



EAST PARK ENERGY

East Park Energy

EN010141

**Written Summary of Applicant's Oral
Submissions at Issue Specific Hearing 1 (ISH1)
and Action Points**

Document Reference: EN010141/DR/8.11

Infrastructure Planning (Examination Procedure) Rules 2010

April 2026

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Planning Act 2008

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1.0 INTRODUCTION

1.1 Introduction

- 1.1.1 This note summarises the submissions made by BSSL Cambsbed 1 Limited (the “Applicant”) for the East Park Energy project (the “Scheme”) at Issue Specific Hearing 1 (ISH1) on 18th March 2026.
- 1.1.2 This document does not purport to summarise the oral submissions of parties other than the Applicants; summaries of submissions made by other parties are only included where necessary in order to give context to the Applicants’ submissions.
- 1.1.3 The Applicant has supplemented the written summary below with additional information where relevant to the action points raised in ISH1.

1.2 Issue Specific Hearing 1

ISH1 took place on the morning of 18th March 2026 and followed the **Agenda for Issue Specific Hearing 1 [EV2-001]** which was published by the ExA in advance of the hearing:

Agenda for Issue Specific Hearing 1	
1	Welcome and Introductions
2	Purpose of the Issue Specific Hearing
3	The Overall Structure of the draft DCO
4	ExA’s Questions on the DCO
5	Next Steps
6	Closing

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- 1.2.1 The Applicant did not provide any material comments on Agenda Items 1, 2, 5, and 6 of the Agenda for ISH1.

1.3 Note about National Policy Statements

- 1.3.1 Section 1.6 of the 2026 National Policy Statement (NPS) EN-1 confirms that for schemes accepted for examination before the final publication of the approved 2025 amendments, the 2024 suite of NPSs should have effect. East Park Energy was accepted for examination in October 2025 prior to the final publication of the 2025 amendments. The 2024 NPSs therefore have effect for decision making.
- 1.3.2 All references to the NPSs in this document are to the 2024 NPSs unless stated otherwise.
- 1.3.3 The Applicant has prepared a separate **Note on updated National Policy Statements EN-1, EN-3 and EN-5 [PDA-018]**.

2.0 THE APPLICANTS' SUMMARY OF ORAL SUBMISSIONS MADE AT ISH1

2.1 Agenda Item 3 – The Overall Structure of the draft DCO

Version of the draft DCO referred to

2.1.1 The Applicant's oral submissions were based on the **draft development consent order ("DCO") [AS-008]** and **Explanatory Memorandum [AS-010]** which were submitted in response to the examining authorities' ("ExA") section 51 advice. A further version of the draft DCO was submitted at Procedural Deadline A, which does not make any material changes relevant to ISH1.

Whether matters are to be secured outside of the draft DCO (such as planning obligations)

2.1.2 The Applicant does not envisage that there is a need for a planning obligation at this stage.

2.1.3 The Applicant has seen the relevant representation from **East of England Ambulance Service NHS Trust [AS-025]** and are considering whether the request meets the statutory test required by the Community Infrastructure Levy Regulations 2010/948 ("CIL Regulations") in order to qualify as a planning obligation. At this stage it is not clear whether the request by the East of England Ambulance Service NHS Trust could be captured as a planning obligation, that the impacts are directly related to the Scheme, or that the measures proposed are necessary to mitigate the Scheme, as mandated by regulation 122 of the CIL Regulations.

2.1.4 The Applicant is open to discussion with other impacted parties around planning obligations if the requests meet the relevant tests.

The overall structure of the draft DCO

- 2.1.5 As a preliminary point, to aid understanding, the draft DCO and the Explanatory Memorandum should be read together. The Explanatory Memorandum explains the purpose and effect of each Article, requirement and Schedule, and also explains how detailed matters are secured through requirements, protective provisions and other mechanisms rather than in the front-end of the Order.
- 2.1.6 The structure and content of the draft DCO follow a well precedented format.
- 2.1.7 As set out in section 9.1.2 of the Explanatory Memorandum, whilst the model provisions have been repealed, the draft DCO is based on the model provisions set out in Schedule 1 to the Infrastructure Planning (Provisions) (England and Wales) Order 2009 (the “Model Provisions”) as well as other comparable development consent orders that have been made to date. The drafting has been informed in particular by recent made solar DCOs, including:
- a) The Sunnica Energy Farm Order 2024;
 - b) The Oaklands Farm Solar Park Order 2025;
 - c) The Byers Gill Solar Order 2025;
 - d) The Helios Renewable Energy Project Order 2025;
 - e) The Mallard Pass Solar Farm Order 2024; and
 - f) The Heckington Fen Solar Park Order 2025,
- including others referred to in the Explanatory Memorandum where relevant.
- 2.1.8 The Applicant also took into account the relevant Planning Inspectorate advice notes and Planning Act 2008 guidance were taken into account when preparing the draft Order, including:

- a) Planning Inspectorate's Advice Note Fifteen: drafting Development Consent Orders¹;
- b) Planning Act 2008 Guidance: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects²; and
- c) The National Archives Statutory Instrument Practice³.

2.1.9 The drafting has regard to comparable granted DCOs as identified in the Explanatory Memorandum and reflects a well-established approach for solar NSIPs whereby the draft DCO provides the necessary statutory powers and controls, with detailed mitigation and management secured through requirements and certified documents.

2.1.10 In terms of overall approach, the Applicant has sought to ensure that matters which must be authorised as a matter of statute are secured in the front end of the draft DCO, while matters more appropriately dealt with at a detailed or implementation stage are secured through requirements, protective provisions and agreements contemplated by the Order.

2.1.11 The draft DCO comprises 48 Articles and 15 Schedules.

2.1.12 The front end of the draft DCO is split into seven Parts and includes the operative Articles (48 in total). The Articles within the front end of the draft DCO define the scope of powers available to the Applicant. The Schedules provide the detail and, to some extent, limits to the powers conferred in the Articles.

Part 1 - Preliminary

2.1.13 Part 1 deals with commencement of the DCO and interpretation:

¹ [Planning Inspectorate - Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders - GOV.UK](#) published July 2018 and last updated 24 March 2025.

² [Ministry of Housing, Communities and Local Government and Department for Levelling Up, Housing and Communities - Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects - GOV.UK](#) published April 2024

³ [The National Archives, Statutory Instrument Practice \(5th edition\)](#) published November 2017

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- a) Article 1 of the draft DCO includes the relevant citation and commencement provision, as well as the interpretation article, including a list of defined terms.
 - b) Article 2 sets out the defined terms used in the draft DCO. These definitions include project specific drafting appropriate to a solar generating station, battery energy storage system (“BESS”), on site substation and grid connection and cables. Article 2 also includes certain rules of interpretation that apply to the draft DCO.

Part 2 - Principal powers

2.1.14 Part 2 includes the principal powers needed to construct, operate and maintain the authorised development:

- a) Article 3 grants development consent under the Planning Act 2008 to construct and operate the authorised development, subject to the requirements of Schedule 2.
- b) Article 4 provides the power to maintain the authorised development, subject to the provisions within the draft DCO.
- c) Article 5 authorises the transfer of the benefit to third parties. The Article allows the transfer of the benefit of the order with the consent of the Secretary of State. It also allows for the benefit of the Order to be transferred or leased, including to specified statutory undertakers, without Secretary of State consent where appropriate.
- d) Article 6 allows certain development authorised by a planning permission within the Order limits to be carried out without breaching the DCO, where that development is not itself NSIP development or required to enable the authorised development.
- e) Article 7 should be read together with Requirement 3 of Schedule 2 and provides the necessary flexibility required to accommodate for the final detail designed at the point of implementation. It provides for limits of

deviation, ensuring that works remain within the envelope assessed in the Environmental Statement (“ES”), with flexibility to deviate within the limits of deviation set out in the **Works Plan [APP-009]** where no materially new or materially different environmental effects would arise.

- f) Article 8 disapplies and modifies certain legislative provisions, including flood risk activity permitting, land drainage consents, hedgerow controls, the community infrastructure levy and the Neighbourhood Act 2017, including a list of local legislation within Schedule 3. This ensures that the Scheme can be delivered in the relevant timescales subject to agreement and protection for third parties.
- g) Article 9 provides a defence to proceedings in respect of statutory nuisance, addressing a recognised gap in section 158 of the Planning Act 2008, and is limited to the statutory nuisances identified in the **Statutory Nuisance Statement [APP-170]**.

Part 3 - Streets

- 2.1.15 Part 3 includes provisions relating to streets, public rights of way (“PRoW”), access and traffic regulation, and must be read alongside Schedules 4 to 8, which include details of the relevant streets, PROWs and accesses.
- 2.1.16 In summary, this Part allows the undertaker to carry out certain street works which would otherwise require authorisation under the New Roads and Street Works Act 1991:
 - a) interfere with and execute works in or under streets within the Order limits;
 - b) temporarily stop up or restrict streets and public rights of way;
 - c) alter street layouts where necessary; and
 - d) provide permanent and temporary accesses required for construction, operation and maintenance; and
 - e) implement traffic regulation measures.

