation and decommissioning which would seek to avoid or reduce risks relating to human health including:</p> <ul style="list-style-type: none"> <li>• ES Appendix 2.6 Outline CEMP [APP-110]</li> <li>• ES Appendix 2.7 Outline DEMP [APP-111]</li> <li>• ES Appendix 2.8 Outline CTMP ([APP-112]</li> <li>• ES Appendix 2.9 Outline Pollution and Spillage Response Plan [APP-113]</li> <li>• ES Appendix 2.13 Outline Battery Fire Safety Management Plan [APP-117]</li> </ul> <p>As part of the application documents, an outline Construction and Environmental Management Plan (CEMP) [APP-110] sets out mitigation measures that will be deployed to reduce the likelihood of adverse effects on the any potentially sensitive receptors in close proximity to the site, including The Forge at Cobby Castle Lane. Table 4-7 contains several measures to control noise and vibration impacts during construction. These will ensure that noise and vibration levels are controlled to ‘Best Practicable Means’ (BPM) and will be in accordance with relevant guidance.</p> <p>The additional traffic created as a result of the construction period will further be controlled by an Outline Construction Traffic Management Plan (CTMP) [APP-112] which sets out proposed methods of managing traffic and staff vehicles. Examples of measures that will be implemented to reduce the potential impacts on sensitive receptors will include timing HGV deliveries to prevent multiple deliveries at the same time to the site, as well as banksmen at the site entrances to facilitate HGV movements into and out of the site. Through such measures, secured via the draft DCO [REP2-029] we will ensure that the impacts felt on The Forge, including on the horses stabled there, will be reduced as far as practically possible.</p> <p>During the operational period, the potential effects of glint and glare have been undertaken and documented within a standalone report [APP-106]. The assessment identifies whether the panels themselves will create any adverse impacts</p>

Examination Library Reference	Interested Party	RWE Response
		<p>associated with reflections, glint and glare. No potential impacts on residential properties on Cobby Castle Lane have been identified due to solar reflections not being geometrically possible and the current vegetation / screening. Furthermore, during the operational period, the panels do not make any noise or create movements that will produce further impacts on either the horse rider or their horses. This is supported by the ‘Advice on Solar Farms’ document produced by the British Horse Society (BHS)<sup>1</sup>, which states: <i>“They [standard photovoltaic panels] are designed to absorb rather than reflect light for efficiency (reflected light is wasted energy) and although the amount of reflection varies with the component materials and the angle, the incidence of glare or dazzle is very low compared with glass and will not be uniform throughout a period of sunlight, assuming that the panel is static. Any reflection is unlikely to be a direct problem to horses, riders or carriage-drivers because of the angles and distances involved.”</i></p> <p>ii) Section 4 Flooding</p> <p>Prior to the construction of any associated works on the site, ground penetrating surveys will be undertaken to understand to a greater extent the drains that serve the site, including the areas in close proximity to the horse arena This will be undertaken to take account of existing agricultural drainage during construction and avoid damage . As part of the extensive assessment of development, an Environment Impact Assessment (EIA) has been carried out which has assessed the likely effects of the development on hydrology and watercourses in the construction, operational and decommissioning phases, as reported in ES Chapter 10 Hydrology and Flood Risk [APP-033].</p> <p>The assessment has concluded that as a result of the development, no significant effects are anticipated from surface water runoff from PV panels during the construction phase. As such, our assessments show that the construction is not expected create any significant impacts on the access track used by the Forge.</p> <p>iii) Section 5 Access tracks/roads to the horse arena and paddock</p> <p>Lockable gates are proposed either side of Cobby Castle Lane for the construction and operation of the project. We will communicate with the property owner throughout the construction of the project to ensure they are aware of vehicle movements and timing. To clarify, this would likely consist of regular updates relating to delivery schedules and would not consist of ‘a phone call being made every time a vehicle is going to use the track’ as cited in paragraph 5.2</p> <p>iv) Section 6 Potential mitigation measures</p>

<sup>1</sup> BHS (undated) ‘Advice on solar farms near routes used by equestrians ([solar-0424.pdf \(bhs.org.uk\)](#))

Examination Library Reference	Interested Party	RWE Response
		<p>Regarding the request for relocation of stabling, at time of writing, the Applicant is seeking to reach agreement with Cobby Castle Forge.</p> <p>To the north of the property, the panels are a minimum of 25m from the property, with hedgerow planting proposed on the boundary of the field. To the east of the property panel areas are a minimum of 25m from the property with hedgerow planting proposed to screen the panels. We would be willing to commit to semi-mature planting in the areas that would benefit the property, so that the effects from mitigation are experienced earlier. It is not feasible to change the ground levels of the solar farm.</p>
REP2-054	National Grid Energy Transmission (NGET)	<p>The Applicant acknowledges NGET's Written Representation and request for bespoke protective provisions to be included in the dDCO [REP2-029] for the benefit of NGET.</p> <p>The Applicant is reviewing the draft protective provisions proposed by NGET and will continue to engage with NGET with a view to agreeing suitable protections.</p>
REP2-049	Environment Agency	<p>The Applicant continues to engage with the Environment Agency on matters raised within their representation.</p> <p>In summary:</p> <ol style="list-style-type: none"> <li>1. Flood Risk Assessment – the Applicant provided an updated FRA and Drainage Strategy at Deadline 2 [REP2-014] in order to address the EA's points in relation to the Sequential Test. The Applicant has subsequently shared flood modelling with the EA which addresses wider points within the work tracker provided as Appendix 1 to their submission. Following discussions with the EA the Applicant understands that this additional information is being reviewed by the EA, with an update on their position expected shortly after Deadline 3.</li> <li>2. Draft DCO – the Applicant provided an update to the Draft DCO [REP2-029] and Other Consents and Licenses document [REP2-005] at Deadline 2. Updates to these documents remove reference to disapplication of FRAP and remove the proposed Protective Provisions with the EA, as agreed with the EA. They also add the EA as a consultee on the CEMP under Requirement 4.</li> <li>3. Outline CEMP – The Applicant provided an Environmental Statement Errata and Management Plans Proposed Updates document at Deadline 2 [REP2-012]. This contains a number of proposed amendments and additions to the CEMP to respond to comments from the EA. Following further engagement with the EA following these updates the Applicant is</li> </ol>

