

**Environmental
Outcomes Report:**

**A New Approach
Environmental
Assessment**

About us

Since 1978, Solar Energy UK has worked to promote the benefits of solar energy and to make its adoption easy and profitable for domestic and commercial users. A not-for-profit association, we are funded entirely by our membership, which includes installers, manufacturers, distributors, large-scale developers, investors, and law firms.

Our mission is to empower the UK solar transformation. We are catalysing our members to pave the way for 70GW of solar energy capacity by 2035. We represent solar heat, solar power and energy storage, with a proven track record of securing breakthroughs for all three.

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- Submission date: 9th June 2023

Introduction

Solar Energy UK welcomes the opportunity to respond to the DLUHC's consultation on the introduction of an Environmental Outcomes Report to replace current environmental assessment regimes.

We welcome the intention to streamline planning whilst adding clarity to the environmental assessment of developments for the benefit of communities and the betterment of the environment.

As the trade association representing solar and storage technologies in the UK, we are committed to ensuring that solar plays a central role in the clean energy transition. If we are to tackle these challenges, it is essential that we take a holistic approach, capitalising on the synergies presented by innovative and integrated approaches to energy generation and ecological enhancement.

We have responded to the questions below. Thank you for taking our comments into consideration.

Questions:

Q.1. Do you support the principles that will guide the development of outcomes? [Yes / No].

In principle we welcome the intent for outcomes to bring greater clarity to the environmental assessment process. The principle of most importance under 4.7 of the consultation is to "not duplicate matter more effectively addressed through policy." Reducing duplication should streamline the approach to environmental assessment and encourage the overall uptake of Environmental Outcomes Reports (EOR).

We support the involvement of sector groups and environmental experts in their conception. Solar Energy UK stands ready to work with Government in the development of said outcomes.

Q.2. Do you support the principles that indicators will have to meet? [Yes / No].

We somewhat agree, however, this is dependent on further consultation on outcomes and establishment and testing of relevant indicators. We note the indicators will measure the expected change resulting from the plan or project against the baseline conditions and in light of any wider trend data. In this respect, we believe there is plenty of data available to provide a baseline, but this data is not entirely coherent and consistent.

Therefore, we would recommend turning data into a consistent and usable baseline data set ahead of consulting and testing the indicators. We suggest a review of the data sets available accompanied by gap analysis as a starting point to improve the accessibility of the data.

The set of indicators listed should be appropriate to encourage clear measurable outcomes. Whilst we appreciate that not all indicators can be measured quantitatively, we would recommend that the use of qualitative assessment is kept to a minimum as these can be subjective.

We welcome the proposal that indicators are “owned and managed” and await further detail on who and how that would work in practice, combined with the assurance that management will be adequately resourced.

Q.3. Are there any other criteria we should consider?

Renewable energy developments reduce carbon emissions, contributing towards national net zero ambitions and support biodiversity, through minimising the impact of climate change. These wider benefits should be captured within the indicators. We support the principle that proportionality is included as an indicator so that the overall wider benefits of development have an impact on the scale of the assessment.

Secondly, indicators must be set to accommodate monitoring on a regular basis, therefore it would be prudent to have the ease of monitoring as a guiding principle of any indicator.

Indicators should, where possible, not only draw on existing data but follow an existing or standardised methodology to further support the building of a reliable standardised data set. Last year, Solar Energy UK in collaboration with Clarkson & Woods, Lancaster University and Wychwood Biodiversity developed a standardised approach to monitoring ecology on solar farms. This promotes the same standard of information to be collected across all solar sites and for data (where agreed) to be amalgamated to create a credible, representative view of the ecological trends on solar farms. ¹

In respect to Annex A and the example of the outcome, while we appreciate Annex A is included for illustrative purposes only, we would like to highlight the following for consideration during the drafting of the follow-up consultation on the outcomes themselves:

- Using qualitative outcomes inevitably produces ambiguity when trying to prove the contribution a development is making towards achieving such outcome.

