

**Byers Gill Solar
EN010139**

8.23 Post-hearing submissions including written submissions of oral cases as heard at ISH5, OFH3, OFH4, ISH6 and ISH7

Planning Act 2008

APFP Regulation 5(2)(q)

Infrastructure Planning (Applications: Prescribed Forms
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1. Introduction

1.1. Purpose of this document

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

2. Summary of Applicant’s Oral Submissions at ISH5

Table 2-1 Summary of Applicant’s Oral Submissions at ISH5

Agenda Item	Topic for Discussion	Summary of Applicant’s Oral Submissions at ISH5
1. Welcome, introductions, arrangements for this Issue Specific Hearing (ISH5)		
		<p>1.1 Mr Alex Minhinick introduced himself as a solicitor and Partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant’s project team present at ISH5, being: Mr David Brown (Chartered Town Planner), Mr Michael Baker (Development Project Manager at RWE), Miss Lily Boyes Hunter (Junior Project Manager at RWE) and Mr Jonathan Catt (Solicitor at Burges Salmon LLP).</p> <p>1.2 Ms Lisa Hutchinson introduced herself as a Development Manager at Darlington Borough Council (DBC) and Mr Andrew Casey as the Head of Highway Network Management at DBC.</p> <p>1.3 Ms Helen Boston introduced herself as Principal Planner at Stockton Borough Council.</p> <p>1.4 Mr Colin Taylor introduced himself as representing Great Stainton Parish Meeting.</p> <p>1.5 Mr Steve Rose introduced himself as Clerk to Bishopton Parish Council and Mr Norman Melaney as the Chair of Bishopton Parish Council.</p> <p>1.6 Ms Michelle Davies introduced herself as representing Grindon and Thorpe Thewles Parish Council.</p> <p>1.7 Mr Peter Wood introduced himself as representing Bishopton Village Hall Association.</p>
2. Purpose of the Issue Specific Hearing		
	The main purpose of the ISH5 is to undertake an oral examination of the draft Development Consent Order’s (dDCO) articles and schedules.	1.8 The Applicant did not make submissions on this agenda point.
3. Draft Development Consent Order (dDCO)		
	The ExA might start by asking the Applicant to present the Deadline 5 Statement of Commonality of the Statements of Common Ground, particularly how	1.9 Towards the close of the hearing, Mr Minhinick, for the Applicant, noted that this agenda item had not been addressed during the hearing.

	<p>areas where agreement has not been reached are reflected in the latest version of the Statement of Commonality and an to provide an update on negotiations.</p>	<p>1.10 The ExA deferred discussion of this agenda item in view of the limited time remaining for the hearing.</p>
	<p>The ExA will ask the Applicant to briefly provide an overview of each part of the DCO but with a particular emphasis on how Part 2 - Principal Powers, Part 3 - Streets, Part 4 - Supplemental Powers and Part 5 - Powers of Acquisition.</p>	<p>1.11 The ExA commented on the accuracy of drafting within the draft DCO and requested for the Applicant to thoroughly review the draft DCO. The ExA expressed that they do not want to spend a considerable amount of time on this, noting that –</p> <ul style="list-style-type: none"> ▪ the introductory wording to the draft DCO incorrectly refers to a single appointed planning inspector; and ▪ within part 1 of the draft DCO, the term “apparatus” is defined as having the same meaning contained within section 105 of the New Roads and Street Works Act 1991 Act (“1991 Act”), which the ExA considers may be too narrowly defined for the Proposed Development. <p>1.12 Mr Minhinick, for the Applicant, confirmed that the draft DCO has been prepared carefully and that the definition of “apparatus” from the 1991 Act is the standard approach used for drafting DCOs. Mr Minhinick agreed an action for the Applicant to review the contents of the draft DCO again ahead of Deadline 6 and to make any amendments to rectify inconsistencies ahead of the next Deadline.</p> <p>1.13 The ExA then requested for the Applicant to provide an overview of each part of the DCO in accordance with the agenda item.</p> <p>1.14 Mr Minhinick, for the Applicant, responded to the ExA by outlining the reference numbers for the documents he would be referring to, being:</p> <ul style="list-style-type: none"> ▪ the most recent clean [REP5-002] and tracked-changes [REP5-003] versions of the draft DCO submitted at Deadline 5; and ▪ the most recent clean [CR1-015] and tracked-changes [CR1-016] versions of the Explanatory Memorandum, submitted as part of the Applicant’s Change Application. <p>1.15 Mr Minhinick went on to outline that the draft DCO had been drafted with regard to the Planning Inspectorate’s guidance and the guidance notes published from the then Department of Levelling Up Housing and Communities. Mr Minhinick also confirmed that the Planning Inspectorate’s Advice Note 15 had been followed, alongside the practise and precedents of other made DCOs. Mr Minhinick further confirmed that</p>

		<p>consideration had been given to the Model Provisions detailed in the Planning Model Provisions Order 2009, notwithstanding that the 2009 Order has been withdrawn.</p> <p>1.16 Mr Minhinick clarified that in the draft DCO the Applicant is referred to as the “undertaker” and the Proposed Development is referred to as the “authorised development”.</p> <p>1.17 Mr Minhinick explained that the draft DCO is proposed to be called the Byers Gill Solar Development Consent Order and, at a high level, would provide development consent for the proposed construction, operation, maintenance, and decommissioning of the authorised development, which consists of the works described in schedule 1 of the DCO.</p> <p>1.18 Mr Minhinick outlined that the draft DCO comprises 47 articles which have been grouped into 6 separate parts and relate to 13 schedules. The dDCO should also be read alongside various spatial and management plans that have been submitted with the DCO application. Mr Minhinick confirmed that the documents which detail how the Proposed Development will be brought into effect will be certified under the terms of the dDCO and listed in Schedule 13.</p> <p>1.19 Mr Minhinick then went on to outline the 6 parts of the works that would form the wider works needed for the construction of the Proposed Development -</p> <ul style="list-style-type: none"> ▪ Part 1 (Preliminary works) of the dDCO, which contains the relevant definitions and interpretations for the wider draft DCO application. The ExA made comment to the accuracy of the certain definitions contained within this part of the application. Examples of these were references earlier in the Issue Specific Hearing. ▪ Part 2 (Principal Powers), which contains the principal powers that are sought by the Applicant, including – <ul style="list-style-type: none"> • Article 3, which would provide the development consent for the Proposed Development as described in schedule 1 of the works; • Article 4, which would authorise the maintenance of the Proposed Development; • Article 5, which would provide for the operation of the energy generating station; and
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		<ul style="list-style-type: none"> • Article 7, which provides for the disapplication and modification of certain legislative provisions. ▪ Part 3 (Streets), which relates to streets within the order limits. Mr Minhinick explained that the definition of “streets” comes from existing legislation, being the 1991 Act. Mr Minhinick highlighted several articles contained with Part 3, including - <ul style="list-style-type: none"> • Article 9, Article 10, and Article 11, which relate to the carrying out of street works in adopted highways and streets within the order limits. Article 10 contains details about application of the 1991 Act and Article 11 contains powers to alter the layout of existing streets within the order limits; • Article 13 and Article 14, which regard the relationship between the Proposed Development and existing public rights of way and are supplemented by further details contained in schedule 5 of the draft DCO; and • Article 15, which includes powers to create means of access from the public highway network to the Proposed Development. ▪ Part 4 (Supplemental Powers), which provides for a series of miscellaneous powers including – <ul style="list-style-type: none"> • Articles 18, which concerns the discharge of water; • Article 19, which concerns the protective works to buildings; and • Article 20, which concerns the ability to survey and investigate land. ▪ Part 5 (Powers of Acquisition), which contains powers of compulsory of Acquisition. Mr Minhinick explained that these powers would allow the Applicant to compulsorily acquire land on a permanent basis, acquire rights over land, create new rights in land, or to take temporary possession of land, each in order to the deliver the Proposed Development. The different powers of acquisition are shown in different colours on the land plans [CR1-005]. Mr Minhinick noted that Article 25, which relates to acquisition of subsoil land only, had been added by the Applicant in the recent DCO Change Application. Mr Minhinick also noted Article 22, which provides a
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		<p>time limit for the Applicant to exercise its powers contained within Part 5 of the draft DCO.</p> <ul style="list-style-type: none"> ▪ Part 6 (General Provisions), which contains a series of general provisions including Article 37, which provides the mechanism for certifying documents, and Article 41, which provides for arbitration of any disputes under the draft DCO.
	<p>The ExA will ask the Applicant about the scope of Schedule 1 (Authorised Development), and the “work” as set out in Sch.1. The ExA will ask queries regarding how the different works included in Schedule 1 are defined and the 3 wording used. At this point, the ExA may also ask questions of the Applicant in relation to its response to DCO.2.4</p>	<p>1.20 The ExA noted that it had queried certain drafting within Schedule 1 of the draft DCO as part of the ExA’s Commentary on the draft Development Consent Order [PD-010], and that the Applicant’s responses were included within Table 3-1 of the Applicant’s Responses to the ExA’s Second Written Questions submitted at Deadline 5 [REP5-031]. The ExA requested an action for the Applicant to provide its replies in separate documents instead of combining their responses together.</p> <p>1.21 The EXA requested the Applicant to explain its responses as set out in Table 3-1 [REP5-031], particularly in relation to the wording of Schedule 1 of the draft DCO.</p> <p>1.22 Mr Minhinick, for the Applicant, responded by outlining the Applicant’s comments in Table 3-1 and noted that the drafting of the term “electrical cables” was consistent with similar DCOs that have recently been confirmed by the Secretary of State – including the Mallard Pass Order and the Gate Burton Order – and that the Applicant was unsure why the definition had been identified by the ExA as inconsistent or uncertain.</p> <p>1.23 The ExA clarified that throughout the description of the works within Schedule 1, the Applicant makes reference to the use of “electricity distribution and transmission cabling”, and that “transmission cabling” could be interpreted to mean something very different to “electrical cabling”, which is where the lack of clarity is present. The ExA asked the Applicant to clarify those terms.</p> <p>1.24 Mr Minhinick, for the Applicant, acknowledged the inconsistency identified by the ExA and agreed an action to review the definitions of the relevant works and provide greater clarity.</p> <p>1.25 Mr Minhinick, for the Applicant, then continued to outline the Applicant’s responses in Table 3-1 relating to the drafting of “auxiliary transformers and associated bundling”. Mr Minhinick explained that the term “transformer” is defined within paragraph 1 of Schedule 1, and that “bundling” is a term used in other DCO applications with a widely</p>

		<p>known meaning. Therefore, the Applicant does not believe additional information is needed for these terms.</p> <p>1.26 The ExA responded by confirming that it will review the Applicant’s response to this point but noted the frequent use of catch-all terms such as “auxiliary” and “associated” within the draft DCO and requested for the Applicant to provide additional clarity, where possible.</p> <p>1.27 Mr Minhinick, for the Applicant, agreed an action for the Applicant to review recently made DCOs to cross-check the use and definition of those terms.</p> <p>1.28 The ExA then referred to its commentary on the defined term “ancillary equipment” and requested for additional clarity to be added to the term, even if it was not possible to further define the terms discussed previously, because “ancillary equipment” appears to be specifically related to the battery energy storage system for the Proposed Development.</p> <p>1.29 Mr Minhinick, for the Applicant, responded by clarifying that the term “ancillary” is a commonly used drafting tool in the description of works for various DCO types, and agreed an action for the Applicant to review the term in further detail.</p> <p>1.30 The ExA then asked the Applicant to clarify its response to the ExA’s commentary on the description provided within Schedule 1 for Work No. 3.</p> <p>1.31 Mr Minhinick, for the Applicant, responded by clarifying that the point referred to by the ExA concerns the definition of the fencing, perimeter boundary and other means of enclosure for the Proposed Development. Mr Minhinick understood that the ExA wanted greater clarity for the term “other means of enclosure” and explained that this term is widely used in other DCO applications approved by the Secretary of State, and that there are subsequent safeguards in relation to the construction of fencing and other means of enclosure. In particular, Mr Minhinick highlighted Requirement 16 of the draft DCO which requires the Applicant to submit to the relevant planning authority for approval written details of any permanent and temporary fences or other means of enclosure. Mr Minhinick submitted that this requirement gives precision and control to what would be delivered.</p> <p>1.32 The ExA acknowledged that requirement 16 is further defined but queried whether the intended link between Requirement 16 and the information contained within the outline</p>
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		<p>Landscape and Environmental Management Plan [REP5-020] should be specified more clearly?</p> <p>1.33 Mr Minhinick, for the Applicant, responded by submitting that the mechanism contained within Requirement 16 already provides sufficient precision and explained in further detail that Requirement 16 also refers back to Requirement 3 of the draft DCO which concerns the detailed design stage of the application. Mr Minhinick noted that Requirement 3(1)(j) requires the exact details to be submitted during the detailed design approval include fencing, and Requirement 3(2) requires the details to be submitted to accord with a number of certified documents including the design approach document [REP5-024] which outlines the design parameters for fencing in section 8.</p> <p>1.34 The ExA questioned why the list of documents in Requirement 3(2) does not include the Landscape Ecological Management Plan.</p> <p>1.35 Mr Minhinick for the Applicant responded by confirming that the Landscape Ecological Management Plan does not appear under requirement 3.2, but instead the Environmental Masterplan is included.</p> <p>1.36 The ExA further commented that the Environmental Masterplan is certified as a separate document in the application and requested an action for the Applicant to consider to further review if any additional plans or documents are to be included in Requirement 3(2).</p>
	<p>The ExA will then ask the Applicant to explain how the cabling element (on road and off road cabling) has been addressed in the DCO, in line the Applicant’s response to ExQ2 DCO.2.2 and DCO.2.3. The ExA may rely on Fig. 2.13 Underground Cable Routes [REP2-022] to illustrate its questioning.</p>	<p>1.37 The EXA requested for the Applicant to address the ExA’s second written questions regarding the cable route optionality and the ability for the Applicant to decide upon how and where cables are laid throughout the Proposed Development. The ExA asked the Applicant to clarify its position as to whether the terms “off-road” and “on-road” cabling need to be further defined in the draft DCO.</p> <p>1.38 Mr Minhinick, for the Applicant, responded by referring to the Applicant’s written response [REP5-031] which acknowledges that the “off road” and “on road” cabling options are different but the Applicant’s view remains that the draft DCO does not require any drafting amendments to cater for those options. Mr Minhinick explained that he is unaware of any other made DCOs that detail in the description of development the location of cabling in public highways or greenfield land because the focus is on the nature of the development which is being carried out, being the cabling,</p>

		<p>rather than the routes of any cabling at such an early stage of the planning process. Mr Minhinick further explained that the final location of the cabling between on-road and off-road routes will be fixed through the approval of detailed designs under Requirement 3.</p> <p>1.39 The ExA clarified its understanding that the initial intention of the Applicant was to deliver the Proposed Development without the need for “on road” cables but that, in light of previous hearings, the current direction of travel is that some components of on-road cabling will be required. The ExA asked the Applicant to clarify its intentions.</p> <p>1.40 Mr Minhinick, for the Applicant, clarified that the Applicant has identified various small proportions of land where “on road” cabling will be required for the final design of the Proposed Development. These areas of land largely relate to what has been referred to as “crossing points”. These are areas of land where the cables will need to cross over from one side of a public highway to the other. These fixed on-road sections are shown on ES Figure 2.13 [REP2-022]. <i>[Post-hearing note: the Applicant clarifies that in addition to ‘crossing points’, there is one section of fixed on-road cabling connecting Panel Area C to Panel Area D where there is no off-road alternative].</i></p> <p>1.41 Mr Minhinick, for the Applicant, respectfully resisted the ExA’s suggestion that the Applicant is looking to increase the amount of “on road” cabling. Mr Minhinick confirmed that it is the Applicant’s preferred choice to deliver “off-road” cabling wherever possible and that negotiations in relation to obtaining the relevant easements and rights for the “off road” route are ongoing. Mr Minhinick noted that Mr Baker for the Applicant had provided a detailed update on this point in previous Issue Specific Hearings.</p> <p>1.42 The ExA acknowledged the Applicant’s intention and noted a distinction between the Applicant’s intention to deliver the Proposed Development with a minimal amount of on-road cabling and the likelihood of that intention being delivered on the ground. The ExA clarified that, in light of the recent Change Application, it appears that there will be more on-road cabling than initially intended by the Applicant.</p> <p>1.43 Mr Minhinick, for the Applicant, confirmed that the Applicant is continuing to seek compulsory acquisition powers to lay and maintain off-road cabling in the locations shown on the Land Plans [CR1-005] submitted as part of the application. Mr Minhinick confirmed that the Applicant’s view remains that “off road” cable laying is preferred for the reasons outlined in the ES Chapter 3 [APP-026]. Mr Minhinick submitted that</p>
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		<p>requested inclusion of compulsory acquisition powers over subsoils for the on-road sections, through the Applicant’s Change Application, is not intended to indicate a preference for additional on-road cabling but is only to deal with the factual uncertainty of the depth of the highway.</p> <p>1.44 The ExA acknowledged the Applicant’s intention and questioned how any changes to the amount of on-road cabling that is required will be accommodated within the articles of the draft DCO.</p> <p>1.45 Mr Minhinick, for the Applicant, confirmed that the existing drafting of the draft DCO already provides the necessary framework for the eventual choice of cabling options through the detailed design mechanism in Requirement 3.</p>
	<p>The ExA will then ask the Applicant to clarify the need and applicability of supplemental powers under Part 4</p>	<p>1.46 The EXA did not ask this question during the course of the Issue Specific Hearing.</p>
	<p>The ExA will then ask questions to the Applicant in relation to Part 5 of the dDCO, particularly how the articles included here relate to the Change Request [CR1-001] to [CR1-018] the Applicant has submitted on the 18 October 2024.</p>	<p>1.47 The ExA asked the Applicant to clarify the relationship between Article 25 of the draft DCO and the Change Request and whether Article 25 would be removed if the change application was refused.</p> <p>1.48 Mr Minhinick, for the Applicant, responded by clarifying that the compulsory acquisition and temporary possession powers included in the draft DCO reflect those powers as they have been included in other made DCOs. Mr Minhinick confirmed that the Article 25 has been included by reason of the Change Request as an article which has been included in other made DCOs where powers of acquisition are to be exercised only against subsoil interests in land. Mr Minhinick explained that Article 25 operates to limit the extent of land take under the existing powers within Article 21 (in relation to the acquisition of land) and Article 23 (in relation to the acquisition of interests over land) where appropriate for subsoil cabling. Mr Minhinick confirmed that if the Change Request is not accepted, Article 25 would fall away and the draft DCO would revert to the version submitted for the main DCO application.</p> <p>1.49 The ExA noted that Article 25 relating to subsoils appears in both the Change Request version of the draft DCO and the version of the draft DCO submitted at Deadline 5. The ExA requested an action for the Applicant to review how the inclusion of Article 25 will be dealt with following the ExA’s decision on the Change Application.</p>