Examination Library Reference	Interested Party	RWE Response
		<p>understand the information is being reviewed by the EA, with an update on their position expected shortly after Deadline 3.</p> <ol style="list-style-type: none"> <li>4. Other Consents and Licenses – This document was updated at Deadline 2 [REP2-005] and corrects the error in relation to reference to a new surface water outfall.</li> <li>5. Water Framework Directive Assessment – The Applicant updated the Other Consents and Licenses document at Deadline 2 to remove an erroneous reference to a surface water outfall. It is expected that this point is now resolved with the EA and will be confirmed by the EA through their Deadline 3 submissions and/or in the SoCG being developed with the EA.</li> </ol> <p>It is hoped that the changes and updates submitted through Deadline 2, alongside the recent flood modelling will lead to all of the above comments being resolved. This will be reflected through the SoCG with the EA and submitted at a future Deadline. If the Applicant and the EA are able to agree an SoCG prior to Deadline 4, and prior to the next set of hearings, which include an issue specific-hearing on the water environment, this may be submitted to the ExA for consideration and acceptance into the Examination at their discretion.</p>
REP2-055	Natural England	<p>The Applicant welcomes Natural England's submission which confirms their position as set out through their previous Relevant Representation. The Applicant notes the request under point NE5 of REP2-055 to include a requirement in the DCO to secure the target level of BNG. The Applicant is reviewing this request and will provide an update at a future deadline.</p>
REP2-056	Network Rail	<p>The Applicant has been liaising with Network Rail since its original Relevant Representation [RR-374] in order to provide additional information and respond to the concerns raised regarding construction traffic routing.</p> <p>The Applicant welcomes the submission from Network Rail which confirms that they no longer object to the proposed routes set out in the Outline CTMP and wider application documents, provided updates are made which allow for NR to be consultees on the detailed management plans under Requirement 5 and 6. The Applicant confirms that it is in agreement with the suggestions made within the representation and will update the CTMP and the DEMP, likely at Deadline 6, to include engagement with NR on the detailed management plans produced under Requirements 5 and 6 of the dDCO [REP2-029]. The Statutory Undertakers Position Statement will also be updated as necessary at a future deadline.</p>
AS-020	National Highways	<p>The Applicant has no comment on the submission made by National Highways in relation to Deadline 2, and which was accepted at the discretion of the Examining Authority. As set out in the SoCG with National Highways [REP1-008], all matters are considered agreed.</p>



### 3. Comments on Interested Parties' Response to ExQ1

3.1.1. The table below provides the Applicant's comments on the responses to ExQ1 as submitted by Interested Parties at Deadline 2. It does not seek to comment on every response to written questions made by Interested Parties and is limited only to those where the Applicant considers it would be helpful to the Party and/or to the Examining Authority (ExA) to provide comment.

**Table 3-1 Applicant comments on Interested Parties responses to ExQ1 at Deadline 2**

Examination Library Reference	Interested Party	ExQ1 Ref	RWE Response
REP2-048	EA	CA.1.4	The Applicant acknowledges the response from the EA and continues to engage with the EA on this matter.
REP2-053	Myra McKeown / McKeown Family	CA.1.4	<p>It is not clear which images and data are being referred to in the response. The Applicant is confident that images and data used are relevant to the Scheme.</p> <p>The Book of Reference [AS-017] provides a detailed description of the land within plots 1/3 and 3/10 as shown on the Land Plans [AS-015] and does not cover any further extent of High House Lane.</p>
REP2-053	Myra McKeown / McKeown Family	CA.1.5	<p>The Applicant is aware that 3/15 is unregistered and validated this by checks of the Land Registry title documentation.</p> <p>The exact design of the crossing over the River Skerne tributary in this location, required for access, will not be confirmed until the detailed design stage of the Proposed Development and following the appointment of a contractor team. The Applicant is seeking temporary possession only of plot 3/15 and is not seeking any compulsory acquisition powers.</p>
REP2-058	Stockton Borough Council (SBC)	GCT.1.6	<p>As set out in the Applicant's response to ExQ1 [REP2-007] in response to GCT.1.6, the Applicant does consider that there are proposed amendments to the National Planning Policy Framework (NPPF) of relevance to the Proposed Development.</p> <p>It is agreed with SBC that limited weight can be given to the to the changes proposed to the NPPF as the changes are only in draft form and may change depending on the outcome of the consultation (which closes on 24 September 2024).</p>

