



**Application by RWE Renewables UK Solar and Storage Limited for the Byers Gill Solar Farm
The Examining Authority's written questions and requests for information (ExQ2)
Issued on 01 November 2024**

The following table sets out the Examining Authority's (ExA's) second round of written questions and requests for information – ExQ2. If necessary, the examination timetable enables the ExA to issue a further round of written questions in due course. If this is done, the further round of questions will be referred to as ExQ3.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as **Annex C** to the Rule 6 letter of 25 June 2024. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with an alphabetical code and then has an issue number and a question number. For example, the first question on general matters is identified as GEN.2.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact ByersGillSolar@planninginspectorate.gov.uk and include 'Medworth EfW ExQ2 Response' in the subject line of your email.

Responses are due by Deadline 5: 15 November 2024.



Abbreviations used:

APs	Affected Persons	MP Order	The Infrastructure Planning (Model Provisions) Order 2009
Art	Article	MW	Megawatts
ALA 1981	Acquisition of Land Act 1981	NPS	National Policy Statement
BMV	Best and Most Versatile Land	NSIP	Nationally Significant Infrastructure Project
BoR	Book of Reference	OCEMP	Outline Construction Environmental Management Plan
BNG	Biodiversity Net Gain	PA2008	The Planning Act 2008
CA	Compulsory Acquisition	PRoW	Public Right of Way
CPO	Compulsory purchase order	PV	Photovoltaic
CTMP	Construction Traffic Management Plan	R	Requirement
DBC	Darlington Borough Council	RR	Relevant Representation
DCC	Durham County Council	SBC	Stockton Borough Council
dDCO	Draft DCO	SAC	Special Area of Conservation
EM	Explanatory Memorandum	SPA	Special Protection Area
ES	Environmental Statement	SI	Statutory Instrument
ExA	Examining Authority	SoS	Secretary of State
Fig.	Figure	SSSI	Site of Special Scientific Interest
IPs	Interested Parties	SUs	Statutory Undertakers
LIR	Local Impact Report	TP	Temporary Possession
LNR	Local Nature Reserve	WMS	Written Ministerial Statement
LPA	Local planning authority		
MP	Model Provision (in the MP Order)		



The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

[Examination Library](#)

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Issue reference. question number, eg GCT.2.1 – refers to General and Cross-Topic question 1 in this table.



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ExQ2	Question to:	Question:
1.	General and Cross-topic Questions	
GCT.2.1	IPs, APs, Applicant, Statutory Consultees, Statutory Undertakers and Other Parties	The ExA wishes to highlight that the questions below recognise the Applicant's submission of a request to make a change to the DCO application. However the ExA also highlights that the change application has not been accepted yet as the Applicant will need to carry out further consultation of the change.
GCT.2.2	Darlington Borough Council (DBC)	DBC are members of the Tees Valley Combined Authority. Are there any additional documents or region-wide strategies that DBC wants to refer the ExA to?
GCT.2.3	Applicant	The Planning Inspectorate, in October 2024, as published new advice on Design ¹ . Can the Applicant please set out how the Proposed Development matches the guidance, particularly in relation to the "Establishing Good Design" section of the Guidance.
GCT.2.4	Applicant	Can the Applicant please clarify how the proposed fencing, any any security system that the Applicant might be proposing including lighting, around the different proposed panel areas, will affect biodiversity (for example deer and birds which has been raised as a concern by some IPs). Please also see [REP1-045].
GCT.2.5	Applicant	The Outline LEMP [APP-118] states, in section 7, that the management will be revisited after the end of the initial five-year aftercare period and then at 10-year intervals until the end of the operational life of the Proposed Development. Can the Applicant please confirm why it believe that the proposed periods of five-year aftercare and then 10-year intervals are appropriate?
GCT.2.6	Applicant	The ExA acknowledges the submission of [REP1-004] and notes the Applicant's strategy to respond to all the RRs received, namely as set in paragraph 1.2.2 of [REP1-004] that the "Applicant has identified and categorised general themes of matters that have been commonly raised. In Chapter 2 of this document, the Applicant summarises these themes and provides a collective comment on the matters raised". Although this approach could be acceptable, the Applicant must make sure that any IP who has submitted a RR can easily find where the Applicant's response to their individual RR is. Considering the Applicant's strategy of responding to RRs, the Applicant is asked to then provide, for each one of the themes identified, a full list of the RRs that the Applicant believes it is answering to. Each IP who has

