



DARLINGTON
Borough Council

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Our ref: Byers Gill Solar Statcon
Your ref:
Please ask for: Lisa Hutchinson
Document Name: 15062023

Dear Sirs

**Byers Gill Solar – Statutory Consultation
Planning Act 2008 Section 42: Duty to consult on a proposed application**

Thank you for your letter dated 5th May 2023 giving notice of JBM Solar's statutory consultation on the above scheme.

Please accept this response on behalf of Darlington Borough Council with comments set out below:

Highways

The site layout conflicts with the proposed strategic northern bypass/relief road as a long-term mitigation measure to reduce congestion and improve journey times within Darlington and the Tees Valley. The road is to provide a strategic link between the A66 east of Darlington and the A1M, in order to provide an alternative route which avoids the urban area of the town via the A1150 Whinfield Road and the north via A167 Harrogate Hill.

Whilst the delivery of the strategic northern relief road is not within the life of the current Darlington Local Plan (2016 – 2036) it is of significant economic important to both Darlington and the wider Tees Valley area. Although the route is not yet of fixed design or alignment, we would ask that it be considered as part of the determination process of the application, and welcome engagement with both the applicant and all key stakeholders such as National Highways and the Tees Valley Combined Authority to ensure that we can protect the land required to deliver this key highway infrastructure.

Each point of access and egress from the public highway will need to be carefully considered to ensure the safety of all highway users. The exact location of each site access from the public highway is not provided in substantive detail and will require detailed design and evidence to

demonstrate that safe visibility is achievable. Many points of access will be located off 60mph highspeed roads and therefore DMRB standards should be applied in the interests of highway safety. Access requirements should therefore be in accordance with DMRB CD 123 Geometric design of at-grade priority and signal-controlled junctions.

A fully detailed site-specific Construction Management Plan should be submitted for each phase of development (Areas A – F) and include:

1. details of any temporary construction access to the site including measures for removal following completion of construction works.
2. restriction on the use of INSERT LOCATION access for construction purposes.
3. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway.
4. the parking of contractors' site operatives and visitor's vehicles.
5. areas for storage of plant and materials used in constructing the development clear of the highway.
6. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas.
7. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes.
8. protection of carriageway and footway users at all times during demolition and construction.
9. protection of contractors working adjacent to the highway.
10. details of site working hours.
11. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate.
12. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.
13. measures to control and monitor construction noise.
14. an undertaking that there must be no burning of materials on site at any time during construction.
15. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works.
16. details of the measures to be taken for the protection of trees.
17. details of external lighting equipment.
18. details of ditches to be piped during the construction phases.
19. a detailed method statement and programme for the building works; and
20. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Public Rights of Way

The Landscape Concept Masterplan shows the layout of the panels and how they will affect the Public Rights of Way (PROW) in the area. It also details proposed diversions and permissive paths to be implemented. Given the scale of the proposal, it is understood that PINS would

undertake any PROW diversions. This must be the case since this would have a significant impact upon the workload of the Council's ROW Officer.

It is shown that where a PROW crosses a field that it will be diverted to the edge of the field and fenced off. The proposed diversions appear to be sensible and achievable. It is not clear however whether the fences will also have hedges planted alongside, however in order to preserve the countryside feel it is recommended that hedges be planted along the diverted paths to help shield views and contribute to the rural user experience. This should be a condition of the diversion, if possible.

The incentives being offers to mitigate effects to footpaths, particularly the additional permission routes must be delivered. The alternative amenity value and user-experience that they provide cannot be underplayed. The user-experience to a high proportion of rural footpaths in this area will be drastically affected by this proposal so providing additional rural routes is essential. These additional permissive routes should also be made a condition.

It appears from the Masterplan that the proposed off-road cable routes will run across several PROW in addition to ones directly affected by the panels. If PROW are to be dug up to install cables, then temporary closures will be required. A PROW Management Plan should be produced that details timescale for work to each footpath, including timescales for diversions and provisions of permissive paths. Details of how users of PROW will be safeguarded during development will also be required, and if any additional temporary closures will be provided.

The proposal will have a significant and dramatic impact on the PROW user experience of a large proportion of Darlington's rural PROW which will be drastically altered. Mitigation measures and additional permissive paths must be provided in order to compensate for the loss of these rural footpaths in the Borough.