Examination Library Reference	Interested Party	ExQ1 Ref	RWE Response
			<p>The Applicant notes SBC's reference to the May 2024 Written Ministerial Statement (WMS). The Applicant refers to its own response to GCT.1.7 [REP2-007] which confirms that whilst the DCO application was submitted prior to that WMS:</p> <p><i>“ . . . it does not change the position of the Proposed Development in relation to agricultural land, or the manner in which this matter should be evaluated by the SoS in determining the case for development consent.</i></p> <p><i>As set out in the Planning Statement [APP-163], only 6.1% of the total site area for the Proposed Development includes land considered BMV. It was not feasible to avoid agricultural land altogether and the Applicant submits that the inclusion of a small proportion of BMV land within the Order Limits is justified within the context of the overall benefits presented by the Proposed Development, and its clearly established national need”.</i></p> <p>The Applicant welcomes SBC's acknowledgement in response to GCT.1.6 that:</p> <p><i>“While it is only the cabling which falls within the administrative boundary of SBC, it is noted that the majority of the Solar PV site is not located on Best and Most Versatile agricultural land.”</i></p> <p>The Applicant would also draw attention to the recent Cottam Solar Project decision which was published on 5 September 2024. Within this decision the SoS outlines that “the 15 May 2024 WMS emphasises elements of the 2024 NPSs” and concluded that the use of arable farmland was in line with the 2024 NPS despite exceeding NPPF guidance.</p>
REP2-031	Darlington Borough Council (DBC)	GCT.1.6	<p>The Applicant notes the reference to the May 2024 Written Ministerial Statement (WMS) and, as stated above in relation to SBC, the Applicant refers to its response to GCT.1.7 [REP2-007]. This also reflects the response to points raised by DBC in their Local Impact Report on agricultural land, as set out in pages 50-52 of the Applicant's Comments on Local Impact Reports document [REP2-008].</p> <p>The Applicant would also draw attention to the recent Cottam Solar Project decision which was published on 5 September 2024. Within this decision the SoS outlines that “the 15 May 2024 WMS emphasises elements of the 2024 NPSs” and concluded that the use of arable farmland was in line with the 2024 NPS despite exceeding NPPF guidance.</p>

Examination Library Reference	Interested Party	ExQ1 Ref	RWE Response
REP2-031	Darlington Borough Council	GCT.1.12	<p>As per the Applicant’s response to question GCT.1.12 of ExQ1 submitted at Deadline 2 [REP2-007], the Applicant confirms that a Section 106 Agreement is not required for the Proposed Development. The Environmental Statement [APP-022 to AP-162] has not identified any mitigation or enhancement which requires Section 106 as a securing mechanism. All mitigations and enhancements are secured via the draft DCO [REP1-029], as set out in the Mitigation Route Map [APP-171].</p> <p>DBC state in the second half of their response to GCT.1.12:</p> <p><i>“At this stage, and without prejudice to any further discussions that may take place during the course of the examination, it may be necessary to enter into a S106 agreement to secure wider mitigation measures for the proposed development such as access and rights of way improvement measures; wider ecological and landscape enhancements; contributions to the Tees Flex service for the duration of the construction period and beyond.”</i></p> <p>To respond specifically to the examples provided by DBC, in which a Section 106 may be desirable:</p> <ul style="list-style-type: none"> <li>• Management measures and details of access and rights of way are all secured by the PROW management plan [APP-119], whilst the dDCO itself [REP2-029] provides the powers to make the proposed diversions).</li> <li>• Ecological and landscape enhancements are all secured in the LEMP [APP-118].</li> <li>• Contributions to the Tees Flex service have not been shown to be justified, and the Applicant considers that they do not meet the statutory tests for a planning obligation.</li> </ul> <p>In summary, the Applicant retains the position in its response to GCT.1.12 that a Section 106 is not required.</p>
REP2-031	Darlington Borough Council	GCT.1.13	<p>ID15, 57 and 65 have all been included in the cumulative assessment presented in 6.2.13 Environmental Statement Chapter 13 Cumulative Effects [APP-036]. The long list was frozen in January 2024 and was considered correct at the time of assessment for submission. The change in status of these projects is not considered likely to impact the assessment already presented. It is further noted that these projects, given their timing in the planning</p>

Examination Library Reference	Interested Party	ExQ1 Ref	RWE Response
			<p>process behind the Proposed Development, should themselves cumulatively assess the Proposed Development and present their findings upon this.</p> <p>Application 17/00636/OUTE is not currently included in 6.2.13 Environmental Statement Chapter 13 Cumulative Effects [APP-036] however the conclusions made in relation to ID57 (17/00632/OUTE), which also make up part of local plan site allocation ID A6, are considered relevant to this application, and the overall conclusion made for biodiversity under the cumulative assessment remains.</p> <p>Application 24/00772/FULE – This application was received by Darlington Borough Council in August 2024. This is outside of the cut-off date for data collection for the cumulative assessment for the Proposed Development. Given this project’s timing in the planning process, and when the application was made, this scheme should themselves cumulatively assess the Proposed Development and present their findings upon this.</p> <p>Application 21/00529/FUL is not currently included in 6.2.13 Environmental Statement Chapter 13 Cumulative Effects [APP-036]. This application sits within the zone of influence for biodiversity for which the overall conclusions are expected to remain.</p> <p>The Applicant acknowledges and welcomes the update from DBC on these applications and will undertake a further sensitivity analysis to understand the implications for the cumulative assessment; this will be presented in an updated ES Errata and Management Plans Proposed Updates [REP2-012] at a future deadline.</p>
REP2-031	Darlington Borough Council	LSV.1.2	<p>The Applicant notes that DBC ‘is concerned that the views provided around Great Stainton and views from the east-west highway route connecting the villages do not represent the reasonable worst-case scenario’. The Applicant has provided a detailed response to this on Page 22 of the Comments on LIRs [REP2-008] document, in response to paragraphs 5.6.2-5.6.19 of the DBC LIR. This sets out the engagement undertaken in the pre-application period with DBC regarding viewpoints, including around Great Stainton, in which the Applicant requested suggestions from DBC for specific locations or receptors to be included, however these were not provided. Examples</p>

