EAST PARK ENERGY

East Park Energy

EN010141

Applicant Response to Stop East Park Energy

Document Reference: EN010141/DR/8.29

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009: Regulation 5(2)(q)

April 2026

Version P01

EAST PARK ENERGY

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Applicant Response to Stop East Park Energy

APFP Regulation Reference:	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference:	EN010141
Application Document Number:	EN010141/DR/8.28
Author:	BSSL Cambsbed 1 Ltd

Version	Date	Status
P01	April 2026	Deadline 2

© AXIS P.E.D. Ltd 2026. All rights reserved.

This document and its accompanying documents contain information which is confidential and is intended only for the use of the client. If you are not one of the intended recipients any disclosure, copying, distribution or action taken in reliance on the contents of the information is strictly prohibited.

Unless expressly agreed, any reproduction of material from this document must be requested and authorised in writing from AXIS P.E.D. Ltd. Authorised reproduction of material must include all copyright and proprietary notices in the same form and manner as the original and must not be modified in any way. Acknowledgement of the source of the material must also be included in all references.

CONTENTS

1.0 Introduction 2
1.1 Overview 2
1.2 Purpose of this Document 2
1.3 Document Structure 2
1.4 Note about National Policy Statements 3
2.0 Approach to Responding to Stop East Park Energy 4
2.1 Overview 4
2.2 Accuracy of SEPE submission 5
2.3 Professional competence of SEPE group 6
2.4 Use of Artificial Intelligence 7
3.0 Response on Adequacy of the Environmental Assessment 9
3.1 Introduction 9
3.2 Approach to environmental assessment 9
3.3 Approach to considering alternatives 12
4.0 Response on Project Funding and Deliverability 13
4.1 Overview of the Funding Statement 13
4.2 Legislation and guidance on the content of a funding statement 16
4.3 Decommissioning and restoration 18
5.0 Response on Draft Development Consent Order 20
5.1 Draft DCO internal consistency and enforceability 20
5.2 Adequacy of DCO safeguards and secured mitigation 21
5.3 Approach to mitigation 23
5.4 Compulsory Acquisition 27
5.5 Articles of the draft DCO 33
5.6 Requirements of the draft DCO 37
6.0 Response on Traffic and Transport 52
6.1 Assessment of peak impacts 52
7.0 Response to 'Procedural Deficiencies' 55
7.1 Response to 'Procedural Deficiencies' 55
Appendix A: Review of Case Law cited by SEPE 122

1.0 INTRODUCTION

1.1 Overview

1.1.1 This document sets out the response of BSSL Cambsbed 1 Limited ('the Applicant') to the Written Representations (WR) submitted by 'Stop East Park Energy' (SEPE) in relation to the Development Consent Order (DCO) application for the East Park Energy project (the 'Scheme').

1.2 Purpose of this Document

1.2.1 The purpose of this document is to provide the Applicant's response to the WR submitted by SEPE at Deadline 1 of the examination of the application for development consent for the Scheme.

1.2.2 The Applicant has provided a separate response to all other WRs within the **Applicant Response to Written Representations [EN010141/DR/8.28]**.

1.3 Document Structure

1.3.1 This response document is structured as follows:

- Section 2.0 – Approach to Responding to Stop East Park Energy;
- Section 3.0 – Response on Adequacy of Environmental Assessment;
- Section 4.0 – Response on Project Funding and Deliverability;
- Section 5.0 – Response on Draft Development Consent Order;
- Section 6.0 – Response on Traffic and Transport; and
- Section 7.0 – Response to 'Procedural Deficiencies'.

1.3.2 The documents submitted with the DCO Application are referenced using the reference number assigned by the Planning Inspectorate (PINS) i.e. **[APP-XXX]**). Where application documents have been updated based on feedback received at Deadline 1, this response document sets out that the relevant updated document is "**[as updated alongside this submission]**".

1.4 Note about National Policy Statements

1.4.1 Section 1.6 of the 2026 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.

1.4.2 All references to the NPSs in this document made by the Applicant are to the 2024 NPSs unless stated otherwise.

1.4.3 The Applicant has prepared a separate **Note on updated National Policy Statements EN-1, EN-3 and EN-5 [PDA-018]**.

2.0 APPROACH TO RESPONDING TO STOP EAST PARK ENERGY

2.1 Overview

2.1.1 The Applicant notes the extensive submission made by SEPE as part of its Written Representation at Deadline 2. The Applicant has not sought to respond to each and every point made by SEPE and has instead focused its response around the suggested 'Procedural Deficiencies' identified in **Appendix M of the SEPE submission [REP1-156]**. The Applicant considers this to be a proportionate response, and having reviewed all of the SEPE submission, considers the table in Appendix M to present an adequate summary and synthesis of the key matters raised by SEPE through Sections 4.0 to 23.0 of the written representation.

2.1.2 In addition to responding to Appendix M of the SEPE submission, the Applicant has provided general commentary in relation to the adequacy of the environmental assessment, and more specific responses in relation to project funding and deliverability, the draft development consent order, and traffic and transport. This should not be taken that the Applicant agrees with or has no comment on the remainder of the SEPE response. Instead, the Applicant considers these matters are generally addressed either through the responses to procedural deficiencies in Section 7.0, or the Applicant's previous responses to relevant representations[1].

2.1.3 Accordingly, should there be any specific matters raised by SEPE that the ExA considers the Applicant may have overlooked, or not yet made an adequate response, then the Applicant invites the ExA to set those specific matters out either through the ExA's formal written questions, or through a

[1] ***Applicant Responses to Relevant Representations - Host Authorities, Statutory Environmental Bodies, and Other Interested Parties [REP1-055]***; and ***Applicant Responses to Relevant Representations - Thematic Responses [REP1-057]***.

Rule 17 request, and the Applicant will be happy to assist the ExA in providing a further response.

2.1.4 The Applicant therefore reserves the right to comment further on the **SEPE written representation [REP1-156]** at future deadlines.

2.2 Accuracy of SEPE submission

2.2.1 The Applicant notes that the SEPE response confidently presents a wide variety of citations. The Applicant has however found numerous examples where the stated reference does not exist, for example "*Royal Agricultural Society of England (2023). Solar, Soil and the Future of Farmland. RASE Policy Paper, Stratford-upon-Avon*" which the Applicant can find no reference to online or when speaking to relevant professionals. At this stage, the Applicant has not sought to verify the validity or appropriateness of each and every reference listed by SEPE in '*Section 25: References*' of their submission, but has concerns about the accuracy and relevance of the evidence presented in the SEPE submission.

2.2.2 In addition, and importantly, the Applicant notes that SEPE's written representation confidently and assertively cites case law both in the main body of the representation, and in the accompanying **Appendix B of the representation [REP1-156]**. The Applicant has very significant concerns about SEPE's submission in this regard.

2.2.3 The Applicant's professional legal advisers have attempted to verify the principles relied on by SEPE but in many cases has found that cases have not been cited properly with the references used relating to entirely unrelated cases, and in some instances this has meant that the Applicant has been unable to find the case referred to at all. Additionally, the Applicant is very concerned that many of the legal principles that SEPE seek to rely on are not supported by the case law provided, with many of the cases appearing to have been misinterpreted or misconstrued, and with many of these cases having little to no relevance to the Scheme or the principles that SEPE purport that they establish.

2.2.4 In order to address this, the Applicant has prepared a table at **Appendix A**, which contains a summary of the facts of each case referred to by SEPE along with the Applicant's professional analysis of the relevance of each case to SEPE's submissions. It is hoped that this table will provide clarity on the relevance of each case, as it is considered unsafe to rely on SEPE's current assertions as part of the Examination.

2.3 Professional competence of SEPE group

2.3.1 The Applicant recognises that SEPE is a voluntary community organisation preparing submissions without professional funding, however, there is still an expectation that all parties to the examination ensure as far as practicable that information submitted is accurate and relevant, noting that local residents, voluntary or community groups are normally (rightly) given more leeway as such individuals/groups often do not include experienced professionals with relevant expertise.

2.3.2 In this case however, SEPE asserts that it comprises "*individuals with professional and practical expertise in agriculture, civil engineering, community engagement, construction, ecology, energy, energy development, engineering, environmental science, finance, infrastructure development, land management, law, planning, and technical analysis, in addition to experience with the NSIP/DCO process*".

2.3.3 The Applicant also notes the statement at Appendix C of the **SEPE Written Representation [REP1-156]** in relation to artificial intelligence usage that any use "…*has been restricted to basic editorial support, to help manage the substantive inputs, evidence, analysis and professional judgement of SEPE members. All analysis, conclusions and opinions expressed are those of SEPE. AI has not been relied upon as a source of evidence and has not substituted for expert judgement.*"

2.3.4 The Applicant considers that given SEPE has relied upon professional and expert judgement, the assertiveness of the claims made through the submission, and the frequent (often significant) inaccuracies throughout the

submission, that SEPE should be requested to submit to the examination a note setting out the professional experience and expert judgement relied upon in drafting its written representation, and to which specific parts of the SEPE submission this professional experience and expert judgement has been applied. Otherwise, given the breadth of inaccuracies identified by the Applicant, and the nature in which they are presented to the ExA, the Applicant considers the SEPE written representation must attract significantly less weight in the Examination.

2.4 Use of Artificial Intelligence

2.4.1 The Applicant supports the emergence of 'Artificial Intelligence' (AI) in the planning system, and recognises the benefits it can bring to interested parties on all forms of planning application in communicating legitimate concerns about emerging developments. AI does however have well-documented limitations in its accuracy, and thus poses significant risks when AI is used as part of the planning or any other legal process where evidence must be relied upon.

2.4.2 The Planning Inspectorate's guidance on the 'Use of artificial intelligence in casework evidence'[2] states that: "*A 'golden rule' for any use of AI is that you must use AI responsibly. It is your responsibility to ensure that the information generated is accurate and appropriate.*"

2.4.3 The above guidance then goes on to state that:

> *"While AI presents a very useful tool, the results it gives are not always perfect. AI is also capable of creating fake representations or evidence, or other types of fake text and images.*
>
> *The steps outlined above should help you consider how you have used AI in your submissions. It should also help to mitigate risk of adding additional burden / unnecessary time to the case. This is*

[2] https://www.gov.uk/guidance/use-of-artificial-intelligence-in-casework-evidence

important as improper use could be at risk of being found as an example of unreasonable behaviour, and open to an award of costs."

2.4.4 The Planning Inspectorate's guidance requires that where AI has been used, a short statement be provided setting out how it has been used, the tools used, what it was used for and how, what checks have been made to ensure accuracy, and that the author takes responsibility for the accuracy of the content.

2.4.5 The Applicant acknowledges that SEPE has provided the following statement in relation to the use of AI:

"SEPE has made very limited use of AI tools, and solely in a minor capacity. Any such use has been restricted to basic editorial support, to help manage the substantive inputs, evidence, analysis and professional judgement of SEPE members. All analysis, conclusions and opinions expressed are those of SEPE. AI has not been relied upon as a source of evidence and has not substituted for expert judgement."

2.4.6 Whilst the Applicant does not seek to dispute this statement at this time, the Applicant has significant concerns regarding the volume of factual errors, inaccuracies and unreliable references within the SEPE written representation. Given the length and breadth of that document, identifying and fact-checking those matters, and establishing which points are relevant and can properly be relied upon, has already required the Applicant to expend a disproportionate amount of time and resource. The Applicant would not expect this level of inaccuracy in a professionally prepared response, particularly where such a response has presumably been produced with input from professionals who are subject to chartered or other professional obligations. The Applicant considers the ExA should remind all parties of their responsibilities to ensure that information submitted is accurate and relevant.

3.0 RESPONSE ON ADEQUACY OF THE ENVIRONMENTAL ASSESSMENT

3.1 Introduction

3.1.1 This section responds to the overarching assertion in SEPE's written representation that the Application is, in principle, incapable of being relied upon by the Examining Authority because:

- there is said to be insufficient environmental information;
- alternatives are said not to have been properly considered; and
- the Examining Authority is said to be unable to rely on the submitted application as a basis for examination and recommendation.

3.1.2 This section does not engage with, or concede, any individual topic criticisms; it addresses the correct legal and procedural threshold for an Environmental Statement (ES) and the wider "environmental information" package in the nationally significant infrastructure project regime, and explains why SEPE's assertions are incorrect.

3.1.3 The Applicant is clear that the Application is supported by environmental information that meets all statutory requirements and is suitable for examination.

3.2 Approach to environmental assessment

3.2.1 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 establish the statutory framework for undertaking EIA on NSIP applications. The central requirement of the Regulations is clear that development consent must not be granted unless an EIA has been carried out. That is the relevant legal control on the decision to grant consent. It does not, however, require every conceivable environmental issue to be examined exhaustively.

3.2.2 The Regulations define EIA as a process, not as a single static document. It comprises the preparation of an ES by the applicant, the required publicity and consultation, and the steps to be undertaken by the Secretary of State when deciding whether grant consent. This is a deliberately structured, iterative process designed to ensure that environmental effects are properly identified, consulted upon, examined, and concluded upon.

3.2.3 The Regulations also embed proportionality within the EIA process itself. They require that the EIA identifies, describes and assesses likely significant effects "*in an appropriate manner, in light of each individual case*". This statutory language rejects any notion that adequacy is judged by volume, exhaustive treatment, or by attempting to answer speculative impact pathways. The legal focus is on what is significant, and what is appropriate in the particular case.

3.2.4 The ES must include at least the matters listed in regulation 14(2), including (amongst other requirements) a description of the proposed development, a description of the likely significant effects on the environment, and a description of the reasonable alternatives studied by the applicant with an indication of the main reasons for the option chosen. These are the key statutory tests for adequacy. There is not a free-standing obligation to gather or present limitless environmental information, or to undertake an open-ended alternatives exercise unconstrained by reasonableness and relevance.

3.2.5 Critically, regulation 14(3) states that the ES must include the information "*reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment*". This is a reasonableness test directed to significance, modern assessment methods, and the decision maker's eventual reasoned conclusion. This is not a requirement to eliminate all uncertainty, nor to provide every possible piece of baseline data for its own sake.

3.2.6 The Regulations also provide for quality control in that an applicant must ensure the ES is prepared by competent experts and it must be accompanied by a statement outlining their relevant expertise or qualifications.

3.2.7 SEPE's repeated point that there is 'insufficient information' is misplaced because it proceeds from an incorrect premise that the Applicant must provide comprehensive information on all conceivable environmental matters, irrespective of whether those matters are likely to generate significant effects, or are capable of influencing the reasoned conclusion. The ES is required to address likely significant effects, and to do so to the extent reasonably required for a reasoned conclusion.

3.2.8 This proportionality is reinforced in the Planning Inspectorate's Advice Note Seven which makes clear that applicants should ensure all aspects of the environment likely to be significantly affected [emphasis added] are addressed, and expressly emphasises that focusing an ES on aspects and matters where a likely significant effect may occur is "essential", so that the EIA process is proportionate.

3.2.9 The scoping process is an important mechanism for ensuring proportionality. It exists to refine and focus the assessment, with early identification of likely significant effects and, where appropriate, agreement that certain aspects or matters can properly be scoped out. A robust scoping process therefore supports, rather than undermines, adequacy and reliance. It is wrong in principle to treat the product of a proportionate scoping and assessment approach as inherently insufficient simply because it does not mirror SEPE's preferred breadth of assessment.

3.2.10 In the NSIP regime, proportionality is also reflected in the acceptance stage where an application must be of a satisfactory standard to be examined. A satisfactory standard is one which is internally consistent and proportionate in scale and content to the proposed development, concise, clearly written, and well-structured.

3.2.11 As set out earlier, the Applicant is clear that the Application is supported by environmental information that meets all statutory requirements and is suitable for examination.

3.3 Approach to considering alternatives

3.3.1 The legal requirement to consider alternatives in an Environmental Statement is expressed in regulation 14(2)(d). The applicant must provide a description of the reasonable alternatives studied by the applicant which are relevant to the proposed development and its specific characteristics, together with an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment. The requirement to report on alternatives is therefore confined to alternatives that are reasonable, that were studied, and that are relevant to the proposed development and its characteristics.

3.3.2 In policy terms, NPS EN-1 contains "*no general requirement to consider alternatives*". Where alternatives are engaged, EN-1 makes clear that the scope and extent of assessment is context specific, and that the existence of a less harmful alternative is not a standalone basis for refusal.

4.0 RESPONSE ON PROJECT FUNDING AND DELIVERABILITY

4.1 Overview of the Funding Statement

4.1.1 The Applicant's **Funding Statement [PDA-009]** was prepared pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed forms and Procedure) Regulations 2009 (the "APFP Regulations") and the Department for Communities and Local Government (now known as the Ministry of Housing, Communities and Local Government) guidance entitled 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (the "Guidance")[3]. Under Regulation 5(2)(h) of the APFP Regulations, the Applicant is required to submit a funding statement is because the DCO, if made, would authorise the compulsory acquisition of land and rights in land.

4.1.2 In overview, the Funding Statement is broken down into the following sections:

- **1) Introduction**
- **2) The Applicant** – This section provides details of the Applicant, its ultimate owner (Lantern Holdco Ltd (registered in England and Wales under Company Number 11569920)) and the Brockwell Energy Group.
- **3) Development costs** – This section provides details of the estimated costs for the construction of the Scheme, including the cost of the construction of the solar panels, BESS and cable routes, and the cost of exercising easements and land agreements and the cost of land acquisition. This figure also includes the cost of compensation that would be payable in the event of the use of compulsory acquisition powers. The total figure included in this section provides for 3 years of inflation between the capex estimate date (being 2025) and the start of construction and is

[3] *Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land*

considered to be a highly robust figure that can withstand unexpected price shocks caused by external forces.

- **4) Funding for the Scheme** – This section sets out the Applicant's experience in securing funding for complex large scale infrastructure projects as well as the Applicant's intended approach to funding the Scheme. This section notes that if the Secretary of State grants development consent for the Scheme then, as is common in privately funded infrastructure projects, Brockwell Energy would seek further funding with the support of its legal and financial advisors. Brockwell Energy would consult with a variety of financial institutions and its investors to enable the construction, operation and decommissioning of the proposed development. It also notes that while a final decision has not yet been taken on the type of finance that will be used, this approach is tried and tested in the market and Brockwell Energy has no concerns that it would be unable to obtain finance for the construction, operation and decommissioning of the proposed development.
- **5) Land acquisition** – This section sets out the number of plots of land that will be subject to compulsory acquisition, confirming that the Applicant has sufficient funds to meet the cost of acquiring these interests and confirming that it is not anticipated that any interests will be eligible to serve a blight notice. This section also details how the Applicant has included article 48 in the draft DCO [REP1-005] which is a standard provision that will prevent the Applicant exercising the powers of compulsory acquisition granted by the DCO until guarantees or alternative forms of security in respect of the liability of the undertakers to pay compensation are in place.
- **6) Conclusion**

4.1.3 In its Section 51 advice to the Applicant [PD-003] the Planning Inspectorate (PINS) noted that-

"The Funding Statement fails to give details of any financial or bank guarantees and bonds which would be used to secure the

acquisition of any land acquisition and then be able to fund the development in its entirety. The applicant is advised to review this and provide further details, including an overview of company accounts.

In addition, whilst the headline cost of the scheme is provided, further detail should be provided on the level of contingency provided within the scheme costs. The Scheme will still be a number of years away from implementation during Examination. Costs will be subject to inflationary pressures along with uplift in land values, and geo-political forces that could all increase the cost of the overall proposal"

4.1.4 In respect of the first point, the Applicant's **Cover Letter responding to the Section 51 advice [AS-001]** explains that the Funding Statement sets out that there is no reason to believe that, should the DCO be made, the Scheme will not proceed due to an absence or shortfall of funding. It was also noted that paragraph 4.1.3 of the Funding Statement confirms that should development consent be granted, a final financing package will be agreed with financial institutions and investors for the construction, operation, and decommissioning of the Scheme, which is a common approach in privately funded infrastructure projects.

4.1.5 Additionally, the Applicant updated paragraph 3.1.2 of the **Funding Statement [PDA-009]** at Procedural Deadline A to include details of the contingencies included in the headline cost. The Applicant also made amendments to section 5 (land acquisition) of the statement to capture the reduction in plots that will be subject to compulsory acquisition and to explain how article 48 (funding) of the draft DCO to impose a legal obligation that will ensure that adequate funding will be in place and secured before any compensation liability arises.

4.2 Legislation and guidance on the content of a funding statement

4.2.1 It is noted that **SEPE's written representation [REP1-156]** states that Regulation 5(2)(h) of the APFP regulations "*requires the application be accompanied by a statement explaining how the Applicant proposes to fund (i) construction of the authorised development and (ii) any compensation and associated liabilities arising from the exercise of compulsory acquisition powers*." The Applicant considers that this misconstrues the requirement as being wider than it is. In fact, Regulation 5(2)(h) of the APFP regulations requires that where a proposed development consent order would authorise the compulsory acquisition of land or an interest in land or right over land, the application for development consent must be accompanied by "*a statement to indicate how an order that contains the authorisation of compulsory acquisition is proposed to be funded*".

4.2.2 Separately, the Applicant notes that **SEPE's written representation [REP1-156]** refers to "*DCLG Guidance on the Compulsory Purchase Process and the Crichel Down Rules (2013) (paras 13–18) […]*". It is considered that this reference is likely incorrect as it is the Guidance that sets out the requirements of the funding statement, which in summary are:

> *"17. Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required. It may be that the project is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed*

to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.

18. The timing of the availability of the funding is also likely to be a relevant factor. Regulation 3(2) of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 allows for five years within which any notice to treat must be served, beginning on the date on which the order granting development consent is made, though the Secretary of State does have the discretion to make a different provision in an order granting development consent. Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of."

4.2.3 The Applicant considers that the Funding Statement [PDA-009] complies with the requirements of both Regulation 5(2)(h) of the APFP Regulations and the sections of the Guidance set out above for the following reasons.

4.2.4 Section 3 of the **Funding Statement [PDA-009]** provides a robust estimate of the resource implications of the Scheme, including a breakdown of the costs of the acquisition of land required, and the costs of implementing the Scheme. In respect of the costs of compulsory acquisition, paragraph 3.1.3 of the Applicant's **Funding Statement [PDA-009]** provides that the total estimate for the cost of the Scheme includes land acquisition costs, with an estimate of £2.45 million for compensation payable in respect of any compulsory acquisition included within this figure. As set out in the Applicant's Statement of Reasons [PDA-007] the Applicant has secured voluntary agreements for 92% of the land within the Site and is confident that this figure will increase on the basis that negotiations continue to progress with affected landowners, which should only operate to reduce this figure. It is therefore considered that this addresses the requirements of the second sentence in paragraph 17 of the Guidance.

4.2.5 In section 5 of the Funding Statement, it is noted that the Applicant has not identified any interests which it considers could be eligible to serve a blight notice and none are anticipated; however, the Applicant has sufficient funds to meet the costs of acquiring these interests at whatever stage they are served. This satisfies the requirements of the final sentence in paragraph 18 of the Guidance.

4.2.6 Section 4 of the Funding Statement provides a clear indication of how the Scheme is proposed to be funded, noting that if the DCO is granted Brockwell Energy would seek further funding with the support of its legal and financial advisors and would consult with a variety of financial institutions and its investors to enable the construction, operation and decommissioning of the proposed development. It is noted that this is a common approach for privately funded infrastructure projects and solar developments, with similar positions being set out in the funding statements for Sunnica Energy Farm and Heckington Fen Solar Park. It is therefore considered that both Regulation 5(2)(h) and the remaining elements of the Guidance are satisfied by the Funding Statement.

4.3 Decommissioning and restoration

4.3.1 The Applicant notes the comments made at section 7.4 of **SEPE's written representation [REP1-156]** that the **Funding Statement [PDA-009]** does not clearly identify how decommissioning and restoration will be funded at the end of the proposed 40-year operational period. The Applicant considers that this is unnecessary given the inclusion of requirement 18 (decommissioning and restoration) in the **draft DCO [REP1-005]**, which will secure a legally binding obligation to decommission the site.

4.3.2 Additionally, the Applicant notes SEPE's comments regarding article 48 (funding) of the draft DCO and the fact that it does not cover the long-term costs associated with decommissioning and restoration etc. The Applicant confirms that the intention of article 48 is to ensure that a guarantee or alternative security is in place to cover liabilities associated with compulsory

acquisition before the relevant powers included in the draft DCO are exercised. The provision is therefore not relevant to decommissioning and restoration, which is instead covered by requirement 18 (decommissioning and restoration) of the draft DCO.

4.3.3 The Applicant's position in relation to decommissioning security can be found set out below under the heading "Draft DCO internal consistency and enforceability".