¹ [Nationally Significant Infrastructure Projects: Advice on Good Design - GOV.UK](#)

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ExQ2	Question to:	Question:
		submitted a RR should be able to easily identify, via their unique RR number, where the Applicant has responded to all the issues raised by them in their RR.
GCT.2.7	Applicant	Bishopton Villages Action Group (BVAG) in their RR [RR-548] raised a series of concerns in their "Summary and Overall position" which do not appear to be fully covered by the Applicant's response in [REP1-004]. Can the Applicant please confirm where it has responded to concerns raised regarding how the benefits of the Proposed Development do not outweigh its considerable adverse impacts and the absence of any financial viability or business case to support the proposal.
2. Principle of the Proposed Development		
PPD.2.1	Applicant	At ISH2 the ExA asked a series of question to the Applicant in relation to the proposed overplanting ratio of 1.6 and the ExA is expecting a series of actions to be carried out by the Applicant by Deadline 5. However, can the Applicant please clarify, in relation to land take and energy production ratio, how the Proposed Development compares with other solar farms in the area?
3. Environmental Impact Assessment		
EIA.2.1		No further questions at this stage.
4. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		
CA.2.1	Applicant	In support of its change request, the Applicant has submitted an updated version of the BoR [CR1-009] which includes, in relation to plot 12/30, reference to Town & Village Homes Limited c/o Government Legal Department (BVD). In light of this, the Applicant is asked to verify if this plot of land does not change the Applicant's statement in relation to Crown Land Interests ² .
5. Development Compulsory Order		
DCO.2.1	Applicant	In Art. 7 - Disapplication and modification of legislative provisions includes the Applicant proposes the disapplication of the provisions of the Neighbourhood Planning Act 2017 in so far as they relate to temporary possession of land. Can the Applicant please provide further justification, than that included in the Statement of Reasons, for why this is needed?

² [Unclaimed estates list - GOV.UK](https://www.gov.uk/government/collections/unclaimed-estates)

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ExQ2	Question to:	Question:
DCO.2.2	Applicant	At CAH1 the Applicant confirmed that it is very unlikely that it will be able to deliver the Proposed Development without at least some of the cabling being part of the on-road route. In order to ensure that the DCO only includes those provisions which are needed for the delivery of the Proposed Development, the Applicant is asked to prepare a list of articles (if any) that will need changing in case the on-road route is reduced. The Applicant is asked to give particular consideration to Part 5 - Powers of Acquisition, particularly Art. 23 Compulsory Acquisition of Rights – and its relationship with other sections and parts of the DCO.
DCO.2.3	Applicant	The ExA asks the Applicant to consider if definitions for “on-road cabling” and “off-road cabling” should be included in Art. 2 – Interpretation? And if yes, the ExA asks that the Applicant to draft these and submit them for the ExA’s consideration by Deadline 5.
DCO.2.4	Applicant	The ExA asks the Applicant to consider if Schedule 1 Authorised Development, namely the description of works, should be updated in order to better reflect the optionality and the nature of the cabling under Work No.3?
DCO.2.5	Applicant	The Applicant is asked to provide further clarification on how it envisages the application of Art. 28 - Rights under or over streets and Art. 29 - Temporary use of land for carrying out the authorised development in relation to the on-road and off-road cabling?
DCO.2.6	Darlington Borough Council (DBC) National Highways	Darlington Borough Council and National Highways are asked to confirm if they are satisfied or, if not, provide comments on Part 3 – Streets particularly in light of the Applicant’s intention to rely on the powers included in the article for the deliverability of the on-road cabling. The ExA would also request the highway authority’s view on the wording in Schedule 4.
DCO.2.7	Applicant	Following from ISH2, the Applicant is asked to consider if Schedule 2 Requirements Art. 3 Detailed design approval should include or anticipate the need to consider new technology. If the Applicant agrees that it should, the Applicant is asked to provide wording and submit it for the ExA’s consideration by Deadline 5.
6.	Biodiversity, Ecology and the Natural Environment	
BIO.2.1	Applicant	Further to BIO.1.2 Please provide an update on the watercourse crossing design and/or if appropriate controls are in place to ensure that impacts to riverine species will inform appropriate water crossing design to ensure no LSE.