2.1.17 These powers are subject to agreement or consultation with the relevant highways or street authority, unless otherwise specified.

Part 4 - Supplemental powers

2.1.18 Part 4 includes supplemental powers which reflect standard DCO drafting, including:

- a) discharge of water (Article 18);
- b) protective works to buildings (Article 19); and
- c) authority to survey and investigate land (Article 20), which follows the drafting of the Housing and Planning Act 2016.

2.1.19 These powers are subject to notice, consent and compensation provisions, and are required to ensure that the authorised development can be delivered without undue delay or obstacles while protecting third party interests.

Part 5 - Powers of acquisition

2.1.20 Part 5 sets out the powers of compulsory acquisition powers and associated compensation provisions.

2.1.21 The justification for the powers is set out in the **Statement of Reasons [APP-019]**, which explains that the Applicant seeks to acquire land and rights by agreement as a priority and wherever possible. However, compulsory acquisition powers are included to ensure deliverability of the authorised development where agreement has not been completed at the point the order is granted. The Statement of Reasons also sets out the Applicant's position on why the powers are justified and in the public interest.

2.1.22 The draft Order provides for:

- a) compulsory acquisition of land;
- b) a five-year time limit for exercising compulsory acquisition powers;
- c) acquisition of rights and imposition of restrictive covenants;

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- d) temporary possession for construction and maintenance of the authorised development; and
 - e) appropriate application and modification of the compensation code.
- 2.1.23 This structure enables a proportionate approach to the exercise of compulsory acquisition powers, allowing the Applicant to rely on rights and temporary possession where appropriate rather than permanent acquisition.
- 2.1.24 This Part also makes a number of amendments to compulsory acquisition legislation to allow it to function for the DCO, including for example prescribing that the DCO is a compulsory purchase order and to allow acquisition of rights as well as freehold of land (Article 28). The proposed modifications do not have the effect of disapplying any control or power by another body but simply make modifications necessary to allow the relevant parts of the Compulsory Purchase Act 1965 to be properly applied in relation to the draft DCO.
- 2.1.25 Articles 32 and 33 also allows the undertaker to extinguish rights of statutory undertakers and remove and reposition their apparatus, subject to the protective provisions at Schedule 13.

Part 6 - Operations

- 2.1.26 Article 36 (Part 6) of the draft DCO authorises the undertaker to operate and use the authorised development, although it also makes clear that other consents may be required, such as under the Electricity Act 1989.

Part 7 - Miscellaneous and general

- 2.1.27 Part 7 includes standard and well precedented provisions, including articles dealing with:
- a) removal of human remains (Article 37);
 - b) operational land for the purposes of the Town and Country Planning Act 1990 (Article 38);

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- c) certification of documents by the Secretary of State (Article 39) which is linked to Schedule 15;
 - d) service of notices (Article 40);
 - e) tree and hedgerow removal (Article 41 and 42);
 - f) arbitration (Article 43) which is linked to Schedule 14;
 - g) requirements and appeals (Article 44);
 - h) application of landlord and tenant law (Article 45)
 - i) protective provisions (Article 46) which is linked to Schedule 13;
 - j) Crown rights (Article 47); and
 - k) funding and compensation security (Article 48).

Schedules and securing of matters

- 2.1.28 Schedule 1 describes the authorised development by reference to numbered works, including the principal development of Work No. 1 (the solar generating station) and associated development including the battery energy storage system, substation, grid connection, access works, green infrastructure. The final section of this schedule sets out what constitutes further associated development, being a list of activities that can be carried out and are consented in relation to the principal development.
- 2.1.29 Schedule 2 contains the requirements, which secure the detailed control of the authorised development, including:
 - a) phasing and commencement;
 - b) detailed design approval through the **Design Parameters and Principles Statement [APP-153]** by the local planning authorities;
 - c) construction environmental management plan (“CEMP”), landscape and ecological management plan (“LEMP”), construction traffic management

plan (“CTMP”), operational environmental management plan (“OEMP”) and other management plans to ensure that these plans are in accordance with the relevant outline plans submitted with the application;

- d) operational noise controls;
- e) surface water management;
- f) archaeology and heritage mitigation and enhancement;
- g) construction hours;
- h) decommissioning and restoration; and
- i) skills, supply chain and employment commitments.

2.1.30 These requirements secure environmental mitigation and management by reference back to the assessment provided in the ES and certified outline plans, ensuring the development is delivered within the assessed envelope while allowing flexibility at detailed design stage. It also ensures that detailed design is controlled and authorised by the relevant parties which include key statutory consultees.

2.1.31 Schedules 3 sets out local legislation which the Applicant seeks to disapply and should be read together with Article 8 of the Order. The Schedule is extracted from the Sunnica Energy Farm Order 2004 and contains legislation that may be relevant to the authorised development.

2.1.32 Schedules 4 to 8 provide detail in relation street works, alterations, stopping up, access and traffic regulation the applicant seeks to carry out to enable the implementation of the Scheme.

2.1.33 Schedules 9 lists the plots of land within which the undertaker may only acquire rights and cannot acquire freehold ownership. The relevant plots are set out in column (1), the relevant works are set out in column (2) and the rights which the undertaker may acquire are set out in column (3). The rights

to be acquired have been divided into categories in order to ensure that only those rights necessary are taken over each plot.

- 2.1.34 Schedule 10 amends various compulsory acquisition legislation to ensure it is relevant to the development consent regime.
- 2.1.35 Schedule 11 lists the plots of land of which the undertaker may only take temporary possession and cannot acquire rights or ownership of the land.
- 2.1.36 Schedule 12 identifies hedgerows to be removed.
- 2.1.37 Schedule 13 contains protective provisions for statutory undertakers, drainage authorities and other bodies. Schedule 13 contains generic protective provisions and some bespoke protective provisions. There is with ongoing engagement with statutory undertakers to agree bespoke protections during examination and it is expected that more will be added as the examination progresses.
- 2.1.38 Schedules 14 deals with arbitration rules.
- 2.1.39 Schedule 15 deals with documents to be certified.

Comments from the host authorities in relation to protective provisions for the benefit of the local highway authorities

- 2.1.40 The Applicant has had direct discussions with the local highway authorities and will welcome further discussions to understand the protective provisions that the local highway authorities are proposing to be included in the draft DCO.
- 2.1.41 The Applicant will want any protective provisions for the local highway authorities to be necessary, proportionate, relevant and limited to factors that are not already covered in the draft DCO. In respect of proportionality, the Applicant noted that the extent of the highway works required in relation to

the Cambridge Waste Water Treatment Plant Relocation Order 2025⁴, which Mr Carford on behalf of Cambridgeshire County Council referred to as a precedent, were much larger than what is proposed in relation to the Scheme.

- 2.1.42 The Applicant noted that there is a good relationship with the local highway authorities and that engagement to reach agreement on areas of interest to the highways authorities is ongoing.

Comments from the host authorities in relation to compulsory acquisition of public highway land

- 2.1.43 The Applicant confirmed that they are seeking compulsory acquisition powers over some subsoil land lying beneath the public highway as the Applicant will be laying cables underneath the highway strata.

Question from the ExA on the replacement of elements during the lifespan of the authorised development

- 2.1.44 The Applicant explained that its approach to replacement will be periodic with general maintenance of the Scheme. It is not envisaged that the Applicant would carry out single replacement phase in 20 years' time. Instead, the Applicant will carry out a rolling programme of maintenance and replacement as and when panels fail or degrade.
- 2.1.45 There is an **outline OEMP [APP-157]** which at paragraphs 2.4.7 – 2.4.10 describes the approach to periodic replacements. The works will be for the replacement of panels or, if required, the replacement of inverters and transformers using existing access tracks from the construction phase, without a need to create new tracks. The outline OEMP states at paragraph 2.4.10 that should the applicant wish to replace more than 20% of the solar

⁴ Part 6 of Schedule 15 of The Cambridge Waste Water Treatment Plant Relocation Order 2025: <https://www.legislation.gov.uk/uksi/2025/452/schedule/15/part/6/made>

panels within the Scheme the Applicant will need to notify the relevant local planning authority with details of the management measures that are proposed to be put in place for those replacement activities, that are consistent with the principles of the CEMP, public right of way management plan (“PRoWMP”), CTMP and OEMP that had been approved for the construction for the Scheme, but are also commensurate to the scale of activity proposed.

- 2.1.46 The Applicant noted that the issue has been raised in the host authorities’ relevant representation and the Applicant was in the process of drafting responses for Deadline 1.

Request from National Highways for Requirement 18 of the draft DCO to refer to refer to “any relevant highways authorities” to capture National Highways in the event that works impacts the A1

- 2.1.47 The Applicant confirmed that this point will be picked up as part of the Applicant’s response to National Highway’s relevant representation.

Comments from Mr Pike (on behalf of Stop East Park Energy) on the draft DCO:

- 2.1.48 The Applicant acknowledged that some of the issues raised by Mr. Pike on behalf of Stop East Park Energy reiterated issues raised in their relevant representations and the Applicant will respond to these in the response to Relevant Representations to be submitted at Deadline 1. In summary, the Applicant explained that the draft DCO does not simply secure high-level commitments to mitigation but instead secures a detailed system that has been tested on many consented and implemented DCOs for nationally significant infrastructure projects (“NSIP”). The outline management plans are very detailed and the final management plans must be in substantial accordance with the outline plans.

