Submission ID: S67A5C858

SUMMARY OF WRITTEN REPRESENTATION
East Park Energy Solar Farm — Application Reference: EN010141
Submitted by: Mrs M. T. Benford, Great Staughton
This Written Representation raises three specific areas where, it is submitted, the application does not yet demonstrate compliance with National Policy Statements EN-1 and EN-3. These are matters of definition, assessment and secured deliverability — not general planning balance.
1. The Bidirectional Grid Connection — A Materially Undefined Development
The draft DCO authorises a 400kV transmission connection capable of bidirectional operation without defining the operational envelope. If grid import to charge the BESS is possible without limit or constraint, this represents a materially broader scheme than a solar-led export project. The Environmental Statement does not assess the extent of grid-imported electricity, its carbon implications, or the operational hierarchy between solar-derived and grid-imported electricity. Without this definition, the Examining Authority cannot be satisfied that the Environmental Statement assesses the development actually authorised.
Three specific requests are made: that the operational envelope be defined on the face of the DCO; that a revised carbon assessment incorporating scope three emissions from grid-imported electricity be required; and that a specific finding be made on whether this absence constitutes a material DCO deficiency.
2. Decommissioning Funding — Absence of Secured and Evidenced Provision
The Examining Authority himself opened this question at the DCO hearing of 18 March 2026. The examination record confirms that the cost of decommissioning has not been calculated, no secured funding mechanism exists, and reliance has been placed on non-binding assumptions regarding landowner behaviour. Requirement 18 defers the plan, the standard and the funding mechanism to a future stage, contrary to EN-1 paragraphs 5.14.4 and 5.14.5 and EN-3 paragraph 2.10.44.
Given that the DCO permits assignment to third parties, and that schemes of this type are frequently sold, refinanced or restructured, obligations may ultimately fall on an entity with no involvement in this examination and no demonstrated financial capacity. A fully funded, index-linked restoration bond held in independent escrow — drawable not only at end of life but upon mid-life commercial failure, insolvency or abandonment — is the only adequate protection for a permanently lost nationally significant land resource. Four specific requests are made covering the Helios DCO precedent, the escrow bond requirement, the adequacy of the funding statement under Regulation 5(2)(h) of the Infrastructure Planning Regulations 2009, and the evidential consequences of any refusal to provide such a bond.
3. Financial Viability, BESS Function and Land-Use Proportionality
Battery storage operating through grid import and export does not itself generate renewable electricity. Where the BESS may operate independently of on-site solar generation for extended periods, the examination must distinguish between the contribution of solar generation and the function performed by the BESS. Grid-balancing and trading functions are not inherently land-dependent and could be located on brownfield or industrial land. The use of Best and Most Versatile agricultural land to support such functions raises a proportionality question that the Environmental Statement does not address.
It was submitted on the examination record that this scheme would contribute approximately 0.13 to 0.14% of national electricity demand on a highly intermittent basis. The examination must assess whether the permanent loss of Best and Most Versatile agricultural land is justified by the nature and scale of the energy contribution actually delivered. Three specific requests are made covering EN-3 paragraph 2.6.1 compliance, demonstration of proportionate energy contribution against realistic capacity factors, and a specific finding on whether the development satisfies the national need and land-use tests in EN-1 and EN-3.
Conclusion
Each of the ten specific requests made in the full Written Representation requires a response in the recommendation report. Failure to address any of them would constitute a failure to have regard to material considerations and would be susceptible to challenge by way of judicial review.

WRITTEN REPRESENTATION East Park Energy Solar Farm — Application Reference: EN010141

Subject: Financial Viability, Decommissioning Security, Bidirectional Operation and Land-Use Proportionality — Specific NPS Compliance Issues

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Introduction

I write as a registered Interested Party to submit a written representation following the open floor hearings of 17 March 2026 and the issue-specific hearing on the draft Development Consent Order of 18 March 2026 where I attended in person or remotely. This submission supplements my original submission.

This representation focuses on three specific areas where, it is submitted, the application does not yet demonstrate compliance with the National Policy Statements EN-1 and EN-3, and where the Examining Authority must make specific findings in its recommendation report:

- The undefined operational envelope of the bidirectional grid connection and the role of the BESS
- The absence of secured and evidenced decommissioning funding
- The relationship between land use — specifically Best and Most Versatile agricultural land — and the nature of the energy service delivered

These are not matters of general planning balance. They are matters of definition, assessment and secured deliverability.

