

**Byers Gill Solar
EN010139**

8.4.1 Statement of Common Ground with Durham County Council

Planning Act 2008

APFP Regulation 5(2)(q)

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

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Table of Contents

Page

1.	Introduction	1
1.1.	Purpose of this document	1
1.2.	Terminology	1
1.3.	Status of this document	1
2.	Current position	2
A.1	Record of Engagement	10

Table of Tables

Table 1	Current position of matters relevant to the parties' discussions	2
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1. Introduction

1.1. Purpose of this document

- 1.1.1. This Statement of Common Ground (SoCG) has been prepared to support the Examination of the Development Consent Order (DCO) application for Byers Gill Solar (the Proposed Development).
- 1.1.2. This SOCG has been prepared jointly by **RWE (the Applicant)** and **Durham County Council (DCC)** in order to clearly identify the current position of the respective parties on specific matters that are, or have been, under discussion. It seeks to confirm to the Examining Authority (ExA) where there are points of agreement between the parties and where agreement has not been reached to date. It therefore aids the ExA in identifying any specific issues that may need to be addressed during the Examination and provides a structure to any further discussions for the parties engaged in the SoCG.
- 1.1.3. This document has been prepared in response to a specific request from the ExA as per the Rule 6 Letter [PD-003] issued on 25 June 2024.

1.2. Terminology

- 1.2.1. Section 2 of this document sets out the relevant matters raised through discussion between the parties. It provides a summary of the position of each party and identifies the status of discussions on each matter:
- “Agreed” means that a matter has been resolved between the parties and is not anticipated to be subject to further discussion;
 - “Under discussion” means that a matter remains in active dialogue between the parties and a final position has not been reached;
 - “Not agreed” means that the parties have established a final position that they cannot resolve the matter and will remain a point of difference.
- 1.2.2. In accordance with the request from the ExA in the Rule 6 Letter [PD-003], a **Low**, **Medium** and **High** ‘traffic light’ system is applied to each matter to indicate the likelihood of their resolution during the Examination period.

1.3. Status of this document

- 1.3.1. This document is currently in draft form and is unsigned.
- 1.3.2. When a final position has been reached on all matters, the respective parties shall sign the SoCG and submit it into the Examination as final and signed.

2. Current position

- 2.1.1. The table below provides a summary of the current position of the Applicant and DCC in relation to specific matters that have been under discussion to date.
- 2.1.2. Where a matter is not represented in the table, it should be assumed that it is either: (i) agreed between the parties and has never required detailed discussion; or, (ii) not relevant to the discussion between the parties.
- 2.1.3. Appendix A of this document provides a record of engagement undertaken between the parties in relation to the Proposed Development. This is limited to engagement which is materially relevant to the contents of this SoCG and does not seek to include every correspondence between the parties (e.g. that which was primarily administrative).

Table 1 Current position of matters relevant to the parties' discussions

Row ID	Topic	DCC Position	Applicant Position	Status
DCC1	Principle of development	In paragraphs 5.2 – 5.12 of the DCC Local Impact Report [REP1-025], DCC note their agreement with the Applicant that there is local and national support for in principle for the Proposed Development and that any adverse impacts would be temporary and could be mitigated using land within County Durham. There are no outstanding matters for discussion in relation to the principle of development.	The Applicant is in agreement with DCC and has supplied further details on mitigation in the Mitigation Route Map [APP-171].	Agreed
DCC2	Policy accordance	DCC have highlighted the local planning policies of relevance to the Proposed Development and are in agreement that these have been considered by the Applicant. There are no outstanding matters for discussion in relation to policy accordance.	As indicated in the Comments on Local Impact Reports [REP2-008], the Applicant has set out accordance with these local planning policies in the Planning Statement [APP-163] and the Policy Compliance Document [APP-164].	Agreed
DCC3	Traffic and transport	In paragraphs 5.16 – 5.18 of the DCC Local Impact Report [REP1-025], DCC agree that there are no adverse issues relating to traffic and transport with	The Applicant agrees with DCC's comments regarding traffic and transport. An outline Construction Traffic Management Plan [APP-112] has	Agreed