- 2.1.49 The plans secured to be implemented under the requirements attached to the draft DCO must be submitted to and approved by the local planning authorities, as well as key stakeholders, and must be implemented. Requirement 3 requires compliance with the **Design Parameters and Principles Statement [APP-153]**, which is a certified document under the draft DCO, ensuring that the Scheme does not deviate in any substantial way from what has been assessed. The Applicant emphasised that it cannot deviate to a scheme that may result in materially new or materially different environmental effects from those reported at this stage. Any lack of compliance with the terms of the DCO is a criminal offence and there are strong statutory provisions ensuring a proportional and efficient enforcement of any planning breaches.
- 2.1.50 The Applicant is comfortable that this is the way DCOs secure mitigation and that the commitments are effective, efficient, proportional and relevant within the industry and the statutory framework.
- 2.1.51 Further information is provided in the Applicant’s response to Hearing Action Point (HAP) 1 below.

HAP No.	Action Point	Applicant’s Response
1	<p>Applicant to provide written response to points raised by Mr Pike on behalf of Stop East Park Energy, the key points raised were:</p> <ol style="list-style-type: none"> Mr Pike submitted that many of the environmental effects assessed in the ES rely on mitigation measures, methods, operational controls or design assumptions that are not secured through clear enforceable requirements in the order itself. Mr Pike stated that detail is deferred to future plans, approvals or management documents without defining the standards those documents must meet, the outcomes they must achieve, the criteria against which they will be judged, or the consequences if those outcomes 	<p>Firstly, in response to how mitigation measures are proposed to be secured, the Applicant has ensured that all necessary mitigation measures, operational controls and design assumptions are clearly set out in all application documents and robustly secured through the draft DCO [AS-008]. This is not left for a later stage and approval mechanism and methodology utilised is set out in each document securing mitigation measures.</p> <p>As a general starting point, the draft DCO [AS-008] submitted by the Applicant is a statutory instrument and, as such, was drafted following The National Archives Statutory Instrument Practice and the Planning Inspectorate Guidance “<i>Nationally Significant</i></p>

HAP No.	Action Point	Applicant's Response
	<p>are not delivered. Mr Pike submitted that the lack of detail materially reduces confidence that the impacts will be acceptably controlled in practice.</p> <p>2. Mr Pike provided an example of requirement 18 (decommissioning and restoration) stating that the decommissioning plan is deferred until the end of the project life. Mr Pike stated that the requirement does not secure funding, restoration standards, or independent verification.</p> <p>3. Mr Pike provided an example of requirement 10 (battery safety management plan) stating that the proposed BESS poses fire and environmental risks. Mr Pike stated that the requirement relies on submission of a future management plan without specifying the analysis required or the safety outcomes to be achieved, with no explicit requirement for a quantified risk assessment, thermal runaway modelling, toxic plume analysis, defined safety distances or enforceable design parameters for containment, fire response or pollution control. Mr Pike also submitted that the SoCG with emergency services does not provide a substitute for binding provisions in the order and cannot compel future operators to maintain equivalent standards.</p> <p>4. Mr Pike provided an example of Work No. 4 stating that this authorises a 400 kV transmission connection capable of bi-directional operation without defining the operational envelope. Mr Pike stated that if import from the transmission network to charge the battery is possible it would represent a materially different scheme from a solar led export project. Mr Pike submitted that it is not clear that this has been constrained or fully assessed on</p>	<p><i>Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders</i>".</p> <p>The mechanisms included in the draft DCO to secure compliance with all committed environmental mitigation, and other requirements ensuring the appropriate delivery of the Scheme, follow the Model Provisions and a significant number of consented DCOs have been followed and taken as precedents, including the Oaklands Farm Solar Park Order 2025, the Longfield Solar Farm Order 2023, the Mallard Pass Solar Farm Order 2024, the Cottam Solar Project Order 2024 and the Gate Burton Energy Park Order 2024. The mechanism proposed by the Applicant to ensure that all mitigation measures committed to be delivered as part of the Scheme in the Environmental Statement are secured, is a standard mechanism already tested for most consented DCOs.</p> <p>The draft DCO secures proposed environmental mitigation through a combination of statutory requirements, enforceable controls or requirements, and certified documents, all of which have legal effect once the draft DCO is made.</p> <p>In relation to <u>statutory requirements</u>, whilst a development consent order operates as the main consenting document, the Applicant must ensure that all consents that cannot be secured under the draft DCO (due to the scope provided by the Planning Act 2008) are, nevertheless, secured and complied with separately. A list of all consents and licences the Applicant seeks to obtain prior to the implementation of the Scheme are listed in the Other Consents and Licences Statement [APP-033]. Table 1 of this document lists all environmental, and other consents and licences, required which the Applicant must secure.</p> <p>In relation to controls or requirements, the draft DCO secures the delivery of all committed environmental mitigation by way of requirements. These</p>

HAP No.	Action Point	Applicant's Response
	<p>the face of the draft DCO to prevent is occurring in practice.</p>	<p>requirements are set out in Schedule 2 of the draft DCO and are legally binding. Section 161 of the Planning Act 2008 makes it a criminal offence not to comply or to breach the terms of an order granting development consent. In those circumstances, the local planning authority may also seek an injunction to restrain such activities (section 171 of the Planning Act 2008). There is no reason to believe that the Applicant would fail to comply with the terms of the order.</p> <p>The requirements proposed by the Applicant are very well precedented in other development consent orders. In general terms, the requirements set out that various management plans, certified in outline form within the order and form part of this application, are agreed with the relevant statutory body responsible for specific issues (i.e. relevant local planning authorities, Environment Agency, Historic England, Natural England, etc.) prior to the authorised development being implemented and that the authorised development is carried out in accordance with these management plans.</p> <p>This does not defer the control or commitment to a later stage, given that the outline form of these management plans is agreed prior to the order being made. It is the final form of these management plans that has to be submitted and approved by key stakeholders prior to implementation. The reason for this two-stage mechanism is to ensure that the final version of these management plans captures any changes to the environmental baseline and/or any additional measures that may arise between the order being made and implementation of the authorised development.</p> <p>For Requirement 10 (battery safety management plan), the Applicant has prepared an outline Battery Safety Management Plan (oBSMP) [APP-162] that includes measures which will be adopted at the detailed design</p>

HAP No.	Action Point	Applicant's Response
		<p>stage post-consent to manage fire risk. Appendix A of the oBSMP provides an assessment of BESS Fire Emissions Modelling which concludes that in the unlikely event of an incident, there would be no significant air quality effects. Submission and approval of a final BSMP is secured by Requirement 10 of the draft DCO [AS-008]. The final BSMP must be in substantial accordance with the oBSMP [APP-162] and approved by the local planning authority in consultation with Cambridgeshire Fire and Rescue Service prior to commencement.</p> <p>Taking requirement 18 (decommissioning and restoration) as an example, this adopts the established and accepted approach on consented solar DCOs, whereby an outline decommissioning environmental management plan and outline decommissioning traffic management plan are certified at the point of consent and finals plans are required to be submitted for approval by the relevant planning authority prior to decommissioning. Paragraph (6) of requirement 18 makes clear that no decommissioning works may be carried out until the local planning authorities have approved the decommissioning environmental management plan and decommissioning traffic management plan, following consultation with the Environment Agency. This structure directly mirrors that accepted by the Secretary of State in recently consented solar schemes, including Stonestreet Green Solar.</p> <p>Finally, the Applicant proposes to certify a suite of documents within the draft DCO. This is Article 39 and Schedule 15 of the draft DCO, meaning they form part of the consent and must be complied with. The Applicant has ensured that all documents where commitments are made in terms of environmental mitigation measures have been listed. These include the full Environmental Statement as well as outline management plans, outline strategies,</p>

HAP No.	Action Point	Applicant's Response
		<p>drawings and plans. This allows for clarity and certainty over what the Applicant is committed to deliver and how the Applicant proposes to mitigate any impacts that may derive from the implementation of the authorised development.</p> <p>The Applicant is satisfied that the mechanism by which the draft DCO secures the delivery of environmental mitigation measures is appropriate, follows well established precedents and meets statutory requirements as well as government guidance. This forms part of a long-standing practice in respect of development consent orders and has been accepted by the Secretary of State in its role as decision-maker.</p>

Question from the ExA on whether funding will be secured for decommissioning (following Mr Pike's comments)

- 2.1.52 The Applicant's current position is the standard approach for the majority of solar DCOs and provides a well-established mechanism that ensures that the relevant management plan and measures are up-to-date at the point of decommissioning activities take place with clear approval and control mechanisms for key stakeholders to operate as external control. The Applicant's position is that the current draft of the DCO contains sufficient mechanisms to ensure the Applicant submits a decommissioning environmental management plan ("DEMP") at an appropriate time in the future with a clear obligation to implement the plan.
- 2.1.53 Failure to comply or discharge requirements attached to a DCO amount to a criminal offence under the Planning Act 2008 and there are strong statutory provisions in place to ensure proportional and efficient enforcement mechanism against any planning breaches.