5.0 RESPONSE ON DRAFT DEVELOPMENT CONSENT ORDER

5.1 Draft DCO internal consistency and enforceability

5.1.1 The Applicant notes that SEPE's concern regarding the internal consistency of the draft DCO appears to stem from the matters identified in the Planning Inspectorates' (PINS) **Section 51 advice to the Applicant [PD-003]**, which was published following the acceptance of the Application for Examination.

5.1.2 The Applicant has responded to these matters in its **Response to Section 51 following Acceptance Cover Letter [AS-001]** responding to this advice and submitted an updated **draft DCO [AS-008]** at that time to address the matters that required amendments to be made. The Applicant submitted a tracked version of the **draft DCO [AS-009]** into the examination at that time, and then each subsequent time amendments have been made to the draft DCO. The Applicant has also submitted a **Schedule of Changes to the draft DCO** at each deadline where amendments have been made to the draft DCO to facilitate easy and clear identification of the amendments made to the draft DCO. The Applicant will continue to keep the draft DCO under review throughout Examination and will update the document where necessary.

5.1.3 Nevertheless, the Applicant disagrees that any of the matters identified in PINS' **Section 51 advice to the Applicant [PD-003**] were sufficient to result in material uncertainty regarding the environmental controls set out in the draft DCO and its requirements, for example the Examining Authority raised issues such as consistency in referencing or the requirement for full terms instead of abbreviations, and is of the view that the intended controls are clear.

5.1.4 The Applicant's response to each of the other matters referred to in SEPE's submission are considered in more detail below.

5.2 Adequacy of DCO safeguards and secured mitigation

5.2.1 The **draft DCO** submitted by the Applicant with this application is a statutory instrument and, as such, was drafted following the Planning Inspectorate Guidance "Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders" and The National Archives Statutory Instrument Practice.

5.2.2 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 other consented DCOs where equivalent proposals have been followed and taken as precedents.

5.2.3 Whilst the Applicant seeks to ensure that a degree of flexibility is secured to accommodate for the final fixed design of the Scheme, the Scheme must ultimately be delivered in accordance with the statutory instrument that is the development consent order.

5.2.4 The design parameters for the Authorised Development are specified and assessed in the ES. The ES captures the important parameters necessary to ensure the Scheme is not constructed in such a way that would exceed the worst-case scenario assessed in the ES. A **Design Parameters and Principles Statement [REP1-030]** was submitted with this application and is a document which is proposed to be certified by the Secretary of State upon the DCO being granted. This statement sets out the extent of the proposed works which are entirely accordance with the details found and the assessment carried out in the ES.

5.2.5 The detailed design of the Scheme will be in accordance with the Design Parameters and Principles Statement, and therefore the ES. The Design Parameters and Principles Statement is secured by way of a requirement of the made Order as proposed at Requirement 3 of Schedule 2 to the **draft DCO [REP1-005]**.

5.2.6 The **draft DCO [REP1-005]** sets out in Article 7, which should be read together with Requirement 3 in Schedule 2, the limits of deviation which are the maximum extent to which the authorised works may deviate from the precise locations, alignments or dimensions shown on the certified plans (usually the works plans and land plans). Any deviation in excess of the limits of deviation is only permitted provided it would not give rise to any materially new or materially different environmental effects in comparison with those reported in the ES.

5.2.7 The Applicant disagrees with the submission that the design parameters for the authorised development are inconsistent or not clearly secured by the **draft DCO [REP1-005]**. The Applicant would refer SEPE to section 8 of the **Explanatory Memorandum [REP1-007]**, which explains that the design parameters assessed in the ES are captured in the **Design Parameters and Principles Statement [REP1-030]**, which is in accordance with the details found in the ES.

5.2.8 Requirement 3(1) provides that no phase of the authorised development may commence until details of the layout, scale, proposed finished ground levels, fencing, external apparatus and vehicular access, parking and circulation areas relating to that phase have been submitted to and approved in writing by the local planning authority. Under Requirement 3(3) the authorised development must be carried out in accordance with these approved details.

5.2.9 Requirement 3(2) provides that the details submitted to the local planning authority must be in substantial accordance with the **Design Parameters and Principles Statement [REP1-030]** 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 ES.

5.2.10 This mechanism ensures that the detailed design of the authorised development is in accordance with the Design Parameters and Principles Statement and as such the ES, except in circumstances where deviation

would not give rise to any materially new or materially different environmental effects than those reported in the ES.

5.2.11 This mechanism is well rehearsed and can be found on most DCOs, not only in respect of solar schemes, and provides sufficient certainty and a clear illustration of what will ultimately be delivered.

5.2.12 This means that the Applicant cannot introduce any changes post consent that would result in a materially new or materially different environmental effect from what has been assessed and reported in the ES being considered with this application.

5.3 Approach to mitigation

5.3.1 The mechanism proposed by the Applicant to ensure that all mitigation measures committed to be delivered as part of the Scheme in the ES as secured, is a standard mechanism already tested and included in the majority, if not all, consented DCO.

5.3.2 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.

5.3.3 In relation to statutory requirements, 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.

5.3.4 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 the statement lists all environmental, and other consents and licences, required which the Applicant must secure.

5.3.5 In relation to controls or requirements, the draft DCO secures the delivery of all committed environmental mitigation by way of requirements. These requirements are set out in Schedule 2 of the **draft DCO [REP1-005]** and are legally binding.

5.3.6 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, are agreed with the relevant statutory body responsible for specific issues (i.e. relevant local planning authorities, relevant highways authority, 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.

5.3.7 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 and all outline management plans are certified by the Secretary of State together with the entire Environmental Statement and all mitigation measures committed by the Applicant. It is the final form of these management plans that has to be submitted and agreed with 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 environment baseline and/or any additional measures that may arise between the order being made and implementation of the authorised development.

5.3.8 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.

5.3.9 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, drawings and plans. This provides certainty of what

the Applicant is committed to deliver and how the Applicant proposes to mitigate impacts.

5.3.10 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. There is no reason to believe these controls would not be reliable in the same way they have been reliable and used in all development consent orders.

5.3.11 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.

5.3.12 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.

Holborn Studios case

5.3.13 The Applicant notes SEPE's citation of the case *R. (on the application of Holborn Studios Ltd) v Hackney LBC [2020] EWHC 1509 (Admin)*[4].

5.3.14 The case was cited by SEPE as relevant authority to substantiate that "*proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination*." It is also used for authority for this on page 5 of the written representation to substantiate that "*decision-makers cannot rely on vague or deferred mitigation*".

5.3.15 It is critical to clarify that the interpretation of the Holborn case was taken entirely out of context and it is not relevant to the particulars of this application for a development consent order. The case concerns procedural issues and lobbying, not mitigation measures.

[4] Please note that the citation included by SEPE was incorrect

5.3.16 On page 28 of its written representation, SEPE states in relation to this case that it "*emphasise that determination of a nationally significant infrastructure project requires sufficient and accurate environmental information, meaningful consultation, and effective mitigation measures that are clearly defined and capable of implementation*." The Holborn case concerned the way in which inspection and examination took place (i.e. publication of documents and lobbying). The court did not find in this case anything regarding mitigation measures or accurate environmental information. Meaning consultation may be a consideration of this case but it is considered in a very specific way to the conduct in this case.

5.3.17 At page 31 of its written representation SEPE states that this case "*emphasised that environmental information must be presented in a manner that enables an informed and rational decision*". This was somewhat a consideration in this case as the viability assessment published was redacted and the local planning authority failed to list background papers or to provide them for inspection. However, they key issue in this case was when it was justifiable to withhold exempt materials rather than information provided being informed or rational.

5.3.18 SEPE further states that in the Holborn case "*the courts confirmed that the purpose of an alternatives assessment is not to dictate the ultimate planning outcome, but to ensure that choices are made on the basis of intelligible, objective evidence rather than assertion*". There is no mention of alternatives assessments in this case.

5.3.19 The case is later considered by SEPE in relation to EIA adequacy. It is used for authority on the following point: "*where materially different infrastructure strategies have not been comparatively assessed, the adequacy threshold is engaged*". There is no mention of the adequacy threshold in the judgment of this case.

5.3.20 Finally, SEPE affirm that in "*Holborn Studios, the courts emphasised that where key methodological assumptions, data sources, or limitations are not*

explained, the assessment may lack the intelligibility required by the EIA regime." Again, there is no mention of EIA in the judgment of this case.

5.3.21 It is the Applicant's position that this case is not relevant or applicable to the current circumstances.

5.4 Compulsory Acquisition

Compelling case in the public interest

5.4.1 In response to SEPE's assertions that "*the Applicant has not discharged the statutory test governing compulsory acquisition under the Planning Act 2008*", the Applicant would like to refer SEPE to the case set out in the **Statement of Reasons [PDA-007]**, which should be read together with the documents set out in paragraph 1.1.3 of the statement.

5.4.2 Section 122 of the PA 2008 states that: "An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met."

5.4.3 The conditions in subsection (2) are that the land:

- is required for the development to which the development consent relates;
- is required to facilitate or is incidental to that development; or
- is replacement land which is to be given in exchange for the order land under section 131 or section 132 of the PA2008 [*not applicable or required for the Scheme*].

5.4.4 The condition in subsection (3) is that there is a '*compelling case in the public interest for the land to be acquired compulsorily*'.

5.4.5 In order to demonstrate that there is a compelling case in the public interest the Applicant must show that there is a public need for such scheme and that the scheme cannot be reasonably delivered without the grant of compulsory acquisition powers.

5.4.6 Section 2 of the **Planning Statement [APP-031]** sets out in detail the need for the Scheme and the contribution it would make towards achieving the objectives of policy, including UK Government policy, as set out in the National Policy Statements. That case is not repeated in full here and this response should be read alongside the Planning Statement.

5.4.7 The Scheme is considered Critical National Priority infrastructure under NPS EN-1, for which the urgent need for the delivery of this type of infrastructure is expected to outweigh most residual adverse effects. This means that this type of infrastructure has a policy status created, applicable to certain categories of nationally significant energy infrastructure, that are considered urgent and essential to achieving the UK's energy security, decarbonisation and net zero objectives. By introducing this policy status, NPS EN-1 creates a strong presumption in favour of consent for such projects, given its role in securing essential and urgent infrastructure.

5.4.8 Alternatives to the Scheme have been considered by the Applicant and are set out in **ES Vol 1 Chapter 3: Alternative and Design Evolution [APP-039]**.

5.4.9 The Applicant has undertaken a staged site selection and design iteration process in developing the proposals forming this DCO application, in which land availability by voluntary agreement has been a factor informing siting, layout and design decisions. The starting point in the site selection exercise is identifying a part of the National Grid where there is available grid capacity to connect a renewable energy project. The Applicant therefore entered into a connection agreement with National Grid to provide 400 MW of electricity generation to the Eaton Socon Substation and began a site search exercise to identify a land area suitable to accommodate the Scheme.

5.4.10 The Applicant encourages consideration of the Statement of Reasons, Chapter 3 of the ES, Planning Statement and the **Site Identification Report (Appendix 3-1 of the ES [APP-058]**) for detailed information in relation to alternative sites and the evolution of the election of the Site.

5.4.11 The Applicant made additional submissions at Deadline A to reflect the latest position following successful negotiations with affected landowners. This resulted in further deductions on the extent of land and rights over which the Applicant seeks compulsory acquisition powers. The current position is that the Applicant only seeks to acquire new rights and temporary possession for the delivery of the cable route, access works and construction compounds. The Applicant does not seek to acquire any land within the order limits permanently.

Adequacy of efforts to secure voluntary acquisition

5.4.12 The Applicant notes SEPE's statement to the effect that there is no evidence within the submission documents showing engagement with affected landowners.

5.4.13 Engagement with affected landowners has been captured in the **Consultation Report [APP-023]** as well as the **Land and Rights Negotiation Tracker [REP-002]**. In addition to this, the Applicant's submission at Deadline A providing updated land documents is clear evidence of further successful engagement with affected landowners.

5.4.14 Reliance on compulsory acquisition powers has been taken as a last resort and in the most proportional way possible, section 5.2 of the **Statement of Reasons [PDA-007]** provides a detailed explanation of the Applicant's position.

5.4.15 The Applicant has signed option agreements with landowners representing 100% of the total area required for solar panels (close to 92% of the land within the Order Limits), BESS and onsite substation within the Order Limits. The option agreements provide the Applicant with all necessary rights over those parts of the Order limits for the purposes of the construction, operation and decommissioning of the Scheme. The entirety of the land required for solar panels is excluded from the land for which the Applicant seeks compulsory acquisition powers.

5.4.16 The Applicant seeks to acquire new rights and temporary possession of approximately 8% of the land within the Order limits. This is required mainly for the laying of underground cables, works within NGET's Eaton Socon Substation access works and ecological mitigation and for construction compounds temporarily.

5.4.17 This is the result of extensive successful negotiations with affected landowners.

5.4.18 The Applicant's submission at Procedural Deadline A reflecting further reductions to the extent of land over which new rights are sought to be acquired compulsorily. This shows the result of progress being made in negotiations and voluntary negotiations with affected landowners and how the extent of land over which the Applicant seeks compulsory acquisition powers has reduced significantly since the application for this DCO was made.

Prematurity and grid connection

5.4.19 The Applicant notes SEPE's comments in relation to this, in particular that "*the Statement of Reasons relies in part on the need to secure grid connection rights*". This is not correct and it is not what the Statement of Reasons states.

5.4.20 As set out in the **Grid Connection Statement [APP-169]** submitted with this DCO application, the Applicant received a grid connection offer from NESO on 15 March 2021, offering connection to the Eaton Socon Substation. That offer was accepted by the Applicant on 14 April 2021 (the "Grid Connection Agreement").

5.4.21 A Grid Connection Agreement is a firm obligation by National Grid Electricity Transmission (NGET) to enable the Applicant to connect the Scheme to the NGET Eaton Socon Substation. This is clearly defined and there are no uncertainties in respect of this.

5.4.22 Due to planned upgrade works to the substation NGET has been unable to confirm the exact point of connection for the Scheme within its current substation to date; however, it will be necessary to connect the East Park

Substation (Work No. 3) to the NGET Eaton Socon Substation via 400 kV cable (Work No. 4). This does not mean that the cable route between panel areas or from the Applicant's proposed onsite substation to NGET's substation is uncertain. The only uncertainty is in respect of the exact point of connection within NGET's substation and it represents a small proportion of the land the Applicant seeks to develop.

5.4.23 The Applicant and NGET are working together to identify the exact point of connection; however, to ensure the deliverability of the Scheme the Applicant has sought to acquire new rights compulsorily under the draft DCO in relation to land surrounding and within the NGET Eaton Socon Substation. Once the point of connection has been confirmed, the Applicant will limit the exercise of compulsory acquisition powers to the plots required to ensure connection.

5.4.24 It is not uncommon for linear elements of schemes to require limits of deviation to allow for micro-siting post consent, and this is no different to the approach taken by the Applicant. Consequently, the Applicant disagrees with the suggestion that the Application is immature. It is also unfounded that the Applicant's approach is to preserve commercial optionality, when instead it is one of necessity.

5.4.25 In respect of the Applicant's case for compulsory acquisition of new rights within the substation area, at this point in time NGET have not been able to confirm the exact point of connection to the Eaton Socon Substation and have not been able to grant the Applicant with the necessary easements. For this reason, the Applicant reserves a degree of flexibility and seeks to acquire new rights compulsorily over the substation area to ensure that works to connect to any part of the Substation can be delivered once NGET confirm the design of the upgraded substation and the exact point of connection. The Applicant and NGET are currently negotiating protective provisions to ensure that the exercise of these powers is done in agreement with NGET. Whilst the area for which powers are sought is larger than what may ultimately be required, the Applicant will only exercise powers, if granted, for the area required to deliver the exact point of connection.

Human Rights

5.4.26 SEPE claims that the Applicant has not demonstrated that the interference with human rights has been protected. The Applicant's position is set out in great detail in section 7.6 of the **Statement of Reasons [PDA-007]**.

5.4.27 Whilst there may be a potential to infringe the rights of persons who hold interests in land within the Order land under Article 1 of the First Protocol, such an infringement is authorised by law so long as:

- There is a compelling case in the public interest for the compulsory acquisition powers included within the DCO, and that proper procedures are followed.
- Any interference with a human right is proportionate and otherwise justified.

5.4.28 The Statement of Reasons sets out the Applicant's case for a compelling case in the public interest for the compulsory acquisition powers included in the DCO. The Scheme would respond to a national need for renewable energy infrastructure and the achievement of legally binding net zero targets, whilst also delivering substantial local benefits.

5.4.29 Whilst much of the Scheme is to be delivered through voluntary agreements which are already secured, the need for compulsory acquisition for cable routes arises to ensure the Scheme is deliverable and can be operational, therefore delivering the benefits outlined above.

5.4.30 The Applicant has concluded on balance that the significant public benefits outweigh the effects upon persons whose property within the Order limits would be affected by powers of compulsory acquisition. For those affected by expropriation or dispossession, compensation is payable in accordance with the statutory compensation code. It is therefore concluded that the Scheme would be in accordance with Article 1 of the European Convention on Human Rights ("the Convention").

5.4.31 In relation to Article 6 of the Convention it is the case that proper procedures have been followed for both the consultation on the scheme and for the determination of the compulsory acquisition powers included within the scheme. Throughout the development of the Scheme persons with an interest in the land have had full opportunity to comment on the proposals, both in a statutory and non statutory capacity, and the Applicant has endeavoured to engage with landowners. The Applicant has had regard to landowner feedback as detailed in the design iteration and assessment of alternatives (see **ES Vol 1 Chapter 3: Alternatives and Design Evolution [APP-039]**) and in the **Consultation Report [APP-023]**.

5.4.32 The Applicant is not seeking powers of compulsory acquisition relating to any residential dwellinghouse. It is therefore considered that the rights protected by Article 8 of the Convention – the right to a private and family life – will not be infringed by the Scheme.

5.5 Articles of the draft DCO

5.5.1 In the following sections the Applicant considers comments raised by SEPE in respect of specific articles included in the **draft DCO [REP1-005]**.

Article 30 – temporary possession

5.5.2 SEPE comments in its written representation state that the Applicant's draft DCO does not contain obligations in respect of soil restoration and monitoring. These comments were raised in the context of the powers the Applicant seeks under Article 30 of the draft DCO.

5.5.3 These are two separate issues. In respect of soil restoration, the **draft DCO [REP1-005]** secures by way of Requirement 7, Schedule 2, that a soil management plan would be approved by the local planning authority in consultation with the Environment Agency and Natural England for each of the phases. Each phase of the authorised development must be carried out in accordance with the approved soil management plan. These provisions are

relevant and applicable to all land within the Order limits, irrespective of whether temporary possession powers are sought for that land or not.

5.5.4 In turn, Article 30 should be read together with Schedule 11 of the **draft DCO [REP1-005]** and the **Land and Crown Land Plan [PDA-004]** where the plots required for temporary possession are identified.

5.5.5 Paragraphs (6) to (8) within Article 30 set out the relevant provisions to compensate any affected landowners.

5.5.6 The power to take temporary possession would be subject to time limits under Article 30(4). The Applicant cannot remain in possession unless the owner of the land agrees for more than a year after completing the work for which temporary possession was taken (unless before the end of that period the Applicant has made a vesting declaration or served notice of entry in relation to that land). Article 30(5) provides that before giving up possession of any land the Applicant would be obliged to remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken or such other condition as may be agreed with the owners of the land.

5.5.7 The Applicant, therefore, sustains that SEPEs comments are unsubstantiated.

Article 8 - disapplication of legislation

5.5.8 In relation to Article 8 of the **draft DCO [REP1-005]**, SEPE contests that disapplication of primary environmental legislation requires the decision-maker to be satisfied that the DCO would provide an equivalent or more stringent regime of protection, clearly articulated and enforceable on the face of the Order. Nothing in the draft DCO or any other documents submitted with this application seem to indicate otherwise. The Applicant is in regular engagement with the Environment Agency and Drainage Boards to ensure that the necessary protections and provisions are in place.

Article 9 – defence to proceedings in respect of statutory nuisance

5.5.9 In respect of Article 9, SEPE contests in its written representation that the Applicant should not be able to rely on this draft Article on the basis of post-consent controls in place to ensure that no likely significant effects arise from the implementation of the Scheme. This is factually incorrect and a misrepresentation of the purpose and justification for including this defence proceedings within the draft DCO.

5.5.10 Article 9 of the **draft DCO [REP1-005]** is intended to cover a legislative gap left by section 158 of the Planning Act 2008 (PA 2008). In summary, section 158 of the PA 2008 already confers statutory authority for carrying out the authorised development for the purpose of providing a defence in civil or criminal proceedings for proceedings brought in a Magistrates' Court under section 82(1) of the Environmental Protection Act 1990 (EPA 1990) in relation to certain nuisances set out in section 79(1) of the EPA 1990. However, the prevailing view is that section 158 of the PA 2008 does not apply where an application is made to the Magistrates' Court under section 82 of the Environmental Protection Act 1990 on the basis that a local authority ought to be tackling a nuisance using its statutory nuisance powers, but it is not.

5.5.11 In line with standard practice for DCOs, the Applicant has sought to restrict Article 9 so that it only applies to nuisances identified as potentially resulting from the Authorised Development, as set out in the **Statutory Nuisance Statement [APP-170]**. Article 9 is therefore only applied in relation to the following statutory nuisances in section 79(1) of the EPA 1990 being:

(a) - any premises in such a state as to be prejudicial to health or a nuisance;

(d) - any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

(e) - any accumulation or deposit which is prejudicial to health or a nuisance;

(fb) - artificial light emitted from premises so as to be prejudicial to health or a nuisance;

(g) - noise emitted from premises so as to be prejudicial to health or a nuisance; and

(ga) - noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street.

5.5.12 The defence under Article 9 will only apply if the nuisance:

- relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the Authorised Development and that nuisance is attributable to the carrying out of the Authorised Development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or
- is a consequence of the construction, maintenance or decommissioning of the Authorised Development and cannot reasonably be avoided; or
- is a consequence of the use of the Authorised Development and cannot reasonably be avoided.

5.5.13 The **Statutory Nuisance Statement [APP-170]** explains that following the implementation of mitigation measures the construction, operational and decommissioning phases of the Authorised Development are not expected to give rise to impacts that would constitute a statutory nuisance under the sections 79(1)(a), (d), (e), (fb), (g) and (ga) of the Environmental Protection Act 1990. However, it is considered appropriate and proportionate in any event to provide a defence to any proceedings in respect of the statutory nuisance referred to above in case they do arise.

5.5.14 The **Statutory Nuisance Statement [APP-170]** relies on both embedded mitigation and mitigation secured through the outline CEMP, CTMP and OEMP to reach these conclusions, all of which are secured by Requirements in Schedule 2 of the draft DCO. In each case the relevant Requirement provides that the final management plan submitted to the local planning authority must be in substantial accordance with the relevant outline management plan. Each requirement also requires the implementation of the final management plan, ensuring that the mitigation within them is secured.

5.6 Requirements of the draft DCO

5.6.1 The Applicant has considered SEPE's comments in relation to possible amendments to existing requirements within Schedule 2 of the draft DCO as well as proposed new requirements and provided comments in respect of each proposal in Table 1, below.