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ExQ2	Question to:	Question:
BIO.2.2	Applicant	Further to BIO.1.3 The ExA considers that measures relating to invasive non-native plant species should be secured specifically in the DCO, and that the method statement in the Outline CEMP does not provide sufficient certainty. Please update the DCO to secure the measures included in the OCEMP.
BIO.2.3	Applicant	The ExA notes that post construction monitoring for birds, badgers and bats will be undertaken in years 1, 3, 5 and 10 post-construction. The ExA consider this inappropriate given the 40-year operational period and would not allow the success of the ecological and related plans to be measured or supported if necessary. Please explain how the post-construction monitoring proposed will ensure the Proposed Development delivers the ecological and related plans?
7. Climate Change and Emissions		
CCE.2.1		None at this stage.
8. Design		
DES.2.1	Applicant	Referring to the Applicant's response to DES.1.4 of ExQ1, would the Applicant amend Requirement 3(1) to include the Design Review Panel as one of the parties to receive and approve the detailed design of the Proposed Development.
DES.2.2	Applicant	In relation to the Applicant's response to DES.1.9 of ExQ1, would the Applicant be amenable to modifying Requirement 3(1) to include details of the solar technology to be adopted for the Proposed Development, also reflecting the latest advancements of solar technology?
9. Health and Air Quality		
HAQ.2.1	Applicant	With reference to Durham County Council's (DCC's) LIR, would the Applicant modify Requirement 4(2) to include a statement that the Applicant shall adhere to DCC's 'Construction and Demolition Management Plan Guidance3'?
HAQ.2.2	Applicant	In relation to DCC's LIR, would the Applicant alter Requirement 5(2) to list specific actions in the DEMP and include a statement that the Applicant shall adhere to DCC's 'Construction and Demolition Management Plan Guidance3'?
HAQ.2.3	Applicant	In relation to DCC's LIR, would the Applicant explain whether the dust impact during construction on Whinfield House, Preston Lodge and Stainton Hill House, which are located immediately to the north of Panel Area B, have been considered?

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ExQ2	Question to:	Question:
10.	Historic Environment	
HEN.2.1	Applicant	Concerns have been raised in relation to the impact of the Proposed Development on local heritage assets, namely the Royal flying Corp Airfield on Folly Bank and Bishopton Castle. Can the Applicant explain the assessment of effects of the Proposed Development on Royal Flying Corp Airfield?
HEN.2.2	Darlington Borough Council (DBC) Historic England	At ISH2 the ExA asked the Applicant a series of questions regarding its approach to Historic Environment. The Applicant confirmed, in reference to table 8-4 Significance of effect included in [APP-031] that “negligible effect” was the term used to also describe “no effect”. This is then further confirmed in the Applicant’s response to HEN.1.7 [REP2-007]. Darlington Borough Council (DBC) and Historic England are asked to comment on this approach and the methodology used.
HEN.2.3	Applicant	The ExA notes the Applicant’s response to HEN.1.8. However, in the context of the PA2008 which, as set out previously in ExQ1 requires the decision-makers to have regard to the desirability of preserving the asset or its setting, including considering any harm or loss that may result from the development, the Applicant is asked to again clarify and confirm that its position is that no effects, i.e. no harm, has been identified to any of the heritage assets. The ExA also highlights to the Applicant can harm of any kind, even negligible harm, according to the ExA’s interpretation of the PA2008, is not the same as no harm.
HEN.2.4	Darlington Borough Council (DBC) Historic England	The ExA asks if DBC or Historic England have any comments they wish to make to ExA’s question HEN.2.3.
11.	Landscape and Visual	
LSV.2.1	Applicant	ES document 7.2 Design Approach Document [AS-004] references mitigation quantities, for example approximately 7km of new and enhanced hedgerows, 59 hectares of planting and seeding between panel areas, 24 hectares of community picnic areas and orchards, 3 hectares of new trees and 29 hectares of biodiversity enhancement areas (paragraph 3.1.4). We note in DBC’s LIR Landscape and Visual Amenity [REP1-021] they measure the area of community picnic areas and orchards to be no more than 3ha. Please provide details of all mitigation

