

Submission through NSIP Portal

Deadline 6: 6th December 2024

To:

The Examining Authority

Planning Inspectorate

Attn: Jennifer Savage, Case Manager – National Infrastructure (Environment)

Application by RWE Renewables UK Solar and Storage Limited for an Order Granting Development Consent for the Byers Gill Solar Project. PINS Reference No: EN010139.

The Examining Authority (ExA) invited all Interested Parties to submit 'Post-hearing submissions including written submissions' responses to the ExA by Deadline 6 on Friday 6th December 2024. Further, in accordance with the request at the recent Hearings by the Inspectors for written submissions with references, this response is submitted on behalf of Bishopton Villages Action Group (BVAG) a registered Interested Party (IP Reference Number 200048675).

BVAG does not necessarily express the views of the local Parish Councils or Meetings, although many of the opinions are shared by the affected community. BVAG includes residents from the villages of Bishopton, Great Stainton, Little Stainton, Brafferton, Whitton, Stillington, Sadberge, Carlton, and Redmarshall.

The response should be read within the context of previous submissions made by BVAG to the Examining Authority as follows:-

- (1) BVAG Adequacy of Consultation Representation (February 2024) appended to Darlington Borough Council's response to the Secretary of State (SoS) regarding the Applicant's Adequacy of Consultation.
- (2) BVAG Relevant Representations (RR-548) submitted 15th May 2024 and registration as an Interested Party (IP Reference Number 200048675) and summary of RR by Deadline 1 (13th August).
- (3) BVAG Response to ExA Rule 6 letter- Written submissions on the Examination Procedure and Timetable (July 2024) including suggested locations for Site Inspections Accompanied and/or Unaccompanied and attaching a map and table of other solar schemes consented in the near area.

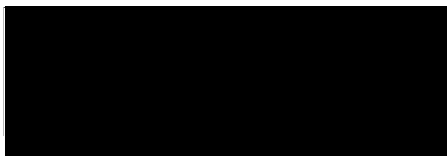
- (4) BVAG attendance at Preliminary Hearing on 23rd July 2024 and Open Floor Hearing (OFH) 1 on 24th July 2024.
- (5) RWE/BVAG Statement of Common Ground and exchange of drafts for submission for Deadline 1 (13th August 2024) submitted by RWE on behalf of the parties.
- (6) Written Representations submitted on 29th August 2024 (Deadline 2) consisting of a BVAG Statement of Objection and a separate Landscape & Visual Review, and associated Appendices.
- (7) BVAG Post ISH submissions to ExA for Deadline 4 24th October 2024
- (8) BVAG attendance at Open and Issues Specifics Hearings on the 26th and 27th of November 2024.

BVAG welcomes the opportunity to address the many questions and the gaps in the application and associated assessments identified by the wider community and those affected by the proposals.

BVAG continue to work with the applicant to develop a Statement of Common Ground and in support of this process have provided a set of detailed Proposed Modifications to the Panel Areas.

Please find attached a table and appendices setting out a summary of BVAG's oral interventions made at the recent hearings.

Please do not hesitate to contact me if you have any queries.



Andy Anderson MRTPI FRGS

For and on behalf of Bishopton Villages Action Group

Appendix: Deadline 6 BVAG Post-hearing submissions.

Bishopton Villages Action Group
Deadline 6 Post-hearing Submissions to ExA
 6th December 2024

Issue	BVAG issue raised in ISH	BVAG Comment to ExA
OFH3 Tuesday 26th November 2024		
Andy Anderson MRTPI FRGS oral submissions	On behalf of BVAG	
EIA	<ul style="list-style-type: none"> • The applicant has generally provided an Environmental Statement as a document of advocacy rather than a technical assessment of impacts for which EIA is intended. From this flow a series of statements and information which provides subjective perspectives or partial assessments. • This leads to the applicant ignoring local knowledge which can supplement and provide an insight which is a valuable component in assessments for EIA. • There is considerable local knowledge which conflicts with the application across assets and impacts; or is ignored by the applicant when not convenient (e.g. flooding, ecology, et al). • BVAG asked the ExA to value local knowledge on equal status with RWE experts. • The significance of assets and impacts are tailored to provide advocacy and not a full EIA. 	<p>The EIA Report is ultimately an informative decision-making tool: once it has been prepared by the Developer, it has to be examined by the public and various concerned authorities.</p> <p>It is not intended to provide an advocacy document to support a development proposal, but to assess the impacts on people, places, flora and fauna and set these out for decisions makers to balance the benefits and impacts within the public policy framework.</p> <p><i>"Not only do the public concerned have local knowledge, which should be utilised, they may also give an indication of the reasonableness of an Alternative"</i></p> <p>(Ref: Guidance on the preparation of the environmental impact assessment report (Directive 2011/92/EU as amended by 2014/52/EU).</p> <p><i>(Note: Same EIA Guidance as used by Historic England in Response to ExA Q2 Deadline 5).</i></p>

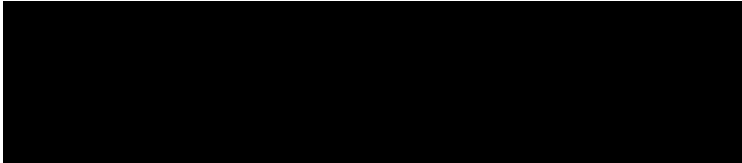
<p>Overplanting</p>	<ul style="list-style-type: none"> • The importance to BVAG is whether the applicant is taking more land than is actually needed to achieve the same result in terms of MW export. • The applicant states 1.6 overplanting is necessary. • BVAG question if is necessary or an RWE choice of technology. • Overplanting of 1.6 relates is above and beyond industry standards. 	<p>East Yorkshire Solar Farm (Ref :EN010143)</p> <p>Note on Scheme Efficiency Document Reference: EN010143/APP/8.35)</p> <p>Para 2.1.2</p> <p><i>"This is an 'overplanting' ratio of 1.2 (120%). This means that 20% more panels are installed than a scheme achieving 400MW for the point in time when irradiance is highest during the year."</i></p> <p>Para 6.1.3</p> <p><i>"During the ISH the ExA suggested that the ratio should be based on MW ac export and including the ecology mitigation land and grid connection corridor. This is discussed below."</i></p> <p>Para 6.12</p> <p><i>"Other SAT projects that have been examined by the ExA (Mallard Pass Solar Farm, Cottam Solar Farm, and West Burton Solar Farm) range between 2.5 and 2.9 acres/MW. The Applicant has also reviewed Byers Gill Solar (EN010139) and Tillbridge Solar (EN010142). " and "Works No 1 for solar PV for Byers Gill covering 1032 acres and an 180MWac grid offer (assuming it is overplanted by 1.3) gives a ratio of 4.4 acres/MW."</i></p> <p>BVAG therefore question if a ratio of 1.6 can be reduced and if land take can be reduced. The applicants previous statements on this are contradictory and confused.</p> <p>ISH2-02 Applicant's Response (Table 2-1) ISH2-02:-</p> <p><i>"there is no direct correlation between the overplanting ratio and the required land take because a lower overplanting ratio would still require increased land in order to increase pitch and</i></p>
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		<p><i>yield and retain energy generation when compared to a design with more panels and greater overplanting ratio."</i></p> <p>And then RWE state in contrast:</p> <p><i>"For the Proposed Development, a 1.0 overplanting ratio would require 30% less land"</i></p>
<p>Heritage assets and harm</p>	<p>BVAG pointed out the following contradictions in the Applicant's responses relating to harm to heritage assets:-</p> <p>In response to ExA Q2 HEN.1 the ExA notes the Applicant's response to HEN.1.8. where <i>"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"</i>.</p> <p>The ExA also highlights to the Applicant that harm of any kind, even negligible harm, according to the ExA's interpretation of the PA2008, is not the same as no harm.</p> <p>Darlington Borough Council (DBC) DBC state <i>'no harm is not the same as negligible harm'</i> (DBC response to ExQ2).</p> <p>Historic England say, <i>'we understand a negligible significance of effect to be no impact'</i> (HE response to ExQ2).</p> <p>NPPF Para 208 - less than substantial harm = weigh in the balance.</p> <p>The Applicant's own Ch. 8 Heritage Assessment Appendix 8.2 in Paragraph 7 'CONCLUSIONS – General' states:-</p>	<p>Ref: RWE Document 8.19 Responses to the Examining Authority's Second Written Questions (ExQ2) Deadline 5 (Nov 2024).</p> <p>Ref: RWE 6.4.8.2 Environmental Statement Appendix 8.2 'Historic Environment Settings Assessment. Examination Document APP-146'.</p> <p>Ref: Court Judgement (ref: R.(oao James Hall and Company Limited) v City of Bradford Metropolitan District Council and Co-Operative Group Limited [2019] EWHC 2899 (Admin).</p> <p>https://www.localgovernmentlawyer.co.uk/planning/318-planning-features/42000-applying-heritage-policies-levels-of-harm</p> <p><i>"Firstly, the Court held that there are only three gradations of harm in heritage terms:</i></p> <p><i>"34. In my judgment the three categories of harm recognised in the NPPF are clear. There is substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm ...</i></p>