2.1.54 Please see more on this in the response to Hearing Action Point 2 below.

Comments from Mrs Stokes regarding the Cleve Hill development and issues with compliance with requirements and management plans

2.1.55 The Applicant explained if there are impacts at Cleve Hill that result in lessons to be learned, and these are explained to the Applicant, then the Applicant will consider them. In reality on every scheme it is the developer's job to comply with the consent whether it is an application under the Town and Country Planning Act 1990 or a DCO. The developer will have a relationship with the local planning authority and the local highway authority who hold the power of enforcement.

2.1.56 It is unusual that the DCO regime is set up on the basis that non-compliance with a DCO is a criminal offence, which has a real effect and will have been explained to the Applicant by its advisors.

Comments from Mr Finston on whether decommissioning would be left to landowners

2.1.57 Decommissioning will be governed by the requirements of the DCO and the obligation to do so will lie with the Applicant as previously discussed. The Applicant clarified that it should provide additional comfort that landowners will want their land to be restored as an independent party with an interest in decommissioning of the Scheme and reinstatement of their land.

Question from the ExA on whether the Applicant is aware of any article or requirement in a made DCO that requires funding to be provided for decommissioning

2.1.58 The Applicant is aware that a proposal for a decommissioning bond was put forward and accepted on at least one solar DCO, being the Helios Renewable Energy Project Order 2025.

2.1.59 Further information is provided in the Applicant’s response to Hearing Action Point 2 below.

HAP No.	Action Point	Applicant’s Response
2	Applicant to confirm whether previous solar DCOs have included provisions for decommissioning security.	<p>Sixteen solar DCOs have been granted to date. The Applicant has reviewed these DCOs. The Applicant has identified a single precedent that includes provisions for decommissioning security: The Helios Renewable Energy Project Order 2025 (the “Helios DCO”).</p> <p>This included provisions at requirement 5(3) in Schedule 2, which provide that “<i>No later than year 15 of operation the undertaker must notify the local planning authority that the undertaker has put in place the requisite decommissioning security in the form as required by the landowners.</i>” The term ‘landowners’ is not defined. The full requirement is set out below.</p> <p><i>Decommissioning and restoration</i></p> <p><i>5.—(1) Decommissioning works must commence no later than 40 years following the date of the final commissioning of Work No. 1 that is the subject of the last notice given by the undertaker pursuant to requirement 2(3) (phase of authorised development and date of final commissioning).</i></p> <p><i>(2) No later than 12 months prior to the commencement of any decommissioning works for any part of the authorised development, the undertaker must—</i></p>

HAP No.	Action Point	Applicant's Response
		<p><i>(a) submit to the local planning authority for approval a decommissioning environmental management plan for that part; and</i></p> <p><i>(b) submit to the local planning authority for approval in consultation with National Highways (or its successors) a decommissioning traffic management plan for that part.</i></p> <p><i>(3) No later than year 15 of operation the undertaker must notify the local planning authority that the undertaker has put in place the requisite decommissioning security in the form as required by the landowners.</i></p> <p><i>(4) The plans submitted and approved under sub-paragraph (2) must be substantially in accordance with the relevant part of the outline DEMP.</i></p> <p><i>(5) The decommissioning environmental management plan submitted and approved must include a resource management plan that includes details of proposals to minimise the use of natural resources and unnecessary materials.</i></p> <p><i>(6) No decommissioning works must be carried out until the local planning authority approves the plans submitted in relation to such works are approved as set out on subparagraph (2).</i></p> <p><i>(7) The plans submitted to and approved pursuant to sub-paragraph (2) must be implemented as approved for the works required to decommission that phase of the authorised development unless otherwise approved in writing.</i></p> <p><i>(8) This requirement is without prejudice to any other consents or permissions which may be required to decommission any part of the authorised development.</i></p> <p>This drafting was put forward by the Helios applicant before the end of the Examination. It is not clear why the Secretary of State has departed from his consistent position on this question in the other 15 granted DCOs. There</p>

HAP No.	Action Point	Applicant's Response
		<p>is no substantive discussion on the point in the decision letter (or the ExA's recommendation report).</p> <p>The Applicant's position remains that as restated at the hearing, namely that suitable decommissioning controls have been included in the DCO.</p> <p>Requirement 18 of Schedule 2 of the draft DCO [REF] addresses decommissioning and restoration. It is drafted to require that a final decommissioning environmental management plan and a final decommissioning traffic management plan are submitted and approved before any decommissioning activities take place for each phase. These final management plans must be substantially in accordance with their outline versions, which are proposed to be certified by the Secretary of State. However, they must also be submitted to, and approved by, the relevant local planning authority, in consultation with the Environment Agency, to ensure an appropriate level of scrutiny at the time. The "substantially in accordance" requirement enables amendments at the point of decommissioning to secure measures that prove necessary at that time but may not have been envisaged at the point of submission.</p> <p>Requirement 18 also provides that the decommissioning environmental management plan and decommissioning traffic management plan must be implemented as approved. Failure to comply with the terms of a made DCO is a breach of the Order and is enforceable through the statutory regime, including criminal liability for breach of the terms of an order granting development consent (section 161 of the Planning Act 2008). In those circumstances, the local planning authority may also seek an injunction to restrain such activities (section 171 of the Planning Act 2008).</p> <p>Accordingly, there is no reason to believe that the Applicant would fail to</p>

HAP No.	Action Point	Applicant's Response
		fulfil its decommissioning responsibilities as required by the draft DCO. For these reasons, the Applicant's position remains that requirement 18, as currently drafted, deals appropriately with decommissioning and restoration. This is consistent with the 15 other solar DCOs granted by the SoS already referred to.

2.2 Agenda Item 4 - ExA's Questions on the DCO

Comments from the ExA on potential amendments to the draft DCO

2.2.1 Please see the Applicant's response to Hearing Action Point 3 below.

HAP No.	Action Point	Applicant's Response
3	<p>Applicant to consider amendments requested by the ExA in relation to the dDCO:</p> <ol style="list-style-type: none"> 1. Preamble - Addition of reference to s.83(1) of the Planning Act 2008. 2. Requirement 5(1), 9 and 18 – Approval to be in consultation with the relevant statutory nature conservation body on each requirement. 3. Requirement 5 and 18 – Approval to be in consultation with the relevant highway authority or highway authorities to include National Highways where relevant to the strategic road network. 4. Requirement 7 – Approval to be in consultation with Natural England. 	<p>The Applicant has updated the draft DCO submitted at Deadline 1 to implement the amendments noted at points (1), (2) and (4).</p> <p>In respect of point (3), the Applicant assumes that the ExA intended to refer to requirement 8 (Construction traffic management plan) rather than requirement 5 (Construction environmental management plans). The Applicant confirm that it has updated both requirements 8 and 18 to include National Highways as a consultee in relation to these requirements.</p>

Query from the ExA on how flexibility is secured by the draft DCO

2.2.2 Under Article 7 of the DCO, the Applicant must carry the authorised development within the limits of deviation (these are defined as the limits for the scheduled works shown in the **Works Plan [APP-009]**). The exception to this is where the Applicant can demonstrate to the Secretary of State in consultation with the local planning authority that a deviation in excess of the limits of deviation would not give rise to any materially new or materially different environmental effects to those reported in the environmental statement.

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- 2.2.3 This power should be read together with Requirement 3 in Schedule 2, Part 1 of the draft DCO. This requirement provides that no phase of the Authorised Development may commence until the details contained within that requirement relating to each phase of the Authorised Development have been submitted to and approved in writing by the local planning authority. The details submitted must include details of the topics listed in the requirement and must be in accordance with **Design Parameters and Principles Statement [APP-153]** unless it can be demonstrated to the satisfaction of the local planning authority that the subject matter of the approval sought would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.
- 2.2.4 The draft DCO defines "maintain" in Article 2(1) to include "*includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, **but not remove, reconstruct or replace the whole of, the authorised development**, provided these do not give rise to any materially new or materially different environmental effects compared to those identified in the environmental statement*".
- 2.2.5 The Explanatory Memorandum at paragraph 9.2.5 (f) explains that "*A definition of 'maintain' is included to make it clear what activities are authorised under Article 4 during the operation of the authorised development. The definition has been drafted to directly reflect the nature and context of the authorised development, which will need to be properly maintained, managed, and protected throughout its operational lifetime. The drafting, therefore, reflects this operational period and likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards. Therefore, some flexibility must be built-in to what maintenance of the authorised development will involve, particularly to keep up with changing standards and controls and advances in technology.*"
- 2.2.6 These provisions are well preceded with further details included in the Explanatory Memorandum.