Examination Library Reference	Interested Party	ExQ1 Ref	RWE Response
			<p>that were given were not found to be suitable, as discussed in Table 7-1 of ES Chapter 7 Landscape and Visual [APP-030].</p>
<p>REP2-031</p>	<p>Darlington Borough Council</p>	<p>LSV.1.5</p>	<p>The Applicant notes that DBC does not consider the 3.5m panel height to be a worst case scenario for the panel areas. The Applicant confirms that the 3.5m maximum height of panel areas is the worst case scenario, as this is a defined maximum parameter that is secured via the design parameters listed in Table 8.2 of the Design Approach Document [AS-004] and secured in the draft DCO [REP2-029].</p> <p>The Applicant clarified in its response to LSV.1.6 [REP2-007] how the substation and mast, which are taller than 3.5m, were taken into account in the assessment:</p> <p><i>“The potential visibility of these features was modelled at these heights in ES Figure 7.8 Zone of Theoretical Visibility - Substation [APP-070], which informed the selection of viewpoints. Where visible, the substation and mast are modelled in photomontages in ES Figure 7.9 [APP-071-074]. The mast would be a relatively slim feature, typically either screened by Square Wood or seen against the backdrop of Square Wood (as shown in the photomontage for Viewpoint 19) which would mean it is not noticeable except in very close views from the footpaths in the vicinity of the substation. Judgements of effects take account of all elements of the Proposed Development including the substation and mast.”</i></p> <p>The Applicant has provided further clarification on why, given these elements are taller, the 3.5m height of panels is considered the worst case scenario, in response to Paragraph 3.2.45-47 of the Bishopton Villages Action Group (BVAG) Landscape and Visual Review (see Document Reference 8.13):</p> <p><i>“the conservative modelling in the ZTV of woodlands at 10m* (lower than the mast - whereas in practice they are more typically taller than the 15m proposed mast) combined with ZTVs taking no account of slimmer structures becoming more difficult to discern with distance, meant that the ZTV including the mast showed widespread visibility which was not expected to arise in practice, which would have potentially created a distraction from the more important matter of the potential visibility of the main substation structures. As a result the decision was taken to omit the mast so that the ZTV study focussed on the more important aspect.</i></p>

Examination Library Reference	Interested Party	ExQ1 Ref	RWE Response
			<p><i>ZTV's are just one of the tools available to inform the assessment, and omitting the mast from the ZTV has not prevented the effects from being considered within the LVIA as clarified by the Applicant's response to ExQ1 LSV.1.6.</i></p> <p><i>* Note – the key to Figure 7.1 erroneously describes the height of woodland being modelled at 15m, whereas it was modelled at 10m as correctly stated in the text below the key."</i></p>
REP2-048	Environment Agency	WFR.1.11 and WFR.1.3	Please refer to the Applicant's comments on REP2-049 as set out in Table 2-1 above.
REP2-057	Network Rail	GCT.1.9	Please refer to the Applicant's comments on REP2-056 as set out in Table 2-1 above.

## 4. Update on Matters Raised at Earlier Deadlines

- 4.1.1. The table below provides an update on matters raised in submissions at earlier Deadlines, including where the Applicant has committed to providing further information or clarification.

### 4.2. Further response to submission of Bishopton Parish Council (BPC) at Deadline 1 [REP1-020]

- 4.2.1. Bishopton Parish Council (BPC) provided a written submission at Deadline 1 [REP1-020]. The Applicant has sought to engage with the Parish Council on these matters through the Statement of Common Ground (Document Reference 8.4.9). The Applicant has provided the comments made by the Parish Council in their Deadline 1 submission only, and the Applicant's response, grouped by topic, below. The numbers in square brackets reflect the numbering in REP1-020.

#### Principle of Development

##### Bishopton Parish Council's position [1]

- 4.2.2. *"Bishopton Parish Council are opposed the development both in principle and also practicalities in terms of land assembly, design, disturbance, aesthetics and safety. The formal Conservation Status of the village, we thought, protected its historic integrity including 17th century buildings and ancient, Norman monuments. This status, approved by Darlington Borough Council and government, has been used to prevent local people developing their properties in the past – has it no status with this scheme?"*

##### The Applicant's response

- 4.2.3. The Applicant notes the position of the Parish Council and considers that the specific matters raised are covered elsewhere, and as such, are not repeated here.