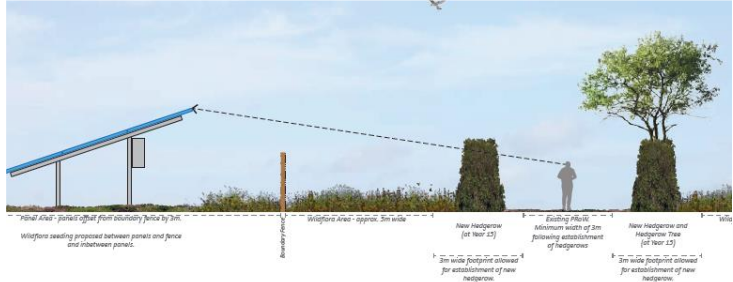
	<p><i>"This assessment has concluded, through the application of the NPPF and EN-1 and EN-3 and using the staged process of the 'Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Historic England 2017), as well as professional judgement and expertise that there will be harm to the significance of the Scheduled Monument of the motte and bailey castle, 400m south of Bishopton (NHLE 1008668) due to a change in the way the asset would be experienced in the landscape surrounding it.</i></p> <p><i>The harm is in the order of less than substantial, but at the top end of that scale due to the sensitivity of the asset to change."</i></p> <p><u>RWE Ch. 8 Para 8.10.77</u> then states 'Negligible Effect' which the Applicant then contends in ExAQ2 is 'no harm'.</p> <ul style="list-style-type: none"> • BVAG asks how an assessment of 'Less than substantial harm 'at the upper end of the scale' later becomes 'no harm' according to RWE. 	<p><i>The Court went on to say that even limited or negligible harm was enough to fall within the bracket of 'less than substantial harm'.</i></p> <p>Appeal decision: Appeal Ref: APP/W3005/W/23/3323952</p> <p>In refusing an application for a solar installation due to the impact on a neighbouring historic mound, where the appellant considered it should be graded at the lower end of less than substantial, the Inspector considered that the NPPF division of harm into categories of 'substantial' or 'less than substantial' was adequate to weigh the proposal.</p>
<p>Heritage significance of Scheduled Monument Bishopton Motte and Bailey</p>	<p>The Application underplays the level of significance of the Scheduled Monument at Bishopton's Motte and Bailey. This leads to a stepped process of not appreciating the effects and impacts of the proposal.</p> <p>BVAG contend a lack of significance assessment:</p> <p><u>NPPF Para 200</u> 'The level of detail should be proportionate to the assets' importance'. A Scheduled Monument is the highest status asset. (APP-031 Table 8-2).</p>	<p>Local knowledge and 10 minutes spent on google shows a lot of background information, research and a high significance of the conflict the appointment of a Bishop – a high position with direct authority from the Pope and thus 'Kingmakers' of 13th century England. The mound, and its import were critical in national and regional politics.</p> <p>BVAG provided two Examples of research which add significance:-</p> <p>1. Simon Forder, Historical Consultant and Author</p> <p>https://thecastleguide.co.uk/castle/bishopton-castle-hill/</p>

	<p>Heritage Impact Assessment – the key to an EIA <u>starts with understanding the significance</u>. i.e. the importance and context of the heritage asset.</p> <p>The Applicant’s expert assessments are downgraded between the Technical Appendices, and Chapter 8 of ES (‘the advocacy process’).</p> <p>For example:</p> <p><u>Historic Environment Settings Assessment. Examination Document (APP-146)</u></p> <p><u>Para 6.8.7</u></p> <p><i>“The asset also derives its significance from its historic interest as a symbol of power and prowess in the surrounding landscape and through its definitive relationship with the settlement at Bishopton for which it was a key administrative centre throughout the medieval period, and potentially beyond.”</i></p> <p>Changes to</p> <p><u>APP-031 Ch. 8 Cultural heritage</u></p> <p><u>Para 8.10.66</u></p> <p><i>“The asset draws significance from its historic interest as a visible, and prominent, remaining element of the medieval landscape. In particular, the asset attests to the power and prowess of its former inhabitants and to the associated village of Bishopton.”</i></p> <p>BVAG concludes the ES becomes an advocacy document. The role of landscape and setting are removed. Further lack of recognition of the castle’s</p>	<p><i>“The castle was most likely founded for Roger de Conyers during the reign of King Stephen, and at a time when Durham was dominated by King David of Scotland. At the time the castle was built, King David was attempting to have his Justiciar, William Comyn, installed as Bishop of Durham (he was installed in 1141 but never consecrated), and de Conyers supported the rival candidate, William de St Barbe, who was consecrated in 1143 but unable to enter his see. Roger de Conyers was a Yorkshire knight, and held his lands in County Durham from Bishop Flambard. As St Barbe was from York there was a clear affinity here with a common opponent in King David. St Barbe actually stayed at Bishopton Castle for a few days before his consecration.”</i></p> <p>2. The Round Mound Project</p> <p>A UK wide academic research project to investigate likely mounds began in 2015, and from 154 potential sites across England, only 20 were selected for core sampling and detailed surveying – one of which was Bishopton. The selection was based around a number of factors including its historical and political significance, its rarity, and highly-preserved condition.</p>
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	<p>significance through description of the castle in statements such as:-</p> <p><u>RWE Ch. 8 Heritage Para 8.10.62</u></p> <p><i>"There is little known information about the castle with only a single reference in AD 1143 to the fortification of a castle by Roger de Conyers that may relate to the asset..."</i></p> <p>BVAG and local knowledge contend this is incorrect and shows a lack of understanding of the significance and importance of a defining asset of at least 800 years standing.</p> <p>This is an example of the shift from assessment to advocacy that runs not just like a thread, but a tapestry across the Environmental Statement.</p>	
<p>Archaeology and geophysical surveys</p>	<p>BVAG raised the issue of excluding the highest value asset from the Geophysical Surveys. It is necessary to understand the options and impacts of the development including cable routes, which are well-known and included in the Site Location plan submitted with the DCO Application.</p> <p>At a previous hearing the Applicant defended excluding high-value heritage assets and stated that the Geophysical survey only included panel areas.</p> <p>RWE contended that cable routes are unknown, though the site location plans submitted show the route.</p> <p>The Archaeological management plans proposed will leave less options to preserve and identify potentially significant archaeological remains, and less options to explore different routes and alternatives.</p>	<p>BVAG drew attention of the Hearing to:-</p> <p><u>HE Advice Note 12 (Statements of Heritage Significance: Analysing Significance in Heritage Assets).</u></p> <p>This advises on the importance of understanding the significance of an asset first. Paragraph 7:</p> <p><i>"This sequence, where design of the proposal follows investigation of significance, is better than the contrary, where proposals are developed and designed before significance has been assessed."</i></p> <p>"Assessing significance before a proposal is planned can lead to better outcomes for the applicant by influencing the design by mitigating harmful impacts on significance, enhancing significance where possible, and thereby showing how any remaining harm is justified."</p> <p><u>Para 48 HE and Renewable Energy:</u></p>