Conservation

The scoping report, and out assessment of the project proposal, indicates that the development has the potential to impact upon both designated and non-designated heritage assets and their settings, both within the boundary of the development area itself and in the wider area surrounding it. In line with the advice in the National Planning Policy Framework (NPPF) it is expected that the Environmental Statement contains a thorough assessment of the likely effects which the proposed development might have upon those elements which contribute to the significance of these assets.

Given the scale of the development and distance across which it spans, there will be likely visual impacts across a wide area and could, as a result, affect the significance of heritage assets not only in the immediate vicinity, but those at some distance from the development area itself.

The heritage assets and relative zone of interest with the potential to be impacted by the development, have already been established within the initial scoping report (as required by para. 194 of the NPPF).

It is anticipated that the future Development Consent Order (DCO) application will be supported by a robust heritage impact assessment and relevant chapter of the EIA which will consider fully the impacts on designated and non-designated heritage assets within the

application site and with the potential to be affected, including the wider setting of these assets.

It is important that the setting of heritage assets is fully understood and also the contribution the setting makes to the significance of the assets. In this respect an analysis of the views from within, out of, and across the areas affected will be vital.

It is important that the assessment is designed to ensure that all impacts are fully understood. Techniques such as photomontages and computer-generated views analysis imagery are a useful part of this. This would be particularly important as there needs to be an understanding of the impact on the setting of the Scheduled Monuments and listed buildings affected, as well as the character and appearance of the Bishopton Conservation Area.

With regard to designated heritage assets, there needs to be an understanding of what makes these assets 'special'. Significance can be harmed or lost through alteration or destruction of the heritage asset or through development within its setting, so it needs to be demonstrated how this proposal would impact on character and significance.

In respect of the designated heritage assets with the potential to be most sensitive to change and affected by the proposal. The pre-application proposals outline that the intention is to screen the panels from the scheduled monument at Bishopton and also to enhance the setting and understanding of this asset by the creation of new areas of open space and interpretation, and also consideration of key views. Such an approach is welcomed and encouraged in paragraph 206 of the NPPF. The detail of these specific works is yet to be developed and therefore the resulting impacts cannot yet fully be considered.

The pre-application proposals also set out that in developing the proposal the impacts on the setting of the Bishopton Conservation Area, its setting and listed buildings therein are being duly considered and mitigation of impacts is being considered.

The proposal is anticipated to be a 40-year project and at this stage the pre-application has been developed on a worst-case scenario basis with the exact height and position of the panels to be determined. Clearly the resulting development proposals and eventual design will have varied impacts on those assets that may be affected by the proposal.

The NPPF requires that when considering the impacts of the proposed development on the significance of heritage assets to be duly considered and great weight given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Therefore, once fully developed the resulting impacts should be duly considered in accordance with the requirements of the NPPF paragraph 199 to 203.

Archaeology

Durham County Archaeology Section advises Darlington Borough Council on archaeology matters and advises that they have been in separate discussion with the applicant's consultants for some time. As part of these discussions, matters have progressed along the lines set out in Appendix 8.5 of the Outline Archaeology Strategy – Written Scheme of Investigation. A

Geophysical Survey has now been completed, and a first phase of trial trenching is being agreed. As per the strategy, further trenching will be needed, but can be secured by condition.

Any condition would also need to be worded to allow for works after the trenching, if mitigation work is needed, so Phased Works conditions would be recommended. This would also cover the fact that the development will occur in phases, so areas could be investigated and dealt with as they are built out.

It may be necessary to also include conditions that secure a mitigation strategy for the area. In the case of solar farms it is possible to limit impacts by design (i.e. panels on blocks rather than piles, trenchless cabling runs etc) rather than needing excavation, and those elements would also need to be secured by condition. The wording of conditions would need to be discussed and agreed.

Environmental Health

I have reviewed the Preliminary Environmental Information Report (PEIR) prepared by ARUP on behalf of JBM Solar submitted as part of the statutory consultation on the proposed Byers Gill Solar Farm and co-located Battery Energy Storage Systems (BESS). The proposed development is to comprise of six solar photovoltaic panel areas and information has now been provided that the on-site substation will be within Panel Area C. The BESS will be inside containers alongside heating, ventilation and cooling systems. I understand that as this is a Nationally Significant Infrastructure Project (NSIP) the Development Consent Order will be determined by the Planning Inspectorate on behalf of the Secretary of State.