Table 1: Applicant response on additional Requirements requested by SEPE

Proposed Draft Requirement	Reasoning provided by SEPE	Applicant Response
New Requirement – Soil Recovery and Verification Plan This should include baseline surveys, restoration standards and independent certification prior to first operation.	Where land is taken or possessed on a long-term basis for industrial infrastructure, the distinction between "temporary" and permanent effects depends not merely on elapsed time but on the demonstrable restoration of soil structure, drainage and agricultural productivity. No mechanism is presently secured within the DCO to verify that such restoration will in fact be achieved.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to soil recovery is necessary. Requirement 7 of the draft DCO requires the Applicant to submit a soil management plan (SMP) for approval by the local planning authority in consultation with the Environment Agency and Natural England prior to commencement of any phase of the authorised development. The SMP must be in substantial accordance with the **outline soil management plan [REP1-044].** Paragraphs 4.1.29 – 4.1.31 of the outline SMP include measures that the Applicant will take in relation to soil aftercare and restoration and monitoring and record-keeping. These measures will be confirmed in the final SMP that will be subject to approval by the local planning authority in accordance with Requirement 7.
Requirement 19 (Skills, Supply chain and employment) Replace this with a Local Economic Participation Plan including quantified local employment and procedural targets within host districts, a mechanism for annual public reporting to the relevant local authorities and linkage to a Community Benefit Trust or equivalent mechanism providing transparency and accountability.	The current drafting contains no measurable targets or delivery mechanisms and no monitoring framework and it does not operate as an enforceable commitment.	The Applicant acknowledges this comment but does not consider that it is necessary to amend Requirement 19. Requirement 19 of the draft DCO requires the Applicant to submit a skills, supply chain and employment plan for approval by the local planning authority prior to commencement of any phase of the authorised development. The skills, supply chain and employment plan must be in substantial accordance with the **outline skills, supply chain and employment plan [APP-163].** Section 2.3 of the outline skills, supply chain and employment plan include measures that the Applicant will take in relation to local employment. These measures will be confirmed in the final skills, supply chain and employment plan that will be subject to approval by the local planning authority in accordance with Requirement 19. Section 3 of the outline skills, supply chain and employment plan also confirms that a robust performance monitoring and reporting framework and system will be developed in consultation and agreement with the local planning authorities and will be included in the final version of the plan. As noted in section 5.5 of **the Planning Statement [APP-031**], the Applicant has committed to providing a Community Benefit Fund of £400 per MW per year but that it cannot and should not be taken into account within the planning balance. It is therefore inappropriate for this to be captured within a requirement.
Requirement 18 (Decommissioning and restoration) SEPE suggests this requirement should be replaced or materially strengthened through a requirement securing both early-stage assurance and enforceable long-term controls, including a detailed restoration framework and a legally binding financial security mechanism. Proposed amendments:	The current drafting does not secure any mechanism capable of providing reasonable assurance that decommissioning, waste recovery and agricultural restoration will be delivered in practice over a multi-decade project lifetime, particularly in circumstances where project ownership may change. R18 does not secure availability of funds to deliver decommissioning and agricultural restoration, require periodic verification of soil condition or	The Applicant acknowledges this comment but does not consider that it is necessary to amend Requirement 18. Requirement 18 of the draft DCO requires the Applicant to submit a decommissioning environmental management plan and a decommissioning traffic management plan for approval by the local planning authority prior to carrying out any decommissioning works. The decommissioning environmental management plan must be in

No part of the authorised development may commence until a DEMP for that part of the authorised development has been submitted to and approved by the relevant planning authority, following consultation with the EA and the local highway authority. The DEMP must include an infrastructure inventory, material recovery pathways, waste regulatory compliance, landfill limitation, agricultural restoration specification, monitoring and verification. The undertaker must establish and maintain a legally binding a financial security mechanism fully funded and unconditionally available on demand, sufficient to cover 100% of the reasonably foreseeable worst-case costs of decommissioning and removal of all authorised development infrastructure, transport, hazardous waste handling and treatment, recycling and recovery, soil remediation, drainage reinstatement and full agricultural restoration in accordance with the approved DWRP (Decommissioning, Waste and Recycling Plan). This financial security mechanism must be independently costed by a suitably qualified and experienced third party, be calculated on a reasonable worst-case cost basis (incl. full removal of all infrastructure, treatment and disposal of hazardous fractions, transport to licensed facilities, restoration and aftercare). The financial security mechanism must be established and evidence of its operation submitted to and approved by the SoS prior to any displacement of ground associated with the authorised development (with 'displacement of the ground' including soil stripping, excavation, trenching, piling, installation of foundations, creation of access tracks or hardstanding and any works that disturb existing soil structure or drainage infrastructure). The DWRP and the associated financial security estimate must be reviewed at intervals not exceeding five years or other such interval as approved by the SoS. Decommissioning and restoration must be carried out in accordance with the approved DWRP, independently verified and confirmed in writing by the relevant planning authority.	infrastructure removability during operation or ensure that obligations bind successors in title. The amendment is intended to secure, in an enforceable form, the decommissioning and restoration outcomes relied upon in the ES and to provide assurance that such works will be funded, deliverable and independently verified. The financial security mechanism amendment is intended to provide assurance to local communities and landowners that sufficient funds exist at the outset of construction to rectify damage and secure full restoration. Absent such secured DCO requirement, the ExA cannot be satisfied that the mitigation relied upon to justify long-term occupation of BMV land is deliverable as required by EN-1 and EIA Regulations. Requirement 18 does not presently secure either the technical scope of decommissioning or the financial assurance necessary to ensure delivery of the restoration outcomes relied upon in the ES.	substantial accordance with the **outline decommissioning environmental management plan [REP1-038].** Sections 5 and 7 of the outline decommissioning environmental management plan sets out information of mitigation and/or management measures to be implemented and various requirements for monitoring which will be secured in the final decommissioning environmental management plan. It is not considered appropriate or necessary for the amendments requested by SEPE, such as a financial security mechanism, to be included in Requirement 18. The approach taken by the Applicant is the standard approach for the majority of solar DCOs and provides a well-established mechanism which 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 DCO contains sufficient mechanisms to ensure the Applicant submits a decommissioning environmental management plan and decommissioning traffic management plan at an appropriate time in the future with a clear obligation to implement the plan. 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.
Include a **Hydrological Compliance Plan** secured by **requirement** and subject to statutory consultee approval and monitoring.	There is no DCO-secured hydrological compliance regime. Without such amendments the DCO would authorise development while removing established environmental safeguards without providing an equivalent level of legal protection.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to a hydrological compliance plan is necessary. Requirement 14 of the draft DCO requires the Applicant to submit a surface water management plan for approval by the local planning authority in consultation with the Environment Agency and the relevant lead local flood authority prior to commencement of any phase of the authorised development. The surface water management plan must be in substantial accordance with the **outline surface water management plan [REP1-046]**. The outline surface water management plan includes various measures including practices to ensure sediment does not pollute downstream watercourses and the use of SuDS to manage surface water runoff, without any need to discharge to either surface water or foul sewers. These measures will be confirmed in the final surface water management plan that will be subject to approval by the local planning authority in accordance with Requirement 14. In the unlikely event that the Applicant will need to discharge water into the public sewer network, Article 18(3) of the draft DCO requires the consent of relevant owner before any water is discharged into a public sewer or drain. Such consent may be subject to such terms and conditions as may be reasonably imposed by the owner.

Submission of a **Verified Design and Mitigation Parameters Plan** as a certified document prior to commencement.	Without such fixed parameters, the Examining Authority cannot be satisfied that the authorised development will not give rise to impacts materially greater than those assessed, contrary to EN-1 and the EIA Regulations.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to a verified design and mitigation parameters plan is necessary. Requirement 3 of the draft DCO requires the Applicant to submit details of the authorised development (such as scale, layout, ground levels, fencing, access and external appearance) for approval by the local planning authority prior to commencement of any phase of the authorised development. The details submitted must be in substantial accordance with the **design parameters and principles statement [REP1-030]** unless the local planning authority is satisfied that there would be no materially difference environmental effects compared with those submitted in the environmental statement. The design parameters and principles statement includes clear parameters for the detailed design of the Scheme. It defines the envelope for the Scheme's design, which in turn underpins the assessments reported in the environmental statement.
Requirement 10 (Battery Safety Management Plan). SEPE submits that the BSMP requirement should be replaced or material strengthened with the following enforceable requirement: No part of Work No. 2 (including site preparation, enabling works or installation of any Battery Energy Storage System infrastructure) must commence until a Battery Safety Management Plan (BSMP) for that part of the authorised development has been submitted to and approved in writing by the relevant planning authority, in consultation with Cambridgeshire Fire and Rescue Service and the Environment Agency, following independent third-party review. The BSMP must be approved in writing and no part of the BESS may be constructed or brought into use unless the relevant planning authority is satisfied that the BSMP addresses the BESS as a complete system and not on a phased or partial basis. The Battery Energy Storage System must be constructed, operated and maintained in accordance with the approved BSMP for the lifetime of the development, and no material change to the BESS design, layout or operating parameters may be made without prior written approval of the relevant planning authority. The Battery Energy Storage System must not be brought into commercial operation until the relevant planning authority has confirmed in writing, following consultation with Cambridgeshire Fire and Rescue Service and the Environment Agency, that the measures set out in the approved BSMP have been implemented.	Requirement 10 provides that a BSMP must be submitted and approved prior to commencement of Work No. 2, but does not specify the substantive content necessary to demonstrate that the risks associated with the Battery Energy Storage System (BESS) are acceptably controlled. Regarding the ability to submit a plan that is merely 'in substantial accordance' with the outline BSMP to propose unspecified changes at submission stage, subject only to consultation with CFRS, SEPE argues no criteria are provided for determining whether such changes would materially alter the safety case or environmental consequences assessed in the Environmental Statement. In that context, the concern for East Park is not that BESS safety can never be addressed by requirement, but that the present draft DCO does not yet secure a sufficiently defined, evidence-led and enforceable battery-safety regime to support the weight the Applicant asks the Examining Authority to place upon it. This approach reflects the precautionary principle embedded in EN-1 and is consistent with case law confirming that hazardous infrastructure requires robust assessment of worst-case risks prior to consent (e.g. R (Frack Free Balcombe Residents Association)v West Sussex CC).Absent such a Requirement, the Examining Authority would be unable to conclude, on the basis of secured mitigation, that the Applicant's BESS safety case has been adequately assessed or that the associated risks are acceptably controlled at the point of consent, contrary to EN-1 (in particular, sections 4.2.2 and 4.11) and the requirements of the EIA Regulations.	The Applicant acknowledges this comment but does not consider that it is necessary to amend Requirement 10. Requirement 10 of the draft DCO requires the Applicant to submit a battery safety management plan for approval by the local planning authority in consultation with Cambridgeshire Fire and Rescue Service and the Environment Agency prior to carrying out any part of the BESS works (Work No. 2). The battery safety management plan must be in substantial accordance with the **outline battery safety management plan [APP-162].** The outline battery safety management plan includes safety objectives for the design of the BESS and outlines the key safety provisions in the unlikely event the BESS fails, including measures to reduce system failure risk and failure outcome mitigation measures. The final battery safety management plan is subject to approval by the local planning authority in consultation with Cambridgeshire Fire and Rescue Service and the Environment Agency. This is considered sufficient and proportionate and is consistent with the approach taken on other DCOs. The Applicant does not consider that the inclusion of an independent third-party review should be included in this requirement and SEPE has provided no details of how this would work in practice. Any change to the design of the BESS will be subject to approval of the local planning authority pursuant to Requirement 3. The Applicant also does not consider that the requirement should include a need for further approval by the local planning authority ahead of commercial operation of the Scheme. Requirement 10 is clear that the battery safety management plan must be implemented and maintained for the lifetime of the Scheme. 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.

New requirement - Operational noise	No requirement secures enforceable operational noise limits for inverters, transformers or BESS plant, despite the absence of full BS 4142-compliant modelling in the ES (see Section 16). In the absence of defined limits and monitoring obligations, predicted noise impacts cannot be relied upon.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to operational noise is necessary. Requirement 9 of the draft DCO requires the Applicant to submit an operational environmental management plan (OEMP) for approval by the local planning authority in consultation with the relevant statutory nature conservation body and Environment Agency prior to commencement of any phase of the authorised development. The OEMP must be in substantial accordance with the **outline OEMP [APP-157].** The outline OEMP include measures to ensure equipment will be regularly inspected and checked for signs of disrepair or other problems that are creating an increase in volume or change in tonality. Where complaints are received then these will be investigated where required by a suitably qualified practitioner to identify the source of any issue. Where an issue is found action will be taken to resolve it within a reasonable timeframe. These measures will be confirmed in the final OEMP that will be subject to approval by the local planning authority in accordance with Requirement 9.
New requirement - Lighting and dark-sky protection	No Lighting or Dark-Sky Strategy Requirement is included. Security lighting, access-track lighting and compound illumination therefore remain uncontrolled, contrary to EN-1 and the NPPF, exposing nearby residents, PRoW users and ecological receptors to unassessed impacts.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to lighting and dark-sky protection is necessary. Requirement 5 of the draft DCO requires the Applicant to submit a construction environmental management plan (CEMP) for approval by the local planning authority in consultation with the relevant statutory nature conservation body and Environment Agency prior to commencement of any phase of the authorised development. The CEMP must be in substantial accordance with the **outline CEMP [REP1-032].** Paragraphs 4.1.26 – 4.1.29 of the outline CEMP include measures relating to lighting during the construction phase of the Scheme. This confirms that lighting impacts on the surrounding environment, including from sky glow, glare and light spillage, are minimised as far as possible. These measures will be confirmed in the final CEMP that will be subject to approval by the local planning authority in accordance with Requirement 5. Requirement 9 of the draft DCO requires the Applicant to submit an operational environmental management plan (OEMP) for approval by the local planning authority in consultation with the relevant statutory nature conservation body and Environment Agency prior to commencement of any phase of the authorised development. The OEMP must be in substantial accordance with the outline **OEMP [REP1-036].** Paragraphs 4.1.31 – 4.1.34 of the outline OEMP include measures relating to lighting during the operational phase of the Scheme. This confirms that during operation no part of the Scheme will be continuously lit as this will not be required for its operation. These measures will be confirmed in the final OEMP that will be subject to approval by the local planning authority in accordance with Requirement 9.
New requirement - Mid-life equipment replacement	The DCO contains no requirement governing mid-life replacement of panels, inverters, BESS units or transformers. This activity is foreseeable, intensive and disruptive, involving HGV movements,	The Applicant acknowledges this comment but does not consider that an additional requirement relating to mid-life equipment replacement is necessary.

	cranes, noise and waste, yet is neither assessed in the ES nor controlled through the DCO.	Requirement 9 of the draft DCO requires the Applicant to submit an operational environmental management plan (OEMP) for approval by the local planning authority in consultation with the relevant statutory nature conservation body and Environment Agency prior to commencement of any phase of the authorised development. The OEMP must be in substantial accordance with the **outline OEMP [REP1-036].** The outline OEMP sets out the principles, controls and measures to be implemented during the operational phase to reduce the potential for significant environmental effects from occurring, including during any replacement campaigns. The Applicant is proposing to submit a technical note at Deadline 3 which sets out the Applicant's position in relation to major replacement activities during the operational phase of the Scheme in terms of how they have been considered in each topic of the submitted Environmental Statement.
New requirement - Public Rights of Way (PRoW)	No PRoW management requirement is included, despite acknowledged intersections with construction corridors, fencing and access routes. Closures, diversions, reinstatement standards and timescales are left undefined.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to public rights of way is necessary. Requirement 11 of the draft DCO requires the Applicant to submit a public rights of way management plan for approval by the local planning authority in consultation with the relevant highway authority prior to commencement of any phase of the authorised development and prior to decommissioning. The public rights of way management plan must be in substantial accordance with the **outline public rights of way management plan [APP-160].** The outline public rights of way management plan include measures relating to the overall approach to managing the public rights of way potentially affected by the Scheme and to ensure that PRoW remain safe at all times throughout the lifetime of the Scheme. These measures will be confirmed in the final public rights of way management plan that will be subject to approval by the local planning authority in accordance with Requirement 11.
Requirement 8 (Construction traffic management plan) **Requirement 8 – Construction Traffic Management and Enforcement** **8. – (1)** No part of the authorised development that would generate construction traffic on the public highway may commence until a Construction Traffic Management Plan ("CTMP") has been submitted to and approved in writing by the relevant planning authority, following consultation with: • the relevant highway authority; • the chief officer of police; • National Highways (where relevant); • all parish councils within whose administrative areas construction traffic may reasonably pass; and • such other persons as the relevant planning authority considers appropriate. (2) The CTMP must be in substantial accordance with the certified outline construction traffic management plan and must include, as a minimum:	Securing the CTMP in this manner ensures that likely significant construction traffic and workforce-related effects can be robustly assessed, transparently monitored and effectively mitigated throughout the construction period. In the absence of secured routing, workforce logistics controls, peak-hour embargoes, holding provision, monitoring and enforceable sanctions, the Outline CTMP cannot be relied upon as effective mitigation for the purposes of EN-1 or the EIA Regulations. Where mitigation measures are relied upon in the Environmental Statement to demonstrate that construction traffic effects will remain acceptable, those measures are not supported by sufficient evidence, are not secured through enforceable mechanisms, and do not demonstrate that significant effects can be avoided in practice. In these circumstances, mitigation cannot be relied upon unless it is clearly defined, evidenced and secured through binding DCO requirements rather than left to discretionary implementation.	The Applicant acknowledges this comment but does not consider that it is necessary to amend Requirement 8. Requirement 8 of the draft DCO requires the Applicant to submit a construction traffic management plan (CTMP) for approval by the local planning authority in consultation with the relevant highway authority prior to carrying out any phase of the authorised development. The CTMP must be in substantial accordance with the **outline CTMP [REP1-034].** The outline CTMP sets out the overall approach to how the movement of construction traffic, including site personnel movements, will be safely managed and controlled. It will ensure the movement of people and materials is conducted in a safe, efficient, timely and sustainable manner and keep construction traffic to a minimum during peak network periods to reduce the impact on the highway network. As is the standard approach for DCOs, the detail of these measures are included in the outline CTMP and will be confirmed in the final approved CTMP. It is not appropriate for the measures requested by SEPE to be included in the requirement.

(a) approved strategic and local construction routes; (b) an explicit No-Go / No-Through-Routing schedule identifying roads and settlements that construction HGVs, abnormal loads, LGVs and workforce transport must not use except for local access, emergency purposes or statutory undertaker access; (c) a requirement that inter-site construction and workforce movements between Sites A–D shall utilise internal haul roads in preference to the public highway wherever reasonably practicable; (d) no-idling / no-queuing restrictions within defined buffer distances of identified residential clusters; (e) school-hour and peak-period restrictions, including a prohibition on construction HGV and abnormal load movements between 07:30–09:00 and 15:00–17:00 on weekdays during school term time unless otherwise agreed in writing by the relevant planning authority, and identification of additional locally sensitive peak-hour restrictions where required by the relevant planning authority; (f) A detailed Construction Workforce and Logistics Management Strategy including: i. scheduled HGV arrival and departure slotting; ii. workforce arrival and departure management measures; iii. modal split targets and workforce travel measures (including car-sharing or shuttle provision where necessary); iv. Identification of designated off-site holding and lay-over areas of sufficient capacity to prevent queuing on the public highway; v. Provision of driver welfare facilities at any off-site holding areas; vi. A prohibition on construction vehicle parking, queuing or lay-over on the public highway or rural verges except in emergency; vii. A logistics reconciliation demonstrating that predicted peak daily movements can be accommodated within approved holding capacity without overspill to the highway. (g) maximum daily and weekly HGV caps, including: i. A maximum daily two-way HGV cap in any rolling 24-hour period; ii. A maximum weekly HGV cap; iii. A mechanism for recording and publicly reporting compliance; iv. The undertaker must ensure that HGV movements do not exceed the approved caps, and construction activities giving rise to HGV movements must cease where caps are exceeded until compliance is restored. (h) mandatory GPS monitoring of construction HGVs and abnormal loads, including: i. Mandatory GPS tracking for all construction HGVs and abnormal loads; ii. Real-time routing compliance monitoring; iii. Monthly compliance reporting to the relevant planning authority and local highway authority; iv. Publication of routing and timing breach summaries on a publicly accessible website. Compliance monitoring data generated for the purposes of this Requirement, including routing compliance records and breach summaries, must be made available to the relevant planning authority and the local highway authority on request and must not be withheld or redacted on the grounds of commercial confidentiality. (i) monthly compliance reporting; (j) an abnormal load management plan, including: i. A detailed Abnormal Load Management Plan specifying: ○ delivery frequency and timing; ○ traffic management measures; ○ weight-restriction suspensions; ○ notice periods to affected communities; ○ temporary signage and enhanced monitoring; ○ minimum 14 days' written notification to affected parish councils prior to any AIL movement. ○ enhanced monitoring during AIL events.		The outline CTMP has been developed in consultation with the local highway authorities and National Highways and will be updated as necessary throughout the examination. The measures contained in the outline CTMP are considered to be appropriate and proportionate having regard to the likely impact of construction traffic on the local road network and the measures secured in other solar DCOs. Requirement 8 is clear that the CTMP must be implemented as approved so any subsequent amendments to the CTMP will need further approval. 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.

(k) a community liaison and complaints procedure with breach escalation mechanism, including: i. Establishment and appointment of a Construction Traffic Compliance and Safety Officer prior to commencement of construction; ii. Establishment of a Community Liaison Group prior to commencement; iii. Monthly construction traffic compliance reporting to the Community Liaison Group; iv. A published complaints procedure; v. A breach escalation mechanism whereby more than [X] routing, timing or cap breaches within any rolling 28-day period shall trigger submission of a remedial action plan for approval by the relevant planning authority; (l) appointment of a Construction Traffic Compliance and Safety Officer, including: i. Prior to commencement of construction, the undertaker must appoint a Construction Traffic Compliance and Safety Officer ("CTCSO"), whose appointment shall be approved in writing by the relevant planning authority following consultation with the local highway authority. ii. The CTCSO shall be independent of the principal construction contractor's site management team and shall have authority to require corrective action in the event of routing, timing or safety breaches. iii. The CTCSO's responsibilities shall include: • oversight of routing compliance (including GPS monitoring); • monitoring adherence to school-hour and peak-period restrictions; • liaison with parish councils, schools and the local highway authority; • coordination of abnormal-load movements and associated traffic management; • investigation of complaints and reporting of corrective actions; and • submission of a monthly compliance report to the relevant planning authority. The CTCSO shall remain appointed for the duration of the construction period and during any replacement phase. (m) provision for independent compliance audit, including: i. appointment of an independent transport compliance auditor, approved by the relevant planning authority; ii. quarterly audits of compliance with the CTMP; iii. audit reports to be submitted to the relevant planning authority and published. (3) The authorised development must be carried out in accordance with the approved CTMP at all times during the construction period. (4) The approved CTMP must not be materially amended without the prior written approval of the Secretary of State. (5) For the purposes of this Requirement, a "material amendment" includes any amendment affecting: (a) approved construction routes; (b) No-Go / No-Through-Routing schedules; (c) school-hour embargoes;		

(d) workforce management provisions; (e) holding areas or welfare provision; (f) HGV movement caps; (g) GPS monitoring requirements; or (h) abnormal load management provisions. (6) Before submitting any proposed material amendment to the CTMP, the undertaker must: (a) publish details of the proposed amendment on a publicly accessible website; (b) provide written notice of the proposed amendment to: (i) the relevant planning authority; (ii) the local highway authority; (iii) the chief officer of police; and (iv) all affected parish councils; (c) allow a consultation period of not less than 60 days for representations to be made; (d) submit to the Secretary of State a summary of representations received and the undertaker's response to those representations. (7) Where the undertaker is in material breach of the approved CTMP and has failed to implement an approved remedial action plan, construction activities giving rise to the breach must cease until compliance is restored. (8) The Secretary of State must not approve any material amendment unless satisfied that: (a) the amendment would not materially increase adverse transport, safety or amenity effects; and (b) the mitigation secured by the CTMP would remain effective, proportionate and enforceable. In the absence of secured routing, workforce logistics controls, peak-hour embargoes, holding provision, monitoring and enforceable sanctions, the Outline CTMP cannot be relied upon as effective mitigation for the purposes of EN-1 or the EIA Regulations. This Requirement does not introduce new mitigation beyond that described in principle within the application; rather, it converts discretionary contractor commitments into fixed, enforceable controls proportionate to the scale of the peak workforce, HGV movements and sensitivity of the affected rural network. Securing the CTMP in this manner ensures that likely significant construction traffic and workforce-related effects can be robustly assessed, transparently monitored and effectively mitigated throughout the construction period.		
Requirement 11 (Public Rights of way) It should include, as a minimum: **(a) No obstruction or encroachment** A requirement that no construction vehicle, plant, material storage, fencing installation works, or laydown area may obstruct or encroach upon the legal width of any PRoW or permitted recreational path except where a temporary diversion has been approved in accordance with the DCO. **(b) Minimum usable width** A requirement that, where construction works are undertaken adjacent to a PRoW or permitted recreational path, a minimum unobstructed usable width must be maintained at all times unless otherwise agreed in writing by the relevant planning authority in consultation with the relevant highway authority. **(c) Surface protection** Measures to prevent damage to the surface and condition of PRoWs and permitted recreational paths, including the use of protective matting, temporary crossing structures or other suitable protection where construction traffic or plant must cross such routes. **(d) Prohibition on verge or margin deployment** A requirement that construction vehicles, plant, materials and fencing installation works must not be stationed on PRoW verges or path margins for the purposes of access, loading, unloading, storage or idling, save where otherwise authorised by separate statutory approval.	Requirement 11 is currently confined to routes shown to be temporarily stopped up or diverted and does not secure adequate protection for PRoWs and permitted recreational paths that remain open but are materially affected by adjacent construction activity.	The Applicant acknowledges this comment but does not consider that it is necessary to amend Requirement 11. Requirement 11 of the draft DCO requires the Applicant to submit a public rights of way management plan for approval by the local planning authority in consultation with the relevant highway authority prior to commencement of any phase of the authorised development and prior to decommissioning. The public rights of way management plan must be in substantial accordance with the **outline public rights of way management plan [APP-160].** The outline public rights of way management plan include measures relating to the overall approach to managing the public rights of way potentially affected by the Scheme and to ensure that PRoW remain safe at all times throughout the lifetime of the Scheme. This also includes information about any diversions that may be required. These measures will be confirmed in the final public rights of way management plan that will be subject to approval by the local planning authority in accordance with Requirement 11.