	<p>The location by the river could be highly significant in terms of finds and former uses around fishing industries associated with Bishopton castle.</p> <p>An underground tunnel heard of locally, running between the castle and the village, is also unexplored.</p>	<p><i>"The assessment also needs to explore potential measures that avoid or reduce the level of harm. It is informed by technical analyses and supported by a narrative that sets out what matters and why. The Setting of Heritage Assets [Historic England, 2017b] provides detailed advice on setting and its assessment."</i></p>
<p>Homes and principle of development</p>	<p>AA contends that large-scale industrialised solar installations on farmland are on the wrong side of history. A voice increasingly heard of 'solar on rooftops' and future generations will ask why we covered England's Green and Pleasant land with such unattractive industrial complexes.</p> <p><u>Homes or Supermarkets?</u></p> <p>The Application refers to generating electricity to power 70.000 homes – is this confirmed and what guarantees are there that the electricity generated will power homes?</p> <p>My understanding is that if exported to the Grid there is no guarantee for what purpose, or where the energy will be sold and used.</p>	<p>Cleve Hill Solar was the first solar farm to be classified as an NSIP. The project won planning permission despite massive opposition on the basis it would power more than 100,000 homes. Tesco and Shell are set to buy the entire output of a controversial solar farm under construction originally meant to power 100,000 homes. This caused a lot of controversy once this became public.</p> 
<p>Alternatives</p>	<p>Where other options considered as alternatives to generation of 180MW, in order to reduce harms, loss of farmland and food production whilst maintaining the required Grid capacity connection. For example:</p> <ul style="list-style-type: none"> • other less damaging locations • off-shore wind 	<p>Ref: Guidance on the preparation of the environmental impact assessment report (Directive 2011/92/EU as amended by 2014/52/EU) .</p> <p><i>"The identification of Alternatives to the Project is a long-standing requirement of the EIA Directive, but it is often mentioned by practitioners as comprising a difficult element of the EIA process."</i></p> <p>BVAG contend that the consideration of Alternatives is an important part of the EIA process, which ought to be reflected</p>

	<ul style="list-style-type: none"> • agrivoltaics described by RWE as “Sustainable symbiosis between agriculture and renewable energy”. <p>Unfortunately a real look at alternatives has been avoided due to industry norms in that the site selection is Grid connection led, and subsequently a project is developed only if willing landowners can be attracted to sign agreements for land leases.</p> <p>Planning consent is then sought <u>without the possibility</u> of real alternatives being explored.</p>	<p>in the effort and resources allocated to this part of the EIA process. The Applicant has avoided real alternatives due to the difficulties and industry norms.</p> <p>Ref: Agrivoltaics - Sustainable symbiosis between agriculture and renewable energy</p> <p>[REDACTED]</p> <p><i>“Agriculture worldwide is facing the challenge of adapting to the requirements of a more sustainable food production. At the same time, the production of renewable energy is becoming increasingly important in order to mitigate climate change and drive forward the energy transition.</i></p> <p><i>This requires a large amount of land, including agricultural land. Agrivoltaics (Agri-PV) is an innovative solution that combines these objectives.</i></p> <p><i>Agri-PV plants are solar systems that are installed on agricultural land. They combine the production of clean solar energy with agriculture and thus create a sustainable symbiosis.” (RWE, 2024).</i></p>
<p>Ecology</p>	<p>BVAG is encouraged that the newly-revised Design Approach Document (DAD) recognises the ‘<i>rich cultural heritage and ecological diversity</i>’ of the area proposed for industrialised solar energy production.</p> <p>However, as with other issues, the ES continues as a tapestry of advocacy rather than an Environmental Impact Assessment.</p> <p>Local knowledge and expert research show that important ecological aspects of the application are ignored, unassessed or reduced in significance.</p>	<p>Birds – talks of no effects [REDACTED]</p> <p><i>“The Avian Solar Work Group (ASWG) is a collaborative group of environmental organizations, academics, solar companies, and solar industry representatives that will advance coordinated scientific research to better understand how birds interact with solar facilities.”</i></p>

	<p>Assumptions that birds will not be affected are unfounded, with known high rates of death amongst certain species around solar farms</p> <p>Further, the DAD concludes that the effects of infrared lighting do not impact on wildlife. However, it is known that such lighting impacts on a spectrum of cold-blooded fauna particularly snakes, frogs and fish – many of which inhabit water courses and are nocturnal when such lighting might be more often used.</p> <p>The protected species recognised as being impacted are Water Voles whose habitat therefore could be affected.</p> <p>BVAG - Ecological Clerk of Works – still no answer to independent supervision without which the proposed ecological and mitigation plans have a very high risk of failure.</p>	
<p>Design Approach Document</p>	<p>Invites the reader to an explanation of the design process but then refers to a range of other documents to explain.</p> <p>CCTV – Diagram A – illustrates person enjoying the walk alongside an energy installation with hedgerows shielding the view (after 10 years) but omits the 3m CCTV poles and cameras, and lighting.</p>	<p>RWE 7.2 Design Approach Document Deadline 5</p> 
<p>Public confidence in the planning process and RWE websites</p>	<p>BVAG community and public confidence in engaging in this process is undermined by the descriptions in RWE websites.</p> <p>Originally BVAG had voiced objections that RWE websites described Byers Gill as 'commercial operational date' 2026+. This has since been changed to</p>	<p>Blackberry Farm Wyke is an RWE project in pre-application stage and currently under public consultation. Their website [REDACTED] describes their UK solar portfolio and shows 'Byers Gill – Operational date 2026+'.</p>

OFH3 Tuesday 26 th November 2024		
Carly Tinkler CMLI oral submissions	On behalf of BVAG	
Overplanting	<p>The matter of overplanting was also commented on by BVAG’s landscape advisor Ms Tinkler.</p> <p>She said that the number of panels now disclosed by the Applicant (505,386) confirms the Applicant’s admission that the scheme would be overplanted by a factor of 1.6 (ie 505,386 x 570w Jinko panels = 288MW).</p> <p>In doc. ref. REP5-032 (RWE’s Deadline 5 – November 2024 doc. 8.20 <i>Response to Hearing Action Points</i> Revision C01), at ref. ISH2-02, in response to the ExA’s request for explanation of / justification for the proposal to overplant by 1.6, the Applicant refers to allowed appeal ref. APP/P3040/W/23/3330045 (Longhedge solar scheme).</p> <p>In the Longhedge case, the applicant had also overplanted by c. 1.6. In terms of the amount of overplanting, as noted in RWE’s response at ISH2-02 (relevant section pasted below for ease of reference), the reasoning behind the inspector’s conclusion that it was acceptable – despite being much higher than if just degradation had been accounted for – was based on his interpretation of Footnote 92 of EN-3:</p> <p>[The Inspector said] <i>“If overplanting is acceptable to address degradation to enable the grid connection to be maximised for the duration of the development, there would seem to be similar advantage in permitting additional overplanting to maximise utilisation of the</i></p>	<p>BVAG recognises that there are critical differences of opinion about the planning definition of overplanting, and whether overplanting is acceptable for reasons other than panel degradation, eg to ‘max-out’ power generation in order for developers to make more money and get a faster return on their investment.</p> <p>The Applicant has confirmed that as developers are paid for the amount of energy that enters the grid at the point of export, they evidently want to be able to export 49.9MW as often as possible. Since ground-mounted solar is so inefficient due to lack of sunshine in the UK, especially northern areas (in 2023, the load factor of solar PV was 10.2% [source https://www.statista.com/statistics/555697/solar-electricity-load-factor-uk/]), it is unsurprising that developers want to overplant.</p> <p>But if EN-3 sanctioned this, then in theory, the size of the site could be limitless. Importantly, there must surely be a direct correlation between the amount of harm caused (broadly-speaking, a larger development results in more extensive and higher levels of adverse effects), and the amount of profit made.</p> <p>If the ExA concludes that EN-3 does <i>not</i> sanction overplanting for reasons other than panel degradation, then BVAG would welcome clarification about how the matter would be dealt with going forward, and any implications for the Examination process.</p>