Chapter 11 Noise and Vibration

Wardell Armstrong have produced this section reporting on the preliminary assessment of any significant effects from noise and vibration as a result of the proposed solar farm development. Noise and vibration have been scoped into the EIA.

Construction and Decommissioning

The construction programme is anticipated to last approx. 12 months and the solar farm is expected to be operational for 40 years. This chapter states that best practicable measures will be employed during the construction phase to ensure construction noise is kept to a minimum. It is acknowledged that there is the potential for noise and vibration due to construction traffic and HGV trips to and from the proposed development site. These vehicle trips will be temporary and unlikely to include large scale material removal or delivery. The change in traffic levels during construction works is predicted to be less than 10% change on current traffic levels, it is very unlikely that these would be sufficient to constitute a significant effect due to the temporary nature, and the relatively low volume of movements.

It is currently proposed to include one construction compound in each solar panel area away from noise sensitive receptors which will reduce any impact from construction activities when compared to all construction activities being based from a single main compound.

A draft environmental monitoring plan is included within Chapter 2 Appendix 2.4 reference is made to the implementation of measures to control noise as stated in BS5228:2009 'Code of Practice for noise and vibration control on construction on open sites' to achieve best

practicable means. A Construction Environmental Management Plan is to be produced by the appointed construction contractor and submitted with the application. I would expect this to provide more detailed information on these measures, mitigation, predicted noise levels and comparison with ABC threshold values/ 5db (A) change methods in BS5228, programming of construction works, responsibilities, contact information and information on any monitoring.

Chapter 2 states the intended working hours during the construction phase are 08:00 – 20:00 Monday – Sunday this is not referred to by Wardell Armstrong in Chapter 11. These hours are outside the hours normally permitted for major developments by DBC LPA which are usually restricted to no construction activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00-18.00 Monday to Friday, 08.00-14.00 Saturday with no activities on Sunday or Bank/Public Holidays. I would advise that any construction/decommissioning works are carried out only during the above time periods but if this is not to be the case the aim should be for the noise to be inaudible at noise sensitive receptors or if this is not possible below a fixed noise level. In scheduling construction works outside the normal permitted hours, the predicted noise levels and ABC threshold/5 dB(A) change method should also be considered. There is an ABC threshold category for evening and weekend construction work, however, it should be noted that this method assesses significant effect at dwellings and the 55db L_{AeqT} threshold is higher than the background noise level at some noise monitoring locations.

Operational Noise

Section 11.4.2 outlines the noise assessment which is to include baseline noise assessments, noise modelling, assessing the initial impacts, review of requirement for potential noise mitigation followed by a reassessment of impact and magnitude. The proposed noise survey locations were agreed between DBC Environmental Health and the consultants following e-mail correspondence in April 2023. The aim should be to achieve the lowest rating level relative to the measured L_{A90} background level and I would advise that in the BS4142 noise assessment after mitigation the predicted rating level should not exceed the L_{A90} background level. This should be achievable with the selection of equipment with low sound power levels and mitigation to reduce adverse impacts. The noise assessment should follow the guidance in BS4142 and also reflect a worse case scenario when batteries, cooling fans, invert transformers etc. are operating at maximum load and the report should include discussions on the selection of the L_{A90} background level to be used for each noise sensitive receptor.

Supporting infrastructure and any other sources of noise associated with the operational phase of the proposed development are to be located as far as reasonably possible from existing noise sensitive receptors, within the design, to minimise potential noise levels at the receptors. The inverters will also be housed within containers which will further reduce the noise levels at source. Any supporting infrastructure with the potential to generate noise (such as BESS) are to be placed at least 300m from residential properties where possible and a BS4142 assessment will be carried out at locations representative of within 300m of noise emitting infrastructure. I can agree to an initial screening buffer of 300 metres for the purpose of the noise impact assessment.