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- 2.2.7 Regarding the definition of "commence", the definition includes any material operation other than "site preparation works". This is a legitimate and approved carve out in many made DCOs, adding that the definition of "site preparation works" is standard and includes as a carve out the usual works included in this definition.
- 2.2.8 The definition of "site preparation works" includes the following activities:
- a) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations required in advance of construction;
 - b) receipt and erection of construction plant and equipment;
 - c) above ground site preparation for temporary facilities for the use of contractors;
 - d) diversion and laying of apparatus;
 - e) the provision of temporary means of enclosure and site security for construction;
 - f) the temporary display of site notices or advertisements;
 - g) preliminary site access works; or
 - h) site clearance (including vegetation removal, demolition of existing buildings and structures).
- 2.2.9 **ES Vol 2 Appendix 2-3: Site Preparation Works [APP-057]** sets out at Table 1 the best practice measures to be adopted when undertaking site preparation works in order to reduce potential adverse impacts on environmental receptors.
- 2.2.10 It is important to note that certain management plans will need to have been submitted to the relevant local planning authorities and approved before certain site preparation works can be carried out. For example, under requirement 5 (Construction Environmental Management Plan) the term "commence" is widened to ensure that the requirement covers any site

preparation works comprising site clearance (including vegetation removal, demolition of existing buildings and structures).

2.2.11 Further information is provided in the Applicant’s response to Hearing Action Point 4 below.

HAP No.	Action Point	Applicant’s Response
4	<p>Applicant to provide further information in writing on flexibility afforded by the dDCO including:</p> <ul style="list-style-type: none"> • scope of maintenance of works and ancillary works; • limits of deviation; and • the proposed ability for discharging authorities to authorise subsequent amendments through tail pieces. <p>Additionally, the Applicant is to fully justify any carve out from the definition of commencement and to demonstrate that such works are de minimis and do not have environmental impacts, which need to be controlled by a requirement.</p> <p>The ExA noted that the preferred approach to limiting flexibility is to limit amendments to those that would not give rise to any materially new or materially different environmental effects to those identified in the ES and that further guidance on tailpieces is provided at section 17 of Advice Note 15. The ExA stated that drafting which gives rise to flexibility or alternative should provide for unforeseen circumstances and define the scope of what has been authorised with sufficient provision. The ExA provided an example of the amendments made to Article 6 (benefit of the order) of the National Grid Richborough Connection Project Order 2017 by the Secretary of State to remove ambiguity.</p>	<p>Under Article 7 of the Order, the Applicant must carry the authorised development within the limits of deviation (these are defined as the limits for the scheduled works shown in the Works Plan. The exception to this is where the Applicant can demonstrate to the SoS in consultation with the LPA that a deviation in excess of the limits of deviation would not give rise to any materially new or materially different environmental effects to those reported in the environmental statement.</p> <p>This power should be read together with Requirement 3 in Schedule 2, Part 1. This requirement provides that no phase of the Authorised Development may commence until the details contained within that requirement relating to each phase of the Authorised Development have been submitted to and approved in writing by the local planning authority. The details submitted must include details of the topics listed and must be in accordance with Design Parameters and Principles Statement unless it can be demonstrated to the satisfaction of the local planning authority that the subject matter of the approval sought would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p> <p>In relation to the scope of maintenance works, these are defined (“maintain”) in Article 2(1) of the draft DCO to include <i>"includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development,</i></p>

HAP No.	Action Point	Applicant's Response
		<p><i>provided these do not give rise to any materially new or materially different environmental effects compared to those identified in the environmental statement".</i> These works have been assessed as part of the environmental impact assessment and are contemplated within the Environmental Statement.</p> <p>The Explanatory Memorandum at paragraph 9.2.5 (f) explains that "A definition of 'maintain' is included to make it clear what activities are authorised under Article 4 during the operation of the authorised development. The definition has been drafted to directly reflect the nature and context of the authorised development, which will need to be properly maintained, managed, and protected throughout its operational lifetime. The drafting, therefore, reflects this operational period and likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards. Therefore, some flexibility must be built-in to what maintenance of the authorised development will involve, particularly to keep up with changing standards and controls and advances in technology.</p> <p>These provisions are well preceded.</p> <p>In relation to the definition of "commence", the definition includes any material operation other than "site preparation works". This is a legitimate and approved carve out in many made DCOs, the definition of "site preparation works" is standard and the works carve out are usual works. The definition of "site preparation works" includes the following activities:</p> <ul style="list-style-type: none"> a. environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations required in advance of construction;

HAP No.	Action Point	Applicant's Response
		<p>b. receipt and erection of construction plant and equipment;</p> <p>c. above ground site preparation for temporary facilities for the use of contractors;</p> <p>d. diversion and laying of apparatus;</p> <p>e. the provision of temporary means of enclosure and site security for construction;</p> <p>f. the temporary display of site notices or advertisements;</p> <p>g. preliminary site access works; or</p> <p>h. site clearance (including vegetation removal, demolition of existing buildings and structures);</p> <p>The Environment Statement, Volume 2 – Appendix 2-3: Site Preparation Works [APP-057] sets out at Table 1 sets out the best practice measures to be adopted when undertaking site preparation works in order to reduce potential adverse impacts on environmental receptors.</p> <p>It is important to note that certain management plans will need to have been submitted to the relevant local planning authorities and approved before certain site preparation works can be carried out. For example, under requirement 5 (Construction Environmental Management Plan) the term “commence” is widened to ensure that the requirement covers any site preparation works comprising site clearance (including vegetation removal, demolition of existing buildings and structures).</p> <p>The Applicant can confirm that Section 5.3 17 of Advice Note 15 was taken into account and followed in the drafting of the Order and these specific provisions.</p>

Request from the ExA that further detail should be added on the potential legislation that Article 3 (Development consent etc. granted by

this Order) could apply to, including the extent of the term “adjacent” to the Order limits.

- 2.2.12 Article 3(2) provides that any enactment applying to land within or adjacent to the Order Limits has effect subject to the provisions of the DCO. This wording is intended to clarify that the DCO will take precedence over other legislation and enactments that apply to land within or adjacent to the Order Limits.
- 2.2.13 Section 120(5)(a) of the Planning Act 2008 provides that “(5) *An order granting development consent may — (a) apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order*”, which provides the basis for this Article.
- 2.2.14 The Applicant has included a list of local legislation to be disapplied at Schedule 3 of the DCO, which takes effect under Article 8 of the DCO. This disapplication is intended to ensure that there are no local acts or other legislation that might hinder the construction and operation of the Authorised Development.
- 2.2.15 The meaning of the term “adjacent” in Article 3(2) would need to be judged on a case-by-case basis and in practice would be to the extent necessary for the construction and operation of the Authorised Development. It is noted that this term is used at Article 20 (authority to survey and investigate the land) of the draft order, and in a number of granted DCOs in relation to Article 19 (protection of buildings) with other DCOs using the term near or adjacent. It is also noted that this term is used in some legislation where a geographic definition would not necessarily tackle the issue.

Questions from ExA regarding Article 6 (planning permission) of the draft DCO and the status of the Manor Farm planning consent

- 2.2.16 Please see the Applicant’s response to Hearing Action Point 5 below.

HAP No.	Action Point	Applicant's Response										
5	<p>Applicant to confirm the status of the planning permission for the solar farm located to the south of Manor Farm, including whether it is to be used as part of the authorised development.</p> <p>Applicant to also explain the need for Article 6 in light of Stonestreet Solar and the removal of an equivalent article by the Secretary of State on the basis that it was unnecessary and created ambiguity.</p>	<p>Manor farm planning permission</p> <p>The details of the planning permission granted in relation to Manor Farm are set out at Table 1 of Appendix A of the Planning Statement [APP-031] (extracted below).</p> <table border="1" data-bbox="906 568 1358 725"> <thead> <tr> <th>Location</th> <th>Local Planning Authority</th> <th>Application Reference</th> <th>Description</th> <th>Decision</th> </tr> </thead> <tbody> <tr> <td>East Park Site A</td> <td>Bedford Borough Council – BBC</td> <td>23/02045/M73</td> <td>Development of a solar farm to include photovoltaic panels, inverters and substation, with access and associated infrastructure, including a variation of condition no. 2 and no. 7 pursuant to LPA reference 14/00069/M7, as amended by LPA reference 15/03210/NMA, to allow for an increase of the period that the solar farm is permitted to operate for and alterations to the proposed on site landscaping.</td> <td>Grant Permission</td> </tr> </tbody> </table> <p>This planning permission is unrelated to the authorised development and would not form part of it.</p> <p>For completeness, the Applicant notes that Article 6 of the draft DCO [AS-008] would only apply to development that is granted planning permission under the Town and Country Planning Act 1990 following the coming into force of the DCO. The planning permission referred to above would therefore be excluded from its operation.</p> <p>Article 6 (planning permission)</p> <p>The Secretary of State removed Article 9 (planning permission) from the Stonestreet Green Solar Order 2025 on the basis that “<i>it is not considered necessary and creates potential ambiguity</i>”.</p> <p>This provision is very different to Article 6 (planning permission), as proposed by the Applicant in the draft DCO [AS-008], in both form and function. The Deadline 8 version of Explanatory Memorandum for Stonestreet Green Solar [EN010135/REP8-008] provides that the article would have clarified “<i>the relationship between the application of planning permissions granted under the Town and Country Planning Act 1990 (‘1990 Act’) (or permitted development rights deemed to be granted under it) and the development powers granted by the Order. It addresses any potential uncertainty that may result</i></p>	Location	Local Planning Authority	Application Reference	Description	Decision	East Park Site A	Bedford Borough Council – BBC	23/02045/M73	Development of a solar farm to include photovoltaic panels, inverters and substation, with access and associated infrastructure, including a variation of condition no. 2 and no. 7 pursuant to LPA reference 14/00069/M7, as amended by LPA reference 15/03210/NMA, to allow for an increase of the period that the solar farm is permitted to operate for and alterations to the proposed on site landscaping.	Grant Permission
Location	Local Planning Authority	Application Reference	Description	Decision								
East Park Site A	Bedford Borough Council – BBC	23/02045/M73	Development of a solar farm to include photovoltaic panels, inverters and substation, with access and associated infrastructure, including a variation of condition no. 2 and no. 7 pursuant to LPA reference 14/00069/M7, as amended by LPA reference 15/03210/NMA, to allow for an increase of the period that the solar farm is permitted to operate for and alterations to the proposed on site landscaping.	Grant Permission								