	<p>The ExA will ask the Applicant questions in relation to Part 6 Interpretation, particularly the application of Art. 29 - Rights under or over streets and Art. 30 - Temporary use of land for carrying out the authorised development.</p>	<p>1.50 The ExA asked the Applicant to explain the relationship between Article 29 (Rights under and over streets) and Article 25 (Acquisition of subsoil only) of the draft DCO, given the distinction between highway strata and subsoils.</p> <p>1.51 Mr Minhinick, for the Applicant, responded by explaining that to understand the relationship of the Articles 29 and 25, the operation of Part 5 of the draft DCO needs to be considered first. Mr Minhinick summarised two categories of provisions within Part 5, being -</p> <ul style="list-style-type: none"> ▪ powers concerning the permanent compulsory acquisition of land or rights over land, which are contained in Article 21 through to Article 28 and which incorporate existing mechanisms applying to the compulsory acquisition of land, such as the Compulsory Purchase Act 1965. ▪ powers concerning the temporary possession of the land, which are contained in Article 29 through to Article 31. Mr Minhinick specifically noted Article 30 of the draft DCO submitted at Deadline 5 [REP5 003], which permits the temporary possession of land to carry out the Proposed Development, and Article 31, which provides for the temporary use of land for the maintaining the Proposed Development. Mr Minhinick confirmed that these Articles reflect the temporary possession provisions in many made DCOs. <p>1.52 Mr Minhinick then explained that Article 29 would fall within the second category of powers and rights under Part 5 [outlined above] relating to temporary possession, and confirmed that Article 29 does not provide for the permanent acquisition of an interest in land. Mr Minhinick submitted that Article 25 and Article 29 can be seen as mirroring the two categories of powers under Part 5 of the draft DCO, providing respectively for compulsory acquisition and temporary possession, noting that the environment of a public highway is treated differently through the various legislative codes than regular land holdings.</p> <p>1.53 Mr Rose, for Bishopton Parish Council, questioned the reference to “airspace” within Article 29 of the draft DCO and whether, for example, this would allow helicopters to fly over the Proposed Development.</p> <p>1.54 Mr Minhinick, for the Applicant, clarified that Article 29 comes from the model provisions and recently granted DCOs and is intended to apply principally in relation to laying cables within streets. Mr Minhinick confirmed that “airspace” simply means the</p>
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		<p>air above the street, and that the Applicant does not intend to do anything on those streets except to lay cables in the conventional way.</p> <p>1.55 The ExA questioned the wording of Article 12(1)-(3) of the draft DCO in relation to the permanent alteration of streets, which must be completed to the reasonable satisfaction of the highway authority, and unless otherwise agreed by the highway authority, which must then be maintained by and at the expense of the undertaker for a period of 12 months. The ExA noted that the objective of the 12-month maintenance period is to ensure that the highway remains in adoptable standard and for any defects to be corrected by the Applicant before passing on to the highway authority. The ExA requested an action for the Applicant to amend the drafting of Article 12 require the highway authority to inspect the highway at the end of the 12-month period to ensure the highway is in adoptable condition.</p> <p>1.56 Mr Minhinick, for the Applicant, confirmed that the Applicant had not compiled a detailed response on this point, but submitted that Article 12(2) does already provide for the highways works to be constructed, altered or diverted and completed to the reasonable satisfaction of the local authority.</p> <p>1.57 The ExA clarified that after the local authority has approved the completion of the alteration works, further damage to the highway could occur in the 12-month maintenance period, so the highway should be further inspected after the 12 month maintenance period to further ensure the highway remains in adoptable standard.</p> <p>1.58 Mr Minhinick, for the Applicant, agreed to take an action to review the drafting and provide a written response. Mr Minhinick explained, as an initial response, that the drafting of Article 12(2) adequately provides for the highway to be maintained to an adoptable standard during the 12-month period and that there are other provisions within the dDCO allowing for agreements between the Applicant and street authorities in relation to works to highways.</p>
	<p>The ExA may then ask questions in relation to Schedule 3 - Streets subject to Street Works, Schedule 4 - Alteration of Streets, Schedule 7 – Removal of Hedgerows Schedule 2A Counter-notice requiring purchase of land</p>	<p>1.59 The ExA then asked the Applicant to provide an overview of the draft DCO Schedules identified in the agenda item.</p> <p>1.60 Mr Minhinick, for the Applicant, responded to the ExA explaining that Schedule 3 details the “street works” which are authorised by Article 9 as part of the Proposed Development.</p>

		<p>1.61 Mr Minhinick further explained that Schedule 4 details the streets that will undergo permanent alterations as part of the Proposed Development under the powers contained within Article 11.</p> <p>1.62 Mr Minhinick also clarified that the ExA's reference to "Schedule 2A" is not a draft DCO schedule. Rather, it forms part of the drafting within Schedule 9 of the draft DCO application which provides content to be read into the Compulsory Purchase Act 1965.</p> <p>1.63 The ExA requested an Action for the Applicant to update the cross-references within Parts 1 and 2 of Schedule 5 to the draft DCO, as appropriate, to Articles 13 and 14.</p>
	The ExA will then ask the Applicant for its response to the ExA's commentary on the dDCO [PD-010].	1.64 Mr Minhinick, for the Applicant, confirmed that the Applicant's responses are set out in Table 3-1 of the Applicant's Responses to the ExA's Second Written Questions submitted at Deadline 5 [REP5-031] .
	The ExA will then give opportunity for any relevant Statutory Consultees, Statutory Undertakers or other IPs to comment on any issues raised so far under this point of the Agenda.	1.65 No submissions were made on this agenda point.
	The ExA will then ask for an update from the Applicant in relation to Schedule 11 Protective Provisions and will ask for comments from any Statutory Undertakers. The ExA will then give an opportunity for all IPs to comments on any issues raised under this point of the Agenda.	<p>1.66 The ExA requested the Applicant to provide a progress update on the negotiations that are ongoing in regard to the implementation of protective provisions with the relevant Statutory Undertakes.</p> <p>1.67 Mr Minhinick, for the Applicant, referred the ExA to the Statutory Undertakers Position Statement submitted by the Applicant at Deadline 5 [REP5-026] and confirmed that engagement is ongoing to agree the terms of protective provisions to be included in Schedule 11 of the draft DCO. Mr Minhinick then summarised the current position in respect of each of the statutory undertakers marked amber within the Position Statement, being -</p> <ul style="list-style-type: none"> ▪ National Gas Transmission (NGT). Mr Minhinick stated that NGT had returned their drafting comments to the Applicant on the 14th November 2024, which are now being reviewed and will be returned shortly. ▪ National Grid Electricity Transmission (NGET). Mr Minhinick stated that NGET had returned their drafting comments to the Applicant on the 18th November 2024, which are now being reviewed and will be returned shortly.

		<p>Mr Minhinick also stated there are some additional points that both parties will be addressing in a subsequent a meeting.</p> <ul style="list-style-type: none"> ▪ Network Rail Infrastructure (NR). Mr Minhinick stated that Applicant had included the control procedures requested by NR within the outline Construction Traffic Management Plan [REP5-017] and outline Decommissioning Environment Management Plan [REP5-014], which are enforceable through the mechanisms in Requirement 5 and Requirement 6 of the draft DCO. Mr Minhinick noted that this point was communicated to NR on the 20th November 2024 and that the Applicant is currently awaiting a response. The ExA queried whether the Applicant was going to consider making amendments to the draft DCO Requirements, to which Mr Minhinick responded that it would not be appropriate to include the level of detail involved in the drafting of the management documents on the face of the draft DCO itself, and that discussions between the parties were ongoing to resolve the point. ▪ Northern Gas Networks (NGN). Mr Minhinick stated that the Applicant returned drafting comments to NGN on the 18th November 2024 and the Applicant awaits a response. ▪ Northern PowerGrid (NPG). Mr Minhinick confirmed that the Applicant returned drafting comments to NPG on the 18th November 2024 and the Applicant awaits a response. ▪ Northumbrian Water Limited (NWL). Mr Minhinick confirmed that draft documents were to be shared with the Applicant by Northumbrian Water during the week commencing 18th November 2024, but that the Applicant is still waiting to receive these. Mr Minhinick also outlined that it has also been agreed with NWL that the Applicant will provide an undertaking to cover the costs of the subsequent negotiations. <p>1.68 The ExA reminded the Applicant that the ExA is looking for formal confirmation of the removal of any objections prior to the close of Examination.</p> <p>1.69 Mr Casey, for Darlington Borough Council as a local highway authority, expressed concern that Article 10 of the draft DCO, and particularly Article 10(4), would remove the local high authority’s controls under the 1991 Act to coordinate road works. Mr Casey explained that DBC has a wider duty under the section 16 of the Traffic Management Act 2004 to secure expeditious movement of traffic, and a duty to ensure</p>
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		<p>that when schemes like the Proposed Development are delivered in an orderly fashion, whilst also considering other proposals in the area. Mr Casey submitted that Article 10(4) removes the enabling controls, which is not in the public interest.</p> <p>1.70 The ExA questioned whether DBC had raised this issue with the Applicant.</p> <p>1.71 Mr Casey confirmed that DBC had not raised this issue with the Applicant to date. Mr Casey submitted that this is a fundamental issue and that it is normal practice, and in the public interest, for DBC to be able to manage roadworks.</p> <p>1.72 Mr Minhinick, for the Applicant, confirmed that this issue had not previously been raised by the local highway authorities for the Proposed Development. Mr Minhinick noted that the Applicant is trying to arrange meeting with DBC to deal with various outstanding issues, which could now include the drafting of Article 10. Mr Minhinick confirmed that the Applicant’s initial response is that it is appropriate to for the draft DCO to amend application of the 1991 Act, and that the required management measures in relation to the highway network will be managed through the Construction Traffic Management Plan [REP5-017].</p> <p>1.73 Mr Minhinick and Mr Casey agreed an action for the Applicant to meet with Darlington Borough Council and Stockton Borough Council in relation to the controls and oversight that the relevant highway authorities will continue to have and for the Applicant to provide a written update to the ExA.</p>
<p>4. Review of issues and actions arising</p>		
		<p>1.74 The Applicant did not make notable submissions on this agenda point.</p>
<p>5. Any other business</p>		
		<p>1.75 The ExA referred to previous communications between the Applicant and the Case Officer in relation to the submission of documents at Deadline 6. The ExA referred to the second section of its Rule 17 Letter [PD-009], which confirms the additional documents to be submitted by the Applicant. The ExA confirmed that the submission documents should reflect the fact that the ExA has not yet determined to accept the changes requested in the Applicant’s Change Application into the Examination.</p>

6. Closure of the Hearing		
		1.76 The Applicant did not make submissions on this agenda point.

3. Summary of Oral Submissions at OFH3

Table 3-1 Summary of Oral Submissions at OFH3

Agenda Item	Topic for Discussion	Summary of Applicant’s Oral Submissions at ISH5
1. Welcome, introductions, arrangements for the Open Floor Hearing 3 (OFH3)		
n/a		1.1 The Applicant did not make submissions on this agenda point.
2. Purpose of OFH3		
	These hearings tend to have a community focus and are an opportunity for individuals and community groups to speak directly to the Examining Authority (ExA) and put forward their views.	1.2 The Applicant did not make submissions on this agenda point.
3. Confirmation of those who have notified the ExA of their wish to be heard at the OFH3		
	OFH3	1.3 The ExA confirmed that the following Interested Persons had registered to speak at OFH3. 1.3.1 Mr Colin Taylor on behalf of Great Stainton Parish Meeting [RR-099] 1.3.2 Mr Norman Melaney on behalf of Bishopton Parish Council [RR-381] 1.3.3 Mr Peter Wood [RR-416] 1.3.4 Mr Hugh Bence [RR-208] 1.3.5 Mrs Penny Bence [RR-411] 1.3.6 Mr Andrew Gowing (who did not wish to make oral submissions) [RR-024] 1.3.7 Mr Andy Anderson on behalf of Bishopton Village Action Group [REP1-028] 1.3.8 Mrs Carly Tinkler as the Landscape Consultant for Bishopton Village Action Group [REP2-044]

4. Oral Submissions during OFH3		
	<p>Mr Colin Taylor on behalf of Great Stainton Parish Meeting [RR-099]</p>	<p>1.4 Mr Taylor expressed concerns regarding the financial ability of Darlington Borough Council (DBC) to meet its obligations in relation to the Proposed Development.</p> <p>1.5 Mr Taylor explained that Great Stainton is a small hamlet on the boundary of DBC and receives minimal services from the Council. Great Stainton has noticed the increasing pressures on the budget of DBC, for example in relation to the maintenance of public rights of way (PRoW) surrounding Great Stainton.</p> <p>1.6 Mr Taylor explained his understanding that Stockton Borough Council would be the recipients of business rates revenue from the Applicant because the grid connection for Byers Gill is located within their area. Mr Taylor noted that the costs associated with the planning, development and ongoing maintenance of the Proposed Development, and other solar farms in the area, appears to fall to DBC.</p> <p>1.7 Mr Taylor submitted that residents of the DBC area will be impoverished by the Proposed Development placing a greater burden on the authority without any additional budget to carry out those responsibilities. Mr Taylor questioned whether DBC will have sufficient resource to effectively carry out their responsibilities if the DCO application is granted.</p> <p>1.8 The ExA queried whether Mr Taylor had raised his representation with DBC. Mr Taylor confirmed that he had not. The ExA recommended that Mr Taylor’s concern with DBC’s budget should be raised with DBC directly because that falls within the domain of DBC not with the Applicant. The ExA advised that, during Examination, it will be able to consider the relationship between the Applicant and DBC once DBC takes responsibility over some of the PRoW.</p> <p>1.9 Mr Taylor clarified that his concern that if the DCO application is granted without any budget allocation to DBC, then either DBC will be unable to carry out its responsibilities in relation to the Proposed Development or other services within the borough will suffer.</p> <p>1.10 The ExA queried whether Mr Taylor’s concern relates to any agreements between the Applicant and DBC for the maintenance of PRoW and roads. Mr Taylor confirmed that his question relates to the compensation that will be payable by the Applicant to DBC.</p>

	<p>Mr Norman Melaney on behalf of Bishopton Parish Council [RR-381]</p>	<p>1.11 Mr Melaney submitted that the Applicant has not addressed all major concerns in its design approach and either excluded or glossed over issues that the residents of the issues find unacceptable. The Applicant has not provided enough detail to allow residents to make a meaningful response.</p> <p>1.12 Mr Melaney submitted that, as a general rule, the quantitative and cumulative effects of a solar farm increases with the size of the farm, and that several points need to be included in any assessment made in design, including noise pollution.</p> <p>1.13 Mr Melaney explained that solar farms can produce low-level noise that can concern nearby residents, especially in rural areas. A large solar farm may include over 100 string inverters across the site, which, coupled with the transformer units, can give rise to significant level of noise. Mr Melaney submitted that the constant hum from these devices can be noticeable. Mr Melaney further explained that the cooling fans used for transformers and inverters can be louder than the hardware itself, and that the air conditioning units for battery energy storage can be noisy, too - especially if close to a residential area.</p> <p>1.14 Mr Melaney submitted that in addition to residences there are also 11 livery stables just in Bishopton. Mr Melaney suggested that horses do not like noise and suffer from fright and flight syndrome.</p> <p>1.15 Mr Melaney submitted that the noise from solar farms can be mitigated through incorporating noise considerations into the design process at an early stage. Mr Melaney suggested that physical obstructions called photovoltaic noise barriers can lower noise levels between noise sources and sensitive receptors, and that ongoing research into the long term effects of noise pollution from solar farms can help inform future technological improvements.</p> <p>1.16 Mr Melaney submitted that unlike windfarms, which are often criticised for the ‘woosh’ of blades, solar farms are perceived as quiet despite the installations on a solar farm producing noise. Mr Melaney submitted that maintenance activities can produce noise, such as panel cleaning and vegetation management, which add to the impact on local communities.</p> <p>1.17 Mr Melaney submitted that noise pollution can cause a material change of [behaviour] or attitude during periods of intrusion. If there is no alternative ventilation available, it would lead residents to keep their windows closed most of the time because of the noise. Mr Melaney explained that there is a potential for</p>
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		<p>sleep disturbance, and for quality of life to be diminished due to a change in the acoustic character of the area. Mr Melaney submitted that significant adverse effects are noticeable and very disruptive, and that extensive and regular changes in behaviour and / or an inability to mitigate noise may lead to psychological stress or effects, including sleep deprivation, loss of appetite, medically definable harm, and auditory damage.</p> <p>1.18 Mr Melaney submitted that as the UK continues to expand its solar energy capacity it is essential to balance the benefits of renewable energy with a need to protect local communities from potential disturbances. The long-term effects of noise pollution is unknown and, to date, guidance and regulations are not available. Mr Melaney submitted that while solar farms are a key component to the UK’s energy strategy, addressing the concerns relating to noise pollution is vital, particularly as there are a large number of solar farms being built and existing wind turbines [in the area]. Mr Melaney concluded that it may be possible, through technological innovation, thoughtful planning and robust regulation, to harness solar energy’s benefit while maintaining peace and tranquillity of rural communities.</p>
	<p>Mr Peter Wood [RR-416]</p>	<p>1.19 Mr Wood explained that he wished to elaborate on his previous submissions on agenda item 4 of ISH3 [EV11-001] concerning flooding and drainage issues. Mr Wood confirmed that his previous oral submissions had been submitted in writing [REP4-021] together with photo and video evidence taken on 9 October 2024 [REP4-032 to REP4-039].</p> <p>1.20 Mr Wood referred to the desktop assessment carried out by the Applicant and submitted that the Applicant’s expert did not have any knowledge of the actuality of flood problems in the area. Mr Wood reiterated that DBC has visited the site 4 or 5 times and has not had any measure of success in dealing with the issue. Mr Wood explained that DBC had visited the site again since ISH3, again without success.</p> <p>1.21 Mr Wood referred to a map of the sites shown by arrows [REP4-032] which are all close to Bishopton village.</p> <p>1.22 Mr Wood submitted that the Applicant’s replied during ISH3 were vague and woolly and referred to the hearing action for the Applicant to give further consideration to the flooding issues. Mr Wood also confirmed that he had declined the Applicant’s request to provide details of Bishopton’s flood issues.</p>