	<p><i>available grid connection by exporting at the maximum export capacity permitted for the optimal proportion of time for that particular scheme. I do not read Footnote 92 as a policy limitation restricting overplanting solely to compensation for the degradation of panels over time. Such an interpretation would be at odds with the overall policy support for the generation of renewable energy."</i></p> <p>[RWE goes on to say] <i>In this case, the Inspector did consider that there was a likely high ratio of MW DC compared to the export capacity, and concluded that "it seems to me that the optimal level of clipping for the scheme would be a commercial decision for the developer. It is not necessary to know in advance the precise MWh that the appeal scheme would be likely to generate, particularly as this would depend upon a number of factors, including the weather. Overplanting to optimise renewable energy generation from the proposed solar farm would not result in any conflict with relevant policy."</i></p> <p>Ms Tinkler explained that the Longhedge appeal decision will be subject to a legal challenge, and said she could provide a summary of the case to the ExA if necessary, which the ExA said would be helpful. The document was produced by a colleague who is working on the case and it is not confidential. Please see Appendix BVAG-6-A.</p> <p>Please note that the Claim has now been filed (on the 4th of December). The reference is AC-2024-BHM-000287.</p> <p>In summary, the Longhedge case is that the Inspector misinterpreted EN-3's definition of overplanting by including the excess solar panels which are <i>not</i> designed</p>	<p>Of particular concern is the amount of land being taken up by a scheme which it appears could generate the same amount of power on a much smaller area of land, and thus, in theory, result in lower and potentially more acceptable levels of harm.</p> <p>Another concern is that the Applicant's power output calculations are based on the assumption that the panels would be 570w, although today, 685w panels appear to be the norm. If the same number of 685w panels was used, then the scheme would generate up to 346MW, so overplanting would rise to 1.9.</p> <p>Also, the Applicant has assumed a rate of panel degradation of c. 4% per annum when already, panels with 0.25% degradation rates are available, so the level of overplanting could be as high as a factor of 2.</p> <p>The effects and implications of overplanting need to be addressed, assessed and understood now, not at the detailed design stage. They are also relevant to ongoing discussions about potential scheme mitigation / modifications.</p> <p>Finally, the Applicant has stated that one reason not to use higher wattage panels is that they are larger / taller than the 570w panels proposed (the latter stated as being 'maximum height of up to 3.5m'), therefore they would be more visually-prominent; however, 685w Trina panels are just 3.06m above ground level.</p>
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	<p>to counteract degradation within the definition of 'overplanting'.</p> <p>However, EN-3 makes clear that overplanting only relates to the degradation of panels; it does not allow applicants to do anything else and, in particular, it is not a reasonable means of 'maxing-out' a scheme so that a large DC output is artificially limited by AC inverters resulting in a scheme that has a constant output at a certain level, but with a) and b) excess energy waste (the environmental impacts of which will not have been considered).</p> <p>In the Galloway case, Fordham J described 'overplanting' in similar terms to EN-3 (at [17]), saying: "<i>Overplanting means installing 'spare' solar panels for necessary future use, as a 'back up' so as to address light-induced degradation of solar panels</i>".</p> <p>Ms Tinkler noted that whilst the Applicant's overplanting figures include a rate of panel degradation based on 15% over 40 years (c. 0.4% per annum), panels currently on the market degrade at c. 0.25% per annum, so 10% over 40 years. This increases the amount of unnecessary overplanting / 'maxing out'.</p> <p>In addition, Ms Tinkler pointed out that whilst the Applicant (RWE) had based their calculations on 570w panels, apparently due to these being the current 'norm', there are schemes in the planning process, including with consent, which are proposing to use 610w panels (the Longhedge scheme), and 685w (the scheme which was the subject of 'the Galloway judgement' [[2024] EWHC 367 (Admin)], new application recently resubmitted).</p>	
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ISH6 Landuse and Socioeconomics Wednesday 27th November 2024		
Carly Tinkler CMLI oral submissions	On behalf of BVAG	
Sheep-grazing	<p>Doc. ref. APP-029 ES Chapter 9 Land Use and Socioeconomics Para. 9.10.55 states: <i>'There is the potential for some of the land to continue to be used in an agricultural capacity as grazing land during the lifetime of the Proposed Development...'</i>.</p> <p>The Applicant stated that currently, there is no firm proposal to graze sheep, but it is an option which has been accounted for in the EIA.</p>	<p>Sheep-grazing on solar sites is discussed in doc. REP2-044 (BVAG's Deadline 2 written response to landscape matters) at paras. 4.5.16 – 31.</p> <p>During ISH6, Ms. Tinkler wondered whether the Applicant could provide examples of where sheep-grazing at operational solar sites in the UK is <i>currently</i> practiced, since to date, only one or two examples have been found, and these only had small 'pet' flocks.</p>
Effects on soils	<p>Ms Tinkler raised the matter of effects on soils, especially quality and health.</p> <p>Doc. ref. APP-029 ES Chapter 9 Land Use and Socioeconomics para. 9.10.55 states: <i>'There is the potential for... the soil resources to benefit from a less intensive management than under agricultural use'</i>.</p> <p>Para. 9.10.71 states: <i>'There is a possibility that soil quality may have improved by the time of decommissioning as leaving land undisturbed under long-term grassland is likely to lead to benefits to soil health and structure'</i>.</p> <p>Para. 9.10.72 states: <i>'The return of approximately 457ha to agricultural production following decommissioning would be a high magnitude of change on a resource of mostly low sensitivity, and results in a direct, long-term, moderate beneficial effect on agricultural land, which is significant'</i>.</p>	<p>Note para. 9.10.55 confirms that agricultural use on the site would not continue.</p> <p>Regarding the Applicant's claims about the proposed development resulting in 'significant beneficial effects' on soils at decommissioning, at ExAQ1 GCT 1.20, the ExA asked the Applicant to explain how it arrived at this position and what the key benefits are.</p> <p>The Applicant's response to the question (at doc. REP2-007 (RWE's doc. 8.6 Responses to ExAQ1)) does not provide a direct answer to the question, simply referring the ExA back to ES Chapter 9.</p> <p>BVAG would like to know whether the ExA considers it has sufficient evidence to justify the Applicant's claims.</p> <p>Paras. 4.2.56 – 88 of doc. REP2-044 set out BVAG's position on effects on soils: in summary, the evidence indicates a high</p>