(e) Temporary diversions A requirement that any temporary diversion of a PRoW must: i. be clearly signed in advance of the affected section; ii. provide a route of equivalent or better safety and convenience, so far as reasonably practicable; and iii. be approved by the relevant planning authority in consultation with the relevant highway authority prior to implementation. **(f) Monitoring and remediation** A requirement that the undertaker must inspect all PRoWs and permitted recreational paths materially affected by construction activities at intervals not exceeding three months and must remedy, within 28 days of identification or such longer period as may be agreed in writing, any deterioration reasonably attributable to the authorised development. Without such provisions, Requirement 11 remains too narrow and procedural to secure the level of protection assumed in the Environmental Statement. In particular, it would not ensure that routes remaining open during construction are safeguarded in practice, nor that deterioration or obstruction affecting users is promptly identified and remedied.		
Requirement 13 (Fencing and other means of enclosure) Requirement 13 should be amended so that the approved details of fencing include a Fencing Installation Method Statement addressing works adjacent to highways and access routes. The Requirement should secure as a minimum the following: **(a) Working from within the Order limits** All fencing installation works must, so far as reasonably practicable, be undertaken from within the Order limits and without reliance on the public highway, highway verge, PRoW or permitted recreational path for access, plant deployment or material storage. **(b) Prohibition on deployment from highways and PRoWs** Construction plant, vehicles and materials used in connection with fencing installation must not be stationed on, or operate from: • the public highway; • highway verges or margins; • public rights of way; or • permitted or recreational paths,	Requirement 13 currently governs the approval of fencing details but does not adequately control the manner in which fencing installation is undertaken, particularly where works occur adjacent to the public highway, public rights of way (“PRoWs”) or permitted recreational paths. Given the extent of the Order limits and the proximity of boundary fencing to highways and access routes, additional safeguards are necessary to prevent obstruction, safety risks and damage to verges and path margins during construction. Requirement 13 should therefore be amended so that the approved details of fencing include a Fencing Installation Method Statement addressing works adjacent to highways and access routes.	The Applicant acknowledges this comment but does not consider that it is necessary to amend Requirement 13. Requirement 13 of the draft DCO requires the Applicant to submit details of all proposed permanent and temporary fences, walls or other means of enclosure for approval by the local planning authority prior to commencement of any phase of the authorised development. This will form part of the detailed design approval required under Requirement 3. Requirement 3 of the draft DCO requires details of the Scheme to be submitted to the local planning authority for approval and these details must be in substantial accordance with the **design parameters and principles statement [REP1-030]** unless the local planning authority is satisfied that there would be no materially difference environmental effects compared with those submitted in the environmental statement. The design parameters and principles statement includes clear parameters for the detailed design of the Scheme including parameters for fences. It defines the envelope for the Scheme’s design, which in turn underpins the assessments reported in the environmental statement. Works in the vicinity of a highway will also be subject to the final CTMP, as secured by Requirement 8 of the draft DCO, and the public rights of way management plan, as secured by Requirement 11 of the draft DCO. The outline versions of these plans include measures to mitigate impacts on highways including preventing any storage on the public highway (paragraph 6.2.3 of the **outline CTMP [REP1-034**]) and minimising any disruption to the public along the public right of way network wherever possible (paragraph 5.1.2 of the **outline public right of way management plan [REP1-042]**). These management plans will be subject to the approval of the local planning authority in consultation with the relevant highway authority.

except where such use has been expressly authorised by a temporary traffic regulation order or other statutory approval. **(c) No parking, loading or idling on verges or PRoWs** Construction vehicles must not park, load, unload or idle on highway verges, PRoWs or path margins for the purpose of fencing installation, save in cases of emergency or where expressly authorised as above. **(d) Temporary access arrangements** Where temporary access from the public highway is required for fencing installation and cannot reasonably be avoided, the undertaker must obtain prior written agreement from the relevant planning authority in consultation with the relevant highway authority, including approval of: • traffic management arrangements; • measures to protect highway safety and capacity; • protection of verge integrity and drainage; and • reinstatement measures. **(e) Protection and reinstatement of verges and margins** The method statement must include measures to prevent damage to highway verges, drainage features and path margins, and a requirement to reinstate any deterioration reasonably attributable to the authorised development to the satisfaction of the relevant highway authority. Without such provisions, Requirement 13 would control only the appearance of fencing rather than the impacts arising from its installation. In rural locations where extensive boundary fencing is proposed adjacent to narrow roads and access routes, unmanaged installation activities could give rise to obstruction, safety risks and lasting damage to highway verges and PRoWs that are not addressed elsewhere in the Draft DCO.		
New Requirement - Operational Traffic Management and Replacement Phase Controls Operational Traffic Management Plan 1. **Operational Traffic Management Plan ("OTMP")** (1) No part of the authorised development may commence operation until an Operational Traffic Management Plan ("OTMP") has been submitted to and approved in writing by the relevant planning authority, following consultation with: (a) the local highway authority; (b) the chief officer of police (where abnormal load movements or traffic management measures are proposed); and (c) all parish councils within whose administrative area operational traffic may reasonably pass. (2) The OTMP must include, as a minimum: (a) Operational traffic forecasts identifying the anticipated frequency, type and routing of routine maintenance traffic and foreseeable replacement activities (including panels, inverters, transformers, BESS components, fencing and other above-ground infrastructure); (b) Approved operational routes for operational traffic, including abnormal loads and heavy maintenance vehicles; (c) Time-window restrictions where necessary to protect highway safety and residential amenity, including specific measures to avoid or control movements during identified sensitive peak periods (including school start/finish periods where relevant to affected settlements and routes); (d) Abnormal Load Operational Protocol, including (i) envelope parameters (weight/dimensions/configuration classes), (ii) escort requirements, (iii) traffic management measures, (iv) notice periods, and (v) linkage to any temporary traffic regulation measures; (e) Holding, parking and welfare arrangements sufficient to prevent queuing, idling or informal parking on the public highway; (f) Monitoring and compliance, including (i) routing instructions to contractors, (ii) a complaints and investigation protocol, and (iii) annual compliance reporting to the relevant planning authority and local highway authority; and	The Environmental Statement anticipates ongoing operational maintenance traffic and at least one significant mid-life replacement phase involving panel, inverter and battery infrastructure renewal. These activities are foreseeable lifecycle components of the authorised development and have the potential to generate episodic but material traffic movements across the surrounding rural highway network. In the absence of a secured Operational Traffic Management Plan and defined controls governing replacement-phase logistics, these impacts would arise outside the scope of the construction CTMP and without an enforceable management framework. The following Requirement therefore provides a proportionate mechanism through which operational traffic and replacement phase transport effects can be assessed, monitored and controlled over the lifetime of the development. The scheme description itself anticipates ongoing maintenance logistics and at least one material mid-life replacement phase. These are foreseeable lifecycle events capable of generating episodic but significant traffic effects on constrained rural corridors. In the absence of a secured Operational Traffic Management Plan and replacement phase trigger, those impacts would remain unregulated and unassessed at the point they arise. The proposed Requirement is therefore necessary to ensure that operational and repowering traffic effects are transparently quantified, appropriately controlled and subject to community safeguards over the 40-year consent period, in accordance with EN-1 and the EIA Regulations.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to operational traffic management is necessary. Requirement 9 of the draft DCO requires the Applicant to submit an operational environmental management plan (OEMP) for approval by the local planning authority in consultation with the relevant statutory nature conservation body and Environment Agency prior to commencement of any phase of the authorised development. The OEMP must be in substantial accordance with the outline **OEMP [REP1-036]**. The outline OEMP sets out the principles, controls and measures to be implemented during the operational phase to reduce the potential for significant environmental effects from occurring, including during any replacement campaigns. The operational phase of the Scheme would generate a low level of trips for general maintenance activities and for any periodic replacements Therefore, there is not expected to be any significant effect on the highway and so no specific mitigation measures are proposed. However, the site manager will undertake such monitoring as is necessary and details will be confirmed in the final OEMP. The Applicant intends to submit a technical note at Deadline 3 which sets out the Applicant's position in relation to major replacement activities during the operational phase of the Scheme in terms of how they have been considered in each topic of the submitted Environmental Statement.

(g) Review mechanism, requiring review and update of the OTMP at intervals not exceeding five years, and prior to any Replacement Phase (as defined in paragraph (3)). 2. **Replacement Phase Traffic Management Plan ("RPTMP")** (3) No Replacement Phase may commence until a Replacement Phase Traffic Management Plan ("RPTMP") has been submitted to and approved in writing by the relevant planning authority, following consultation with the bodies listed in paragraph (1). For the purposes of this Requirement, a "Replacement Phase" means any period in which the undertaker proposes: (a) replacement of more than [X]% of the installed photovoltaic panels within any rolling 12-month period; or (b) replacement of more than [X]% of BESS containers/modules or major electrical plant within any rolling 12-month period; or (c) any planned repowering/renewal campaign materially comparable in logistics intensity to construction deliveries (to be assessed against criteria set out in the OTMP). (4) The RPTMP must include: (a) quantified peak day/week traffic forecasts by vehicle class (HGV/LGV/ staff/abnormal loads); (b) approved routing, including any temporary restrictions and the operational No-Go / No-Through-Routing schedule where necessary to prevent diversion through sensitive settlements; (c) timing controls, including restrictions to protect sensitive peak periods; (d) holding/welfare, parking and queuing prevention measures; (e) waste and recycling logistics (including any hazardous waste controls where applicable); and (f) monitoring, audit and community liaison provisions proportionate to the replacement phase intensity. 3. **Cumulative transport review for replacement phases** (5) Each RPTMP submission must be accompanied by a Cumulative Transport Review identifying other major schemes or projects within the defined study area that are known to be under construction or generating abnormal-load traffic during the proposed replacement phase, and assessing overlap effects on key corridors with proposed mitigation/coordination measures. 4. **Implementation and compliance** (6) The authorised development must be operated in accordance with the approved OTMP and (where applicable) the approved RPTMP. 5. **Restriction on material amendments** (7) Neither the OTMP nor any approved RPTMP may be materially amended without the prior written approval of the Secretary of State. For the purposes of this Requirement, a "material amendment" includes any amendment affecting: (a) approved routes or any No-Go / No-Through-Routing schedule; (b) timing restrictions (including peak/school-period restrictions); (c) abnormal-load envelope parameters or management protocols; (d) monitoring, audit or reporting provisions; or (e) thresholds triggering an RPTMP. The relevant planning authority shall have no power to approve a material amendment under this Requirement. 6. **Public and parish consultation for material amendments** (8) Before submitting any proposed material amendment under paragraph (7), the undertaker must: (a) publish details of the proposed amendment on a publicly accessible website; (b) provide written notice to the bodies listed in paragraph (1); (c) allow a period of not less than 42 days for representations; and (d) submit to the Secretary of State a consultation statement summarising representations received and the undertaker's response.		

New Requirement – Highway Condition Monitoring and Remediation **Requirement [Z] – Highway Condition Monitoring and Remediation** 1. **Pre-Commencement Highway Condition Survey** No part of the authorised development may commence until a detailed Highway Condition Survey has been undertaken and approved in writing by the relevant planning authority, following consultation with the local highway authority. The survey must include: • Carriageway condition (including cracking, rutting and surface deformation); • Verge integrity and edge support condition; • Drainage interface condition; • Kerbs, footways and traffic-calming features; • Photographic and video record; • GPS-referenced mapping of condition defects; for the following routes (unless otherwise agreed): • B645 (relevant corridor sections); • B660 (relevant corridor sections); • B661 (relevant corridor sections); • Any other route identified in the approved CTMP/OTMP. 2. **Bi-annual monitoring during construction** During the construction period, the undertaker must: • Undertake Highway Condition Monitoring at intervals not exceeding six months; and • Submit a condition comparison report to the relevant planning authority and local highway authority. 3. **Replacement phase monitoring** Prior to and following any replacement phase (as defined in Requirement [Y]), the undertaker must undertake: • A pre-phase survey; and • A post-phase survey within three months of completion. 4. **Remediation trigger** Where the local highway authority determines, on the basis of the comparative surveys, that material deterioration of the highway (including pothole formation, verge collapse, edge failure or structural weakening) is reasonably attributable to traffic associated with the authorised development, the undertaker must: (a) Undertake such remedial works as are reasonably required by the local highway authority; or (b) Provide financial contribution sufficient to enable the local highway authority to undertake such works. 5. **Timescale for remediation** Remedial works or financial contribution must be completed within: • 8 weeks of written notice from the local highway authority; or • Such longer period as may be agreed in writing 6. **Dispute resolution** In the event of dispute regarding attribution, the matter shall be referred to an independent chartered highway engineer jointly appointed by the undertaker and the local highway authority, whose decision shall be final. 7. **Survival of obligation** This Requirement shall remain in force for: • The duration of construction; and • Any approved replacement phase.	The scale and duration of construction traffic associated with the authorised development, together with the potential for episodic high-intensity traffic during replacement phases, creates a foreseeable risk of accelerated deterioration to sections of the rural highway network used by construction and maintenance vehicles. While such effects can often be mitigated through routing discipline and traffic management, it is established practice on infrastructure projects of comparable scale to secure baseline highway condition surveys and a defined remediation mechanism where deterioration is reasonably attributable to development traffic. The following Requirement therefore provides a structured monitoring and remediation framework to ensure that any development-related highway deterioration is identified and rectified.	The Applicant acknowledges this comment but does not consider that an additional requirement relating to highway condition monitoring and remediation is necessary. Requirement 8 of the draft DCO requires the Applicant to submit a construction traffic management plan (CTMP) for approval by the local planning authority in consultation with the relevant highway authority prior to carrying out any phase of the authorised development. The CTMP must be in substantial accordance with the **outline CTMP [REP1-034].** Paragraphs 5.8.1 to 5.8.5 of the outline CTMP includes an obligation on the Applicant to carry out pre-construction and post-construction highway condition surveys. Any identified highway defects resulting from construction activities will be corrected to the satisfaction of the relevant local highway authority. The condition of the local highway will also be checked by the site team as part of regular inspections, who will also ensure no mud or dust is being entrained on the road. The final CTMP will include details of the roads and public rights of way to be included within the survey, details of the methodology to be used, timing of surveys and a commitment to provide the pre-construction condition survey findings to the local highway authorities following their completion. Requirement 8 is clear that the CTMP must be implemented as approved. 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.

Soil Resource Protection, Restoration and Monitoring Plan Requirement 7 would be materially strengthened by explicitly requiring Soil Resource Protection, Restoration and Monitoring plan covering the full lifecycle of the development, and incorporating baseline surveys, restoration standards, monitoring and independent verification. This should typically include: • a comprehensive baseline soil resource survey; • mapping of soil types, depths and profiles; • indicators of soil structure, compaction and organic matter; • measures for stripping, storage and reinstatement of soils; • agricultural restoration specifications; • measurable recovery criteria and performance indicators; • a programme of post-restoration monitoring; • independent agronomic oversight; and • defined remedial triggers where restoration targets are not met. **Proposed draft text:** **7.–(1)** No phase of the authorised development may commence until a soil management plan for that phase has been submitted to and approved by the local planning authority in consultation with Natural England and the Environment Agency (where relevant). (2) The soil management plan must be in substantial accordance with the outline soil management plan to the extent that it is applicable to that phase ***and must include a*** Soil Resource Protection, Restoration and Monitoring Plan ("SRPRMP") covering the construction, operational and decommissioning stages of that phase. (3) The SRPRMP must be informed by a baseline soil survey undertaken by a suitably qualified soil scientist or agronomist and must include – (a) mapping and description of soil types, depths and profiles; (b) soil structure, compaction status and drainage characteristics; (c) soil organic matter content and relevant productivity indicators; (d) identification of agricultural land classification; and	Without these elements, the effectiveness of soil mitigation remains qualitative and cannot be objectively assessed. Securing such measures would align the Order with national policy expectations, recognised best practice in soil management, and the level of certainty normally required for developments involving extensive disturbance of BMV agricultural land. The lack of a secured, lifecycle soil restoration framework is identified as Procedural Deficiency #18B – Inadequate secured Decommissioning, Restoration and Financial Security Framework (Appendix M), insofar as the absence of defined restoration standards, monitoring obligations and enforceable funding undermines confidence that the agricultural land will be capable of returning to its pre-development condition. The present subsection demonstrates that Requirement 7, as drafted, does not secure the measures necessary to address that deficiency.	The Applicant acknowledges this comment but does not consider that it is necessary to amend Requirement 7. Requirement 7 of the draft DCO requires the Applicant to submit a soil management plan (SMP) for approval by the local planning authority in consultation with the Environment Agency and Natural England prior to commencement of any phase of the authorised development. The SMP must be in substantial accordance with the **outline soil management plan [REP1-044].** The outline SMP provides information on various aspects of soil management including the baseline soil conditions and characteristics (section 2.0), soil management measures (sections 4.0 – 7.0) and monitoring (section 9.0). These measures will be confirmed in the final SMP that will be subject to approval by the local planning authority in accordance with Requirement 7.

(e) photographic and GPS-referenced records of baseline condition. (4) The SRPRMP must include measures to protect soil resources during construction and operation, including – (a) methods for stripping, handling, storage and replacement of topsoil and subsoil; (b) segregation of soil horizons; (c) limits on trafficking of machinery on exposed soils; (d) measures to prevent compaction, erosion and contamination; (e) soil storage methods including location, dimensions and duration; and (f) procedures to be followed during adverse weather conditions. (5) The SRPRMP must include an agricultural restoration strategy for land temporarily disturbed by the authorised development, including – (a) reinstatement of soil profiles in correct sequence; (b) compaction alleviation measures where required; (c) reinstatement of drainage systems and soil hydraulic function; (d) measures to restore soil structure and biological function; and (e) reseeding and aftercare provisions. (6) The SRPRMP must establish a soil monitoring and verification programme including – (a) defined performance indicators for soil recovery; (b) monitoring during construction where soils are stored or trafficked; (c) post-restoration monitoring for a period of not less than five years following reinstatement; (d) inspection and reporting by an independent suitably qualified soil specialist or agronomist; and (e) submission of monitoring reports to the relevant planning authority. (7) Where monitoring demonstrates that restoration criteria have not been achieved, the undertaker must implement remedial measures approved by the relevant planning authority. (8) Following completion of restoration and the monitoring period, the undertaker must obtain independent certification confirming whether the land has been restored to a condition capable of supporting agricultural use consistent with its baseline characteristics and must submit that certification to the relevant planning authority. (9) Each phase of the authorised development must be carried out in accordance with the approved soil management plan for that phase.		

6.0 RESPONSE ON TRAFFIC AND TRANSPORT

6.1 Assessment of peak impacts

6.1.1 Section 13.14 in **SEPE's written representation [REP1-156]** makes the case that the assessment presented in the **Transport Assessment (TA) [APP-101]** is based on assessment of long-term average traffic flows rather than assessing peak impacts.

6.1.2 This is demonstrably incorrect. Table 6.4 in the **TA [APP-101]** clearly provides an appraisal of the percentage impact on the local highway network for the month during which the peak number of construction staff movements will occur.

6.1.3 The follow-up **Technical Note on Impact on B645-A1 St Neots Junction [REP1-066]** submitted at Deadline 1 is also based on forecast daily staff movements during the peak month and includes a sensitivity test based on a lower assumed car share percentage than was used in the original TA. This assessment clearly identifies that there would be no adverse impacts resulting from construction staff movements.

6.1.4 The assessment of environmental effects included within **ES Chapter 9 [APP-045]** included consideration of the daily number of HGVs that would be generated during the peak month of HGV activity (Table 9.16 **[APP-045]**).

6.1.5 All of these assessments were based on the forecast trip generation based on the construction schedule presented in Annex D of the **TA [APP-101]**, which clearly identifies the total number of vehicle movements during each month of the construction programme taking into account overlapping areas of construction activity.

6.1.6 Table 13-1 in SEPE's written representation **[REP1-156]** attempts to convey the impression that the assessment presented in the TA significantly underestimated the impacts of construction traffic during peak periods. This is not true.

6.1.7 The table below presents a comparison between the claimed peak traffic flows in SEPE's Table 13-1 **[REP1-156]** against the actual peak hour flows used in the TA.

Table 2: Comparison with claimed peak traffic flows in the SEPE response

Category	SEPE Claimed Peak	Actual Peak Movements Used in ES & TA
HGV deliveries (two-way)	60-90/day	60/day[5]
Aggregates imports (two-way)	30-50/day	38/day[6]
PV Module Deliveries (two-way)	10-15/day	11/day[7]
Workforce on-site	380-420/day	496/day (average), 854/day (peak)[8]
Staff vehicle trips (two-way)	260-350/day	496/day (average), 854/day (peak) (based on assumed car-share occupancy of 2 staff/vehicle)
Total daily construction movements	320-440/day	878/day during peak construction staff movements (month 12)[9]

6.1.8 This clearly demonstrates that the estimates of the peak number of construction HGV movements used in the ES are in line with the claimed peak number of movements presented by SEPE.

6.1.9 It also clearly demonstrates that the forecast number of staff vehicle movements used in the ES and TA are substantially higher than the peak

[5] 1664 total one-way HGV deliveries in month 2, as per TA Annex D, divided by 22 working days per month = 30 HGV deliveries per day or 60 two-way movements, as per TA Annex D and as assessed in ES Chapter 9 Table 9.16
[6] 2409 total one-way 30t tipper deliveries in month 2, as per TA Annex D, divided by 22 working days per month = 19 HGV deliveries per day or 38 two-way movements, included in total month 2 HGV movements assessed in ES Chapter 9 Table 9.16
[7] Maximum of 120 total 26t artic. deliveries to Sites A to D, occurring in month 12 as per TA Annex D, divided by 22 working days per month = 5.5 HGV deliveries per day or 11 two-way movements, included in total month 12 HGV
[8] As per Transport Assessment Annex D
[9] As per Transport Assessment Table 5.4

figures claimed by SEPE, even allowing for a staff car occupancy figure of 2.0. As noted above, further sensitivity testing of the impacts of construction staff movements using a car occupancy figure of 1.4 has also been submitted by the Applicant.

6.1.10 The estimated daily arrival and departure profiles for construction traffic during the peak HGV (month 2) and peak staff (month 12) scenarios are clearly set out in Tables 5.3 and 5.4 within the **Transport Assessment [APP-101]**.

6.1.11 The assertion that the assessment presented within the ES and TA systematically downplays and understates the effects of peak worker numbers and traffic movements is therefore not true.

7.0 RESPONSE TO 'PROCEDURAL DEFICIENCIES'

7.1 Response to 'Procedural Deficiencies'

7.1.1 The Applicant has not sought to respond to each and every point made by SEPE and has instead focused its response around the suggested 'Procedural Deficiencies' identified in **Appendix M of the SEPE submission [REP1-156]**. The Applicant considers this to be a proportionate response, and having reviewed all of the SEPE submission, considers the table in Appendix M to present an adequate summary and synthesis of the key matters raised by SEPE through Sections 4.0 to 23.0 of the written representation.