¹ <https://solarenergyuk.org/resource/solar-habitat-a-look-into-ecological-trends-on-solar-farms-in-the-uk/>

- This may make it harder for developers to explain how the project meets the intended outcome and result in longer documentation, which is contrary to the aims of the EORs to streamline documentation.
- We believe the outcome could remain high level but they should be underpinned by quantitative indicators, or at the least, a mix of qualitative and quantitative indicators. For example, the use of quantitative ranges could enable developers to detail in the environmental statements the contribution the project provides more precisely to demonstrate meeting the intended outcome. 6
- Clear and specific guidance will need to be provided to decision-makers to prevent inconsistencies across the UK.
- We have concerns with regard to the omission of outcomes relating to socio-economic impacts, transport, climate change (including carbon emissions), flood risk and coastal impacts. While we welcome the EOR objective to reduce duplication in the documentation that supports planning applications, there is value in bringing together assessments across disciplines to identify interdependencies, and inform appraisals of alternatives and design development. If new procedures for environmental impacts are to be introduced via the transition to EORs then something similar is required for socio-economic impacts.

Q.4. Would you welcome proportionate reporting against all outcomes as the default position? [Yes/ No].

Yes, proportionate reporting should be the default position.

- We also agree that the current approach of preparing a scoping report which covers all environmental topics that are scoped into assessment can create an unnecessary step and include topics in assessment that are driven by fear of legal challenge. Therefore, a default position, or fundamental principle, of proportionate reporting against all outcomes would save time and resource in developing and submitting a scoping report.

Q.5. Would proportionate reporting be effective in reducing bureaucratic process, or could this simply result in more documentation?

We believe that proportionate reporting should be effective in reducing bureaucratic process, however, to achieve proportionate reporting in practice, this will require:

- A change in approach and improved resourcing for local authorities, regulators and statutory consultees to reach agreement with developers through statements of common ground on key issues, acceptance of areas of uncertainty, and environmental management (including where other regulatory regimes are already in place to avoid or manage environmental impacts). This could reduce the fear of legal challenges and prevent documentation from being produced that is beyond what is actually required.
- Local authorities, regulators and statutory consultees should be provided with adequate training and clear guidance to improve their confidence to assess the information provided and inform a more robust scoping process that focuses resources on the most relevant issues for the plan or development.
- Improved resourcing for local authorities, regulators and statutory consultees would help to improve staff retention. High staff turnover often leads to new, less experienced, staff members asking new questions and creating additional delays.

Q.6. Given the issues set out above, and our desire to consider issues where they are most effectively addressed, how can government ensure that EORs support our efforts to adapt to the effects of climate change across all regimes?

We would welcome more clarity in the next consultation as to how the climate change mitigation and adaptation outcomes will be incorporated. Given the government's Net Zero ambitions, we ask for the inclusion of an outcome relating to a project's ability to contribute to Net Zero (e.g., towards the displacement of emissions from fossil fuels).

Paragraph 4.28 recognises how the current practice of carbon assessment of projects within the EIA struggles to reflect the importance of the issue. While the Government's legislated target to achieve net zero by 2050 will be taken into account when determining projects, we agree the contribution that individual projects provide to net zero is difficult to measure. Therefore, we believe DLUHC should include the principle of a carbon assessment at an appropriate level recognising the complexities of measurement at both project and local plan levels.

Q.7. Do you consider there is value in clarifying requirements regarding the consideration of reasonable alternatives?

We support the intent of alternatives, to do the best for the environment at the point of least cost. We welcome the further guidance that is proposed with a focus on realistic alternatives and credible options, consistent with the primary objective of the project. In practice, the consideration of reasonable alternatives should become a form of checklist exercise whereby the alternatives are checked against criteria by the developers during the pre-application discussions. This would also improve simplicity and efficiency for the decision-makers.

We also provide the following suggestions:

- That alternatives take account of environmental, social and economic effects and include technical and commercial feasibility.
- The appraisal of alternatives to new electricity infrastructure, such as that included in the National Policy Statements, should inform and not be duplicated in EORs.
- Guidance should reflect the policy positions in the National Policy Statements, including the applications for development on one site should not be refused because fewer impacts would result from similar infrastructure on another suitable site as all suitable sites for energy infrastructure may be needed to achieve net zero.
- It should be accepted that 'alternatives' can often refer to alternative designs/layouts, which were evaluated in the design of a particular development, rather than an alternative location/site for an equivalent project. It is common for infrastructure developments to be in locations that can synergise with existing facilities, whereas the evaluation of alternative locations may not offer such synergies.
- Any guidance on alternatives should not duplicate or be inconsistent with the approach to alternatives required for compulsory acquisition and Habitat Regulations Assessment.