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ExQ2	Question to:	Question:
		quantities including specific references to where these are shown on drawings and other application documents.
LSV.2.2	Applicant	With regard to the mitigation works proposed in the area of Oat Hill Farm; Environmental Masterplan Sheet 2 [AS-016] states 'Proposed offset from residence at Oat Hill Farm to include scrub mosaic to provide screening, biodiversity and landscape structure Enhancement.' Please provide greater detail of the mitigation proposed for this property, including visualisations from the property post mitigation at various stages of growth.
LSV.2.3	Applicants	Please add the location of the Viewpoints to the Works Plans and the Street Works, PRow & Access Plans.
LSV.2.4	DBC	Regarding Mill Lane, Bishopton. Please confirm if there is a height restriction to the road hedges for road safety and what this is? In addition, please identify any other locations near the Proposed Development where there are height restrictions to road hedges.
LSV.2.5	Applicant	Please confirm that you have included restrictions to heights of road hedges, for road safety reasons, in your proposals for planting mitigation. Provide details of these restrictions and locations.
LSV.2.6	Applicant	When visiting the site on 17 October 2024, the ExA did not consider that viewpoint 17 presented the worst case views of panel areas. Please update the landscape & visual impact analysis based on a worst case view. In doing this consideration should be included of DBC's LIR – Landscape and Visual Amenity [REP1-021] and additional photography locations 4 and 5 (page 31).
LSV.2.7	Applicant	With regard to the mitigation works proposed in the area of the following Great Stainton residential properties: 'Wayside', 'Harfield House', and 'School House'. Please provide greater detail of the mitigation proposed for each property, including visualisations from the property post mitigation at various stages of growth.
LSV.2.8	Applicant	When visiting the site on 17 October 2024, the ExA did not consider that viewpoint 18 (close to residential property 'Wayside') presented the worst case views of panel areas. Please update the landscape & visual impact analysis based on a worst case view. In doing this consideration

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ExQ2	Question to:	Question:
		should be included of DBC's LIR – Landscape and Visual Amenity [REP1-021] and additional photography locations 2 (page 30).
LSV.2.9	Applicant	With regard to the mitigation works proposed in the area of the residential property 'Carr House'. Please provide greater detail of the mitigation proposed, including visualisations from the property post mitigation (including views of the proposed sub-station) at various stages of growth.
12. Land Use and Socioeconomics		
LUS.2.1	Applicant	Referring to the Applicant's response to LUS.1.6, would the Applicant be amenable to modifying Requirement 5 to list the proposed actions in DEMP, as in Requirement 4, adding also the need for the Applicant to engage with the local highway authority and relevant landowners at the point of decommissioning to consider reverting the PRoW to their historic or baseline alignment, as part of the decommissioning proposals?
LUS.2.1	Applicant	In relation to the Applicant's response to LUS.1.13, would the Applicant signpost where in the submitted Community Benefit Fund Document [REP2-011] this question is satisfactorily answered?
LUS.2.2	Applicant	Regarding the Applicant's response to SBC's LIR, would the Applicant clarify whether the alignment of Public Footpath 4 in terms of minimising the impact this Proposed Development would have on its usage has now been resolved?
LUS.2.3		BVAG mentioned in its response that the Applicant's Solar panel's glint & glare analyses focused on dwellings only and not walkers, public spaces or horse riders. The ExA has noted that the submitted Solar Photovoltaic Glint and Glare Study [APP-106] evaluates the effect of Solar panel's glint & glare on roads, railway and aviation including Teesside International Airport, in addition to the impact on dwellings. The Study's assessment results show that low impact was predicted on a combined 0.9km section of Elstob Lane/Bishopton Lane and no impacts were forecasted on the remaining assessed road sections. Would the applicant confirm that this assessment would have considered all road users encompassing walkers, cyclists and horse riders plus public spaces and, whether the other roads that were deemed to have experienced no glint & glare effect comprised Mill Lane in Bishopton Village that is used for dog and people walking, running, cycling and horse riding?
13. Noise and Vibration		