7.1.2 The Applicant's responses to the 'Procedural Deficiencies' are presented in Table 3, below.

Table 3: Applicant Response to 'Procedural Deficiencies' identified by SEPE

Procedural Deficiency No. [as identified by SEPE]	**Procedural Deficiency / Evidence gap** [as identified by SEPE]	**Relevant policy or legal reference** [as identified by SEPE]	**Action requested of the Examining Authority** [as identified by SEPE]	**Applicant's Response**
4A	**Failure to assess integrated grid and site alternatives.** The Environmental Statement does not present a structured, comparative assessment of reasonable alternatives capable of materially influencing the location, scale or configuration of the Proposed Development. In particular, it does not demonstrate how the selection of the Eaton Socon 400 kV point of connection and the resulting site-search geography were evaluated against other technically feasible grid-interface options and land-use alternatives. The Application proceeds on the basis of a single preferred connection to the Eaton Socon substation despite evidence that the substation is at or near capacity, may require uncertain reinforcement works, and is not the only proximate transmission asset. No comparative assessment is provided of alternative connection strategies, including longer corridors, alternative routing, reinforcement scenarios, or land assembly through compulsory acquisition. Nor does the Environmental Statement demonstrate that site selection was undertaken through a transparent sequential process prioritising avoidance of Best and Most Versatile (BMV) agricultural land. The chosen land envelope is presented without a unified constraints analysis, comparative mapping of candidate sites, or quantitative appraisal of lower- impact locations within the relevant transmission geography. An assessment confined to land available by voluntary agreement cannot demonstrate that the selected site represents the least harmful reasonable option. The Application also provides no consolidated constraints mapping showing how agricultural quality, ecology, heritage, hydrology, landscape sensitivity and other environmental factors influenced site selection. In the absence of such analysis, the Examination cannot determine whether lower-grade agricultural land, previously developed land, or less sensitive areas were reasonably available.	EN-1 (requirement to identify, describe and assess reasonable alternatives; adequacy of environmental information); EN-3 (solar PV siting principles and avoidance of Best and Most Versatile agricultural land); NPPF provisions for safeguarding BMV agricultural land; EIA Regulations (description of reasonable alternatives studied and reasons for selection); Planning Act 2008 s.122 (compulsory acquisition – land no more than reasonably required); Lebus v South Cambridgeshire DC [2002]; Holborn Studios v Hackney LBC [2020]; Samuel Smith v North Yorkshire CC [2020].	The Examining Authority should request the Applicant to provide an Integrated Grid and Site Alternatives Assessment, supported by a unified GIS-based constraints mapping package, enabling the Examination to determine whether the proposed development represents the least environmentally harmful option and to reach a reasoned conclusion on the adequacy of the Environmental Statement in respect of site selection and alternatives. The assessment should explicitly address whether alternative configurations on lower-quality land, including land assembled through compulsory acquisition or requiring grid reinforcement, could reasonably deliver the scheme objectives. The assessment should be provided as a single consolidated technical document rather than by cross-reference to multiple Environmental Statement chapters or appendices, and should include: • identification of plausible transmission nodes and grid-connection strategies within the relevant transmission geography; • mapping of grid-proximate land parcels under each grid-connection scenario, showing the corresponding site-search areas that would arise from each connection strategy; • reinforcement and programme-risk analysis associated with each grid-connection option, including reliance on third-party infrastructure or network upgrades; • GIS-based constraints mapping including agricultural land classification (BMV), ecology, heritage assets, hydrology and	**<u>Need to consider alternative points of connection</u>** The Applicant has a connection agreement for a point of connection with the Eaton Socon Substation. Following the widely publicised grid reform process undertaken by the National Energy System Operator (NESO) over the past few years, the Applicant received a 'Gate 2' generation connection offer to the Eaton Socon Substation which is 2030-aligned. This connection offer is not transferable to another point of connection, and is not speculative. The connection offer has always been for the Eaton Socon Substation, and that has therefore dictated the site selection process and consideration of alternatives. An alternative point of connection such as the Little Barford Power Station (which has been raised by SEPE as well as other Interested Parties) has therefore not been considered as it is not a viable alternative for this project. Paragraph 4.3.22 of NPS EN-1 is clear that "*the consideration of alternatives is to be proportionate and <u>limited to alternatives that can meet the objectives of the proposed development</u>*" [emphasis added]. An alternative point of connection to any other substation (including the Little Barford Power Station) would not meet the objectives of this project – such alternatives therefore do not need to be considered by the Applicant. It is acceptable for the assessment to focus on the point of connection that has been offered, and to assess the scheme on that basis. Such an approach was considered by the Secretary of State on the consented Gate Burton Energy Park NSIP – on that case, at paragraph 3.2.77 of the Examining Authority's Recommendation Report the ExA concluded that it is not an unreasonable starting point for an Applicant to take the agreed point of connection with the grid as a basis for considering alternatives. In *Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing and Communities [2023] EWHC 2842 (Admin)*, the High Court upheld an approach in which proximity to an available grid connection point was treated as a primary site selection factor affecting viability, noting that a connection agreement had been secured. The Applicant contends there is no legal or national policy requirement to provide an '*Integrated Grid and Site Alternatives Assessment*' looking at theoretical alternative points of connection for the Scheme, as requested by SEPE and other Interested Parties. **<u>GIS based constraints mapping</u>** As part of **ES Vol 2 Appendix 3-1: Site Identification Report [APP-058]**, the Applicant undertook a GIS-based constraints mapping exercise. This mapping includes the following (non-exhaustive list of) figures: • Figure 1: Area of Search; • Figure 2 – Brownfield and Previously Developed Land; • Figure 3 – Spatial Constraints; • Figure 4 – Land Excluded from Area of Search;

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	Evidence within the Applicant's own documentation indicates that the search area was constrained primarily by connection practicability assumptions rather than tested as part of a sequential alternatives framework. Areas containing a higher proportion of non-BMV land were discounted on delivery grounds without comparative environmental appraisal. The relocation of the BESS from Site C to Site D onto Grade 3a BMV land further illustrates the absence of a transparent alternatives analysis for key infrastructure siting. Taken cumulatively, the Application does not identify, describe and assess the main reasonable alternatives as required by EN-1 and the EIA Regulations, nor does it demonstrate that the BMV-intensive land take is unavoidable. This evidential gap prevents the Examining Authority from reaching a reasoned conclusion on site selection, land use and proportionality (please also refer to Deficiency 10A).		flood risk, public rights of way, landscape sensitivity, slope/aspect and cumulative development; • comparison of environmental sensitivity and agricultural land classification between candidate locations; • evaluation of partial, composite and phased site configurations within the relevant grid catchment; • quantification of rooftop, brownfield and lower- grade land opportunities within the relevant substation catchment and explanation of why such alternatives cannot reasonably deliver the project objectives; • explanation of the BESS siting decision and infrastructure layout optimisation; and • provision of the underlying GIS constraint layers used in the site-selection process together with a clear explanation of how those constraints informed the identification of the proposed development envelope. Absent such information, the Examining Authority cannot be satisfied that reasonable alternatives have been properly considered, that the BMV- intensive land take is unavoidable, or that the Environmental Statement contains sufficient information to enable a robust and reasoned conclusion on likely significant environmental effects under EN-1, EN-3 and the EIA Regulations.	• Figure 5 – Agricultural Land Classification; and • Figure 6 – Agricultural Land Classification and Search Zones. The approach to identifying the spatial constraints is set out in Section 5 of the **Site Identification Report [APP-058]**. The Applicant has therefore utilised GIS mapping in undertaking the site identification exercise, and did this in a proportionate and transparent manner. The Applicant does not consider there is any requirement to undertake further GIS mapping, or re-visit the site alternatives exercise. **<u>Consideration of agricultural land classification as part of site identification</u>** The Applicant's approach to site selection is set out in **ES Vol 2 Appendix 3-1: Site Identification Report [APP-058]**, and this approach was summarised by the Applicant at Issue Specific Hearing 2, a summary of which is provided in **Written Summary of Applicants Oral Submissions at Issue Specific Hearing 2 (ISH2) and Action Points [REP1-059]**. There is no 'sequential test' requirement for BMV agricultural land within the EIA regulations, or within the designated energy NPSs. This principle was tested through the courts in *Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing and Communities [2023] EWHC 2842 (Admin)*. The judge held that Planning Practice Guidance requires decision makers to consider whether the use of agricultural land has been shown to be necessary, whether poorer quality land has been preferred, and whether the scheme would allow continued agricultural use or biodiversity benefits. The guidance does not require an applicant to prove that every other possible site has first been ruled out, and it does not create the kind of strict sequential exercise that applies in other areas such as flood risk. NPS EN-3 pushes applicants toward previously developed and lower quality land where possible, and says that where agricultural land is necessary, poorer quality land should be preferred and the use of best and most versatile land avoided where possible. At the same time, NPS EN-3 also makes clear that ground mounted solar is not prohibited on best and most versatile land. NPS EN-3 states at paragraph 2.10.31 that "*Applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and low and medium grade agricultural land*". This is what the Applicant has transparently done as part of the **Site Identification Report [APP-058]**. A clear sequential approach was followed to rule out brownfield or previously developed land and demonstrate that agricultural land was necessary to meet the project objectives; and that once it was established that agricultural land was necessary, development was directed towards areas of land where best and most versatile land was less likely to occur – thus, poorer quality land was demonstrably preferred by the Applicant, whilst taking into account other factors (set out in NPS EN-3) which influence site selection. Had the Applicant not sought to prefer lower quality land, then it is possible that none of the 'Search Zones' identified in the **Site Identification Report [APP-058]** and shown clearly on Figure 6 of that document would have been identified – as set out at paragraph 5.4.2 of the **Site Identification Report [APP-058]**. The Applicant has demonstrably satisfied the national policy tests.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				Brownfield Land Registers SEPE and other Interested Parties have raised the question as to whether brownfield land registers can be relied upon to identify all potential brownfield land. The Applicant is clear in Section 4.0 of **ES Vol 2 Appendix 3-1: Site Identification Report [APP-058]** that whilst brownfield land registers were utilised, they were not the only means by which either brownfield or previously developed land was identified. The Applicant did not identify any brownfield or previously developed land within the overall area of search that would have been a suitable alternative for the Scheme. **Utilisation of rooftops for a solar NSIP** The Applicant does not consider that rooftop construction provides a practicable or reasonable alternative for the delivery of a 400 MW solar scheme connecting into the Eaton Socon Substation. **Extent of the 15km area of search around the point of connection** The Applicant notes that SEPE and other Interested Parties suggest that the 15km area of search around the Eaton Socon Substation was not adequate for undertaking an assessment of alternatives. The Applicant's justification for selecting a 15km area of search is set out in Section 3.3 of **ES Vol 2 Appendix 3-1: Site Identification Report [APP-058]**. There is no statutory or policy requirement to set an area of search based on a specific radius, it is a matter of judgement for the Applicant to decide in relation to the commercial feasibility of the development. The Applicant considers that the area of search was reasonable and proportionate. The Applicant notes that other consented solar NSIP developments (including Sunnica in the Cambridgeshire area) have used similar 15km areas of search. In addition, some projects have used smaller areas of search, such as the consented Helios Renewable Energy Project which has a generating capacity of 190 MW and considered a 5km area of search around its point of connection. **Use of compulsory acquisition powers** There is no requirement to use compulsory acquisition to engineer the least environmentally harmful site to deliver a development. NPS EN-1 states at paragraph 4.3.24 that "*The Secretary of State should not refuse an application for development on one site simply because fewer adverse impacts would result from developing similar infrastructure on another suitable site*". Under section 122 of the Planning Act 2008, compulsory acquisition can only be authorised if the land is required for the development, or to facilitate it, or is incidental to it, and if there is a compelling case in the public interest.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				Compulsory Acquisition Guidance[10] requires an applicant to seek voluntary agreements for a development before considering compulsory acquisition. The Applicant was able to reach voluntary agreements for the majority of the land within the Order limits, and therefore exploring hypothetical development alternatives through compulsory acquisition would not pass the required tests under section 122 of the Planning Act 2008. **Siting of the BESS / Substation in Site D** The Scheme went through an iterative design process as set out in the **Design Approach Document [APP-034]**. The decision on siting the BESS / Substation within Site D is set out between paragraphs 3.5.6 and 3.5.12 of **ES Vol 1 Chapter 3: Alternatives and Design Evolution [APP-039]**. In terms of the micro-siting of the BESS / Substation within Site D, there are a range of factors that led to siting it along the central western edge, which are set out in Section 5.7 of the **Design Approach Document [APP-034]** with reference to the 'Horlock Rules'. **Conclusion** The Applicant is clear that the Examining Authority can be satisfied that reasonable alternatives have been properly considered; that the relevant national policy tests have been demonstrably met; and, that the ES contains sufficient information to enable a robust and reasoned conclusion on likely significant environmental effects.
4B	**Inadequate Topography and Solar-Resource Assessment – use of north-facing slopes unjustified.** The ES does not provide any quantified assessment of solar resource or energy yield by slope aspect, nor any GIS-based mapping of field orientation. Despite recorded consultation concerns about the inefficiency of using north-facing slopes, the final layout continues to blanket BMV fields on predominantly north- and north-east-facing land within Sites A, B and D. No evidence is presented that alternative, better-orientated non-BMV land was considered or that the layout has been optimised to maximise yield per hectare. This undermines the Applicant's case that the chosen site and design represent an efficient, proportionate means of meeting national need. In the absence of quantified yield-by-aspect evidence, the Examining Authority cannot verify whether the scheme	EN-1 (adequate information and reasonable alternatives); EN-3 (Solar PV – solar siting and efficient use of land); NPPF provisions for conserving and enhancing the natural environment.	The Examining Authority should require, prior to any recommendation or decision, the Applicant to submit a Topography and Solar-Resource Assessment including: • GIS-based mapping of slope aspect across all Sites A–D; • comparative energy-yield modelling for north- facing vs optimally orientated parcels; • an alternatives/options analysis showing why north-facing BMV land has been selected over better-orientated, lower-grade land, including such land that could have potentially been acquired by compulsory acquisition rather than voluntary agreement; and	National policy does not require an applicant to undertake a quantified assessment of solar resource or energy yield by slope aspect. The Applicant's approach to identifying individual field parcels to deliver the project is set out in **ES Vol 2 Appendix 3-2: Land Identification Report [APP-059]** and included consideration of the efficiency of which development could be delivered, alongside other factors such as landscape and views, the historic environment, nature conservation, and environmental legacy. There are a number of factors that determine how land and solar arrangements can be optimised to deliver an efficient project, including gradient, spacing and tilt angle of panels, and wider landscape topography. In relation to gradient, north-facing slopes are not inefficient to develop when gradients are relatively shallow. There is no specific slope gradient parameter that a developer considers unsuitable, but generally speaking, gradients shallower than an average 5% are preferred as any layout changes or loss of yield are negligible. None of the areas covered by Work No 1 (as shown on the **Works Plan [APP-009]**) have an average gradient of more than 5%, and therefore any loss of yield based on a standard layout is considered negligible. Paragraph 5.6.4 of the **Design Approach Document [APP-034]** sets out that the extent of land for the solar energy generating station (Work No. 1) on the **Works Plan [APP-009]** covers approximately 446 hectares, which is equivalent to 1,102 acres. With reference to paragraph 2.10.17 of NPS EN-3, a typical solar farm requires between 2 to 4 acres for each MW of output; for the Scheme's 400 MW output it would be utilising approximately 2.75 acres per MW, which is

[10] *The Department for Communities and Local Government entitled 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land'*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	represents an efficient or proportionate use of land		• a revised layout that demonstrably minimises use of north-facing BMV slopes. Absent such evidence, the Examining Authority cannot conclude that the scheme represents an efficient or proportionate use of land under EN-1 and EN-3.	consistent with the guidelines in NPS EN-3 and is therefore considered to be an efficient use of the land resource available.
4C	**Non-Technical Summary (NTS) misrepresentation and understatement of key environmental effects.** The Non-Technical Summary (NTS), which is intended to provide an accessible and accurate overview of likely significant effects, materially understates several impacts and fails to reflect the omissions, uncertainties and deferred mitigation present within the Environmental Statement (ES). Significant topics including construction traffic, PRoW disruption, ecological corridor fragmentation, BESS accident/fire-water risks, operational noise, cumulative landscape effects, and hydrological uncertainties are described as "minor", "negligible" or "fully mitigated" despite incomplete assessment or reliance on post- consent plans. The NTS does not alert readers to areas where environmental information is incomplete, where mitigation is undefined, or where parameters remain unresolved. This contradicts the statutory purpose of the NTS under the EIA Regulations and misleads non- technical stakeholders.	EIA Regulations; EN-1 (requirement for full and reliable environmental information); EIA Directive Article 5(1)(e) – NTS purpose Aarhus Convention Art. 6 – informed public participation	The Examining Authority should require the Applicant to submit a Revised Non-Technical Summary that: 1. Accurately reflects the significance of effects, including incomplete or uncertain assessments; 2. Identifies all topics where mitigation is deferred or dependent on outline plans; 3. Signposts uncertainties, assumptions and data gaps; 4. Ensures consistency with the technical ES chapters. Until a corrected NTS is submitted, the environmental information remains procedurally deficient under EIA Regulations and cannot be afforded full weight.	The NTS is not intended to replicate the full technical assessment in the Environmental Statement or to substitute for the detailed topic chapters, assessments, and all secured mitigation measures. Its purpose is to enable the public to understand what the likely significant effects of the Scheme would be. The NTS has been prepared by competent experts and accurately reflects the likely significant effects of the Scheme. Under Regulation 14 and Schedule 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, the NTS is required to provide a non-technical summary of the environmental information, in accessible language. The Applicant's **NTS [APP-152]** meets this requirement and therefore the ES is not procedurally deficient under the EIA Regulations.
5A	**Omission of comparative agricultural land appraisal.** The Environmental Statement identifies extensive areas of Best and Most Versatile (BMV) agricultural land within the Order Limits but provides no structured comparative appraisal of soil quality, productivity, drainage capability or agricultural function relative to lower- grade land within the surrounding grid-connection catchment. No like-for-like comparison is presented of soil characteristics, yield potential, drainage performance, or long-term agricultural capability between the proposed development	EN-3 (Solar PV siting principles and consideration of agricultural land quality); Defra Agricultural Land Classification and BMV Guidance (2010)	The Examining Authority should require the Applicant to submit, prior to any recommendation or decision, a Comparative Soil and Agricultural Productivity Study, including: • like-for-like comparison of soil characteristics, drainage and productivity between the Order Limits and lower-grade land within a reasonable grid-connection catchment (e.g. 5 km); • mapping of BMV and non-BMV land parcels capable of	As set out in the response to '4A' above, there is no 'sequential test' requirement for BMV agricultural land within the EIA regulations, or within the designated energy NPSs. This principle was tested through the courts in *Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing and Communities [2023] EWHC 2842 (Admin)*. The judge held that Planning Practice Guidance requires decision makers to consider whether the use of agricultural land has been shown to be necessary, whether poorer quality land has been preferred, and whether the scheme would allow continued agricultural use or biodiversity benefits. The guidance does not require an applicant to prove that every other possible site has first been ruled out, and it does not create the kind of strict sequential exercise that applies in other areas such as flood risk. As also set out in 4A, the Applicant has followed a reasonable and policy-compliant approach to identifying the Site which included giving preference to identifying a site of poorer quality land. The Applicant has justified why the Site has been selected in a transparent manner and is not required to prove that there is no better alternative site with less BMV land.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	area and alternative land parcels that could plausibly accommodate the scheme. The Application therefore does not demonstrate why land of this quality must be utilised in preference to lower- grade land. National policy emphasises avoidance of BMV land where reasonably possible. In the absence of comparative evidence, the Examination cannot determine whether the proposed site represents the least agriculturally harmful option or whether materially lower-quality land could reasonably deliver the development.		accommodating the development footprint; • assessment of soil function, yield potential and long-term agricultural capability; • consideration of practical constraints on deploying the scheme on lower quality land; and • independent verification by a Chartered Soil Scientist or agronomist. Absent such evidence, the Examination cannot be satisfied that the proposal accords with policy expectations regarding avoidance of high-quality agricultural land.	There is no general policy or legal requirement for a solar applicant to undertake a speculative survey of other land within some notional 'reasonable distance' of the point of connection in order to prove that a site with less or no BMV land exists. The concept of requiring extensive, time consuming and expensive analysis of other sites (even if permission was granted by landowners to do this without use of compulsory access powers) would be a disproportionate and unreasonable burden on an applicant when policy does not require it.
5B	**Incomplete assessment of food-production and land-use implications.** The Environmental Statement does not quantify the implications of removing over 500 hectares of predominantly Best and Most Versatile (BMV) agricultural land from food production for approximately forty years. No estimates are provided of crop yields, annual production, economic value, or the contribution of this land to regional agricultural output. Nor is there assessment of the cumulative effect of removing a large contiguous area of productive farmland from the agricultural land base or rural economy. National planning policy emphasises the importance of safeguarding high-quality agricultural land and ensuring that land-use decisions are informed by proportionate evidence of environmental and economic impacts. The UK Food Strategy identifies domestic agricultural production capacity as a strategic national asset underpinning food-system resilience. Contextual evidence summarised in Appendix K further demonstrates that incremental loss of productive agricultural land contributes cumulatively to systemic risks affecting national food security and land-use resilience.	EN-1 (land-use efficiency and environmental protection); EN-3 (solar PV siting principles and agricultural land considerations); NPPF provisions concerning the protection of high-quality agricultural land; UK Food Strategy (2022); Infrastructure Planning (EIA) Regulations 2017.	The Examining Authority should require the Applicant to submit an Agricultural Land-Use and Food Production Impact Statement including: • estimation of typical crop yields and annualised food production from the land affected; • calculation of cumulative production loss over the operational life of the scheme; • analysis of the contribution of the land to regional agricultural output and rural economic activity; • consideration of wider food-system resilience implications; • assessment of whether equivalent production could reasonably be maintained elsewhere; and. • explanation of how the proposal aligns with national policy expectations regarding the safeguarding of BMV agricultural land.	The Applicant considers this matter was effectively addressed at Issue Specific Hearing 2 (ISH2) under agenda item 4, a summary of which is provided in **Written Summary of Applicants Oral Submissions at Issue Specific Hearing 2 (ISH2) and Action Points [REP1-059]**. There is no basis for requiring a separate '*Agricultural Land Use and Food Production Impact Statement*'. The Applicant's clear position is that the Scheme would not significantly affect food security or agricultural production. This aligns with the Government's position set out in the UK Solar Roadmap (June 2025) which notes that Government does not consider that increased solar deployment poses a threat to food security, and that "*the biggest risk to food security and the natural environment is the climate and nature crisis*".

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	Without quantitative evidence on productivity and economic contribution, the Examination cannot determine the scale of agricultural production foregone or assess the land-use trade-offs associated with the proposal.		Absent such analysis, the Examination cannot evaluate the scale of agricultural impact or apply the planning balance on an informed basis.	
6A	**Inadequate hazard assessment and omission of Human Health & Environmental Risk Analysis.** The Environmental Statement does not provide an adequate assessment of risks to human health, soil, water receptors or the wider environment arising from major accidents or abnormal events, contrary to EIA Regulations Schedule 4 paragraph 4. No quantitative analysis is presented of credible accident pathways, including construction pollution incidents, fuel or hydraulic fluid spills, concrete leachate, fire-water runoff, or storm- related contamination events. Nor is there assessment of cumulative effects associated with extensive panel coverage across low-permeability soils, or residual risks following extreme weather, equipment failure or fire. Core risk evaluation is deferred to a post-consent CEMP, preventing the Examining Authority from understanding hazard magnitude, receptor vulnerability or residual risk at determination stage. Qualitative narrative is relied upon in place of quantified worst-case scenario analysis.	EIA Regulations (major accident/disaster risk assessment); EN-1 (requirement for complete environmental information and pollution & hazard risk); NPPF provisions concerning protection of the natural environment).	The Examining Authority should require the Applicant to submit a Hazard & Environmental Risk Assessment Addendum providing: • quantification of accident pathways (spill, run-off, flood exceedance, extreme weather); • receptor mapping (watercourses, aquifers, soils, ecological assets); • mitigation hierarchy and residual risk evaluation; • binding DCO Requirements securing controls through the CEMP.	The ES must include the information "reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment". An Applicant is not required to provide comprehensive information on all conceivable environmental matters, irrespective of whether those matters are likely to generate significant effects, or are capable of influencing a reasoned conclusion. The Applicant considers that the Environmental Statement (ES) provides an appropriate and proportionate assessment of risks to human health and environmental receptors arising from relevant major accidents and abnormal events, and that this is not deferred in a way that prevents examination. In terms of "*credible accident pathways*", Section 16.4 of **ES Vol 1 Chapter 16 [APP-052]** identifies a shortlist of accident/disaster types that are relevant to the Scheme (including flood risk and fire risk) and explains where these matters are assessed in detail elsewhere in the ES (for example, flood risk in **ES Vol 1 Chapter 8 [APP-044]** and the **Flood Risk Assessment [AS-018]**). The ES assesses the potential for likely significant effects, taking account of embedded design and management measures (which are secured through certified control documents). The Applicant does not consider there is any need for a separate '*Hazard & Environmental Risk Assessment Addendum*'.
6B	**Outline Soil Management and Restoration Framework lacks measurable, decision-stage performance standards.** The Outline Soil Management Plan provides general handling principles but does not establish measurable soil functionality indicators, acceptance criteria, monitoring requirements or remedial triggers sufficient to verify restoration of Best and Most Versatile (BMV) land. No defined thresholds are provided for compaction, infiltration capacity, soil organic matter, productivity proxies, or drainage performance, nor is there a secured framework	EN-1 (decision-making principles; environmental protection; requirement for robust and reliable evidence to inform the planning balance); EN-3 (solar PV and land use; sustainable use of land and reversibility considerations); EIA Regulations (requirement for sufficient environmental information to enable a reasoned	The Examining Authority is invited to require the Applicant to provide, prior to determination (or by way of secured Requirement), a Soil Restoration and Monitoring Schedule proportionate to the scale and BMV sensitivity of the site, including: • a defined baseline soil resource dataset for verification purposes; • measurable soil performance indicators (e.g. compaction, structure, infiltration, soil organic matter);	The **outline Soil Management Plan (oSMP) [REP1-044]** is intentionally a framework document that sets the commitments, governance and controls that must be carried through into a final Soil Management Plan (SMP) once the contractor and detailed construction methods are known. The measures set out within the oSMP describe how soils will be protected through each phase of the Scheme. This approach is secured by Requirement 7 of the **draft DCO [REP1-005]** and provides the mechanism by which measurable monitoring and verification requirements are fixed prior to works starting.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	for independent verification beyond construction. Restoration success is therefore asserted rather than demonstrable. Given that the planning case relies materially on reversibility of impacts to BMV land, the absence of quantified performance standards limits the certainty available to the Examining Authority under EN-1 and the EIA Regulations. Reliance on future method statements cannot substitute for decision-stage criteria.	conclusion on likely significant effects) Defra Code of Practice for the Sustainable Use of Soils on Construction Sites (2009) BS 3882 / ISO 25177 (soil quality classification and measurement standards)	• clear acceptance thresholds and remedial trigger criteria; • a specified duration and frequency of post- restoration monitoring; and • independent agronomic oversight with reporting to the relevant planning authority. This would not require full detailed construction methodology at this stage, but would materially improve decision-stage certainty regarding reversibility and long-term soil function.	
6C	**Lack of soil-hydrology interaction assessment.** The Environmental Statement does not provide quantitative analysis of how panel coverage, altered drainage patterns, hardstanding and repeated array rows would affect soil structure, infiltration capacity, surface runoff or catchment hydrology. No soil–water balance modelling, infiltration testing, runoff modelling, erosion risk mapping or assessment of rainfall redistribution effects is presented, despite the scale of development on predominantly clay-loam soils. Consequently, the ES cannot demonstrate that existing drainage regimes would be maintained or that flood risk, erosion or soil degradation would not increase. This omission prevents the Examining Authority from determining whether the development would materially alter hydrological behaviour or soil functionality, contrary to the requirement for robust environmental evidence and worst-case assessment of the development envelope.	EN-1 (assessment of environmental impacts and land/soil protection); EN-3 (renewable energy infrastructure and environmental effects); Infrastructure Planning (EIA) Regulations 2017; CIRIA SuDS Manual C753	The Examining Authority should, prior to any recommendation or decision, require the Applicant to submit a Soil–Water Balance and Drainage Audit including: • quantitative soil–water balance modelling across the site • infiltration and runoff modelling (QBAR, 1:30, 1:100 + climate change) • assessment of panel rainfall redistribution and cumulative row effects • erosion and compaction risk mapping for BMV soils • integrated SuDS and drainage design demonstrating no net increase in runoff mitigation measures verified by an independent hydrologist.	Point 1: quantitative soil–water balance modelling across the site: • Hydrological runoff estimations have been carried out for the Site, which represents local soil/geological characteristics in terms of their infiltration potential. These have been provided in Section 6.3 of the **outline Surface Water Management Plan (oSWMP) (REP1-046)**. This runoff modelling has provided results for the 1 in 2-year, 30-year, 100-year and 1 in 100-year + climate change events. • In addition to this the Scheme does not take water out of the catchment, nor does it act as a source of additional water. Therefore, it has no impact on the water balance of the catchment it sits within. Point 2: infiltration and runoff modelling (QBAR, 1:30, 1:100 + climate change): • A drainage design has been provided within the **oSWMP [REP1-046]** for the areas where the development could, without management and mitigation, impact the hydrological response. This principally includes areas of impermeable surface such as the BESS area. • The drainage design includes infiltration and runoff modelling for a range of events, including the impacts of climate change where appropriate. This modelling demonstrates that the design controls runoff from the proposed development to greenfield conditions (i.e. no net increase from baseline). • In addition to the drainage modelling, the Applicant has completed infiltration and run-off modelling for the whole catchment as reported in the **Hydraulic Modelling Report [REP1-067]**. This is principally to inform flood risk. Rainfall in this model is based on the latest FEH-22 rainfall and infiltration is modelled using FEH methods, in this case ReFH2. The result of this is an understanding of runoff across the catchment. Point 3: assessment of panel rainfall redistribution and cumulative row effects: • Rainfall interception at ground level will in some places be redistributed along panel drip lines, however the conclusions of the **oSWMP [REP1-046]** are, that provided vegetation