We welcome the introduction of the mitigation hierarchy in 7.3, this should be considered hand in hand with reasonable alternatives such that all decision-making with regard to reasonable alternatives will be documented with reference to the assumed package of mitigation which would be associated.

Q.8. How can the government ensure that the consideration of alternatives is built into the early design stages of the development and design process?

As per our response to question 7, we ask for greater clarification as to what is deemed a reasonable alternative. Further information would be welcomed as to how decision making on alternatives would be integrated within the mitigation hierarchy so that alternatives are considered in tandem with their implied required mitigation.

We note the intention that the consideration of alternatives would be reviewed and updated prior to the EOR submission. Further guidance on this is required to ensure that the consideration of alternatives does not unreasonably delay the submission of applications for consent and developers are more able to address the consideration of alternatives early in the development stages. The use of statements of common ground could be a tool used to demonstrate where alternatives have been considered and an agreement has been reached with stakeholders, and where there is any outstanding disagreement on alternatives to inform the decision maker.

It should be recognised that different development types are likely to take different approaches to identifying alternatives depending on the characteristics of the development and the options that are available to the developers. Therefore, an element of flexibility needs to remain on how an applicant sets out alternatives. A new road or railway, a waste management facility, a housing or industrial estate, or an energy development, will each have very different site selection criteria and site/design options available to them.

Q.9. Do you support the principle of strengthening the screening process to minimise ambiguity?

Yes, we support the principle of strengthening the screening process. Greater clarity as to when the EOR will be required would be welcomed and will lead to greater predictability and reduce delays for developers and decision-makers.

Whilst we agree that there is a need to strengthen the screening process, we are acutely aware of the additional pressures that this is likely to put on local authorities. In order to avoid planning applications being delayed, we ask that greater resources are given to local authorities to deal with said process in a timely manner.

Q.10. Do you consider that proximity or impact pathway to a sensitive area or a protected species could be a better starting point for determining whether a plan or project might require an environmental assessment under Category 2 than simple size thresholds? [Yes/No].

Whilst proximity or impact pathways to sensitive or protected habitats/species should remain a part of the decision-making process when determining whether or not an EOR is required, it should not be used as the starting point. Doing so could prejudice the need for assessment under the Habitats Regulations and the application of strict distance-based limits also will not be appropriate for all receptors.

Q.11. If yes, how could this work in practice? What sort of initial information would be required?

We would recommend that existing technical guidance relevant to each environmental discipline is used to determine the likelihood of significant environmental effects. Primarily desk-based information should be used to inform the screening request.

Q.12. How can we address issues of ineffective mitigation?

We agree that the 'mitigation hierarchy' provides a useful framework for assessing the natural capital potential of a site and welcome the suggestion that it should be referenced in decision-making from the earliest possible stage.

As recognised in paragraph 7.1, we would like to emphasise that the environment is a complex system which we do not fully understand and it can be unpredictable. Therefore, despite a developer's best efforts for mitigation, some results achieved in practice may not be as intended leading to some circumstances where mitigation may need to be reviewed during implementation. To support this approach we suggest that:

- Guidance on what would constitute effective mitigation would be useful.
 - All competent authorities are adequately resourced to review and monitor mitigations secured under planning obligations.
 - There is a defined process with clear timelines and guidance for assessing and managing effective mitigation. The process for monitoring and maintaining effective mitigation for the decommissioning of the UK's nuclear power stations could be considered as good practice that could inform the guidance or a calculation of harm against gains, or a before and after exercise along the lines of that used by the Natural England Biodiversity Metric.
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- Enhanced monitoring and data collection should be used to inform good practice guidance on effective mitigation measures.

Q.13. Is an adaptive approach a good way of dealing with uncertainty? [Yes/No].

Yes, we somewhat agree, except where it would lead to overburdensome remedial requirements or undermine the initial assessment.

In most instances, environmental assessment can predict impacts and identify mitigation and management practices that are effective. Mainstream monitoring will allow Government and developers to build a knowledge base that can inform the deployment of effective mitigation measures. However, as the consultation document recognises in paragraph 7.1, the environment is a complex system and we do not always have full knowledge about how it works. In some circumstances where there is residual uncertainty, an adaptive management approach may be appropriate.