		<p>1.23 Mr Wood referred to the updated Flood Risk and Drainage Strategy [REP5-018] as being the Applicant’s response to the flooding issues. Mr Wood noted that there is only one-tracked change in that document at paragraph 7.3 and table 3.3, and submitted that is a superficial and nonspecific response.</p> <p>1.24 Mr Wood submitted that it is clearly accepted by all that, by glazing over substantial proportions of what are currently open fields, and by destroying farm drainage systems during construction, the run-off will be substantially increased. Mr Wood dismissed the Applicant’s proposal to leave grass margins around the panels to absorb the run-off as non-specific and inadequate. Mr Wood questioned whether the applicant would be allowed to exaggerate run-off and Bishopton’s flooding problems.</p> <p>1.25 Mr Wood referred to Mr Colin Taylor’s earlier submissions that DBC may not benefit from any of the business rates from the Proposed Development because of the grid connection being in Stockton. Mr Wood expressed concern that DBC may be required to do additional flooding works in the future without any additional budget.</p> <p>1.26 The ExA confirmed that it has looked at the photos and videos in detail. The ExA noted Mr Wood’s submission that DBC has tried and failed several times to address the flooding issues and queried whether Mr Wood has any suggestions for additional mitigation. The ExA noted that the Applicant has looked at the implications of the Proposed Development on the existing flooding and proposed certain measures to mitigate the impact of the development, which is along the right procedure. The ExA confirmed it has asked the Applicant to consider additional measures in terms of the thickness of vegetation to suppress the mitigate the impact further. Mr Wood responded by referring to his written submission [REP4-021] and identified two areas adjacent to the panels (Folly Bank below Panel Area E and Mill Lane beside Panel Area F) and several other sites that flood which aren’t adjacent to glazed areas.</p> <p>1.27 Mr Wood explained, in relation to Folly Bank, that water drains off the higher Area E and onto the road because the village is in a bowl. The junction of the road where the road drainage is next to a low-lying water meadow adjacent to a stream. There is no fall from that road from the meadow to the stream. So if the water level in the stream rises slightly, it backs up. Mr Wood submitted that it was not clear what other mitigation would be possible because if you move the water off the road</p>
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		<p>through the drainage system into the stream, that will create another flood further down the line. Mr Wood submitted that a little grass margin around a vast area of panelling will not improve the situation.</p> <p>1.28 Mr Wood explained, in relation to Mill Lane, there is a dip in the road that is much lower than the land around it. Mr Wood submitted that, short of putting in a pumping system, or clearing the drainage that may be blocked in a half-mile radius to the stream, it is not clear what more could be done. Mr Wood reiterated that a small grass margin will not improve the situation.</p>
	<p>Mr Hugh Bence [RR-208]</p>	<p>1.29 Mr Bence noted that he has lived in Bishopton for 40 years and submitted that there is regular flooding around the roads. Mr Bence noted that on two occasions his sons, driving different cars, have returned home through flooded bits of the road causing engine failures costing around £5,000. Mr Bence submitted this demonstrates the seriousness of the flooding.</p> <p>1.30 Mr Bence referred to Mr Wood’s earlier submissions about mitigation and confirmed that the flooding occurs all the way down Bishopton Beck. Mr Bence explained that when the roads are flooded there is a big flood plain near Stillington that holds a massive amount of water which then flows down to Whitton, which floods regularly as well. Mr Bence submitted that a pumping solution would need to move water past Whitton, so it is not simple.</p> <p>1.31 Mr Bence referred to the panelling for the Proposed Development and submitted that two and a half square miles of hard surface is a lot more than the five square meters you now need to put permission on private land because of run-off issues and flooding. Br Bence submitted that attenuation would be dramatically reduced by putting in the solar panels and in heavy rainfall will increase the frequency and depth of flooding. Mr Bence submitted that the Applicant needs to put a detailed mitigation plan in place.</p>
	<p>Mrs Penny Bence [RR-411]</p>	<p>1.32 Mrs Bence introduced herself as a resident of Bishopton.</p> <p>1.33 Mrs Bence submitted that in the early stages of consultation the Applicant had stated that every panel would be washed once per month. Mrs Bence requested confirmation that this remains the case.</p> <p>1.34 Mrs Bence questioned whether the Applicant has taken into account, across the 40-year lifespan of the Proposed Development, the increasing industrial traffic on small</p>

		<p>rural roads, which Mrs Bence submitted are not wide and will suffer. Mrs Bence suggested this could be a funding issue for DBC.</p> <p>1.35 Mrs Bence further submitted that the maintenance of the panels will lead to added noise and water being used.</p>
	<p>Mr Andy Anderson on behalf of Bishopton Village Action Group [REP1-028]</p>	<p>1.36 Mr Anderson introduced himself as representing Bishopton Villages Action Group.</p> <p>1.37 Mr Anderson submitted that the earlier submissions by other Interested Parties show the value and importance of local knowledge rather than knowledge arising from assessments from external experts, for example in respect of flooding, agricultural land, ecology or the value of the landscape.</p> <p>1.38 Mr Anderson introduced a series of issues, starting with overplanting and whether the Applicant is taking more land for the Proposed Development than is actually needed.</p> <p><u>Overplanting</u></p> <p>1.39 Mr Anderson referred to the total land area for the Proposed Development as being 1,186 hectares on the basis of an overplanting ratio 1:6 and question whether this is necessary or industry standard. Mr Anderson questioned whether the same amount of electricity could be generated from less land if appropriate technology was used and a better design.</p> <p>1.40 Mr Anderson referred to the East Yorkshire Solar Farm, which is at Recommendation stage. Mr Anderson explained the applicant on that scheme has proposed an overplanting ration of 1:2 i.e. 20% more panels being installed to achieve 400MW. Mr Anderson submitted that the Examining Authority for the East Yorkshire Solar Farm took the view that megawatts export should be based on the whole of the land (including the ecology and mitigation land and the grid connection corridor). Mr Anderson submitted it was therefore important to consider the whole of the order limits when considering the ration of overplanting.</p> <p>1.41 Mr Anderson noted that the East Yorkshire Solar Farm ‘Report’ reviews other projects including Mallard Pass, Cottam Park, West Burton and Byers Gill and the Report assumes that Byers Gill Solar will overplant by a ratio of 1:3 on that the basis that this is industry standard necessary to achieve the export required.</p> <p>1.42 Mr Anderson questioned the Applicant’s response to Hearing Action ISH2-02 [REP5-032] which states that “<i>there is no direct correlation between the overplanting ratio and the required land take</i>”. Mr Anderson noted an apparent contradiction in</p>

		<p>the subsequent paragraph of the Applicant’s response that states “a 1.0 overplanting ratio would require 30% less land”.</p> <p>1.43 Mr Anderson submitted that, on a simple calculation, a reduction in overplanting from 1:6 to 1:3 would reduce land take by 15% which is about 177 acres. Mr Anderson submitted that this land could be drawn back from peoples’ homes and villages. Mr Anderson submitted whether the Applicant was using the best form of technology available, or at least an acceptable form of technology.</p> <p><u>Heritage: Harm</u></p> <p>1.44 Mr Anderson noted that the ExA and the Applicant were asking DBC and Historic England for clarification on ‘harm’ in relation to heritage assets. Mr Anderson noted the Applicant’s position that there is negligible harm to heritage assets, and that negligible harm is the same as no harm but that, in response to the ExA’s Second Written Questions, DBC’s position is that no harm is not the same as negligible harm. Mr Anderson further noted that Historic England’s position is that negligible significance of effect means no impact. Mr Anderson submitted that negligible harm and negligible significance are not the same thing but they are being used interchangeably. Mr Anderson questioned the basis of and justification for the Applicant’s conclusions.</p> <p>1.45 Mr Anderson then quoted paragraphs 7.1.1 and 7.1.2 of the Historic Environment Settings Assessment [APP-146], which states: “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 <u>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. 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</u>”.</p> <p>1.46 The ExA queried whether the above statements are included in ES Chapter 8 itself. Mr Anderson responded that Environmental Statements are supposed to reflect the environmental impact assessment but, in a case like this, the Environmental Statement becomes a document of advocacy which takes the background assessments, chooses the bits it likes and leaves out the bits it doesn’t like.</p>
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		<p>1.47 Mr Anderson explained that the NPPF only has three scales of harm, so if we are at the top end of less than substantial harm you are into “substantial harm”. Mr Anderson submitted that this is at variance with the Applicant’s view that the harm it is not significant and is negligible where negligible means no harm. Mr Anderson referred to a court judgement on the question of harm and heritage assets (which Mr Anderson confirmed he will provide a reference to) which states: “<i>in my judgement there are three categories of harm recognised in the NPPF, there is substantial harm, less than substantial harm and no harm. There are not other grades or categories of harm. It is inevitable that each of the categories of harm will cover a broad range of harm</i>”. Mr Anderson stated that the judgement goes on to state that even limited or negligible harm is enough to fall within the bracket of less than substantial harm. [This appears to be taken from paragraph 34 of the judgement from <i>The Queen on the application of James Hall and Company Limited v City of Bradford Metropolitan District Council v Co-Operative Group Limited, Dalehead Properties Limited</i> [2019] EWHC 2899 (Admin)]. Mr Anderson submitted that the Applicant’s assessment pushes towards the definition of negligible harm, meaning no harm from the Applicant’s point of view, but the court has confirmed that the NPPF recognises three types of harm, and the Applicant has recognised that the harm to heritage assets falls in the upper-end of the middle range of harm.</p> <p>1.48 Mr Anderson went on to refer to an appeal decision by which a solar farm (under 50MW) was refused earlier this year. Mr Anderson explained that a key reason for the refusal and dismissal of the appeal was heritage harm to a similar heritage asset, being a mound and also a scheduled monument. In the case of the appeal, Mr Anderson explained that the appellant considered that their proposal should be graded at the lower end of less than substantial, but the inspector disagreed and considered that there was enough harm to warrant weighting this against consent. Mr Anderson will provide the reference in writing.</p> <p>1.49 Mr Anderson submitted that it was unfortunate that Heritage England haven’t had more time to spend on Byers Gill Solar because if they did they would see that some of their references to EC Guidelines are not entirely relevant here and that they may have been guided by resource constraints.</p> <p><u>Heritage: Significance</u></p> <p>1.50 Mr Anderson submitted that ‘heritage’ provides an example of the way that the DCO application and its assessment were guided forward, where environmental</p>
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		<p>statements become advocacy documents. Mr Anderson explained that EIA is primarily about the assessment of impacts – it is supposed to provide the assessments to decision-makers to make decisions. But where an Environmental Statement becomes an advocacy document that removes the significance it becomes harder to make those decisions.</p> <p>1.51 Mr Anderson submitted that there has been a lack of assessment of significance and referred to NPPF paragraph 200, quoting: <i>“the level of detail should be proportionate to the asset’s importance”</i>. Mr Anderson explained that a Scheduled monument is the highest status of asset, which is acknowledged by the Applicant in Table 8-2 of ES Chapter 8 [APP-031]. Mr Anderson emphasised the importance of understanding the significance of an asset in order to understand the impact in EIA terms.</p> <p>1.52 Mr Anderson referred again to the robust assessment of the Historic Environmental Settings Assessment [APP-146] which, when it arrives in the ES, turns into an advocacy document. As another example, Mr Anderson quoted from paragraph 6.8.7 of the Assessment which states, regarding the Motte and Bailey: <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>. Mr Anderson submitted that when this information is translated in paragraph 8.10.66 of ES Chapter 8 [APP-031], the nuance of the information changes, which reads <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>. Mr Anderson submitted that the ‘power and prowess’ referred to in the Historic Environmental Setting Assessment is defined by the surrounding landscape, but in ES Chapter 8 the ‘power and prowess’ is only relevant to the next door village. Mr Anderson submitted that this serves to reduce the impact within the landscape.</p> <p>1.53 Mr Anderson submitted that this is compounded in the ES Chapter 8 by sentences such as paragraph 8.10.62, which reads: <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 <u>may</u> relate to the asset...”</i>. Mr Anderson submitted that there is a concept that there is no information but there’s “some guy” called Roger de Conyers who may have something to do with it but that’s all. Mr Anderson</p>
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		<p>submitted that one can spend ten minutes on Google to find quite a lot of example about this, such as that this Motte and Bailey at Bishopton was one of twenty mounds throughout the whole UK from 154 sites to be subject to a special study of core sampling to be undertaken by a group of university with the aim of discovering whether there is a pre-normal origin to these mounds. Mr Anderson submitted that it is widely known that it is a 12th century mound despite the Applicant being unable to confirm this in ES Chapter 8. Mr Anderson explained that the Motte and Bailey was selected for its rarity and strategic location between Scotland and England and their histories between Danish and early Anglo-Saxon kingdoms. Mr Anderson submitted that the Motte and Bailey is a well-recognised and important mound amongst UK academic and archaeologists and concluded that the whole significance of the sites' significance is not mentioned at all by the Applicant.</p> <p>1.54 Mr Anderson submitted that the understatement of significance assists in the Applicant's impact assessment because if the significance is not understood you can understand what the harm is.</p> <p><u>Heritage: Archaeology</u></p> <p>1.55 Mr Anderson referred to discussions in previous hearings around why the Motte and Bailey had been missed out of the geophysical survey. Mr Anderson explained his understanding of the Applicant's position to be that only the panel areas were included in the survey and that the Motte and Bailey were affected more by the cable routes which, once determined, the Applicant may carry out surveys at a later point. Mr Anderson referred to Historic England's Advice Note 12 - <i>Statements of Heritage Significance: Analysing Significance and Heritage Status</i> – which advises against the approach of designing first and understanding the significance second. Mr Anderson submitted that if a geophysical survey or trial trenching is carried out once the cable route are decided, the best that can happen is that any findings get discovered and possibly not destroyed before the works happen – there is no chance of keeping them in situ. If the findings are highly significant, there's no way of taking decisions rather than continuing with the works. If the Applicant had undertaken more work on the history of the site, the applicant would realise that the rivers were an important part of the structure, not least because of the fishing industry and so anything found alongside the rivers has the potential to be important.</p>
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		<p>1.56 Mr Anderson submitted that it is not plausible that the site was excluded from geophysical survey on the basis that the cable route hasn't been determined because, looking at the site location plan, it is quite clear where the cables go.</p> <p><u>Alternatives</u></p> <p>1.57 Mr Anderson submitted that the guidelines on EIA alternatives require an applicant to look at alternative ways of achieving the same output but that there has been no attempt to look at whether the same energy can be produced in another way in another location. Mr Anderson submitted that because the Proposed Development is trying to combat climate change, which is a global issue, there is no reason the same aim couldn't be achieved using off-shore turbines instead of the fields of England.</p> <p>1.58 Mr Anderson referred to RWE's work in Germany regarding agrivoltaics where they are doing very good work to have solar with farming work alongside, but submitted that this has not been attempted for the Proposed Development.</p> <p><u>Ecology</u></p> <p>1.59 Mr Anderson noted that the new Design Approach Document does recognise the rich cultural heritage and ecological diversity but suggested that this has been underplayed – for example, by stating that the infrared lighting will not have any impact on wildlife. Mr Anderson submitted that infrared lighting does impact cold-blooded animals such as snakes, frogs and fish which inhabit the watercourses, which are the habitats of the water vowels which re a protected species. Infrared light needs to be taken series.</p> <p>1.60 Mr Anderson also noted the Applicant's statements that birds will not be affected by the solar farm. Mr Anderson referred to an American website called aviansolar.org, which identifies a high death rate of certain species of birds around solar farms. Mr Anderson explained that academics and ecologists have set up a working group to explore why that is happening.</p> <p>1.61 Mr Anderson submitted that if the Proposed Development goes ahead, it will be essential for the Clerk of Works to be independently supervised to ensure the promises on ecology are implemented.</p> <p><u>Design Approach Document</u></p> <p>1.62 Mr Anderson referred to the statement that he Proposed Development will generate electricity for 70,000 homes. Mr Anderson questioned if this was a</p>
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		<p>guarantee that the energy will be going to homes. Mr Anderson noted the controversy of Cleve Hill Solar, where the developer sold electricity to Tesco.</p> <p><u>Public Confidence in the Planning Process</u></p> <p>1.63 Mr Anderson submitted that the Applicant’s website gives the impression that the Proposed Development has been given consent and is on the way to becoming operational. Mr Anderson noted that this has not been amended despite being raised on several occasions.</p> <p><u>Decommissioning</u></p> <p>1.64 Mr Anderson submitted that little consideration has been given to decommissioning as, for example, there is one sentence in the Heritage Chapter looking at direct and indirect effects on heritage.</p> <p>1.65 Mr Anderson submitted that there is ‘work’ showing that reversing agricultural land from being solar farmed is not straightforward. Mr Anderson referred to a report by the Welsh government on this issue, which Mr Anderson will provide a link to.</p>
	<p>Ms Carly Tinkler as the Landscape Consultant for BVAG [REP2-044]</p>	<p>1.66 Ms Tinkler introduced herself as landscape consultant for BVAG.</p> <p>1.67 Ms Tinkler referred to Mr Anderson’s submission relating to the capacity of the Proposed Development and offered clarification in relation to the Applicant’s responses to hearing actions points.</p> <p>1.68 Ms Tinkler noted that the Applicant has referred to a recent appeal decision, known as <i>Longhedge</i>, in its response to Hearing Action ISH2-02 [REP5-032]. Ms Tinkler explained that this relates to an appeal, which was allowed, for a solar development under 49.9MW. Ms Tinkler explained that the Applicant has used this decision to justify its decision to overplant by a ratio of 1:6 because, in that appeal, the ratio was 1:57. Mr Tinkler reported that a pre-action letter has been issued to challenge the inspector’s decision in the <i>Longhedge</i> case, specifically in relation to the interpretation of overplanting in NPS EN-3.</p> <p>1.69 Ms Tinkler submitted that the applicant in <i>Longhedge</i> and the Applicant for the Proposed Development use NPS EN-3 to justify that overplanting is permissible for reasons other than degradation, whereas the challenge will set out that EN-3 is very clear that only panel degradation can be considered for overplanting. Ms Tinkler submitted that the definition of overplanting is given in EN-3 and also in the <i>Galloway</i> judgement. Ms Tinkler further submitted that there has been significant</p>

		<p>clarification from Ministers and in the consultation to EN-3 where the government confirmed that EN-3 would clarify that overplanting is only for degradation.</p> <p>1.70 Ms Tinkler noted that the number of panels is 505,386 with a rating of 570watts which gives a total output of 288MW. This is where the overplanting factor of 1:6 comes from. Ms Tinkler explained that in the Longhedge appeal the panels proposed were 610watts, and in the <i>Galloway</i> project the panels proposed are 685watts. Ms Tinkler submitted that the size of the panels that is being proposed for construction is rising very quickly.</p> <p>1.71 The ExA requested Ms Tinkler to submit a written submission with any supporting justification.</p>
	<p>Mr Alex Minhinick on behalf of the Applicant.</p>	<p>1.72 Mr Minhinick introduced himself as a solicitor at Burges Salmon representing the Applicant.</p> <p>1.73 Mr Minhinick confirmed that the Applicant did not intend to respond orally to interested parties' submissions and instead will respond in writing at Deadline 6. Mr Minhinick confirmed that, to the extent that further detail is submitted by interested parties at Deadline 6, the Applicant will respond at the appropriate time.</p> <p>1.74 Mr Minhinick noted one minor point of clarification, that Byers Gill Solar is a development capable of generating over 50 megawatts of electricity rather than over 500 megawatts, as inadvertently stated by the ExA in its introduction to OFH3.</p>

4. Summary of Oral Submissions at OFH4

Table 4-1 Summary of Oral Submissions at OFH4

Agenda Item	Topic for Discussion	Summary of Oral Submissions at OFH4
1. Welcome, introductions, arrangements for the Open Floor Hearing 4 (OFH4)		
n/a		1.75 The Applicant did not make submissions on this agenda point.
2. Purpose of OFH4		
	These hearings tend to have a community focus and are an opportunity for individuals and community groups to speak directly to the Examining Authority (ExA) and put forward their views.	1.76 The Applicant did not make submissions on this agenda point.
3. Confirmation of those who have notified the ExA of their wish to be heard at the OFH4		
	OFH3	1.77 The ExA confirmed that the following Interested Persons had registered to speak at OFH3. <ul style="list-style-type: none"> ▪ Mr Martin Philpott on behalf of Great Stainton Parish Meeting [RR-333] ▪ Mrs Susan Melaney [RR-507]
4. Oral Submissions during OFH4		
	Mr Martin Philpott on behalf of Great Stainton Parish Meeting [RR-333]	1.78 Mr Philpott expressed concerns relating to the Proposed Development. 1.79 Mr Philpott submitted that the Applicant has not responded to his previous written submission [REP4-022] . 1.80 Mr Philpott expressed concerns with the Applicant’s proposal to remove various public rights of way within the Order limits, which residents frequently use, and the impact this will have on the community.