		<p>probability of long-term adverse effects on soil quality and fertility.</p> <p>Regarding the purported benefits of 'leaving land undisturbed' (or 'resting' soil), doc. REP2-044 paras. 4.5.11 – 15 explain that the benefits of resting are only temporary, and it is not good for arable land to be left uncultivated for more than 3 – 5 years if the aim is to maintain fertility for future use – it is necessary to practice regular crop rotation.</p> <p>Sources of reference on this subject include Natural England's Technical Information Note (TIN) 066 <i>Arable reversion to species-rich grassland</i>, which states that '<i>Often those areas, which are less profitable to cultivate, provide the greatest environmental benefits when reverted to grassland</i>'. In other words, areas such as this, which are more profitable to cultivate, provide the least environmental benefits when reverted to grassland.</p> <p>Ms Tinkler also wondered whether the ExA consider 'restoration to agriculture' at decommissioning to be a scheme benefit?</p> <p>In addition, Ms Tinkler wondered whether the Applicant is aware of / could comment on the potential need for a future EIA under the EIA (Agriculture) Regulations?</p> <p>In summary, at the end of the project, land managers wishing to return the land to cultivation or other intensive use may need to apply to Natural England for an EIA screening decision if the land has not been cultivated for more than fifteen years and it is greater than 2 ha in size. This could make the return of the site to agriculture less likely.</p>
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<p>Glint and glare</p>	<p>During ISH6, the Applicant’s response to ExAQ2 LUS 2.4 (doc. ref. REP5-031 - RWE’s doc. 8.19), which relates to glint and glare effects, was discussed.</p> <p>The response explains (extracts here for ease of reference) that in the Applicant’s Glint and Glare Study (doc. APP-106 ES Appendix 2.2) (with BVAG emphases), <i>‘Other road users, such as walkers, cyclists, and horse riders have not been considered within the study [because] In Pager Power’s experience, significant impacts to pedestrians / equestrians using the surrounding public rights of way / bridleways are not possible due to glint and glare effects from PV developments. The reasoning is due to the sensitivity of the receptors (in terms of amenity and safety) being concluded to be of low significance. This is because:</i></p> <ul style="list-style-type: none"> • The typical density of pedestrians/horse riders located at these points is low in a rural environment... <p>This approach and the criteria that apply are completely different from the methods / criteria used for assessing visual receptor sensitivity set out in GLVIA3, where factors such as receptor susceptibility to change, and ‘visual value’, must be considered, and on an individual basis. Note that in LVIA / LVA, a high number of people using a route / at a viewpoint may be an indicator of higher value, but a) that is not a determining value factor, and b) numbers are not factored into judgements about visual susceptibility to change.</p> <p>In fact, in the Applicant’s LVIA, many of the relevant receptors are categorised as being of High sensitivity.</p> <p>Also, the Glint and Glare Study assesses effects on receptors at residential properties, even though some of</p>	<p>It is not clear why the Applicant’s Glint and Glare Study and LVIA did not assess the effects of glint and glare on recreational receptors. Nor, why glint and glare effects were not considered in the RVAA.</p> <p>The question is, should such an assessment now be carried out, to assist with judgements about visual effects?</p> <p>On one hand, there is agreement that for many receptors, visual effects at closer-quarters would be significant adverse, therefore it could be said that adding glint and glare into the equation wouldn’t make any difference. On the other, as pointed out in doc. REP2-044 para. 4.6.9, a study found that <i>‘Ocular damage from glare viewed at very short distances is possible’.</i></p> <p>Also, the local equestrian community knows better than anyone else how the proposed development is likely to affect their horses.</p> <p>Any reflection, however limited, has the potential to cause a direct problem to horses, riders or carriage drivers. No matter the age, experience or training, horses remain unpredictable animals due their inherent ‘flight’ instincts. This residual unpredictability, however small or limited, has the potential for catastrophic consequences should a horse bolt, rear, or spook. In addition, most riders fully appreciate the unpredictability of their horses, and their knowledge of the potential consequences can initiate an anxiousness in the rider, which the horses pick up on and that in turn creates unpredictable consequences from perceived danger. With this in mind, the proposed development is likely to have an extremely significant impact.</p>
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	<p>these are 'low density in a rural environment', which does not appear logical.</p> <p>The Applicant's response to this question goes on to say that '<i>Any resultant effects are less significant than, for example, solar reflections experienced towards a road network whereby the resultant impacts of a solar reflection can be much more serious. Safety concerns are considered to a greater extent for horse riders</i>'. </p> <p>From this and other comments, it has become clear that the Glint and Glare Study primarily focusses on safety, in terms of whether glint / glare could cause a serious accident on major roads, railways, and in the air. It only appears to consider effects on 'amenity' in terms residential amenity.</p> <p>For some reason, neither the Applicant's LVIA nor their Residential Visual Amenity Assessment (RVAA) have considered the visual (or landscape) effects of glint and glare at all.</p> <p>Regarding the Applicant's reference (in the response to this question) to the British Horse Society (BHS)'s publication '<i>Advice on Solar Farms</i>', very respectfully, BVAG does not agree with parts of this advice.</p> <p>See doc. REP2-044 Section 4.6, but for example:</p> <ol style="list-style-type: none">1) Re '<i>panels are designed to absorb rather than reflect light</i>': a glint and glare study carried out by the same consultants which carried out the study for this proposal notes that '<i>The reflective properties of solar PV panels vary from different manufacturers. Whilst solar panels vary in their reflectivity with some claiming 'anti-glare' properties, no solar panel absorbs</i>	
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	<p><i>100% of the incoming light. Therefore, any solar PV panel has the potential to produce a solar reflection'.</i></p> <p>2) Re levels of PV glint / glare are <i>'very low compared with glass'</i>: the consultants which carried out the Applicant's Glint and Glare Study have produced informal guidance for carrying out glint and glare assessments: para. 6.14 of the current (4th) edition states that <i>'Solar panels produce solar reflections of similar intensity to those from still water or glass'.</i></p>	
Sean Anderson oral submissions	Local resident and representing BVAG	
Socioeconomics & socioenvironmental impact/benefits	<p>During the hearing, BVAG representative Sean Anderson made a submission in respect of the socioenvironmental impact/benefits, looking at the wider sense of economic and social value.</p> <p>He summarised that there were <u>no community benefits whatsoever</u> to the following assets:</p> <ul style="list-style-type: none"> • landscape and visual amenity • physical health • mental health • job creation/employment prospects • property values • local infrastructure • education prospects • opportunities for local businesses • lifestyle • land quality 	<p>Reference was made to Jurgen Maeir, the Chairman of Great British Energy, who stated during mid-November that renewable energy developers must demonstrate clear tangible and demonstrable benefits to local communities where renewable developments are proposed.</p> <p>It is internally recognised that the socioeconomic impacts of renewable energy projects must be identified, considered and be measurable – in effect , they must be tangible, demonstrable and more importantly – genuine.</p> <p>RWE have not adequately considered the socioeconomic impacts of the proposed development and have offered little in the way of supportive data that can be measured – all in contravention of good practice.</p>

	<ul style="list-style-type: none"> • farming opportunities/food production <p>In contrast, a range of harms and negative impacts arise from each and every one of the above.</p>	
<p>ISH7 Cumulative Effects Wednesday 27th November 2024</p>		
<p>Mark Smith oral submissions</p>	<p>Local resident and representing BVAG</p>	
<p>Cumulative effects</p>	<p>During the hearing, BVAG representative Mark Smith made a submission expanding upon the details provided by DBC’s landscape expert Mr Laws from Glenkemp. This expanded upon the names of each solar development encountered on the west to east journey from Newton Aycliffe to Stockton. A map of this journey has been produced using Google Earth and is included with this submission as three separate pdf documents (Appendix BVAG-6-B).</p> <p>These are the closest developments to the hypothetical route discussed; however, a slight expansion of this boundary will include a number of other developments all of which contribute to the overall cumulative effect. This was covered in much more detail and is supported by a separate post hearing submission from Mr Robert Bowes which in turn referred to RWE’s own documentation.</p> <p>It should also be highlighted that the number of solar developments being applied for within the zone of influence continues to increase - the group is aware of a number of other proposals already being discussed with local landowners.</p> <p>RWE have declared the number of panels in this development to be 505,386 individual panels. 97 hybrid</p>	<p>Reference was made to re-emphasise DBC Local impact REP-1-023 report which also draws similar conclusions in <u>Section 5 page 22 Section 5.6.4 -5.6.5.</u></p>