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				is managed appropriately (so there is no scouring along the drip lines), infiltration rates will not be affected and rainfall will otherwise continue to infiltrate and be routed at ground level no differently than at present. • As such, the PV panels are not considered to impact upon existing hydrological regimes as set out in Section 6.5.1 of the **oSWMP [REP1-046]**. Point 4: erosion and compaction risk mapping for BMV soils • Mitigations for erosion and compaction of soils and associated risks to surface water runoff have been provided within the **oSWMP [REP1-046]**, **outline Soil Management Plan (oSMP) [REP1-044]**, and Table 5.9 of the **outline Construction Environmental Management Plan [REP1-032]** This includes the control of construction traffic (using defined tracks) and use of low pressure tyres. Monitoring of soil conditions is also set out in the oSMP. Point 5: integrated SuDS and drainage design demonstrating no net increase in runoff mitigation measures verified by an independent hydrologist. • See point 2. The Applicant notes that the drainage design has been reviewed and accepted by the LLFA in principle, with specific details to be provided during detailed design. The Applicant considers there is no requirement to submit a '*Soil–Water Balance and Drainage Audit*'.
6D	Flood Risk Assessment and climate-change modelling. The Flood Risk Assessment does not demonstrate that flood risk has been assessed using climate projections appropriate to the full operational life of the development. Modelling appears aligned to mid-century allowances despite the scheme extending into the 2070s. The assessment does not clearly incorporate late-century UKCP18 projections, updated rainfall allowances, current surface-water datasets, site-specific infiltration data, or exceedance routing for worst-case layouts including compounds and infrastructure. Without late-epoch modelling and sensitivity testing, flood risk may be under-estimated and long-term resilience cannot be confirmed. The Examining Authority therefore lacks sufficient information to reach a reasoned conclusion on lifetime flood risk.	EN-1 (requirements relating to flood risk assessment and climate change resilience); EIA Regulations (requirement to provide sufficient environmental information to enable a reasoned conclusion on likely significant effects); Planning Act 2008 (advice and adequacy of application information); Environment Agency climate change guidance and UKCP18 climate projections.	The Examining Authority should require the Applicant, prior to any Issue Specific Hearing on Flood Risk and Drainage, to submit a Revised Flood Risk Assessment addressing the deficiencies identified above, including: • hydrological modelling using UKCP18 projections aligned with the 2070s climate epoch; • incorporation of updated rainfall-intensity allowances and RoFSW datasets; • field-verified infiltration and groundwater data; • exceedance-route mapping and safe access/egress analysis; • attenuation calculations reflecting compounds, tracks and BESS infrastructure; and	Point 1: hydrological modelling using UKCP18 projections aligned with the 2070s climate epoch: • Pluvial hydraulic modelling has now been carried out using UKCP projections aligned with the 2070s climate epoch, and is reported in the **Hydraulic Modelling Report [REP1-067]**. This model has been constructed according to the same methods as the EA National Mapping, including in respect to rainfall inputs, infiltration losses and landcover. • Ground permeability datasets (BFIHOST) used in the pluvial modelling to produce effective rainfall estimates, are the same as those utilised in national scale modelling work (RoFSW) and is considered to be best practice. This is based upon local geological characteristics for the study area (i.e. these rates reflect geological/soils mapping and are not generic values). Point 2: incorporation of updated rainfall-intensity allowances and RoFSW datasets: • See Point 1. • The most up to date rainfall data has been used in this model, which is the FEH-22 rainfall data. Point 3: field-verified infiltration and groundwater data: • See Point 1. • Infiltration is modelled using the recommended methods for assessing pluvial

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
			• sensitivity testing demonstrating drainage performance under late-century rainfall scenarios. Provision of this updated modelling would enable the Examining Authority to evaluate flood risk using climate projections and baseline data appropriate to the lifetime and scale of the proposed development and to reach a reasoned conclusion under EN-1 and the EIA Regulations.	flood risk, which is modelled within ReFH2. This accounts for the expected infiltration losses across the study area. • Generally speaking, 'field-verified infiltration' is not used in such models as a discrete set of infiltration tests, although locally accurate, can often result in misrepresentation of the wider catchment response. Additionally, the catchment model extends far beyond the development boundary (>10km end to end), and infiltration testing over this area to inform a catchment model is not practicable or proportionate. • Groundwater data (including local ground water levels) will be collected during a Site Investigation stage to inform detailed site design work. Point 4: exceedance-route mapping and safe access/egress analysis: • See Point 1. • All flood routing, including exceedance flow routes for a range of events, are captured in the hydraulic model set out in the **Hydraulic Modelling Report [REP1-067]**. Point 5: attenuation calculations reflecting compounds, tracks and BESS infrastructure: • See response to Point 2 under 'Procedural Deficiency 6C'. Point 6: sensitivity testing demonstrating drainage performance under late-century rainfall scenarios: • Drainage design calculations have been provided in the **oSWMP [REP1-046]**, using UKCP projections aligned with the 2070s climate epoch (i.e. late-century rainfall scenarios). • Storage volume (attenuation) estimates for the BESS compound and access track from this compound are given in Table 4 of the **oSWMP [REP1-046]**, (also with late-century rainfall scenarios). • Additionally the drainage model looks at the sensitivity of the design for a range of storm events from the 15min event to the 7-week rainfall event and components are sized based on the duration that results in the most conservative design.
6E	**Ground-condition baseline and contamination risk assessment incomplete.** The Environmental Statement relies primarily on desk-based information and does not present intrusive ground investigation, groundwater monitoring or laboratory testing sufficient to verify baseline conditions. Consequently, soil stratigraphy, groundwater behaviour, contaminant presence and migration pathways are not adequately characterised despite extensive piling, trenching and drainage works. Potential	EN-1 (protection of land, soils and the water environment; requirement for robust environmental evidence); EN-3 (environmental assessment requirements for energy infrastructure development); EIA Regulations (requirement to provide sufficient environmental	The Examining Authority should require, prior to any recommendation or decision, submission of a Stage 2 Geo-Environmental Investigation and Risk Assessment including: • intrusive borehole and core sampling across representative site locations; • laboratory chemical analysis of soils and groundwater;	The Land Contamination Risk Management (LCRM) guidance as produced by the Environment Agency sets out a step by step and phased approach on how to assess and manage the risks from historic land contamination. The LCRM includes the need for a contaminated land assessment to derive a conceptual Site Model which establishes potential contaminant sources, receptor of contamination and the associated migratory pathways in between (the source-pathway-receptor). The first phase of the LCRM approach is to produce a desk-based study. This has been provided as **ES Vol 2 Appendix 12-1: Phase 1 Geo-Environmental Assessment [APP-112]**. A Conceptual Site Model and detailed preliminary risk assessment has been produced as **Section 10 of the Phase 1 Geo-Environmental Assessment**. Only limited and localised areas

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	mobilisation of legacy contaminants or creation of new pollutant pathways cannot be assessed. In the absence of site-specific data, the Examining Authority cannot determine risks to soils, groundwater or controlled waters, contrary to the Environment Agency's Land Contamination Risk Management framework and the EIA requirement for a robust baseline.	information to enable a reasoned conclusion on likely significant effects); Environment Agency Land Contamination Risk Management (LCRM) Framework (2023); NSIP Examination Practice: Previous DCO examinations, including Sunnica Energy Farm (2023), Sizewell C (2022) and the A14 Cambridge–Huntingdon Improvement Scheme (2016), have emphasised that reliance on post-consent investigation cannot substitute for a sufficiently robust environmental baseline where this would constrain the Examining Authority's ability to reach a reasoned conclusion under the EIA Regulations.	• groundwater monitoring and vulnerability mapping; • contaminant-pathway modelling for piling, trenching and drainage works; • conceptual site model and quantitative risk assessment; and • independent certification by a Suitably Qualified Environmental Professional (SQEP).	of made ground and organic silts are anticipated and no significant sources of contamination have been identified given the largely greenfield / undeveloped nature of the Site as such the risk of contamination is considered to be low/negligible. No buildings are proposed within the localised areas of potential made ground or organic silts identified during this preliminary risk assessment and a stand-off will be in place in association with the abandoned oil pipeline. The findings of this assessment have not identified the potential for significant contamination and hence a significant risk to human health and controlled water receptors. **ES Vol 1 Chapter 12 Ground Conditions [REP1-011]** describes suitable and proportionate embedded and additional mitigation. This includes a ground investigation with appropriate sampling, chemical analysis and assessment to determine the depth and composition of the made ground and presence of residual oil associated with the abandoned oil pipeline, should excavation be proposed within these areas. This will follow the LCRM guidance to determine whether contamination is present and also assist with determination of the reuse potential of the material and for waste sentencing. There is the requirement for site investigation to inform detailed design but in light of the anticipated risks being only low to negligible, it is considered that this investigation can be completed post-consent. This is the usual and proportionate approach in the circumstances. Both **ES Vol 2 Appendix 12-1: Phase 1 Geo-Environmental Assessment [APP-112]** and **ES Vol 1 Chapter 12 Ground Conditions [REP1-011]** have been prepared by a Chartered Professional with over 20 years of relevant experience.
7A	**Inadequate funding evidence and absence of committed finance.** The Funding Statement (Doc 4.2, vP01, Sept 2025) provides only narrative assertions of financial capability without binding commitments, facility agreements, mandate letters, investor confirmations or secured funding arrangements. The promoting SPV (BSSL Cambsbed 1 Ltd) appears to have no balance-sheet strength, assets or trading history capable of underwriting construction costs, compulsory acquisition liabilities or long-term obligations. No credible evidence-based pathway is provided demonstrating that funds will be available when liabilities arise. The Statement identifies no committed lenders or investors, no indicative funding structure or timetable to financial close, and no mechanism by which compensation would be funded at the point compulsory acquisition powers are exercised.	Planning Act 2008; APFP Regulations 2009; DCLG CA Guidance (2013); EN-1 (decision-making principles and deliverability).	The Examining Authority should require the Applicant to submit evidence sufficient to demonstrate funding credibility, including as appropriate: a) confirmation of financial backing by a creditworthy parent or sponsoring entity; b) an indicative funding structure (debt/equity proportions) and anticipated timetable to financial close; c) evidence of engagement with potential lenders or investors (e.g. mandate letters, heads of terms or equivalent); d) a clear explanation of how compulsory acquisition compensation will be funded when powers are exercised; and	The Applicant has updated the **Funding Statement [PDA-009]** at Procedural Deadline A in response to comments. The **Funding Statement [PDA-009]** provides: • Named majority shareholders with quantified financial backing • An itemised £370 million cost estimate including a £2.45 million CA compensation budget • EPC benchmarks supported by recent tender returns • The Applicant's track record of £500 million+ secured debt across three large-scale projects • A description of Article 48, the binding DCO mechanism governing exercise of compulsory acquisition powers. The Applicant notes that Regulation 5(2)(h) of the APFP Regulations 2009 requires an explanation of how the order is "proposed to be funded". The Department for Communities and Local Government (now known as the Ministry of Housing, Communities and Local Government) guidance entitled 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (the 'Guidance') requires the Applicant to demonstrate that there is a reasonable prospect of funds becoming available for the acquisition of land or rights sought under the order. The Guidance emphasises that the Applicant must show that adequate funding is "*likely to be available*". Responses to the specific actions that SEPE requests of the Examining Authority are below: a) The Applicant is a subsidiary of Lantern HoldCo Limited, the ultimate holding company of the Brockwell Energy group. Brockwell Energy's majority shareholders are Davidson Kempner

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	This falls short of Regulation 5(2)(h) of the APFP Regulations 2009 and DCLG Guidance on Compulsory Acquisition (2013), which require a reasonable prospect that funding will be available for project delivery and compensation liabilities. Article 48 of the draft DCO requires a guarantee or alternative security for compensation but does not evidence funding availability, address construction or restoration liabilities, or specify independence or robustness of the security. Reliance on contingent parent-company support would not provide reliable assurance over a multi- decade project life, particularly where liabilities are vested in an asset-light SPV. In a compulsory acquisition case, the absence of credible funding evidence materially limits the ability of the decision-maker to conclude that there is a compelling case in the public interest. This deficiency is distinct from, but related to, Procedural Deficiency #18B concerning secured funding for decommissioning and restoration.		e) where security instruments are proposed, confirmation that such instruments will be legally enforceable, ring-fenced and capable of meeting liabilities as they fall due.	($37 billion AUM) and Pioneer Point Partners (€1.7 billion committed equity across Europe). The group has secured over £500 million of debt financing across three large-scale infrastructure projects. This demonstrates substantive and well-capitalised backing. b) A final decision on funding structure has not yet been taken, which is standard for privately financed infrastructure at pre-consent stage and is expressly anticipated by the Guidance. Formal lender engagement and progression to financial close would follow grant of development consent, within the five-year notice to treat period provided by the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010. c) The Applicant is committed to funding all aspects of the Scheme and has set out its route to securing finance. d) The **Funding Statement [PDA-009]** sets out a budget of £2.45 million for CA compensation within the £370 million total cost estimate. Article 48 of the **draft DCO [REP1-005]** prevents the exercise of any compulsory acquisition powers until guarantees or alternative security, in a form and amount approved by the Secretary of State, are in place. Article 48(3) requires that security to be directly enforceable by any person to whom compensation is properly payable, and it must remain in force for more than 15 years from the date of exercise. No compensation liability can therefore arise without approved security already in place. e) Article 48 of the **draft DCO [REP1-005]** provides this assurance in respect of compulsory acquisition compensation, in that no powers may be exercised without Secretary of State approved security in place. The security must be directly enforceable by affected persons and it must remain in force for over 15 years. The purpose of this Article is to provide a framework and limitations in the exercise of compulsory acquisition powers. The decommissioning aspect of the Scheme needs not to be regulated by such statutory provisions and is appropriately covered in the requirements the Applicant proposes in Schedule 2 of the **draft DCO [REP1-005]**. This approach is consistent with post-consent practice at Longfield Solar Farm, which SEPE itself cites and which supports rather than undermines the Article 48 model.
8A	**Inadequate Landscape and Visual Impact Assessment (LVIA).** While the Environmental Statement includes an LVIA supported by ZTV mapping, viewpoint photography and photomontages, the material submitted does not provide a sufficiently comprehensive, representative or robust basis to support a reasoned conclusion on landscape and visual effects. Concerns arise as to the representativeness of viewpoint selection, the extent of receptor coverage, and the degree to which sequential and cumulative visual experience has been tested, particularly for public rights of way and settlement- edge receptors.	EN-1 (requirement for robust environmental evidence to inform decision-making and assessment of landscape and visual effects.); EN-3 (solar PV siting principles and consideration of landscape effects); NPPF (provisions relating to the protection and enhancement of the natural environment and landscape character);	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit a Supplementary Landscape and Visual Impact Assessment Addendum addressing the deficiencies identified, including: • verified photomontages from additional representative viewpoints including settlements and public rights of way in Hail Weston, Great Staughton and Little Staughton, together with appropriate long-distance viewpoints;	The Applicant does not agree that the matters raised by SEPE identify a procedural deficiency or evidence gap in the Landscape and Visual Impact Assessment (LVIA) **[APP-041]** submitted as part of the Environmental Statement (ES). The LVIA has been undertaken in accordance with: • Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA3), through the application of a proportionate and robust methodology (refer to **Appendix 5-1 [APP-069]**); • NPS EN-1, which requires robust environmental evidence to inform decision-making; • NPS EN-3, which requires consideration of landscape and visual effects associated with solar PV development; and • The NPPF, including provisions relating to the protection of landscape character and visual amenity.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	In particular, the submitted material does not clearly demonstrate proportionate and representative coverage of viewpoints associated with public rights of way and local receptors in the vicinity of: • Hail Weston • Great Staughton • Little Staughton • Pertenhall • Keysoe This reduces confidence that the LVIA fully captures the likely experience of sensitive receptors. Night-time effects arising from operational lighting associated with BESS compounds, substations and related infrastructure are not clearly or comprehensively integrated into the LVIA's landscape and visual conclusions. Similarly, glint-and-glare effects may be addressed in separate technical material, but their implications for landscape receptors, visual amenity and heritage setting are not clearly brought together within the LVIA assessment. The cumulative assessment presented does not clearly demonstrate that the likely combined effects of multiple solar, BESS and major infrastructure schemes within the wider study area and shared visual envelope have been fully tested. In particular, it is not clear that cumulative interactions have been adequately assessed in relation to nearby or regionally significant developments including: • High Wood Solar • Cobholden Solar and BESS • Little Staughton Airfield solar and energy proposals • Manor Farm Solar • strategic infrastructure projects including A428 Black Cat to Caxton Gibbet improvements and East West Rail (EWR).	GLVIA3 (Guidelines for Landscape and Visual Impact Assessment (3rd Edition)); EIA Regulations (requirement to assess likely significant effects including cumulative effects).	• expanded PRoW receptor coverage across the study area; • supplementary cumulative LVIA material, including cumulative ZTV mapping covering an appropriate study area; • cross-scheme photomontages and viewpoint analysis assessing interaction with nearby solar farms, BESS schemes and relevant NSIPs; • combined landscape-character assessment addressing cumulative change across the wider landscape; • assessment of sequential and combined visual effects experienced by receptors travelling through the landscape; • a supplementary night-time landscape and visual assessment addressing operational lighting; and • clear integration of glint-and-glare findings, including potential effects on heritage assets and heritage settings, into the landscape and visual assessment. Provision of this information would enable the Examining Authority to properly evaluate both stand-alone and cumulative landscape and visual effects associated with the Proposed Development and to reach a reasoned conclusion in accordance with the EIA Regulations.	The ES, including **ES Vol 1 Chapter 5 Landscape and Visual [APP-041]**, provides sufficient, robust and proportionate information to enable the Examining Authority to reach a reasoned conclusion on the likely significant effects of the Scheme. Accordingly, the preparation of a '*Supplementary LVIA Addendum*' is neither necessary nor proportionate. The following are responses to the specific actions requested by SEPE. **Additional Viewpoints and Photomontages** The LVIA includes a substantial and comprehensive set of 83 representative viewpoint locations, as is set out in **ES Vol 1 Chapter 5 [APP-041]** and illustrated on **ES Vol 3 Figures 5-4a to 5-4b [APP-129]**. Viewpoints have been carefully selected to represent a wide range of receptor types and viewing experiences, including settlements, public rights of way (PRoW), roads and other receptors. Photomontage visualisations of the opening year of the Scheme at opening (Year 0) and ten years following opening (Year 10) have been provided for 18 of the viewpoints. This comprises a reasonable and proportionate spread of photomontage views, supporting the assessment of visual effects. As set out in the LVIA, viewpoints are explicitly defined as 'representative', meaning that whilst each is taken from a fixed location, it is intended to reflect the range of visual experiences of the receptors it represents. The assessment of effects at each viewpoint therefore informs the likely effects on a broader group of receptors, rather than being limited to the specific point assessed. This approach is fully consistent with GLVIA3, which emphasises that viewpoint selection should be proportionate and representative of likely significant effects, rather than exhaustive. GLVIA3 is clear that it is not appropriate or necessary to include viewpoints from every possible location, and that coverage should reflect the scale and nature of the development and its likely effects. In this context, the inclusion of 83 viewpoints represents a robust and extensive evidence base, providing more than adequate spatial coverage of the study area. The approach taken provides sufficient information to understand the likely visual effects of the Scheme, and the preparation of additional viewpoints or photomontages would not materially alter the conclusions of **ES Vol 1 Chapter 5 [APP-041]**. **PRoW Receptor Coverage** A substantial proportion of viewpoints are located on Public Rights of Way (PRoW), with 64 of the 83 representative viewpoints located on PRoW routes both within the Order limits and wider study area. This ensures a comprehensive representation of PRoW receptors across the study area. The assessment therefore provides a clearly representative sample of receptor experiences, consistent with the principles set out in GLVIA3. Further expansion of PRoW coverage is not required and would not materially alter the findings of the assessment. **Supplementary Cumulative LVIA Material and ZTV mapping** The LVIA and ES include appropriate cumulative assessment and supporting analysis, undertaken in accordance with relevant guidance and the EIA Regulations. The approach to cumulative assessment is proportionate to the scale and nature of the Scheme. Referring to **ES Vol 1 Chapter 17: Cumulative and In-Combination Effects [APP-053]**, the Applicant has provided an assessment of potential cumulative landscape and visual effects, including clear justification for the scoping out of two schemes referenced by SEPE. As set out in paragraph 17.4.9 **[APP-053]**, developments such as the A428 Black Cat to Caxton Gibbet and East-West Rail have been appropriately scoped out due to separation distance, differing landscape context, and lack of intervisibility.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	The submitted material does not clearly evidence cumulative ZTV-led analysis, cross-scheme visualisations, combined landscape-character assessment or sufficient sequential visual analysis to allow the Examination to understand the full combined effect of development in the wider landscape. Taken together, these limitations in viewpoint representation, cumulative analysis, and integration of night-time and glint-and-glare considerations mean that the Environmental Statement should be treated as providing only a partial basis for assessment and cannot safely be relied upon, without further clarification, as supporting a fully robust conclusion on likely significant landscape and visual effects.			With regard to existing solar development in the vicinity of the Site, the solar farm located to the south of Pertenhall (referred to by SEPE as 'Manor Farm Solar') and at Little Staughton Airfield are identified within the LVIA baseline. These form part of the receiving landscape against which effects are assessed. Where relevant, this baseline is reflected within the viewpoint assessment. For example, at Viewpoint 14 **[APP-072]**, the assessment identifies the presence of an operational solar farm and considers the effect of the Scheme in combination with this existing development, noting the potential for the Scheme to intensify the perception of solar development within the view. In other locations, including viewpoints in the vicinity of Little Staughton Airfield, the absence of reference to existing solar development reflects the limited or absent intervisibility arising from intervening landform and vegetation, as described within the LVIA. This demonstrates that cumulative visual effects have been considered in a proportionate and location-specific manner, consistent with GLVIA3. The Applicant has therefore provided a thorough and proportionate assessment of cumulative landscape and visual effects. Additional cumulative ZTV mapping would not provide materially different information beyond that already presented, nor alter the conclusions reached. **<u>Cumulative Viewpoint Analysis and Photomontages</u>** The Applicant has undertaken a proportionate and robust assessment of cumulative visual effects, drawing on the extensive suite of illustrative material and viewpoint analysis presented within the LVIA. This includes viewpoints, photomontages and ZTV mapping, which collectively provide a comprehensive evidential basis for understanding visibility, intervisibility and the nature of visual change across the study area, as is referenced throughout Table 17.4 of **ES Vol 1 Chapter 17 [APP-053]**. The LVIA identifies and assesses cumulative interactions with relevant existing and proposed developments through a combination of spatial analysis and professional judgement, embedded within the viewpoint assessments. Where intervisibility occurs, this is explicitly recognised and assessed within the narrative (for example, where the Scheme would be experienced in the context of existing solar development). Where it does not, the absence of cumulative interaction is explained through the documented influence of landform, vegetation and separation distance. In this context, the Applicant has reasonably relied on the illustrative material already provided to inform the cumulative assessment. The preparation of additional cumulative photomontages would not provide materially new information beyond that already available, nor would it change the assessment of likely significant effects. **<u>Landscape Character Assessment</u>** The Applicant does not recognise "*combined landscape character assessment*" as a defined requirement within GLVIA3 or standard LVIA practice. However, the underlying concept of cumulative change to landscape character has been fully addressed within the submitted assessment. Landscape character has been assessed in accordance with GLVIA3 within **ES Vol 1 Chapter 5 [APP-041]**, including an evaluation of the effects of the Scheme on local landscape character areas. This assessment is supplemented by **ES Vol 1 Chapter 17 [APP-053]**, which considers the interaction of the Scheme with other relevant developments and the resulting cumulative change within the wider landscape. Together, these assessments provide a clear and proportionate evaluation of how the Scheme would contribute to, and be experienced within, the evolving landscape context. The assessment identifies where cumulative effects may arise and demonstrates that, in combination with other developments, effects on landscape character would not be significant.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				In this context, the LVIA already provides an integrated assessment of landscape character and cumulative change. The preparation of further landscape character information would not result in materially different information beyond that already presented. **Sequential Visual Effects** Visual effects on users of PRoW have been appropriately considered within the LVIA and the cumulative assessment. The spatial distribution of representative viewpoints across the study area, including a substantial number located on Public Rights of Way and local routes, provides a robust basis for understanding how visual receptors may experience the Scheme as they move through the landscape. This is further supported by **ES Vol 2 Appendix 5-5 [APP-073]**, which presents a route-based assessment of PRoW receptors, rather than relying solely on individual viewpoint locations. The LVIA conclusions clearly establish that significant visual effects are predominantly limited to receptors in close proximity to the Scheme, particularly users of PRoW within or immediately adjacent to the Order limits. As set out in paragraphs 5.12.13 to 5.12.15 of **ES Vol 1 Chapter 5 [APP-041]**, these effects arise principally from the network of footpaths in the vicinity of the Site, with effects reducing notably over time as mitigation establishes, and remaining largely confined to a small number of routes close to the Scheme. The pattern of effects reflects the distribution of the Scheme and the location of receptors within the study area. Sequential experiences are therefore typically experienced where routes pass through or in proximity to the Scheme, with the nature and duration of those experiences varying depending on the alignment of individual routes and the influence of intervening landform and vegetation, rather than occurring as continuous or uninterrupted sequences across the wider landscape. In addition, **ES Vol 1 Chapter 17 [APP-053]** considers the potential for sequential and combined effects arising from the interaction of the Scheme with other developments. For example, paragraphs 17.4.17 and 17.4.23 identify how receptors may experience successive or combined views of development, including in relation to Site D. There are no designated long-distance routes or continuous trails within the Site or its immediate surroundings that would give rise to extended, uninterrupted sequential experiences of the Scheme. The only long-distance recreational routes within the study area are the North Bedfordshire Heritage Trail and the Three Shires Way, both of which pass through limited extents of the study area and have been specifically assessed within **ES Vol 2 Appendix 5-5 [APP-073]**. This assessment identifies that effects on users of these routes would be limited, with only occasional and typically long-range views of the Scheme and a worst-case low magnitude of effect, which is not significant. While PRoW form a network of localised routes, it would not be practicable or proportionate to map all potential journeys across multiple routes within this network. Instead, the LVIA adopts a representative approach, drawing on both viewpoint analysis and route-based receptor assessment to capture how visual effects are experienced in practice. GLVIA3 does not require continuous route-based assessment, and given that significant effects are already identified as being limited to a small number of receptors in close proximity, further route-based or mapped sequential analysis would not materially alter the conclusions reached. **Night-time Landscape and Visual Assessment** The Scheme does not include significant operational lighting that would give rise to material night-time landscape or visual effects. Accordingly, a separate Night Time Assessment is not required. This approach is consistent with the EIA Scoping Opinion, in which the Planning Inspectorate