Row ID	Topic	DCC Position	Applicant Position	Status
		<p>County Durham as these could be controlled through a Construction Management Plan.</p> <p>There are no outstanding matters for discussion in relation to traffic and transport.</p>	<p>been submitted as part of this application. This will be secured via Requirement 6 of the DCO [REP2-029].</p>	
DCC4	Public Rights of Way	<p>In paragraph 5.22 of the DCC Local Impact Report [REP1-025], DCC note that there are no DCC Public Rights of Way (PRoW) directly impacted by the Proposed Development, but there are some which interact with PRoW within the Order Limits. DCC state the importance of maintaining the PRoW network.</p> <p>There are no outstanding matters for discussion in relation to public rights of way.</p>	<p>The Applicant acknowledges these comments. In accordance with the Outline Public Rights of Way Management Plan [APP-119], the Applicant will make every reasonable effort to minimise disruption along the PRoW network during the construction, operation and decommissioning of the Proposed Development.</p>	Agreed
DCC5	Cultural heritage and archaeology	<p>In paragraphs 5.32 – 5.33 of the DCC Local Impact Report [REP1-025], DCC state that there would be up to a very slight impact on the setting of designated heritage assets, and that there is no archaeological objection to the Proposed Development within County Durham.</p> <p>There are no outstanding matters for discussion in relation to cultural heritage and archaeology.</p>	<p>The Applicant is in agreement with this assessment and notes that there is no objection in relation to cultural heritage and archaeology.</p>	Agreed
DCC6	Cultural heritage and archaeology	<p>In paragraph 5.31 of the DCC Local Impact Report [REP1-025], DCC state that the design and layout of development should be informed by consultation with the Historic Environment Record (HER).</p>	<p>As indicated in the Comments on Local Impact Reports [REP2-008], ES Chapter 8 Cultural Heritage and Archaeology [APP-031] confirms that the Applicant has sought to consult and engage with the Historic Environment Record (HER) throughout the pre-application stages, as recorded in Table 8-1.</p>	Agreed
DCC7	Landscape and visual	<p>In paragraphs 5.37 – 5.47 of the DCC Local Impact Report [REP1-025], DCC agrees with the findings of ES Chapter 7 Landscape and Visual [APP-030], including that the effects are not significant.</p>	<p>The Applicant acknowledges the agreement of DCC on these matters.</p>	Agreed

Row ID	Topic	DCC Position	Applicant Position	Status
		There are no outstanding matters for discussion in relation to landscape and visual.		
DCC8	Hydrology	<p>In paragraphs 5.52 – 5.54 of the DCC Local Impact Report [REP1-025], DCC note that some land within Flood Zones 2 and 3 is located within the Order Limits within County Durham, and that development should apply the practices and methods of control as identified within DCC's General Guidance. Impacts on drainage could be adequately controlled through appropriate design and mitigation.</p> <p>There are no outstanding matters for discussion in relation to hydrology.</p>	The Applicant agrees with this assessment, and has provided an updated Flood Risk Assessment at Deadline 2 [REP2-013]. The detailed design of the Proposed Development will be secured by Requirement 3 of the DCO [REP2-029], and further detail on the mitigation for these adverse impacts is detailed in ES Chapter 10 Hydrology and Flood Risk [APP-033] and the Mitigation Route Map [APP-171].	Agreed
DCC9	Biodiversity	<p>In paragraph 5.59 of the DCC Local Impact Report [REP1-025], DCC note that the site is within the Nutrient Neutrality Catchment area of the Teesmouth and Cleveland Coast Special Protection Area as defined by Natural England for the protection of sensitive Habitat Regulation sites. Under the Habitats Regulations, those planning authorities falling within the catchment area must carefully consider the nutrients impacts of any projects on habitat sites and whether those impacts may have an adverse effect on the integrity of the site that requires mitigation.</p> <p>Recognising that Natural England are in agreement that Nutrient Neutrality does not apply, DCC can consider this as agreed.</p>	As indicated in the Comments on Local Impact Reports [REP2-008], issues pertaining to nutrient neutrality are not considered to be relevant to the Proposed Development, and Natural England (NE) was engaged with throughout the pre-application period and at time of application. The Relevant Representation from NE concludes that NE is 'satisfied with the proposals and considers that there are no significant matters to resolve'.	Agreed
DCC10	Biodiversity	In paragraphs 5.63 – 5.66 of the DCC Local Impact Report [REP1-025], DCC state their agreement with the assessment of impacts on designated sites and that the proposed mitigation and compensation is appropriate. DCC also state that their confidence	The Applicant is in agreement with DCC and has supplied further details on mitigation in the Mitigation Route Map [APP-171].	Agreed