	<p>and inverter containers will add up to more than 1km of containers spread across this one site. It is not an exaggeration to assume that combined with the numerous other developments being proposed there will be more than a million solar panels concentrated on this small rural area it is difficult to see how this can still be passed by RWE as having a negligible cumulative effect.</p> <p>As a local resident, Mr Smith <u>cited the fundamental change in nature of the entire area</u> from rural to that of a renewables power generation hub caused by the cumulative effect of so many developments. Most journeys in and around the <u>area will be dominated by solar power developments with little or no escape from them.</u></p>	
<p>Carly Tinkler CMLI oral submissions</p>	<p>On behalf of BVAG</p>	
<p>Cumulative effects</p>	<p>During the hearing, Ms Tinkler said that she did not understand the approach taken in the LVIA in terms of having assessed the cumulative effects of existing schemes in the LVIA (ES Chapter 7), and proposed schemes in ES Chapter 13 Cumulative Effects (doc. APP-036).</p> <p>The problem with the adopted approach is that the cumulative landscape and visual effects assessment reported in doc. APP-036 does not include schemes which were included in the LVIA. As a result, Chapter 13 does not provide a true picture of what the levels of cumulative landscape and visual effects are likely to be: according to Chapter 13 para. 13.5.46, they <i>'would not</i></p>	<p>Regarding cumulative effects generally, BVAG agrees with the ExA's comment made during the hearing relating to the fact that assessed on their own, some effects may not be categorised as significant; however, if such effects accumulate, then in combination they may well become significant.</p> <p>Regarding cumulative landscape and visual effects, clarification from the Applicant would be welcomed as to why the assessment of cumulative landscape and visual effects did not follow GLVIA3.</p> <p>Also:</p> <ol style="list-style-type: none"> 1) Why has the LVIA applied a different significance threshold to that used in other ES chapters?

	<p><i>be significant in EIA terms'</i> (see comment about 'significant' effects below).</p> <p>Ms Tinkler quoted para. 7.13 of GLVIA3 which states that <i>'existing schemes and those which are under construction should be included in the baseline for both landscape and visual effects assessments (the LVIA baseline)'</i>, which is what the LVIA has done. However, para. 7.13 goes on to say (emphasis added) that <i>'The baseline for assessing cumulative landscape and visual effects should then include those schemes considered in the LVIA and in addition potential schemes that are not yet present in the landscape but are at various stages in the development and consenting process'</i>.</p> <p>Mrs Fisher admitted that the approach was a departure from GLVIA3, but was in line with 'NatureScot cumulative guidance' (explained in doc. APP-132 Appendix 7.1 Methodology [LVIA]).</p> <p>Notwithstanding the above, it is self-evident that on its own, the proposed development would give rise to significant adverse landscape and visual effects. Therefore, the cumulative landscape and visual effects must also be significant adverse (and likely to be a higher level of overall effect).</p> <p>Ms Tinkler stressed that cumulative effects on character and appearance must be assessed and reported separately, especially because screening views cannot reduce levels of direct adverse effects on character.</p> <p>During the hearing, the ExA raised the point that if an open view is screened, it results in the total loss of the view, giving a high level of adverse visual effect. I agree</p>	<p>2) Para. 13.5.46 of ES Chapter 13 (APP-036) concludes that <i>'cumulative effects upon landscape character and changes to views would not be significant in EIA terms'</i>. What significance threshold is that based on?</p> <p>3) Given the very large scale and extent of the proposed development in combination with other similar developments, it is likely that significant adverse landscape and visual effects could be experienced beyond the 3km study boundary applied for this exercise. It is noted that the study area boundary for cumulative effects on heritage assets is set at 5km.</p> <p>In the light of these and other comments, perhaps certain aspects of the cumulative assessments should be revised.</p> <p>However, even if not, BVAG's opinion is that because the proposed development would give rise to significant adverse landscape and visual effects, then the cumulative landscape and visual effects must also be significant adverse (and likely to be a higher level of overall effect).</p> <p>Most importantly, as time goes by, the focus of the Examination is more on individual parcels of land, as opposed to effects on the wider environment, contextual landscapes, landscape-scale functions, and 'community' as a whole.</p> <p>During the hearing, Figure 13.1 Long List of Committed Developments (doc. APP-102) was shown on the screen. It was a good illustration and useful reminder of the adverse changes which are already occurring over a vast area.</p> <p>Note that in doc. REP2-044, para. 8.4 states, <i>'taking an overview of the potential situation in the wider landscape context, it becomes clear that the green rural open gap between Darlington, Newton Aycliffe and Stockton is under threat of</i></p>
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	<p>with this assumption, but it is not clear how effects on loss of view have been treated in the LVIA.</p> <p>For example, the Applicant’s response to question LSV.1.9 in doc. REP2-007 (RWE’s doc. 8.6 Responses to ExAQ1) says that ‘<i>In relation to Bishopton school and playground, the proposed planting would achieve a material reduction in [adverse] effects of the Proposed Development on open views across the nearby fields after the early operational period such that from Years 10-40 the panels would be mostly screened as illustrated by the photomontage from viewpoint 24 [APP-073]’ (emphasis added).</i></p> <p>But this appears to be contradicted in doc. REP3-005 (RWE’s doc. 8.13 - comments on BVAG’s written representations), at RWE’s response to paras. 4.2.30 – 31 of doc. REP2-044, which states, ‘<i>The identified significant [adverse] effects relate primarily to... loss of some open views which would become enclosed by hedges during operation as set out at sections 7.10.112-126 of the ES’.</i></p> <p>However, I could not find an example of where the effect of the total loss of a view is mentioned in those paragraphs, nor does the LVIA appear to set out specific criteria for judging magnitudes of effect.</p> <p>Finally, para. 13.5.46 of ES Chapter 13 (APP-036) concludes that ‘<i>cumulative effects upon landscape character and changes to views would not be significant in EIA terms’.</i></p> <p>However, there does not appear to be any detailed information explaining how this conclusion was reached, for example in terms of receptors’ levels of value and</p>	<p><i>partial coalescence resulting from the insertion of an industrial corridor through its heart’.</i></p>
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	<p>susceptibility to change, and levels of magnitude of effect.</p> <p>Also, the overall level of effect is not provided, only the statement that the level is not considered to be significant.</p> <p>As Ms Tinkler explained during the hearing, this is relevant to discussions about whether, in terms of landscape and visual effects, the threshold for 'significance' should be set at 'Major to Moderate' – as adopted in the LVIA – or 'Moderate'.</p> <p>She pointed out that in other ES chapters, including Chapter 4 (<i>Approach to EIA</i>), Chapter 8 (Cultural Heritage), and Chapter 13 Cumulative Effects, the threshold is Moderate.</p>	
<p>Effects on human health, well-being, and quality of life</p>	<p>During the hearing, a few interested parties explained how for various reasons, the proposed development would adversely affect their health, well-being, and quality of life.</p> <p>This matter is dealt with briefly in doc. REP2-044. In summary, health, well-being, and quality of life are integral to 'landscape', as well as to assessments of landscape and visual effects. Also, NPS EN-1 mentions the importance of schemes, such as the one proposed, protecting and enhancing human health, well-being, and the quality of people's lives (eg para. 4.3.4, Section 4.4, para. 5.12.1).</p>	<p>The adverse effects of the planning <i>process</i> on people's health, well-being, and quality of life – in terms of worry and stress – are rarely recognised, despite planning policy and guidance emphasising the need for planning <i>decisions</i> to take them into account (see REP2-044 paras. 6.43 – 69).</p> <p>BVAG urges the ExA to give great weight to the harm that would be caused to people's lives and associated suffering if this development went ahead, and the fact that the harm and suffering would be very long-lasting – indeed, some would have to endure it for the rest of their lives.</p> <p>Para. 2.13 of BVAG's May 2024 Relevant Representation report (doc. RR-548) states, '<i>The transformation of open countryside to an alien, industrial landscape would stretch over 30 miles between Darlington, and Newton Aycliffe, to Stockton, surrounding and dominating communities and villages which have been within their rural settings for centuries, and evolved</i></p>