HAP No.	Action Point	Applicant's Response
		<p><i>from the Supreme Court's decision in Hillside Parks Ltd v Snowdonia National Park Authority [2022] UKSC 30 [...].</i> In effect, this article was intended to prevent development carried out under the development consent order from being prevented by a physical incompatibility with development carried out pursuant to a planning permission.</p> <p>Article 6 of the draft DCO [AS-008] is very different as it does not intend to address <i>Hillside</i> incompatibility. Instead, Article 6 provides that the carrying out, use or operation of a development within the Order limits that is authorised by a planning permission granted under the Town and Country Planning Act 1990, following the coming into force of the DCO, would not constitute a breach of the terms of the DCO. In effect, this provision ensures that a developer or operator of such development would not breach section 161 of the Planning Act 2008 (breach of terms of order granting development consent) in carrying out their development. The Applicant notes that breaching Article 161 of the Planning Act 2008 without reasonable excuse can constitute a criminal offence.</p> <p>The protection offered by Article 6 does not apply to development that is itself a nationally significant infrastructure project under the Planning Act 2008, or is required complete or enable the use or operation of any part of the authorised development.</p> <p>Article 6, as formulated by the Applicant, is well precedented and has been included in previous development consent orders. For example, Article 7 of the M5 Junction 10 Development Consent Order 2025, Article 8 of the North Lincolnshire Green Energy Park Order 2025, Article 7 of the M3 Junction 9 Development Consent Order 2024, Article 7 of the A38 Derby Junctions Development Consent Order 2023 and Article 7 of the A417</p>

HAP No.	Action Point	Applicant's Response
		Missing Link Development Consent Order 2022.

Questions from ExA regarding Article 9 (defence to proceedings in respect of statutory nuisance) of the draft DCO

- 2.2.17 The Applicant explained that Article 9 is considered to be necessary and relevant.
- 2.2.18 Please see the Applicant's response to Hearing Action Point 6 below for further details.

HAP No.	Action Point	Applicant's Response
6	<p>Applicant to confirm whether the controls on noise secured by the draft DCO are sufficient to justify the defence afforded by Article 9 (statutory nuisance).</p> <p>Applicant to also consider whether the draft DCO and explanatory memorandum need to be more explicit in relation to impacts from vibration.</p>	<p>The draft DCO [AS-008] secures enforceable construction noise controls (construction hours and a requirement to approve and implement a CEMP) and a specific operational-noise 'gateway' requiring an approved operational noise assessment demonstrating compliance with defined rating-level limits, with the approved design maintained throughout operation. These mechanisms align with NPS EN-1's expectation that potential statutory nuisances are identified and controlled through DCO requirements and are consistent with the approach taken in recent solar DCOs which include such provisions in relation to statutory nuisance in relation to noise impacts. Vibration has been assessed in the ES and found to be negligible and not significant.</p> <p>Article 9 is justified because the draft DCO secures enforceable noise controls: (i) construction hours, (ii) an approved and implemented CEMP (including a CNMP and BS5228 best practicable means), and (iii) an</p>

HAP No.	Action Point	Applicant's Response
		operational-noise requirement preventing operation until an operational noise assessment is approved demonstrating compliance with defined rating-level limits, with the approved design maintained through operation. Vibration effects are assessed as negligible; the Applicant proposes clarifying in the Explanatory Memorandum that vibration is controlled through the CEMP/CNMP framework with a sentence clarifying that vibration has been assessed with negligible and not significant effects concluded.

Question from the ExA on whether the draft DCO should identify the streets that Article 12 (power to alter layout, etc., of streets) applies to.

- 2.2.19 Article 12(1) of the draft DCO gives the undertaker a specific power, for the purposes of the authorised development, to carry out works in the streets and in the manner specified in Schedule 5. The works in Schedule 5 are those works which have been identified as specific works that need to be undertaken.
- 2.2.20 It is recognised that Article 12(2) allows the undertaker to deliver the project with a general power to alter the layout etc. of streets. This flexibility is required to enable the undertaker to carry out any other street works that may be identified by the undertaker or the relevant highway authority as being required to facilitate the delivery of the Scheme, for example through the process of agreeing the detailed CTMP or Decommissioning Traffic Management Plan (“DTMP”). The reason the streets are not identified in the draft DCO is because there may be additional traffic impacts at a later stage that may need to be dealt with at that point, which this approach enables.

- 2.2.21 Paragraph (3) provides that the applicant must restore any street that has been temporarily altered to the reasonable satisfaction of the local highway authorities.
- 2.2.22 There is a specific control in paragraph (4) of the Article, which provides that the powers conferred by Article 12(2) may not be exercised without the consent of the street authority.
- 2.2.23 This article substantially reflects Article 11 of The Byers Gill Solar Order 2025, Article 9 of The Oaklands Farm Solar Park Order 2025 and Article 9 of The Longfield Solar Farm Order 2023.

Questions from ExA regarding Article 15 (temporary stopping up of streets and public rights of way) of the draft DCO

- 2.2.24 Please see the Applicant's response to Hearing Action Point 7 below.

HAP No.	Action Point	Applicant's Response
7	Applicant to confirm why Article 15 (temporary stopping up and restriction of use of streets) is appropriate and proportionate having regard to the impacts on pedestrians and others in authorising the use of temporary construction compounds within the streets.	<p>Article 15 allows for the temporary stopping up, prohibit the use of, restrict the use of, authorise the use of, alter or divert any street or public right of way for the purposes of the Authorised Development. It also authorises the use of motor vehicles over public rights of way, which is necessary to enable the undertaker to access parts of the Authorised Development during its operation.</p> <p>Article 15(2) protects pedestrians by providing that the undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary stopping up etc. if there would otherwise be no such access.</p> <p>The streets and public rights of way that are to be temporarily stopped up are listed at Part 1 of Schedule 6 of the dDCO, which may not be carried out</p>

HAP No.	Action Point	Applicant's Response
		<p>until the street authority has been consulted.</p> <p>The streets and public rights of way where the use of motor vehicles will be authorised are set out at Part 2 of Schedule 6.</p> <p>The undertaker will have a general power to temporarily stop up other streets and public rights of way but cannot do so without the consent of the street authority, who may impose reasonable conditions on such consent.</p> <p>Article 15(5) provides that compensation is payable in respect of loss suffered by the suspension of any private rights of way.</p> <p>Article 15(6) provides that the undertaker may use any streets or public rights of way that have been temporarily stopped up as a temporary working site.</p> <p>Article 15(8) provides that the undertaker may temporarily stop up a street more than once if necessary.</p> <p>Section 6 of the outline Public Rights of Way Management Plan [APP-160] sets out in detail the proposed procedures to be implemented during the construction phase to control the interface between public rights of way users and construction traffic and operations. Implementation and compliance with this management plan is secured by way of requirement 11 within Schedule 2 of the draft DCO.</p> <p>Similar drafting has been used in other made Orders, including Article 11 of The East Yorkshire Solar Farm Order 2025, Article 11 of the Gate Burton Energy Park Order 2024, Article 11 of the Cottam Solar project Order 2024, and Article 11 of The Longfield Solar Farm Order 2023. The deemed consent provision set out at paragraph (9) and the authorisation set out at paragraph (10) are not included in these previous development consent orders but are considered necessary and appropriate.</p>