Row ID	Topic	DCC Position	Applicant Position	Status
		that the biodiversity net gain calculated can be achieved.		
DCC11	Contaminated land	<p>In paragraphs 5.69 – 5.70 of the DCC Local Impact Report [REP1-025], DCC request a specific contaminated land requirement within the DCO regarding further site investigation, as identified in Phase 1 Geoenvironmental and Geotechnical Desk Study [APP-105].</p> <p>There are no outstanding matters for discussion in relation to contaminated land.</p> <p>DCC has no further comment providing that that this is secured through requirement 4 of the DCO.</p>	<p>As indicated in the Comments on Local Impact Reports [REP3-008], the Applicant will update the outline CEMP [APP-110] to specify further ground investigations; this is set out in the ES Errata and Management Plans Proposed Updates submitted at Deadline 2 [REP2-0112]. This will be subsequently secured through Requirement 4 of the DCO. It is therefore considered that the proposed conditions, suggested by DCC, are not required.</p> <p>The Applicant has updated the outline CEMP (Document Reference 6.4.2.6, Revision 2) and this is provided at Deadline 5.</p>	Agreed
DCC12	Human health	<p>In paragraph 5.75 – 5.77 of the DCC Local Impact Report [REP1-025], DCC note that there are some properties within County Durham which may experience impacts during construction and during operation, and so there is a potential to impact upon population and human health receptors. This could be controlled through appropriate mitigation.</p> <p>There are no outstanding matters for discussion in relation to socioeconomics.</p>	<p>The Applicant agrees with DCC, and notes that impacts on human health receptors and the Applicant's assessment and consideration of these is addressed elsewhere in this document.</p>	Agreed
DCC13	Air Quality - decommissioning	<p>In paragraph 5.85 of the DCC Local Impact Report [REP1-025], DCC request clarification regarding whether the dust mitigation measures for decommissioning are the same as for construction.</p> <p>DCC has no further comments on this matter following subsequent correspondence with the applicant.</p>	<p>As indicated in the Comments on Local Impact Reports [REP3-008], dust mitigation measures in relation to decommissioning would be anticipated to align with the high risk measures from the IAQM's Guidance on the assessment of dust from demolition and construction. However, the timescales for decommissioning mean that the detail of the dust mitigation cannot be defined at this time and may not</p>	Agreed

Row ID	Topic	DCC Position	Applicant Position	Status
			<p>be exactly the same as at construction; they will reflect the best practice at the time.</p> <p>Accordingly, the outline DEMP [APP-111] secured under requirement 5 of the DCO [REP2-029] details that 'Demolition impacts from dust generating activities will be minimised through the use of best practice guidance and measures relevant at the time of decommissioning'. As such, the overall dust related effects would be not significant with the implementation of the best practice measures.</p>	
DCC14	Air Quality - construction	<p>In paragraph 5.85 of the DCC Local Impact Report [REP1-025], DCC request reasoning for no air quality monitoring being proposed, in line with IAQM guidance.</p> <p>DCC would still expect some form of monitoring to be undertaken whilst construction works were underway, this would be in line with IAQM guidance and also allow the operator to confirm that dust is not giving rise to negative impact upon receptors.</p>	<p>ES Appendix 4.1 [APP-120] provides the scoping report which explains the traffic flows due to construction, operational and decommissioning are predicted to be below the IAQM/ EPUK thresholds. It is anticipated that there would be limited impacts on air quality associated with the Proposed Development. Therefore, air quality was scoped out the ES and a standalone construction dust assessment was agreed to be provided.</p> <p>Requirement 4 of the DCO [REP2-029] states that the CEMP must be produced in accordance with the Outline CEMP [APP-110] and will be subject to consultation with DCC. It should be noted that with the implementation of suitable measures for construction dust, the residual effects would be considered to be not significant. On this basis, no monitoring is required.</p>	Not agreed
DCC15	Air Quality - construction	<p>In paragraph 5.85 of the DCC Local Impact Report [REP1-025], DCC request further information regarding traffic movements within the Durham City AQMA.</p>	<p>The Applicant confirmed in the Comments on Local Impact Reports [REP3-008] that construction vehicles will not travel through the Durham City AQMA. To provide comfort to DCC on this matter, the Applicant has committed to updating the outline CTMP [APP-112] during Examination to make this</p>	Agreed