		<p><i>with deep historical significance. This rural characteristic remains important to people's lives even more today. The application has failed to understand the perception and experience of the local community, and the major adverse impact on the health and wellbeing of the affected communities represented here.'</i></p> <p>Indeed, this appears to align with the current government's negative attitude towards those who oppose the construction of large-scale ground-mounted solar plants in rural areas, especially on productive farmland. Such people are not NIMBYs, they are CAMBYs (Care About My Back Yard).</p>
<p>Andy Anderson MRTPI FRGS oral submissions</p>	<p>On behalf of BVAG</p>	
<p>Agricultural land use</p>	<p>The total amount of BMV land is stated as being 7% and Grade 3b land is 93%. In Mr. Anderson's opinion and knowledge, 100% of the land is good quality agricultural land.</p> <p>The Applicant's agricultural expert described Grade 3b land as somehow 'problematic' and not capable of being upgraded - as if it ought to be. The fact is that Grade 3b land can be and is often used in the same way as 3a and there is little functional difference, with some variety of crops and timings, yields and the like. But these are also varied according to management of the farm. So in reality, all the fields are good quality productive farmland.</p> <p>RWE's ALC survey provides for a degree of subjectivity and BVAG would like to understand the sensitivity factor and to what extent the results could vary according to which factors – i.e. assessor, sample selection etc.</p>	<p>https://uk.rwe.com/our-energy/solar-power/become-a-solar-partner/</p> <p>RWE actively seeks BMV land (3a) in seeking landowners for solar farms :-</p> <p><i>"Preferably, we are looking for grade 3 land or worse. If this is unknown we will undertake our own investigations to determine this."</i></p> <p>In contrast Government guidance in <u>NPPF Paragraph 181 Footnote 62</u> states:-</p> <p><i>"Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality".</i></p> <p>(NPPF Annex 2 - Best and most versatile agricultural land: Land in grades 1, 2 and 3a of the Agricultural Land Classification.)</p>

including verification sampling (random sampling vs. assessor selection for example).

It was further noted by Mr. Anderson during that hearing that the locations of much of the Grade 2 land were located close to villages within the proposal, and that reducing the use of BMV agricultural land had the added benefit of reducing the harm to neighbouring settlements.

In relation to the above comments on overplanting the proposal would benefit from a reduced planting ratio to industry norms, thereby achieving a reduction in the harm to local residents and homes, as well as a reduction in the use of the best agricultural land in compliance with Government policy on renewable energy.

Reference was made to Application Document APP083 (RWE 6.3.9.5 Environmental Statement Figure 9.5 (Agricultural Land Classification)).



Figure 1 Agricultural Land Classification Report

Annex A

BVAG Deadline 6

Carly Tinkler on behalf of BVAG

NOTE ON PRE-ACTION LETTER IN PROPOSED CHALLENGE OF APPEAL REF. 3330045
ALLOWING 49.9MW SOLAR DEVELOPMENT AT HAWKSWORTH, NOTTINGHAMSHIRE

The Claimant is challenging the planning inspector's decision that the amount of overplanting permitted on a 49.9MW solar development does not have to be controlled by the permission but is a commercial decision for the developer.

The Inspector argued that this interpretation of Energy Policy Statement EN-3 complied with the government's drive to increase renewable energy supplies.

He, consequently, declined to exercise any control over the DC capacity of the site at Hawksworth and Thoroton in Nottinghamshire (The Longhedge Appeal). The Appellant had provided evidence of capacity based on c.128k panels but had acknowledged that a significantly larger number of panels may be used – for example, the Statement of Common Ground referred to more than 150k panels.

The Claimant objected that failure to control the amount of overplanting meant that assessment of significant effects on landscape, ecology, amenity etc had not been based on the worst-case scenario, as required by EN-3 and argued that footnote 92 of EN-3 restricted overplanting to that needed to address degradation of the solar panels.

Footnote 92 says:

“Overplanting” refers to the situation in which the installed capacity or nameplate capacity of the facility is larger than the generator's grid connection. This allows developers to take account of degradation in panel array efficiency over time, thereby enabling the grid connection to be maximised across the lifetime of the site. Such reasonable overplanting should be considered acceptable in a planning context so long as it can be justified and the electricity export does not exceed the relevant NSIP installed capacity threshold throughout the operational lifetime of the site and the proposed development and its impacts are assessed through the planning process on the basis of its full extent, including any overplanting.”

The Inspector's view was that there was nothing in EN-3, including footnote 92, that prevented overplanting to extend the period over which the development generated at maximum capacity as proposed by the Appellant in the Longhedge appeal. (Maxing-out the scheme as the Claimant describes it).

The Claimant says that the inspector misinterpreted EN-3.

Under Ground 1), the Claimant notes that a government minister (in a letter to the R6P) adopted the interpretation of EN-3 put forward by the proposed Claimant, stating that the policy is clear and that overplanting for any reason other than degradation will not be supported. And that, in response to the consultation on the revised EN-3 last year,

the government interpreted the text in the same way, resisting a request that that the policy be amended to clarify that ‘overplanting’ can occur for other reasons. Fordham J in the Galloway case also described overplanting in the context of panel degradation only.

By contrast, the Inspector failed to cite any support for his interpretation of EN-3.

Under Ground 2) the Claimant says the Inspector failed to exercise any judgement as to whether the likely degree of ‘overplanting’ was reasonable. The amount of overplanting was unknown and the Inspector declined to consider whether a smaller degree of overplanting could reduce harms he had identified to landscape, heritage assets and the loss of BMV land. His only conclusion on the point was that overplanting did not justify dismissal of the appeal.

Under Ground 3) The Inspector’s failure to control the number or size of solar panels meant that he could not make any assessments of impacts. He assumed that the fact that the panels would be within the fenceline was sufficiently protective but then did not impose any control to ensure that the panels would be within the fenceline.

The lack of control means that the development could be built vastly differently than assessed through the Inquiry.

Under Ground 4) The Inspector failed to consider the environmental impacts of the wasted energy. When considering flexibility, EN-1 refers to the use of battery storage to avoid wastage, but the Inspector made no reference to this – although he asserted that his decision accorded with EN-1 and EN-3 guidance on flexibility. Furthermore, it is understood that waste energy is lost to the atmosphere as heat. The Inspector did not consider the impacts of this heat loss and these were not assessed through the appeal.

Under Ground 5) PINS’ screening of the application of the proposals under the EIA Regulations was flawed because the amount of overplanting was not known or considered in the screening decision. (The appeal proposals were screened out of the EIA Regs). The level of overplanting was addressed only during the Inquiry.