Chapter 2 Land Quality

A Phase 1 Environmental and Geotechnical Desk Study, with site walkover, has been carried out by Wardell Armstrong for the proposed development site. The site has historically been occupied by predominantly agricultural land, with the development of the electrical sub-station circa 1938 noted to the east of the site. The Desk Study has been produced in accordance with the Environment Agency LCRM guidance and includes a preliminary conceptual model that concludes for the potential pollutant linkages the human health risks identified prior to any mitigation are moderate to low for construction workers and low risk for future site users. I can agree to the recommendation by Wardell Armstrong that the preliminary ground investigation work which is to be undertaken is considered further at the detailed design phase.

Chapter 2 Solar Photovoltaic Glint and Glare

Appendix 2.2 includes a Solar Photovoltaic Glint and Glare Study by Pagerpower which considers the potential impact on surrounding road safety, residential amenity, railway operations and infrastructure and aviation activity associated with Teesside International Airport. The report concludes in terms of residential amenity, no significant impacts are predicted at all but four dwelling locations, because where solar reflections (glare and glint) are geometrically possible, there is significant screening, incidence with sunlight, and/or significant clearance distance. Mitigation is recommended for dwelling locations 82, 120, 122, and 201 where the predicted impact classification is moderate. Section 6 of the report shows the location of the screening, but I cannot see within this chapter further information on the type of screening. The assessment has considered receptors within 1km of the solar module areas, and which have a potential view of the panels, resulting in a total of 310 dwellings having been identified for assessment.

The methodology followed in the assessment considers direct solar reflections towards the identified receptors by undertaking geometric calculations and intensity calculations where required to determine whether a reflection can occur.

My initial thoughts relate to the user height of 1.8 metres in the assessment and whether a height reflective of upper floor dwelling windows should also be modelled especially with the increased use of home offices. Later in the report reference is made to visibility from all storeys being considered.

The key considerations adopted by Pagerpower for residential dwellings are whether a reflection is predicted to be experienced in practice and the duration of the predicted effects, relative to the thresholds of 3 months per year and/or 60 minutes on any given day. If one of the thresholds is met expert assessment involving consideration of several factors is undertaken such as extent of the visibility, separation distance, windows facing the reflective area and position with regard to direct sunlight. Where solar reflections are experienced for less than three months per year and less than 60 minutes on any given day, or the closest reflecting panel is over 1km from the dwelling, the impact significance is low, and mitigation is not recommended. I would like to see further explanation for the selection of less than 60 minutes on any given day I have seen assessments that have used a shorter time period or provided information on the number of minutes per day the property will be impacted.

Table 3 of the report predicts the impact classification, whilst no solar reflections are predicted to be greater than 60 minutes, for several receptors the impact will be for more than 3 months

of the year. For many receptors, the classification is no impact but there are a number of receptors for which the impact is classed as low and not seen as significant. I can see residents challenging that there is no mitigation recommended with there being some element of uncertainty in terms of visibility. For example, receptor 91 & 94 -117 Table 3 reports some view of reflecting panels may be possible and in the case of receptor 91 solar panels are only 0.15 km away. I would recommend that further information is provided on how uncertainty is dealt with in the assessment.

Officers within Environmental Health do not have much experience of assessing glare and glint in terms of impact on residential amenity. There is little guidance and no British Standard regarding assessing residential amenity in such assessments. Pagerpower are however seen as one of the leading consultants with a great deal of experience and have developed guidance which was referred to in the Cleve Hill Solar Park which was also a NSIP.

Ecology

The PEIR presents preliminary information based on the current design of the proposed development and baseline data gathered at the time of writing. Some of the information gathered will be supplemented and provided in full within the ES, together with more specific mitigation and compensation measures. Compensation proposals should aim to increase ecological connectivity, bolster existing habitats and deliver net gains for biodiversity.

Figure 6.2 and Chapter 6 of the PEIR refer to the nationally and locally designated wildlife sites in the area. This currently does not illustrate a number of the Local Wildlife Sites identified in the Darlington Local Plan (2016 – 2036) by Policy ENV7 and illustrated on the Local Plan proposals map. Some of these are close to the 1km buffer so require verification to confirm if they fall outside of it, or not. Even if they do fall outside of the buffer it would still be helpful for these to be illustrated on Figure 602 as some of the other designations currently are.