#### Cumulative impacts

##### Bishopton Parish Council's position [2]

- 4.2.4. *"The principle of more renewable energy development in the area where there are already a significant number of Wind Turbines and also other Solar Farms just seems unfair. The community live in a wider region of heavy industry and enjoy Bishopton because it is one of the few rural places – this development adds to the feeling that developers see the north east as irrelevant when it comes to maintaining the English countryside. To be clear, there are currently 2 large Wind Farms and 12 proposed Solar developments (3 approved) within a 4 mile radius of Bishopton. Does the Cumulative Effect of renewable energy developments in an area have no bearing on planning regulations?"*

### The Applicant's response

- 4.2.5. The Applicant acknowledges BPC's concerns and confirms that cumulative effects of the Proposed Development with other committed developments, including other solar and wind schemes, have been assessed using the methodology set out in Environmental Statement Chapter 13 Cumulative Effects [APP-036]. A long list [APP-161] and short list [APP-162] of committed developments have been identified to feed into this assessment and their cumulative effect with the Proposed Development has been considered and where it has been assessed as appropriate to do so. Darlington Borough Council was actively engaged in the definition of the long list of committed developments, see 13.3.11 in Environmental Statement Chapter 13 Cumulative Effects [APP-036]. The Applicant's cumulative assessment of the impacts on landscape and visual impacts is contained within paragraphs 13.5.32 to 13.5.46 of ES Chapter 13 [APP-036].

### Bishopton Parish Council's position [8]

- 4.2.6. *"Concerns for biodiversity, in the wider area of heavy industry the impact of this and other developments is causing real damage to the biodiversity and healthy benefits of the rural area. The Parish Council is concerned that the wider environmental impact be included in the planning process. Where is the detailed analysis of the impact on biodiversity in the area when considering this proposal on top of all of the others being implemented?"*

### The Applicant's response

- 4.2.7. ES Chapter 6 Biodiversity [APP-029] provides an assessment of effects on internationally, nationally, and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity, including irreplaceable habitats. It concludes that there would be no significant effects arising from the Proposed Development.
- 4.2.8. Environmental Statement Appendix 2.14 Outline Landscape and Ecology Management Plan [APP-118] sets out provision for the successful protection of existing, establishment and future management of biodiversity and landscaping mitigation works.
- 4.2.9. Cumulative effects of the Proposed Development with other committed developments have been assessed using the methodology set out in Environmental Statement Chapter 13 Cumulative Effects [APP-036], as explained at paragraph 4.2.5 above.

## **Design and siting of the Proposed Development**

### Bishopton Parish Council's position [3]

- 4.2.10. *"The land assembly does not create a "farm" – it is a collection of fields scattered across a wide area that already either has or soon will have other solar production facilities. The development is purely opportunistic for the financial benefit of RWE and is not a properly planned and cohesive scheme. The scattered nature of the Solar Farm will make the*



*development seem even bigger than it already is. Does a Solar Farm need to have a logical and compact size rather than sprawling across areas of habitation and amenity?"*

#### The Applicant's response

- 4.2.11. ES Chapter 3 Alternatives and Design Iteration [AP-026], the Design Approach Document [AS-004] and the Energy Generation and Design Evolution Document (REP2-010) further set out the approach to site selection that the Applicant undertook in developing the location for and the design of the Proposed Development. ES Chapter 3 Alternatives and Design Iteration [AP-026] sets out the approach to site selection and the identification of the location of the Proposed Development, and the Energy Generation and Design Evolution Document (REP2-010) sets out how the design has been revised and updated in response to a number of factors, including feedback to consultation, environmental constraints and landowner engagement. The Design Approach Document [AS-004] and Deadline 2 Submission - Response to the ExA's ExQ1 [REP2-007] further seeks to establish how the Proposed Development has been designed in accordance with the relevant design policy and guidance.
- 4.2.12. With regards to the Bishopton Conservation Area, the economic impacts and wider environment of the local area, the Applicant prepared a full Environmental Impact Assessment in support of the Application, which establishes the existing make-up of the area, assesses the impacts of the Proposed Development and provides details of how the Applicant has sought to mitigate these impacts as far as practicable.
- 4.2.13. The impacts on and associated mitigation for the Bishopton Conservation Area can be found in ES Chapter 7 Landscape and Visual [APP-030] and ES Chapter 8 Cultural Heritage and Archaeology [APP-031].
- 4.2.14. The impacts on and associated mitigation for the local economy can be found in ES Chapter 9 Land Use and Socioeconomics [APP-032].

#### Bishopton Parish Council's position [6]

- 4.2.15. *"The Parish Council is also clear that the irradiance levels in this part of the country are only a little over 50% of those in the south of England. Put simply, is there enough sun to justify this development and all of the disruption?"*

#### The Applicant's response

- 4.2.16. In general, there is more irradiance in southern parts of the UK compared to northern parts of the UK; this is demonstrated in the Applicants response to ExQ1 DES 1.2 [REP2-007].
- 4.2.17. As set out in ES Chapter 3 Alternatives and Design Iteration [APP-026] the initial stage of the site selection process considered both irradiance and grid capacity. As set out in response to question PPD 1.2, the Applicant carried out viability modelling to identify that the north-east of England was viable for a solar farm, considering the levels of irradiance and the solar technology available at the time, and factors such as weather

conditions/historical weather data. Whilst there are differing levels of irradiance across the country, site selection must also take into account where there is available grid capacity. Having established that there was grid connection in the North-East, the Applicant considered whether irradiance would be sufficient to meet the available capacity, and concluded it would be a viable proposition. The Applicant's approach to ensuring the Proposed Development will deliver the 180MW grid connection capacity is set out within the Energy Generation and Design Evolution Document submitted at Deadline 2 [REP2-010].