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1. The Bidirectional Grid Connection — A Materially Undefined Development

During the DCO hearing of 18 March 2026, it was identified on the examination record that the draft DCO authorises a 400kV transmission connection capable of bidirectional operation, without defining the operational envelope. If import from the transmission network to charge the battery is possible without limit or constraint, this would represent a materially broader scheme than a solar-led export project. This is not a minor drafting issue. It goes to the description of the development for which consent is sought.

Policy Context

- EN-1 paragraph 4.1.2 requires that the energy system remains secure, reliable and capable of meeting demand
- EN-3 paragraph 2.10.1 requires careful assessment of the role of large-scale solar in the electricity system
- EN-3 paragraph 2.6.1 requires that the development is the most appropriate way of achieving its stated objectives

Material Distinction

A BESS operating as a grid-balancing or trading asset — importing electricity when prices are low and exporting when prices are higher — is materially different from a battery storing on-site solar generation. The distinction is not merely technical.

Battery storage is not inherently land-dependent in the way that solar generation or agriculture is. A BESS operating as a grid-balancing or trading asset could, in principle, be located on brownfield or industrial land or co-located with existing grid infrastructure. The use of Best and Most Versatile agricultural land to support such an operation therefore raises a question of proportionality in land use that has not been assessed.

Assessment Gap

The Environmental Statement does not assess:

- the extent of grid-imported electricity used to charge the BESS
- the carbon implications of storing and re-exporting non-renewable grid electricity
- the operational hierarchy between solar-derived and grid-imported electricity

The Applicant may assert that bidirectional functionality is standard. However, the issue for this examination is not whether such functionality exists elsewhere, but whether it has been clearly defined and assessed in this application. Standard practice cannot substitute for scheme-specific assessment.

Key Issue

Without defined limits, constraints or an operational hierarchy, the examination cannot determine:

- whether the development is solar-led or storage-led in operational reality
- the extent to which the development relies on non-renewable electricity
- whether the Environmental Statement assesses the development actually authorised

Specific Requests

Request 1. Require definition, on the face of the DCO, of the operational envelope of the bidirectional connection, including any limits on grid import for BESS charging purposes.

Request 2. Require a revised carbon assessment incorporating scope three emissions from grid-imported electricity stored and re-exported by the BESS, as required by EN-1's requirement for proper assessment of environmental impacts.

Request 3. Make a specific finding in the recommendation report on whether the absence of an operational envelope definition constitutes a material deficiency in the draft DCO.

In the absence of such definition, the Examining Authority cannot be satisfied that the Environmental Statement assesses the development for which consent is sought. Failure to address these specific requests would, it is submitted, constitute a failure to have regard to a material consideration.

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2. Decommissioning Funding — Absence of Secured and Evidenced Provision

This is an unresolved issue already opened by the Examining Authority during the DCO hearing of 18 March 2026. The examination record confirms:

- the cost of decommissioning has not been calculated
- no secured funding mechanism has been identified
- reliance has been placed on non-binding assumptions regarding landowner behaviour

The Examining Authority himself asked directly during the hearing: "Are you aware of any precedent in a made DCO that requires funding to be provided for decommissioning, either in an article or in a requirement?" The applicant's counsel could identify only one possible example — the Helios solar DCO — and undertook to confirm the position in writing. This question therefore remains live and unresolved on the examination record.

Policy Context

- EN-1 paragraph 5.14.4 requires that development can and will be decommissioned safely and that land is restored
- EN-1 paragraph 5.14.5 requires funding mechanisms to be in place or demonstrably capable of being put in place
- EN-3 paragraph 2.10.44 requires provision for decommissioning and restoration to a condition consistent with previous use

Material Deficiency

Requirement 18 of the draft DCO defers the decommissioning plan, the restoration standard and the funding mechanism to a future stage. This does not demonstrate that decommissioning can and will be carried out. A requirement that defers both the means and the standard of restoration does not provide the certainty required under EN-1 paragraphs 5.14.4 and 5.14.5.

It was submitted on the examination record that the examination is being asked to assume successful restoration without a secured funding mechanism, without defined performance criteria, and without assurance that the land can be returned to its current condition after decades of industrial use.

Corporate Risk and Asset Transfer

The DCO allows transfer of the scheme to third parties. In practice, such schemes are frequently sold, refinanced or restructured over their operational life. Without secured funding, restoration obligations may fall on an entity not present at examination and with no demonstrated financial capacity.