		<p>1.81 Mr Philpott expressed concerns with the Applicant’s response to actions arising from ISH4, where the Applicant claimed to have knowledge of the local area. Mr Philpott submitted that the Applicant made various errors in its response.</p>
	<p>Mrs Susan Melaney [RR-507]</p>	<p>1.82 Mrs Melaney expressed various concerns with the Proposed Development.</p> <p>1.83 Mrs Melaney expressed concern with the number of solar farms in the UK. Mrs Melaney submitted that there are currently 1,336 solar farms in operation. Additionally, 142 solar farms are under construction, 1,957 are awaiting construction, and there are 684 planned submissions. Out of the 684 planned submissions, 15 are located within 4 kilometres of Bishopton village. Mrs Melaney expressed concern about the high concentration of solar farms in the local area.</p> <p>1.84 Mrs Melaney expressed concern about the negative impact that the Proposed Development will have on the local community, specifically because of the proximity of the Proposed Development to people’s homes. Mrs Melaney submitted that the distance from her property to the boundary of the Proposed Development is only 185 steps, which is too close.</p> <p>1.85 Mrs Melaney expressed concern about the nature of how land is being acquired for the Proposed Development. Mrs Melaney submitted that, unlike other developments that have been constructed on land leased or sold to the developer, the Proposed Development is different because it involves the compulsory acquisition of land. Mrs Melaney submitted that this is unfair and unreasonable.</p>
	<p>Mr Alex Minhinick on behalf of the Applicant.</p>	<p>1.86 Mr Minhinick introduced himself as a solicitor at Burges Salmon representing the Applicant.</p> <p>1.87 Mr Minhinick confirmed that the Applicant did not intend to respond orally to interested parties’ submissions and instead will respond in writing at Deadline 6. Mr Minhinick confirmed that, to the extent that further detail is submitted by interested parties at Deadline 6, the Applicant will respond at the appropriate time.</p>

5. Summary of Applicant’s Oral Submissions at ISH6

Table 5-1 Summary of Applicant’s Oral Submissions at ISH6

Agenda Item	Topic for Discussion	Summary of Applicant’s Oral Submissions at ISH6
1. Welcome, introductions, arrangements for this Issue Specific Hearing (ISH6)		
		<p>I.1 Mr Alex Minhinick introduced himself as a solicitor and Partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant’s project team present at ISH6, being: Mr David Brown (Chartered Town Planner), Mr Michael Baker (Development Project Manager at RWE), Miss Lily Boyes Hunter (Junior Project Manager, RWE), Mr Jonathan Catt (Solicitor at Burges Salmon LLP), and Mr Alastair Field (Agricultural land lead for the Applicant).</p> <p>I.2 Ms Lisa Hutchinson introduced herself as Development Manager at Darlington Borough Council (“DBC”).</p> <p>I.3 Ms Helen Boston introduced herself as Principal Planner at Stockton Borough Council (“SBC”).</p> <p>I.4 Mr Colin Taylor [REPI-030] introduced himself as representing Great Stainton Parish Meeting.</p> <p>I.5 Mr Norman Melaney [RR-381] introduced himself as representing Bishopton Parish Council.</p> <p>I.6 Mr Peter Wood [RR-416] introduced himself in connection with Bishopton Village Hall Association.</p> <p>I.7 Mr Mark Smith [REPI-036] introduced himself as representing Bishopton Villages Action Group (“BVAG”).</p> <p>I.8 Ms Susan Melaney [RR-507] introduced herself as a Bishopton resident.</p> <p>I.9 Mr Sean Anderson [RR-474] introduced himself as a Bishopton resident.</p> <p>I.10 Mr Andrew Anderson [REPI-028] introduced himself as representing BVAG.</p>
2. Purpose of the Issue Specific Hearing		
	<p>The main purpose of the ISH6 is to undertake an oral examination of Environmental Matters in relation to Land Use and Socioeconomics together with compliance with relevant planning policies.</p>	<p>I.11 The Applicant did not make submissions on this agenda point.</p>

<p>3. Land Use and Socioeconomics</p>								
	<p>The ExA will then ask the Applicant to describe the methodology used to categorise the Agricultural Land in the Order Limits of the Proposed Development and what each class of land represents and, justify the credibility of the adopted technique.</p>	<p>I.12 The ExA asked the Applicant to respond to the agenda item.</p> <p>I.13 Mr Field, for the Applicant, explained that the agricultural land classification (“ALC”) for the Proposed Development followed the methodology set out on the Agricultural Land Classification Revised Guidelines and Criteria. Mr Field confirmed that the Guidance had not been revised since its publication by the former Ministry of Agriculture, Fisheries and Food in 1988. Mr Field noted that Natural England’s Technical Information Note 049 summarises and provides context for the Guidelines.</p> <p>I.14 Mr Field confirmed that paragraph 2.10.33 of National Policy Statement EN-3 provides that the Guidelines are the only approved system for grading the quality of agricultural land in England and Wales and suggests that, if necessary, field surveys should be undertaken to establish ALC grades.</p> <p>I.15 Mr Field confirmed that the Applicant had undertaken a detailed survey of all the agricultural land within the panel areas and along the cable corridors, where access was available, and then explained the process. The survey involved surveyors extracting soil samples and describing various characteristics such as topsoil depth and texture, subsoil depth and texture, stone content and evidence of poor drainage. Those characteristics are recorded for each soil profile and is then graded according to the criteria in the Guidance. The grades are then amalgamated into land use units to show the pattern of agricultural land quality.</p> <p>I.16 Mr Field then explained that there are five grades contained in the Agricultural Land Classification Guidance ranging from Grade 1 to Grade 5, as outlined in the following table –</p> <table border="1" data-bbox="1088 1158 2096 1430"> <tr> <td data-bbox="1088 1158 1227 1238">Grade 1</td> <td data-bbox="1227 1158 2096 1238">Excellent quality agricultural land with very minor or no limitations to agricultural use.</td> </tr> <tr> <td data-bbox="1088 1238 1227 1318">Grade 2</td> <td data-bbox="1227 1238 2096 1318">Very good quality land which only has minor limitations.</td> </tr> <tr> <td data-bbox="1088 1318 1227 1430">Grade 3</td> <td data-bbox="1227 1318 2096 1430">Moderate or good to moderate agricultural land, which is subdivided into sub grade 3A, which is the good quality agricultural land, and sub Grade 3B, which is moderate quality agricultural land.</td> </tr> </table>	Grade 1	Excellent quality agricultural land with very minor or no limitations to agricultural use.	Grade 2	Very good quality land which only has minor limitations.	Grade 3	Moderate or good to moderate agricultural land, which is subdivided into sub grade 3A, which is the good quality agricultural land, and sub Grade 3B, which is moderate quality agricultural land.
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		<table border="1"> <tr> <td data-bbox="1081 158 1227 220">Grade 4</td> <td data-bbox="1227 158 2114 220">Poor quality land which has severe limitations to its use.</td> </tr> <tr> <td data-bbox="1081 220 1227 295">Grade 5</td> <td data-bbox="1227 220 2114 295">Very poor quality land which has very severe limitations, and usually only found on moorlands and similar habitats</td> </tr> </table>	Grade 4	Poor quality land which has severe limitations to its use.	Grade 5	Very poor quality land which has very severe limitations, and usually only found on moorlands and similar habitats
Grade 4	Poor quality land which has severe limitations to its use.					
Grade 5	Very poor quality land which has very severe limitations, and usually only found on moorlands and similar habitats					
<p>I.17 Mr Field explained that best and most versatile (“BMV”) land is defined as either Grade 1, Grade 2 or Grade 3A.</p> <p>I.18 Mr Field went onto address the credibility of the Applicant’s survey. Mr Field explained that his organisation has carried out ALC surveys for 50 years and continues to survey thousands of hectares of land each year, the results of which are often peer reviewed. Mr Field submitted that the survey had not ‘whitewashed’ the panel areas as Grade 3B and had identified small patches of Grade 3A and Grade 2.</p> <p>I.19 The ExA asked the Applicant which land it had not been able to access to carry out surveys, and whether this impacts the assessment carried out.</p> <p>I.20 Mr Field, for the Applicant, confirmed that the Applicant obtained access to all of the panel areas, but that access was not obtained to the parts of the cable corridor land which are shown hatched orange on plans included at ES Appendix 9.1 [APP-150]. Mr Field clarified that those orange-hatched areas were predicted as Grade 3B quality land, rather than being sampled.</p> <p>I.21 Mr Field confirmed that all other land had been sampled at one sample per hectare, which is the recommended density of sampling in Natural England’s Technical Information Note 049.</p> <p>I.22 The ExA asked the Applicant to confirm that the ALC methodology contained in the 1988 Guidance is the best method available.</p> <p>I.23 Mr Field, for the Applicant, submitted that there is no other method for classifying the quality of agricultural land and explained that the method was first developed in the 1960’s and evolved until 1988. Mr Field confirmed it is a highly credible and well-tested system of classifying agricultural land.</p>						

	<p>The ExA will then ask the Applicant to present the Agricultural Land Classifications within each of the Panel Areas and the pertinent proportions</p>	<p>I.24 The ExA asked the Applicant to respond to the agenda item and to highlight the extent of BMV land occupied by the panel areas and apparatus.</p> <p>I.25 Mr Field, for the Applicant, explained the proportions of BMV land classifications within each panel area, as presented in ES Appendix 9.1 [APP-150] and summarised in Table 9-6 of ES Chapter 9 [APP-032]. Mr Field explained that, across the panel areas, the reason for the difference in the quality of agricultural land relates to the wetness class of the soils and how deep the impermeable or slowly permeable clay subsoil is within the soil horizon. Mr Field explained that, generally, the soils across the Proposed Development are heavy clay loams or clay topsoil over a slowly permeable clay subsoil. If the slowly permeable clay is close to the surface, the land is poorly drained and falls within wetness class four, which tends to be classified as Grade 3B. If the slowly permeable clay occurs deeper in the soil profile, the drainage of the soil is better and falls within wetness class three, which tends to be classified as Grade 3A.</p> <p>I.26 Mr Field concluded that the overall grading for the Proposed Development, including the cable corridors, is 2.4 hectares (1%) Grade 2, 27.6 hectares (6%) Grade 3A, and 425.5 hectares (93%) of Grade 3B. Mr Field clarified that 34.1 hectares (96%) of the cable route land is classified as Grade 3B, of which 13 hectares were surveyed as Grade 3B and 21.1 hectares were predicted as Grade 3B [Post-hearing note: this information is set out in Table 9 [APP-150]].</p>
	<p>The ExA will then ask the Applicant to explain the effects of the Proposed Development on agricultural land and farming including sheep grazing, mineral resources and food security.</p>	<p>I.27 The ExA asked the Applicant to respond to the agenda item.</p> <p>I.28 Mr Brown, for the Applicant, confirmed that the Applicant has considered the impact of the Proposed Development on farm holdings within the assessment for ES Chapter 9 [APP-032]. Mr Brown explained that the assessment was limited to focus only on the impacts to the cable corridor land because, at the scoping stage, the Planning Inspectorate agreed for the Applicant to scope out the impact on farm holdings where land had been volunteered into the scheme by decision of the farm holding. Mr Brown confirmed that all land agreements for the panel areas were in place at that time. Mr Brown explained that the land for the cables routes is required only for a short period of time to instal the cabling and then it can be returned to its current use by the farmer. Mr Brown summarised that the assessment concluded the sensitivity of those farm holdings to be medium with a low magnitude of impact, leading to a minor impact which is not significant in EIA terms.</p> <p>I.29 Mr Brown outlined that the farm holding impact assessment resulted in a medium risk to the land being identified with a magnitude of low.</p> <p>I.30 In relation to sheep grazing, Mr Brown then explained that the impact of the Proposed Development is not expressly considered in the assessment, but it is considered as a potential opportunity. Mr Brown clarified that the grazing of panel areas would be</p>

		<p>subject to agreement with landowners if consent is granted. Mr Brown confirmed that there could also be a potential benefit from sheep-grazing or hay-cutting in the panel areas, although this is not reported in the assessment because it is not currently a secured commitment.</p> <p>I.31 In relation to the impact on food security, Mr Brown explained that the impact of the Proposed Development is not expressly considered in the assessment. Mr Brown submitted there is a link to the assessment of BMV land and the quality of land for food production. Mr Brown noted that the Applicant had responded to the issue of food security more broadly in its response to relevant representations [REPI-004].</p> <p>I.32 In relation to the impact on mineral resources, Mr Brown explained that the impact of the Proposed Development is considered in ES Chapter 9 [APP-032]. The assessment identifies a potential effect on a safeguarded limestone mineral resource and a sand and gravel resource in sections of Panel Area C and Panel Area D. Those resources are defined in the Tees Valley Minerals and Waste Core Strategy. Mr Brown explained that it was agreed at the scoping stage for the topic to be scoped out if it was agreed with DBC that the sterilisation wouldn't have a future impact on that resource. Mr Brown confirmed that this has since been agreed with DBC, as set out in the Statement of Common Ground [REP4-015]. Mr Brown also noted that there is no known application to extract those minerals at this point in time.</p>
	<p>The ExA will then ask the Applicant to illustrate the effects of the Proposed Development on the adjacent community and recreational facilities including horse riding and PROW</p>	<p>I.33 The ExA asked the Applicant to respond to the agenda item.</p> <p>I.34 Mr Brown for the Applicant confirmed that the chapter does look at impacts on all of the receptor referred to from a socio-economic and land use perspective. Mr Brown confirmed that other types of impact on those receptors have been considered elsewhere in the Environment Statement, for example in relation to landscape and visual impacts.</p> <p>I.35 Mr Brown confirmed that ES Chapter 9 [APP-032] considers the effect of construction, operation and decommissioning on a total of 69 recreational facilities and community receptors which are listed in Table 9-4 and includes parks and play areas, nature reserves, public houses, churches, recreational spaces, schools and colleges.</p> <p>I.36 Mr Brown confirmed that those receptors were considered as part of the baseline for assessment, so there were no direct effects concluded on those receptors. Mr Brown clarified that that this means no land is being taken from them or buildings demolished, for example.</p> <p>I.37 Mr Brown explained that the assessment therefore focused on any indirect effects that may occur on those receptors, taking account of the embedded mitigation measures set out in ES Chapter 9. Mr Brown clarified that the embedded measures are secured</p>

		<p>through the proposed outline management plans and would reduce the potential effect on those receptors, so they are considered as part of the assessment process.</p> <p>I.38 Mr Brown explained that, with those mitigation measures in place, the magnitude of impact of the Proposed Development on all receptors was considered minor adverse. Mr Brown explained that, when combined with the primarily low sensitivity as receptors, this was a negligible impact across those receptors, which is not significant in EIA terms, and therefore no further mitigation is required.</p> <p>I.39 Mr Brown then addressed public rights of way and recreational routes and confirmed these are fully considered in ES Chapter 9, as are listed in Table 9-5. Mr Brown explained that the impact of the Proposed Development during construction, operation and decommissioning was assessed, with the majority effects identified during construction. Mr Brown confirmed that the Outline Public Rights of Way Management Plan [REP5-022] includes a hierarchy of proposed mitigation measures for rights of way within the vicinity of the Proposed Development with the aim keeping rights away open wherever safe and practical to do so during all phases of the development. Mr Brown explained that with those measures in place, the assessment identified a minor impact on public rights of way, which is not significant in EIA terms.</p> <p>I.40 Mr Brown explained that the Applicant considered indirect effects on public rights of way in its further submissions at Deadline 4 [REP4-012], which specifically related to concerns raised by equestrian businesses in the vicinity of the Proposed Development. Mr Brown confirmed that the Applicant has proposed further mitigation measures within the Outline Construction Environmental Management Plan [REP5-012] to work with those businesses to ensure those disruption during construction is minimized.</p> <p>I.41 Mr Brown then explained that the assessment concluded that during operation of the Proposed Development the effect on public rights of way would be minor-adverse, which acknowledges the rerouting of some rights of way and also temporary for maintenance activities.</p> <p>I.42 Mr Brown highlighted that the Applicant is proposing circa 3600 meters of permissive routes in addition to the current rights of way, but confirmed that the benefit of those routes was not fully taken into account in the assessment work. This is because permissive routes can be closed by the landowner any time and do not carry the same status as a formal legal right of way.</p> <p>I.43 Mr Brown then addressed the decommissioning phase of the Proposed Development and confirmed that mitigation measures will be confirmed through the Outline Decommissioning Management Plan [REP5-015], which is expected to be similar to the Construction Environmental Management Plan and the Construction Traffic Management Plan. Mr Brown confirmed that the assessment assumes that impacts during</p>
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		<p>decommissioning will be very similar to those felt during construction, as reported in ES Chapter 9.</p> <p>I.44 The ExA asked the Applicant to explain how the Proposed Development will safeguard access to the various community and recreational facilities.</p> <p>I.45 Mr Brown, for the Applicant, explained that the outline management plans provide the Applicant's commitments to ensure that ongoing access is maintained to community facilities, recreation facilities, and the rights of way network. Mr Brown explained that Outline Public Rights of Way Management Plan [REP5-022] includes details of diversion routes and a hierarchy of measures which the contractor will be asked to follow to ensure that, wherever possible, rights away are kept open where safe to do so during construction. My Brown explained that during operation, the rights of way will be maintained to be open and accessible during the lifetime of the development.</p> <p>I.46 Mr Brown further explained that, in terms of wider recreational community facilities, commitment ref: LUSE2 in the Outline Construction Environmental Management Plan, [REP5-012] is to provide continued access to recreation community facilities during construction of the Proposed Development. Mr Brown confirmed that measures in the Outline Construction Traffic Management Plan link to that commitment, such as vehicle routing and also timing of certain vehicle arrivals and departures on the highway network, particularly around schools, for example.</p> <p>I.47 The ExA asked the Applicant to explain if the safety of the users of community facilities have been taken into account in terms of the timing of construction activities.</p> <p>I.48 Mr Brown, for the Applicant, explained that the commitments in the outline management plans seek to address potential conflicts where the Applicant has been made aware of them. For example, the Applicant has committed to restrictions on making HGV deliveries during school pick-up or drop-off times. Mr Brown confirmed that the Applicant is open to discussing further proposals for other community or recreational facilities that have a peak period that may conflict with construction routing.</p> <p>I.49 The ExA referred to Table 9-4 of ES Chapter 9 [APP-032] and noted that several receptors are identified as being impacted by the Proposed Development, for example in Bishopton and Remarshal. The ExA asked the Applicant to explain whether it has considered the cumulative effect of those impacts within each location.</p> <p>I.50 Mr Brown, for the Applicant, confirmed that the overall conclusion of the assessment does consider the number of receptors and the potential impacts. Mr Brown submitted that the key potential impact is access to and continued use of those facilities. Mr Brown emphasised that through the embedded mitigation measures the Applicant has committed to maintain access to recreational and community facilities and, as a result,</p>
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		<p>there is a low magnitude of impact across all those receptors and a negligible, i.e. not significant, effect during construction.</p> <p>I.51 The ExA asked the Applicant to clarify how this conclusion reflects the overall effect on a resident, for example in Brafferton, where multiple facilities and assets have been affected. The ExA questioned why a low magnitude of effect on five receptors would have the same effect as on one receptor.</p> <p>I.52 Mr Brown, for the Applicant, explained that the Applicant’s position is that the community won’t feel a cumulative effect on those receptors. Mr Brown emphasised that there are no significant effects from a socio-economic perspective, and, because of the mitigation measures secured by the management plans, those receptors will continue to operate in accordance with the baseline position. Mr Brown clarified that if the effects of the Proposed Development were going to mean that those facilities could not be used for certain times of the day, and that was across five facilities, the Applicant would have recorded a higher magnitude of impact, and therefore a higher overall significance. Mr Brown confirmed that is not the situation.</p>
	<p>The ExA will then ask the Applicant to explain how it has minimised the use of BMV lands in the siting of the proposed built structures that require soil stripping and disturbance such as access tracks, substations and compounds.</p>	<p>I.53 The ExA asked the Applicant to respond to the agenda item.</p> <p>I.54 Mr Brown, for the Applicant, confirmed that the Applicant had already considered this issue in its response to ExQ1 [REP3-004]. Mr Brown summarised that BMV land was a key constraint throughout the site selection process. At the outset, the Applicant sought to avoid BMV land under the provision grading published by Natural England, in line with the requirements of NPS EN-3. Mr Brown clarified that EN-3 also recognises that Applicants may have to use agricultural land in certain circumstances due to the scale of developments at a national level.</p> <p>I.55 Mr Brown explained that, subsequently, the Applicant undertook detailed ALC surveys, the results of which were assessed in ES Chapter 9 [APP-032] and taken into account in the production of the Outline Soil Resources Management Plan [APP-116].</p> <p>I.56 Mr Brown confirmed that the Applicant has sought to site permanent structures outside of BMV land wherever possible, for example by using areas of BMV for panels (which will be removed at the end of the development) or for mitigation and enhancement (for example the area in the north of Panel Area E). Mr Brown acknowledged there would be some areas where it is not possible to avoid BMV land, such as for access tracks, but this will be reviewed at detailed design. Mr Brown submitted that the areas of BMV within the scheme are small areas within larger areas of lower quality land, and therefore it is hard to avoid them entirely.</p> <p>1.57 Mr Brown highlighted Natural England’s relevant representation [RR-373] which confirms, at reference NE6, that Natural England considers “the Proposed Development,</p>

