

**Byers Gill Solar
EN010139**

8.15 Post-hearing submissions including written submissions of oral cases as heard at ISH2, ISH3, ISH4 and CAH1

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Issue Document Verification with Document

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1. Introduction

1.1. Purpose of this document

- 1.1.1. This document includes the Applicant's summary notes of submissions made during the course of a hearing into the Byers Gill Solar project. It is not intended to represent a complete record of proceedings, which is provided by the recordings and transcripts which are taken by the Examining Authority ("ExA") and provided on the Planning Inspectorate's website for the project. The Applicant has in its notes sought wherever possible to capture a summary of representations made by other interested parties to the examination, based on its notes of those representations.

2. Summary of Applicant’s Oral Submissions at ISH2

Table 2-1 Summary of Applicant’s Oral Submissions at ISH2

| Agenda Item | Topic for Discussion | Summary of Applicant’s Oral Submissions at ISH2 |
|---|----------------------|---|
| 1. Welcome, introductions, arrangements for this Issue Specific Hearing (ISH2) | | |
| | | <p>1.1 Mr Alex Minhinick introduced himself as a solicitor and Partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant’s project team present at ISH2, being: Mr Michael Baker (Development Project Manager at RWE), Ms Laura Byng (Planner at Arup), Mr David Brown (Associate Director at Arup) and Mr Andrew Reid (Heritage Consultant). Mr Minhinick noted that Mr Reid’s contributions will be limited to Agenda item 4. .Lisa Hutchinson, Development Manager, DBC, introduced herself along with Fiona Bage, Principal Heritage Consultant, ELG (advising DBC), speaking on Historic Environment, and Nick Boldrini, Durham County Archaeology Section (advising DBC), speaking on Historic Environment (attending virtually) – item 4.</p> <p>1.2 Helen Boston (Principal Planner at Stockton Borough Council) and Catherine Freeman (historic buildings officer) was present but not registered to speak on any particular items.</p> <p>1.3 Mr. Cumbers (Planner at Historic England) was speaking on item 4</p> <p>1.4 Norman Mulaney, representing Bishopton Parish Council, was speaking on item</p> <p>1.5 Colin Taylor (Chairman, Great Stainton Parish Meeting) was present to answer or raise questions in relation to anything RWE might present, but was not speaking on any specific item.</p> <p>1.6 Sean Anderson, representing Bishopton Villages Action Group, planned to speak on two areas, being proposed technology and consideration of alternative sites away from receptors.</p> |

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| | | <p>1.7 Mark Smith from Bishopton Villages Action Group was hoping to speak on the principle of the Proposed Development.</p> <p>1.8 Other interested parties present included Mary Kemp, Susan Mullaney, Paul Frost (Bishopton resident), Peter Wood (Bishopton resident), Carly Tinker (landscape consultant, representing Bishopton Villages Action Group), Sean Anderson, Andrew Anderson, Paul Brown (Bishopton resident), Victoria Hannigan (Great Stainton resident), Stacey Gowen (Bishopton resident).</p> |
| <p>2. Purpose of the Issue Specific Hearing</p> | | |
| | <p>For the ExA to explore the principle of the Proposed Development, namely: overall generating capacity, energy storage, size, technology, alternatives and site selection;</p> | <p>2.1 The Applicant did not make submissions on this agenda point.</p> |
| | <p>For the ExA to explore effects of the proposed development on the Historic Environment, mainly the effects of the proposed development on heritage and archaeology.</p> | <p>2.2 The Applicant did not make submissions on this agenda point.</p> |
| <p>3. Generating capacity, size, alternatives, storage and technology</p> | | |
| | <p>The ExA will start by asking the Applicant to set out, in broad terms, its response to ExQ1 PPD.1.1 and to set out its approach to delivering the 180MW generating capacity for grid connection as set out in the Energy Generation and Design Evolution Document [REP2-010].</p> | <p>3.1 The ExA asked the Applicant to set out, in broad terms, its approach to delivering the 180MW generating capacity for grid connection as set out in the Energy Generation and Design Evolution Document [REP2-010].</p> <p>3.2 Mr Baker noted the generating capacity for the Proposed Development has been designed to meet the Grid Connection Agreement with Northern Power Grid to export 180 MW AC of electricity to the National Grid at Norton Substation.</p> <p>3.3 The ExA asked the Applicant to speak further through the Energy Generation and Design Evolution Document [REP2-010].</p> |

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| | | <p>3.4 Mr Baker explained that from an early stage, the land assembly sought to include enough land in the project to ensure that this grid connection can be maximised across the lifetime of the solar farm.</p> <p>3.5 Mr Baker explained the design from an early stage has taken account various factors including:</p> <p>3.6 Differences in panel technology in terms of fixed versus tracking panels</p> <p>3.7 Panel technology in terms of the type of modules used</p> <p>3.8 The available land to accommodate interrow spacing or pitch in order to increase yield (with a greater pitch equaling greater yield)</p> <p>3.9 The ExA asked the Applicant to explain the difference between the 288 MW of direct current (“DC”) electricity and 180 MW of alternating current (“AC”) electricity?</p> <p>3.10 Mr Baker explained that the proposed design is based on 570w Jinko modules and has a generating capacity of 288MWp in DC. This provides enough electricity to maximise the utility of the 180MW Alternating Current Grid Connection.</p> <p>3.11 Mr Baker explained the size of panel areas has been designed to generate 288 MW at its peak, measured in direct current electricity. Mr Baker explained that the reason this is higher than 180 MW in AC grid capacity is because of a number factors including the degradation of panel efficiencies over the life of the project (estimated at around 15% degradation through the lifetime of the project), power losses from transforming electricity (increasing and decreasing the voltage), power losses also from reactive power to meet electricity network requirements and standards. Mr Baker explained that other factors included power losses from transporting electricity through cable losses and power losses from converting DC electricity which is generated by the panels to AC electricity used by the National Grid (estimated at around 9%).</p> <p>3.12 Mr Baker also explained that this took into account generating electricity at times of lower irradiance, such as at the beginning and end of each day and during different seasons of the year.</p> |
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| | | <p>3.13 Mr Baker explained that the purpose of the 1.6 overplanting ratio which means that the 288 MW peak number is 1.6x the 180 MW AC number, is so that when seeking to generate electricity and maximise use of connection, you can then generate more electricity at times of lower irradiance.</p> <p>3.14 The ExA asked regarding the ratio per acre of energy production according to the Proposed Development and how that ratio compares against standards set out in NPS-EN-3.</p> <p>3.15 Mr Baker explained that the total acreage for the red line boundary is 1211 acres. Mr Baker explained that if you add everything within fence line of the panel areas only, that will contain panels of 739 acres, and if you divide that by 288 MW peak generating capacity, that would equal around 2.5 acres per MW.</p> <p>3.16 The ExA explained NPPS EN-3 refers to megawatts output. The ExA queried why they should take the value the Applicant is proposing as the correct reference to measure it against the criteria in the NPS.</p> <p>3.17 Mr Baker explained that was the most relevant number, as electricity is generated through DC. Mr Baker explained that therefore, if you are looking at output, as named in the policy, and trying to establish how many megawatts per acre, then the output of the project is 288 MW DC, and that's then measured per acre. Mr Baker noted that output is then limited by the grid connection so to understand exactly what you're producing per acre in terms of megawatt it would not be accurate to divide that the acreage by the 180 MW AC.</p> <p>3.18 The ExA asked if that method of calculating the ratio was how the Applicant typically measured it or how the industry would normally measure it.</p> <p>3.19 Mr Baker explained that his understanding was that was how the industry measures it.</p> <p>3.20 The ExA asked the Applicant to explain further on overplanting, what it is and why it is required for the Proposed Development?</p> <p>3.21 Mr Baker gave the example of if you had a ratio of one. In this instance, where you had a grid connection of 180 MW AC and enough DC panels at 180 MW you would never generate 180 MW in AC for the factors previously set out. Mr Baker explained that</p> |
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| | | <p>this overplanting happens at all types of generating stations and that you would never have production of 100MW A/C energy from 100 MW DC panels. Mr Baker explained that as a result, the Applicant applies a ratio to provide enough panels to generate 180 MW AC which for the purposes of the Proposed Development is a 1.6 ratio. Mr Baker noted that this was a ratio employed by the Applicant.</p> <p>3.22 The ExA asked the Applicant to share Figure 1 of the Energy Generation and Design Evolution Document [REP 2-010] and explain this.</p> <p>3.23 Mr Baker explained Figure 1 [REP 2-010] and noted that this represented the perfect day of generation, which would be ideal weather (in terms of uninterrupted sunshine and ideal temperature) on the summer solstice. Mr Baker explained how this shows that overplanting allows solar farms to start generating more electricity earlier in the day and later in the evening. Mr Baker noted that the excess over the perfect day would be used to charge the batteries and then discharge them in the evening. Mr Baker explained that if you imagine the imperfect day, the lines in Figure 1 would come down, and so overplanting allows the Applicant to still export to the grid at the 180 MW A/C value.</p> <p>3.24 The ExA queried whether the overplanting ratio had taken into consideration the overall landtake required.</p> <p>3.25 Mr Baker confirmed that it had.</p> <p>3.26 The ExA queried if the Applicant was proposing overplanting to maximise the connection that the Proposed Development will have to the Norton substation in connection to the grid.</p> <p>3.27 Mr Baker explained that overplanting is used to maximise the use of the grid connection and noted that overplanting would be seen on other solar farms where they don't have a battery system.</p> <p>3.28 The ExA queried the figure 1.6 (for the ratio) and whether that was taken from the diagram in Figure 1, Energy Generation and Design Evolution Document [REP 2-010].</p> |
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| | | <p>3.29 Mr Baker explained that the ratio 1.6 is the Applicant’s design standard to maximise the grid connection capacity. Mr Baker explained that this ratio is used across the Applicant’s portfolio.</p> <p>3.30 The ExA queried whether the Applicant used other ratios.</p> <p>3.31 Mr Baker explained that when the Applicant uses fixed panels, they use a ratio of 1.6 and if they have tracker panel, they would use a ratio of 1.4 as trackers have greater yield but also require greater pitch. Mr Baker confirmed that the overplanting ratio was fixed for the type of panels the Applicant was proposing.</p> <p>3.32 The ExA queried the basis for the 1.6 ratio from an industry practice perspective?</p> <p>3.33 Mr Baker requested that the Applicant come back to the ExA on this as he understood that this ratio was informed by the Applicant’s viability modelling which may contain commercially sensitive information.</p> <p>3.34 The ExA noted the action for the Applicant to provide information regarding industry-based evidence on overplanting as it pertains to the Application and in relation to proposed ratio of overplanting of 1.6.</p> <p>3.35 Mr Anderson queried on the ratio of 1.6 whether that meant overplanting necessitated 60% more land take?</p> <p>3.36 Mr Baker explained that it equated to 60% more panels but there are other factors that influence the land taken such as the pitch or the interrow spacing of the panels. Mr Baker noted that you can’t therefore say that a ratio of 1.6 causes 60% more land take. Mr Baker further explained it might equate to roughly 15 to 20% more land take.</p> <p>3.37 Mr Anderson queried if we can ask for clear demonstration of that.</p> <p>3.38 The ExA requested evidence justifying the baseline and the 1.6 ratio adopted and how this impacts the level of total land take required.</p> <p>3.39 Mr Baker explained that 1 is not a viable baseline as you would never have a solar farm without overplanting.</p> |
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| | | <p>3.40 The ExA noted Mr Baker’s response and asked that the Applicant come back with an explanation of why that baseline has been adopted.</p> |
| | <p>The ExA will explore, in the context of the Proposed Development, the alternatives considered by the Applicant in relation to site selection and design iteration process, as set out in ES Chapter 3 Alternatives and Design Iteration [APP-026] and the Energy Generation and Design Evolution Document [REP2-010].</p> | <p>3.41 The ExA asked the Applicant to explain the alternatives considered in relation to site selection and design iteration process.</p> <p>3.42 Mr Brown noted that the Applicant considers this in ES Chapter 3 Alternatives and Design Iteration [APP-026], which provides an account of the alternatives that have been studied by the Applicant in developing the siting and design of the Proposed Development, the Energy Generation and Design Evolution Document [REP2-010] and also in the Planning Statement [APP-163]. Mr Brown further noted that the Planning Statement [APP-163] paragraphs 5.2.18-27 set out summary of consideration of alternatives</p> <p>3.43 Mr Brown noted NPS EN-1 contains no general requirement to consider alternatives. Mr Brown added that as well as that the NPS directs us to the legislation or policy relevant when considering alternatives and in the case of scheme and propose development that relates to the EIA regulations and also the sequential tests from a flood risk assessment perspective. Mr Brown noted that this has been the focus of the Applicant’s consideration of alternatives.</p> <p>3.44 Mr Brown explained that the Applicant’s view is that they’ve demonstrated their consideration of alternatives and do not need to do anything further as part of the application.</p> <p>3.45 Mr Brown noted chapter 3 of the Environmental Statement [APP-026] sets out the steps of the site selection process, which included consideration of factors such as irradiance, grid connection availability, environmental constraints, and ability to secure voluntary land agreements.</p> <p>3.46 Mr Brown noted a ‘no development’ alternative was not considered as that would not provide the additional renewable generation that would be delivered by the Proposed Development and was not therefore considered.</p> <p>3.47 Mr Brown also notes that alternatives were considered from a design perspective.</p> |

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| | | <p>3.48 Mr Brown explained how Chapter 3 of the Environmental Statement [APP-026] also sets out how alternative options have been considered in relation to specific aspects of the Proposed Development, as part of an overall iterative approach to design which has taken into account feedback from consultation and technical assessment. – on cable routes, different solar technology, substation location – submitted recently in Energy and Generation and Design Evolution document. Mr Brown repeated that the Applicant’s position is that they’ve demonstrated that alternatives have been considered. Mr Brown noted that in summary, the various alternatives considered include: site layout, cable routes, solar technologies, on-site substation siting and energy storage facilities and supporting infrastructure.</p> <p>3.49 The ExA noted Mr Brown’s summary of various alternatives and asked everyone to refer to Para 3.5.3, where it states that the scope of reasonable alternatives assessed by the Applicant is therefore limited to those which could be deliverable in accordance with land acquisition . The ExA asked the Applicant to confirm if this means that the Applicant did not consider any sites because of land ownership issues?</p> <p>3.50 Mr Minhinick noted that this was a broad question and explained that the site selection process, outlined in Chapter 3, explains that availability of land – i.e. identifying land owners with appropriate land parcels - was one of the factors that was considered in the development of the scheme in the site selection process.</p> <p>3.51 The ExA queried how the Applicant could explain the language used in para 3.5.3 Chapter 3 of the Environmental Statement [APP-026]. The ExA explained that one of the starting points in terms of site selection was the possible connection to the Grid Network based on the Norton substation, and queried how the Applicant looked at several different sites and came to a selection of sites based on a series of factors.</p> <p>3.52 Mr Baker explained that before approaching landowners the Applicant looked at environmental constraints and designations that would inhibit the building of solar farms, such as environmental designations and protected areas.</p> <p>3.53 ExA queried whether once the Applicant had carried out that process, they contacted landowners within the suitable areas.</p> |
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| | | <p>3.54 Mr Baker confirmed that the Applicant did.</p> <p>3.55 The ExA queried in light of this, when considering para 3.5.3, specifically how the Applicant explained that its land acquisition strategy looked particularly at no compulsory acquisition of land because of it being such a draconian power.</p> <p>3.56 Mr Baker explained that the Applicant always looks to acquire land through voluntary agreement and that this was a policy of the Applicant.</p> <p>3.57 The ExA asked the Applicant to confirm what strategy they used and what were the key items in terms of not looking at land that was outside of their acquisition strategy? The ExA queried whether it was just not having the need for compulsory acquisition or whether there were any other factors beside the compulsory acquisition factor that were considered?</p> <p>3.58 Mr Minhinick explained that at a general level, where the Applicant didn't think they would be able to obtain the relevant land interests it needed through voluntary agreement, land in that category did not flow through the site selection process . Mr Minhinick noted the fragmented nature of land ownership and that as a result there were areas where the Applicant didn't think it could acquire the necessary rights and that these weren't taken forward to the final stage of the site selection and design iteration process. Mr Minhinick noted this was a common approach adopted by other solar DCOs granted recently.</p> <p>3.59 ExA asked for explanation of the approach explained in section 3.6, particularly around the different stages of the approach.</p> <p>3.60 Mr Brown explained that this is the process the Applicant goes through for identifying sites. Mr Brown explained that the grid connection is the starting point, which was secured at Norton substation and the search corridor ,which is stage one of the process was defined as 12km around the substation. Mr Brown explained that afterwards stage 2 involved consideration of alternatives and planning constraints and the appraisal is done within a broad radius from the connection point of all of those constraints in order to refine land holdings down to areas which might be suitable for solar development. After, Stage 3, land assembly, considers expressions of interest before then going onto initial identification of potential panel areas under Stage 4,</p> |
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| | | <p>which will be on land that has come forward as potential land for solar development as part of that site search.</p> <p>3.61 The ExA asked the Applicant to set out its approach to site layout, including alternatives considered, referencing Table 3.2, summary of design changes between preliminary environmental information report and DCO application, included in Chapter 3 of the Environmental Statement [APP-026].</p> <p>3.62 Mr Baker explained that the Applicant initially proposed 4.35m high tracker panels. However, given the response to the consultation, the Applicant reduced the maximum height of the panels to 3.5 metres. Mr Baker explained that the reduction in land area was a factor that caused changing from using tracking technology to fixed technology and that this introduced a number of setbacks, such as in panel areas B and F where panels needed to be further away from residential properties. Mr Baker noted that this was presented in the Energy Generation and Design Evolution document [REP2-010]. Mr Baker noted the Applicant also reviewed the location of the batteries and considered also wholesale removal of certain land parcels as well including land discussed at previous hearings. Mr Baker explained that this involved substantively changed construction access routes and access tracks onto site. Mr Baker noted that the main points here were moving it away from the main access on panel area A to South of Brafferton village and moving the access point on panel area F to north of Bishopston so no construction traffic would not need to go through Bishopston . Mr Baker noted that the Applicant also moved cable routes where it was considered that there was no chance of reaching land agreements.</p> <p>3.63 The ExA queried if those changes were reflected the table linked to the information submitted within the Energy Generation and Design Evolution document [REP2-010], Table 4.1 (Reasons for removal of panel areas).</p> <p>3.64 Mr Baker confirmed that they were.</p> <p>3.65 The ExA queried the last change on the summary table, the reduction in order limits on panel F. The ExA asked if there was a direct connection between table 3.2 Chapter 3 and table 4.1 of the Energy Generation and Design Evolution document [REP2-010]?</p> |
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| | | <p>3.66 Mr Baker noted that table 4.2 is numbered in a way which links to table 3.2 so in this case, that would be number 17.</p> <p>3.67 The ExA asked for further confirmation of the numbering in Table 4.2.</p> <p>3.68 Mr Baker explained the changes related to 12,13 and 17 of that table came as a result of a landowner who no longer wanted to part of project.</p> <p>3.69 The ExA confirmed the link to Figure 3 and the removal of panels.</p> <p>3.70 The ExA queried on row 2 in Table 4.2, concerning the selection of fixed only solar PV panels and the item 1.6 ratio. The ExA asked whether height was the main reason for that change as opposed to the greater land that the panels may take?</p> <p>3.71 Mr Baker noted that the table focused on height as this was in response to consultation but there were various other reasons, including for example that the tracked panels take more land as they need a greater pitch between each of the tracker rows so if you don't have a greater pitch equaling higher yield, they're not viable. Mr Baker explained that it was because of these reasons that the Applicant decided on fixed panels as they don't need so much interrow spacing, involve lower costs and are more suitable for lower amount of land that the Applicant has available. The Applicant confirmed that they opted for fixed panels as they were a more viable solution based on yield and cost.</p> <p>3.72 Mr Wiltshire asked if fixed panels need more land than tracking panels.</p> <p>3.73 Mr Baker confirmed tracking panels would need more land, not fixed panels.</p> |
| | <p>The ExA will then ask questions in relation to the proposed photovoltaic technology to be use and its efficiency. The ExA will probe further on some of the assumptions underpinning the information included in the Energy Generation and Design Evolution Document [REP2-010], namely levels of irradiance and technology used and how future developments in photovoltaic technology could be incorporated or considered as part</p> | <p>3.74 The ExA asked for assurance that the best possible technology will be used and queried how this will be assessed through the lifetime of the project?</p> <p>3.75 Mr Baker confirmed that this was the best technology at the time the proposed development is being designed, being 570W Jinko panels, and these were the best and most relevant technology for this solar farm. Mr Baker explained that the Applicant will take into account any future panels that come forward and noted that this will happen at the detailed design stage where that requirement is discharged by Darlington Borough Council. Mr Baker noted the Applicant would also need to go through a</p> |