It was submitted on the examination record, by a person with professional experience in international fund management and infrastructure capital allocation, that the applicant's ultimate parent is Lantern Co, that the applicant produces short-form accounts under Section 477 of the Companies Act 2006 and is exempt from audit, and that the publicly available accounts do not demonstrate sufficient financial strength to finance construction, operation, maintenance and decommissioning without legally binding shareholder support. It was formally submitted that this constitutes a failure to provide an adequate funding statement under Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

It was further submitted on the examination record that a development consent order authorises infrastructure for several decades and may be implemented by parties other than those currently promoting it. The commercial value of a consent can be influenced by the extent of obligations and controls it contains. A lightly conditioned order is inherently more attractive to investors and purchasers than one that implies detailed, enforceable safeguards. If safeguards are not secured in the order itself, they may simply not exist in practice, particularly if the project is transferred to a different entity after consent.

BMV Land Context

This issue is particularly material where Best and Most Versatile agricultural land is concerned. Unlike other forms of infrastructure, loss of high-quality agricultural soil is not readily reversible. Failure to restore represents a permanent loss of a nationally significant finite resource. The level of certainty required as to decommissioning and restoration must therefore be correspondingly high.

The Escrow Requirement

A bond held by or accessible to the developer, or lodged with any entity connected to the developer's corporate structure, provides no meaningful protection in the event of insolvency — which is precisely the circumstance in which the bond would be called upon. Only a genuinely independent escrow arrangement,

with clearly defined trigger conditions and release mechanisms controlled by a public body, provides the protection that the permanent loss of Best and Most Versatile agricultural land demands.

Specific Requests

Request 4. Clarify and apply the Helios solar DCO precedent on funded decommissioning provision, as undertook by the applicant's counsel at the DCO hearing, and require equivalent or stronger provision in this DCO.

Request 5. Require, as a necessary condition of any consent in order to satisfy EN-1 paragraphs 5.14.4. and 5.14.5, a fully funded, index-linked restoration bond held in independent escrow by a third party entirely separate from the developer and its parent companies, verified by an independent quantity surveyor appointed by the Examining Authority and not by the applicant, sufficient to cover complete removal of all infrastructure including panels, BESS installations, cabling, concrete foundations and access tracks, and full restoration of the land to its original Best and Most Versatile agricultural classification. The bond must be drawable not only at the planned end of the consented project life but at any point during the operational period at which the development becomes commercially unviable, the developer becomes insolvent, or the site is abandoned — circumstances which are foreseeable given the dependence of the project's financial model on subsidy mechanisms and grid trading revenues that are subject to policy change. The bond value should be subject to mandatory upward review at ten-year intervals throughout the consented project life to reflect inflation, changes in restoration costs, and any additional infrastructure installed on the site. In the absence of such provision, there is a material risk that regulatory or market changes rendering the project commercially unviable could result in a stranded industrial asset abandoned in open countryside, with no secured mechanism to restore the land and no entity with the financial means or legal obligation to do so.

Request 6. Address the adequacy of the funding statement under Regulation 5(2)(h) of the Infrastructure Planning Regulations 2009 as formally challenged on the examination record during the DCO hearing, and make a specific finding in the recommendation report on whether the funding statement satisfies the statutory test.

Request 7. In the event that the applicant cannot or will not provide a fully escrowed restoration bond on these terms, treat that refusal as material evidence that the developer does not have confidence in the project's long-term commercial viability, and address that inference explicitly in the recommendation report.

Compliance with EN-1 and EN-3 is determined by the requirements of national policy, not by industry norms or precedent from other schemes where the question was not pressed. Failure to address these specific requests would, it is submitted, constitute a failure to have regard to material considerations arising directly from EN-1 paragraphs 5.14.4 and 5.14.5 and EN-3 paragraph 2.10.44.

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3. Financial Viability, BESS Function and Land-Use Proportionality

This section does not seek to challenge the commercial model as such. It raises a planning question: whether the development has been assessed on the basis of its likely operational reality, and whether the use of Best and Most Versatile land is justified by the nature and scale of the energy service that will actually be delivered.

Policy Context

- EN-1 paragraph 3.7.1 requires a meaningful contribution to energy objectives
- EN-3 paragraph 2.6.1 requires the development to be the most appropriate means of achieving those objectives
- EN-1 paragraph 4.1.2 requires reliability and the ability to meet demand

Operational Reality

Evidence before the examination establishes on the record that:

- the BESS may operate independently of on-site solar generation for extended periods
- grid import may be required for five to six months of the year
- the commercial value of the scheme is likely to be driven primarily by storage and trading functions rather than solar generation

The Applicant may characterise the BESS as ancillary to the solar array. However, the examination must assess the likely operational reality over the lifetime of the development. A component cannot be treated as ancillary if, in operational terms, it is capable of functioning as a primary element and its commercial contribution is likely to exceed that of the solar installation for significant periods.