Questions from ExA regarding Article 18(9) (discharge of water) of the draft DCO

2.2.25 Please see the Applicant's response to Hearing Action Point 8 below.

HAP No.	Action Point	Applicant's Response
8	Applicant to consider whether Article 18(9) should be removed for consistency with other made DCOs, and to justify why it is necessary if it is not removed.	<p>The Applicant considers that Article 18(9) should be retained to avoid unacceptable delay to the delivery of the project. The provision ensures that any application for consent or approval in relation to the discharge of water into a watercourse, public sewer or drain is deemed to be granted or approved if no notification is received by the relevant owner after 28 days.</p> <p>The Applicant considers that this provides adequate time for an owner to consider the application and to respond accordingly. Failure to include this provision could lead to delays in obtaining such consent or approval.</p> <p>This provision is well preceded in other recently consented DCOs including the Heckington Fen Solar Park Order 2025, the Byers Gill Solar Order 2025, the Mona Offshore Wind Farm Order 2025, the Five Estuaries Offshore Wind Farm Order 2025 and the M5 Junction 10 Development Consent Order 2025.</p> <p>To ensure that owners are fully aware of this provision, the Applicant has included additional wording in Article 18 of the draft DCO to confirm that Article 18(9) will only apply where the application for consent or approval includes a statement to confirm that this provision applies. The wording added at Article 18(10) and 18(11) is consistent with wording added by the Secretary of State in the Byers Gill Solar Order 2025.</p>

Questions from ExA regarding Article 30(4) (temporary use of land for carrying out the authorised development) of the draft DCO

2.2.26 Please see the Applicant’s response to Hearing Action Point 9 below.

HAP No.	Action Point	Applicant’s Response
9	Applicant to consider whether Article 30(4) should be updated in light of the Secretary of State’s decision and the made DCO for Stonestreet Green Solar.	<p>The Applicant notes that the decision letter for the Stonestreet Green Solar DCO provides that the Secretary of State made “<i>Amendments to (previously) Article 31(3) to clarify that the undertaker may not remain in possession of land under (previously) Article 31 for longer than reasonably necessary.</i>”</p> <p>The Applicant notes that this provision ended up as Article 30 (Temporary use of land for carrying out the authorised development) of the Stonestreet Green Solar Order 2025 where paragraph (3) of that order provides that:</p> <p><i>“The undertaker may not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession under this article after the end of the period of one year beginning with the date of completion of the part of the authorised development which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 (powers of entry) of the 1965 Act or made a declaration under section 4 (execution of declaration) of the 1981 Act in relation to that land.”</i></p> <p>A copy of the equivalent provision in the draft DCO [AS-008], being Article 30(4), is extracted below with differences shown in red:</p> <p><i>“The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of</i></p>

HAP No.	Action Point	Applicant's Response
		<p><i>the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land."</i></p> <p>The Applicant considers that the provisions will have materially the same effect and would not allow the undertaker to remain in possession of land for longer than is reasonably necessary. Consequently, the Applicant does not propose to amend Article 30(4) of the draft DCO [AS-008].</p>

Question from the ExA on the extinguishment and removal of statutory undertaker apparatus is required in light of s.127 and 138 of the Planning Act 2008.

- 2.2.27 The draft DCO includes protective provisions in favour of electricity, gas, water, sewerage and telecommunications undertakers which are included in Part 1 and Part 2 of Schedule 13 of the draft DCO. There are also bespoke protective provisions for the benefit of the drainage authorities (Part 3 of Schedule 13), the Environment Agency (Part 4 of Schedule 13) and National Gas Transmission plc (Part 5 of Schedule 13). These reflect the Applicant's preferred drafting and discussions with the relevant statutory undertakers to agree these protective provisions are ongoing.
- 2.2.28 The Applicant is also in discussions with other statutory undertakers including Anglian Water Services Ltd and National Grid Electricity Transmission plc regarding bespoke protective provisions to be included in the draft DCO.

2.2.29 The Applicant considers that these protective provisions are adequate and proportionate to protect the statutory undertakers given the nature of the interactions and the extent to which land, rights or apparatus of the statutory undertakers will be affected by the project. The inclusion of these protective provisions, which include works approvals mechanisms, will ensure that there will be no serious detriment to the undertaking of any of the statutory undertakers affected by the Scheme.

2.2.30 It is clear from previous considerations of section 127 in other DCO decisions, that what constitutes ‘serious detriment’ is a high bar. An adverse impact or detriment will not necessarily mean that serious detriment exists.

Question from ExA regarding Article 37 (removal of human remains) of the draft DCO

2.2.31 Please see the Applicant’s response to Hearing Action Point 10 below.

HAP No.	Action Point	Applicant’s Response
10	Applicant to consider whether Article 37 is required noting its removal by the Secretary of State in relation to the Stonestreet Green Solar DCO and other DCOs where there are no known burial sites.	<p>The Applicant notes the Examining Authority’s query regarding whether Article 37 is required, having regard to its removal by the Secretary of State in the Stonestreet Green Solar DCO. The Applicant also notes that in the relevant decision the Secretary of State was not persuaded by a justification based solely on the undertaker being unable to “conclusively rule out” the presence of human remains within the Order limits.</p> <p>The Applicant considers that the position in relation to the retention of Article 37 for the Scheme is materially different from that considered by the Secretary of State in the Stonestreet Green Solar DCO. Specifically, the Site where the Scheme is located is recognised to be of heightened archaeological sensitivity following the identification of a Roman settlement of national significance, which has been designated as a Scheduled Monument.</p>

HAP No.	Action Point	Applicant's Response
		<p>In these circumstances, the Applicant considers there to be clear, site specific justification for retaining Article 37 to ensure there is appropriate provision within the DCO should human remains, including archaeological human remains, be encountered during the course of the authorised development.</p> <p>The Applicant agrees with the ExA that provision for the investigation, recording and treatment of archaeological remains should be secured through the appropriate controls in the draft Order, including through Requirement 15 (Archaeology) and the Written Scheme of Investigation ("WSI").</p> <p>However, the Applicant does not accept that this renders Article 37 unnecessary or inappropriate. Requirement 15 and the WSI govern how archaeological works are undertaken, including methodology, professional standards and recording. Article 37 serves a different and complementary function by providing a clear statutory framework for the lawful removal, re interment or cremation of human remains where previously unidentified remains are discovered. In doing so, it disapplies section 25 of the Burial Act 1857 (and The Town and Country Planning (Churches, Places of Religious Worship and Burial Ground) Regulations 1950) in respect of removals carried out in accordance with the article. The Applicant therefore considers that Article 37 provides additional legal clarity and certainty, without duplicating or undermining the archaeological controls secured through the WSI.</p> <p>For the avoidance of doubt, should Article 37 not be retained, and archaeological human remains were identified during the course of the authorised development, the Applicant considers that section 25 of the Burial Act 1857 would be engaged.</p> <p>The Applicant also notes the Secretary of State's concern stated in the Stonestreet Green Solar DCO decision</p>

HAP No.	Action Point	Applicant's Response
		<p>letter that: <i>"The Secretary of State will, for obvious reasons, want modern human remains that are not contained in public records or otherwise readily identifiable to be dealt with by the proper authorities, rather than being simply removed and reburied."</i> The Applicant considers that the retention of Article 37 is fully consistent with, and indeed supports, that position. For example, where remains were interred 100 years ago or less, Article 37 requires public notice of any intended removal and requires a copy of that notice to be sent to the local planning authority. It also provides that where such remains cannot be identified, the matter must be determined by the County Court, which may specify who is to remove the remains and determine how costs are to be dealt with. Further, the removal of remains under the article must be carried out in accordance with any directions given by the Secretary of State. These provisions therefore ensure that removals are not undertaken without appropriate scrutiny by appropriate authorities.</p> <p>Taken together, the effect of Article 37 is to replace the existing and disparate regimes for regulation of the removal of human remains and consolidate the applicable provisions in a single article in the Order. It is required by the undertaker to ensure that archaeological remains are recovered appropriately and with appropriate oversight without causing unacceptable delay to the implementation of this nationally significant infrastructure project.</p> <p>For these reasons, the Applicant considers that the retention of Article 37 is justified and appropriate for the purposes of the Scheme.</p>

Question from ExA regarding how biodiversity net gain (BNG) is secured in the DCO

2.2.32 Please see the Applicant's response to Hearing Action Point 11 below.

HAP No.	Action Point	Applicant's Response
11	Applicant to provide information on how BNG is secured by the dDCO in line with Natural England's written representation or in addition to the landscape and ecological management plan.	<p>The Applicant has amended the outline Landscape and Ecological Management Plan (oLEMP) [APP-159] at Deadline 1 to provide the commitment to achieving biodiversity net gains, which Natural England has welcomed in its written representations.</p> <p>Requirement 4 of the draft DCO [AS-008] secures that a final Landscape and Ecological Management Plan in substantial accordance with the oLEMP is agreed with the LPA prior to commencement of any phase of the authorised development.</p> <p>The Applicant is committed to providing biodiversity net gains, and considers this approach adequately secures the Applicant's proposed BNG, and that a separate additional Requirement in the draft DCO is not necessary.</p>

Questions from ExA on the contents of the explanatory memorandum

2.2.33 Please see the Applicant's response to Hearing Action Point 12 below.

HAP No.	Action Point	Applicant's Response
12	<p>Applicant to review and update explanatory memorandum:</p> <ol style="list-style-type: none"> Article 42 - correction of reference to Article 40. Paragraph 9.8.18 – explanation and justification of differences between Article 40 and the 	<p>The Applicant has updated the Explanatory Memorandum [AS-010] to address points (1), (2) and (4).</p> <p>In respect of point (5), the Applicant does not consider that a correction is required but has re-worded sub-paragraph (2) to more clearly</p>