#### Bishopton Parish Council's position [7]

- 4.2.18. *“Design features including a 15m high structure are described as causing little effect – the Parish Council can think of no 15m high structure in a rural area that has no visual or environmental effect. Has RWE given detailed prospective elevations of planned structures and firm proposals of their location?”*

#### The Applicant's response

- 4.2.19. It should be noted that the only element of the Proposed Development which would be 15m high is one communications mast which will be located at the on-site substation. The location of the on-site substation within Panel Area C is shown on various plans and drawings including ES Figure 2.2 Revision 2: General Arrangement Scheme Wide [REP2-015] and ES Figure 2.5 Revision 2: General Arrangement Panel Area C [REP2-018]. The design parameters, including the maximum height, of the substation and mast is set out in Table 8-1 of the Design Approach Document [AS-004].
- 4.2.20. Both the substation and the communications mast will be reasonably well screened on many sides by Square Wood and newly proposed planting, as described in ES Chapter 7 Landscape and Visual [APP-030]. The vast majority of the Proposed Development would be much lower lying, with panels being no more than 3.5m in height and the containers which house the inverters and batteries being no more than 3m in height.
- 4.2.21. ES Chapter 7 Landscape and Visual [APP-017] is provided with the DCO application and provides a landscape and visual impact assessment, a landscape character assessment and a cumulative assessment, taking into account local and national planning policies. The Applicant also provided supporting Figures 2.9 to 2.18 to its ES Chapter 2 The Proposed Development [APP-025], which aim to demonstrate indicative and typical cross-sections of the supporting infrastructure required as part of the Proposed Development.
- 4.2.22. The Applicant's approach to taking into account the height of the substation and communications mast during the assessment of landscape and visual effects is explained in the Applicant's response to LSV.1.6 [REP2-007].

## Consultation and engagement

### Bishopton Parish Council's position [4]

- 4.2.23. *“RWE are very loose with their terminology and not entirely consistent with their explanations – it has been reported on many occasions to the Parish Council that their business practices have put off land owners who have withdrawn their land from the proposals. RWE’s responses that they had reduced the size after consultation is not true. Also, RWE use terms such as “try” and “it is hoped” on a regular basis which, to us, mean nothing. How specific do the developers need to be with their plans at this planning stage and how are they held to account if successful?”*

### The Applicant's response

- 4.2.24. The Applicant has previously responded to the comments raised by the Parish Council with regards to its business practices in its Deadline 1 Submission – Post-hearing submissions including written submissions of oral cases as heard on the ISH1, OFH1 and OFH2 [REP1-006].
- 4.2.25. The Applicant also wishes to draw the Parish Council’s attention to its Deadline 2 submission Energy Generation and Design Evolution Document [REP2-010] which evidences what changes have been made to the design of the Proposed Development since its inception, at what time and what those changes were made in response to.

## Hydrology and Flood Risk

### Bishopton Parish Council's position [5]

- 4.2.26. *“The Parish Council are also concerned about the increased flooding risk during and after any development. There have been many occasions in the past year where local roads have been blocked for days by flooding. We do not believe that the already poor drainage in the area has been taken into account. Has any proper assessment of flooding risk been undertaken – if so, why hasn’t this been made available to residents?”*

### The Applicant's response

- 4.2.27. The DCO application is supported by ES Chapter 10 Hydrology and Flood Risk [APP-033], with is further supported by ES Appendix 10.1 Flood Risk Assessment and Drainage Strategy [REP2-014] and ES Appendix 10.2 Water Framework Directive Assessment [APP-153], all of which were made available to the public following submission of the DCO Application.

## Community Benefit Fund

### Bishopton Parish Council's position [9]

- 4.2.28. *“We acknowledge that the developers have offered a small Compensation Scheme. The position of Bishopton Parish Council, based on all the representations from Parishioners, is to*

*oppose the development in total and so no discussion has taken place about any compensation, however large it may become, for the total ruin of people's lives."*

### The Applicant's response

- 4.2.29. The Applicant acknowledges the position of the Parish Council. The Applicant has provided a Community Benefit Fund Note [REP2-011] at Deadline 2. It is recognised, as set out in the Planning Statement [APP-163], that the Community Benefit Fund cannot be taken into account as part of the overall planning balance to be considered by the decision-maker.

## **4.3. Further response to submission of Durham Bird Club at Deadline 1 [REP1-045 and REP-047]**

- 4.3.1. Durham Bird Club provided a written submission at Deadline 1 [REP1-047] as well as submitting into the Examination a publication from Natural England [REP1-045]. The Applicant would like to make the following comments in response to these submissions.
- 4.3.2. Points 1 to 4 of the Durham Bird Club submission [REP1-047] are views of the Bird Club and the Applicant does not believe these require a response.
- 4.3.3. Point 5 relates to appropriate compensation and refers to the Council's comments about the grasslands proposed as part of the Proposed Development (assumed to be referring to Darlington Borough Council though this is not explicitly stated). Durham Bird Club outline that 'we believe they [the grasslands] must be in areas likely to attract such birds and be free from disturbance, particularly by humans'. The Applicant recognises within its submissions, the importance of the site for farmland birds and has proposed open areas of mitigation where birds can continue to nest. As stated in Paragraph 6.10.14 of ES Chapter 6 Biodiversity [APP-029]: *"The revised layout of the Proposed Development avoids open water and areas where wintering geese were recorded in higher numbers during the winter. There will be an allocation of eight biodiversity enhancement areas and two large fields in Panel Area F: North of Bishopston, that will remain free of solar PV modules to provide continued availability of habitat."*
- 4.3.4. Paragraph 6.10.15 provides further detail on these biodiversity enhancement areas, stating: *"Eight land parcels currently used for intensive agriculture across the Order Limits to be used for biodiversity enhancement with no solar PV modules, with these areas sown with species-rich wildflower meadow grassland, with the aim of providing enhanced foraging and nesting habitat for birds. Furthermore, two large fields in Panel Area F: North of Bishopston, to remain free of no solar PV modules to be maintained with low maintenance grass sward providing enhanced availability of open ground for ground-nesting birds, such as curlew and lapwing. The clearance of vegetation of value to nesting birds will be completed outside of the bird-breeding season where possible. Should it not be possible to avoid this season, vegetation will be inspected/surveyed by the project ecologist immediately before clearance."*