		<p><i>if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations”.</i></p> <p>I.58 The ExA asked the Applicant to explain if part of the Proposed Development sited on BMV land could be moved to another area of land which is of graded as lower quality, for example by moving panelling from the BMV in Panel Area A to the moderate quality land in panel area B or E.</p> <p>I.59 Mr Brown, for the Applicant, submitted that it would not be necessary to explore the movement of panels away from BMV land on the basis of Natural England’s relevant representation [RR-373], in which states that “. . .the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards”.</p> <p>I.60 The ExA noted that the lifetime of the Proposed Development is considerable and clarified its question concerning how the BMV land will be put to its best potential use throughout the operational period of the Proposed Development.</p> <p>I.61 Mr Baker, for the Applicant, explained that it would not propose to move panels from BMV land in Panel Area A to the areas of lower quality land in Panel Area C which do not contain panels because those ‘blank’ areas are designated as mitigation and enhancement for ecology. Mr Baker submitted that the impacts on those small areas of BMV do not outweigh the need to mitigate the impacts on ecology and provide ecological enhancements.</p> <p>I.62 The ExA referred to issue RPC2 in the Statement of Common Ground with Redmarshall Parish Council [REP4-008], which states that “<i>The Parish Council consider that whilst the land may not be best and most versatile, it is currently regularly farmed without any problems</i>”, and asked the Applicant to respond.</p> <p>I.63 Mr Field, for the Applicant, explained that Natural England estimates that 42% of agricultural land in England is BMV land, meaning the majority of agricultural land that is farmed is not BMV. This demonstrates that the Grade 3B land, which is moderate quality and has been identified throughout the panel areas, is farmable. Mr Field explained that it is the most versatile land due to the wetness and the drainage limitations that are inherent within the soils and difficult to overcome</p>
	<p>The ExA will then ask the Applicant to describe the appropriate mitigations, monitoring, management and compensatory measures against the impacts of the Proposed Development and their effectiveness</p>	<p>I.64 The ExA asked the Applicant to respond to the agenda item.</p> <p>I.65 Mr Brown, for the Applicant, summarised the potential impacts and mitigation requirements identified by the land use and socioeconomic assessment during</p>

		<p>construction, operation and decommissioning of the Proposed Development, as set out in Table 9-11 of ES Chapter 9 [APP-032].</p> <p>I.66 In terms of the effectiveness of those mitigation measures, Mr Brown explained that many of the measures are embedded and were taken into account as part of the assessment, rather than being required post assessment. Mr Brown confirmed that those management measures are secured through the various management plans, the final approval of which will lie with the local planning authorities at the detailed design stage through the requirements of the draft DCO.</p> <p>I.67 The ExA asked the Applicant to clarify how effective the measures would be.</p> <p>I.68 Mr Brown, for the Applicant, clarified that the assessment considered the embedded measures, so the Applicant did not separately undertake an assessment to identify significant effects and then identify mitigation to mitigate those effects. Mr Brown reiterated that the measures are included within the outline management plans and there will be a requirement for the contractor to then develop the outline plans into full and detailed plans to be agreed with the local planning authority through the DCO requirements. Mr Brown summarises that the Applicant has assumed the effectiveness of those measures within the assessment, because the delivery of those commitments has been secured.</p>
	<p>The ExA will then ask the Applicant to describe the proposed on-road and off-road cable routes and associated cabling methods and the extent of the affected land area where each practice would be applied.</p>	<p>I.69 The ExA asked the Applicant to respond to the agenda item.</p> <p>I.70 Mr Baker, for the Applicant, confirmed that there are two proposed methods for the laying of cables, being -</p> <p style="padding-left: 40px;">I.70.1 The conventional trench method, which for the off-road route would involve digging a 1 metre wide by 1.2 metre deep trench, temporarily storing the topsoil while the cables are laid, and then replacing the topsoil to fill in the trench. Mr Baker confirmed this method would require a maximum 9 metre working area during construction with a 5 metre easement area to maintain access. Mr Baker clarified that the methodology for the on-road route would be similar but without the need to store topsoil which reduces the required working area.</p> <p style="padding-left: 40px;">I.70.2 The mole plough method, which would involve using a ploughing device to open up the land, lay the cables and then re-seal the land without the need for a trench. Mr Baker confirmed the size of the land required for this method is similar to the conventional trench method.</p> <p>I.71 Mr Baker confirmed that the Applicant’s preference is to use the mole plough method for laying of cables “off road” where site conditions allow.</p>

		<p>1.72 The ExA referred to paragraphs 4.3.3 and 4.3.4 of the Outline Materials Management Plan [APP-114], which states that “in areas where cable plough may not be possible, trenching would be used” and asked the Applicant to confirm the proportion of cabling that will be delivered by the plough method, given its lower impact on the environment.</p> <p>1.73 Mr Baker, for the Applicant, clarified that the Applicant does not currently know the proportion of each cabling method to be used because those details will be defined by the contractor at the detailed design stage. Mr Baker confirmed that the Applicant will work with the contractor to use the mole plough method where possible.</p>
	<p>The ExA will then ask the Applicant to demonstrate how the Proposed Development would safeguard the continuity of operation of the existing recreational assets and community facilities in this locality without hindrance and, support job creation and businesses in the local area.</p>	<p>1.74 The ExA referred to paragraph 9.7.11 of ES Chapter 9 [APP-032] which lists the recreational assets and community facilities in the study area of the Proposed Development and allocates their sensitivity levels and asked the Applicant how the low sensitivity given to those assets and facilities has been derived.</p> <p>1.75 Mr Brown, for the Applicant, confirmed the sensitivity criteria for the socio-economic assessment are set out in Table 9-1 of ES Chapter 9 [APP-032] and explained that the community facilities and recreational receptors listed in Table 9-4 were attributed to low sensitivity, primarily given their nature as receptors, but also given the nature of the Proposed Development. Mr Brown explained that the criteria for low sensitivity is ‘businesses, individuals, groups or individuals or other receptors possessing some economic, social and community value’.</p> <p>1.76 Mr Brown explained that the key point is that the receptors are not likely to incur loss or gain as a result of potential changes of the environment and reiterated his previous submissions that there are no direct effects to any of those facilities. Mr Brown confirmed that the assessment therefore identified the potential to incur loss was low sensitivity.</p> <p>1.77 The ExA referred to a few examples from Table 9-4 [APP-032] and asked the Applicant to explain whether the sensitivities of these facilities and the related gain would be higher than low or neutral if construction workers are encouraged to buy food / drinks from public houses and the Applicant’s regular business meetings, staff training and solar technology exhibitions are held in these community facilities at the Applicant’s expense.</p> <p>1.78 Mr Brown, for the Applicant, explained that the sensitivity of those receptors is applied as a baseline position, so whilst the Applicant could encourage use of those facilities (which it is likely to do), it would not necessarily change the sensitivity of those receptors from an assessment perspective. Mr Brown explained that double-counting should be avoided in the assessment, and those type of effects described by the ExA, in terms of potential beneficial effects, are picked up as induced or indirect employment effects under another part of the assessment relating to the local economy.</p>

		<p>I.79 The ExA commented that it would like to see a specific action for the Applicant to encourage contractors to patronise local businesses and for the Applicant to endeavour to hold training sessions and exhibitions in the community halls.</p> <p>I.80 Mr Brown, for the Applicant, confirmed that the Applicant would be happy to make a commitment of that nature into the appropriate management document, but noted that those impacts are likely to occur naturally, due to the increase in people staying in the local area.</p> <p>I.81 The ExA asked the Applicant to explain how the Proposed Development would safeguard the continuing operation of existing recreational assets and community facilities in the area and support local businesses and job creation.</p> <p>I.82 Mr Brown, for the Applicant, referred to his earlier submissions relating to the commitments secured in the management plans which will ensure continuing access to recreational assets and community facilities.</p> <p>I.83 Mr Brown noted that, in relation to job creation, the Applicant had previously responded to this matter in its responses to ExQ1 [REP2-007], and explained that the assessment concluded circa 95 direct jobs in the study area as a result of the Proposed Development. Mr Brown also referred to the Applicant’s response to ExQ2 LUSE.2.2 [REP5-032], which included a commitment for a minimum 20% of the total workforce to be from the local community. Mr Brown explained that this would be an expectation placed on the contractor through procurement documentation. Mr Brown also referred to the apprenticeship and training programmes run by RWE on a national basis.</p> <p>I.84 Mr Brown noted that the employment profile will be influenced by the Applicant’s engagement with the contractor and with local suppliers and providers, which the Applicant is committed to having with local organisations.</p> <p>I.85 The ExA referred to the Applicant’s response to ExQ1 LUS.1.8 [REP2-007], which states that “The Applicant would also welcome opportunities to provide appropriate educational and learning opportunities during construction and operation of the Proposed Development” and asked the Applicant to explain how this will be managed and enforced without a definitive employment and skills plan.</p> <p>I.86 Mr Baker, for the Applicant, explained that RWE has several programs relating to STEM education and apprenticeships, which will be open to local residents, and that the Applicant will ensure the construction contracts include provision for STEM activities during the construction process.</p> <p>I.87 The ExA asked the Applicant to explain whether these measures could form a supplementary management plan, to pinpoint actions in a single document.</p>
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	<p>The ExA will then ask the Applicant to confirm the projected employment number during the construction of the Proposed Development and substantiate the validity of the defunct Homes & Communities Agency’s (HCA’s) Additionality Guide used, given that it was withdrawn in May 2022 by its replacement body Homes England.</p>	<p>1.91 This agenda point was not expressly addressed.</p>
	<p>The ExA will then ask the Applicant to set out its approach to the Community Benefit Fund [REP2-011], explaining whether it has taken into consideration the economic activities in the local area alongside comments previously made in relation to its adequacy and reiterate the flexibility in the amount of contribution as confirmed in ISH3 that was conducted on 15 October 2024.</p>	<p>1.92 The ExA referred to discussions during Issue Specific Hearing 3 and asked the Applicant to confirm whether it is amenable to increase the community benefit fund to cater for employment and skills development in renewables and supply chains, including apprenticeships, education and young people plus rural and farming support.</p> <p>1.93 Mr Baker, for the Applicant, emphasised that the community benefit fund is not relevant to the planning decision and should not be taken into account when determining the outcome of the DCO application. Mr Baker explained that the community benefit fund is a voluntary arrangement offered by the Applicant to provide direct benefits to communities and is standard practice for wind and solar developments.</p> <p>1.94 Mr Baker referred to the Community Benefit Fund Statement [REP2-011] and explained that the Fund will be managed by an independent third party and that there is a list of businesses and organisations that will be able to apply for support, including schools and educational establishments, social enterprises and community interest companies. Mr Baker confirmed that the Fund is not aimed at redressing any planning</p>

		<p>related matters, such as the impacts of the Proposed Development on the local economy.</p> <p>I.95 The ExA asked the Applicant to explain whether the Fund could include an explicit list of the initiatives for which it is intended to be used, for example to include a statement about employment and education for young people, which has been noted by DBC.</p> <p>I.96 Mr Baker, for the Applicant, confirmed that those initiatives could be included in the objectives of the fund through discussion with relevant organizations, including Parish Councils, following the grant of consent. Mr Baker explained that RWE would provide apprenticeship opportunities separately to any fund as part of RWE’s operation, as a business. Mr Baker submitted that it is really for the community to define how they wish those funds to be to be spent and on their projects.</p>
	<p>The ExA will give the Local Host Authorities (LHAs) the opportunity to comment. The ExA will particularly be looking for comments from DBC, DCC and SBC.</p>	<p>I.97 Ms Hutchinson, for DBC, made a series of submissions.</p> <p>I.98 First, Ms Hutchinson explained that DBC do not have the technical expertise within the Council to assess the impact of the Proposed Development on the ALC Report or the Soil Resources and would defer to Natural England as the statutory consultee on those matters. Ms Hutchinson acknowledged that Natural England do not consider the permanent loss of BMV land to be significant, subject to soil management techniques secured by Requirement 10 of the draft DCO. Ms Hutchinson requested Requirement 10 to be amended to include Natural England as a consultee.</p> <p>I.99 Second, Ms Hutchinson referred to the ALC Report and the assumptions made around the 21.2 hectares of the off-road cable route which couldn’t be surveyed and questioned how those assumptions are to be validated to ensure that the land in those areas which would be disturbed during construction is then reinstated to an appropriate condition. Ms Hutchinson submitted that this relates back to Requirement 10 of the draft DCO.</p> <p>I.100 Thirdly, Ms Hutchinson noted that the Community Benefit Fund does not form part of the planning balance and submitted that DBC would expect a full package of fully funded measures to be offered as part of the Proposed Development to support the local community.</p> <p>I.101 Mr Minhinick, for the Applicant, confirmed that the Applicant does not object to amending requirement 10 to include Natural England as a consultee.</p> <p>I.102 In relation to the assumptions regarding the off-road cable corridor, Mr Minhinick referred to Mr Baker’s earlier submissions about the construction methods to deliver the cabling and confirmed that the mole plough method would have a shorter and less significant impact on the continuing use of the land. Mr Minhinick confirmed that there</p>

		<p>is no impact on the continued use of land for agricultural purposes, and that the precise methodology for the works will be controlled through the Construction Environment Management Plan.</p> <p>I.103 In relation to the Community Benefit Fund, Mr Minhinick, reiterated that the Fund falls outside of the planning regime and should not be taken account of in the decision-making process. Mr Minhinick confirmed that the Applicant’s position is that there is a fully funded Community Benefit Fund which has been put forward by the Applicant and referred to Mr Baker’s earlier submissions about the delivery of the Fund. Mr Minhinick confirmed that the Applicant will take into account any specific proposals for the Fund brought forward by DBC, alongside the views of other groups involved in that process.</p> <p>I.104 The ExA requested an action for the Applicant to document this within the Community Benefit Fund.</p> <p>I.105 Mr Baker, for the Applicant, explained that following statutory consultation the Applicant was asked not to talk about the Fund with the Parish Councils because they wanted to concentrate on the planning. Mr Baker confirmed that the Applicant has honoured that promise and does not intend to push them into further discussions. Mr Baker clarified that the Applicant would not be able to include a commitment to include DBC’s initiatives until the Applicant has had those discussions. Mr Baker confirmed that the Applicant will take into account any submissions by the local authority on the matter, and noted that there are other organisations which the fund is more directed towards. Mr Baker confirmed that the issue could be addressed with DBC in the Statement of Common Ground.</p>
	<p>The ExA will then give an opportunity for other IPs to comments on any issues raised under this point of the agenda</p>	<p>I.106 Mr Taylor, for Great Stainton Parish Meeting, agreed with Mr Baker’s submission in respect of the Community Benefit Fund, and the difficulty the Parish Meeting would have in including the local authority as a beneficiary of the Fund.</p> <p>I.107 Mr Wood, a resident of Bishopton, comment on the Applicant’s submissions during the course of the Issue Specific Hearing regarding -</p> <p>I.107.1 The impact of the Proposed Development on food security, in respect of which Mr Wood submitted that regardless of the additional income stream for farmers, the land will be taken out of food production. Mr Wood submitted that a substantial proportion of agricultural land is being taken out of food production between Darlington and Stockton, due to the local schemes.</p> <p>I.107.2 The opportunity for sheep grazing and hay production under the panels, in respect of which Mr Wood explained that the purpose of solar panels is to absorb as much sunlight as possible, leaving the ground in shade and meaning</p>