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ExQ2	Question to:	Question:
NV.2.1	Applicant	In view of the Applicant's response to SBC's LIR on the potential conflict of the proposed cable route around Carlton Village with an existing SuDS basin, would the Applicant amend Requirement 4 to include the provision of a clear-cut commitment to avoid the existing SuDS feature within the Order Limits at detailed design and, implementing appropriate mitigation measures that would ensure that the functionality of the SuDS feature is maintained if it is unavoidable?
NV.2.2	Applicant	Regarding the Applicant's response to NV.1.5 of ExQ1, would the Applicant amend Requirement 4(2) of the dDCO to include details of how working practices and equipment used would be adapted to reflect varied weather conditions during construction?
NV.2.3	Applicant	Referring the Applicant's response to DBC's LIR concerning why existing sensitive receptors (ESRs) in the northern area of Panel F and West House Farm, Downland Farm and Cobby Castle Forge have not been included in the noise assessment, would the Applicant confirm if this matter has been resolved and the SoCG with DBC has been updated accordingly?
NV.2.4	Applicant	Referring to the Applicant's response to DBC's LIR on the need for restriction on delivery times, would the Applicant modify Requirement 6 to list the actions to be addressed in the CTMP including avoiding deliveries during the morning and evening peak hours (0800 to 0900hours and 1700 to 1800hours plus school departure times of 1500 to 1600hours, weekdays) plus Saturdays and public holidays?
14. Resource and Waste Management		
RWM.2.1		No further questions at this stage.
15. Traffic and Transport		
TT.2.1	Darlington BC	Darlington BC mentions in its LIR that while the delivery of the strategic northern relief road (SNRR) is not within the life of the current Darlington Local Plan (2016 – 2036), it is of significant economic importance to both Darlington and the wider Tees Valley area. Although the route is not yet of fixed design or alignment, we would ask that it be considered as part of the determination process of the application. Would Darlington BC confirm if the design or alignment of the SNRR would be submitted before the end of the examination of the Proposed Development?
TT.2.2	Applicant	Concerns had been raised about Northumbrian Water Ltd (NWL) laying a new drinking water pipeline from Lartington in Upper Teesdale across to Long Newton to the East of Darlington. Phase 1 of the project commenced in January 2023 (68% completed at the time of checking on