Row ID	Topic	DCC Position	Applicant Position	Status
		DCC has no further comments on this matter following subsequent correspondence with the applicant.	specific commitment and secure it under the DCO. This is set out in the ES Errata and Management Plans Proposed Updates submitted at Deadline 2 [REP2-0112]. The Applicant has updated the outline CEMP (Document Reference 6.4.2.6, Revision 2) and this is provided at Deadline 5.	
DCC16	Air Quality - operation	<p>In paragraph 5.85 of the DCC Local Impact Report [REP1-025], DCC notes that no air quality assessment to include dispersion modelling has been undertaken to understand impacts on human health resulting from emissions from an emergency fire.</p> <p>DCC has no further comments on this matter following subsequent correspondence with the applicant.</p>	<p>As indicated in the Comments on Local Impact Reports [REP3-008], it should be noted that the operational air quality impacts has been scoped out and this approach had been agreed at the scoping opinion stage and therefore battery fire is not required to be assessed as part of the EIA. Furthermore, a battery fire safety management plan has been secured under requirement 11 of the DCO (Document Reference 3.1, Revision 2) and therefore this will facilitate to minimise the overall impacts associated with battery fire. The UKHSA has confirmed in its Relevant Representation [RR-526] that it is satisfied with the approach.</p>	Agreed
DCC17	Noise and vibration and glint and glare	<p>In paragraphs 5.90 – 5.94 of the DCC Local Impact Report [REP1-025], DCC states that some sensitive receptors within County Durham may be impacted during the construction phase of the Proposed Development, and to a lesser extent during operation, but that impacts from noise and vibration, and glint and glare, could be adequately mitigated. There are no outstanding matters for discussion in relation to noise and vibration.</p>	The Applicant acknowledges the agreement of DCC on these matters.	Agreed
DCC18	Climate change	<p>In paragraph 5.98 of the DCC Local Impact Report [REP1-025], DCC states that climate impacts could be adequately mitigated. There are no outstanding matters for discussion in relation to climate change.</p>	The Applicant acknowledges the agreement of DCC on these matters.	Agreed

Row ID	Topic	DCC Position	Applicant Position	Status
DCC19	Geology and soils	<p>In paragraphs 5.101 – 5.104 of the DCC Local Impact Report [REP1-025], DCC note that the Proposed Development is in proximity to a Mineral Safeguarding Area for river sand and gravel, but that this would not be permanently sterilised.</p> <p>There are no outstanding matters for discussion in relation to geology and soils.</p>	<p>The Applicant agrees with DCC that these resources would not be permanently sterilised as a result of the Proposed Development, and further notes that the Critical National Priority (CNP) for low carbon energy generation, and the benefits of the Proposed Development, would outweigh any such need to safeguard the mineral in this location.</p>	Agreed
DCC20	Cumulative effects	<p>In paragraphs 5.107 – 5.108 of the DCC Local Impact Report [REP1-025], DCC note the potential for cumulative impacts but that these could be adequately mitigated.</p> <p>There are no outstanding matters for discussion in relation to cumulative effects.</p>	<p>The Applicant acknowledges the agreement of DCC on these matters.</p>	Agreed
DCC21	Other matters	<p>In paragraphs 5.111 – 5.113 of the DCC Local Impact Report [REP1-025], DCC state that the views of Tees Valley International Airport should be sought, and that there is a high pressure gas pipeline running through the Order Limits.</p> <p>There are no outstanding matters for discussion in relation to other matters.</p>	<p>As indicated in the Comments on Local Impact Reports [REP3-008], the effects of the Proposed Development on Tees Valley International Airport are considered in ES Appendix 2.2. Solar Photovoltaic Glint and Glare Study [APP-106] and it is concluded that there are no impacts requiring mitigation for aviation activity associated with the airport.</p> <p>The intersection of the Proposed Development with major utilities, including the Bishop Auckland/ Sutton Howgrave pipeline is considered in ES Appendix 2.5 Major Accidents and Disasters Assessment [APP-109]. It identifies that risks associated with these are acceptably reduced through implementation of mitigation.</p>	Agreed
DCC22	Other matters	<p>In paragraph 5.114 of the DCC Local Impact Report [REP1-025], DCC request a condition to ensure the timely restoration of the land following decommissioning.</p>	<p>Timely decommissioning and restoration is secured by Requirement 5 of the [REP2-029], which also requires the submission of a decommissioning environmental management plan (DEMP) in accordance with the</p>	Agreed