		<p>that plants cannot photosynthesize. Mr Wood submitted whatever grows underneath the panels will be weedy and poor quality, so sheep grazing is implausible. In respect of hay production, Mr Wood submitted that it will not be possible to get agricultural machinery between the rows of panels.</p> <p>I.107.3 The impact on recreational assets, in respect of which Mr Wood submitted that the eight livery horse livery installations nearby Great Stainton and Bishopton had not been discussed. Mr Wood suggested that there are over 200 horses liveried within a two-mile radius of great Stanton and Bishopton which are used daily by people on the public bridle ways and public roads. Mr Wood submitted the Proposed Development will have a massive impact because horses have a flight of fright response to noise.</p> <p>I.108 Mr Melaney, for Bishopton Parish Council, submitted that, generally, the effects on receptors have not been investigated or determined, including the potential combined effects, adverse residual effects, or effects on the wellbeing of residents. Mr Melaney submitted that the Applicant’s environmental impact assessment should have identified negligible, minor, moderate and major adverse or beneficial effects, but Table 9-4 [APP-032] only addresses premises, buildings and businesses which are well outside of the area affected by the Proposed Development. Mr Melaney submitted that the Proposed Development will affect the community facilities in several ways, which have not been properly identified.</p> <p>I.109 Mr Melaney expressed further concerns in relation to the removal of topsoil from BMV land and the recovery of the farmland after the 40-year period. Mr Melaney submitted that it could take 10 to 15 years for the farmland to be usable again, and questioned what the Applicant would do to accelerate this.</p> <p>I.110 Mrs Melaney, attending as a local resident, confirmed that she will provide a written submission at Deadline 6.</p> <p>I.111 Mr Smith, for BVAG, referred to earlier discussions concerning the sensitivity of receptors and submitted that there is at least one business which will have to close as a result of the impact of the Proposed Development on the welfare of animals during the construction phase and questioned how this can be considered ‘low sensitivity’. Mr Smith clarified that the business is a boarding kennel for dogs which is immediately adjacent to the Proposed Development.</p> <p>I.112 Mr Smith referred to ES Appendix 9.1 [APP-150], which states that thirteen topsoil samples were submitted for laboratory analysis as part of the ALC surveys, and questioned how those thirteen samples were selected.</p>
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		<p>that business rates will go to SBC rather than DBC, and that there is likely to be an overall reduction in food production.</p> <p>I.127 Mr Anderson referred to a recent statement by the Chairman of Great British Energy, Juergen Maier, that renewable energy developers must demonstrate clear, tangible and demonstrable benefits to local communities where renewable developments are proposed. Mr Anderson submitted that it's also internationally recognized that the socio-economic impact of renewable energy projects must be identified, considered and more importantly, measured.</p> <p>I.128 Mr Anderson submitted that the Applicant has not adequately considered the socio-economic impact of the Proposed Development and offered no supporting data that can be measured, all in contravention of recognized good practice. Mr Anderson noted that the Applicant has referred to commitments in management plans and submitted that the Applicant is "kicking the can down the road" because it is not giving the ExA the information needed to assess the scheme appropriately. Mr Anderson requested the Applicant to provide detailed and measurable information that sets out the socio-economic impact of this Proposed Development to inform the community and allow the application to be properly assessed.</p> <p>I.129 Mr Minhinick, for the Applicant, confirmed that the Applicant did not intend to go through each of the points raised by Mr Anderson but clarified that the Applicant has assessed the likely significant effects of the Proposed Development on a variety of receptors, the majority of which are local receptors. Mr Minhinick submitted that the methodology of assessment was developed through the scoping process with the agreement of local and technical stakeholders including the relevant statutory advisory bodies and the Planning Inspectorate. Mr Minhinick confirmed that the Applicant has also provided a detailed Planning Statement [APP-163] including a table of compliance with the national planning policy [APP-164] which need to be considered by the ExA and the Secretary of State in the determination of the application. Mr Minhinick submitted that this assessment remains adequate and considers all of the effects of the Proposed Development and applies them against national policy.</p> <p>I.130 In response to Mr Anderson's submissions regarding cable installation, Mr Baker, for the Applicant, clarified that the cables will need to be installed at a depth of 1.2 metres and confirmed that National Grid also use cable ploughs to bury 132kV cabling.</p> <p>I.131 The ExA asked the Applicant to confirm if the use of thirteen soil samples reflects the industry standard?</p> <p>I.132 Mr Field, for the Applicant, confirmed that the sampling for the Proposed Development was carried out at the industry standard of 1 soil profile observation per hectare, which is provided in Natural England's guidance Note 049. Mr Field explained that the</p>
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		<p>laboratory analysis of 13 samples (being 1 in 30 hectares) was carried out as a matter of good practice to double-check the field survey and there is no prescribed proportion of soil samples that need to be checked. Mr Field clarified that the laboratory analysis did not highlight any necessary amendments to the field observations. Mr Field concluded that, given the limited number of soil types identified within the panel areas, thirteen laboratory samples was more than adequate.</p> <p>I.133 Ms Tinkler, for BVAG, made submissions on several points.</p> <p>I.134 First, Ms Tinkler questioned whether the Applicant could provide examples of sheep grazing on similar solar farms in the UK, as she is currently unable to find any examples of this.</p> <p>I.135 Second, Ms Tinkler referred to paragraph 9.10.55 ES Chapter 9 [APP-032] which 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, and for the soil resources to benefit from a less intensive management than under agricultural use</i>”. Ms Tinkler questioned whether this implies that agricultural use will not be continuing on this site.</p> <p>I.136 Third, Ms Tinkler questioned whether the Applicant could provide evidence to support the claim that there would be a direct, long term, moderate beneficial effect on agricultural land, which is significant. Ms Tinkler referred to paragraphs 4.5.12 to 4.5.15 of her submission [REP2-044] and submitted that it is very important to rotate soil use regularly to maintain the fertility of arable land over the long term, and that resting soil actually reduces soil fertility. Ms Tinkler also referred to Natural England’s Technical Note 066: <i>Arable Reversion to Species Rich Grassland</i>, which explains that areas which are less profitable to cultivate provide the greatest environmental benefits when reverted to grassland. Ms Tinkler submitted that the consequence of this is that land which is more profitable to cultivate provide the least environmental benefits because of the problems of putting in grassland.</p> <p>I.137 Fourth, Ms Tinkler questioned whether restoration to agriculture at the point of decommissioning is actually a scheme benefit, as claimed by the Applicant</p> <p>I.138 Fifth, Ms Tinkler submitted that if at the point of decommissioning the soil is going to be reverted to agricultural use, then it may need an environmental impact assessment under the EIA Agriculture Regulations. Ms Carly submitted that the Applicant would need to go to Natural England for a screening decision if the land has not been cultivated for more than 15 years and is greater than two hectares in size.</p> <p>I.139 Lastly, Ms Tinkler referred to earlier discussions about the effects of glint and glare on horses and recreational receptors and submitted that the Applicant’s Glint and Glare Assessment [APP-106] focuses on safety. Ms Tinkler submitted that the reason why</p>
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		<p>the study has not considered recreational receptors (i.e. people using the lanes and roads and on horseback) is because the study does not consider that to be a safety matter. Ms Tinkler submitted that this contradicts the fact that the Applicant is assessing residential receptors. Ms Tinkler requested the Applicant to explain why effects on the amenity of recreational receptors was not considered in the glint and glare assessment, given that there is no mention of visual effects arising from Glint and glare in [APP-030].</p> <p>I.140 Mr Minhinick, for the Applicant, requested an Action for the Applicant to respond to Ms Tinkler’s submissions in writing.</p> <p>I.141 Mr Andy Anderson, representing BVAG, submitted that, in relation to ALC, the key issue is whether the Applicant has taken any steps to avoid using the areas of BMV land. Mr Anderson questioned whether proportion of land identified as BMV should be higher than 7%, given there is a lot of subjectivity in sampling between Grade 3A and Grade 3B.</p> <p>I.142 Mr Anderson submitted that a 7% proportion of BMV land amounts to 50 to 60 hectares, which is the size of three farms (given than 50% of UK farms are under 20 hectares). Mr Anderson submitted that if the Applicant took steps to remove areas of BMV land from the Order limits, it could also reduce the panel areas around several of the villages. Mr Anderson questioned whether the Applicant has taken steps to do this following the assessment.</p> <p>I.143 Mr Anderson submitted that both Grade 3A and Grade 3B are good farmland with only a slight difference in yield. Mr Anderson submitted that the land ahs been farmed for 2000 years and should be considered carefully.</p> <p>I.144 Mr Anderson made further submissions regarding the source of the solar panels and steel, suggesting that these would all be imported. Mr Anderson also questioned the Applicant’s proposals for handling materials at the point of decommissioning, and how these would be recycled.</p> <p>1.145 Mr Minhinick, on behalf of the Applicant, responded by referring to the Applicant’s previous submissions in relation to BMV and agricultural land. In respect of the supply chain and decommissioning, Mr Minhinick confirmed that the Applicant’s position is that both matters are addressed in the Environmental Statement.</p>
<p>4. Review of issues and actions arising</p>		
		<p>I.146 The Applicant did not make submissions on this agenda point.</p>

5. Any other business		
		I.147 The Applicant did not make submissions on this agenda point.
6. Closure of the Hearing		
		I.148 The Applicant did not make submissions on this agenda point.

6. Summary of Applicant’s Oral Submissions at ISH7

Table 6-1 Summary of Applicant’s Oral Submissions at ISH7

Agenda Item	Topic for Discussion	Summary of Applicant’s Oral Submissions at ISH7
1. Welcome, introductions, arrangements for this Issue Specific Hearing (ISH7)		
		<p>1.1 Mr Alex Minhinick introduced himself as a solicitor and Partner at Burges Salmon LLP representing the Applicant and introduced the members of the Applicant’s project team present at ISH7, being: Mr David Brown (Chartered Town Planner), Mr Michael Baker (Development Project Manager at RWE), Mrs Mary Fisher (Abseline Landscape architect for the development), Miss Lily Boyes Hunter (Junior Project Manager at RWE), Mr Jonathan Catt (Solicitor at Burges Salmon LLP), and Mr Alistair Field (Agricultural land lead for the Applicant).</p> <p>1.2 Ms Lisa Hutchinson introduced herself as a Development Manager at Darlington Borough Council (“DBC”) and Mr Stephen Laws as the Landscape Architect for DBC.</p> <p>1.3 Ms Helen Boston introduced herself as Principal Planner at Stockton Borough Council (“SBC”).</p> <p>1.4 Mr Colin Taylor [REP1-030] introduced himself and Mr Martin Philpott [RR-426] as representing Great Stainton Parish Meeting.</p> <p>1.5 Mr Norman Melaney [RR-381] introduced himself as representing Bishopton Parish Council.</p> <p>1.6 Mr Mark Smith [REP1-036] introduced himself as representing Bishopton Villages Action Group (“BVAG”).</p> <p>1.7 Mr Peter Wood [RR-416] introduced himself as a Bishopton resident.</p> <p>1.8 Mr Robert Bowes [RR-443] introduced himself as a Bishopton resident.</p> <p>1.9 Mr Andrew Gowing [RR-024] introduced himself as a Bishopton resident.</p> <p>1.10 Mrs Susan Melaney [RR-507] introduced herself as a Bishopton resident.</p>

2. Purpose of the Issue Specific Hearing		
	<p>The main purpose of the ISH7 is to undertake an oral examination of Environmental Matters in relation to Cumulative Effects.</p>	<p>1.11 The Applicant did not make submissions on this agenda point.</p>
3. Cumulative Effects		
	<p>The ExA will ask the Applicant to set out, in broad terms how it has assessed the cumulative effects for the construction, operation and decommissioning phases of the Proposed Development</p>	<p>1.12 The ExA commented asking the Applicant how they have assessed the cumulative effects for the Proposed Development, in accordance with the agenda item.</p> <p>1.13 Mr Brown, for the Applicant, responded to the ExA by explaining that ES Chapter 13 [APP-036] considers the cumulative effective arising from the Proposed Development, which is supported by the following details –</p> <ul style="list-style-type: none"> ▪ ES Appendix 13.1 – In-combination effects table [APP-160] ▪ ES Appendix 13.2 – Long List of Committed Developments [APP-161] ▪ ES Appendix 13.3 – Short List of Committed Developments [APP-162] ▪ ES Figure 13.1 – Long List of Committed Developments [APP-102] ▪ ES Figure 13.2 – Short List of Committed Developments [APP-103] <p>1.14 Mr Brown confirmed that there is currently no standard methodology for conducting a cumulative effects assessment, but ES Chapter 13 has been prepared in accordance with Advice Note 17 published by the Planning Inspectorate, which highlights the need to consider both cumulative effects arising from interactions between components of the development, as well as other existing developments and/or approved developments. Mr Brown confirmed that ES Chapter 13 is therefore structured in two parts to deal with in-combination (or intra-project) effects, which occur when a receptor is potentially affected by more than one source of the Proposed Development, and cumulative effects, which occur where a receptor is potentially affected by more than one development at the same time.</p>

		<p>1.15 Mr Brown noted that the Applicant has reviewed and considered the updated guidance on cumulative effects assessment published by the Planning Inspectorate on 20th September 2024. The Applicant does not consider that the updated guidance would change the overall approach taken by the Applicant to the ES Chapter 13 or the results of the assessment.</p> <p>1.16 Mr Brown went on to explain that the Environmental Impact Assessment Scoping Report [APP-120] set out the proposed scope and method for the cumulative assessment which was consulted on at the scoping stage. Stakeholders and local planning authorities had further opportunity to comment on the methodology during statutory consultation in September 2023 before the long and short lists of developments were finalised. Mr Brown explained that a number of additional developments were included in the assessment at the request of Durham County Council; DBC provided an updated list of local plan allocations together with details on specific developments, which were included; and SBC confirmed it had no comments on the long and short lists at that time.</p> <p>1.17 Mr Brown explained that the Applicant followed a four-stage approach to assessing cumulative effects in accordance with the Planning Inspectorate’s guidance. Mr Brown summarised the four stages as -</p> <ul style="list-style-type: none"> ▪ Stage 1, to establish a zone of influence per environmental topic and a long list of developments. Mr Brown explained that the zone of influence is the area in which cumulative effects are likely to occur, the largest of which was 10km from the Proposed Development. Within those zones, the Applicant then identified a long list of other developments from planning applications on the local authority websites, other Nationally Significant Infrastructure Projects, and through consultation responses from the local planning authorities. ▪ Stage 2, which involved a desktop review of the available information in relation to the long-listed projects to establish a short list for further assessment. The short list identifies projects which have the potential to give rise to cumulative effects by virtue of overlaps in temporal scope or geography, the scale or nature of development, and other factors such as the nature and capacity of the receiving environment, the natural resources in the area, and the potential pathways for cumulative effects. Mr Brown submitted that this process gives a proportionate assessment in accordance
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		<p>with the Planning Inspectorate’s guidance, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, and professional judgement. Mr Brown confirmed that the shortlist was then compiled and shared with local planning authorities before being taken forward for cumulative assessment.</p> <ul style="list-style-type: none">▪ Stage 3, which involved gathering further information on the shortlisted developments.▪ Stage 4, which involved the assessment of cumulative effects through the review of other developments and consideration of their mitigation measures in respect of each of the topics within the Environmental Statement. The output of that assessment is reported in ES Chapter 13. <p>1.18 Mr Brown explained that there were exceptions to this approach in respect of</p> <ul style="list-style-type: none">▪ The ES Chapter 5 [APP-028] assessment on climate change, which is undertaken in accordance with relevant guidance [Post-hearing note: Mr Brown was referring to the IEMA Guidance: Assessing Greenhouse Gas Emissions and Evaluating their Significance] and is inherently cumulative so no further cumulative assessment is required.▪ The ES Chapter 12 [APP-035] assessment on traffic and transport, which inherently considers the shortlist of developments within the future baseline, and therefore no further cumulative assessment is required.▪ The ES Chapter 7 [APP-030] assessment on landscape and visual, which inherently considers the baseline of development. Mrs Fisher, for the Applicant, further clarified that any developments that are currently operational or have been consented will respectively form part of the baseline and future baseline for the LVIA. A list of these developments is contained within Table 7-6 in ES Chapter 7, including various solar farms and other developments. Mrs Fisher confirmed that only developments which remain at the planning stage were considered in the cumulative assessment in ES Chapter 13. Mrs Fisher confirmed that the LVIA Methodology does not consider effects at a point in time, but considers them for the duration of the operational life of the solar farm. Mrs Fisher clarified that an assessment scenario in which none of the consented developments have been constructed would not be realistic, and it is not possible to quantify the duration for which each development might remain
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		<p>incomplete or the order in which they will be completed. But it can be expected that all of the developments will be constructed during the construction or early operation of the Proposed Development. Therefore, the LVIA assumes that all consented developments will be in place for the full lifetime of the Proposed Development to reflect the likely significant effects.</p> <p>1.19 The ExA asked the Applicant to explain in more detail the information provided in paragraph 13.4 of ES Chapter 13 [APP-036] concerning the in-combination effects on local residents.</p> <p>1.20 Mr Brown, for the Applicant, clarified that in-combination effects are intra-project (or within the Proposed Development) and confirmed that the Applicant has assessed the potential for in-combination effects on human receptors in proximity to the works including, for example, the combination of noise and air quality. The assessment also considered the effects on ecological designated sites and protected species, for example through the combination of water and ecological impacts, and also on heritage features. Mr Brown confirmed that no significant in-combination effects were concluded as part of that assessment, which is summarised in Table 13-11 of ES Chapter 13 [APP-036].</p> <p>1.21 The ExA questioned how the Applicant had come to that conclusion.</p> <p>1.22 Mr Brown, for the Applicant, clarified that he oversaw the assessment and confirmed that the topic experts would have considered each of the potential impacts identified within the individual ES Chapters alongside the findings of their own topic chapter. For example, taking traffic and transport together with noise, the noise specialist will look at the findings of their assessment, together with the transport statement, transport ES Chapter and the air quality outputs and consider the potential in-combination effects to reach the conclusions reported in ES Chapter 13.</p> <p>1.23 The ExA referred to the first bullet point in paragraph 13.4.2 of ES Chapter 13 [APP-036], which acknowledges that human receptors “<i>could experience multiple adverse/beneficial impacts associated with changes to views, traffic and noise and vibration</i>”, and asked the Applicant explain how the assessment has evaluated the interplay between those impacts on human receptors.</p> <p>1.24 Mr Brown, for the Applicant, clarified that paragraph 13.4.2 acknowledges a potential effect, rather than confirming an effect, and noted that the in-combination effects are considered in more detail in Appendix 13.1 [APP-160]. Mr Brown explained that, in</p>
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		<p>relation to human receptors, Appendix 13.1 includes all ES topics and the table then summarises the potential for in-combination effects per topic and – in the final column – provides a conclusion of the combined effects of those potential effects and identifies with any mitigation required in respect of those combined effects.</p> <p>1.25 The ExA referred to paragraph 13.4.2 of ES Chapter 13 [APP-036], which states that “<i>the following receptors have been identified based on a review of the various topic assessments throughout the ES</i>”, and commented that the impacts identified for each listed receptor would have been informed by the review, rather than a list of general effects that could potentially be experienced.</p> <p>1.26 Mr Brown, for the Applicant, confirmed that the list of potentially in-combination effects was informed by the review of the ES Chapters so, for example, noise may have been identified as a potential effect on a receptor, and therefore it got brought into the in-combination assessment to be considered alongside effects from other topics in Appendix 13.1.</p>
	<p>The ExA will request the Applicant to highlight any necessary mitigation, monitoring, management and compensatory measures and their likely effectiveness.</p>	<p>1.27 The ExA asked the Applicant to respond to the agenda item.</p> <p>1.28 Mr Brown, for the Applicant, explained that in line with the Planning Inspectorate’s Advice Note 17 and the information gathered on the short-listed developments, the Applicant has reviewed any mitigation, monitoring and management measures that those developments are proposing together with a review of the mitigation, monitoring and management measures proposed for the Proposed Development. Mr Brown noted that many of the shortlisted developments have similar outline management plans as proposed for the Proposed Development, generally follow good design practices, and are being approved or considered on their own merits as individual schemes.</p> <p>1.29 Mr Brown then confirmed that the cumulative assessment did not report any cumulative effects within ES Chapter 13 [APP-036] and therefore the Applicant has not developed any specific mitigation, monitoring or management for cumulative effects across the ES Chapters. Mr Brown clarified that a number of significant cumulative effects are identified within the Chapter in relation to –</p> <p>1.30 Climate change, which recognises the other renewable energy production developments within the shortlist that, cumulatively, are anticipated to provide a notable benefit in meeting the UK targets for net zero.</p>