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| | <p>of the Proposed Development. The ExA will also ask the Applicant to explain its response to PPD.1.5.</p> | <p>procurement process and that during this other factors will be considered, such as module efficiency, impact on land take and impact on interrow spacing.</p> <p>3.76 The ExA queried how the ExA could be assured that the Applicant will look at those alternatives, especially given that the DCO requests for flexibility to look at different technology as technology evolves?</p> <p>3.77 Mr Minhinick explained that the DCO application has been made at a certain point in time based on information available at that point in time whilst recognising common industry approaches and standards. Mr Minhinick explained that there was very good reason why as a developer of solar arrays, the Applicant when acquiring its panels in the marketplace, needs to be able to run that procurement exercise to obtain the panels available . Mr Minhinick explained that he can't speak with certainty to any particular future events, but explained that to the extent the ExA need to be assured that where panels were available which would generate energy in more efficient way, this would represent a positive cost proposition to the Applicant, and therefore the ExA could take comfort in the need for the Applicant to deliver a competitive project. Mr Minhinick noted that this would also influence the future design process and also the Design Approach Document [APP-165] which explains this process.</p> <p>3.78 The ExA queried if that approach had been taken in the Design Approach Document [APP-165].</p> <p>3.79 Mr Minhinick confirmed they are recorded in the Design Approach Document [APP-165]. As a post-hearing note, the Applicant is reviewing the Design Approach Document to ensure this process is captured in detail.</p> <p>3.80 The ExA queried how requirements for the Applicant to discharge obligations against the Design Approach Document [APP-165] were going to be secured.</p> <p>3.81 Mr Minhinick noted that this was written into requirement 3 of the DCO.</p> <p>3.82 Mr Anderson noted that when the DCO application was submitted in early 2024, a specific acreage was mentioned of 739 acres and that this must have a direct correlation to the 180MW figure. Mr Anderson queried if that was based on a specific panel? i.e. is that based on the 570 MW Ginco</p> |
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| | | <p>3.83 Mr Baker confirmed that it was.</p> <p>3.84 Mr Anderson queried if that was the best available technology at that time?</p> <p>3.85 Mr Baker confirmed that it was.</p> <p>3.86 Mr Anderson asked if the grid connection isn't available until 2031, can the Applicant confirm that the design development that they may have achieved during this period will not equate to a less footprint than 739 acres?</p> <p>3.87 Mr Minhinick noted that this line of questioning resembled cross-examination and encouraged the ExA to explain the process for ISH2.</p> <p>3.88 The ExA explained that all parties had the opportunity to reply in writing if they felt unable to answer any question at the time.</p> <p>3.89 Mr Anderson asked if the grid connection isn't available until 2031, can the Applicant confirm that the design development that they may have achieved during this period will not equate to a less footprint than 739 acres?</p> <p>3.90 The ExA noted this question linked with the question of ratio of overplanting and the amount of land take proposed. The ExA asked if the Applicant can clarify presumption.</p> <p>3.91 Mr Baker explained that the 1.6 ratio was in relation to overplanting. Mr Baker agreed to follow up with more information as to why it was justified and required to meet generation requirements and maximise the Applicant's grid connection. Mr Baker explained that you don't know what this will look like until the detailed design stage and noted again that there were various factors which influenced this along with technology and landtake.</p> <p>3.92 Mr Taylor, representing Great Stainton Parish Council, asked if more efficient panels are procured by the Applicant, what would be the intention of the company? Would it be to increase output or to reduce the area of land required?</p> <p>3.93 The ExA directed the question to the Applicant.</p> <p>3.94 Mr Baker noted that the most efficient technology does not mean the least land take. Mr Baker explained that there is a natural limit on what the Applicant could do in</p> |
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| | | <p>terms of land and in terms of the overplanting ratio. Mr Baker noted that the Applicant also couldn't go too far in terms of what they put on the ground to maximise output because then the construction costs would outweigh the benefits of additional output.</p> <p>3.95 Mr Smith, representing Bishopton Villages Action Group, asked what the number of panels was?</p> <p>3.96 Mr Baker confirmed that the Applicant does know this but that this number is commercially sensitive.</p> <p>3.97 The ExA asked the Applicant to provide something in writing on this point.</p> <p>3.98 Mr Andy Anderson, representing Bishopston Villages Action Group, asked if the tracking panels would be taller in height than the fixed panels?</p> <p>3.99 Mr Baker confirmed the ones proposed at the start of the Applicant's process were taller but that the technology exists for smaller panels.</p> <p>3.100 Mr Anderson asked referencing schedule 4 para 2, regarding types of alternative that should be considered with an EIA, whether the Applicant considered other locations and other grid connections, bearing in mind NPS EN-3 para 10.10 and 10.11 and given the massive constraints between agricultural food and renewable energy. Mr Anderson asked if the Applicant considered alternatives such as more efficient use of land through agrovoltaic panels.</p> <p>3.101 ExA noted that considering the time constraints and complexity for Mr Anderson to submit his questions in writing, which the Applicant could then respond to, before deadline 4.</p> |
| | <p>The ExA will then ask question in relation to overall size and the anticipated ratio of generating output to land area in line with the Applicant's response to ExQ1 PPD.1.3 and PPD.1.4. The ExA will explore how the Proposed Development seeks to maximise the potential of the site for energy generating purposes. The ExA will</p> | <p>3.102 Matters under this agenda item were addressed interchangeably with other agenda items in the previous exchanges above.</p> |

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| | <p>then ask the Applicant to explain its response to ExQ1 PPD.1.10 and PPD.1.12.</p> | |
| | <p>The ExA will then ask the Applicant questions regarding its connection agreement with Northern Power Grid (NPG) and also in relation to timing and likelihood of connection.</p> | <p>3.103 The ExA queried the timeframes based on conversations with Northern Power Grid and asked how likely it was that this date will be brought forward?</p> <p>3.104 Mr Baker explained that based on the current status of the project, including for example the Applicant’s land rights, they would be able to demonstrate that theirs is not a zombie project and so they would anticipate that this could allow them to go to the top of the queue of the reforms that are being undertaken to the grid connection process. Mr Baker explained that this was something that the Applicant was assuming and had built their models around and that this shows confidence in their approach.</p> <p>3.105 The ExA asked if there was any written information evidencing that commitment from Northern Power Grid?</p> <p>3.106 Mr Baker noted that the Applicant had provided written information and a statement from Northern Power Grid.</p> <p>3.107 The ExA explained that this statement was not secure and queried what was the likelihood of the date being brought forward? The ExA asked, if this was not likely, what was the worst case scenario and how does the Applicant envisage this issue moving forward?</p> <p>3.108 Mr Baker explained that the Applicant’s approach was based on modelling and their understanding of the grid system, and noted that the Applicant considered it more likely than not that the grid connection agreement would come forward.</p> <p>3.109 The ExA noted that the period assumed was 18 to 24 months so assuming the worst case scenario of the 24 month period and assuming the DCO was granted in 2025, how would the Applicant propose to manage loss of efficiency of solar panels over time.</p> |

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| | | <p>3.110 Mr Baker noted this will be done at the detailed design stage.</p> <p>3.111 ExA queried how the Applicant will account for the relationship between technology degrading over time and the grid connection date.</p> <p>3.112 Mr Baker noted that the Applicant would not commit to construction until they had a firm understanding of the grid connection date.</p> <p>3.113 The ExA queried how this was secured in the DCO.</p> <p>3.114 Mr Minhinick confirmed that the DCO contains standard provisions which enable the development to be brought forward within 5 years of the date of the order, referencing Requirement 1 of the draft DCO.</p> <p>3.115 The ExA queried whether the 2031 date given for the grid connection is a contractual date.</p> <p>3.116 Mr Baker confirmed that this was a contractual date and that this would be the latest date it could be.</p> |
| | <p>The ExA will explore the proposed battery storage and its overall capacity and how it will function in the context of the Proposed Development and the amount of energy that will be generated. The ExA will also ask further questions of the Applicant in light of their response to ExQ1 PPD.1.9 and PPD.1.11.</p> | <p>3.117 The ExA noted that they were moving on to the agenda item concerning the battery energy storage system proposed and asked the Applicant to please explain what work has been carried out to ensure that proposed battery energy storage system will be able to store the energy being produced, especially considering the 1.6 ratio of overplanting in which cannot be exported immediately into the network.</p> <p>3.118 Mr Baker explained that the battery’s capacity was equivalent to the capacity of the solar farm so that you would effectively be able to charge it to the equivalent amount generated by the solar farm.</p> <p>3.119 The ExA asked to go back to Figure 1 and asked the ExA to confirm whether the light blue line represented the export limit.</p> <p>3.120 Mr Baker confirmed that it did.</p> |

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| | | <p>3.121 The ExA asked whether there was a need for battery storage to store energy being produced over 180 MW when it happens to compensate for the degradation of energy being produced by the farm over time?</p> <p>3.122 Mr Baker confirmed this and further noted that there was a dual benefit of batteries in terms of balancing the grid as well.</p> <p>3.123 The ExA noted dual benefit but queried if the main purpose of the battery storage was to store the energy that cannot be exported immediately into the network.</p> <p>3.124 Mr Baker explained that these two benefits were equally important.</p> |
| | <p>The ExA will give the Local Host Authorities (LHAs) an opportunity to comment on any issues raised so far under this point of the Agenda, followed by Statutory Consultees, then Statutory Undertakers and the any other IPs.</p> | <p>3.125 The Applicant did not make any submissions on this agenda point.</p> |
| <p>4. Historic Environment</p> | | |
| | <p>The ExA will ask the Applicant to provide an overview of Chapter 8 of the ES Cultural Heritage and Archaeology [APP-031] particularly focusing on the assessment methodology, how the Applicant arrived to the identification of potential likely significant effects on cultural and archaeological assets and then any proposed mitigation measures. The ExA will expect the Applicant to justify its position in relation to the identification of harm (significant or not) to any heritage asset, including its setting and the Proposed Development will address this in light of relevant and applicable national planning policy.</p> | <p>4.1 The ExA asked the Applicant to set out in broad terms its approach to the Historic Environment, particularly regarding assessment methodology and proposed mitigation measures.</p> <p>4.2 Mr. Reid explained that the methodology used for the Cultural Heritage and Archaeology chapter follows the requirements of the relevant legislation, national and local planning policy, industry standards and guidance, as well as professional judgement and experience.</p> <p>4.3 Mr Reid explained the methodology broadly follows this process:</p> <ul style="list-style-type: none"> ○ Identification of heritage assets within the site and a defined area around the site (this defined area is proportionate to the type of asset and the type of impact. For direct impacts including on archaeological assets, both known and unknown, this area spanned 2km beyond the order limits, for indirect effects on assets through a change in their |

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| | | <p>setting this area was 5km beyond the order limits. This is set out in ES Chapter 8 [APP 031 Section 8.6]</p> <ul style="list-style-type: none">○ Assessment of significance of identified heritage assets in line with the stated interests in NPS EN1 paragraph 5.9.3 which are replicated in Annex 2 of the National Planning Policy Framework and the contribution, if any, made by the asset’s setting. For the purposes of this assessment, the levels of significance were ascribed to heritage assets using designation status as a proxy (Paragraph 8.4.4 [APP 031])○ Assess the likely change from the proposed development on that identified significance, taking into consideration significance as a sum of all the identified interests where some interests contribute more to that significance, resulting in the magnitude of change (Table 8-3 [AAP 031])○ Assess the magnitude of change against the identified level of significance of the asset in line with the matrix presented in Table 8.4 [APP 031] <p>4.4 Mr Reid explained that the suitability of the methodology used was confirmed in scoping responses, as set out in ES Chapter 8 Section 8.3 [APP-031], and no subsequent issues, concerns or corrections have been raised by any of the relevant consultees at Historic England, Darlington Borough Council, Stockton on Tees Borough Council or at Durham County Council.</p> <p>4.5 The ExA queried what work has been done to avoid harm.</p> <p>4.6 The Applicant identified no harm to the conservation area through a change in its setting.</p> <p>4.7 The ExA asked for clarification.</p> <p>4.8 Mr. Reid confirmed there is no harm to the conservation area through a change in setting from the Proposed Development.</p> <p>4.9 The ExA asked if Mr. Reid agrees that setting plays a role in the conservation area.</p> |
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| | | <p>4.10 Mr. Reid explained that within ES Chapter 8, in addition to the views identified within the conservation area appraisal document, two views were identified during the assessment and another view was identified during consultation with Historic England.</p> <p>4.11 The ExA asked for the Applicant to explain how they had considered harm or no effect, considering that solar panels are clearly visible.</p> <p>4.12 Mr. Reid noted that this is not an element of the conservation area setting which they have identified as contributing to its significance, as set out within the specific viewpoints in ES Chapter 8.</p> <p>4.13 The ExA asked Mr. Reid to clarify his view on the specific side of the conservation area, particularly the eastern side.</p> <p>4.14 Mr. Reid noted that within the setting assessment and assessment of the character and appearance of the conservation area, the eastern section makes less of an impact. Mr. Reid mentioned that there was a viewpoint identified on Church View Mill Lane, which allowed for the appreciation of the longevity of the settlement.</p> |
| | <p>The ExA will also ask the Applicant the role of Appendixes 8.1, 8.2 and 8.5.</p> | <p>4.15 The ExA referred to paragraph 8.10.77 in Chapter 8, which relates to the scheduled monument Motte and Bailey Castle, noting that the Proposed Development will lead to a negligible magnitude of change on the asset, which is of high significance, resulting in a negligible effect that is not significant for the purpose of the EIA.</p> <p>4.16 Mr. Reid explained that the assessment of a negligible effect is in line with the criteria set out within Table 8.2 and Table 8.3.</p> <p>4.17 The ExA queried the difference between the “no effect” and “negligible effect” categories and why they are merged together.</p> <p>4.18 Mr. Reid stated that in relation to that asset, there is no effect.</p> <p>4.19 The ExA queried where a clear reference to “no effect” can be found within Chapter 8.</p> <p>4.20 Mr. Reid referred to paragraph 8.10.76.</p> |

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| | | <p>4.21 The ExA read out paragraph 8.10.76 and referred to paragraph 8.10.77, noting the negligible effect, which is not significant for the purposes of the EIA.</p> <p>4.22 Mr. Reid explained that this is the result of the criteria set out in Table 8.2 and Table 8.3 and assessed against the matrix in Table 8.4 and Table 8.3, which state “negligible or no effect.”</p> <p>4.23 The ExA queried the equivalence of “negligible” with “no effect.”</p> <p>4.24 Mr. Reid confirmed that it means “limited or no physical effect.”</p> <p>4.25 Ms. Hutchinson from Darlington Borough Council mentioned that Nicholas Boldrini from Durham County Council had no issues with the Applicant’s approach and that the appropriate process was followed.</p> <p>4.26 Mr. Boldrini confirmed no issues and that the appropriate process was followed.</p> <p>4.27 Mr. Cumbers stated that you can’t say there’s no visual change.</p> <p>4.28 The ExA queried if Historic England is satisfied with the methodology.</p> <p>4.29 Historic England confirmed they are satisfied with the outcome.</p> <p>4.30 The ExA queried with Mr. Reid why the “no effect” option was not included.</p> <p>4.31 Mr. Reid confirmed that the approach taken is common practice.</p> <p>4.32 The ExA noted down as an action that the Applicant would provide evidence in writing of this with one or two examples.</p> |
| | <p>The ExA will also probe the Applicant further in relation to its response to ExQ1 HEN.1.1, HEN.1.3, HEN.1.5 and HEN.1.10 [REP2-019].</p> | <p>4.33 Matters under this agenda item were addressed interchangeably with other agenda items in the previous exchanges above.</p> |

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| | <p>The ExA will give the Local Host Authorities (LHAs) the opportunity to comment, particularly Darlington Borough Council (DBC) and in light of their LIR [REP1-023] and [REP2-031].</p> | <p>4.34 Ms. Page from Darlington Borough Council noted that there is a visual change close to the core of the conservation area due to the introduction of panels. Ms. Page agreed that the impact does not undermine the wider significance of the conservation area but noted that there is an impact that must be weighed in the wider balance.</p> <p>4.35 The ExA asked the Applicant to comment on this.</p> <p>4.36 Mr. Reid acknowledged Ms. Page’s response, noting that it is the same as that received from Historic England. Mr. Reid stated that both parties agree that the difference in the level of change in relation to harm is a matter of professional disagreement, which is accepted.</p> <p>4.37 The ExA asked if the Applicant is engaging with both organisations to come to an agreement and if it is likely to be achieved.</p> <p>4.38 Mr. Reid noted that as part of the consultation, a series of conversations led to additional enhancements, including an existing enhancement proposal for the WWI landing ground within Bishopton and the inclusion of the settlement as a whole to offset any change, which was agreed upon within the Statement of Common Ground with Historic England [REF].</p> <p>4.39 The ExA asked if Darlington Borough Council had any comments on this.</p> <p>4.40 Ms. Hutchinson from Darlington Borough Council confirmed that this was included in the Statement of Common ground, noting that there had not been specific discussions on it but they will continue to do so.</p> |
| | <p>The ExA will then ask if the BVAG, in light of their WR [REP2-042] would like to comment. Following this, the ExA will then ask if any further IPs have any questions on the matters raised so far under this agenda item</p> | <p>4.41 Mr. Smith asked if the Applicant considered the change in routing of the cable, noting that the new location is much closer to the heritage asset. Mr Smith asked if the negligible effect had been reconsidered given the change in routing.</p> <p>4.42 The ExA asked the Applicant to comment.</p> <p>4.43 Mr. Baker clarified that the option to have the cable south of Bishopton village has always been part of the proposals and that the option to go through the village was removed as a result of land agreements.</p> |

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| | | <p>4.44 Mr. Reid confirmed that the cable route has always been considered within the assessment proposal, principally from an archaeological perspective.</p> <p>4.45 The ExA queried if off-road cabling within the ground is also taken into consideration in terms of its overall impact.</p> <p>4.46 Mr. Reid confirmed that the buried cable route will not be a visible or appreciable element of the landscape once covered. Mr Reid confirmed that the Environmental Statement reflects that.</p> <p>4.47 Mr. Anderson, representing Bishopton Villages Action Group, raised concerns about the impact of cable routes upon heritage assets, noting that permanent works effects have been assessed, but temporary works or construction works could be more damaging than permanent effects.</p> <p>4.48 The ExA noted that the Applicant is required to do this and has done so.</p> <p>4.49 Mr. Anderson queried why the area where the scheduled monument is located was excluded from geophysical survey areas 4 and 3.</p> <p>4.50 The ExA referred to document APP 077 regarding geophysical survey area 3, noting it comes closer in proximity to the ancient monument. The ExA asked the Applicant to comment on this.</p> <p>4.51 Mr. Reid explained that the heritage assessment is based on a number of sources, with the geophysical survey being only one. Mr. Reid noted that the Proposed Development areas focused on panel areas, which were fixed, whereas the cable route was not. He mentioned that there is a provision for additional and further archaeological evaluation within the archaeological management strategy.</p> <p>4.52 The ExA queried how the geophysics of the scheduled monument has been taken into consideration.</p> <p>4.53 Mr. Reid explained that the layout of the scheduled monument, especially the southern boundary which borders Bishopton Beck, has been taken into account. Mr Reid noted that he was confident that there wouldn't be any remains associated with the scheduled monument within that cable route. Mr Reid explained that to ensure no accidental or</p> |
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| | | <p>additional damage, a number of measures are in place, including further archaeological evaluative works to determine the presence and significance of any archaeological remains within the cable corridor, preservation through design or record, and the Outline Construction Environmental Management Plan [APP-110].</p> <p>4.54 The ExA asked how this is secured through the DCO.</p> <p>4.55 Mr. Minhinick explained that it is secured through the DCO requirements which appear in Schedule 2. Mr Minhinick further clarified that the construction environmental management plan is secured by requirement 4 and the archaeological restoration scheme investigation is secured by requirement 17.</p> <p>4.56 The ExA queried if these are all documents to be ratified within the Order.</p> <p>4.57 Mr. Minhinick confirmed that they are control documents which run with the requirements to control how development is to be certified and that they are to be certified within the certification article.</p> |
| | <p>The ExA will then want to question the Applicant regarding its approach to scheduled ancient monuments and how potential impacts have been identified and addressed. The ExA will also ask the Applicant to explain further the nature of the works which are proposed to be carried out in close proximity to an existing scheduled ancient monument, including trenching.</p> | <p>4.58 The ExA asked where harm had been identified, regardless of whether it was significant or not, if it could be avoided by using ballast foundations to mitigate through design, thereby removing the remains from impact.</p> <p>4.59 Mr. Reid explained that in relation to archaeological assets of potential known or unknown assets, harm is reduced through a programme of preservation by record, as set out within the archaeological management strategy.</p> <p>4.60 The ExA asked if the Applicant has done any work or considered any options where harm has been identified.</p> <p>4.61 Mr. Reid explained that for heritage assets, in the case of archaeological assets of medium or high significance, harm was avoided.</p> <p>4.62 The ExA noted that harm is still identified and asked if Mr. Reid meant avoidance of harm or reduction in the significance of harm.</p> |

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| | | 4.63 Mr. Reid explained that both avoidance of harm through the use of ballast foundations and reduction or offsetting of harm through preservation by record were considered. |
| | The ExA will also want to explore the role of ES Appendix 8.5 Archaeological Management Strategy [APP-149] in managing any archaeological remains that might be, at present, unknown or unidentified. | 4.64 [The Applicant did not make any submissions on this agenda point]. |
| | The ExA will then ask the Applicant to report on any further conversation of dialogue with Historic England (HE), particularly considering its response to ExQ1 HEN1.6 [REP2-050], particularly reference to a final proposed location plan. | 4.65 [The Applicant did not make any submissions on this agenda point]. |
| | The ExA will then ask Historic England to comment (if in attendance). | 4.66 [The Applicant did not make any submissions on this agenda point] |
| | The ExA will give the Local Host Authorities (LHAs) an opportunity to comment on any issues raised under this point of the Agenda, followed by Statutory Consultees, then Statutory Undertakers and the any other IPs. | 4.67 [The Applicant did not make any submissions on this agenda point]. |
| 5. Review of issues and actions arising | | |
| | | 5.1 The Applicant did not make submissions on this agenda point. |
| 6. Any other business | | |
| | | 6.1 The Applicant did not make submissions on this agenda point. |