It was submitted on the examination record that the most economically active and commercially valuable element of the project is likely to be the storage trading infrastructure, while the solar installation is largely in the background for extended periods of the year. It was further submitted that the scheme is probably not financially viable without the BESS component. It was asked directly on the examination record whether energy price arbitrage is the main cause of this project rather than solar energy renewables, and therefore whether it is compliant with EN-1 and EN-3. That question was not answered by the applicant on the examination record.

Role of BESS in the Energy System

The examination is not concerned with the commercial merits of energy trading. However, it is required to assess the nature of the development for which consent is sought and the contribution it makes to the energy system.

Battery storage operating through grid import and export does not itself generate renewable electricity. Its function is to store and redistribute electricity already within the system. Where that electricity is derived, in part, from non-renewable sources, the environmental benefit of the storage operation is dependent on wider system conditions rather than the development itself.

The examination must therefore distinguish between:

- the contribution made by on-site solar generation; and
- the function performed by the BESS component

In circumstances where the BESS may operate independently of on-site generation for extended periods, the examination must consider whether the development's contribution to national energy objectives arises from renewable generation or from system balancing functions that are not inherently dependent on the use of rural agricultural land.

Land-Use Proportionality

This raises a distinct planning issue: the relationship between the land used and the function delivered. Where a development utilises a scarce and nationally important land resource, it must be demonstrated that the function is land-dependent, or that no less harmful alternative exists.

In this case, solar generation is land-dependent. Grid-balancing and trading functions are not. The Environmental Statement does not assess this distinction. If the development's viability depends materially on grid import and trading functions, those functions are not merely ancillary but central. In those circumstances, the examination must consider whether the use of Best and Most Versatile land is justified for a development whose primary operational value may lie in activities that are not inherently land-dependent and could be located elsewhere.

Energy Contribution

The development provides intermittent output, exhibits strong seasonal mismatch between generation and demand, and contributes a modest proportion of national electricity demand in realistic operational terms. It was submitted on the examination record, on the basis of government figures, that this scheme would contribute approximately 0.13 to 0.14% of national electricity demand — one seventh of one percent — on a highly intermittent basis with extreme seasonal output swings. This raises a proportionality question that the examination must address: whether the permanent use of Best and Most Versatile land is justified by the nature and scale of the energy contribution actually delivered.

Specific Requests

Request 8. Determine whether the development, as likely to operate in practice, satisfies EN-3 paragraph 2.6.1's requirement that it is the most appropriate means of achieving the stated objectives, taking into account the operational role of the BESS and the land-use proportionality question raised above.

Request 9. Require the applicant to demonstrate, with reference to realistic UK capacity factors of 10 to 11% rather than nameplate capacity, that the national energy contribution claimed is proportionate to the permanent Best and Most Versatile agricultural land loss entailed.

Request 10. Make a specific finding in the recommendation report on whether the development, assessed on its realistic operational profile and the likely primary role of the BESS, satisfies the national need and land-use tests in EN-1 and EN-3. Failure to address this specific request would, it is submitted, constitute a failure to have regard to material considerations arising directly from the National Policy Statements.

Consolidated Position

The Applicant may seek to rely on standard practice, flexibility within the DCO, and general policy support for renewable energy. None of these provides an answer to the three specific compliance questions raised in this representation. The examination must reach conclusions on the defined development, the evidence actually provided, and the specific requirements of EN-1 and EN-3. General policy support for renewable energy does not exempt any specific application from demonstrating compliance with those requirements.

Conclusion

This representation does not oppose renewable energy. It submits that this specific project, in its current form, has not yet demonstrated compliance with EN-1 and EN-3 in three specific and material respects: the development is not fully defined in terms of its operational scope; the restoration of Best and Most Versatile land is not secured against either planned decommissioning or mid-life commercial failure; and the relationship between the land used and the energy function delivered has not been assessed.

These are matters of definition, assessment and secured deliverability — not planning balance.

The permanent use of Best and Most Versatile agricultural land — a finite and nationally significant resource, food-producing land for current and future generations — requires a level of certainty and justification that has not yet been demonstrated on the examination record. Until these matters are resolved, it is submitted that the Examining Authority cannot be satisfied that the requirements of EN-1 and EN-3 have been met.

Each of the ten specific requests made above requires a response in the recommendation report. Failure to address any of them would, it is submitted, constitute a failure to have regard to material considerations and may give rise to risk of legal challenge.