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				agreed that night-time effects during operation could be scoped out on the basis that the Scheme would not be continuously lit and that any lighting would be limited to infrequent maintenance or emergency events. **Integration of glint and glare** Glint and glare effects have been assessed in detail within a dedicated technical assessment (**ES Vol 2 Appendix 5-6 [REP1-016]**), which follows an established methodology and guidance. This approach accords with standard EIA practice, whereby such effects are reported within a standalone technical appendix with the findings informing the overall assessment. This is consistent with the **EIA Scoping Opinion [APP-065]**, in which the Planning Inspectorate confirmed that it was content with this approach, subject to appropriate cross-referencing within the ES. Accordingly, there is no requirement for duplication within the LVIA. **Conclusion** The Applicant has provided a comprehensive and proportionate assessment of landscape and visual effects, supported by detailed technical appendices. The information presented within the Environmental Statement is sufficient to enable the Examining Authority to assess both standalone and cumulative landscape and visual effects and to reach a reasoned conclusion in accordance with the EIA Regulations. The preparation of a '*Supplementary LVIA Addendum*' is therefore not necessary and would not materially alter the conclusions reached.
8B	**Inadequate assessment of heritage setting and intervisibility effects.** The Environmental Statement does not provide a sufficiently robust, spatially explicit or visually evidenced assessment of the potential effects of the Proposed Development on the setting and significance of designated heritage assets within the study area. Effects on the setting of designated assets, including Grade I listed buildings, are not adequately evidenced. The Environmental Statement lacks: • a heritage constraints plan illustrating the spatial relationship between the Order Limits and the settings of designated heritage assets, including Grade I listed buildings; • modelled intervisibility analysis, such as Zone of Theoretical Visibility (ZTV) mapping, showing where the Proposed Development may be visible from heritage receptors;	Planning (Listed Buildings and Conservation Areas) Act 1990 s.66(1) duty to have special regard to the preservation of listed buildings and their settings.; Barnwell Manor Wind Energy Ltd v East Northamptonshire DC [2014] EWCA Civ 137; Jones v Mordue [2015] EWCA Civ 1243; EN-1 (heritage and cultural assessment principles); NPPF provisions concerning the conservation of heritage assets and the protection of their settings; EIA Regulations requirement for sufficient environmental information to enable a reasoned conclusion on likely	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit a Heritage-Setting Impact Addendum addressing the deficiencies identified above. This assessment should include: • a composite heritage constraints plan illustrating the spatial relationship between the Order Limits and the settings of Grade I listed buildings and other designated heritage assets; • ZTV-led intervisibility analysis assessing where the development may be visible from heritage receptors across the wider study area; • verified viewpoints and photomontages illustrating views to and from heritage assets, including Grade I listed buildings and conservation areas; • receptor-specific setting assessments evaluating how the	The Applicant disagrees with SEPE's statement that the Environmental Statement '*does not provide a sufficiently robust, spatially explicit or visually evidenced assessment of the potential effects of the Proposed Development on the setting and significance of designated heritage assets within the study area*'. The Applicant would highlight that the methodology and approach to conducting the assessment of settings impacts was agreed via scoping and consultation with Bedford Borough Historic Environment Team (BBHET) and Cambridgeshire Historic Environment Team (CHET). The assessment methodology is detailed fully within Section 6.4 of **ES Vol 1 Chapter 6 Cultural Heritage and Archaeology** [**APP-042**] and the elements relating to settings assessment are also summarised in paragraphs 1.1.1 to 1.1.6 of **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]**. The Applicant would highlight that SEPE's comments do not appear to explicitly address or reference any element of the assessment that forms **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]** nor any of the Figures which are compiled within **ES Vol 3 Chapter 6 Cultural Heritage and Archaeology Figures [APP-143 and APP-144]** or any of the cross referenced viewpoints and photomontages compiled within **ES Vol 3 Chapter 5 Landscape and Visual Figures [APP-129 to APP-142]**. The Applicant would highlight that SEPE's request for a *'composite heritage plan'* which shows the spatial relationship between the Order limits and designated heritage assets within the study area already exists in the form of **Figures 6-7 to 6-13** within **ES Vol 3 Chapter 6 Cultural Heritage and Archaeology Figures [APP-143]**. The Applicant would note that ZTV-led intervisibility analysis has been undertaken to assess the potential visibility of the development from heritage receptors across the study area. The ZTV is displayed on **Figures 6-7 to 6-13** within **ES Vol 3 Chapter 6 Cultural Heritage and Archaeology Figures [APP-143].** The scope of the settings assessment undertaken as part of the assessment was agreed in consultation with BBHET and CHET with reference to ZTV

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	• verified viewpoints or photomontages assessing views to and from heritage assets; and • a clear explanation of how layout, scale and mitigation have been tested against setting sensitivity. The assessment relies primarily on desk-based narrative and distance-based assumptions, without spatial modelling or visual evidence demonstrating how the development would be experienced in the landscape from the perspective of heritage receptors. Experience from comparable NSIP examinations confirms that reliance on proximity alone is insufficient to assess harm to setting where large- scale infrastructure is introduced into open rural landscapes. The Environmental Statement does not clearly provide heritage-specific verified photomontages, ZTV-led intervisibility analysis and receptor- specific setting assessments for designated heritage assets within the wider visual envelope of the scheme. Desk-based assessment alone cannot demonstrate the magnitude of change to setting where long-distance views, openness and landmark relationships contribute to significance. The absence of spatially explicit intervisibility analysis, verified viewpoints and setting-sensitivity testing prevents confident evaluation of harm and undermines conclusions of limited or less-than- substantial harm. In the absence of this information the Examining Authority cannot confidently discharge its statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.	significant effects, including effects on cultural heritage.	Proposed Development would be experienced in the landscape context of each asset; • assessment of views both toward and from heritage assets, including long-distance landscape views where these contribute to heritage significance; and • a clear explanation of how the layout, scale and mitigation strategy of the Proposed Development have been tested against heritage setting sensitivity, supported by visual evidence. Without this information, the Examining Authority cannot confidently discharge its statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, nor reach a fully reasoned conclusion on likely significant effects on heritage assets in accordance with the EIA Regulations.	analysis, as is described in paragraphs 1.1.2 and 1.1.3 of **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]**. The Applicant would further highlight that references are made to the ZTV data throughout the assessment of settings impacts upon heritage receptors which forms Table 1 of **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]**. The Applicant would also highlight that verified viewpoints and photomontages have been utilised to support the assessment of impacts upon the setting of heritage receptors within the study area. Details of the specific viewpoints and photomontages referenced for the assessment of settings impacts are noted within Table 1 of **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]** with cross references also provided to the specific figures which are compiled within **ES Vol 3 Chapter 5 Landscape and Visual Figures [APP-129 to APP-142]**. The Applicant would also note that '*receptor-specific setting assessments evaluating how the Proposed Development would be experienced in the landscape context of each asset*' and '*assessment of views both toward and from heritage assets, including long-distance landscape views where these contribute to heritage significance*' has been undertaken and can be reviewed within Table 1 of **ES Vol 2, Appendix 6-4: Settings Impact Assessment** [**REP1-022**]. It is confusing to the Applicant that SEPE have highlighted four particular churches (St Peter, Pertenhall; All Saints, Little Staughton; St Mary the Virgin, Keysoe; and, St Andrew, Great Staughton) within their written representation as part of their criticism of the assessment methodology yet have not directly referenced the actual assessment of impacts upon them as can be found within Table 1 of **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]**. The Applicant would highlight that explanation of how the layout, scale and mitigation strategy of the Scheme have been tested against heritage setting sensitivity (amongst other non-heritage factors) is set out within the **Design Approach Document [APP-034]** which established design principles. Those of most relevance to cultural heritage are summarised within paragraphs 6.7.4 and 6.7.5 of **ES Vol 1 Chapter 6 Cultural Heritage and Archaeology [APP-042]** with the specific landscape proposals designed to provide mitigation in relation to cultural heritage set out within paragraphs 6.7.7 to 6.7.10 **[APP-042]**. The Applicant contends there is no requirement to provide a further '*Heritage-Setting Impact Addendum*'.
8C	**Absence of Quantitative Population and Receptor Assessment.** The ES provides no quantitative assessment of affected population or receptor groups across nearby villages (Hail Weston, Great	EN-1; NPPF provisions safeguarding the natural environment, landscape character and environmental quality;	The Examining Authority should require the Applicant to submit a Quantitative Population and Receptor Impact Assessment, including: • mapping and enumeration of residential, community, and	The ES already includes assessments of likely significant effects in relation to landscape, noise, traffic, PRoW, air-quality, hydrology, and amenity (amongst other topics). The assessments have been undertaken by competent professional experts in accordance with recognised best practice methodologies.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	Staughton, Little Staughton, Perry, Kimbolton) or dispersed rural dwellings. No receptor-counting, distance-band analysis, or demographic profiling is provided for landscape, noise, traffic, PRoW, air-quality, hydrology, or amenity effects. Impacts are described qualitatively ("limited", "minor", "not significant") without identifying how many households, PRoW users, road users, or sensitive community receptors are affected. This prevents proper evaluation of distributional effects, cumulative amenity loss and the scale of harm across rural communities, and limits the Examination's ability to assess effects on population and human receptors as required by the EIA Regulations.	EIA Regulations.	PRoW receptors within defined distance bands; • receptor-specific impact tables for noise, traffic, LVIA, air quality, and amenity; • distributional analysis and identification of disproportionately affected communities; integration of results into the relevant ES chapters and the planning balance.	The Applicant contends there is no requirement to prepare a '*Quantitative Population and Receptor Impact Assessment*' either as a matter of law, or to comply with relevant national policy, or to understand the likely significant effects of the Scheme.
8D	**Unrealistic landscape mitigation assumptions and reliance on unverified vegetation screening.** The Environmental Statement relies extensively on proposed hedgerow and woodland planting to mitigate landscape, visual and amenity impacts arising from the development. The LVIA assumes effective screening within relatively short timescales (typically 5–10 years) without robust site-specific evidence that such mitigation is achievable under local conditions. Photomontages do not represent early operational conditions (Years 1–3) and therefore do not illustrate the period of maximum visual exposure. No empirical evidence from comparable operational solar schemes is presented demonstrating that the assumed screening performance can be achieved, nor are failure rates or establishment risks quantified. In addition, the site layout appears to rely on extensive perimeter planting as the primary means of mitigation rather than demonstrating how impacts have been minimised through design optimisation.	EN-1 (requirement for realistic, evidence- based mitigation and good design); EN-3 (solar PV layout, design quality and mitigation realism); GLVIA3 (assessment of mitigation effectiveness and visualisation standards); NPPF provisions concerning good design and protection of countryside character; EIA Regulations (assessment of mitigation effectiveness).	The Examining Authority should require the Applicant to submit, prior to any recommendation or decision, a Landscape Mitigation Effectiveness and Layout Review, including: • time-sequenced photomontages illustrating Year 1, Year 3, Year 5 and Year 10 conditions, including leaf-on and leaf-off scenarios; • realistic planting growth trajectories based on local soil conditions, exposure and drainage constraints; • evidence from comparable operational UK solar schemes (≥5–10 years old) demonstrating actual hedgerow and woodland screening performance; • a layout-optimisation review demonstrating how visual impacts have been minimised through design measures (setbacks, reduced boundary length, avoidance of sensitive receptors) rather than reliance on planting alone; • quantified assumptions regarding planting establishment rates,	The Applicant does not agree that **ES Vol 1 Chapter 5 Landscape and Visual [APP-041]** relies on unrealistic or unverified assumptions regarding landscape mitigation, nor that the photomontages fail to represent early operational conditions. The methodology adopted for the preparation of visualisations is explicitly precautionary and is set out at paragraphs 5.4.10 to 5.4.15 of **ES Vol 1 Chapter 5 [APP-041]**. In particular, the photomontages: • Present Year 0 (opening year) conditions, which assume that proposed planting is newly implemented and therefore not yet effective as screening; • Reflect the use of typical planting stock, which at the time of planting would generally be low in height at 0.5 m, generally no taller than the associated tree guards or tubes, and therefore would not provide meaningful visual filtering or screening; and • Are produced for winter conditions as standard, ensuring that deciduous vegetation is not in leaf and that visibility is maximised, representing a robust worst-case scenario (with summer views provided where relevant for completeness). Accordingly, the visualisations represent a maximum realistic visual exposure scenario at the point of operation, rather than relying on assumed mitigation effects. The assessment of effects is undertaken on this basis and therefore does not depend on the success of planting to establish the magnitude or significance of effects at Year 0. **ES Vol 1 Chapter 5 [APP-041]** then separately considers Year 10 conditions, reflecting the anticipated establishment of mitigation planting. This approach accords with GLVIA3 and standard practice, allowing for a clear and transparent understanding of how effects are likely to evolve over time. The suggestion that photomontages do not represent early operational conditions is not correct. The assessment explicitly captures the period of greatest visual exposure, prior to the establishment of mitigation. More broadly, the proposed mitigation strategy does not rely solely on planting. The Scheme design incorporates embedded mitigation measures, including site layout, retention of existing

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	The Environmental Statement also does not define measurable performance criteria, monitoring requirements or contingency measures in the event that planting fails to establish or does not achieve the screening performance assumed in the LVIA. Accordingly, the Examination cannot reliably determine whether the proposed mitigation will achieve the screening performance assumed in the LVIA or whether residual effects on landscape character, PRoWs and residential amenity may be materially greater, and persist for longer, than reported.		failure risk and replacement cycles; and • enforceable DCO Requirements securing long- term planting success, monitoring, re-planting triggers and adaptive landscape management. In the absence of verified evidence demonstrating that the proposed mitigation will perform as assumed, the Environmental Statement cannot reliably present the likely significant landscape and visual effects of the development over its operational life. Absent such evidence, the Examining Authority should afford limited weight to the assumed effectiveness of landscape mitigation and treat residual landscape and visual effects as potentially understated.	landscape features and appropriate setbacks, which reduce effects independently of planting. This is evidenced within the **Design Approach Document [APP-034]**, which documents the iterative design process undertaken in response to environmental constraints and consultation feedback. This includes the removal and reconfiguration of development areas, increased setbacks from Public Rights of Way and residential receptors, and the introduction of landscape buffers and woodland belts. The Scheme has therefore been subject to design optimisation to avoid and reduce effects at source, with planting providing additional integration over time rather than acting as the primary mitigation mechanism. Assumptions regarding planting establishment and growth, including those presented for Year 10 conditions, are set out in Table 5.5 of **ES Vol 1 Chapter 5 [APP-041]** and are informed by professional judgement and relevant project and examination experience. These represent reasonable and widely accepted estimates, recognising natural variability in growth rates arising from species, ground conditions and climatic factors. Importantly, the delivery and ongoing performance of landscape mitigation is secured through the **outline Landscape and Ecological Management Plan (OLEMP) [REP1-040]**, which sets out requirements for implementation, maintenance, monitoring and replacement of planting. This includes provisions for the replacement of any failed planting and the management of vegetation to ensure successful establishment over time. The anticipated establishment period of approximately 5–10 years is consistent with accepted LVIA methodology and standard horticultural practice and is supported by these secured management measures. In this context: • The assessment of effects at Year 0 already represents a robust worst case; • The role of planting is appropriately characterised as providing integration over time, rather than immediate mitigation at the outset of operation; • The implementation and effectiveness of planting is not left to assumption, however is secured and managed through the **oLEMP [REP1-040]**, including replacement of failures; and • The conclusions of **ES Vol 1 Chapter 5 [APP-041]** do not depend on unverified or optimistic assumptions regarding mitigation performance. The preparation of additional time-sequenced visualisations or further evidence on planting performance would not alter the conclusions of the assessment, which are already based on a precautionary and well-established methodological approach, supported by secured mitigation delivery mechanisms.
9A	**Absence of quantified socio-economic impact assessment, including agricultural economic displacement.** The Environmental Statement does not provide a quantified assessment of the socio-economic effects arising from the long-term withdrawal of productive agricultural land and associated rural economic activity. National policy within EN-1 requires that socio-economic impacts, including effects on employment, rural enterprise and economic output, are properly identified and assessed. The EIA Regulations likewise require a	EN-1 (assessment of socio-economic impacts including effects on land-based industries); NPPF provisions relating to building a strong, competitive rural economy; EIA Regulations (assessment of population and economic effects; sufficient environmental	The Examining Authority should require the Applicant to submit a quantified Socio-Economic Impact Assessment prior to the close of Examination. This assessment should: • provide verifiable estimates of direct, indirect and induced employment during construction and operation, including local labour and supply-chain proportions;	The Applicant has already provided a proportionate assessment of the likely significant effects of the Scheme in **ES Vol 1 Chapter 14 Socio Economics [APP-050]** which substantively covers the matters set out by SEPE where likely significant effects could occur.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	description of likely significant effects on population and economic factors supported by sufficient information to understand their magnitude, duration and distribution. The Application does not quantify the economic consequences of removing approximately 773 hectares (c.1,900 acres) of predominantly Grade 2 and 3a agricultural land from production for up to 40 years. No assessment is provided of agricultural gross value added (GVA) foregone, farm-business impacts, supply-chain effects or wider implications for the rural economy. The Environmental Statement does not provide quantified baseline data on agricultural employment, tenancy income, contractor activity or downstream rural services associated with the affected land. Without such information the Examination cannot assess the magnitude of socio-economic displacement or evaluate whether the claimed project benefits outweigh the long- term economic effects of land-use change. Construction employment claims and generic community-benefit narratives are not substitutes for a quantified socio-economic assessment where extensive productive agricultural land is withdrawn from use. In the absence of transparent baseline data, quantified economic loss estimates and sensitivity analysis, the Environmental Statement does not provide sufficient information to enable the Examining Authority to reach a reasoned conclusion on socio-economic effects or to apply the planning balance required by EN-1.	information for decision-making).	• quantify the loss of agricultural economic output arising from removal of productive farmland, including agricultural GVA, tenancy income and associated contractor activity; • assess displacement effects on rural enterprises, tourism, community services and local supply chains over the proposed operational life; • evaluate cumulative effects on local infrastructure, housing demand and public services arising from construction workforce presence; • include a distributional analysis showing how socio-economic harms and benefits are apportioned across settlements, businesses and affected groups; and • be underpinned by transparent baseline data and regional multipliers consistent with HM Treasury Green Book appraisal methodology. The results should be incorporated into the Environmental Statement or submitted as a certified technical appendix to enable the Examination to reach a reasoned conclusion on socio-economic effects.	
9B	**Absence of assessment of amenity-related market-stigma effects and their relevance to population and human health.** The ES omits any assessment of potential generalised blight, market-stigma effects, long-term amenity depreciation, or socio-economic impacts on nearby residential properties, despite evidence from previous DCOs (Sunnica, Longfield, Mallard Pass) that large solar/BESS infrastructure can generate	EN-1 (community amenity and quality of life); NPPF provisions concerning achieving well-designed places; EIA Regulations (human health & socio- economic effects).	The Examining Authority should require the Applicant to submit a Property-Value and Blight Impact Note, including: • review of comparable NSIPs and RICS/Land Registry data; • assessment of potential stigma effects; • identification of mitigation or community-benefit mechanisms.	The three projects referenced (Sunnica, Longfield and Mallard Pass) do not appear to provide a public precedent for an actual statutory blight claim having been made or upheld. Neither is the Applicant aware of any other blight claims from solar DCOs. The EIA process requires an assessment of likely significant environmental effects. It does not require a separate appraisal of speculative changes in private property values or "market stigma" as though these were a distinct environmental receptor. National planning guidance states that impacts on the value of private property are not material planning considerations, whereas amenity, traffic, noise, landscape, public rights of way and human health effects are to be assessed on their planning merits. Those matters are already addressed as part of the ES.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	perceived or actual value suppression within the zone of visual and traffic influence. This omission limits assessment of population, amenity and wellbeing effects under the EIA Regulations. It is not advanced as a claim for compensation, but as an indicator of wider human and socio-economic effects.			"Generalised blight" is not a relevant factor to be considered in an application for a development consent order. Where affected persons meet the statutory requirements to bring a blight claim, these will be considered appropriately. The Applicant contends there is no requirement for a '*Property-Value and Blight Impact Note*'.
9C	**Absence of Health Impact Assessment (HIA) and inadequate assessment of population and human health effects.** The Application does not include a stand-alone Health Impact Assessment (HIA) or an equivalent structured assessment of population health effects. The Environmental Statement therefore does not enable the Examining Authority to evaluate human health impacts with appropriate rigour for a nationally significant infrastructure projects. The Environmental Statement contains no stand- alone health chapter and no integrated health assessment framework, and instead relies on fragmented discussion across individual topic chapters. In particular, the ES does not provide a structured assessment of: • construction-phase health impacts, including traffic movements, noise exposure, dust and air quality effects, community severance, and disruption to local access routes and public rights of way; • operational health effects, including noise exposure from BESS compounds, transformers and inverters, including potential tonal or low-frequency components; • mental health and wellbeing effects, including changes to amenity, rural character and perceived environmental quality; • cumulative health impacts arising from interaction between multiple environmental stressors; or	Equality Act 2010; EN-1 (consideration of population and human health impacts); EIA Regulations (requirement to assess likely significant effects on population and human health and to provide sufficient environmental information to enable a reasoned conclusion).	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit a combined Health Impact Assessment and Public Sector Equality Duty Compliance Statement addressing the deficiencies identified above. The assessment should include: • demographic and vulnerability mapping identifying communities and groups potentially affected by the Proposed Development; • evaluation of distributional impacts across different population groups, including those with protected characteristics under the Equality Act 2010; • assessment of construction-phase health impacts, including traffic movements, noise, air quality, dust and disruption to access routes and public rights of way; • assessment of operational health impacts, including noise exposure and potential tonal or low-frequency effects; • assessment of mental health and wellbeing effects, including changes to amenity and environmental quality; • assessment of cumulative health impacts arising from interaction between environmental pathways; and	**<u>Health Impact Assessment</u>** The Planning Inspectorate's **Scoping Opinion [APP-065]** confirmed the ES did not require a standalone assessment of human health. An assessment of the Scheme's impacts on the established 'wider determinants of health' has been undertaken and is reported in Section 16.2 of **ES Vol 1 Chapter 16 [APP-052]**. The assessment adopts the Institute of Environmental Management and Assessment (IEMA) methodology for scoping and determining significance for human health, and explains that, for clarity, cross-referencing to other ES topic assessments is provided within Table 16.3 **[APP-052]**. The 'wider determinants of health' framework is set out at Table 16.2 and applied through consideration of health pathways between Scheme components and people, including consideration of vulnerable groups and those with protected characteristics. Table 16.3 provides a structured assessment identifying impact pathways, directing the reader to the relevant ES assessments and mitigation, identifying Scheme responses, and stating whether significant effects could occur and who may be affected. **<u>Public Sector Equality Duty</u>** The purpose of the ES is to identify, describe and assess the likely significant environmental effects of the Scheme; there is no requirement to provide a freestanding Equality Act assessment or to demonstrate, within the application documents themselves, compliance with section 149 of the Equality Act 2010. Section 149 imposes the Public Sector Equality Duty on <u>public authorities</u> exercising public functions. In this case that duty falls on the Secretary of State when determining the application, not on the Applicant as a private commercial developer promoting the scheme. The Applicant's role is to provide sufficient environmental information to enable the Examining Authority and Secretary of State to understand the likely significant effects of the Scheme and to reach a lawful decision. Please refer to Section 8 of the **Statement of Reasons [PDA-007]** for more information on the considerations taken into account by the Applicant. The application contains proportionate and topic-specific assessments of effect on people and communities, and it provides an adequate basis for the decision-maker to consider any relevant equality implications as part of the examination and determination process. There is no requirement in this instance for the Applicant to provide a further Health Impact Assessment, having already demonstrated that likely significant effects on human health would not occur. Similarly, there is no requirement for the Applicant to provide a Public Sector Equality Duty Compliance Statement.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	• distributional health effects experienced by specific communities or sensitive groups. The Environmental Statement also does not identify or analyse vulnerable groups or protected characteristics, nor does it evaluate the potential distributional impacts of environmental effects across different population groups. In particular, the Application contains no evidence demonstrating compliance with the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010. The Environmental Statement does not therefore provide: • demographic analysis identifying vulnerable or sensitive population groups; • evaluation of how environmental impacts may disproportionately affect individuals with protected characteristics; • analysis of the distribution of impacts across communities; or • consideration of whether mitigation measures are sufficient to address such distributional effects. Instead, reliance is placed on assumptions of limited impact and outline mitigation rather than a structured worst-case assessment of health effects. The absence of a structured human health assessment also means that potential interactions between multiple environmental pathways, including noise, traffic, air quality, access disruption and amenity change, have not been evaluated in a combined or cumulative way. Taken together, the absence of a Health Impact Assessment, the lack of population vulnerability analysis, and the absence of PSED compliance evidence prevent the Examining Authority from evaluating population and human health effects in accordance with the requirements of the EIA Regulations.		• identification of specific mitigation measures, supported by monitoring and reporting arrangements. Where mitigation measures are required, these should be secured through enforceable DCO Requirements. In the absence of this information the Examining Authority cannot reach a fully reasoned conclusion on likely significant effects on population and human health, nor demonstrate compliance with the PSED under section 149 of the Equality Act 2010.	