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| 7. Closure of the Hearing | | |
| | | 7.1 The Applicant did not make submissions on this agenda point. |

3. Summary of Applicant’s Oral Submissions at ISH3

Table 3-1 Summary of Applicant’s Oral Submissions at ISH3

| Agenda Item | Topic for Discussion | Summary of Applicant’s Oral Submissions at ISH3 |
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| 1. Welcome, introductions, arrangements for this Issue Specific Hearing (ISH3) | | |
| | | <p>1.1 Mr Minhinick introduced himself as a solicitor and Partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant’s project team present at ISH3, being: Ms Laura Byng (Planner at Arup), Mrs Nicola Hill (Chartered Transport Planner), who will be speaking to agenda item 3, Mr Michael Baker (DCO Project Manager at RWE) who may contribute on any of the agenda items, Mr Paul Blackman, civil engineer and expert in flood risk assessment and drainage, who will be speaking primarily to agenda item number 4. Mr Minhinick noted that there were other members of the Applicant’s team in the room and proposed to introduce to the extent needed at any time.</p> <p>1.2 Lisa Hutchinson (development manager at Darlington Borough Council) introduced herself, as well as Mr Arthur Howison, an engineer speaking on agenda item 3 and Mr Stuart Edwards, a flood and drainage expert, speaking on agenda item 4.</p> <p>1.3 Helen Boston (principal planner at Stockton Borough Council) introduced herself, as well as Stacey Marsh (principal engineer for the local flood authority) and Martin Parker (principal engineer for highways).</p> <p>1.4 Lewis Pemberton (environmental planning specialist at the Environment Agency (“EA”)) introduced himself and noted he planned to be speaking on agenda item 4, as well as introducing his colleagues Phillip Sale (modelling specialist at the EA) and Claire Hemsworth (flood risk advisor at the EA).</p> <p>1.5 Other interested parties who introduced themselves included Norman Mulaney (representing Bishopton Parish Council), Mark Smith (representing Bishopton Villages Action Group (“BVAG”)), Sean Anderson (representing BVAG), Colin Taylor (representing Great Stainton Parish Meeting), Peter Wood (Bishopton resident), Stacey</p> |

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| | | <p>Gowen (Bishopton resident), Christine Briscoe (Bishopton resident), Melanie Turner (Great Stainton resident), Paul Brown (Bishopton resident) and Andy Anderson (representing BVAG).</p> |
| <p>2. Purpose of the Issue Specific Hearing</p> | | |
| | <p>For the ExA to undertake an oral examination of Environmental Matters in relation to traffic and transport, water environment and flood risk together with compliance with relevant planning policies.</p> | <p>2.1 The Applicant did not make submissions on this agenda point.</p> |
| <p>3. Traffic and Transport</p> | | |
| | <p>The ExA will ask the Applicant to set out, in broad terms, the travel plan for the development and how the proposed travel arrangement would minimise traffic impact and car parking needs and at the same time ensure highway safety in the vicinity of the Proposed Development.</p> | <p>3.1 The ExA referenced Chapter 12 of the Environmental Statement [APP-035], Paragraph 12, point 10.13, assumes that 100 staff per site would travel in vehicles accommodating 7 people, thereby equating to a requirement of 15 cars per site. The ExA queried how these numbers had been generated.</p> <p>3.2 Mrs Hill confirmed that employee numbers have been estimated using data from other solar farm sites. During the peak, when there could be three Panel Areas under construction, there is estimated to be demand for 300 construction workers per day. Mrs Hill confirmed this equated to 100 staff members per Panel Area across a maximum of three Panel Areas under construction at any one time.</p> <p>3.3 Mrs Hill noted that there is a commitment, secured by the Outline Construction Traffic Management Plan (CTMP) [APP-112], that car parking for construction workers will be provided within the site compound. Mrs Hill explained that the principle of providing car parking within each compound is outlined in the Outline CTMP and confirmed that the Development will commit to all car parking demand being accommodated within the site. Mrs Hill confirmed that no car parking will be permitted outside the side boundary.</p> <p>3.4 Mrs Hill explained that a detailed CTMP would need to be submitted and approved by the planning authority prior to each phase of development.</p> |

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| | | <p>3.5 Mrs Hill explained that during the peak of construction, some of the workforce will not be from the local area. Mrs Hill noted that due to the rural location, the lack of public transport and early start of work time, construction staff are expected to generally travel to the site from their accommodation via large cars (seven seaters) or minibuses. Mrs Hill confirmed that measures concerning staff transport are detailed in the CTMP.</p> <p>3.6 The ExA referenced Appendix 2.8 [APP-112], which detailed the proposed number of car parking spaces. The ExA asked the Applicant to explain the numbers calculated and to confirm whether other sites had been used to support these assumptions?</p> <p>3.7 Mrs Hill explained that for each panel area, there was estimated to be 100 employees. To take 100 employees in 7-seater vehicles would constitute 30 trips or 15 minibus trips to each site. Mrs Hill noted that it was likely that some of the vehicles won't stay on site but that either way the assurance was that demand can be accommodated within the compound, and that there may be more or less demand in certain compounds. Mrs Hill confirmed this would be in the detailed CTMP.</p> <p>3.8 The ExA queried without bona fide surveys, such as a car occupancy survey, whether there was not a possibility that the Applicant might have underestimated these numbers.</p> <p>3.9 Mrs Hill explained that it was difficult to know how people will travel and that this would need to be agreed with the principal contractor once appointed. Mrs Hill explained that the Applicant had assumed group travel based on other solar farm developments and construction sites. Mrs Hill noted that there may be more or less parking provided in certain compounds, but that the Applicant was generally comfortable that the estimate is accurate and that any demand for the car parking can be accommodated within the site compound.</p> <p>3.10 The ExA requested the Applicant to look into this and possibly provide some form of survey to substantiate the figure so that the number of car parking spaces can be relied upon.</p> |
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| | | <p>3.11 Mr Minhinick queried whether the ExA wanted a prospective use survey of workers who would be delivering the scheme, or whether the ExA was referring to surveys of another scheme?</p> <p>3.12 The ExA explained that the figure should have come from a bona fide car occupancy survey, including factors such as the number of groups, and using any averages to provide figure. The ExA explained that without the survey, they could not see how the figure of seven could be reliable.</p> <p>3.13 Mr Minhinick agreed that the Applicant can take the point away. Mr Minhinick noted that as an interim measure, management and monitoring measures were written into the outline Construction Traffic Management Plan [APP-112]. Mr Minhinick noted that the Applicant will take away and consider whether surveys are an appropriate thing to supplement the monitoring process outlined under the Construction Traffic Management Plan.</p> <p>1.1 The ExA queried whether any thought had been given to the potential for underestimation of those figures and overspill figures?</p> <p>3.14 Mrs Hill noted that the Applicant had not identified any overspill car parking areas as it was not envisaged that these would be necessary. Mrs Hill explained that method of group travel assumptions is what the Applicant has used based on their understanding of other solar farm developments in the UK. Mrs Hill noted that she was not aware of other developments using different methods. Mrs Hill reiterated that the Applicant had not therefore identified additional parking areas as they did not feel that there was a need for any overspill car parking.</p> <p>3.15 The ExA asked the Applicant to present the travel plan initiatives for the Proposed Development and how it would minimise traffic impact and car parking needs and at the same time ensure highway safety in the vicinity of the Proposed Development.</p> <p>3.16 Mrs Hill explained that the main travel planning measure was to encourage the construction workforce to travel in group vehicles and noted that this was outlined in the draft outline Construction Traffic Management Plan. Mrs Hill explained that other than that, people would be welcome to cycle to the site and that there would be provision for cycle parking within the compound. Mrs Hill noted she would expect very</p> |
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| | | <p>few workers to use the Tees Flex bus service (assuming it is still operating) because it requires flexibility, and construction workers will need to be at the site to start construction at 8am. Mrs Hill reiterated that there was no measure for any overspill parking, as the Applicant intended to make sure that was accommodated within the site.</p> <p>3.17 The ExA noted that it was struggling to understand how the travel plan arrangement will work without further action from the Applicant needed to minimise car parking demand. The ExA noted this will have an impact on other topics, such as an impact on the requirement for land. The ExA queried whether the Applicant had given any thoughts given to dedicated transport for construction workers?</p> <p>3.18 Mrs Hill explained that at this stage that was to be agreed as part of the detailed Construction Traffic Management Plan which must be developed in accordance with the outline Construction Traffic Management Plan which does state that there will be that group travel. Mrs Hill explained that at the moment that commitment is in the Construction Traffic Management Plan and that the Applicant needs to ensure that that's enforced at each phase of development.</p> <p>3.19 ExA noted that it would be useful to have specific initiatives within the Construction Traffic Management Plan before the start of the development, potentially including negotiations with a transport provider so people can travel in groups to minimise car parking demand. The ExA noted that when they had their site visit on July 23rd, they struggled to find any space to park along the rural roads.</p> <p>3.20 The ExA referenced that the Construction Traffic Management Plan cited an average occupancy rate of 7 persons per vehicle. The ExA queried given that there was no information regarding the Applicant's commitment to provide dedicated transport, how can the Applicant explain how this forecast will give a reasonable assurance to the ExA?</p> <p>3.21 Mrs Hill explained that this goes back to commitment of the initiative within the Construction Traffic Management Plan to ensure shared transport to and from the site. Mrs Hill noted that it may be that once the Applicant gets to the detailed Construction Traffic Management Plan stage it will be able to understand exactly the construction workforce. Mrs Hill explained that the principle of shared travel was based on previous</p> |
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| | | <p>solar farm developments and noted that the Applicant was comfortable that the shared initiative was a reasonable assumption to make.</p> <p>3.22 The ExA noted it down as an action for the Applicant to provide further information to reassure the ExA on its concerns regarding joint transport provision.</p> <p>3.23 Mr Minhinick confirmed that the Applicant will take away and provide reassurance on this point before the end of examination.</p> <p>3.24 Mr Minhnick highlighted two key points of process in relation to this issue. Firstly, the provisions of the Construction Traffic Management Plan, which will be incorporated into a contractual relationship between RWE and the contractor that it appoints to deliver this development. Mr Minhinick noted that both the planning controls and contractual relationship mean that the contractor will be held to account. Secondly, Mr Minhinick raised requirement 4 of the Order which deals with the need for approval and then compliance with the Construction Traffic Management Plan, as submitted. Mr Minhinick explained that the Construction Traffic Management Plan has enforcement mechanisms which would be overseen by the local highway authority. Mr Minhinick noted that the Applicant considers that enforcement framework to be an appropriate mechanism to provide the ExA with the necessary reassurance. Mr Minhinick noted that the Applicant was not aware that the local highway authority had any concerns about this.</p> <p>3.25 The ExA noted that the travel plan requires clear-cut initiatives that the ExA can rely on and that these could be in outline form and the Construction Traffic Management Plan then enforces it. The ExA noted that without having those clear-cut initiatives the ExA did not have anything to rely on.</p> <p>3.26 Mr Minhinick noted that the Applicant will take this away and come back with something in writing on this point.</p> |
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| | <p>The ExA will then ask the Applicant to describe the current travel routes of the identified Tees Flex bus in relation to the assumed origins of the prospective construction workers of the Proposed Development, the suitability of this bus service for the staff travel needs of this Proposed Development, scope for alternative bus provision for staff and whether any negotiations with Tees Flex bus operator or any other bus provider have taken place</p> | <p>3.27 The ExA queried whether any negotiations with the Tees Flex operator have taken place.</p> <p>3.28 Mrs Hill explained that use of the Tees Flex service requires an amount of flexibility which may not make it suitable for the workforce of the Proposed Development. Mrs Hill noted that the Applicant is also aware that the funding for the Tees Flex is currently programmed to end in March 2025. Mrs Hill noted that the Applicant has also spoken to Darlington Borough Council, who agreed that they were not able to advise if the service will continue to be funded from next March onwards. Mrs Hill explained that as a result, use of the service was not something the Applicant had relied upon in their assessment.</p> |
| | <p>The ExA will then ask Darlington Borough Council for clarification about plan for the Tees Flex bus following its initial funding period ending March 2025 and whether any source of funding had been identified including potential for other developer contribution in this area to enable this bus service to continue to operate beyond March 2025</p> | <p>3.29 The Applicant did not make any submissions on this agenda point.</p> |
| | <p>The ExA will then ask the Applicant to set out its approach to the Community Benefit Fund [REP2-011], explaining whether it has taken into consideration deficiencies in the road and transport infrastructure in the local area alongside comments previously made in relation to its adequacy and describe any level of flexibility in the amount of contribution.</p> | <p>3.30 The ExA asked the Applicant to set out to obtaining the Community Benefit Fund sum.</p> <p>3.31 Mr Minhinick explained that the Applicant submitted community benefit fund statement [REP2-011] as part of deadline 2 responses. That statement includes the details that the Applicant is able to provide at this point in time and the Applicant has nothing to add beyond what has been submitted in the statement.</p> <p>3.32 Mr Minhinick explained that there were two points to add more widely on the Community Benefit Fund itself. Mr Minhinick, explained that firstly the question of community benefit and the provision of community benefit funds are things that sit squarely outside of the planning regime and are not to be taken account of during consideration and determination of planning matters. Mr Minhinick note that whilst the Applicant had clearly communicated the presence of fund, the Applicant’s position was that it did not see this as performing a traditional planning function of offsetting direct impacts of the project that fall to be compensated for through traditional s106</p> |

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| | | <p>agreements (for example). Mr Minhinick explained that the Applicant did not see this as performing that function, but instead as something that sits outside of the planning regime.</p> <p>3.33 Mr Minhinick explained that consideration has not been given to the sum of the fund for highway purposes. Mr Minhinick noted that the Applicant has not identified any particular deficit in existing highway infrastructure that is required to be funded.</p> <p>3.34 Mr Minhinick noted that the Applicant has not directly considered using section 106 funds to deal with highway matters as it was not apparent that there was anything that requires the application of those funds which have that necessary connection with the development coming forward. Mr Minhinick explained that the nature of things that the community benefit fund has been made available for are explained in the statement and the Applicant does not think that general highway improvement in the local area falls within that.</p> <p>3.35 The ExA queried if the Applicant considered that the extension of the Tees Flex bus service would actually benefit the local community?</p> <p>3.36 Mr Minhinick explained that the Applicant does not understand this to be the right mechanism to use to address transport needs for the scheme in terms of suitability. Mr Minhinick explained that it was not thought that the TeesFlex service was an appropriate means of ensuring construction workers can be transported to the Development. Mr Minhinick noted that the Applicant's position was to use multi-occupancy vehicles and the Applicant did not see the Tees Flex Service as necessarily making any meaningful contribution to the transport needs of the development.</p> <p>3.37 Mrs Hill agreed that it would be unusual for the developer to contribute towards the service. Mrs Hill also noted the issue of timing for construction workers and explained that the funding of the service would likely be disproportionate to the scale of use from construction workers. Mrs Hill explained that the Applicant's position was that shared transport was more appropriate, and that this would be organised by the principal contractor, as opposed to a public bus service.</p> |
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| | | <p>3.38 The ExA referenced paragraph 2.2.4 of Community Benefit Fund Statement [REP2-011] and queried what action the Applicant proposes to take to address the perceived insufficiency of the fund according to some consultees.</p> <p>3.39 Mr Baker noted that the fund was proposed based on the proportion per MW that the Applicant contributed. Mr Baker noted that the Applicant hadn't discussed this to date with the parishes following the parishes' wish not to discuss it during the planning process. Mr Baker noted that the fund itself is administered by a third party. Mr Baker noted that the Applicant is open to discussions about the level of funding.</p> <p>3.40 The ExA asked if the Applicant could confirm their willingness to give a certain level of flexibility in the ultimate sum.</p> <p>3.41 Mr Baker confirmed that the Applicant can review the sum in line with discussions and based on the viability of project.</p> <p>3.42 The ExA asked if the Applicant could clarify regarding flexibility in the ultimate sum.</p> <p>3.43 Mr Baker confirmed that the Applicant was willing to give a certain level of flexibility in the ultimate sum. Mr Baker again noted that this was not relevant to planning.</p> <p>3.44 The ExA queried why local councils were not included in the list of groups under the fund?</p> <p>3.45 Mr Baker noted that the fund is administered by third parties, not necessarily local authorities and that it was a fund for community groups.</p> |
| | <p>The ExA will then ask the Applicant if it has carried out any condition survey of the proposed construction traffic routes and explain the results of the survey and confirm if all the road sections therein are presently in a state that would withstand the weight of heavy goods vehicles (HGVs) serving the Proposed Development and if not, what measures would be put into place to ensure that these roads will continue to be safe for all road users</p> | <p>3.46 The ExA queried if the roads were suitable for HGVs and if not, what measures the Applicant had taken to ensure safety.</p> <p>3.47 Mrs Hill explained that Table 3.1 of the Outline Construction Traffic Management Plan [APP-112] was going to be updated. Mrs Hill explained that Mill Lane is not a proposed access route for construction vehicles, and that this is reflected in Figure 2.21 Construction Compounds and Access [APP-059]. Mrs Hill explained as outlined in the Outline Construction Traffic Management Plan [APP-112] one vehicular access to Panel Area F will be provided and is located on the western boundary of the Panel Area. Mrs</p> |

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| | | <p>Hill explained that this will enable HGVs to approach Area F from the north and avoids the need to use Mill Lane, or travel through Bishopton village.</p> <p>3.48 The ExA queried the need for passing places, noting that on the site visit there were not many opportunities.</p> <p>3.49 Mrs Hill noted that the Applicant has not looked at passing places, largely based on the forecast of the number of HGVs expected, being an average of 6 per day for each panel area. Mrs Hill noted that the roads are lightly trafficked but some goods vehicles do use them so the Applicant didn't feel that the addition of about 6 vehicles per day necessitated the addition of passing places.</p> <p>3.50 The ExA queried whether the construction works compromised free and safe use the highway, as well as following completion of the Proposed Development. The ExA referenced response to Darlington Borough Council and Stockton Borough Council, as well as local impact reports.</p> <p>3.51 Mrs Hill noted the Applicant was willing to commit to undertaking pre-commencement condition surveys and regular inspections of routes to site. Mrs Hill noted that the Outline Construction Traffic Management Plan will be updated to include this requirement alongside any other commitments. Mrs Hill noted that the Applicant has discussed this with Darlington Borough Council and believes it is satisfied with this approach, as long as pre-commencement conditions are carried out and there are commitments within the detailed Construction Traffic Management Plan.</p> <p>3.52 The ExA queried if in the instance where a road was in disrepair to the extent an HGV couldn't pass it? Would the Applicant be willing to repair it?</p> <p>3.53 Mr Baker explained that repairs would be covered by the Applicant if they were to occur but that the Applicant wishes to clarify the exact mechanism in writing for this following the hearing.</p> <p>3.54 The ExA queried if in the instance, a precondition survey revealed a large pothole, is there something that the Applicant would do to ensure it was okay for HGVs in the meantime.</p> |
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| | | <p>3.55 Mr Baker confirmed that the Applicant would review this prior to construction so if there was that instance, that's something the Applicant would want to repair prior to construction.</p> <p>3.56 ExA asked for statement to that effect confirming that mechanism.</p> <p>3.57 Mr Minhinick noted that the Applicant intended to update the Construction Traffic Management Plan, including in relation to the points dealt with previously regarding multi-occupancy initiatives.</p> <p>3.58 Mr Minhinick noted that no-one had identified any issues through informal surveying including local authorities. Mr Minhinick explained that in relation to if there were issues that the Applicant had a concern about, and there was pre-existing damage to the highway, the Applicant would be happy to take that point away and consider how to put it in the Construction Traffic Management Plan. Mr Minhinick noted that local highway authorities are responsible for maintaining the existing public highway network, and that primary responsibility for safety lay with them. Mr Minhinick noted that the Applicant can review proposals put forward.</p> <p>3.59 The ExA explained if the highway unsuitable would expect the Applicant to rectify that to ensure it's fit for purpose</p> <p>3.60 The ExA asked the Applicant to include necessary actions and related requirements within the Construction Traffic Management Plan.</p> <p>3.61 Mr Minhinick noted that the Applicant's position is that the local highway network is suitable to enable delivery of development. Mr Minhinick explained that the Applicant was not aware that of the local highway authority identifying constraints, nor have any been identified in the Applicant's investigations to date or assessment work to date. Mr Minhinick explained that the Applicant will consider what mechanism would be to used to deal with any pre-existing damage that there might be when a precondition survey is carried out. Mr Minhinick noted that the Applicant certainly would be happy to talk to the local highway authorities about this.</p> <p>3.62 The ExA asked the Applicant to confirm if the Construction Traffic Management Plan will be updated accordingly.</p> |
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| | | <p>3.63 Mr Minhinick confirmed that the Construction Traffic Management Plan will be updated to address a variety of matters that had come up across the course of the hearing, and that this was one of points the Applicant will look at.</p> |
| | <p>The ExA will then finally ask the Applicant to explain the suitability of Mill Lane Bishopton for construction traffic given that, as confirmed by Schedule 9 of Darlington Borough Council’s Moving Traffic Order 2019, it is not built for vehicles with weights exceeding 7.5 tons and, as it appears that it is inevitable that this road would form part of the construction traffic route of the Proposed Development, what plan has the Applicant got to make it safe for HGVs and vulnerable road users comprising pedestrians, cyclists and equestrians.</p> | <p>3.64 Post-hearing note: this agenda item was addressed in part by Mrs Hill’s comments in the preceding agenda item, and subsequently in questions raised by interested parties in the following agenda item.</p> |
| | <p>The ExA will give the Local Host Authorities (LHAs) the opportunity to comment. The ExA will particularly be looking for comments from DBC, DCC and SBC.</p> | <p>3.65 The Applicant did not make any submissions on this agenda point.</p> |
| | <p>The ExA will then give an opportunity for other IPs to comments on any issues raised under this point of the Agenda</p> | <p>3.66 Mr. Smith noted that the section 4 of the Outline Construction Traffic Management Plan [APP-112] identifies developments of a similar nature within close proximity to the Proposed Development but mentioned that no mitigation is built into the Outline Construction Traffic Management Plan [APP-112] for increased levels of traffic from other multiple developments likely to take place at the same time.</p> <p>3.67 Mrs. Hill explained that they did look at that and extracted available traffic flow information from other developments and their routing. It was noted that the main committed developments are to the west of the study area and that traffic from committed developments has been added to the future baseline network, which is considered within the assessment in terms of mitigation within the Outline Construction Traffic Management Plan [APP-112]. Mrs. Hill also noted the role of the</p> |