MARCHES PLANNING

NOVEMBER 2024

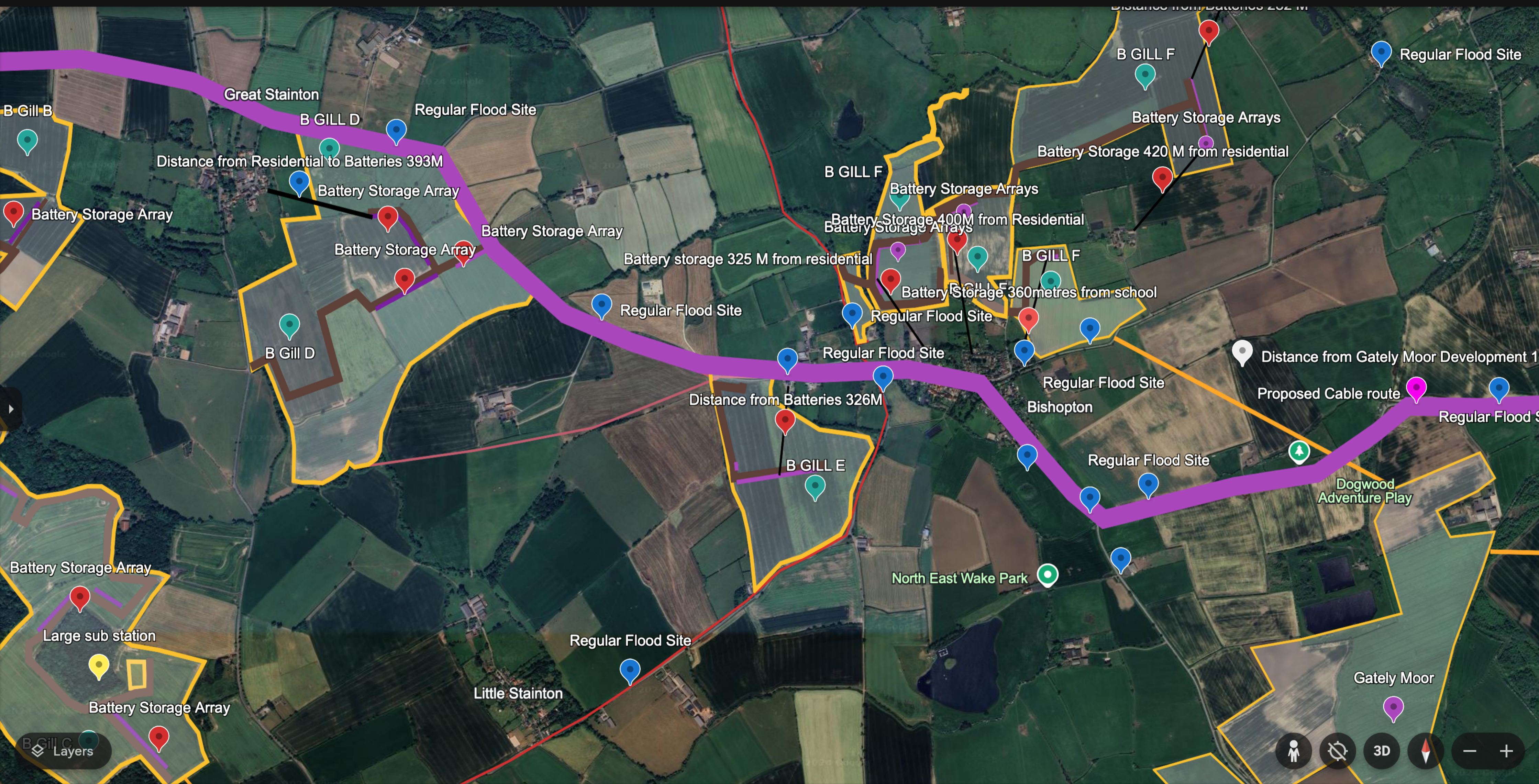
BVAG Deadline 6

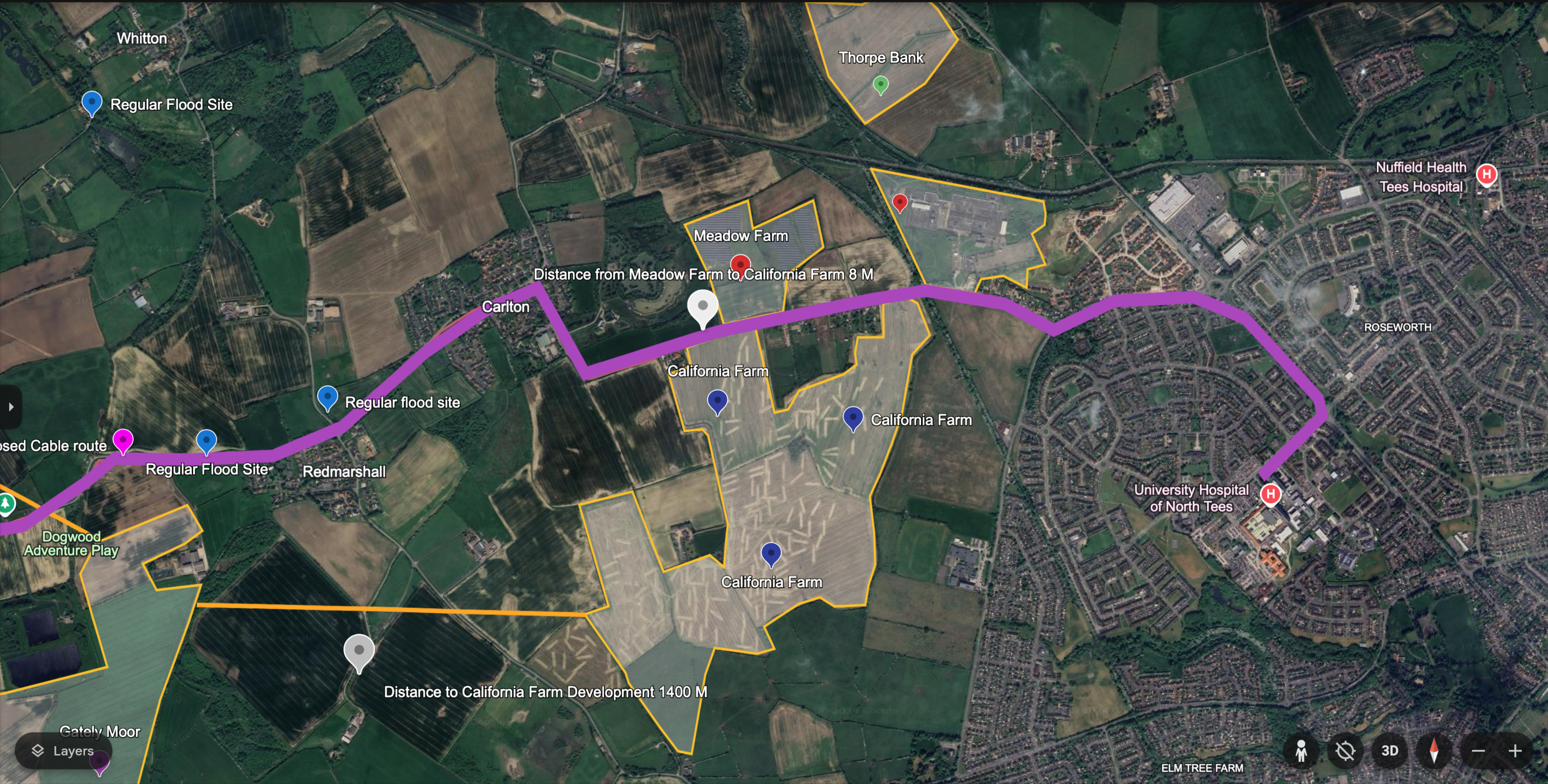
Annex B

Mark Smith BVAG

During the hearing, BVAG representative Mark Smith made a submission expanding upon the details provided by DBC's landscape expert Mr Laws from Glenkemp. This expanded upon the names of each solar development encountered on the west to east journey from Newton Aycliffe to Stockton. A map of this journey has been produced using Google Earth and is included with this submission as three separate pdf documents (Appendix BVAG-6-B).







Distance from Meadow Farm to California Farm 8 M

Distance to California Farm Development 1400 M