

Planning Inspectorate
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.uk]

Our ref: XA/2024/100183/01-L01
Your ref: EN010139

Date: 23 October 2024

Dear Sir/Madam

DEADLINE 4 - COMMENTS ON ANY FURTHER INFORMATION/SUBMISSIONS RECEIVED BY DEADLINE 3. BYERS GILL SOLAR. MULTIPLE LOCATIONS ACROSS DARLINGTON, STOCKTON AND DURHAM.

We write in response to the Examining Authority's invitation to respond to information submitted at Deadline 3.

We have no specific comments to make regarding the further information submitted at Deadline 3. However, please find an updated version of our Work Package Tracker appended, which reflects the recent discussions we have had with the Applicant.

Yours faithfully

Mr Lewis Pemberton
Planning Adviser

Environment Agency – Byers Gill Solar Work Package Tracker

	<u>PINS RAG System</u>
	Agreed - no further discussion needed
	Working on a solution - final position not yet reached
	Not agreed - final position that cannot be agreed and will remain a point of difference

Overarching Tracker							
Subject	Topics	Assessment	Impact	Solution	Agreed requirement / assessment updated to resolve issue	Requirement Number in DCO	Note:
Ecology within EA Remit	Outline Construction Environmental Management Plan (CEMP) (mitigation/ management measures to protect Otter and its habitat) (RR Point 4i)	Working on solution	Working on solution	Working on solution	Working on solution	4	The Applicant will provide an update to its ES Errata and Management Plan Proposed Updates [REP2-012] at a future deadline, which secures this commitment via the oCEMP. As the final iteration of the oCEMP will be a certified document under the dDCO, Requirement 4 (CEMP) does not need to be amended. We await the amended oCEMP.
	Fisheries (Directional Drilling) (RR Point 4ii)	Working on solution	Working on solution	Working on solution	Working on solution	4	The Applicant has accepted that additional control should be included within the outline CEMP to address this concern, which will be included in the next iteration of that document to be submitted to examination and has been committed to via the Environmental Statement (ES) Errata and Management Plans Proposed Updates (page 6) [REP2-012]. The final iteration of the outline CEMP will be a certified document under the dDCO, and there is therefore no need for any further amendment to be made to Requirement 4(2). We await the amended oCEMP.
	Water Framework Directive (WFD) Assessment regarding Directional Drilling (RR Point 3)	Working on solution	Working on solution	Working on solution	Working on solution		As Directional Drilling will take place under a watercourse, the WFD Assessment needs to be reviewed to show that these activities won't adversely affect WFD Status. We await the updated WFD Assessment.
	WFD Assessment regarding new surface water outfall (RR Point 3)	Agreed	Agreed	Agreed	Agreed		<i>Deadline 2 Submission - Other Consents and Licences</i> [REP2-005] has been updated. The reference to a new permanent drainage outfall installation has been removed. It is now clear that a new permanent surface water outfall will not be installed.

Flood Risk	Sequential Test (RR Point 1)	Working on solution	Working on solution	Working on solution	Working on solution	Compliance with policy regarding the Sequential Test is not within the remit of the EA. In regard to our Relevant Representation we were simply emphasising the need for the Applicant to demonstrate that the Sequential Test has been passed. Once the latest Flood Risk Assessment (FRA) has been submitted to PINS we can turn this topic green (Agreed).
	Vulnerability Classification (RR Point 1)	Agreed	Agreed	Agreed	N/A so agreed	The Vulnerability Classification is 'Essential Infrastructure'.
	Exception Test (RR Point 1)	Working on solution	Working on solution	Working on solution	Working on solution	We reviewed the hydraulic modelling and the associated outputs and we're happy that the solar panel support frames would not increase flood risk off-site where they are placed in areas that flood (only area D02). We are also happy that the solar panels would be raised sufficiently to be above the 1 in 100 year plus higher central climate change level. We await the latest FRA to be submitted to PINS and then we can turn this topic green (Agreed).
	The development should include an assessment of flood risk over at least 75 years, in line with the PPG (RR Point 1)	Working on solution	Working on solution	Working on solution	Working on solution	The Higher Central climate change was assessed for the 2080's epoch which is for the period from 2070 to 2125. We await the latest FRA to be submitted to PINS and then we can turn this topic green (Agreed).
	Climate Change Allowance (RR Point 1)	Working on solution	Working on solution	Working on solution	Working on solution	The Higher Central climate change was assessed for the 2080's epoch which is for the period from 2070 to 2125. We await the latest FRA to be submitted to PINS and then we can turn this topic green (Agreed).
	Detailed Flood Modelling (RR Point 1)	Working on solution	Working on solution	Working on solution	Working on solution	We have reviewed the Byers Gill modelling and hydrological assessment and do not have any comments to raise with regards to the model construct or the calculated flows. The model construct aligns with the method which was discussed during our meeting with the Applicant and Wallingford Hydrosolutions on the 12th June and the subsequent follow-up methodology dated 14th June 2024. We are happy that the solar panel support frames would not increase flood risk off-site where they are placed in areas that flood (panel area D02). We await the latest FRA to be submitted to PINS and then we can turn this topic green (Agreed).