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| | | <p>community liaison officer in the Construction Traffic Management Plan who will be responsible for coordinating discussions with the local community and other developments.</p> <p>3.68 Mr. Taylor from Great Stainton Parish mentioned that Elstob Lane has been lightly trafficked and noted that he downloaded a speed monitor sign at the top of the village, which covered a period with 461,199 vehicle movements, indicating it doesn't seem lightly trafficked.</p> <p>3.69 Mrs. Hill explained that the traffic survey data confirmed that Elstob Lane was the busiest route in the study area, with 3,000 vehicles recorded travelling each way in a day according to a traffic survey in March 2023. Mrs. Hill noted that "lightly trafficked" was in comparison to the actual link flow capacity of that carriageway, which is between 1,000 and 18,000 vehicles per hour, so in terms of daily flow of about 3,000, it is light compared to what it could theoretically accommodate.</p> <p>3.70 The ExA queried the additional impact on the road as a result of the development.</p> <p>3.71 Mrs. Hill referred to diagrams within the Transport Statement [REP2-004].</p> <p>3.72 Mr. Anderson from BVAG noted that shared transport is notoriously difficult to manage and enforce.</p> <p>3.73 Mrs. Hill noted that the shared use of vehicles is an established practice for sites such as this.</p> <p>3.74 Mr. Anderson expressed concern that if shared transport can't be enforced, construction workers will migrate to their own vehicles, leading to more traffic on the road and parking in lanes.</p> <p>3.75 The ExA noted a firm action for the Applicant to address the issues discussed around the provision of shared transport. The ExA explained that they expected to see a clear-cut statement within the Construction Traffic Management Plan that can be enforced.</p> <p>3.76 Mr. Anderson, representing BVAG, explained that he had expected to see some description of how the construction will be organized, the number of contractors, and how subcontracting will work. Mr. Anderson didn't see how what was currently</p> |
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| | | <p>provided could translate into a contractual arrangement in terms of modal share and having seven people in a car.</p> <p>3.77 Mr. Minhinick noted that it is possible to include those commitments in the Construction Traffic Management Plan in a way that they will be enforceable in the planning regime. He noted that the contractual relationship between RWE and the principal contractor is a separate question, but the starting point is that there are planning controls in place.</p> |
| <p>4. Water Environment and Flood Risk</p> | | |
| | <p>The ExA will ask the Applicant to describe the hydraulic modelling for the watercourses that cross the Order Limits as required by the EA, the conclusions reached and any progress regarding EA response on this issue apart from those received at D3.</p> | <p>4.1 The ExA asked the Applicant to explain the modelling methodology undertaken in the Hydraulic Modelling assessment.</p> <p>4.2 Mr. Blackman explained that the relevant features taken into account were the relevant water courses within the site. Mr. Blackman noted that development layouts were assessed against those flood zones, both river flooding and surface water flooding. Mr. Blackman stated that an updated version of the flood risk assessment was submitted [REP2-004] Mr. Blackman mentioned that the site is considered to have a relatively low flood risk, certainly within the order limits. Mr. Blackman added that there are limited areas of flood zones within those limits and isolated areas of surface water flooding. Mr. Blackman clarified that in terms of fluvial flood zones, all solar panels remain outside these areas except for one small area in panel zone D02, next to Little Stainton Beck. Mr. Blackman concluded that the impacts have been assessed as not significant.</p> <p>4.3 The ExA queried what mitigation measures had been taken</p> |

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| | | <p>4.4 Mr Blackman explained that mitigation included maintenance of a grass sward throughout the site, both underneath and around the panels, and maintaining a buffer strip between the edge of panel areas and any adjacent water courses. Mr Blackman noted that a legume-rich grass seed mix will be used to create a thicker sward. Mr Blackman stated that the provision of the maintained grass will help attenuate flows from the site and improve existing conditions, where the field is currently maintained as arable farming. Mr Blackman added that other mitigation measures include requirements on the contractor to mitigate during construction, such as developing a construction surface water management plan as part of the Construction Environmental Management Plan [APP-110]. Mr Blackman stated that details will be further developed by the contractor in the construction surface water management plan. The ExA asked the Applicant to expand on the measures within the Construction Environmental Management Plan.</p> <p>4.5 Mr Blackman explained that construction methods require relatively little excavation for a solar farm. Mr Blackman noted that mitigation measures would include maintaining buffer strips and ensuring not working within a 10-metre buffer from the edge of the solar panels. Mr. Blackman added that making sure that surface water flooding routes identified on site are diverted around construction areas is a key mitigation measure.</p> <p>4.6 The ExA queried where the order limit is close to residential properties, asking if there are specific actions to mitigate the impact on those properties that are very close to the order limits, specifically around the electricity station.</p> <p>4.7 Mr. Blackman explained that the key mitigation is a 10-metre minimum buffer. Mr. Blackman noted that there are areas where a greater buffer from the area limits is maintained.</p> <p>4.8 The ExA asked if there are any measures to address those sorts of issues.</p> <p>4.9 Mr. Blackman stated that there are no specific measures for particular sites in that regard.</p> |
| | <p>The ExA will then ask the Applicant to demonstrate what the sequential test approach to flood risk assessment that was carried out in respect of parts of</p> | <p>4.10 The ExA asked how the climate change impact of the development on this</p> |

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| | <p>the Order Limits that are being located within Flood Zones 2 and 3, as instructed by EA, has shown and, confirm if the EA is now content with the outcome.</p> | <p>watercourse has been addressed in Chapter 5 of the ES.</p> <p>4.11 The ExA requested a description of the classification of each flood zone within the order limits and what proportion of the order limits lie within each zone.</p> <p>4.12 Mr. Blackman explained that river flood zones are classified on EA flood maps as flood zones 1, 2, and 3. Mr. Blackman noted that flood zone 2 may be impacted by a flood of a 1 in 1000-year event, and flood zone 3 by a 1 in 1000-year event. Mr. Blackman stated that no parts of the panel areas are in flood zones 2 or 3 aside from panel area D02, which is partially within flood zones 2 and 3 of Little Stainton Beck. Mr. Blackman added that the flood risk assessment highlights key areas where the surface water flood map shows deeper areas of flooding, which are all very localized. Mr. Blackman noted that they haven't calculated specific proportions of flood zones within the order limits and panel areas.</p> <p>4.13 The ExA requested more detail to break this down, such as the percentage of the area that falls within each flood zone.</p> <p>4.14 Mr. Blackman confirmed that that this is something the Applicant can do.</p> <p>4.15 The ExA asked the Applicant to explain the approach used to evaluate flood risk for those parts of the order limits falling within flood zones 2 and 3 and the outcome of the assessment.</p> <p>4.16 Mr. Blackman described the risk and justified that there is no impact on flood risk as no works are proposed to existing bridges and cable crossings under watercourses will be underground, so they remain as is. Mr. Blackman noted that the key area is solar panel area D02, where part of the panel area falls within flood zones 2 and 3. Mr. Blackman explained that they looked at the EA's flood zone mapping, which appeared unusual, so they agreed to do some modelling of that stretch of Little Stainton Beck. Mr. Blackman stated that the modelling, undertaken over the last few months, confirmed flood depths between 300mm and 500mm. Mr. Blackman noted that as the panels will be a minimum of 800mm above ground level, this is deemed appropriate in terms of risk. Mr. Blackman added that as part of the modelling, they assessed the potential impact of the legs being within the flow, being a small area compared to the overall flow within the floodplain. Mr. Blackman noted that they modelled the solar panel legs as woodland to see what impact this might</p> |
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| | | <p>have in a worst-case scenario, and this confirmed that any impacts are restricted to within the order limits, with some minor impacts very locally around the solar panels of about 10mm within the watercourse itself. Mr. Blackman concluded that the Applicant understands it is agreed with the EA that the impacts can be deemed not significant in terms of what's proposed.</p> <p>4.17 The ExA queried if they are still waiting for the EA's comment on this assessment.</p> <p>4.18 Mr. Blackman stated that they are liaising with Lewis Pemberton from the EA and understand that the EA has approved their modelling work and is happy with the predicted impacts due to the solar panels.</p> <p>4.19 Mr. Pemberton confirmed that he had reviewed Flood Risk Assessment received at the beginning of September and noted that the EA do not have any comments. Mr. Pemberton confirmed that the model and methodology align with previous meetings and discussions, and that the EA are happy that the solar panel support frames would not increase flood risk off-site where they are placed in areas that flood, including solar panel area D02.</p> <p>4.20 Mr. Blackman noted that the Applicant intends to submit an updated flood risk assessment with a modelling technical note at deadline 4.</p> <p>4.21 The ExA asked for the Applicant's response to Darlington Borough Council and the EA, noting that Darlington Borough Council requested sequential tests for parts of the order limits in flood zones. The ExA asked if the Applicant could describe this test and the associated results.</p> <p>4.22 Mr. Blackman explained the sequential test requirements for infrastructure of this type and noted that the Applicant's process for this reflected the process required in the NPPF. Mr. Blackman explained that the sequential test aims to direct as much development as possible into low risk flood zones.</p> <p>4.23 Mr. Blackman noted that different types of development have different vulnerabilities, and the purpose of the sequential test is to account for the vulnerability of the development and direct it to the most appropriate flood zone, i.e., the lowest flood zone. Mr. Blackman mentioned that the latest version of the</p> |
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| | | <p>flood risk assessment describes the sequential test process on a regional scale, looking at the proposed site in relation to flood zones. Mr. Blackman added that the flood risk assessment includes a figure showing the radius from the point of connection. Mr Blackman noted that looking at flood risk mapping on a wider regional scale demonstrates that the site is in a relatively low flood risk zone.</p> <p>4.24 Mr. Blackman took the ExA through the sequential test approach using Diagram 1 of the Flood Risk Assessment explaining how the Applicant has ensured that panel areas are in lower flood risk zones, noting that it is a relatively low flood risk zone except for panel zone D02. Mr. Blackman explained that detailed hydraulic modelling was undertaken to ensure panels would be raised above the minimum level.</p> <p>4.25 The ExA queried the approach to the exception test.</p> <p>4.26 Mr. Blackman explained that once it is accepted that development needs to occur within a particular flood zone, the part a) of the exception test involves considering wider community benefits and sustainability benefits, which is more of a broader sustainability issue.</p> <p>4.27 The ExA asked if they are still waiting for the EA to comment on this.</p> <p>4.28 Mr. Blackman noted that the Applicant understands that the EA and Council are happy with the approach, although the Council had a comment on part A of the exception test.</p> <p>4.29 Ms. Hutchinson, representing Darlington Borough Council, noted that there are three strands to the exception test. One of these is technical matters, which are set out quite clearly, another is wider community benefits, which had not been mentioned. Ms. Hutchinson flagged this and asked for it to be communicated with more information.</p> <p>4.30 The ExA asked the EA to comment further.</p> <p>4.31 Mr Pemberton agreed with Ms. Hutchinson’s conclusions, noting that the EA had confirmed that they were happy with the approach on several points.</p> <p>4.32 The ExA requested updated documents from the Applicant.</p> <p>4.33 Mr. Minhinick stated that the Applicant is aiming to submit an updated flood risk assessment as soon as all matters within it are agreed. Mr. Minhinick noted that the only outstanding point is the explanation of the third limb of the exceptions test,</p> |
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| | | <p>which needs to be fleshed out. Mr. Minhinick suggested that they could either circulate that or simply submit it and will also aim to have statements of common ground updated with the relevant parties to reflect that position.</p> <p>4.34 The ExA queried the community benefits element of the test.</p> <p>4.35 Mr. Minhinick confirmed that this will be addressed in the document.</p> |
| | <p>The ExA will then ask the Applicant to illustrate how the flood risk assessment undertaken would allay the local fears about existing flooding along Mill Lane and the potential for the Proposed Development to exacerbate this problem including any necessary mitigation measures.</p> <p>The ExA will give the Local Host Authorities (LHAs) the opportunity to comment.</p> | <p>4.36 The ExA opened the floor for comments.</p> <p>4.37 Ms. Hutchinson from Darlington Borough Council had no comment.</p> <p>4.38 Mr. Wood, a resident of Bishopton, raised concerns about flood risk and drainage issues, especially around the village of Bishopton. Mr. Wood raised issues he had with the methodology and assessment taken by the Applicant. Mr Wood highlighted areas of common flooding in the local area.</p> <p>4.39 The ExA noted that flood maps have now been agreed after being initially rejected by the EA and Darlington Borough Council, and that Mill Lane is no longer being used in the document.</p> |

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| | <p>The ExA will particularly be looking for comments from DBC and EA.</p> <p>The ExA will then give an opportunity for other IPs to comments on any issues raised under this point of the Agenda.</p> | <p>4.40 Mr. Blackman acknowledged Mr. Wood’s concerns and sympathized with the problems cited. Mr. Blackman noted that the Applicant was not applying for a flood risk management scheme but a solar park. Mr. Blackman explained that the flood risk assessment states that vegetation will be enhanced on-site as a key mitigation measure and maintained, as currently many of the fields are arable and ploughed, which can exacerbate flooding. Mr. Blackman noted that the intention is to maintain vegetation to manage existing flood risk problems. Mr. Blackman mentioned that at Mill Lane, panel area F03, there is a wider buffer with maintained vegetation, which will help retain and infiltrate water compared to the existing case. Mr. Blackman referred to the flood risk assessment, which assesses the impact of solar panels on runoff, and explained that maintaining a grass sward underneath and between the panels will replicate natural processes and improve existing conditions. Mr. Blackman added that there may be scope to incorporate more rigorous measures to infiltrate flows on boundaries as an enhancement measure. Mr. Blackman stated that moving forward to the detailed stage, if consent is received, the contractor will be required to develop a construction surface water management plan. Mr. Blackman emphasized that the principles of what should be included in that plan are outlined in the document, including provisions to survey any available land drainage, carry out investigations during construction, avoid damage to land drains where possible, and repair any damage caused.</p> <p>4.41 Mr. Wood asked where the tolerance would be to move panel legs to miss drains if there are going to be straight avenues of panels and queried if land drains under soil were considered relevant.</p> <p>4.42 The ExA asked the Applicant to comment on this.</p> <p>4.43 Mr Blackman accepted that the potential damage to local land drains and highlighted that the purpose of land drainage is to make fields more manageable and less wet to enable them to be farmed. Mr. Blackman questioned if disrupting land drainage would worsen flooding in lower-lying areas.</p> <p>4.44 The ExA asked if the impact after mitigating measures have been taken into account has been modelled, and if it will exacerbate the situation in terms of flood risk.</p> |
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| | | <p>4.45 Mr. Blackman stated that it hasn't been modelled using any mathematical modelling, but the key principle is to maintain the vegetation under and around panels. Mr. Blackman noted that although it hasn't been modelled explicitly, a paper referenced in the Flood Risk Assessment describes research where modelling was undertaken to assess the impact of solar panels on hydrological response, finding that maintaining vegetation under and around panels won't significantly increase runoff rates.</p> <p>4.46 The ExA queried if the type of vegetation used to address the problem will be slightly different and if this is something the Applicant can look into.</p> <p>4.47 Mr. Blackman confirmed that if they have details of those flood risk areas and buffers available, they could look at additional enhancement measures. Mr. Blackman emphasized that it is not a flood risk scheme, but where they can match buffers available around solar panels with existing flood problems, they can look at additional vegetation measures to provide some reassurance.</p> <p>4.48 The ExA noted concerns that the intensity of mitigation measures should depend on the quality of vegetation, including identifying area F, the quality of vegetation, type of vegetation, and any additional measures that can at least reinforce against flooding.</p> <p>4.49 Mr. Taylor from Great Stainton noted that if field drains are damaged, they would stay within fields, but on fields where there's runoff, it will drain into lower-lying fields. Mr. Taylor expressed concerns from farming members of the community that their fields will become flooded and noted that not all culverts on roads maintained by Darlington Borough Council will be effective.</p> <p>4.50 Mr. Minhinick stated that the position on field drains has already been addressed within the management plans. Mr. Minhinick explained that the Applicant's case will address potential interference with field drains and remedy anything that happens. Mr. Minhinick summarized the Applicant's position on runoff, stating that with the embedded mitigation as part of the scheme, the Applicant does not consider that the scheme is exacerbating runoff. Mr. Minhinick noted that the Applicant's position is that if anything, runoff is likely to decrease and that the Applicant is happy to look at additional enhancement measures. Mr Minhinick again noted that the Applicant</p> |
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| | | <p>does not accept that the scheme is exacerbating existing issues.</p> <p>4.51 Mr. Anderson noted differences between arable land and other types of land, and queried whether this had been taken into account.</p> <p>4.52 Mr. Minhinick clarified that when Mr. Blackman referred to arable land, he was referring to the existing position between arable land and later stages. Mr. Minhinick noted that there is a difference of opinion as to what effect this will have on drainage, but the Applicant’s position has been explained and there is nothing further to say at this stage.</p> <p>4.53 Ms. Turner from Great Stainton queried the responsibility of contractors for managing surface water.</p> <p>4.54 Mr. Minhinick explained that the scheme will be delivered through management plans via the DCO, which is the mechanism by which LPAs can hold the Applicant accountable within the planning regime.</p> <p>4.55 Robert Powles expressed the opinion that it will not be possible to achieve a higher level of vegetation than what currently exists, noting that the legume grasses suggested by the Applicant are not as well-established as the current vegetation. The member noted that legumes are weak in terms of root structure and water-holding capacity, making them a poor choice for flood mitigation, and requested to see the Applicant’s work on vegetation choices and management of injurious weeds.</p> <p>4.56 Mr. Minhinick thanked the speaker for their comments and explained that a comprehensive series of management plans will control the way development proceeds, including planting proposals under panels and buffer areas. Mr. Minhinick noted that these measures will be managed through the Construction Environmental Management Plan by the LPA.</p> <p>4.57 The ExA asked in which documents the management of flood risk will be set out.</p> <p>4.58 Mr. Minhinick stated that during the operational stage, planting measures related to the maintenance of vegetation will be controlled through the Outline Landscape and Ecological Management Plan [APP-118].</p> <p>4.59 The ExA noted that while the document includes measures related to landscape management, it does not clearly outline the obligation or requirement for the Applicant to react to flooding issues. The ExA asked if the Applicant would be able</p> |
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| | | <p>to reconsider the proposed vegetation mix if it does not meet standards or function as intended, and queried how this would be triggered.</p> <p>4.60 Mr. Minhinick agreed to take away the point immediately and clarify how operational flooding will be managed and how the Outline Landscape and Ecological Management Plan [APP-118] will react to flooding management issues.</p> <p>4.61 Mr. Wood noted that site F already has lush grass and expressed concern that once covered, it will not get enough sunlight.</p> <p>4.62 The ExA queried the actions to be taken.</p> <p>4.63 Mr. Minhinick confirmed that they agreed to take planting measures in the area and review them. Mr. Blackman noted that there is approximately a 60-metre standoff between Mill Lane and the area of the field in Panel area F that would be covered in solar panels.</p> <p>4.64 Mr. Brown, a resident of Bishopton, asked how the Applicant plans to alleviate flooding problems when Darlington Borough Council has been trying for so long without success, noting that the consequences are unknown.</p> <p>4.65 The ExA noted the need to consider the impact of this development on the existing situation, stating that the Applicant has certain embedded measures and additional mitigation measures. The ExA asked what other measures the Applicant can use to address local concerns if the current measures are insufficient.</p> <p>4.66 Mr. Minhinick reiterated the Applicant’s position, acknowledging the local concerns about potential flood issues. Mr. Minhinick stated that the Applicant’s position is that the project is not making those flooding issues worse and is likely reducing the potential runoff from fields with solar panels. Mr. Minhinick noted that the Applicant is exploring additional enhancements or measures and will report back to the examination when possible.</p> |
| 5. Review of issues and actions arising | | |