		<p>1.31 Biodiversity, in respect of which Mr Brown noted that multiple projects in the shortlist will be delivering the minimum 10% net gain that is required, in addition to biodiversity net gain delivered by the Proposed Development [Post-hearing note: To clarify that the Proposed Development is anticipated to deliver a biodiversity net gain of 88% for habitat units and 108% of hedgerow habitats – see para 5.4.9 of the Planning Statement [APP-163]]. Mr Brown confirmed that the proposed management plan, particularly the outline Landscape and Ecology Management Plan [REP5-020], will ensure the Proposed Development’s biodiversity net gain is delivered.</p> <p>1.32 Agricultural land, in respect of which the cumulative assessment concludes a significant adverse temporary loss of agricultural land taking into account the schemes within the shortlist, many of which are renewable energy developments leading to a temporary loss of agricultural land. Mr Brown referred to the outline Soil Resources Management Plan [APP-116] and noted that several other schemes have similar management plans. Mr Brown confirmed that if the soil is managed properly, ES Chapter 13 records that there could be a cumulative benefit in the longer term when the soil is returned to agricultural use.</p>
	<p>The ExA notes the Applicant’s Comments on Deadline 2 Submissions [REP3-004] in response to Darlington Borough Council’s (DBC) Response to the ExA’s ExQ1 [REP2- 031] regarding a Long and Short List of Committed Development (GCT.1.13). The Applicant is requested to update the ExA regarding the further sensitivity analysis to understand the implications for the cumulative assessment in response to the development applications identified by DBC.</p>	<p>1.33 The ExA asked the Applicant to provide an update on the further sensitivity analysis referred to in the agenda item.</p> <p>1.34 Mr Brown, for the Applicant, explained that the long and short-lists of committed developments were frozen in January 2024, which was the latest possible time to do so in order to undertake the cumulative prior to submission of the DCO application.</p> <p>1.35 Mr Brown acknowledged that DBC had sent over status updates for other developments included within the short-list, whilst also providing additional developments to be included within the cumulative assessment. Mr Brown confirmed that the Applicant’s submission at Deadline 3 [REP3-004] responded to the change in status at a high level and that, subsequently, the Applicant carried out and submitted at Deadline 5 a further sensitivity analysis [REP5-005]. Mr Brown summarised that the Applicant had considered the change in planning status for the three developments identified by DBC and concluded that there would be no impact on the outcomes of the cumulative assessment. Mr Brown confirmed that the three developments were already in the shortlist at the time of the cumulative assessment and had changed from being ‘in the system’ to ‘approved’.</p>

		<p>1.36 Mr Brown then explained the sensitivity assessment carried out on the three additional projects in more detail, as set out in Table 3-1 of [REP5-005].</p> <p>1.37 The ExA invited DBC to comment on the Applicant’s submissions.</p> <p>1.38 Ms Hutchinson, for DBC, responded by requesting an action for DBC to review the Applicant’s Further Sensitivity Analysis [REP5-005] in detail and provide a written response at Deadline 6.</p> <p>1.39 The ExA asked DBC to confirm whether it had input into the Applicant’s Further Sensitivity Analysis.</p> <p>1.40 Ms Hutchinson, for DBC, clarified that the Council have not reviewed the Applicant’s Deadline 5 submission in detail but that the Council has previously provided updates on the status of developments and allocations on the shortlist. Ms Hutchinson highlighted that development ID65, the Northumbrian Water Limited pipeline, which was received as an application approximately 4 weeks ago. Ms Hutchinson requested an action for DBC to review the position and provide further comments.</p>
	<p>The ExA will ask the applicant to explain each of the identified cumulative effects of the Proposed Development as summarised in Table 13-10 of ES Chapter 13 Cumulative Effects [APP-036].</p>	<p>1.41 The ExA asked the Applicant to explain the identified cumulative affects summarised in Table 13-10 of the environmental survey [APP-036]</p> <p>1.42 Mr Brown, for the Applicant, responded by summarising each of the effects as set out in Table 13-10. Mr Brown additionally noted that -</p> <ul style="list-style-type: none"> ▪ The approach to climate change assessment is contained in the IEMA Guidance previously referred to and is inherently cumulative. ▪ In relation to landscape and visual assessments, Mr Brown noted that some of the shortlisted developments were considered in the ES Chapter 7 assessment. <p>1.43 In relation to cultural heritage and archaeology, Mr Brown confirmed that none of the short listed developments would have a direct impact on any archaeological remains, standing earthworks or buildings within the Order limits so cumulative effects were focussed on potential indirect impacts. Mr Brown explained that three receptors were considered for potential effects, being Bishopton, Bishopton Conservation Area and the Mott and Bailey. No other developments lie within the existing setting of Bishopton or the Conservation Area so no cumulative effects were concluded. In relation to the</p>

		<p>Motte and Bailey, Gateley Moor Solar and Bishopton Lakes had the potential to lead to potential effects but no cumulative effects were concluded.</p> <p>1.44 The ExA referred to the summary of cumulative effects on landscape and visual within Table 13-10 [APP-036] which states “<i>Adverse cumulative effects limited by virtue of the surrounding topography, glimpsed views, intervening distances and screening both from the Proposed Development itself and the presence of screening not associated with the Proposed Development</i>”. The ExA asked the Applicant to explain how the effect is not significant in EIA terms, particularly in terms of the presence of screening and given the openness of the landscape in the area.</p> <p>1.45 Mrs Fisher, for the Applicant, responded by clarifying that Table 13-10 summarised the landscape and visual cumulative effects as described at paragraphs 13.5.40 to 13.5.46 of ES Chapter 13 [APP-036]. Mrs Fisher emphasised that the summary only relates to the developments which are currently in the planning process, as listed in paragraph 13.5.40, and is not a general reflection of the schemes which are already consented or in operation.</p> <p>1.46 The ExA asked the Applicant to further explain the in-combination impacts of the Proposed Development on the local community, rather than the cumulative impact with other applications nearby.</p> <p>1.47 Mr Brown, for the Applicant, clarified that Table 13-10 summarises the cumulative effect of the Proposed Development, which are distinct from the in-combination effects. Mr Brown further reiterated that several of the shortlisted developments, which other topics will have considered in the cumulative assessment, form part of the baseline for the landscape and visual assessment. Therefore, the cumulative assessment of landscape and visual effects in ES Chapter 13 [APP-036] only deals with a small number of projects which are in the planning system but not consented.</p> <p>1.48 The ExA asked the Applicant to identify evidence of how it has taken into account the landscape and visual effects on, for example, the residents of Great Stainton, noting that the Proposed Development will be affecting not one but multiple properties.</p> <p>1.49 Mrs Fisher, for the Applicant, confirmed that all of the landscape and visual effects of the Proposed Development are described in ES Chapter 7 [APP-030]. Mrs Fisher further confirmed that the number of residential properties affected is not a relevant consideration in landscape and visual impact assessment (“LVIA”), as set out in the applicable Guidance. Mrs Fisher noted that an effect on landscape character or a</p>
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		<p>landscape designation is an effect on a landscape receptor in its own right, rather than being an effect on people. The visual effects are effects on people, and the residential amenity effects are effects on people in their homes. Mrs Fisher suggested that those effects could perhaps be considered cumulatively, but generally they are separate effects.</p> <p>1.50 The ExA clarified its understanding that the Applicant has looked at the effects on each of residential receptor and reported on those individually, but there is no combination assessment for a specific location where several properties may be affected by the same issue.</p> <p>1.51 Mrs Fisher, for the Applicant, clarified that in ES Appendix 7.6 Residential Visual Amenity Assessment [APP-137], the residential visual amenity effects are considered for each residence and the assessment provides a summary at the end, whereas ES Chapter 7 [APP-030] considers effects on places or settlements as a whole, being more than one dwelling.</p> <p>1.52 The ExA further clarified its understanding that Table 13-10 of ES Chapter 13 [APP-036] summarises the cumulative effects assessment per topic but in relation to other applications identified in the short list.</p> <p>1.53 Mrs Fisher, for the Applicant, explained that developments in the short list that are operational or consented are fully taken account of in ES Chapter 7 [APP-030], and any that are in planning are addressed in ES Chapter 13 [APP-036], as set out in Table 13-10.</p> <p>1.54 The ExA summarised its understanding that the Applicant has concluded that the Proposed Development will have significant landscape and visual effects on local receptors (i.e. residents), but that when considering the Proposed Development with other developments in the wider area, the landscape and visual effects are not regarded as significant.</p> <p>1.55 Mrs Fisher, for the Applicant, clarified that the significant effects which are reported in ES Chapter 7 [APP-030] take account of existing and consented developments – the effects are considered significant with those other developments in place. Whereas in ES Chapter 13 [APP-036], the cumulative landscape and visual assessment is considering a different group of projects, being those shortlisted projects which are ‘in planning’. Mrs Fisher emphasised that it is the effect of those interactions, between the</p>
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		<p>Proposed Development and those ‘in planning’ projects, which are concluded not significant.</p>
	<p>With reference to the other smaller sites identified in the Statement of Common Ground with Great Stainton Parish Meeting [REP4-016], row ID GSPM6 on page 6, (also evidenced in DBC’s Landscape and visual assessment, table LLIR1), as well as the Cowley Complex solar plant identified by Mr Smith [REP1-036]. The Applicant is requested to update the ExA regarding how these particular sites have been considered in the assessment of cumulative effects.</p>	<p>1.56 The ExA asked the Applicant to provide an update on the cumulative assessment of the particular sites referred to in the agenda item.</p> <p>1.57 Mr Brown, for the Applicant, confirmed that the sites identified by Great Stainton Parish Meeting and by Mr Smith were included in both the short and long lists as part of the cumulative assessment process and have been considered across all topics within the cumulative assessment. Mr Brown clarified that the site identified by Mr Smith is in fact Cowley House Farm, which has been considered and included in the Cumulative Assessment.</p> <p>1.58 The ExA asked the Applicant to demonstrate how it has used joint working or information sharing initiatives with similar developments whose activities will likely combine with the construction timings of the Proposed Development.</p> <p>1.59 Mr Brown, for the Applicant, responded that RWE has tried to engage with other solar projects in proximity to the Proposed Development. Mr Brown confirmed that the information for the cumulative assessment was largely drawn from the public information available on DBC’s website, in accordance with the guidelines, rather than specific engagement with the other projects. Mr Brown confirmed that there are commitments in the management plans for the Applicant to engage with projects which are likely to be constructed at the same time as the Proposed Development, which will be in cooperation with DBC. Mr Brown further clarified that the need for coordination between projects is driven primarily by highways and several of these schemes will need highways consents or at least to engage with the highway authority to enable construction. Mr Brown confirmed that the Applicant will also need to engage with the highway authority to agree the Construction Traffic Management Plan and to manage the likely impacts of any other developments coming forward at the same time.</p> <p>1.60 The ExA referred to the summary of in-combination effects in Table 1-1 of Appendix 13.1 [APP-160] and noted that row two of the table acknowledges there will be possible impacts on several topics during operation of the Proposed Development. In light of this, the ExA asked the Applicant to explain how it reached the conclusion that “each individual effect is unlikely to work in-combination to generate a significant effect”.</p> <p>1.61 Mr Brown, for the Applicant, clarified that Table 1-1 relates to in-combination assessment of intra-project effects rather than cumulative effects with other projects.</p>

		<p>Mr Brown went on to explain that during the operational stage, Table 1-1 does record some potential effects on human receptors against certain topics, but the final column looks where those topic effects combine to create a more significant effect. Mr Brown then summarised the potential topic effects during operation, noting that activity on site will be minimal and that mitigation will apply, and confirmed that the in-combination effect of those individual potential effects is concluded to be not significant.</p> <p>1.62 The ExA asked the Applicant to explain how it has concluded that there “no significant effect interactions expected” given that row two of Table 1-1 identifies several different effects from the different topic chapters.</p> <p>1.63 Mr Brown, for the Applicant, clarified that Table 1-1 identifies the potential effects by topic area, but the in-combination effect assessment then considers the likelihood of interactions between those topic effects. For example, the likelihood of traffic and transport and noise occurring alongside the changes to the landscape and visual is considered to be minimal, which is why there is a no significant effect in EIA terms.</p> <p>1.64 The ExA commented that there is a lack of clarity of that approach within Table 1-1 because it only recognises the impacts but does not quantify them or explain why the individual effects identified do no lead to a significant in-combination effect.</p> <p>1.65 Mr Brown, for the Applicant, agreed an action for the Applicant to review and update Table 1-1 and to clarify where each effect is identified in the ES topic chapters.</p>
	<p>With reference to the Applicant’s response to ExQ1 CU.1.3 [REP2-007], the ExA notes that “The cumulative temporary loss of agricultural land is still considered potentially significant due to the extent likely to be lost temporarily within the locality.” The Applicant is requested to explain its proposals for mitigating these ‘significant’ cumulative impacts</p>	<p>1.66 This agenda item was not expressly addressed.</p>
	<p>The ExA will give the Local Host Authorities (LHAs) the opportunity to comment. The ExA asks that the LHAs concentrate on the main outstanding areas of disagreement.</p>	<p>1.67 The ExA invited the local host authorities to comment on the Applicant’s submissions and areas of outstanding disagreement.</p> <p>1.68 Mr Laws, for DBC, explained that most of the outstanding issues in the statement of common ground are unchanged since the last Issue Specific Hearing. Mr Laws submitted</p>

		<p>that the outstanding differences are likely due to differences in how the parties take into account cumulative effects. Mr Laws then explained two examples.</p> <p>1.69 First, Mr Laws referred to the supplementary information provided within DBC’s Local Impact Report [REPS-036] in response to questions raised at the last hearing relating to worst-case views and setting. That supplementary information included a photo from one of the footpaths at Brafferton looking towards Winfield Solar Farm that is currently under construction. Mr Laws noted that in viewpoint 3A in the Environmental Statement there is a haystack that screens Winfield solar farm and submitted that this could explain the differences of opinion between the parties in the assessment of effects on the setting and character of Brafferton.</p> <p>1.70 Second, Mr Laws referred to the effects on the ‘central route’ through the study area, being the road that connects all the villages. Mr Laws explained that the Council agrees with the Applicant that for each section of the road the effects would be moderate, but the Council considers that the overall effect is significant, noting that the relevant guidelines confirm that moderate effects can be considered as significant. Mr Laws explained that this is because anyone who drives along that route – principally the local community - would interact with a solar farm every 2 – 3 minutes. The Council believes that is a significant impact on people using that route.</p> <p>1.71 Mr Laws suggested that these examples pull together issues expressed by DBC in relation to the Applicant’s assessment of the worst-case and the setting of the villages. For example, if Winfield Solar Farm is in the setting of Brafferton, that is a significant impact.</p> <p>1.72 Mrs Fisher, for the Applicant, acknowledged DBC’s submissions and requested an opportunity to respond in writing. As an initial response, Mrs Fisher confirmed that Winfield Solar Farm is taken into account in ES Chapter 7 [APP-030] for all receptors, which the Applicant will highlight in writing.</p> <p>1.73 The ExA noted that an updated Statement of Common Ground is expected to be submitted at Deadline 6 by the Applicant and DBC. Mr Brown, for the Applicant, agreed and noted that the updated statement could also cover the landscape issues discussed.</p> <p>1.74 The ExA asked the Applicant to comment on Mr Laws’ submission that anyone driving on the ‘central route’ will interact with several solar farms and explain how this has been taken into consideration within the cumulative assessment.</p>
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		<p>farm (ref: 22/00727/FUL) continuing to Redmarshall. Mrs Fisher concluded there are three solar farms along that route to consider, acknowledging that other developments are more distant.</p> <p>1.81 The ExA referred to the section of road nearby Winfield Solar Farm and asked the Applicant to clarify its approach to cumulative assessment.</p> <p>1.82 Mrs Fisher, for the Applicant, clarified that in reporting the effects arising from the Proposed Development, the LVIA assumes that anything consented is already present. In other words, the baseline against which assessment is undertaken assumes that Winfield Solar Farm is there and can be seen. The effects of the Proposed Development are then reported against that baseline. Mrs Fisher confirmed that moderate effects are identified with Winfield in place and that the Applicant has therefore taken into consideration the experience of the drivers and users of that road from a cumulative effects perspective.</p> <p>1.83 Mr Laws, on behalf of DBC, commented that the issue is not only whether you can view the solar farm, but also the mitigation proposed. Mr Laws noted that the Applicant’s final proposals show significant sections of hedgerow that will now be managed to a height of metres. Mr Laws submitted that the amenity of the road in an undulating landscape is affected by the nature of the views, for example of Great Stainton, and that the enclosure of those views by high hedges is itself a significant effect. Mr Law submit that high hedging is not typical along this road, which is why the views of that road contribute to local amenity, and understanding viewpoints is important.</p> <p>1.84 The ExA requested an action for Mr Laws to submit his submissions in writing and invited comments from SBC.</p> <p>1.85 Ms Boston, for SBC, confirmed the Council will rely on its existing comment submitted within the Local Impact Report [REP1-026].</p>
	<p>The ExA will particularly be looking for comments from Darlington Borough Council (DBC) regarding the additional development applications they have identified. The ExA asks that DBC concentrates on the main outstanding areas of disagreement</p>	<p>1.86 This agenda item was not expressly addressed.</p>