However, an adaptive approach would not provide certainty at the start of the design phase, which would be preferred. Adding an unknown and variable cost to a project beyond final investment decision could be significantly damaging in terms of the long-term feasibility of the project if it is unable to cover the additional costs and this should be recognised. Therefore, in the circumstances that an adaptive approach is used, the approach should remain under review by both the developer and competent authorities.

The priority must be certainty and an effective and robust initial assessment of the required mitigation to avoid the effect of developers feeling they must provide excessive additional assessment to prevent future costs in much the same way that the threat of legal challenge has had in the existing regime.

Q.14. Could it work in practice? What would be the challenges in implementation?

As discussed in our response to question 13, an adaptive approach should prioritise strong initial assessment of the required mitigation as well as clearly defined timeframes and liabilities for future remedial action.

With respect to projects that do not own the land, developers would not have the legal rights to implement a management or mitigation measure that has been determined a better course of action at a later date beyond the leasing stage. If a landowner were to refuse the adaptive measure, it will be unable to be implemented.

Q.15. Would you support a more formal and robust approach to monitoring? [Yes/No].

Yes, we would welcome a more robust approach to monitoring provided it can be well-resourced in order to be maintained and reviewed to ensure consistency. We support the National Infrastructure Commission's (NIC) recommendation within their latest study on the infrastructure planning system:

"By the end of 2024 the Department for Environment, Food and Rural Affairs should introduce a data sharing platform for environmental data with clear data standards, sharing relevant developer and local nature recovery strategy data. By the end of 2025, statutory consultees should develop a library of historic and natural environmental mitigations for different kinds of infrastructure. Statutory consultees should also receive and use new resources to gather baseline data and agree to strategic mitigations for urgent infrastructure, firstly for wind generation and electricity transmission, and then water resources, by the end of 2025".

SEUK members strive to be responsible stewards of the countryside and follow the mitigation hierarchy to implement effective mitigation where it is needed.

Last year, Solar Energy UK in collaboration with Clarkson & Woods, Lancaster University and Wychwood Biodiversity developed a standardised approach to monitoring ecology on solar farms.³ This promotes the same standard of information to be collected across all solar sites and for data (where agreed) to be amalgamated to create a credible, representative view of the ecological trends on solar farms. This data will be pulled into an annual report, released each spring.

This year, we have received data from almost 40 solar farms across the UK. We are asking all our members to adopt the standardised methodology when undertaking ecological monitoring on sites for this year and the years to come.

Q.16. How can the government use monitoring to incentivise better assessment practice?

Government should facilitate the creation of a data-sharing platform because this can then be utilised by developers to inform future project assessments and project justifications. We would welcome the publication of best practices for developers to follow as this could inherently improve assessment practice. Statutory consultees could also utilise the outputs of the monitoring to inform up-to-date guidance and advice for developers on their assessments in a timely manner.

Q.17. How can the government best ensure the ongoing costs of monitoring are met?

One of the most important aspects of the cost of monitoring is to make sure that the scope is correct. If the new regime results in extensive additional costs then it will not be effective. Monitoring needs to be tailored to what is most important. Therefore, monitoring should be proportionate to the largest uncertainties or the largest contributions to outcomes identified in the EOR. This is necessary to maximise the cost-effectiveness of monitoring.

There could be a number of options to pay for the monitoring, including a requirement for a bond or similar application, which is only released on completion of monitoring. However, this is likely to rely on a 'responsible body' or another organisation auditing the monitoring, which will require additional resources on the part of that organisation. We welcome the opportunity to discuss this further.

We are aware that one of the contributing issues to poor performance in the planning system is the lack of ringfencing for planning fee income that is received by the Local Authority. As a result, the income generated from planning application fees is being used to subsidise shortfalls in other departments. To ensure the costs of monitoring can be met, planning fees that are paid to Local Authorities should be ringfenced for the planning department and used to train and upskill staff to reduce any perceived financial barriers. We expand on this further in our response to question 25.

Q.18. How should the government address issues such as post-decision costs and liabilities?

No Comment.

Q.19. Do you support the principle of environmental data being made publicly available for future use?