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| | | <p>5.1 Mr. Minhinick confirmed that the Applicant had a note of their actions. Mr. Minhinick suggested submitting a written list of actions to the ExA, and if there are any disagreements, to amend them accordingly.</p> |
| <p>6. Any other business</p> | | |
| | | <p>6.1 The Applicant did not make submissions on this agenda point.</p> |
| <p>7. Closure of the Hearing</p> | | |
| | | <p>7.1 The Applicant did not make submissions on this agenda point.</p> |

4. Summary of Applicant’s Oral Submissions at ISH4

Table 4-1 Summary of Applicant's Oral Submission at ISH4

| Agenda Item | Topic for Discussion | Summary of Applicant’s Oral Submissions at ISH4 |
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| 1. Welcome, introductions, arrangements for this Issue Specific Hearing (ISH4) | | |
| | | <p>1.1 Mr Alex Minhinick introduced himself as a solicitor and Partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant’s project team present at ISH4, being: Ms Laura Byng (Planner at Arup), Mrs Mary Fisher (of Abseline Consultancy and the Applicant’s landscape architect), Mr Michael Baker (Development Project Manager at RWE). Mr Minhinick noted the team was also joined online by Waqar Qureshi (Technical Analyst at PAGERPOWER), who will be speaking on glint and glare issues. Mr Minhinick noted the remainder of the team will be speaking on any of the agenda items as required.</p> <p>1.2 Lisa Hutchinson introduced herself as a Development Manager at Darlington Borough Council, as well as introducing Mr Stephen Laws (Landscape architect at Darlington Borough Council), Mrs Carol Wheelan (Environmental Health Manager at Darlington Borough Council), Geoffrey McCarthy (Rights of Way Officer at Darlington Borough Council). Ms. Hutchinson noted that Andrew Casey will join later on (Head of Highway Network Management at Darlington Borough Council).</p> <p>1.3 Helen Boston introduced herself as Principal Planner at Stockton Borough Council, as well as introducing Sarah Wood (landscape architect at Stockton Borough Council) and Jacob Moat (valuations assistant at Stockton Borough Council).</p> <p>1.4 Colin Taylor introduced himself as representing Great Stainton Parish Meeting, as well as introducing Martin Philpott, a resident and member of the committee and Susan Knobbs, also a member of the committee.</p> <p>1.5 Other Interested Parties who introduced themselves included Peter Wood (chairman of Bishopton Villages Action Group (“BVAG”), Martin Philpot (resident at Great Stainton), Carly Tinkler (landscape architect, representing BVAG), Alan Pilkington</p> |

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| | | (resident of Bishopton), Sean Anderson (representing BVAG), Melanie Turner (representing BVAG), Peter Latham (resident of Bishopton), Debbie Latham (resident of Bishopton), Stacey Gowan (resident of Bishopton), Norman Mullaney (representing Bishopton Parish Council), Susan Springett (resident of Great Stainton) and Mark Smith (representing BVAG). |
| 2. Purpose of the Issue Specific Hearing | | |
| | For the ExA to undertake an oral examination of Environmental Matters in relation to Landscape and Visual matters. | 2.1 The Applicant did not make submissions on this agenda point. |
| | For the ExA to undertake an oral examination of the Development Consent Order. | 2.2 The Applicant did not make submissions on this agenda point. |
| 3. Landscape and Visual | | |
| | The ExA will ask the Applicant to set out, in broad terms how it has developed the design of the panel areas in order to mitigate significant effects during operation on residents and on users of Public Rights of Way, drawing heavily on the Design Approach Document - Revision 2 [AS-004] and Energy Generation and Design Evolution Document [REP2-010]. | 3.1 The ExA asked the Applicant to explain the methodology used. |
| | | 3.2 Mrs. Fisher explained that the methodology undertaken was based on the Guidelines for Landscape and Visual Impact Assessment, version 3 developed by the Landscape Institute. Mrs. Fisher noted that it involved identifying appropriate receptors, features, and characteristics of the landscape and assessing the effects of the Proposed Development on those. |
| | | 3.3 The ExA asked the Applicant to touch on mitigation measures built into the proposal. |
| | | 3.4 Mrs. Fisher explained that it is useful to set the context from the starting point of site selection by considering what national policy tells us to prioritize. Mrs. Fisher noted that National Policy Statement (NPS) EN-1 para 5.10.5 outlines that virtually all NSIPs will have adverse effects, para 5.10.7 outlines that the highest status of protection is afforded to national parks, and para 5.10.8 addresses developments outside of those national designations under para 5.10.7 but which might have effects on them. Mrs. Fisher explained that neither of those scenarios applied in this instance, meaning there |

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| | | <p>are no nationally designated landscapes that the Proposed Development would be within and none nearby either.</p> <p>3.5 Mrs. Fisher explained that development within areas of Heritage Coast (para 5.10.12) and locally valued landscapes should not be used in themselves to refuse consent as this may unduly restrict acceptable development. Mrs. Fisher noted that these local designations were avoided, with no panel areas within them, and neither is the substation within them. She recognized that there is an area of high landscape value within Durham, but the assessment of effects on that would be at most moderate and not significant. Mrs. Fisher mentioned that this approach has been agreed upon by Durham County Council in their Local Impact Report [REP1-025] and referred to design iterations in section 4.3 of the Energy Generation and Design Evolution Document [REP2-010].</p> <p>3.6 Mrs. Fisher referred to Table 4.1 and Figure 2 of the Energy Generation and Design Evolution Document [REP2-010], explaining that:</p> <p>3.7 area 1 was initially identified as a panel area but panels were removed due to landscape and visual effects;</p> <p>3.8 area 2 was not removed for landscape and visual reasons but was close to a Site of Special Scientific Interest (SSSI)</p> <p>3.9 area 3, a field that slopes towards the village and is very visible from the village to the south, was removed to mitigate the effect on Great Stainton;</p> <p>3.10 area 4, with its main façade facing north, had panels removed to mitigate effects on visual amenity and the road passing to the east of the field;</p> <p>3.11 area 5 was removed due to its position close to Great Stainton;</p> <p>3.12 area 6 was removed to mitigate effects on residential visual amenity;</p> <p>3.13 area 7, a small area of a larger panel area that slopes steeply towards Bishopton, was removed due to visibility during early operation through gaps in tree cover;</p> |
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| | | <p>3.14 area 8, northeast of Bishopton, was removed to set back panels from the recreation ground and the school and residential properties in that area, in response to comments during co-design workshops;</p> <p>3.15 area 9, was removed due to visibility and unsuitability for panels, and was instead used for bird mitigation;</p> <p>3.16 area 10, consisting of two small areas with open views from residential properties, was discussed for changes due to landowner changes;</p> <p>3.17 areas 11, 12, 13, and 17 were removed due to landowner withdrawal but their omission also gave rise to mitigation of landscape and visual effects, with area 12 being close to the road by Great Stainton and very visible, and area 13 having similar visibility issues</p> <p>3.18 area 14, an extension of a previously discussed change to the south of Great Stainton, was increased after detailed site visits to achieve mitigation;</p> <p>3.19 area 15, small fields north of Bishopton, was removed in response to consultation responses as opposed to landscape and visual advice;</p> <p>3.20 area 16, north of Mill Lane, was removed due to consultation responses and landscape and visual advice regarding visibility from Mill Lane and its local importance for recreation; and</p> <p>3.21 area 17 was removed for similar reasons, along with landowner issues and to mitigate views from relevant properties.</p> <p>3.22 The ExA queried Area 14, where the ExA conducted an accompanied site inspection and felt that significant effects would be more visible in the area, asking for expansion.</p> <p>3.23 Mrs. Fisher explained that the impacts on this area were not assessed because it did not form part of the final scheme.</p> <p>3.24 The ExA clarified that it was panel area D and asked for the assessment and reasons that led to the removal of Area 14, noting that they felt the characteristics extended beyond Area 14 and questioned why the limit of the plot was defined as it was and why it wasn't taken further.</p> |
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| | | <p>3.25 Mrs. Fisher explained that the aim related to the topography of that particular field, noting that when looking out from the village, the fields dip away from the village, then rise and fall again. Mrs. Fisher mentioned that the placement of panels was to ensure none came down on the facing slope, and they were placed on top of the ridge with planting in front to screen the panels, so only the thin edge would be visible. She referred to the visualisation within the Residential Visual Amenity Assessment [APP-137] from homes at Great Stainton. Mrs. Fisher noted that further mitigation might be achieved by setting panels even further back on the downslope, but it was not judged possible to make them completely invisible. Mrs. Fisher added that given the proximity of other panel areas to Great Stainton, it would not have mitigated the effects in any event, as it wasn't the primary contributor to the significant effects.</p> <p>3.26 The ExA noted that this question came from the site inspection and expressed concern about visual effects to the Public Rights of Way ("PROW"), which would have justified further consideration, referring to Sheet 8/13 of the Street Works, Rights of Way and Access Plans [REP2-024].</p> <p>3.27 Mrs. Fisher explained that the footpath heading east of Great Stainton is illustrated by viewpoint 17, noting that the most visible panel area is not the one being discussed to the south of Great Stainton. Mrs. Fisher explained that Area 14 wasn't further mitigated as it was not the most visible plot.</p> <p>3.28 The ExA asked why the criteria were not extended any further, as it was not obvious what the change in landscape was, and questioned the reasoning behind the assessment of landscape and visual effects carried out for plot 14 and why that reasoning was not expanded to the wider area.</p> <p>3.29 Mrs. Fisher explained that Area 14 south of Great Stainton was not the only area removed; area 5 was also removed to the east. Mrs. Fisher noted that mitigation was also achieved by removing Area 5 and setting panels further down the slope, as panels closer to the village would have entirely obscured the walk.</p> <p>3.30 The ExA queried why the boundaries of area 5 were set where they were from an landscape and visual perspective.</p> |
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| | | <p>3.31 Mrs. Fisher referenced the visualisation from viewpoint 17, explaining that the specific aim was to ensure the wider landscape could be seen beyond the solar panels. Mrs. Fisher noted that when hedges mature, the panels would be screened as much as possible, but views above would continue to the landscape beyond.</p> <p>3.32 The ExA asked the Applicant to confirm the length of time required for matured planting.</p> <p>3.33 Mrs. Fisher stated that it would take 7-10 years for the planting to mature, compared to the image shown for year 1.</p> <p>3.34 The ExA asked the Applicant to set out, in broad terms how it has developed the design of the panel areas in order to mitigate significant effects during operation on residents and on users of Public Rights of Way.</p> <p>3.35 Mrs. Fisher noted that there is a very extensive network of PROWs in the area and given the scale of development, it is not possible to mitigate all effects on all PROWs such that they would not be significant. Mrs. Fisher explained that mitigation focused on making the best use of existing hedging and screening, especially for PROWs that crossed fields, by diverting those rights of way around the edges of fields so they didn't pass between new panel areas with panels on both sides before hedging matured. These were primary elements of mitigation in the context of not being able to remove all significant effects.</p> <p>3.36 The ExA asked if Mrs. Fisher was saying that the Applicant has not been able to mitigate effects during the construction or operational phase.</p> <p>3.37 Mrs. Fisher explained that elements of mitigation measures will mitigate some of the effects, such as adding a hedge to two sides to mitigate effects without causing an adverse effect, resulting in a neutral outcome. Mrs. Fisher noted that in other areas, doing that would obscure views, and effects would still be significant and adverse due to loss of view. Mrs. Fisher noted that there is a mix of effects, with some being mitigated and some not, depending on the exact situation. Mrs. Fisher also noted that some rights of way in the area are already hedged on both sides.</p> <p>3.38 The ExA asked if any more planting is being provided.</p> |
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| | | <p>3.39 Mrs. Fisher clarified that there is planting wherever needed.</p> <p>3.40 The ExA asked for clarification on how mitigation is secured.</p> <p>3.41 Mr. Minhinick explained that the forms of mitigation are predominantly related to planting. Mr. Minhinick explained that this is secured through the DCO, specifically Requirement 12, which covers the landscape and ecology management plan (“LEMP”). Mr. Minhinick noted that there is an Outline Landscape and Ecology Management Plan [APP-118] among the application documents, which was also discussed in yesterday’s hearings and will be revisited and resubmitted into the examination. Mr. Minhinick explained that Requirement 12 provides that no phase of authorised development can be commenced until the LEMP covering that phase is approved by the LPA. Mr. Minhinick explained that Paragraph 3 of Requirement 12 provides that the approved LEMP will be implemented in the form in which it has been approved, and that this is the primary control on the delivery of the mitigation that Mrs. Fisher referred to.</p> <p>3.42 The ExA queried if any tree or shrub planted as part of an approved LEMP within a period of 5 years is removed or becomes seriously damaged or diseased must be replaced. The ExA also asked if this requirement for replacement includes existing planting or just proposed mitigation.</p> <p>3.43 Mr. Minhinick clarified that it relates to vegetation planted as part of an approved LEMP, so Requirement 12 would relate to additional planting that the Applicant is delivering as part of the scheme.</p> <p>3.44 The ExA asked if the Applicant would consider redrafting to include existing hedging that has been used as part of the overall LEMP scheme.</p> <p>3.45 Mr. Minhinick stated that they will take this away and consider it.</p> <p>3.46 The ExA noted that this was an action for the Applicant.</p> |
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| | <p>Referencing NPS EN-1, paragraph 5.10.26; “Reducing the scale of a project can help to mitigate the visual and landscape effects of a proposed project”. The Applicant will be asked for its assessment of ‘.. a small reduction in function (electricity generation) ... ‘ to achieve ‘... a very significant benefit (mitigation to reduce the landscape and/or visual effects)</p> | <p>3.47 The ExA referenced NPS EN-1, paragraph 5.10.26, and asked the Applicant to comment on this.</p> <p>3.48 Mrs. Fisher explained that there may be exceptional circumstances (as outlined in that paragraph of EN-1) where a small reduction in function could achieve a significant benefit, but no such exceptional circumstance has been identified for this project, nor any locations where a small reduction would result in a very significant benefit. Mrs. Fisher noted that there is nothing intrinsically unacceptable about a renewable energy development, for which there is a critical national need, giving rise to significant landscape and visual effects. Mrs Fisher said instead, this policy asks whether a very significant benefit can be achieved via a small reduction in function.</p> <p>3.49 Mrs. Fisher explained that as the design of a solar farm is iterated, the degree to which any reduction can be accommodated decreases. Mrs. Fisher explained that while there is more land available, areas can be removed while there is still ‘excess’. Mrs. Fisher noted that later, as environmental surveys continue and areas are removed for different reasons, the margin narrows. For Byers Gill, this margin may narrow until any further reductions would hinder the ability to deliver the capacity of the grid connection secured under the DCO.</p> <p>3.50 Mrs. Fisher noted that in seeking this type of improvement in design, you would not be looking to just move panels a bit further away from a visual receptor, as such a change would only deliver a minor benefit rather than a ‘very significant benefit’. Instead, Mrs Fisher explained that they are looking for a ‘step change’ – something that makes a big, obvious difference for one receptor or benefits several receptors. For instance, changes made to retain outward views, where any further reductions would make the panels a little more recessive but not entirely remove them from view would not constitute this type of change. Mrs. Fisher explained that it is not necessarily the case that avoiding a significant effect on one receptor constitutes such a ‘step change’. Mrs. Fisher added that the difference between a major/moderate and a moderate effect can be relatively small. For Byers Gill, you would need to prioritize which of the major/moderate effects to mitigate, as attempting to render all significant effects non-significant would require much more than a ‘small reduction in function’.</p> |
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| | | <p>3.51 Mr. Minhinick noted that Mrs. Fisher provided a response to the question with particular reference to EN-1. Mr. Minhinick referenced another relevant section, which relates to the extent to which alternatives should be considered during the preparation of the application for the DCO. Mr. Minhinick referred to paragraphs 4.3.22-4.3.29, noting that given the level and urgency of need for new energy infrastructure, the Secretary of State should be guided by certain principles when deciding what weight should be given to alternatives. Mr. Minhinick noted that the second bullet point states that only alternatives that can meet the objectives of the Proposed Development should be considered; the objectives here are the generation of renewable electricity and the maximisation of export capacity to transmit electricity into the National Grid and aid the broad drive towards net zero. Mr. Minhinick added that Paragraph 28 states that vague and immature alternatives can be excluded on the grounds of not being important and relevant. Mr. Minhinick explained that sub-paragraph 29 notes that if an alternative is first put forward by a third party, the onus may be on the person proposing the alternative to provide evidence. Mr. Minhinick noted that Mrs. Fisher explained the approach the Applicant has taken to considering consultation, feedback, and detailed landscape advice in design iterations. Mr. Minhinick added that the Applicant has explained that based on current modelling and taking account of overplanting discussions, there isn't scope to remove additional panel areas from the scheme without starting to prejudice the maximisation of the export and grid connection capacity.</p> <p>3.52 The ExA noted that there is scope to explore effects and mitigation measures that would be adequate.</p> <p>3.53 Mr. Minhinick confirmed that the Applicant is not indicating that mitigation measures and exploration of those are inappropriate.</p> <p>3.54 The ExA asked the Applicant confirm whether winter views have been used for the basis of photo montages provided in the Environmental Statement ("ES").</p> <p>3.55 Mrs Fisher confirmed that all photography was winter photography.</p> <p>3.56 The ExA asked how the baseline use of these PROWs has been established.</p> |
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| | | <p>3.57 Mrs. Fisher explained that the level of use is not a matter for the landscape and visual assessment and not part of undertaking such a study. Mrs. Fisher noted that you would look observationally, but in general, it's not a consideration for landscape and visual impact. Mrs. Fisher added that if any surveys have been undertaken, it would have been in relation to changes to access and socioeconomic impacts.</p> <p>3.58 The ExA asked the Applicant to action the usage figures of PROWs, whether it be socioeconomic or one of the other topic areas, and how the baseline has been established. The ExA queried the lack of knowledge on how these PROWs are used within the assessment done for the project.</p> <p>3.59 The ExA further asked the Applicant to confirm if they have assumed that PROWs are used from a landscape and visual perspective, and effects have been mitigated accordingly.</p> <p>3.60 Mrs. Fisher confirmed that this is correct and noted that all PROWs have been treated as if they are well-used, and effects have been mitigated accordingly.</p> <p>3.61 Referring to Sheet 8/13 of the Street Works, Rights of Way and Access Plans [REP2-024], the ExA noted site inspections and walking a footpath, which travels east out of the village of Great Stainton, goes diagonally across a field just beyond point 42, and goes to a panel area shaded in pink with a proposal to divert at point 42, travel south and then east, and pick up the footpath at point 43, abandoning the red dotted line that crosses the panel area. The ExA asked how the implications of development on that were assessed.</p> <p>3.62 Mrs. Fisher explained that there the design element aimed to avoid the footpath going between two areas by taking it around the field boundary so it only has panels on one side. Mrs. Fisher further explained that in terms of effects, people wouldn't be able to experience the view from the original route, so the assessment of effects only involves the diverted route and is included within the relevant group of visual receptors considered in the ES. Mrs. Fisher noted that every PROW is included within a group and within the assessment text, with a table itemizing PROWs and describing effects on each.</p> |
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| | | <p>3.63 The ExA asked for the effects on the particular bit of footpath between 42 and 43.</p> <p>3.64 Mrs. Fisher explained that the assessment is not as granular as that. Mrs Fisher noted that in terms of effect, the highest magnitude is next to the panels. Mrs Fisher explained that the assessment considers how extensive the change is and its duration and noted that all effects on this route would be large-scale due to the route being within the panel area, and being diverted.</p> <p>3.65 The ExA asked if there is any mitigation for the new proposed diverted route.</p> <p>3.66 Mrs. Fisher confirmed that there would be a hedgerow on the inside between the new route and panels.</p> <p>3.67 The ExA asked why this panel area was not removed given the high effects on the footpath.</p> <p>3.68 Mrs. Fisher explained that there are numerous footpaths across the development with similar effects. Removing the panel areas would have needed to include not only the field which it crosses diagonally, resulting in a very significant removal of panels for the reduction in significant effects on one footpath. Mrs. Fisher noted that applying this approach across the site would have removed virtually all areas of panels.</p> <p>3.69 The ExA asked if the shaded area in pink is going to be panel areas and referenced a gap between the red line and the beginning of the pink area, asking if that gap involves some form of visual and landscape mitigation, such as planting.</p> <p>3.70 Mrs. Fisher confirmed that these are shown in the Design Approach Document [APP-165]. As a post-hearing note, the Applicant intended to refer to the Energy Generation and Design Evolution Document [REP2-010].</p> <p>3.71 The ExA asked if the Applicant is planning on putting any fencing between 42 and 43.</p> <p>3.72 Mrs. Fisher explained that if one imagines entering the area of the Proposed Development at that point, they would be passing a hedged boundary. Mrs. Fisher added that where there's an existing hedgerow, there may be an existing fence as well, but that no new fencing is proposed. As a post-hearing note, the Applicant later clarified that they had described the wrong part of the footpath at para 3.132.</p> |
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| | | <p>3.73 The ExA noted that at point 42, heading south along the boundary, there would be a hedge on one side and another hedge on the other side, creating a different experience. The ExA mentioned that the effects are large-scale and high magnitude on the footpath, considering the case even with embedded mitigation. The ExA asked if the Applicant feels it appropriate to look at further compensation if not mitigation for effects on that specific footpath, noting that the same principle may apply to other footpaths within the Proposed Development. If no further mitigation can be done, the ExA asked what measures the Applicant considered to compensate for the effects of the Proposed Development.</p> <p>3.74 Mrs. Fisher explained that there is no policy requirement to compensate for landscape and visual impacts, and it is also difficult to compensate for them. Mrs. Fisher explained that there are enhancement measures included in the proposed development such as some new proposed permissive rights of way to improve the footpath network, and new amenity areas near Bishopton. Mrs. Fisher noted that while this doesn't compensate for visual impacts, it does improve amenity and the network.</p> <p>3.75 The ExA highlighted that the SoS would be looking for compensation in terms of enhancements to other footpaths and asked the Applicant to explore those compensation measures in further detail.</p> <p>3.76 The ExA noted planting along the PROWs and asked what maintenance actions are being proposed to safeguard PROWs and ensure they will continue to be fit for purpose throughout the lifetime of this project.</p> <p>3.77 Mr. Minhinick explained that the maintenance of the PROW network is a matter for the relevant local highway authority.</p> <p>3.78 Mr. Minhinick noted that the Applicant is committing to provide landscape screening, which is controlled primarily through the LEMP and Requirement 12 of the draft DCO. Mr. Minhinick noted that the extent to which planting would have a detrimental impact on PROWs has not been identified by the local highway authority. Mr. Minhinick noted there are no specific measures that the Applicant is proposing to undertake to address overgrowth, as this would principally be addressed through the local highway authority's ongoing maintenance of the PROW network.</p> |
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| | | <p>3.79 The ExA asked if the Applicant would choose the type of species to plant and ensure stems don't obstruct adjoining PROWs, including if any plants might crawl onto and overlap the PROWs. The ExA noted issues of protrusion of PROWs and asked how the Applicant plans to maintain planting to ensure PROWs can be used without unnecessary obstruction. The ExA asked the Applicant to identify what the obligation is in respect of these issues and noted that this is an action item if dealing with other matters.</p> <p>3.80 Mr. Minhinick confirmed that there is a specified design height and width for planting in the Outline LEMP [APP-118].</p> |
| | <p>Appendix 7.4.1 Viewpoint Analysis [APP-135], where some panel areas are different to those on other maps. The ExA will ask the Applicant how this affects the validity of the viewpoint analysis study.</p> | <p>3.81 The ExA noted Appendix 7.4.1 Viewpoint Analysis [APP-135], where some panel areas are different to those on other maps. The ExA asked the Applicant how this affects the validity of the viewpoint analysis study.</p> <p>3.82 Mrs. Fisher explained that as set out on page 4 of the ES Errata [REP2-012], an error was identified shortly after submission. Mrs. Fisher noted that the figures referred to were prepared for the PEIR stage only and should not have been submitted as part of the ES, as indicated at the bottom right in the figure titles. Mrs. Fisher said that they were needed at the PEIR stage to inform assessment, but by the time they reached the ES stage, they were no longer needed because wire lines were available to indicate which panel areas would be visible. Mrs. Fisher clarified that this was a simple compilation error and did not inform the assessment at the EIA stage.</p> |
| | <p>The ExA will give the Local Host Authorities (LHAs) the opportunity to comment. The ExA will particularly be looking for comments from Darlington Borough Council in line with their Local Impact Report [REP1-023]; and Landscape and Visual Amenity [REP1-021]. The ExA asks that Darlington Borough Council concentrates on the main outstanding areas of disagreement.</p> | <p>3.83 Mr Laws expressed confusion about the layout of the Proposed Development, which seemed to focus solar panels around the villages. Mr. Laws noted that only factual statements in the Design Approach Document [AS-004] mentioned the villages, with no mention of the setting of villages. Mr. Laws expected a vision and design development that minimized impacts on the village. Mr. Laws referenced good examples of design approach documents, such as the Hinkley C Connection point, which provides a rationale for design. Mr. Laws expressed concern that without such analysis, it is difficult to understand the benefit of mitigation and where key views are within 10 square kilometres. Mr. Laws noted that the LPA's view is that this should be</p> |