- 4.3.5. Point 6 relates to the potential for more insects to be attracted to the area due to the microclimate that solar panels can create. In turn, this could attract more birds such as hirundines and swifts. Durham Bird Club highlight that this is not considered within the assessment. The Applicant recognises the importance of the site for farmland birds and this is considered within the assessment work through ES Chapter 6 Biodiversity [APP-029]. Using skylark as a proxy, the Proposed Development reflects this importance by creating open areas where birds can continue to nest, whilst also sowing flower-rich grassland in mitigation areas and under the panels. As highlighted by the Bird Club, this will likely increase biomass which would benefit birds in general.
- 4.3.6. The Applicant would be happy to explore the provision of swift nest boxes as an enhancement and would also flag the wider opportunities to look at other enhancements with the Bird Club, should the Proposed Development gain consent.
- 4.3.7. Point 7 relates to the potential impact of birds mistaking panels for water features. As reflected in the response to Durham Bird Club's Relevant Representation at Deadline 1 [REP1-004], the Applicant and its specialists are not aware of any clear evidence of this potential impact. The Proposed Development has been designed to avoid being close to existing waterbodies and therefore the Applicant considers risks to be low. The Natural England publication submitted into the Examination [REP1-045] seems to concur that evidence of such impacts is lacking and studies have shown / suggested that species are adapting to solar panels.
- 4.3.8. Point 8 relates to the BNG Report [APP-131] and in particular highlights points in relation to watercourses on the site with the report stating that there are no watercourses on the site. The Applicant would like to clarify that whilst there are watercourses within the Order Limits, as set out in 2.4.4 of the BNG Report, "*There are no anticipated impacts to watercourses as a result of the Proposed Development. The Proposed Development has been designed to include appropriate exclusion zones from all watercourses to ensure no riparian encroachment. As such there are no losses and gains of watercourse units in the assessment*". Paragraph 3.2.6 of the BNG report [APP-131] should reflect this earlier position in that given the proposed exclusion zones, no impacts are anticipated and therefore pre-development calculations for watercourses have not been included in the assessment. This clarification can be made in an update to the ES Errata and Management Plans Proposed Updates [REP2-012] at a future deadline.
- 4.3.9. The response concludes with a number of suggested 'conditions' which Durham Bird Club would like to see attached to the DCO, should consent be granted. These include for:
- Suitable and appropriate mitigation and compensation measures to be agreed with the appropriate authority to ensure ground nesting birds are not displaced by the Proposed Development.
  - Nesting opportunities to be provided in suitable locations for hirundines and swifts.
  - Monitoring, particularly in the winter and following poor visibility conditions to check whether there have been any bird related accidents.

- 4.3.10. As set out in paragraphs 6.10.14 to 6.10.16 of ES Chapter 6 Biodiversity [APP-029], embedded mitigation measures for birds are already included in the Proposed Development and as result, there are no significant effects expected on breeding birds. Further mitigation is therefore not required. The Applicant considers that control in relation to the final / detailed design, including any final compensation and mitigation measures, is already sufficiently controlled through Requirement 12 of the draft DCO [REP2-029], which requires a Landscape and Ecological Management Plan to be submitted to and approved by the relevant planning authority before construction of the Proposed Development can commence. Furthermore, Requirement 12(c) requires ‘*details of ongoing management including seasonal grazing regime and other measures including the annual review of the need for any additional mitigation planning work, during the lifetime of the authorised development.*’ Thus, monitoring and management of the mitigation measures is secured for the lifetime of the Proposed Development.
- 4.3.11. The Applicant will commit to reporting any deceased species found on site as part of maintenance activity, for review by an ecologist to establish whether there is any link to bird strike. This can be incorporated into the outline LEMP [APP-118] which will be updated at a future deadline (expected to be Deadline 6).
- 4.3.12. There are wider opportunities through the proposed Community Benefit Fund to bring further enhancement for bird species should the community, working with the Bird Club and the Applicant, wish to consider this. Any provision through the Community Benefit Fund cannot be taken into account as part of the overall planning balance to be considered by the decision-maker

#### **4.4. Update on Applicant’s Comments on Local Impact Reports submitted at Deadline 2 [REP2-008]**

- 4.4.1. In its Comments on Local Impact Reports [REP2-008], the Applicant made several commitments to provide further information at Deadline 3 or a future deadline. An update on some of these matters is provided below:

##### [Air quality – construction dust buffer figure](#)

- 4.4.2. Under reference 5.85 of the DCC Local Impact report (LIR), the Applicant committed at Deadline 2 [REP2-008] to providing a revised figure of a construction dust buffer to enable DCC to identify which receptors sensitive to air quality lie within the DCC boundary. The figures (and supporting receptor table) are provided as Appendix A to this document and have been shared directly with DCC as part of ongoing SoCG discussions.