Groundwater Protection	Directional Drilling and Control Measures (groundwater/surface water interaction) (RR Point 6)	Working on solution	Working on solution	Working on solution	Working on solution	4	The Applicant has accepted that additional control should be included within the outline CEMP to address this concern, which will be included in the next iteration of that document to be submitted to examination and has been committed to via the Environmental Statement (ES) Errata and Management Plans Proposed Updates (page 6) [REP2-012]. The final iteration of the outline CEMP will be a certified document under the dDCO, and there is therefore no need for any further amendment to be made to Requirement 4(2). We await the amended oCEMP.
	CEMP to include Bentonite Breakout Plan (new issue not included in RR)	Working on solution	Working on solution	Working on solution	Working on solution	4	The Applicant has accepted that additional control should be included within the outline CEMP to address this concern, which will be included in the next iteration of that document to be submitted to examination and has been committed to via the Environmental Statement (ES) Errata and Management Plans Proposed Updates (page 6) [REP2-012]. The final iteration of the outline CEMP will be a certified document under the dDCO, and there is therefore no need for any further amendment to be made to Requirement 4(2). We await the amended oCEMP.
	WFD Assessment regarding Directional Drilling (RR Point 3)	Working on solution	Working on solution	Working on solution	Working on solution		As Directional Drilling will take place under a watercourse, the WFD Assessment needs to be reviewed to show that these activities won't adversely affect WFD Status. We await the updated WFD Assessment.

Surface Water Quality	WFD Assessment regarding new surface water outfall (RR Point 3)	Agreed	Agreed	Agreed	Agreed		Deadline 2 Submission - Other Consents and Licences [REP2-005] has been updated. The reference to a new permanent drainage outfall installation has been removed. It is now clear that a new permanent surface water outfall will not be installed.
	Construction Environment Management Plan (CEMP) in relation to Construction Surface Water Management Plan (RR Point 5)	Working on solution	Working on solution	Working on solution	Working on solution	4	The Applicant has accepted that additional control should be included within the outline CEMP to address this concern, which will be included in the next iteration of the Environmental Statement (ES) Errata and Management Plans Proposed Updates (page 6) [REP2-012]. The final iteration of the outline CEMP will be a certified document under the dDCO, and there is therefore no need for any further amendment to be made to Requirement 4(2). We await the amended oCEMP.
	WFD Assessment (RR Point 3)	Working on solution	Working on solution	Working on solution	Working on solution		As Directional Drilling will take place under a watercourse, the WFD Assessment needs to be reviewed to show that these activities won't adversely affect WFD Status. We await the updated WFD Assessment.

Development Consent Order (DCO)	Disapplication of Flood Risk Activity Permits (FRAP) under the Environmental Permitting Regulations (2016) (RR Point 2)	Agreed	Agreed	Agreed	Agreed	Article 7b of the dDCO [REP2-030] (disapplication and modification of legislative provisions) regarding the disapplication of Regulation 12 (requirement for Environmental Permit) of the Environmental Permitting (England and Wales) Regulations 2016(a) in relation to carrying out a Flood Risk Activity Permit (FRAP) has been removed. The applicant no longer seeks to pursue disapplication of a FRAP.
	EA to be consulted on CEMP - 'No phase of the authorised development may commence until a CEMP for that phase has been submitted to and approved by the relevant planning authority, <i>in consultation with the Environment Agency.</i> ' RR Point 4j)	Agreed	Agreed	Agreed	Agreed	4 Schedule 2, Part 1, Requirement 4 (Construction environment management plans (CEMP) of the dDCO [REP2-030] has been updated which now addresses this issue.
	"site preparation works" on page 6 of the draft dDCO include: •(c) remedial work in respect of any contamination or other adverse ground conditions. •(g) site clearance (including vegetation removal, demolition of existing buildings and structures). Such works are pre-commencement activities that could be undertaken without the controls that only apply following commencement. This means that these works could take place without the CEMP (Requirement 4) being approved or in place.	Working on solution	Working on solution	Working on solution	Working on solution	4 We advise that Requirement 4 is amended to include: For the purposes of Requirement 4 (1) "commence" includes site preparation works comprising: •remedial work in respect of any contamination or other adverse ground conditions. •site clearance (including vegetation removal, demolition of existing buildings and structures). <u>EA await an update from the Applicant at a future deadline.</u>