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		02/10/2024) and is expected to finish by July 2025. NWL plans to start work on the second phase of this new pipeline shortly after July 2025 and there is the worry that any related road closure or diversion will cause mayhem, impacting on long existing rights of way and bridleways that run through the wide construction area. Would the applicant demonstrate how the construction vehicle routing and timing of the Proposed Development would not conflict with those associated with Phase 2 of this NWL's pipeline?
TT.2.3	Applicant	In view of the Applicant's responses to TT.1.6 and TT.1.7 of the ExQ1 and the unspecific traffic management measures relating to the potential on-road cabling, would the Applicant amend Requirement 6 of the dDCO to list the items to be included in the CTMP, in the form of Requirement 4, also indicating methods of minimising disruption to traffic if and wherever on-road cabling is elected and associated timing of these works?
TT.2.4	Applicant	Now that it has been established in the Applicant's response to TT.1.8 that a recent traffic accident data from 2022 to 2024 is available on Crashmap database, can the applicant provide the analyses of this traffic accident data?
TT.2.5	Applicant	In view of the Applicant's response to TT.1.15 of the ExQ1, would the Applicant be amenable to modifying Requirement 2 of the dDCO to read: "The authorised development may not be commenced until a written scheme setting out the proposed phases of construction of the authorised development, which shall pay regard to the need for consolidation of construction activities as far as it is practicable, has been submitted to and approved by the relevant planning authority"?
TT.2.6	Applicant	Given the Applicant's response to TT.1.17 of the ExQ1, would the Applicant amend Requirement 6 of the dDCO to list the items to be included in the CTMP, in the form of Requirement 4, also indicating the positions of wheel washing facilities?
TT.2.7	Applicant	Referring to the Applicant's response to TT.1.18 of the ExQ1, would the Applicant amend Requirement 4 of the dDCO to include the commitment in the Outline CEMP [APP-110] to adopt the Considerate Constructors Scheme and engage contractors who subscribe to Fleet Operator Recognition Scheme (FORS)?
TT.2.8	Applicant	Regarding the Applicant's response to TT.1.23 of the ExQ1, would the Applicant amend Requirement 6 of the dDCO to list the items to be included in the CTMP, in the form of Requirement 4, also adding the need to submit details of accesses to the Panel Areas plus associated traffic management and road safety measures?

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ExQ2	Question to:	Question:
TT.2.9	Applicant	In relation to the Applicant's response to TT.1.31 of the ExQ1, would the Applicant amend Requirement 6 of the dDCO to list the items to be included in the CTMP, in the form of Requirement 4, also adding the need to explain penalties that would be meted out to those contractors who do not comply with the agreed delivery routes?
TT.2.10	Applicant	In response to GCT.1.9 of ExQ1, Network Rail confirmed that it no longer has an objection to the proposed routes set out in the Outline CTMP, subject to the Applicant modifying Requirements 5 and 6 to include consultation with the Network Rail abnormal movements team about abnormal loads and Network Rail Structures Asset Engineering team about any unusual requests, where applicable. Would the Applicant amend Requirements 5 and 6 to contain this obligation?
16. Water Environment & Flood Risk		
WFR.2.1	Applicant	It is stated in Stockton on Tees BC's LIR that the proposed cable route around Carlton Village conflicts with an existing SuDS basin (see diagram showing its position in relation to the cable route on Page 21 of the LIR). Given the Applicant's response to this aspect of the LIR, would the Applicant amend Requirement 4 of the dDCO to include planned methods of avoiding the prevailing SuDs basins and if impossible, maintaining their functionalities?
WFR.2.2	Applicant	Paragraph 4.8.1 of ES Appendix 10.1 Flood Risk Assessment and Drainage Strategy [Rep2-013] mentions that the production of a Construction Surface Water Management Plan (CSWMP) will be secured via Requirement 4 of the Development Consent Order (DCO). Would the Applicant explain why this has not been included in Requirement 4 of the dDCO?
WFR.2.3	Applicant	Concerns had been raised by residents living within 100metres of the proposed substation in Panel Area C that the area around the north-eastern end of the proposed substation, where the panels will start 3.6metres from the hedge line, is prone to flooding and that the previous owner of the land holding Panel C had made a trench from the flooded area into the residents' land, which resulted in the flood from this panel area pouring into their stream and subsequently entering their land drain. The ExA did observe flooded spot in Panel Area C and the consequential flooded part of the land in the boundary of the dwelling Carr House abutting the southern periphery of Panel Area C during the USI conducted on 17 October 2024. Would the Applicant confirm what mitigation actions would be put into place to eliminate the existing flooding in Panel Area C and manage the flow of water from the pipeline in Panel Area C into the watercourse in Carr House, with a view to avoiding or minimising flooding from the Order Limits onto the neighbouring Carr House?

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ExQ2	Question to:	Question:
17.	Cumulative Effects	
CU.2.1		No further questions at this stage.