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| | | <p>included, and noted that he couldn't see anything akin to this in the Design Approach Document [APP-165]. Mr. Laws also raised issues with how visual information has been presented in the ES, questioning why the use of worst-case photographs are in dispute and the selection of viewpoints.</p> <p>3.84 Mrs. Fisher responded that both points were raised in the Local Impact Report and addressed in writing [REP 2-008]. Mrs. Fisher explained that the rationale provided in the design approach document was further detailed in the Energy Generation and Design Evolution Document [REP2-010] . Mrs. Fisher noted that the first mitigation item discussed in that document was done early in the project before scoping, and related to the removal of a panel area close to Brafferton to protect the character and setting of that village. Mrs. Fisher noted that while the text of the Design Approach Document [APP-165] might not have reflected the priority of considering village settings, the Applicant considers that this information has now been provided in subsequent documents.</p> <p>3.85 The ExA noted the main area of disagreement is the understanding of key views and the setting of villages.</p> <p>3.86 Mrs. Fisher explained that she is very familiar with the area, having worked on Lambs Hill and Moor House Wind Farms. Mrs. Fisher noted that all her input has been informed by detailed local knowledge and subsequent site visits. Mrs. Fisher added that the fact that she hasn't produced a drawing does not preclude her having knowledge of the area. Mrs. Fisher noted that this was not something she does in her assessment. Mrs Fisher added that she wasn't the author of the Design Approach Document [APP-165].</p> <p>3.87 The ExA asked the Applicant to provide relevant witnesses in respect of the Design Approach Document [APP-165]. The ExA noted Mr Laws' submissions regarding the differences in opinion in relation to the treatment of the village setting within the assessment methodology used in the Environmental Statement Chapter 7 Landscape and Visual [APP-030].The ExA noted that when going through Chapter 7, they couldn't see the Applicant's response to specific viewpoints identified by Darlington Borough Council within the assessment. The ExA asked how the Applicant responds to</p> |
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| | | <p>additional viewpoints that Darlington Borough Council has included within their assessment.</p> <p>3.88 Mr. Laws disagreed with the setting analysis and process, stating that the setting of each village should have been a separate receptor as part of local policy and one of the key characteristics of the landscape. Mr. Laws noted that if an assessment of the impact on settings was significant as a standalone receptor, it would have identified the settings as being of high value.</p> <p>3.89 Mrs. Fisher explained that this point derives from local planning policy rather than landscape and visual impact assessment methodology. Mrs. Fisher noted that when approached originally at the scoping stage, the intention was to use the local landscape character assessment as the main baseline document identifying receptors in relation to character, and that includes the villages within wider character areas. Mrs. Fisher noted that as Darlington Borough Council specifically requested an assessment of effects on the character and setting of villages, and the Applicant provided one. Mrs. Fisher noted that it is not a normal part of the assessment. Mrs. Fisher further explained that representative viewpoints are primarily used in the assessment of effects on visual receptors but also informed the assessment of effects on villages and their settings, and that the Applicant also provided illustrative views specifically related to the assessment of effects on character and setting. Mrs. Fisher added that in attempting to engage with Darlington Borough Council to improve matters for the ES, they asked if Darlington Borough Council could identify locations/views not adequately represented. Mrs. Fisher added that the selection of worst-case viewpoints is not a concept recognised by guidance.</p> <p>3.90 Mr. Laws expressed concern about the way the setting is presented in the ES, as it is lumped in with various other factors. Mr. Laws noted that the value for villages should be established separately, as setting should have been separated out and not just one factor. Mr. Laws noted that they asked for it to be assessed separately, but the response was from the Applicant that it is not common practice. Mr. Laws noted that he disagrees with this.</p> |
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| | | <p>3.91 The ExA asked how the setting was valued and whether it was treated as being of high value.</p> <p>3.92 Mrs. Fisher explained that the disagreement is primarily one on methodology. Mrs. Fisher noted that for two out of the three villages, they agree that effects on the character of the village and setting would be significant. Mrs. Fisher explained that the disagreement is about whether they should be considered separately. Mrs. Fisher noted that the assessment of value for each landscape and visual receptor, including settlements, is provided in Environmental Statement Chapter 7 Landscape and Visual [APP-030] and Appendix 7.3 [APP-134]. Mrs. Fisher mentioned that the assessment of value for the character and setting of Brafferton (as an example) considers a series of factors related to value, such as cultural heritage, cultural associations, amenity and recreation, and perceptual (scenic) factors.</p> <p>3.93 Mrs Fisher noted that in each case analysis was provided for village and its setting as a character area.</p> <p>3.94 Mr. Laws noted that Darlington Borough Council’s position is that it is not suitable and disagreed with the Applicant regarding not normally assessing the setting. Mr. Laws noted that setting is seen as one of the key characteristics of the landscape and for that reason alone, it should be evaluated separately. Mr. Laws mentioned that setting straddles landscape and visual amenity and most practitioners would have separated it out.</p> <p>3.95 The ExA asked Darlington Borough Council to provide examples for similar projects - preferably NSIPs, where this approach has been taken.</p> <p>3.96 The ExA asked about the viewpoints and photography.</p> <p>3.97 Mrs. Fisher explained that viewpoints were selected to represent a wide range of distances, directions, and receptors. Mrs. Fisher noted that no additional specific locations were selected that were rejected at any stage apart from some early ones agreed with Darlington Borough Council. Mrs. Fisher noted that at the end of the EIA stage process, an open invitation was left for Darlington Borough Council to identify any further viewpoints they felt should be included. In terms of photographs, all photography was first provided for PEIR, all in winter, apart from one viewpoint added</p> |
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| | | <p>at the request of Darlington Borough Council. Mrs. Fisher explained that no comments were provided at that stage suggesting new photography was required to show different weather conditions. Mrs Fisher noted that because the photography was undertaken in cloudy winter conditions, the appearance of panels reflects those conditions. Mrs. Fisher confirmed that there is no requirement in guidance to show the appearance of development in multiple different weather conditions, and confirmed this was not requested at any stage.</p> <p>3.98 The ExA queried if further locations were identified by Darlington Borough Council beyond those already carried out.</p> <p>3.99 Mr Laws stated that too many viewpoints were not representative of the worst case and some were not even typical. Mr Laws noted that the council gave a few different examples and noted that it is not the council’s job to go out and identify them. Mr Laws noted that Darlington Borough Council recommended that the Applicant should possibly review viewpoints, especially around Great Stainton and Brafferton. Mr Laws noted a general reluctance from the Applicant based on the fact that the Applicant didn’t feel they had to illustrate the worst-case scenario. Mr Laws noted that this was a well-tested approach to doing all environmental assessment work.</p> <p>3.100 The ExA asked the Applicant to comment.</p> <p>3.101 Mrs. Fisher explained that they did respond to the consultation process but there was a lack of clarity in terms of what Darlington Borough Council wanted from them. Mrs. Fisher explained that it is quite difficult to reconsider viewpoints when they have already gone through the process of identifying what they feel are the best locations. Mrs. Fisher explained where specific points were provided that was responded to positively, such as viewpoint 5being moved to a new location agreed upon by both parties. Mrs. Fisher noted that an additional viewpoint included was also near viewpoint 34 in response to a DBC request.</p> <p>3.102 The ExA asked if the Applicant has provided written justification for the differences in the viewpoints selected by the Applicant and Darlington Borough Council.</p> |
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| | | <p>3.103 Mrs. Fisher stated that specific locations weren't identified by Darlington Borough Council, and where they did provide specific locations, they were worked through.</p> <p>3.104 The ExA requested the Applicant come back to the examining authority detailing where more detailed responses regarding viewpoint selection can be found.</p> <p>3.105 Mrs. Fisher explained that regarding the issue of using worst-case scenarios, landscape and visual guidance mentions worst case assumptions relating to project design reflecting principles around concepts such as the Rochdale Envelope, and that is reflected in the visualisations where solar panels are modelled to the maximum height identified in design parameters. Mrs. Fisher explained that it doesn't apply to the selection of viewpoints, which are generally selected in the most representative locations.</p> <p>3.106 The ExA noted that many chapters of the ES considered the worst-case scenario and asked why this was not done for the landscape and visual assessment.</p> <p>3.107 Mrs. Fisher confirmed that they did consider the worst-case scenario i.e. the greatest design parameters for the site.</p> <p>3.108 The ExA requested Darlington Borough Council to provide a list of viewpoints over which disagreement remains between the Applicant and the council.</p> <p>3.109 The ExA asked Darlington Borough Council how great the disagreement regarding what is proposed is.</p> <p>3.110 Mr Laws explained that there was quite a lot of consensus on significant landscape and visual effects apart from the disagreements in respect of the setting of villages and the effect on roads.</p> <p>3.111 Mr Minhinick referenced the Outline Landscape and Ecology Management Plan [APP-118], paragraphs 5.2.5 and 5.5.10 , and noted these clarify conversations that the Applicant and Council have had previously and the commitments that the Applicant has offered as part of that document in respect of planting mitigation and maintenance.</p> |
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| | <p>Regarding Glint and Glare and referencing Darlington Borough Council LIR [REP1-023], paragraph 5.10.4; Darlington Borough Council will be asked if it has specific concerns about the Pager Power guidance, and if so to detail what they are?</p> | <p>3.112 The ExA noted Applicant gave assurance that the Pager Power guidance was a recognised document in terms of picking up Glint and Glare and that the ExA was satisfied that this was acceptable.</p> <p>3.113 Mr Minhinick confirmed that Pager Power guidance is an industry standard. Mr Minhinick added that the fact that Pager Power undertook the assessment gives additional credibility to the assessment work.</p> <p>3.114 The ExA noted that they were satisfied on this point.</p> |
| | <p>The ExA will then give BVAG the opportunity to comment with particular reference to the Landscape & Visual Review [REP2-044]. The ExA asks that the BVAG concentrates on the main outstanding areas of disagreement.</p> | <p>3.115 Ms. Tinkler noted productive meetings with the Applicant and a meeting on October 10 to discuss design modifications. Ms. Tinkler noted the need for a separate landscape statement of common ground or the inclusion of this in the main statement, agreeing on significant adverse effects without delving into technical details. Ms. Tinkler noted that she hadn't had the opportunity to contact Mrs Fisher as the Applicant's representative on this matter but hoped to meet separately to discuss technical matters. Ms. Tinkler noted that she anticipated few matters of disagreement and noted they would avoid further technical responses if they could agree that there are significant Landscape and Visual effects. Ms. Tinkler stated that to achieve more meaningful mitigation and reduce levels of adverse effects, a step change is needed, suggesting rethinking the approach to village settings and expressing concerns about relying on vegetation for screening. Ms. Tinkler highlighted efforts to reduce visual effects by moving or removing panels and questioned how modifications would be secured, noting the importance of understanding capacity. Ms. Tinkler also referenced GLVIA3 para 4.3 regarding the worst-case approach and highlighted GLVIA3 para 6.20 in relation to the relevance of the number of people using PROWs in assessments. Ms. Tinkler agreed with Darlington Borough Council's landscape architect on assessing the setting separately from the character of settlements, noting GLVIA3 para 5.9, and stressed the importance of collaboration with heritage experts.</p> <p>3.116 The ExA gave the Applicant the opportunity to respond to Ms. Tinkler's comments.</p> <p>3.117 Mrs. Fisher referenced paragraph 4.3 of LVIA 3, noting that the worst-case scenario relates to understanding proposed development in terms of design and development parameters. Mrs. Fisher explained that paragraph 6.20 involves looking to see where</p> |

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| | | <p>footpaths appeared to be used and noted that she wouldn't have selected a viewpoint on a footpath that was totally overgrown. Mrs. Fisher explained that paragraph 5.9 provides context to setting out links between LVIA, cultural heritage and historic character. Mrs. Fisher noted that in relation to LVIA baseline studies, guidance allows for two possible scenarios: 1) baseline studies taken by the local authority, which LVIA draws on, or 2) creating a new baseline study if one is not adequate or present. Mrs. Fisher noted that Darlington Borough Council had undertaken a baseline study, which was used to inform the LVIA along with her own observations.</p> <p>3.118 The ExA noted the statement.</p> <p>3.119 Mr. Minhinick noted that it was positive that landscape and visual matters in terms of assessment could be agreed upon. Mr. Minhinick suggested that Ms. Tinkler and Mrs. Fisher could have a conversation, and once that happens, a landscape and visual-specific statement of common ground could be worked up quickly and submitted.</p> <p>3.120 Mr Smith of Great Stainton Parish Council noted that 100% of residents of Great Stainton opposed the development. Mr Smith acknowledged the substantial adverse impact and identified land in panel area D that they want removed as a village, where panels cannot be effectively mitigated with screening. Mr Smith noted that it was disappointing that removal was only considered if improved technology was available and requested that high-priority areas identified in panel area D be removed from the scheme if planning consent is granted.</p> <p>3.121 Mr. Minhinick noted a meeting between the Applicant and representatives on October 10. Mr. Minhinick noted that RWE identified significant concern in the local community and is considering that concern and additional mitigation. Mr. Minhinick noted that the scheme applied for is the one before the examination for consideration, with environmental impacts assessed and the mitigation hierarchy applied. Mr. Minhinick explained that the Applicant has been talking to affected parties about two key things: firstly, any scope within the existing footprint or development to include additional mitigation, such as more mature planting or landscape bunding, and secondly, the concept of priority areas if more efficient technology emerges and a number of other factors align to result in the current scheme design resulting in excess land being</p> |
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| | | <p>available to the Applicant. Mr. Minhinick noted that the Applicant is willing to take local views into account if some land becomes excess land.</p> <p>3.122 Ms. Tinkler asked if it is possible to relocate panels within the DCO area, as local groups identified certain sites where panels could be moved.</p> <p>3.123 Mr. Minhinick explained that the scheme put forward by the Applicant makes the best use of the land available. Mr. Minhinick noted that areas not shown as being used for the solar array are because the areas shown are the most appropriate for the solar array. Mr. Minhinick confirmed that the Applicant is not proposing to change the submitted scheme.</p> <p>3.124 The ExA asked for clarification of Ms. Tinkler’s question.</p> <p>3.125 Ms. Tinkler referred to the Works Plans [APP-008] noting that no panels are proposed west and north of a property called Mount to alleviate concerns about the location of the substation. Ms. Tinkler noted that she wondered if there could be adjustments in terms of moving the substation and putting panels in areas currently proposed for mitigation. Ms. Tinkler also noted an issue with a small site of special scientific interest and an important remnant hay meadow. Ms. Tinkler suggested there wouldn’t be a disadvantage in putting panels around the Mount and relocating things around.</p> <p>3.126 Mr. Minhinick stated that the Applicant would take away the information, particularly relating to that location, and consult with the environment team. Mr. Minhinick noted that he expected it would be problematic.</p> <p>3.127 The ExA noted the response.</p> <p>3.128 Mr. Minhinick confirmed that this involves the movement of the substation and confirmed that the Applicant will explore options</p> |
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| | <p>3.129 The ExA will then give an opportunity for other IPs to comment on any issues raised under this point of the Agenda.</p> | <p>3.130 Ms. Turner asked if workers on site are likely to be local or not and questioned the entrance for workers.</p> <p>3.131 Mr. Minhinick explained that there were various drawings in the application documents which show where access to works will be taken from, and are also listed in Schedule 6 of the draft DCO. Mr. Minhinick noted that there are relatively few access points to works, with 6 different panel areas and 1-2 access points per panel area. Mr. Minhinick noted regarding the location of workers that this is dealt with in the Environmental Statement Chapter 9 Land Use and Socioeconomics [APP-032] and will report on that as an action point.</p> <p>3.132 Ms. Springett noted that her property is extremely close to the location of the on-site substation. Ms. Springett noted that each map produced to date shows the substation in a slightly different location and that it will be extremely visible from the roadside. Ms. Springett pointed out that the photomontage shown did not include an image of the potential substation. Ms. Springett also noted that their site is classified as a local wildlife site, with a local wildlife pond just within a few feet of their boundary. Ms. Springett explained that she felt that the panels, substation, and battery storage units should be moved further away from that site.</p> <p>3.133 The ExA noted that they will attend the property and queried whether more information could be provided on the substation, photomontage, and local wildlife site.</p> <p>3.134 Mr. Minhinick referred to the latest version of the Works Plan (AS-013) and noted that the substation is identifiable on the visualisations (APP-073). Mr. Minhinick noted that the mast is not particularly visible against the backdrop of the forest. Mr. Minhinick noted that the Applicant’s team could look into the matter of the local wildlife site further and noted that they don’t have an ecologist present but will provide information in writing regarding any effects or concerns raised in the environmental assessment work to date.</p> <p>3.135 The ExA noted that responding to the concerns raised around the local wildlife site was an action item.</p> <p>3.136 Mr. Watson noted the conservation area and that there is no evidence of cumulative effect being taken into account. Mr. Watson requested that the ExA and RWE consider</p> |
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| | | <p>the removal of area F and area D based on conservation area receptors, which would reduce a huge amount of impact for a relatively small loss of panels.</p> <p>3.137 Mr. Minhinick encouraged Mr. Watson to watch the hearing where the Applicant has adequately assessed impacts on the conservation area. Mr. Minhinick noted that the Applicant’s position is that these are not exceptional circumstances where a small reduction could have a very significant benefit. Mrs. Fisher explained how the conservation area was accounted for in the LVIA, comparing the assessments of the value of views from Great Stainton and Bishopton.</p> <p>3.138 Mr. Bowles from Bishopton questioned the Applicant’s methodology in determining where existing hedgerows are, noting that there isn’t an existing hedgerow at points 42 and 43 as identified in the desktop analysis.</p> <p>3.139 Mrs. Fisher noted an error in describing the wrong part of the footpath previously – there is an existing hedge to the south, but not to the east.</p> <p>3.140 Mr. Wood noted that he considered that the Applicant’s mitigation for severe and large-scale effects has essentially given up on mitigation around public footpaths. Mr. Wood confirmed that on footpaths 42-44, only one snapshot of 12,000 acres of the site is shown.</p> <p>3.141 Mr. Minhinick noted that these issues were covered earlier in the hearing that morning and that he had nothing to add on that particular point. Mr. Minhinick explained that the need for the scheme in line with national planning policy supporting clean energy generation is addressed in detail in the application documents and remains the driving force for bringing forward this application.</p> <p>3.142 Mr. Anderson asked how a specific area has not been discounted in terms of excess and urged the ExA to look at the visibility of panels from Mill Lane during their visit.</p> <p>3.143 Mr. Minhinick noted that he had nothing to add regarding Mrs. Fisher’s submissions.</p> <p>3.144 Mr. Pilkington questioned why the location was chosen and noted the cumulative effect on visual amenity, mentioning Castle Hill. Mr. Pilkington stated that if the proposal goes ahead, very little of the view will be left unaffected.</p> |
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| | | <p>3.145 Mr. Minhinick explained that the site selection process has been discussed on numerous occasions, and is detailed in Environmental Statement Chapter 3 Alternatives and Design Iteration [APP-026]. Mr. Minhinick noted that the comments on Castle Hill relates to the Motte and Bailey scheduled monument on the south edge of Bishopton, and potential impacts on that receptor have been addressed by the Applicant’s cultural heritage expert and in the cumulative assessment work reported in the environmental statement.</p> <p>3.146 Ms. Knobbs questioned the location and design of the project, suggesting that it is based on the willingness of landowners to lease their land and the proximity of the substation. Ms. Knobbs noted that the undulated topography presents a challenging landscape to locate a solar farm and expressed concerns about the impact on the area.</p> <p>3.147 The ExA asked if the Applicant wished to say anything further regarding good design.</p> <p>3.148 Mr. Minhinick noted that the Applicant had nothing to add beyond existing written and oral submissions.</p> <p>3.149 Mr. Latham from Bishopton raised concerns about the mental health impacts of the project, questioning if the substantial diminishment of the therapeutic impact of the proposal has been given sufficient and substantial consideration from a medical viewpoint.</p> <p>3.150 Mr. Minhinick explained that this was taken into account in the scoping of the ES, which was agreed with PINS. Mr. Minhinick noted that the issue has also been addressed in the Applicant’s Deadline 1 Submission - Comments on Relevant Representations (RRs) [REP 1-004].</p> <p>3.151 Mr. Smith referenced Darlington Borough Council’s Local Impact Report [REP1-023] noting that in a 25 square kilometre geographic area, the total coverage of panels will be 20% of all land. Mr. Smith suggested that the figure is somewhat higher due to other developments submitted since then.</p> <p>3.152 Mr. Minhinick explained that the potential for cumulative effects with other developments is addressed within the Applicant’s environmental statement.</p> |
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| 4. Development Consent Order (DCO) | | |
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| | <p>The ExA will ask the Applicant to briefly provide an overview of each part of the DCO but with a particular emphasis on how Part 2 - Principal Powers, Part 3 - Streets, Part 4 - Supplemental Powers and Part 5 - Powers of Acquisition. The ExA will ask the Applicant about the scope of Schedule 1 (Authorised Development), the “work” as set out in Sch.1.</p> | <p>4.1 Submissions were not invited on this agenda point due to time constraints.</p> |
| | <p>Considering the Proposed Development includes an element of optionality, the ExA will then ask the Applicant to explain how this element has been addressed, or is proposed to be addressed, within the DCO and if terms such as “on-road cabling should be integrated within Art 2 Interpretation. The ExA may rely on Fig. 2.13 Underground Cable Routes [REP2 -</p> | <p>4.2 The ExA asked how differences between off-road and on-road cabling will be reflected in the DCO.</p> <p>4.3 Mr. Minhinick explained that the principal mechanism in which this is controlled through the DCO is requirement 3, which is the detailed design approval requirement. Mr. Minhinick noted that by the time it gets to that detailed design stage, the Applicant would be in a position to confirm which approach to take. Mr. Minhinick noted that development is likely to involve a combination of off-road and on-road cabling, with the</p> |