HAP No.	Action Point	Applicant's Response
	<p>equivalent articles in the Byers Gill and Longfield DCOs to be added.</p> <p>3. Paragraph 9.8.30 – consider whether this should also refer to articles 15, 19, 20, 21, 41 and 42.</p> <p>4. Paragraph 10.2.4(d) – correction of reference to requirement 8 instead of requirement 4.</p> <p>5. Sub-paragraph Q – correction in reference to requirement 17 to refer to sub-paragraph (2).</p> <p>6. Schedule 10 (paragraph 10.10.1) – correction of reference to Schedule 9 rather than Schedule 10.</p>	<p>differentiate between each of the paragraphs of Requirement 17.</p> <p>In respect of point (3), the Applicant notes that paragraph 9.8.30 of the Explanatory Memorandum refers to Article 48 (Funding) of the draft DCO, which prevents the undertaker from exercising certain powers until it has put into place a guarantee (or alternative form of security approved by the Secretary of State) in the amount of the liabilities of the undertaker to pay compensation under the provisions specified in Article 48(2). At present Article 48(2) refers to the following provisions:</p> <ul style="list-style-type: none"> • Article 21 (compulsory acquisition of land); • Article 23 (compulsory acquisition of rights); • Article 24 (private rights); • Article 26 (acquisition of subsoil only); • Article 29 (rights under or over streets); • Article 30 (temporary use of land for carrying out the authorised development); • Article 31 (temporary use of land for maintaining the authorised development); and • Article 32 (statutory undertakers). <p>These articles have been selected because they relate to the various powers of compulsory acquisition and temporary possession contained in the draft DCO. One of the reasons for including Article 48 and structuring it in this way is to ensure that the Secretary of State is comfortable that adequate funding is available to cover compensation relating to the exercise of compulsory acquisition and temporary possession powers.</p> <p>The Applicant has considered the list of provisions noted by the ExA being:</p>

HAP No.	Action Point	Applicant's Response
		<ul style="list-style-type: none"> • Article 15 (temporary stopping up of streets and public rights of way). • Article 19 (protective works to buildings). • Article 20 (authority to survey and investigate the land). • Article 21 (compulsory acquisition of land). • Article 41 (felling or lopping of trees or removal of hedgerows). • Article 42 (trees subject to tree preservation orders). <p>While it is correct that these provisions may require compensation to be paid in certain circumstances they do not relate to compulsory acquisition or temporary possession. It is not considered appropriate or necessary to include these provisions within Article 48 for this reason and doing so would delay the exercise of these powers if there is a need for them to be exercised prior to compulsory acquisition or temporary possession of land or rights. The only exception to this is Article 21, which is already referred to in the Article 48 of the draft DCO.</p> <p>The Applicant wishes to note that the list of articles referred to in Article 48 is consistent with equivalent articles in other solar DCOs, despite those DCOs containing other compensation provisions. These solar DCOs include:</p> <ul style="list-style-type: none"> • Article 45 of the Byers Gill Solar Order 2025; • Article 42 of the Oaklands Farm Solar Park Order 2025; and • Article 43 of The Helios Renewable Energy Project Order 2025. <p>Consequently, the Applicant does not consider that any amendments need to be made to Article 48 of the draft DCO or the Explanatory Memorandum.</p>

APPENDIX A: LIST OF ACTION POINTS

The following Hearing Action Points were taken by the Applicant at ISH1. The Applicant's responses to each point are set out in the relevant tables in Section 2 of this document.

HAP No.	Action Point
1	<p>Applicant to provide written response to points raised by Mr Pike on behalf of Stop East Park Energy, the key points raised were:</p> <ol style="list-style-type: none"> 1. Mr Pike submitted that many of the environmental effects assessed in the ES rely on mitigation measures, methods, operational controls or design assumptions that are not secured through clear enforceable requirements in the order itself. Mr Pike stated that detail is deferred to future plans, approvals or management documents without defining the standards those documents must meet, the outcomes they must achieve, the criteria against which they will be judged, or the consequences if those outcomes are not delivered. Mr Pike submitted that the lack of detail materially reduces confidence that the impacts will be acceptably controlled in practice. 2. Mr Pike provided an example of requirement 18 (decommissioning and restoration) stating that the decommissioning plan is deferred until the end of the project life. Mr Pike stated that the requirement does not secure funding, restoration standards, or independent verification. 3. Mr Pike provided an example of requirement 10 (battery safety management plan) stating that the proposed BESS poses fire and environmental risks. Mr Pike stated that the requirement relies on submission of a future management plan without specifying the analysis required or the safety outcomes to be achieved, with no explicit requirement for a quantified risk assessment, thermal runaway modelling, toxic plume analysis, defined safety distances or enforceable design parameters for containment, fire response or pollution control. Mr Pike also submitted that the SoCG with emergency services does not provide a substitute for binding provisions in the order and cannot compel future operators to maintain equivalent standards. 4. Mr Pike provided an example of Work No. 4 stating that this authorises a 400 kV transmission connection capable of bi-directional operation without defining the operational envelope. Mr Pike stated that if import from the transmission network to charge the battery is possible it would represent a materially different scheme from a solar led export project. Mr Pike submitted that it is not clear that this has been constrained or fully assessed on the face of the draft DCO to prevent is occurring in practice.
2	<p>Applicant to confirm whether previous solar DCOs have included provisions for decommissioning security.</p>
3	<p>Applicant to consider amendments requested by the ExA in relation to the dDCO:</p> <ol style="list-style-type: none"> 1. Preamble - Addition of reference to s.83(1) of the Planning Act 2008.

HAP No.	Action Point
	<p>2. Requirement 5(1), 9 and 18 – Approval to be in consultation with the relevant statutory nature conservation body on each requirement.</p> <p>3. Requirement 5 and 18 – Approval to be in consultation with the relevant highway authority or highway authorities to include National Highways where relevant to the strategic road network.</p> <p>4. Requirement 7 – Approval to be in consultation with Natural England.</p>
4	<p>Applicant to provide further information in writing on flexibility afforded by the dDCO including:</p> <ul style="list-style-type: none"> • scope of maintenance of works and ancillary works; • limits of deviation • the proposed ability for discharging authorities to authorise subsequent amendments through tail pieces. <p>Additionally, the Applicant is to fully justify any carve out from the definition of commencement and to demonstrate that such works are de minimis and do not have environmental impacts, which need to be controlled by a requirement.</p> <p>The ExA noted that the preferred approach to limiting flexibility is to limit amendments to those that would not give rise to any materially new or materially different environmental effects to those identified in the ES and that further guidance on tailpieces is provided at section 17 of Advice Note 15. The ExA stated that drafting which gives rise to flexibility or alternative should provide for unforeseen circumstances and define the scope of what has been authorised with sufficient provision. The ExA provided an example of the amendments made to Article 6 (benefit of the order) of the National Grid Richborough Connection Project Order 2017 by the Secretary of State to remove ambiguity.</p>
5	<p>Applicant to confirm the status of the planning permission for the solar farm located to the south of Manor Farm, including whether it is to be used as part of the authorised development.</p> <p>Applicant to also explain the need for Article 6 in light of Stonestreet Solar and the removal of an equivalent article by the Secretary of State on the basis that it was unnecessary and created ambiguity.</p>
6	<p>Applicant to confirm whether the controls on noise secured by the draft DCO are sufficient to justify the defence afforded by Article 9 (statutory nuisance).</p> <p>Applicant to also consider whether the draft DCO and explanatory memorandum need to be more explicit in relation to impacts from vibration.</p>
7	<p>Applicant to confirm why Article 15 (temporary stopping up and restriction of use of streets) is appropriate and proportionate having regard to the impacts on pedestrians and others in authorising the use of temporary construction compounds within the streets.</p>
8	<p>Applicant to consider whether Article 18(9) should be removed for consistency with other made DCOs, and to justify why it is necessary if it is not removed.</p>

HAP No.	Action Point
9	Applicant to consider whether Article 30(4) should be updated in light of the Secretary of State's decision and the made DCO for Stonestreet Green Solar.
10	Applicant to consider whether Article 37 is required noting its removal by the Secretary of State in relation to the Stonestreet Green Solar DCO and other DCOs where there are no known burial sites.
11	Applicant to provide information on how BNG is secured by the dDCO in line with Natural England's written representation or in addition to the landscape and ecological management plan.
12	<p>Applicant to review and update explanatory memorandum:</p> <ol style="list-style-type: none"> 1. Article 42 - correction of reference to Article 40. 2. Paragraph 9.8.18 – explanation and justification of differences between Article 40 and the equivalent articles in the Byers Gill and Longfield DCOs to be added. 3. Paragraph 9.8.30 – consider whether this should also refer to articles 15, 19, 20, 21, 41 and 42. 4. Paragraph 10.2.4(d) – correction of reference to requirement 8 instead of requirement 4. 5. Sub-paragraph Q – correction in reference to requirement 17 to refer to sub-paragraph (2). 6. Schedule 10 (paragraph 10.10.1) – correction of reference to Schedule 9 rather than Schedule 10.