	<p>The ExA will give the Parish Councils (PCs) the opportunity to comment, particularly Bishopton PC and Great Stainton Parish Meeting. The ExA asks that the PCs concentrate on the main outstanding areas of disagreement.</p>	<p>1.87 The EXA asked if the Parish Councils had any additional points to raise to the Applicant.</p> <p>1.88 Mr Melaney, for Bishopton Parish Council, confirmed that his comments had already been discussed</p> <p>1.89 Mr Taylor, for Great Stainton Parish Meeting, submitted that the short list provided by the Applicant in paragraph 13.5.40 [APP-036] is too short and appears to be out of date since January 2024. Mr Taylor confirmed that if the Applicant’s short list is accepted, the conclusion the Applicant has arrived at is understandable.</p> <p>1.90 Mr Taylor submitted that the Parish Meeting would disagree significantly with the Applicant and finds the conclusion, that there is no significant impact, to be incredulous. Mr Taylor referred to the ExA’s experience of the site and submitted that the only way for residents to avoid the cumulative effect will be to go into their homes and draw the curtains, because the Proposed Development will be widely visible. Mr Taylor disagreed that the other solar farms will not add to the cumulative effect.</p> <p>1.91 Mr Philpott, for Great Stainton Parish Meeting, referred to the high volume of solar farms locally due to the Norton grid connection. Mr Philpott submitted that the clustering of solar farms has compounded the adverse impacts on the community through loss of amenity and adverse impacts visually, on heritage assets, and on residents and their well-being. Mr Philpott noted that although the solar farms are described as temporary because they will eventually revert to agricultural land, the operational period of 40 years will make the solar farms a permanent feature in the lives of local people. Mr Philpott submitted that it is essential that everything practicable is done to reduce adverse effects on the community.</p> <p>1.92 Mr Philpott referred to his previous submission [REP4-022] in which the residents of Great Stainton identified land in Panel Area D to be removed due to the proximity of the panels to the village and the ineffectiveness of screening due to the undulating land. Mr Philpott submitted that the Applicant agreed the Parish Meeting’s priority areas but did not make a commitment to remove them.</p> <p>1.93 Mr Philpott referred to the proposed overplanting ratio of 1:6 and submitted that comparable solar farms work on a ratio of 1:2, which if applied to the Proposed Development could remove circa 170 acres of land for the same megawatt output. Mr Philpot submit that, as a responsible developer, the Applicant should commit to remove</p>
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		<p>the areas of land previously identified by all the villages impact by the Proposed Development.</p>
	<p>The ExA will then give the Bishopton Villages Action Group (BVAG) the opportunity to comment. The ExA asks that the BVAG concentrates on the main outstanding areas of disagreement.</p>	<p>1.94 The ExA commented asking if there are any additional comments</p> <p>1.95 Mr Smith, for BVAG, elaborated on the hypothetical journey moving from Newton, Aycliffe in the West to Stockton in the East, and the solar farms that would be seen from each other. Mr Smith submitted that the first solar farm encountered would be Winfield, then the Proposed Development in its various sites. From the Proposed Development, the Long Pasture and Gately Moor will be visible. Then, progressing through Bishopton, the California Farm development will be very close to being visible from Gateley Moor. Finally, at the substation at Lech lane, there are further BESS developments adjacent to the substation from which other developments, which are connected to the Cowley House Farm, will be visible to the north.</p> <p>1.96 Mr Smith noted that Gately Moor development will be visible from Mott and Bailey Castle in Bishopton, which is only meters away at its closest point.</p> <p>1.97 Mr Smith acknowledged that all of the developments he referred to were included in the Applicant’s short list, and that the Applicant has considered them.</p> <p>1.98 The ExA acknowledged that the projects mentioned by Mr Smith were included in representation [PDA-004], which informed the ExA’s site visit.</p> <p>1.99 Mrs Tinkler, for BVAG, made submissions on several points.</p> <p>1.100 Firstly, Mrs Tinkler submitted that she does not understand the reasoning behind the approach adopted by the Applicant in separating the cumulative baseline in ES Chapter 7 [REP-030] and then cumulative effects in ES Chapter 13 [REP-036]. Mrs Tinkler referred to paragraph 7 point 13 of the Guidance for LVIA, which says: <i>“taking the project to mean the main proposal that is being assessed, it is considered that existing schemes and those which are under construction should be included in the baseline for both landscape and visual effects assessments”</i>. Mrs Tinkler noted that the guidance goes on to say <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>1.101 Secondly, Mrs Tinkler submitted that if the Proposed Development is likely to give rise to significant adverse landscape and visual effects, then it is inevitable that, in combination with other similar schemes, the level of effects is going to be even higher.</p> <p>1.102 Thirdly, Mrs Tinkler submitted that cumulative effects on landscape, character and visual amenity must be assessed separately, as they must be in LVIA, and therefore direct effects on character cannot be mitigated by screen planting. Mrs Tinkler submitted that, in character terms, the fact that you can't see something doesn't mean it's not there. Rather, it has changed the character of that landscape, regardless of whether you can see it or not.</p> <p>1.103 Fourthly, Mrs Tinkler submitted that the loss of an open view to screen planting results in a major negative adverse effect as the total loss of a view.</p> <p>1.104 Fifthly, Mrs Tinkler submitted that, as is clear from LVIA Guidance 3, one effect that is not considered to be significant can, in combination, accumulate to become significant.</p> <p>1.105 Finally, Mrs Tinkler noted that in ES Chapter 13 [APP-036] the landscape and visual conclusion is that cumulative landscape and visual effects would not be significant, but that the overall level of effect is not provided, i.e. whether the effect would be major or moderate. Mrs Tinkler submitted that, in environmental impact assessment, the threshold for significance must be stated. Mrs Tinkler submitted that in ES Chapter 7 [APP-030], the threshold for significance is set at moderate to major, but everywhere else in the Environmental Statement, including in ES Chapter 13, the threshold for significance is moderate. Mrs Tinkler questioned why ES Chapter 7 takes a different threshold for significance and submitted that it should be consistent throughout the Environmental Statement. Mrs Tinkler also questioned, in ES Chapter 13, whether the conclusion of no significant landscape and visual cumulative effects is based on a moderate or moderate to major negative effect.</p>
	<p>The ExA will then give an opportunity for other IPs to comment on any issues raised under this point of the Agenda. The ExA requests that the IPs concentrate on the main outstanding areas of disagreement.</p>	<p>1.106 The ExA commented asking if there were any additional interested parties that would like to make a comment.</p> <p>1.107 Mr Robert Bowes, attending as a local Bishopton resident, commented on the cumulative effects of the Proposed Development in the wider area. Referring to ES Figure 13.1 [APP-102], Mr Bowes explained that the black line is the 10 kilometre "buffer zone" around the Proposed Development and highlighted the concentration of developments around the Proposed Development in comparison to the outer edges of the zone. Mr Bowes submitted that approximately 90% of the developments that are</p>

		<p>very close to the Proposed Development are solar farms which have recently been consented. Mr Bowes also explained that the purple line on ES Figure 13.1 is the 5 kilometre “buffer zone” around the Proposed Development and highlighted again the concentration of solar farms.</p> <p>1.108 Mr Bowes then listed the solar farm developments that fall within the 5km buffer zone as being–</p> <ul style="list-style-type: none"> ▪ within the boundary of County Durham council, Cowley Hill Solar (approximately 90 hectares) and Winfield Solar (42.3 hectares of land). ▪ within the boundary of SBC, High Meadows Solar (15 hectares), Thorpe Bank Solar (38.5 hectares), Low Middlefield Solar (28.6 hectares), California Farm Solar (87 hectares), and Mr Bowes also referred to another solar farm which he submitted was not on the Applicant’s list. Mr Bowes referred to section 7.7 of SBC’s Local Impact Report [REP1-026] and asked the Council to explain its conclusion that none of those solar farms would add to the cumulative effect for the Proposed Development. Mr Bowes submitted that two of the solar farms within the Council’s boundary are within 500meters of the Order limits. ▪ within the boundary of Darlington Borough Council, Gateley Moor Solar (124 hectares), Long Pasture (104.5 hectares), and Burtree Lane Solar (62 hectares). <p>1.109 Mr Bowes submitted that the schemes noted above amount to 101,482 hectares of land being utilised for solar developments, providing the three counties with a total of 345MW of energy. On the basis of RWE’s estimations, this would power over 150,000 homes, which Mr Bowes calculated would nearly be able to power all of the homes within Darlington and Stockton. Mr Bowes then submitted that the total land area across Darlington and Stockton is 407,400 acres and questioned why every solar farm for both counties needs to be within a 5km radius of the Proposed Development. Mr Bowes also referred to the existing wind turbines in the area and submitted that a significant amount of renewable energy is being generated within the 5km radius.</p> <p>1.110 Mr Bowes submitted that there are no other solar farms which are nationally significant infrastructure projects in the UK which are surrounded by as many smaller solar farms beneath the 49MW threshold. Mr Bowes questioned why that was acceptable for the Proposed Development.</p>
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		<p>1.111 Mr Bowes also submitted that a small rural area is providing renewable energy for the wider counties and questioned whether the other areas in the combined counties should “do their part”.</p> <p>1.112 Mrs Jacqueline Stevens, attending as a resident of Great Stainton, referred to earlier discussions about the solar farms along the road from Newton Aycliffe to Redmarshall and submitted that there are already two wind farms along that road, which make it even more industrial.</p> <p>1.113 Mr Paul Crompton, attending as a Bishopton resident, submitted that after 2 years of deliberation, we are still not any closer to reaching a decision on the Proposed Development. Mr Crompton noted that without the immense work from local residents, their views and concerns would not have been heard.</p> <p>1.114 Mr Crompton noted that much has been said about the damage the Proposed Development will cause to farm lands and surrounding villages, but submitted that nothing has been said about the people within those villages and how it will affect them. Mr Crompton submitted that residents have been misled and treated as an unimportant little problem.</p> <p>1.115 Mr Crompton referred to the Applicant’s proposals for sheep grazing beneath the solar panels as being “ridiculous”,</p> <p>1.116 Mr Crompton submitted that most of the parents from the local school are very upset about the Proposed Development being nearby the school and the majority of them have said that, if the application is granted, they would consider taking their children out of school to somewhere safer. Mr Crompton submitted that this could lead the school to close down, which would rip the heart out of the village.</p> <p>1.117 Mr Crompton submitted that the DCO application is destroying the village and community and that residents will be left with 40 years of carnage to the landscape. Mr Crompton submitted that residents will not benefit from the Proposed Development.</p> <p>1.118 Mrs Melaney, attending as a Bishopton resident, commented stating that she feels extremely worried about the cumulative effects of the Proposed Development on communities and villages. Mrs Melaney submitted that she is a person not a “receptor” and cannot accept the Applicant’s environmental assessment, which is taken from surveys, policy guidance modelling and is not “real” or reflective of residents’ lives.</p>
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		<p>1.119 Mrs Melaney submitted that farmers in the local area, who previously proposed to lease their land, now want to protect their inheritance. Mrs Melaney also referred to food security and food poverty.</p> <p>1.120 Mrs Melaney submitted that residents are going to lose community, recreation areas and public rights of way, which are significant losses to residents' way of life. Mrs Melaney submitted that there will not be a road in the local area that you can drive down without seeing a solar development.</p> <p>1.121 Mrs Melaney referred to a map showing the distribution of solar farms in the UK and submitted that this area is getting more than its fair share and the concentration in this region is unprecedented.</p> <p>1.122 Mrs Melaney finally submitted that the Proposed Development is not "temporary" and will last for decades.</p> <p>1.123 The ExA invited the Applicant to respond to the various points raised.</p> <p>1.124 Mr Minhinick, for the Applicant, confirmed that the Applicant has heard the statements made by the local community and acknowledges the strength of feeling in the local community about this project.</p> <p>1.125 Mr Minhinick proposed for the Applicant to consider the points made and provide a written response at Deadline 6.</p> <p>1.126 Mrs Fisher, for the Applicant, provided an initial response to Carly Tinkler's submissions in relation to paragraph 7.13 of the Guidance for LVIA and the Applicant's approach to cumulative assessment. Mrs Fisher submitted that paragraph 7.13 provides that the baseline for the main LVIA should include existing schemes and those which are under construction. Mrs Fisher clarified that the baseline isn't the list of effects that should be assessed, but rather the landscape that you assess the change to.</p> <p>1.127 Mrs Fisher clarified that paragraph 7.13 goes on to say that the baseline for assessing cumulative effects should include those schemes considered in the LVIA and potential schemes that are not yet present, but in the consenting process. Mrs Fisher confirmed that ES Chapter 7 [APP-030] includes in the baseline those projects which are operational and those which are consented, which is a minor variance from the Guidance because the Planning Inspectorate's Advice Note 17 provides says that consented projects should be taken considered as part of the dynamic baseline.</p>
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		<p>1.128 Mrs Fisher confirmed that, taking account of the presence of operational and consented projects in the baseline, there are significant effects arising from Proposed Development which are reported in terms of both landscape character and visual receptors. Mrs Fisher concluded that the main LVIA is therefore inherently cumulative.</p> <p>1.129 Mr Minhinick, for the Applicant, then responded to the submission by Mr Philpott which referred to a comparison between the overplanting ratio for the Proposed Development at 1:6, and for the East Yorkshire Solar Farm at 1:2. Mr Minhinick confirmed that the Applicant will provide a detailed written response but clarified that East Yorkshire Solar Farm development uses tracker technology, whereas the Proposed Development uses fixed panel technology. Mr Minhinick submitted that different considerations apply to the basis of land take and overplanting for those technologies. Mr Minhinick also clarified that the East Yorkshire Solar Farm papers which identify an assumed 1:3 overplanting ratio for Byers Gill Solar may have been prepared on the basis of earlier environmental information for the Proposed Development when tracker technology was being considered. Mr Minhinick concluded that the comparison of overplanting ratios between 1:2 and 1:6 is comparing two different technology types.</p> <p>1.130 Mr Minhinick, for the Applicant, then commented on the submissions by various parties regarding the contribution of the local area to renewable energy generation. Mr Minhinick highlighted the provisions of the National Policy Statements which confirm the national demand for renewable energy, which is not limited any particular area. Mr Minhinick confirmed that the relevant sections of the National Policy Statements are summarised in the Applicant’s previous written summaries of oral submissions [REP1-006].</p>
<p>4. Review of issues and actions arising</p>		
		<p>1.131 The ExA requested two actions for the Applicant to (i) submit an updated short list of projects which separates solar farms from other projects, and (ii) submit a written response as to why the overplanting ratio of 1:6 is justified and suitable for the Proposed Development, rather than 1:2.</p> <p>1.132 The Applicant agreed an action to provide a draft list of hearing actions to the ExA after the hearings.</p>

5. Any other business		
		1.133 The Applicant did not make submissions on this agenda point.
6. Closure of the Hearing		
		1.134 The Applicant did not make submissions on this agenda point.

A.1 Applicant's draft list of actions from OFH3 and OFH4

Ref	Action	Party	Timeframe
Open Floor Hearing 3			
OFH3-01	Mr Andy Anderson to submit in writing his oral submissions from OFH3 including to provide the relevant references to the Examination Library and external documents including the East Yorkshire Solar Farm Report, the court judgement relating to harm and heritage assets, and a recent solar farm appeal decision.	Andy Anderson	Deadline 6
OFH3-02	Ms Carly Tinkler to submit in writing her oral submissions from OFH3 including supporting material in relation to the Galloway judgement and the Longhedge challenge.	Carly Tinkler	Deadline 6
OFH3-03	Applicant to submit written comments on the oral submissions made by Interested Parties during OFH3 and provide, at Deadline 7, further comments on any additional information submitted in writing by Interested Parties at Deadline 6.	Applicant	Deadlines 6 and 7
Open Flood Hearing 4			
OFH4-01	Applicant to submit written comments on the oral submissions made by Interested Parties during OFH4 and provide, at Deadline 7, further comments on any additional information submitted in writing by Interested Parties at Deadline 6.	Applicant	Deadlines 6 and 7

A.2 Applicant's draft list of actions from ISH5

Ref	Action	Party	Timeframe
Issue Specific Hearing 5			
ISH5-01	Applicant to carry out a review of the dDCO to identify any outstanding drafting issues (including, for example, the references to “ <i>distribution / transmission cabling</i> ” in the Works Descriptions, and the introductory reference to a “ <i>single appointed inspector</i> ”).	Applicant	Deadline 6
ISH5-02	Applicant to consider amending the dDCO to clarify the distinction between Part 4 (Supplementary Powers) and the reference in Article 28(5)(b) to “ <i>Part 4 – Interpretation</i> ” (which is additional wording to be read into Schedule 2A of the Compulsory Purchase Act 1965).	Applicant	Deadline 6
ISH5-03	Applicant to consider whether the protective provisions included in Schedule 11 of the dDCO contain protections in respect of the powers contained in Article 29 (Rights under or over streets) and Article 30 (Temporary use of land for carrying out the authorised development).	Applicant	Deadline 6
ISH5-04	Applicant to review the cross-references to dDCO Schedules within Article 30 (Temporary use of land for carrying out the authorised development).	Applicant	Deadline 6
ISH5-05	Applicant to consider whether its use of the terms “associated”, “auxiliary” and “ancillary equipment” within Schedule 1 of the dDCO is consistent with other recently made DCOs and whether the works descriptions using those terms can be made more specific.	Applicant	Deadline 6
ISH5-06	Applicant to consider and justify whether Requirement 3(2) of the dDCO should be amended to expressly require the details submitted for approval to accord with the Outline Landscape Environmental Management Plan.	Applicant	Deadline 6
ISH5-07	Applicant to consider amending Article 12 of the dDCO to provide for the local highway authority to inspect and be satisfied that any streets and footpaths / bridleways which are maintained by and at the expense of the Applicant for a period of 12 months have been maintained to an adoptable standard.	Applicant	Deadline 6

Ref	Action	Party	Timeframe
ISH5-08	Applicant to clarify the Articles to which each Part of Schedule 5 (Public Rights of Way to be Stopped Up) relates.	Applicant	Deadline 6
ISH5-09	Applicant to re-produce its comments (as submitted at Deadline 5) on the Examining Authority's Commentary to the dDCO as a standalone document and to update its comments to reflect the actions ISH5-01 to ISH5-08 above.	Applicant	Deadline 6
ISH5-10	Applicant, Darlington Borough Council (DBC) and Stockton-on-Tees Borough Council (SBC) to discuss and seek to resolve DBC's concerns with the dDCO and in particular Article 10(4) (which removes DBC's controls under the NRSWA 1991 to coordinate road works). The parties' positions are to be recorded in DBC's Statement of Common Ground.	Applicant, DBC and SBC	Deadline 7
ISH5-11	Applicant to re-submit relevant application documents to show the baseline position at Deadline 6 excluding any amendments / updates made in respect of the Change Application. Where acceptance of the Change Application would result in changes to the baseline position at Deadline 6, updated application documents showing those changes are to be submitted at Deadline 6b.	Applicant	Deadline 6 and Deadline 6b.

A.3 Applicant's draft list of actions from ISH6

Ref	Action	Party	Timeframe
Issue Specific Hearing 6			
ISH6-01	Applicant to consider including a commitment in the outline Construction Environmental Management Plan to encourage contractors to patronise local businesses (for example, by endeavouring to run training sessions and exhibitions in local community halls).	Applicant	Deadline 6
ISH6-02	Applicant and DBC to consider specific initiatives for the Applicant's proposed Community Benefit Fund and update the Statement of Common Ground with DBC accordingly.	Applicant and DBC	Deadline 7
ISH6-03	Applicant to updated Requirement 10(1) (Soil Management) of the dDCO to include Natural England as consultee for the approval of the soil resource management plan by the relevant planning authority.	Applicant	Deadline 6
ISH6-04	Ms Carly Tinkler and Mr Andy Anderson to submit in written their oral representations from ISH6 (respectively concerning agricultural land and glint and glare; and the avoidance of BMV land).	Carly Tinkler and Andy Anderson	Deadline 6
ISH6-05	Applicant to submit written comments on the representations submitted in accordance with ISH6-04.	Applicant	Deadline 7

A.4 Applicant's draft list of actions from ISH7

Ref	Action	Party	Timeframe
Issue Specific Hearing 7			
ISH7-01	DBC to submit written comments on the Applicant's Cumulative Effects Sensitivity Analysis at section 3.2 of the Applicant's Comments on any further information / submissions received by Deadline 4 [REP5-005] .	DBC	Deadline 6
ISH7-02	Applicant to provide clarity on the rationale for concluding, in Table 1-1 of ES Appendix 13.1: In-combination Effects Table [APP-160] , that the Proposed Development will not result in any significant in-combination effects.	Applicant	Deadline 6
ISH7-03	Ms Carly Tinkler to submit in writing her oral submissions from ISH7 concerning the Applicant's approach to the assessment of cumulative landscape and visual effects.	Carly Tinkler	Deadline 6
ISH7-04	Applicant to submit written comments at Deadline 6 on the oral submissions made by Interested Parties during ISH7 and to submit at Deadline 7 further comments on any additional information submitted in accordance with ISH7-03.	Applicant	Deadlines 6 and 7
ISH7-05	Applicant and DBC to progress the Statement of Common Ground regarding landscape and visual matters.	Applicant and DBC	Deadline 6