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| | <p>022] and ask the Applicant to explain it further</p> | <p>Applicant’s preference being off-road. Mr. Minhinick noted that the approach is contingent on securing land rights. Mr. Minhinick reiterated that the primary mechanism would be requirement 3, by which the Applicant would submit the final layout for the scheme, including cable routes, for approval. The details submitted for approval under requirement 3 are to be informed by the Design Approach Document [APP-165].</p> <p>1.1 The ExA asked how options would be updated within documents, especially regarding updates from the red line boundary within the Order.</p> <p>4.4 Mr. Minhinick explained that the Applicant has already been able to amend the red line boundary for one particular area of cable as it loops around the south of Bishopton, and as a consequence, removed that option. The Applicant is continuing to try and secure off-road options on a voluntary basis. Mr. Minhinick confirmed that to the extent that it becomes possible to remove additional red lines from the order limits as a result of those voluntary negotiations during the course of the examination, the Applicant will look to do so.</p> <p>4.5 The ExA asked how the Applicant will update that after the examination.</p> <p>4.6 Mr. Minhinick explained that the Applicant will seek rights on a voluntary basis, which is practically more straightforward. Mr. Minhinick noted that the Applicant is in active negotiations with the majority of landowners. Mr. Minhinick confirmed that to the extent that it secures additional rights after the close of the examination but before the SoS has made their decision, this would be to the discretion of the SoS how they took that into account. Mr. Minhinick confirmed that the Applicant is looking to do as much as it can before the end of the examination.</p> <p>4.7 The ExA noted that there will be several different comments on requirement 3 from the ExA, especially regarding how components of on-road and off-road cabling will be addressed with detailed design approval and how the need to consider new technology can be clearly set out within those requirements.</p> |
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| <p>The ExA will then ask the Applicant to explain its approach to Art. 6 - Consent to transfer benefits of Order and Art. 7 - Disapplication and modification of legislative provisions.</p> <p>The ExA will then ask the Applicant to explain its approach to Art. 6 - Consent to transfer benefits of Order and Art. 7 - Disapplication and modification of legislative provisions.</p> <p>The ExA will ask the Applicant to explain Part 3 - Streets, particularly in light of its approach to CA and the on-street cabling option. The ExA will then ask specifically for comments from the highway authorities on the section of the DCO. The ExA will then ask the Applicant to clarify the need and applicability of supplemental powers under Part</p> <p>The ExA will then ask the Applicant to clarify its position in relation to Part 5 - Powers of Acquisition and will also explore the Applicant's response to ExQ1 DCO.1.1 and DCO.1.2. The ExA will ask the Applicant questions in relation to Interpretation particularly the application of Art. 28 - Rights under or over streets and Art. 29 - Temporary use of land for carrying out the authorised development.</p> <p>The ExA will ask questions and justification for Schedules included in the DCO, including Schedule 3 - Streets subject to Street Works, Schedule 4 - Alteration of Streets, Schedule 2A Counter-notice</p> | <p>4.8 Submissions were not invited on this agenda point due to time constraints.</p> |
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| | <p>requiring purchase of land.</p> <p>The ExA may ask questions in relation to the applicability of specific Articles and why these have been included in the DCO and also how issues and concerns raised in the ES have been included and considered as part of the DCO.</p> <p>The ExA will then give opportunity for any relevant Statutory Consultees, Statutory Undertakers or other IPs to comment on any issues raised so far under this point of the Agenda.</p> <p>The ExA will then ask for an update from the Applicant in relation to Schedule 11 Protective Provisions and will ask for comments from any Statutory Undertakers.</p> | |
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| | <p>The ExA will then give an opportunity for all IPs to comments on any issues raised under this point of the Agenda</p> | <p>4.9 Mr. Mullaney raised concerns about lithium-ion battery energy storage and thermal runaway, noting that lithium-ion battery incidents can be catastrophic and emit large quantities of highly toxic, life-threatening gases. He asked for an indication that the Applicant intends to put measures in place beyond stopping the fire.</p> <p>4.10 The ExA directed the question on how battery fires will be dealt with to the Applicant.</p> <p>4.11 Mr. Minhinick explained that any risk associated with the potential for battery fires is adequately managed by the proposals being put forward. Mr. Minhinick noted that requirement 11 is the mechanism, which includes a Battery Fire Safety Management Plan to be submitted and approved by the LPA. Mr. Minhinick confirmed that the Applicant has submitted a draft Outline Battery Fire Safety Management Plan [APP-117].</p> |
| <p>5. Review of issues and actions arising</p> | | |
| | | <p>5.1 The Applicant did not make submissions on this agenda point.</p> |
| <p>6. Any other business</p> | | |
| | | <p>6.1 Mr. Minhinick gave references to a previous question and noted that the Design Approach Document [APP-165] was prepared under the early adopters program that the scheme is a part of with the ExA. Mr. Minhinick noted that it pulled input from a number of different authorities within the Applicant’s team, who were present and able to address questions on that document during the hearing if the ExA wished to do so.</p> |
| <p>7. Closure of the Hearing</p> | | |
| | | <p>7.1 The Applicant did not make submissions on this agenda point.</p> |

5. Summary of Applicant’s Oral Submissions at CAH1

Table 5-1 Summary of Applicant’s Oral Submissions at CAH1

| Agenda Item | Topic for Discussion | Summary of Applicant’s Oral Submissions at ISH2 |
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| 1. Welcome, introductions, arrangements for this Issue Specific Hearing (CAH1) | | |
| | | <p>1.1 Mr Alex Minhinick introduced himself as a solicitor and Partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant’s project team present at CAH1, being: Ms Laura Byng (Planner at Arup) and Mr Michael Baker (Development Project Manager at RWE).</p> <p>1.2 Lisa Hutchinson introduced herself as Development Manager at Darlington Borough Council, as well as introducing Andrew Casey (highway network manager at Darlington Borough Council)</p> <p>1.3 Helen Boston introduced herself as Principal Planner at Stockton Borough Council, as well as introducing Jacob Mode (valuations assistant at Stockton Borough Council).</p> <p>1.4 Norman Mullaney introduced himself as the chairman of the Bishopton Parish Council, as well as introducing Stephen Wall (councilor of the Bishopton Parish Council).</p> <p>1.5 Mark Smith introduced himself as representing Bishopton Villages Action Group (“BVAG”).</p> |
| 2. Purpose of the CAH1 | | |
| | <p>For the ExA to explore the overarching guiding principles that underpin the Development Proposal, its main components, aims and objectives, particularly to:</p> <ul style="list-style-type: none"> • ensure adequate examination of the provisions within the DCO seeing to authorise the compulsory acquisition of land and/ or rights over land; | <p>2.1 The Applicant did not make submissions on this agenda point.</p> |

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| | <ul style="list-style-type: none"> • assess whether the conditions relating to the land and/ or rights being required for the Proposed Development or required to facilitate or be incidental to that development are met; • assess whether there is a compelling case in the public interest for the land to be acquired compulsory; and • to discharge the ExA’s duty to hear persons affected by compulsory acquisition and TP proposals (Affected Persons (APs)) who request to be heard. | |
| <p>3. The Applicant’s case for compulsory acquisition and TP</p> | | |
| | <p>The ExA will ask the Applicant to present and justify its case for compulsory acquisition and TP including addressing the following matters:</p> <ul style="list-style-type: none"> • How the relevant statutory and policy tests under the Planning Act 2008 (PA2008) (including s.122, s123, s127, s132 and s138) and Department for Communities and Local Government guidance related to compulsory acquisition would be met. • Identification of the powers sought and their purpose. • The Applicant’s strategy and criteria for determining whether to seek powers for compulsory acquisition of land, compulsory acquisition of rights or TP of land, including explanation of their | <p>3.1 The ExA asked the Applicant to briefly present and justify its case for compulsory acquisition and TP including addressing the statutory and policy tests under the Planning Act 2008.</p> <p>3.2 Mr Minhinick referenced the Statement of Reasons [APP-014] as the primary document for understanding how the relevant statutory and policy tests have been satisfied and explaining the approach taken by the Applicant.</p> <p>3.3 Mr Minhinick noted that Section 3.2 explains the Applicant’s approach to negotiation to acquire by agreement and explains that there are a limited number of small parcels of land in unknown ownership despite diligent enquiry.</p> <p>3.4 Mr Minhinick noted the limited scope of compulsory acquisition powers sought.</p> <p>3.5 Mr Minhinick referred to Section 5 and explained that this sets out the case for compulsory acquisition and how it applies to s122 PA 2008. Mr Minhinick explained that section 5.2 deals with how the relevant guidance and legislation has been addressed, including section 122, as well as addressing the Applicant’s overall position on compliance with the relevant legislation and guidance.</p> <p>3.6 Mr Minhinick further explained that in respect of section 122 PA 2008, this is dealt with under sections:</p> |

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| | <p>strategy for the on-road cabling route as set out in the Applicant’s response to Rule 9 request for information [AS-008].</p> <ul style="list-style-type: none"> • Consideration of alternatives to compulsory acquisition and /or TP of land, including for the on-road cabling route. • Human rights considerations. | <ul style="list-style-type: none"> a) 5.2, which explains s.122 PA 2008 and addresses the DCLG compulsory acquisition Guidance) b) 5.3, which explains the need for the land for which compulsory acquisition is sought; and c) 5.4, which explains the compelling case in the public interest <p>3.7 Mr Minhinick added that section 5.6 addresses the reasonable prospect of funding to comply with the DCLG compulsory acquisition Guidance and noted that this section also refers to the Funding Statement [APP-016].</p> <p>3.8 Mr Minhinick explained that section 123 PA 2008 provided for a series of conditions, and clarified that only one of these conditions must be satisfied. Mr Minhinick explained that the first condition was an application for an order including a request for compulsory acquisition and that this condition was satisfied.</p> <p>3.9 Mr Minhinick explained that for section 127 PA 2008, which provides for the acquisition of powers or rights or otherwise dealing in statutory undertaker’s land was dealt with at section 6.3.</p> <p>3.10 Mr Minhinick added as a final comment that the Statement of Reasons [APP-014] provides that there is no Crown Land or Special Category Land within the Order Limits and noted that the ExA could see this in sections 6.1 and 6.2.</p> <p>3.11 The ExA queried the Applicant’s approach to statutory undertakers’ land outlined in section 6.3.</p> <p>3.12 Mr Minhinick explained that the approach of the Applicant to dealing with statutory undertakers’ land which is within the order limits involved placing restrictions on any ability to grant compulsory acquisition powers in relation to statutory undertakers’ land.</p> <p>3.13 Mr Minhinick noted that he was not aware that any statutory undertaker had made the argument that there is a serious detriment to the carrying on of their undertaking as a result of the Proposed Development, which would be the trigger for consideration under section 127.</p> <p>3.14 Mr Minhinick noted that the Applicant is in active dialogue with a number of statutory undertakers.</p> <p>3.15 The ExA noted on section 5.4 of the Statement of Reasons [APP-014] concerning</p> |
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| | | <p>the case in the public interest, that considering the overall assessment of the Environmental Statement, it was surprising to notice how few times that this sections links with critical national priority. The ExA noted specifically that critical national priority is only referenced once within the Statement of Reasons [APP-014]. The ExA queried if this would have been helpful to include?</p> <p>3.16 Mr Minhinick explained that references to critical national priority infrastructure and the status of application and the Proposed Development appear in section 5.3 of the Statement of Reasons [APP-014], which relates to the need for land for which compulsory acquisition is sought. Mr Minhinick explained that it is the Applicant’s case that critical national priority infrastructure is relevant when it comes to consideration of the compelling case. Mr Minhinick responded in relation to the comments on section 5.4 that the intention was for sections 5.3 and 5.4 to be read together.</p> <p>3.17 The ExA confirmed they understood this and queried that considering the importance of the specific section whether the Applicant thought it would be worth considering including reference to that specific issue?</p> <p>3.18 Mr Minhinick noted that the Applicant would take this point away.</p> <p>3.19 The ExA queried how the Applicant had taken into account human rights considerations when presenting and justifying its case for compulsory acquisition?</p> <p>3.20 Mr Minhinick confirmed that this was addressed in section 5.7 of the Statement of Reasons [APP-014], which includes an overview of the convention and compliance with article 1, 6 and 8.</p> <p>3.21 The ExA asked the Applicant to expand on its analysis as set out in section 5.7 regarding compliance in terms of Article 1, 6 and 8, including why those articles were addressed and compliance with them.</p> <p>3.22 Mr Minhinick explained that these Articles had been highlighted for consideration, as they were the most relevant articles. Mr Minhinick explained that article 1 concerned the right to peaceful enjoyment of possessions, article 6 concerned the rights to fair trial and article 8 concerned the right to respect for private and family life. Mr Minhinick explained that the Applicant has considered each of those in turn and explained that it is the Applicant’s case that their application is compliant with</p> |
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| | | <p>each of these articles.</p> <p>3.23 The ExA queried the Applicant’s strategy and criteria for determining whether to seek powers for compulsory acquisition of land, compulsory acquisition of rights or TP of land, including explanation of their strategy for the on-road cabling route. The ExA referred to Figure 2.13 Cable Routes [REP 2-022].</p> <p>3.24 Mr Minhinick explained that the Applicant’s primary strategy was to secure land on a voluntary basis wherever possible and noted that was evidenced in the fact that the Applicant had secured necessary interests in land by way of options over land to take leases in respect of the solar array areas. Mr Minhinick explained that the areas where powers of compulsory acquisition are therefore required are relatively limited proportionate to the overall order limits and that these principally relate to the cable corridors.</p> <p>3.25 The ExA queried whether the powers of compulsory acquisition related principally or exclusively to the cable corridors.</p> <p>3.26 Mr Minhinick explained that the Applicant had considered two categories of land rights, firstly the cable corridors where the land shown was shaded blue on the Land Plans [APP-010] and secondly the very small areas of green land that the Applicant has expressly identified as being needed for temporary possession in relation to the western access to area A to the South West of Brafferton.</p> <p>3.27 The ExA asked the Applicant to confirm whether the powers of compulsory acquisition related principally or exclusively to the cabling routes?</p> <p>3.28 Mr Minhinick explained that the terms of compulsory acquisition powers which are sought in the DCO as submitted are limited to cable route corridors and noted that these powers related to the acquisition of rights over that land rather than acquisition of the freehold land.</p> <p>3.29 The ExA asked the Applicant if they had anything further to add on this matter.</p> <p>3.30 Mr Minhinick added that the Applicant sought to obtain no more land and no more interests in land than it needed to deliver its scheme.</p> <p>3.31 The ExA requested that the Applicant talk through their reasoning and justification for the changes in the Book of Reference as set out in Schedule of Changes [AS-018].</p> |
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| | | <p>3.32 Mr Minhinick noted that the reasons behind the changes in the document are explained within the Schedule of Changes [AS-018]. and noted that this formed a key part of the Applicant’s ongoing review of interests and land-registry information.</p> |
| | <p>The ExA will also ask the Applicant to present its notification of intention to make changes to the Application [AS-021], particularly Change 1, and ask how these will change the Applicant’s approach to compulsory acquisition.</p> | <p>3.33 The ExA asked the Applicant to present its notification of intention to make changes to the Application [AS-021], particularly Change 1, and ask how these will change the Applicant’s approach to compulsory acquisition.</p> <p>3.34 Mr Minhinick confirmed that the Applicant intends to submit a change request and thanked the ExA for the procedural advice they had provided in response to that notification. Mr Minhinick explained that the Applicant was in the course of preparing a change request and intended to submit this by the end of this week ending on 18th October.</p> <p>3.35 Mr Minhinick explained that the Applicant intended to request two changes. The second change had no direct impact on compulsory acquisition powers. Mr Minhinick explained that the first change related to powers of compulsory acquisition over subsoil interests beneath existing public highways, which are within the existing order limits. Mr Minhinick confirmed that the Applicant is not seeking to add any land that doesn’t already fall within the order limits. Mr Minhinick explained that the land parcels affected by the change and compulsory acquisition powers which the Applicant intended to seek authority to include in the DCO through the change request related to the strata of land called subsoil. Mr Minhinick noted that this was not a technical term but meant the strata of land beneath the public highway that vests in the owner of that subsoil as compared to ownership of highway strata, which vests in the ownership of the relevant highway authority.</p> <p>3.36 The ExA noted that the Applicant had not submitted the change request, but had rather notified the ExA of their intention to submit the change request. The ExA asked the Applicant to clarify the reasons behind the intention to submit a change request.</p> <p>3.37 Mr Minhinick explained that this had been prompted by questions from the ExA and conversations in previous hearings around the Applicant’s approach to use of compulsory acquisition powers. Mr Minhinick explained that the Applicant had had lengthy exchanges about the laying of cables within those highways and that it was</p> |