We agree, more data would be beneficial to developers and decision-makers by deepening our understanding of the environment and the potential impact of developments. However, data should only be shared when no longer commercially sensitive. There may also be environmental and security reasons to keep some data secure or reduce the locational accuracy. Examples could include nesting sites for protected species, or boreholes that could allow pollutants to be introduced close to abstraction boreholes.

Q.20. What are the current barriers to sharing data more easily?

No comment.

Q.21. What data would you prioritise for the creation of standards to support environmental assessment?

The standardisation of data and how it is presented would be welcomed to facilitate data sharing and more robust monitoring and assessment. We also accept that some data can be very site specific due to various localised characteristics and flexibility should be given.

Monitoring/data that is most needed to support effective assessment/outcomes could be:

- More evidence to support cumulative assessment in areas where there is significant development.
- Monitoring of novel infrastructure technology.
- Monitoring where environmental impacts are uncertain or unpredictable e.g., impacts on bird populations.

Q.22. Would you support reporting on the performance of a plan or project against the achievement of outcomes? [Yes/ No].

We would welcome further clarity on the detail of reporting to ensure it is manageable for developers and planning authorities. We would also welcome further clarity on whether this responsibility for reporting would lie with the decision-makers or the developer.

the reporting responsibility lies with the decision-makers, then this may further stretch already limited resources available to all decision-makers, which could negatively impact other activities. Alternatively, if the reporting responsibility lies with the developers, then more information is required to understand how an individual project can contribute to many national outcomes and how it would be judged whether the project has contributed sufficiently to all outcomes.

Q.23. What are the opportunities and challenges in reporting on the achievement of outcomes?

We welcome further consultation on the outcomes to be used in the EOR assessment and their related indicators and how these will work in practice to be able to give a detailed response to this question.

Some suggestions that will need to be defined to support reporting on the achievement of outcomes:

- Guidance for how to measure an individual project's contribution to national outcomes and targets.
- Definition of what will determine the contribution to the outcomes and targets as sufficient or inadequate.
- Proportionality must be embedded within the reporting.

Q.24. Once regulations are laid, what length of transition do you consider is appropriate for your regime?

i) 6 months

ii) 1 year

iii) 2 years

Please state regime.

2 years.

We would also recommend that any projects beyond the scoping stage by the end of the 2 year period are not required to submit an EOR. In addition, a grace period should be added to avoid cliff edges in the policy transition which could penalise applicants and delay projects.

Given the government's commitment to Net Zero and more widely to technology-specific renewable energy capacity targets, including those for the solar industry, the transition should be made as smooth as possible to prevent further delays to the deployment of projects which significantly contribute to the government's net zero ambitions.

Q.25. What new skills or additional support would be required to support the implementation of Environmental Outcomes Reports?

Local Planning Authorities in the UK are extremely stretched, with limited capacity, expertise, resources, and finances. Though the proposed EOR regime will go some way to reducing the burden in relation to environmental assessment we – and the wider energy industry – see this as a significant issue.

To deliver the capacity that is needed to reach net zero by 2050, we recommend that further funding be provided to planning departments to bring on additional staff to support the delivery of a strong planning system. Local Authorities should ringfence income from planning fees as a mechanism to resource, retain and upskill the current workforce within planning departments.

Our members have reported that there is a particular need for Local Planning Authorities (LPAs) to improve resourcing with regards to renewable energy expertise. It could be that there is a focus at improving expertise at a district level and or specialist resources being pooled at county level.

In addition, there is a specific shortfall in expertise within ecology and biodiversity, landscape, and archaeology. This is particularly concerning given the impending requirement for all new developments to deliver 10% Biodiversity Net Gain (BNG) from 2023.

Given the current skills gap, it is likely that this will cause additional pressure on LPAs who will need to outsource expertise from consultancies. We strongly recommend that DLUHC look into additional financing mechanisms to ensure LPAs have the resources to deal with said changes in a timely manner.

More broadly, we ask that members of local authority planning committees are sufficiently educated on the specifics of planning applications e.g., confidence in their understanding of solar technology, of material planning issues, what the consequences could be if they overturn positive planning officer recommendations, and information on the appeal process.

These same points regarding underfunding and under resources also apply to government agencies and statutory consultees such as Natural England and the Environment Agency.

Q.26. The government would be grateful for your comments on any impacts of the proposals in this document and how they might impact on eliminating discrimination, advancing equality, and fostering good relations.

No comment.