##### [Access plans](#)

- 4.4.3. Under reference 5.3.13-17 of the DBC LIR, the Applicant committed at Deadline 2 [REP2-008] to providing access plans showing vehicle tracking and visibility splays, subject to a meeting with DBC highways to discuss prior to submission. The Applicant

has requested a meeting with DBC to discuss this matter and is awaiting a response. It is anticipated that an update will be provided to the ExA at a future deadline.

#### Noise assessment

- 4.4.4. Under reference 5.12.4-6 of the DBC LIR, the Applicant committed to review and discuss queries raised relating to the noise assessment. Having reviewed the queries raised by DBC, the Applicant is undertaking further analysis and sensitivity testing, and will seek to share an update with DBC and the ExA as soon as possible.

## Appendix A – Air Quality Receptors in County Durham

The following figures show the receptors assessed in the air quality construction dust assessment that are located in County Durham. These are listed below to aid understanding, as requested by DCC in their LIR [REP1-025]

Receptor	Name	X	Y	Type
R1	Marias Stable and Storage	428748.4	521160.5	Commercial
R2	Farm warehouse	429024.1	521890.4	Commercial
R3	Swinbank FMA & J	430539.6	522525.3	Residential/ commercial
R4	Farmhouse and farm on Lodge Lane	431783.2	522310.1	Residential/ commercial
R5	Farmhouse and farm on Lodge Lane	432245.7	522401.6	Residential/ commercial
R6	Farmhouse on Ricknall Lane	430822.8	522805.7	Residential/ commercial
R7	Residential property on Lodge Lane	431463.2	522691.4	Residential/ commercial



Figure 1 Construction dust receptors in DCC administrative area

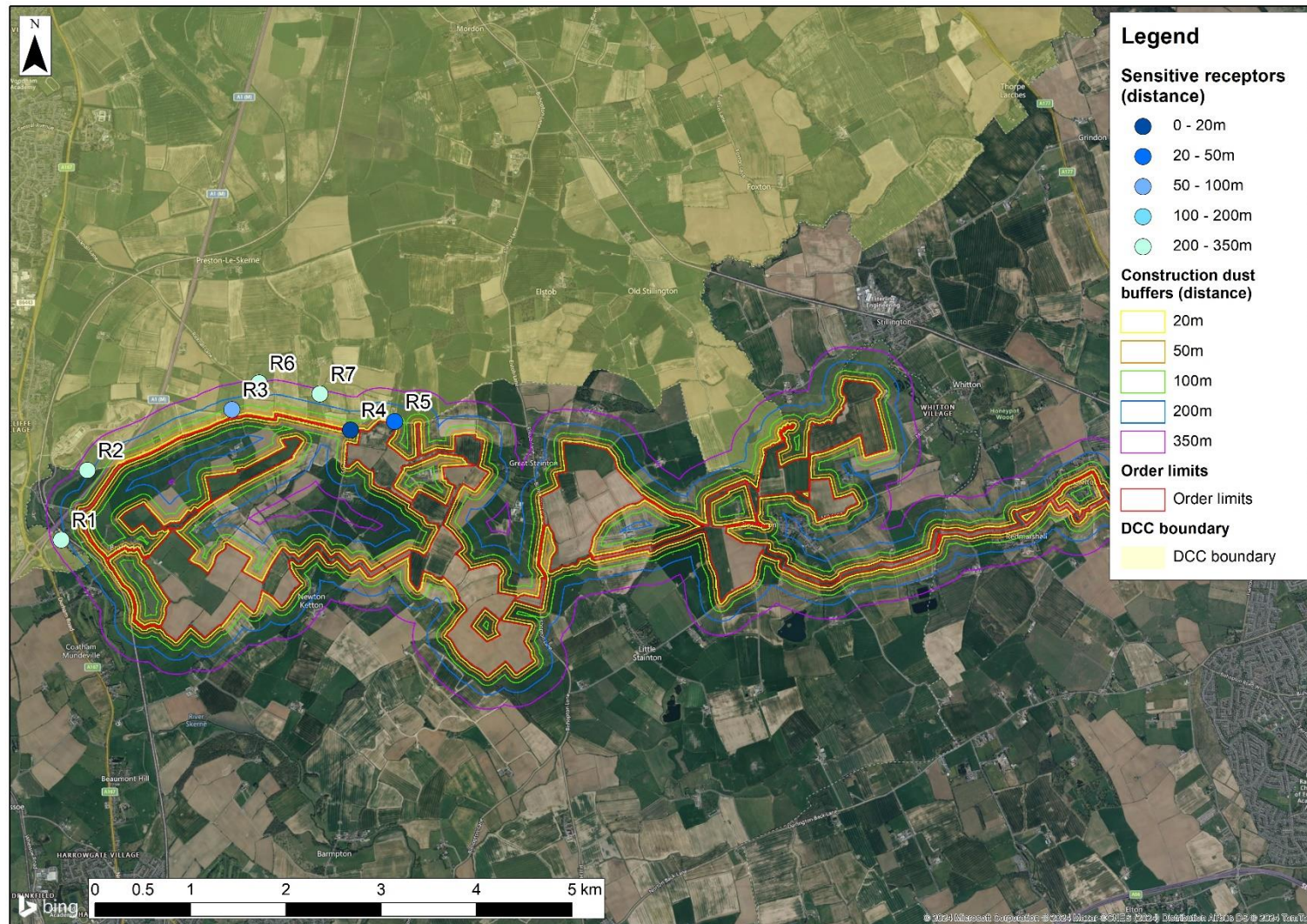


Figure 2 Inset of Figure 1 to show in further detail the receptors in DCC administrative area