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| | | <p>the Applicant’s view that where there those cables are laid in the highway strata, there is a statutory right provided, through the New Roads and Work Safety Act, which would allow the Applicant to lay and maintain the relevant cables. Mr Minhinick explained that the reason for the change request was to deal with the potential for cables to be considered to be laid outside of that highway strata, in land which does not vest in the local highway authority and instead is owned by subsoil owners. Mr Minhinick noted that the identity of subsoil owners is often not apparent. Mr Minhinick explained that the legal presumption was that each half width of subsoil, where interests are not otherwise registered, is presumed to be owned by the adjoining landowner. Mr Minhinick explained that the intention to make a change request to include those powers within the DCO is to deal with the potential conclusion that a party might reach that cables are laid outside of the existing highway strata.</p> <p>3.38 ExA queried how likely it is to deliver the proposed development without any onroad cabling routes.</p> <p>3.39 Mr Minhinick explained that it was not possible without at least some on road cable crossings. Figure 2.13 Underground Cable Routes accepted at the Examining Authority’s discretion [REP 2-022] showed where those fixed crossing points would be. Mr Minhinick explained that regardless of where the cable route runs there is a public highway that the cable must traverse. Mr Minhinick noted that this was the case for a small number of highways.</p> <p>3.40 The ExA asked how deep the Applicant would be required to dig into the strata of the land to be able to do the cabling and deliver that part of the Development.</p> <p>3.41 Mr Minhinick confirmed that the cabling will be laid within the top 1.2 metres of land. As a post-hearing note, the relevant reference is to the Applicant’s response to ExQ1 DCO.1.1 in document [REP2-007].</p> <p>3.42 The ExA queried Darlington Borough Council on the depth of the highway construction.</p> <p>3.43 Mr Casey explained that the council don’t keep records of depth of carriageways, as their duties related mainly to inspecting and making good where needed the top surfaces.</p> |
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| | | <p>3.44 The ExA explained as the DCO gives the Applicant powers needed to lay cabling under the highway as long as they do not hit subsoil of highway, it would be useful to establish how deep the highway goes.</p> <p>3.45 Mr Casey explained that the Council wouldn't be able to provide that level of detail, as carriage way depths vary a lot and trial holes would vary a lot.</p> <p>3.46 The ExA asked the Applicant to confirm if this issue was linked to the change request.</p> <p>3.47 Mr Minhinick noted that 1.2 metres is a maximum depth and that it remained the Applicant's case that cables would be laid within the highway. Mr Minhinick noted that no new information has come to light which has led the Applicant to consider that position to have changed. Mr Minhinick recognised that establishing precise depths of highway can be difficult but noted that the Applicant remained of the view that cables would be made within the depth of highway.</p> <p>3.48 The ExA queried why that was the Applicant's position when the local authority and highways authority cannot confirm the depth of strata. The ExA asked how the Applicant can sustain their position and justify that as part of compulsory acquisition when it is not possible to get confirmation of how deep the strata goes from the highways authority.</p> <p>3.49 Mr Minhinick explained that the cables are likely to be within the highway strata on basis of its experience, and its team's experience in relation to cables of various sorts laid in different areas of the country. Mr Minhinick raised the prospect of engaging with the relevant authorities for the grant of section 50 licenses on a wider basis where appropriate.</p> <p>3.50 The ExA confirmed that it would be useful for the Applicant to have those conversations and report back to the ExA.</p> <p>3.51 The ExA reiterated that it could not comprehend and justify the Applicant's position when the local authority cannot confirm the depth of highway and how deep the strata goes.</p> <p>3.52 Mr Minhinick explained that the Applicant's response is that it is that uncertainty which the contingency of seeking to include those subsoil compulsory acquisition rights within the order is to address. Mr Minhinick confirmed that the powers are</p> |
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| | | <p>being sought through the change request as a contingency measure. The ExA noted their expectation that the Statement of Reasons [APP-014] would reflect that new position.</p> <p>3.53 Mr Minhinick confirmed that the Applicant will take that into account when considering other developments.</p> <p>3.54 Miss Boston noted that the Statement of Reasons [APP-014] stated that none of the land within the order limits is open space, common land or field or garden allotment. Miss Boston noted though that plots 13/14 and 13/16 are both open space. Miss Boston explained that the council had sought clarification on this but had received limited correspondence from the developer regarding compulsory acquisition within Stockton. Miss Boston confirmed that Stockton were hoping to have those discussions.</p> <p>3.55 Mr Minhinick confirmed that the Applicant will follow up with the council and look into those parcels and correct any documents as appropriate.</p> <p>3.56 Miss Boston confirmed that the parcels within open space are 13/14 and 13/16 over Letch Lane.</p> <p>3.57 The ExA asked to make the Council to make submissions in writing.</p> <p>3.58 Andrew Casey explained that the Applicant's documents stated that the affected highways were predominantly or entirely within Darlington Council but this was not the case and that there were affected highways both within Stockton Council as well as Durham. Mr Casey confirmed that when the Council have conversations with the Applicant, they will include all three highway authorities.</p> <p>3.59 The ExA asked for that to be part of Darlington Borough Council's submissions with clear identification of the stretches of land within the council's responsibility and for the Applicant to look at that information.</p> <p>3.60 The ExA asked the Applicant to explain its justification for the extent of land.</p> <p>3.61 Mr Minhinick explained that the Statement of Reasons [APP-014] addressed this, principally in section 4 and Appendix A, where it outlines the plots over which powers were being sought .</p> <p>3.62 The ExA confirmed that it was expecting all specific appendices and documents to reflect any changes that come through as part of the change request and noted this</p> |
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| | | <p>as an action for the Applicant.</p> <p>3.63 Mr Minhinick confirmed the Applicant was mindful of this and would take this away as an action.</p> |
| | <p>The ExA will invite submissions from Affected Persons (AP) who wish to raise general matters in relation to the Applicant’s case for compulsory acquisition and TP.</p> | <p>3.64 The Applicant did not make submissions on this agenda point, nor were any submissions made by parties in the hearing.</p> |
| <p>4. Site specific issues for the Applicant</p> | | |
| | <p>The ExA will ask the Applicant to provide a brief update on the progress of negotiations with Affected Person’s (APs) and the timetable for their conclusion. The ExA may ask questions of the Applicant about matters arising from written and oral submissions and may require further site specific information in order to justify proposed CA as a last resort.</p> | <p>4.1 Mr Minhinick noted on this agenda point that there may be updates to the Schedule [AS-018] submitted before Deadline 3 given the passage of time.</p> <p>4.2 The ExA requested that the Applicant go through these changes.</p> <p>4.3 Mr Baker gave an update on the status of negotiations for each respective parcel of land, taking each by their unique reference, noting that for:</p> <p>4.4 Unique Reference 12, the form of documents was agreed;</p> <p>4.5 Unique Reference 9, the form of documents was agreed and the parties were awaiting third party consents;</p> <p>4.6 Unique Reference 11, the Applicant was awaiting feedback on drafts of documents and this was being chased by the legal teams;</p> <p>4.7 Unique Reference 20, the parties were awaiting exchange;</p> <p>4.8 Unique Reference 10, the documents were agreed and the Applicant was preparing for exchange;</p> <p>4.9 Unique Reference 22, the Applicant was awaiting exchange;</p> |

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| | | <p>4.10 Unique Reference 18, the documents agreed and the parties were preparing for exchange;</p> <p>4.11 Unique Reference 6, the position had remained the same and the parties were awaiting exchange; and</p> <p>4.12 Unique References 4 and 13, the documents were agreed and the parties were waiting for an update from the Land Registry so they can proceed to exchange.</p> <p>4.13 The ExA queried why Unique References 4 and 13 had been dealt with together.</p> <p>4.14 Mr Baker clarified that these parcels of land were owned by a husband and wife, who would be signing at the same time.</p> <p>4.15 Mr Baker continued with a further update on the status of negotiations for each respective parcel of land, taking each by their unique reference, noting that for:</p> <p>4.16 Unique Reference 7, the documents were agreed and the parties were preparing for exchange;</p> <p>4.17 Unique Reference 14, the parties were awaiting some unregistered title deeds;</p> <p>4.18 Unique Reference 5, the parties were awaiting some unregistered title deeds but the Applicant understood that the form of documents was agreed based on other landowner agreements with the same lawyer.</p> <p>4.19 The ExA asked the Applicant how confident they were that the outstanding negotiations will be agreed within the examination period?</p> <p>4.20 Mr Baker confirmed that there are some negotiations which the Applicant doesn't expect to be able to reach agreement on during the examination period.</p> <p>4.21 The ExA queried which negotiations and parcels of land these related to.</p> <p>4.22 Mr Baker confirmed this related to Unique Reference 14, Unique Reference 10 and Unique Reference 16. Mr Baker noted that he didn't believe there were any other interests which the Applicant's doesn't expect to be able to reach agreement on.</p> |
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| | | <p>4.23 The ExA noted down as an action for the Applicant to provide a justification for needing Unique Reference 16, as if they can remove it from the Proposed Development, then it would not be possible to justify compulsory acquisition.</p> <p>4.24 The ExA queried whether there were any other negotiations or issues which the ExA should be made aware of.</p> <p>4.25 Mr Baker confirmed that there were not.</p> |
| | <p>The ExA may ask questions of the Applicant about matters arising from written and oral submissions and may require further site specific information in order to justify proposed CA as a last resort.</p> | <p>4.26 The Applicant did not make submissions on this agenda point.</p> |
| <p>5. Site specific representations by APs</p> | | |
| | <p>The ExA will ask APs to briefly set out, if any, outstanding concerns in relation to CA and/ or TP for the land which they own and/ or occupy that have not been addressed by the Applicant.</p> | <p>5.1 The Applicant did not make submissions on this agenda point.</p> |
| | <p>The ExA will ask questions to the Applicant in relation to engagement and any outstanding concerns in relation to CA and/ or TP of land.</p> | <p>5.2 The ExA queried whether the Applicant has had any specific issues or representations from affected persons that they would like to raise.</p> <p>5.3 Mr Minhinick noted that the Applicant had received additional contact from Stockton Borough Council very recently prompted by letters written by Affected Parties as part of the change request process, concerning the nature of rights sought over two particular parcels of land. Mr Minhinick explained that the Applicant was not in a position to go back just yet but will do so.</p> <p>5.4 The ExA queried if Stockton Borough Council would like to comment on this specific issue.</p> |

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| | | <p>5.5 Miss Boston noted that this had been brought to their attention from a letter received in October and that the Council had had no direct correspondence from the Applicant regarding any acquisitions. Miss Boston noted that the Council were open to negotiations to discuss this.</p> <p>5.6 The ExA noted down as an action for Stockton Borough Council to confirm the parcels it considers to be open space to the Applicant and for the parties to continue to engage over those parcels and any others within Stockton Borough Council ownership.</p> <p>5.7 The ExA queried how the Applicant intends to keep the ExA informed on this issue.</p> <p>5.8 Mr Minhinick confirmed that the Applicant will keep the ExA informed of progress and discussions at appropriate deadlines and that the Applicant will include an update on progress on this specific issue by Deadline 5, and if not the next deadline.</p> |
| | <p>The ExA will invite representations from all highways authorities, including National Highways [REP3-015] and Darlington Borough Council [REP2-031]. The ExA may ask questions of APs about matters arising from written and oral submissions</p> | <p>5.9 Mr Minhinick confirmed that the Applicant will keep the ExA informed of progress and discussions at appropriate deadlines and that the Applicant will include an update on progress on this specific issue by Deadline 5, and if not the next deadline.</p> |
| <p>6. Site specific issues from SU's</p> | | |
| | <p>The ExA will ask Statutory Undertakers to briefly set out any outstanding concerns in relation to compulsory acquisition and/ or TP for the land which they own and/ or occupy that have not been addressed by the Applicant. The ExA may ask questions of Statutory Undertakers about matters arising from written and oral submissions. The Applicant will be provided with a right of reply.</p> <p>The ExA may ask questions of Statutory Undertakers about matters arising from written and oral submissions.</p> <p>The Applicant will be provided with a right of reply.</p> | <p>6.1 The ExA asked the Applicant to provide an update on negotiations with Statutory Undertakers.</p> <p>6.2 Mr Minhinick noted that the Applicant was not intending to touch on the Statutory Undertakers coloured green in the Status of Negotiations with Statutory Undertakers document [REP1-018] as the Applicant's position in respect of each of those undertakers is that matters are agreed, as far as the Applicant is aware.</p> <p>6.3 The ExA confirmed that this approach was acceptable and requested that the Applicant focus their submissions on those where agreement not been reached.</p> <p>6.4 Mr Minhinick explained that the position in relation to statutory undertakers was the same aside from Network Rail, with whom the Applicant was having ongoing negotiations. Mr Minhinick explained that the Applicant was looking at detailed</p> |

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| | | <p>protective provisions with each party and that progress was ongoing albeit detail had not yet been reached on the protective provisions. Mr Minhinick noted that the Applicant was hopeful that discussions and negotiations will be concluded by end of examination period. Mr Minhinick noted that the Applicant will keep the ExA up to date with any developments. Mr Minhinick noted that the differences in negotiations were due to specifics within the protective provisions rather than wholesale points of disagreement.</p> <p>6.5 Mr Minhinick explained that Network Rail Infrastructure were in a different category. Mr Minhinick noted that there was ongoing engagement over matters between the Applicant and Network Rail Infrastructure, and that Network Rail indicated that they consider protective provisions might be required in respect of the railway bridge. Mr Minhinick explained that network rail no longer seeking protective provisions as part of the Order and have instead suggested that the routing of traffic would be dealt with within the Construction Traffic Management Plan.</p> <p>6.6 The ExA asked if there had been any further update on this.</p> <p>6.7 Mr Minhinick explained that there were no further updates and confirmed that the Applicant would provide the relevant reference on the position with Network Rail.</p> <p>6.8 The ExA raised the National Highway submission at Deadline 3 response [REP3-015]. The ExA raised that National Highways have actually confirmed in their response that certain plots originally registered under National Highways but are actually under the authority of Darlington Borough Council. The ExA also noted National Highways' requests regarding extension of the requirements terms of the protected provisions to cover not only the Construction Traffic Management Plan but also the Decommissioning Traffic Management Plan. The ExA asked the Applicant to provide an update on this.</p> <p>6.9 Mr Minhinick noted that he didn't believe there are any reasons why the Applicant wouldn't be able to agree to the suggested approach in relation to the Decommissioning Traffic Management Plan.</p> |
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| | | 6.10 The ExA asked the Applicant to consider more fully the representation from National Highways [REP3-015] and to give confirmation regarding the specific plots concerned. |
| 7. Review of issues and actions arising | | |
| | | 7.1 The ExA noted that in relation to Network Rail, the Applicant had not provided an update as part of the written documents. The ExA requested that the Applicant update and provide written positions at the next deadline as part of the Statutory Undertakers Position Statement Issue [APP-170]. |
| 8. Any other business | | |
| | | 8.1 The Applicant did not make submissions on this agenda point. |
| 9. Closure of the Hearing | | |
| | | 9.1 The Applicant did not make submissions on this agenda point. |

A.1 Applicant's draft list of actions from ISH2

| Ref | Action | Party | Timeframe |
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| Issue Specific Hearing 2 | | | |
| ISH2-01 | Applicant to clarify the calculation of the acre-per-MW ratio of the Proposed Development, noting that the Energy Generation and Design Evolution Document [REP2-010] states a figure of 2.5acres/MW(DC) and the ExA calculated a figure of 2.56acres/MW(DC). | Applicant | D5 |
| ISH2-02 | Applicant to submit a written explanation providing: <ol style="list-style-type: none"> 1. industry-based evidence for the proposed overplanting ratio of 1.6; 2. justification for the Applicant's use of the 1.6 figure (rather than 1.0) as the baseline for land take analysis; and 3. the estimated number of solar panels required for the Proposed Development (including by reference to a range, as appropriate). | Applicant | D5 |
| ISH2-03 | Mr Andrew Anderson to submit his questions to the ExA in writing regarding the Applicant's site selection process, the consideration of alternative locations, and co-location of solar panels with agricultural land use. | Andrew Anderson BVAG | D4 |
| ISH2-04 | Applicant to respond to questions submitted at Deadline 4 by Andrew Anderson. | Applicant | D5 |
| ISH2-05 | Applicant to confirm, with reference to examples, whether the Applicant's methodology for assessing the significance of effect (as set out in Table 8-4 of ES Chapter 8 [APP-031]), particularly the inclusion of "no harm" within the category of "negligible effect", is common practice. | Applicant | D5 |
| ISH2-06 | Historic England to confirm whether Historic England have reviewed the final off-road cable route (as the preferred option for the Applicant) and have any further concerns. | Historic England | D5 |

A.2 Applicant’s draft list of actions from ISH3

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| Issue Specific Hearing 3 | | | |
| ISH3-01 | Applicant to provide evidence to support the Applicant’s assumption (within the outline Construction Traffic Management Plan (oCTMP) [APP-112]) that construction staff will access the site using vehicles with an average occupancy of 7-persons, and consider including within the oCTMP: 1) initiatives for shared transport by construction workers to and from the site; and 2) vehicle occupancy surveys as a measure to monitor compliance. | Applicant | D5 |
| ISH3-02 | Applicant to liaise with Darlington Borough Council (“ DBC ”) and clarify to the ExA the Applicant’s proposed commitment in the oCTMP [APP-112] (included within the Environmental Statement Errata and Management Plans Proposed Updates [REP2-012]) for the Applicant to carry out pre-commencement condition surveys of the proposed construction traffic routes and rectify any relevant damage. | Applicant and DBC | D5 |
| ISH3-03 | Applicant to provide a breakdown of the proportion (as a percentage) of the Order limits located within each flood zone. | Applicant | D5 |
| ISH3-04 | Applicant to submit an updated Flood Risk Assessment which addresses DBC’s comments regarding the community benefit limb of the exception test and include a technical note on the hydraulic modelling carried out and reviewed by the Environment Agency. | Applicant | D4 |
| ISH3-05 | Applicant to consider whether flood risk enhancement measures can be provided in existing buffer zones to reduce existing surface water flooding in the key areas identified in Mr Peter Wood’s [RR-416] submissions. | Applicant | D5 |
| ISH3-06 | Applicant to clarify to the ExA and make any necessary updates to the measures within the outline Landscape and Ecology Management Plan (oLEMP) [APP-118] which are responsive to flooding issues during the operation of the Proposed Development (for example, to ensure the proposed vegetation mix functions as intended). | Applicant | D5 |

A.3 Applicant's draft list of actions from ISH4

| Ref | Action | Party | Timeframe |
|---------------------------------|---|--------------------|-----------|
| Issue Specific Hearing 4 | | | |
| ISH4-01 | Applicant to consider whether to amend requirement 13 of the dDCO (Implementation and maintenance of landscaping) to include an obligation for the Applicant to replace any existing hedging used as part of the oLEMP which dies or becomes seriously damaged or diseased. | Applicant | D5 |
| ISH4-02 | Applicant to clarify to the ExA how the usage of the public rights of way (PRoW) network has been considered by the Applicant to inform the baseline for the environmental assessment. | Applicant | D5 |
| ISH4-03 | Applicant to explore the possibility of further measures to enhancement the existing PRoW network in the area of FP-GtStn.3. | Applicant | D5 |
| ISH4-04 | Applicant to clarify the Applicant's approach to considering local character setting within the Design Approach Document [AS-004]. | Applicant | D5 |
| ISH4-05 | DBC to provide examples of other Landscape and Visual Impact Assessments (LVIA) where landscape character setting of villages / settlements has been separately assessed. | DBC | D5 |
| ISH4-06 | Applicant to signpost to, or otherwise provide, a detailed explanation of the areas of disagreement with DBC regarding the Applicant's LVIA. | Applicant | D5 |
| ISH4-07 | DBC to provide list of specific viewpoints which are disagreed between the Applicant and DBC. | DBC | D5 |
| ISH4-08 | Applicant and BVAG to discuss and agree a SoCG on outstanding LVIA issues. Statement to be included within the overall SoCG between the parties or submitted as a separate SoCG. | Applicant and BVAG | D5 |
| ISH4-09 | Applicant to consider the feasibility of relocating (rather than removing) panels within the Order limits, for example to move panels and the on-site substation to Panel Area C in the vicinity of 'The Mount' on sheet 6 of the Works Plans [AS-013]. | Applicant | D5 |
| ISH4-10 | Applicant to provide written explanation of points raised by Interested Parties: 3) to confirm the location and number of site entrances; | Applicant | D5 |

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| | 4) to clarify the location of the on-site substation and the Applicant's consideration of Local Wildlife Sites within the Environmental Assessment; | | |
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A.4 Applicant's draft list of actions from CAH1

| Ref | Action | Party | Timeframe |
|---|---|-------------------|-----------|
| Compulsory Acquisition Hearing 1 | | | |
| CAH1-01 | Applicant to consider updating the Statement of Reasons [APP-014]: <ol style="list-style-type: none"> 1) to clarify references to 'critical national priority' within National Policy Statement EN-1'; and 2) to reflect the Applicant's updated position on the requirement for subsoil land rights to deliver the on-road cabling works. | Applicant | D5 |
| CAH1-02 | Applicant and Stockton-on-Tees Borough Council (SBC) to follow-up regarding (i) the potential Open Space status of land plots 13/14 and 13/16, and (ii) the letter received by SBC in October relating to subsoil plots over which the Applicant seeks additional compulsory acquisition powers. | Applicant and SBC | D5 |
| CAH1-03 | Applicant to clarify whether plot 6/2 is required for the Proposed Development or can be removed from the Order limits. | Applicant | D5 |
| CAH1-04 | In relation to National Highway's representation [REP3-015]: <ol style="list-style-type: none"> 1. Applicant to consider the request for amendments to requirement 5 of the dDCO; and 2. DBC to confirm whether it is the local highway authority for the plots listed on page 2. | Applicant and DBC | D5 |
| CAH1-05 | Applicant to update the Statutory Undertakers Position Statement [REP1-018] to reflect the current position with Network Rail. | Applicant | D5 |