Landscape and Visual Impact

This is considered in Chapter 7 of the PEIR. The Landscape and Visual Assessment (LVA) needs to include cumulative effects of committed and proposed solar farm in the study area, together with impacts post mitigation, which it doesn't currently do.

Study Area

Having considered the assessment provided and visited the identified viewpoints and other locations, it is maintained that a 5km study area remains appropriate as per the recommendation of the Planning Inspectorate in their Scoping Opinion. It is particularly important that the Study Area remains at 5km beyond this stage as currently the viewpoint analysis has not considered the impact from some important visual receptors identified in the ZTV studies. The LVA is also yet to fully consider the cumulative effects of the proposal along with the proposed and committed solar farms in the area including Gately Moor (22/00727/FUL), Long Pasture (22/01196/FUL) and Burtree Lane (22/00213/FUL). It seems premature therefore to scope out the numerous receptors and viewpoints where the proposal will be visible which are located within the 5km study area but beyond the 2km study area when the cumulative effect of the proposal alongside these others is yet to be assessed and understood. This may then conclude that cumulatively the impact would be significant.

Viewpoints

Having reviewed the viewpoints identified and analysis provided, given likely visibility and visual impact additional viewpoints are required at the following receptors which are not adequately considered by the existing viewpoints:

- Bridleway near High Beaumont Hill Farm
- Bridleway from Mill Lane, east of Bishopton and Downland Farm
- Redmarshall Road between Outhouse and The Garth
- Public footpath between bungalows and Sadberge Village Hall
- Norton Crescent, Sadberge
- Whinney Hill on the land to Bishopton between Whinney Hill and Delholme Farm
- Hill House Farm (Dogs Trust), Sadberge on crest of hill on road

In addition the following viewpoints should be reconsidered:

- Viewpoint 16 should be further south east on footpath closer to Viewley Hill Farm
- Viewpoint 18 could be further south past 40mph signs
- Viewpoint 11 slightly further south nearer to Fir Tree Farm at brow of hill

Overall Findings

As paragraph 7.13.6 of the LVA summarises there are locations where the proposal will have significant effects and where mitigation will be unlikely to avoid these effects remaining significant. This particularly includes panel areas C and D near to Great Stainton, where it should also be noted that the Darlington Landscape Character Assessment identifies the prominent nature of the various broadleaf woodlands in this area which will be significantly impacted. It also includes panel areas E and F near to Bishopton. We would suggest that the panel areas resulting in significant effects are reconsidered by the applicant and either re-configured to ensure the impact is no longer significant or removed entirely from the proposal where this is not possible.

We note the further works suggested in paragraph 7.13.8 and would welcome the opportunity to be consulted further in this and to comment further once this has been undertaken.

LLFA

The proposed development is located within flood zones 2/3 however it is acknowledged that the development will not increase flood risk. There are no flood risk objections to the development at this stage from Darlington LLFA.

Climate Change

The decommissioning plan should seek to limit ground/soil disturbance thereby minimising loss of CO₂ stored in the grounds, particularly seeking to reduce any leakage through their own operations.

Other Comments

Chapter 9 – Land Use & Socio Economics

Table 9.5 sets out the Community Facilities and Services which have been sensitivity tested for impact by the proposal. This would appear to miss some facilities which need to be included within the assessments including Bishopton Village Hall, St Peters Church, Bishopton and Skerningham Community Woodland.

Pubs also perform a vital community and leisure service to these rural villages and communities and meet the definition of community facilities in the NPPF and should also be included in the assessment. This would include those at Bishopton, Great Stainton and Coatham Mundeville in the Darlington Borough part of the study area.

In relation to development land paragraph 9.8.12 states that there are no formal development allocations in the study area. This is incorrect Site 251 – Skerningham and Site 008 – Berrymead Farm both fall within the study area. This needs to be updated and sensitivity testing undertaken.

The assessment has considered Public Rights of Way but has failed to consider existing and proposed green corridors identified in Policies ENV3 and ENV4 of the Darlington Local Plan which are identified for their unique character, length, continuity, biodiversity, amenity and heritage value. It has also not considered another local designation the Salters Lane historic route identified in Policy ENV3 of the Darlington Local Plan.

Should you have any queries regarding any of the above please contact me in the first instance and the query will be directed to the appropriate officer.

Yours sincerely



Lisa Hutchinson
Development Manager