Row ID	Topic	DCC Position	Applicant Position	Status
		There are no outstanding matters for discussion in relation to other matters.	outline DEMP [APP-111] submitted as part of this application.	
DCC23	Other matters	<p>In paragraph 5.115 of the DCC Local Impact Report [REP1-025], DCC state that the views of Durham Constabulary Crime Prevention Unit and County Durham and Darlington Fire and Rescue Service should be sought.</p> <p>There are no outstanding matters for discussion in relation to other matters.</p>	<p>In accordance with Section 42 of the Planning Act 2008, the Durham Police and Crime Commissioner and the Cleveland Police and Crime Commissioner, and County Durham and Darlington Fire and Rescue Service, were consulted with regarding the Proposed Development at statutory consultation.</p>	Agreed

A.1 Record of Engagement

Date	Method of engagement	Purpose / Description
15/08/2022	Meeting (virtual) with DCC planning officer	Introduction to project
21/09/2022	Meeting (virtual) with DCC, SBC, DBC planning officers	Introductory meeting on approach to consultation
08/2022 – 01/2023	Various emails exchanged with DCC ecology, landscape, planning and heritage teams	Sharing of information and queries regarding EIA scoping and PEIR production, including on LVIA viewpoints and approach/scope to archaeological investigation
02/2023 – 04/2023	Emails and meetings (virtual)	Engagement and consultation on the Statement of Community Consultation (SoCC).
05/2023 – 6/2023	Statutory consultation	DCC notified of statutory consultation
04/08/2023	Email to DCC planning officer	Issued project programme, as part of Early Adopter's Programme (EAP) trial
23/08/2023	Email to DCC planning officer	Draft Policy Compliance Document (PCD) and Design Approach Document (DAD) shared with DCC as part of EAP.
24/08/2023	Meeting (virtual) with various DCC officers	Project update and discussion of draft PADS.
20/09/2023	Email from DCC planning officer	Comments received from DCC on draft PADS
11/10/2023	Email to DCC planning officer	Draft of outline control documents for comment, as part of EAP
11/2023 – 01/2024	Various emails exchanged with DCC archaeology	Review and comment on Archaeological Mitigation Strategy (AMS) prior to DCO submission.
15/04/2024	Meeting (virtual) with various DCC officers	Project update regarding DCO acceptance and next steps of Examination
10/09/2024	Email to DCC planning officer	The Applicant provided an updated draft SoCG which responded to the points raised within DCC's LIR
19/09/2024	Email from DCC planning officer	DCC agreed to submit the draft SoCG at Deadline 3, and continue to engage on matters under discussion
29/10/2024	Email to DCC planning officer	The Applicant provided a summary of the matters outstanding to discuss and requested an update on DCC's position
05/11/2024	Email from DCC planning officer	DCC provided an update on and response to the outstanding matters in the draft SoCG
06/11/2024	Email to DCC planning officer	The Applicant provided an updated draft SoCG which responded to the update on positions provided by DCC and requested agreement to submit SoCG at Deadline 5
12/11/2024	Email from DCC planning officer	DCC provided comments on the updated draft SoCG