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
9D	**Omitted aviation-glare safeguarding**. The ES provides no assessment of glint/glare impacts on aviation receptors, including Cambridge Airport, Cranfield Airport, RAF Wyton/RIS, farm airstrips, and emergency helicopter corridors. No consultation evidence from CAA, NATS, the MoD or local airfields is provided. Absence of aviation-glare modelling does not clearly demonstrate compliance with EN-1 evidential adequacy requirements.	EN-1; EIA Regulations; CAA CAP 764 & CAP 393; MoD / NATS safeguarding protocols.	The Examining Authority should require the Applicant to submit an Aviation Glint & Glare Assessment with receptor-specific modelling and confirmation from NATS/MoD/CAA or secure controls by DCO Requirement.	The Applicant has undertaken an assessment of aviation receptors within **ES Vol 2 Appendix 5-6 [REP1-016]** which concludes there would be no unacceptable impacts. The Applicant consulted with the CAA, NATS and the MoD during the pre-application stage. A list of all consultees at the statutory consultation is provided in **Appendix 4-1 of the Consultation Report [APP-027]**. Consultation responses from NATS and the MoD are set out in **Appendix 5-1 of the Consultation Report [APP-028]**, with no objections received. The CAA provided no comments during pre-application consultation.
9E	**Omission of crime-risk, theft, and hostile-reconnaissance assessment for solar/BESS infrastructure.** The ES provides no assessment of crime risk, theft, or hostile reconnaissance despite published national police intelligence summaries and industry evidence indicating an increasing risk profile that large solar farms and BESS sites are now systematically targeted by organised criminal gangs. Opal police intelligence confirms cable-theft incidents at solar farms have more than doubled since 2022, with combined cable and panel thefts projected to rise by 32% (2024), and multiple incidents of hostile surveillance and attempted perimeter breaches at comparable UK sites. The omission prevents evaluation of: • security impacts on rural communities; • need for 24/7 lighting, CCTV towers and fencing (landscape, dark-sky and ecology effects); • construction-phase vulnerability and unplanned emergency/police traffic; and • BESS-specific risks from deliberate damage or intrusion.	EN-1; NPPF provisions safeguarding the natural environment, landscape character and environmental quality; EIA Regulations; ICNIRP/PHE guidance (lighting & security equipment)	The Examining Authority should require the Applicant to submit a full Security and Crime-Risk Assessment, including: • construction and operational theft-risk modelling using Opal data; • hostile-reconnaissance and intrusion scenarios for PV and BESS areas; • assessment of required security lighting/CCTV and dark-sky impacts; • community-safety and crime-displacement analysis; and • a Police-endorsed Security Mitigation Plan (DOCO-approved) with enforceable DCO Requirements.	The purpose of the ES is to identify, describe and assess the likely significant effects of the Scheme on the environment. The matters raised here are principally matters of site security, operational management and crime prevention. The EIA process is not required to assess every conceivable operational risk, but only those matters which are likely to give rise to significant environmental effects. The Scheme includes appropriate security measures such as perimeter fencing, controlled access arrangements, CCTV and other appropriate monitoring and alarm systems. These are normal features of a commercial solar development and are not unusual or exceptional in nature. The impacts of such infrastructure have been assessed within the ES. The Scheme does not include for 24/7 lighting and it has been assessed on that basis, e.g. at paragraphs 5.8.71-72 of **ES Vol 1 Chapter 5 [APP-041]**.
10A	**Absence of a quantified, scheme-specific need and proportionality case.** The Application relies on generic national policy support for renewable energy but does not provide a quantified, scheme- specific explanation of why the proposed development, at this location and scale, represents a	EN-1 (need, assessment and planning balance); EN-3 (solar PV siting hierarchy and efficient use of land);	The Examining Authority should require the Applicant to submit a Need and Proportionality Assessment which: • quantifies expected annual and seasonal electricity generation and explains the scheme's	The Applicant has provided a suitable and proportionate statement of need in Section 2 of the **Planning Statement [APP-031]** and is not proposing to prepare an additional '*Need and Proportionality Assessment*'. Paragraphs 3.2.6 to 3.2.8 of NPS EN-1 state that: "*The Secretary of State should assess all applications for development consent for the types of infrastructure covered by this NPS on the basis that the government has demonstrated that there*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	proportionate or efficient contribution to national energy policy objectives. The Environmental Statement does not demonstrate the system value, locational justification or land-use efficiency of the proposed scheme in a manner that enables meaningful comparison between the claimed public benefits and the environmental costs associated with long- term occupation of predominantly Best and Most Versatile (BMV) agricultural land. In particular, the Application does not evidence: • the system or network value associated with the chosen grid-connection point (including constraint context, curtailment exposure, reinforcement dependencies or locational advantages relative to other feasible nodes); • the land-efficiency of the scheme (including generation, carbon abatement and energy yield per hectare) compared with alternative deployment models; • the relationship between the stated objective of maximising grid utilisation and the requirement in EN-3 to avoid BMV land where reasonable alternatives exist; or • the comparative performance of the scheme against lower-conflict deployment options such as rooftop solar, previously developed land or non- BMV agricultural land within the relevant grid catchment. As a result, the claimed public benefits of the scheme are asserted rather than demonstrated, and the Examination is not provided with sufficient evidence to evaluate whether the proposed development represents a proportionate or efficient contribution to national decarbonisation objectives. Without a quantified need and proportionality case, the Examining Authority cannot meaningfully weigh the claimed benefits of the proposal against the long-duration loss of a nationally significant soil resource. This deficiency should be read alongside Deficiency #4A, which concerns the adequacy of the site-selection and alternatives process. Even if the location were assumed to be	NPPF provisions relating to protection of high-quality agricultural land and efficient use of resources; EIA Regulations (assessment of significant effects including socio-economic and land- use impacts).	system value at the proposed connection node, including constraint context, curtailment exposure and reinforcement dependencies; • reports generation efficiency and carbon abatement per hectare and explains how land-use impacts have been minimised; • evaluates coincidence with demand and system resilience benefits relative to other feasible deployment models; • compares the scheme's land-use efficiency and environmental impacts with lower-conflict alternatives including rooftop solar, previously developed land and non-BMV sites within the relevant grid catchment; and • demonstrates, with transparent evidence, that the public benefits of the proposed development at this location outweigh the long-term loss of BMV agricultural land. Absent such evidence, the Examining Authority should afford limited weight to the Applicant's claimed need case when applying the planning balance under EN-1.	*is a need for those types of infrastructure which is urgent, as described for each of them in this Part.* *In addition, the Secretary of State has determined that substantial weight should be given to this need when considering applications for development consent under the Planning Act 2008.* *The Secretary of State is not required to consider separately the specific contribution of any individual project to satisfying the need established in this NPS*." Accordingly, there is a clear and urgent need for the Scheme, established by Government, and the Applicant is not required to establish a particular need case for this Scheme (although as above, has elected to provide a statement of need in the Planning Statement). Following the widely publicised grid reform process undertaken by the National Energy System Operator (NESO) over the past few years, the Applicant received a 'Gate 2' generation connection offer to the Eaton Socon Substation which is 2030-aligned. This firmly aligns the Scheme with the Government's Clean Power 2030 pathway. It is clear from NPS EN-1 that substantial weight must be given to the need for the Scheme, rather than limited weight as suggested by SEPE. There is no policy requirement for the Applicant to evaluate the benefits of solar technology relative to other deployment models – this is considered to have been done by Government in producing the targets set out in the Clean Power 2030 plan, and other strategies referenced within the statement of need at Section 2 of the **Planning Statement [APP-031]**.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	acceptable, the Examination must still determine whether the scale and configuration of the scheme deliver proportionate public benefits.			
10B	Absence of a cost-benefit and carbon-efficiency justification. The application does not provide a transparent, quantified assessment demonstrating that the claimed public benefits of the East Park Energy proposal are proportionate to the scale, duration and reversibility of harm arising from the permanent or long-term loss of BMV agricultural land and associated environmental impacts. In particular, the Environmental Statement and Planning Statement lack: • a cost–benefit analysis testing system-level efficiency rather than headline installed capacity; • a carbon-efficiency-per-hectare or per-unit-impact assessment; • quantified comparison with reasonable lower- conflict alternatives; and • any integrated assessment of whether land-take and environmental harm are justified by the scheme's contribution to electricity supply. As a result, asserted public benefits are assumed rather than demonstrated. Where developments involve extensive land take, applicants are expected to demonstrate carbon efficiency, system contribution and benefit per unit of land, rather than relying on gross generation figures. In the absence of such evidence, limited weight can properly be attributed to the claimed public benefits when weighed against long-term environmental and land-use harm.	EN-1 (requirement for proportionality between benefits and impacts / efficiency and land-use considerations); EN-3 (solar siting principles); NPPF provisions safeguarding the natural environment, landscape character and environmental quality; EIA Regulations (adequacy of environmental information).	The Examining Authority should require the Applicant to submit a Cost–Benefit and Carbon- Efficiency Statement prior to determination, including: • quantified assessment of system-level benefit relative to land-take and environmental impact; • carbon-efficiency metrics (e.g. tCO_2e displaced per hectare over project life); • comparison with reasonable lower-conflict alternatives; and explanation of how proportionality has been tested in accordance with EN-1. Without such evidence, the planning balance cannot be properly undertaken on a fully informed basis. and any reliance on assumed public benefits would risk non-compliance with national policy and EIA Regulations.	There is no policy requirement or requirement in the EIA regulations for the Applicant to prepare a "*quantified assessment of system-level benefit relative to land-take and environmental impact*". The planning benefits and harms of the Scheme are set out in the **Planning Statement [APP-031]**, supported by the wider application including the ES. At its core the planning balance is about comparing the benefits that a proposed development would deliver against the harm that it would cause, which is ultimately a matter for the decision maker. The Applicant's consideration of the planning balance is set out in Section 8 of the **Planning Statement [APP-031]**.
11A	**Ecology: Incomplete baseline and omission of protected species, habitats, connectivity and ecosystem functioning data.** The ES omits detailed survey results for Red Kite foraging patterns, Water Vole presence within drainage ditches, and bat-corridor connectivity near access routes and hedgerow	EN-1; NERC Act 2006; Habitats Regulations; EIA Regulations.	The Examining Authority should require the Applicant to submit an Updated Ecological Baseline & Mitigation Strategy, including: • protected-species surveys to CIEEM standards;	The ecological assessment has been undertaken in line with relevant guidance, including CIEEM guidelines for EcIA and BS 42020:2013. A key part of BS 42020 is proportionality, with surveys required to be '*proportionate to the degree of risk*'. As such, surveys are not necessarily required where there is a low risk of impacts, or where impacts can be confidently predicted.

Procedural Deficiency No. [as identified by SEPE]	**Procedural Deficiency / Evidence gap** [as identified by SEPE]	**Relevant policy or legal reference** [as identified by SEPE]	**Action requested of the Examining Authority** [as identified by SEPE]	**Applicant's Response**
	gaps. Several surveys fall outside optimal seasonal windows. No multi- species crossing mitigation is provided for construction compounds and haul routes. Taken together, the baseline is incomplete and does not allow robust assessment of protected species presence, movement corridors, habitat connectivity or ecosystem functioning.		• bat-corridor connectivity modelling; • watercourse-crossing designs; • seasonal-restriction commitments.	With the exception of small-scale works (e.g., access and crossing points), the Scheme has avoided impacts to habitat features through implementing the following buffers, as outlined in the **outline Landscape and Ecological Management Plan [REP1-040]**: • A minimum 6m buffer between the fenceline of the solar farm and the surrounding hedgerows or substantial areas of vegetation; • A minimum 10m buffer between the fenceline of the solar farm and public rights of way; and • A minimum 10m buffer between the fenceline of the solar farm and the bank top of watercourses. Of the species mentioned by SEPE, surveys have been undertaken for bats across the Order limits as outlined in the **Bat Activity Survey Report [APP-097]**, as well as for water vole at crossing points, including 100m up and downstream as detailed in the **Otter and Water Vole Survey Report [APP-096]**. All limitations to surveys are provided within the relevant technical appendices, however surveys were undertaken within the appropriate survey window according to best practice guidance for the relevant survey methodology. Given the relatively narrow width of access tracks (or 'haul roads'), crossing mitigation (often provided for large road schemes in the form of an underground culvert) is not considered necessary or appropriate. Access tracks would not be of a sufficient width to cause fragmentation. Regarding collision risk with Site traffic, there will be a maximum Site speed limit, primarily for dust control, but also considered sufficient to minimise residual risk collision risk with site traffic, although most movements would be undertaken during the daytime when most species are less active.
11B	**Understatement of farmland bird importance and omission of quantitative territory mapping**. The Environmental Statement materially understates the functional importance of the site for farmland birds by omitting quantitative breeding-territory mapping and density analysis. The assessment relies on presence/absence and limited qualitative descriptors rather than field-verified territory counts, breeding density estimates, or spatial mapping of nesting, foraging, displaying and movement corridors. This prevents robust assessment of displacement, fragmentation and cumulative effects, particularly for species of conservation concern associated with open farmland. The omission is especially material given the scale of habitat loss (c. 773 ha), the linear	EN-1 (land-use compatibility and avoidance of adverse ecological interactions); EN-3 (Solar Photovoltaic generation); EIA Regulations (Environmental impact assessment impacts) Natural England Evidence Review NEER012 (2016) – precautionary assessment of solar PV impacts on fauna NPPF provisions safeguarding the natural environment, landscape	The Examining Authority should require the Applicant to submit a Farmland Bird Impact Addendum including: • quantitative breeding-territory mapping (minimum two survey seasons) for key farmland species; • density and population estimates benchmarked against county and regional datasets; • spatial analysis of displacement, barrier effects and habitat fragmentation caused by arrays, fencing and access routes; • cumulative assessment alongside nearby solar and infrastructure schemes; and	The Applicant remains satisfied in the assessment of the importance of the farmland bird assemblage, which is assessed as up to county importance for the ground nesting and wider breeding bird assemblage, and of local importance for the non-breeding bird assemblage. The SEPE response states '*On any reasonable application of that guidance, a site supporting approximately 125 [skylark] territories over a contiguous area must be regarded as of at least county-level importance*' and as such, appears to concur with the submitted assessment in this regard. Valuation of bird (and other ecological receptor) value is in line with the sensitivity descriptions given in Table 7.7 of **ES Vol 1 Chapter 7 [APP-043].** To value the ground nesting or breeding bird assemblage of a higher value (i.e., national) would be to place this on par with a nationally designated site such as a Site of Special Scientific Interest, which is clearly not reflective of the habitat present, which are ubiquitous nationally and locally, with agricultural land comprising 69% of UK land area[11]. Typically, to be considered for SSSI selection, a site would need to support over 1% of the British population of a bird species[12], which based on British Trust or Ornithology[13] data in the case of skylark (for example) would be over 15,000 pairs, contrasted with c. 125 at the Site – a full order of magnitude lower. The Applicant notes that quantitative territory data has been provided, with SEPE in fact listing quantitative data for several species (e.g., 125 skylark territories, 14 yellow wagtail territories) in

[11] https://www.gov.uk/government/statistics/agricultural-land-use-in-the-united-kingdom/agricultural-land-use-in-united-kingdom-at-1-june-2025
[12] *Drewitt, A.L., Whitehead, S. and Cohen, S. 2023. Guidelines for the Selection of Biological SSSIs. Part 2: Detailed Guidelines for Habitats and Species Groups. Chapter 17 Birds (version 1.2). Joint Nature Conservation Committee, Peterborough.*
[13] *BTO (2026) BirdFacts Species: profiles of birds occurring in the United Kingdom. BTO, Thetford (https://www.bto.org/learn/about-birds/birdfacts/skylark , accessed on 20/04/2026)*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	extent of fencing and infrastructure, and Natural England's NEER012 guidance, which emphasizes that impacts on birds in agricultural landscapes are poorly understood and require a precautionary, evidence-led approach. Without quantitative territory data, the Examining Authority cannot evaluate ecological significance, magnitude of effect, mitigation effectiveness or cumulative impact. In the absence of this information, the Environmental Statement does not contain sufficient environmental information for the purposes of the EIA Regulations.	character and environmental quality	• species-specific mitigation and avoidance measures secured through enforceable DCO Requirements.	their response. Mapping showing these broad territory locations are provided as **Figure 7-4 of the ES [APP-145].** It is worth noting that several of the Species of Principal Importance, and amber or red listed species observed, are suffering declines on these conservation lists precisely because of modern agricultural practices. Research undertaken by the RSPB and Natural England has found that well managed UK solar farms can significantly boost both bird abundance and species richness compared to arable farmland. Additional detail in relation to the mitigation for farmland birds has been provided at Deadline 1 as Appendix C to the **outline Landscape and Ecological Management Plan [REP1-040].**
11C	**Unassessed red kite collision and disturbance risk.** The Environmental Statement fails to assess collision, disturbance and displacement risks to red kite (Milvus milvus) associated with the proposed development's access routes, construction traffic, and operational vehicle movements. Despite red kite being a Schedule 1 species and a known low-altitude forager with established presence in Bedfordshire and north Cambridgeshire, no flight-line analysis, vantage- point survey interpretation, or access-crossing risk assessment is provided. In particular, the ES omits assessment of repeated vehicle movements at access crossings where birds are likely to forage or commute across open arable land, creating a foreseeable risk of collision, disturbance and functional habitat severance. Without species-specific assessment of collision and disturbance risk across Sites A–D, including at access crossings and along construction routes, the Examination does not presently have a sufficient evidential basis to conclude that effects on red kite can be avoided or adequately mitigated. The omission prevents application of the precautionary principle and undermines the adequacy of the ecological assessment under EIA Regulations.	EN-1 (avoidance of significant harm to biodiversity) EN-3 (land-use compatibility and avoidance of adverse ecological interactions) EIA Regulations (description and assessment of effects on biodiversity, methods and assumptions) Wildlife and Countryside Act 1981 (as amended) – Schedule 1 species protection Natural England NEER012 (2016) – precautionary assessment of solar PV impacts on birds NPPF provisions safeguarding the natural environment, landscape character and environmental quality	The Examining Authority should require the Applicant to submit a Red Kite Risk Assessment Addendum including: • analysis of vantage-point data to identify flight lines and foraging behaviour in relation to proposed developments access routes; • assessment of collision and disturbance risk from construction and operational traffic at access crossings; • cumulative assessment with nearby infrastructure and solar schemes; and • species-specific mitigation (e.g. access re- routing, traffic controls, timing restrictions), secured through enforceable DCO Requirements.	It is accepted that red kite likely utilise the site for foraging, with the species identified in both the **Breeding Bird Survey [APP-092]** and **Wintering Bird Survey [APP-093]**. The species is now common and widespread in the south-east and is green listed, although is listed on Schedule 1 of the Wildlife and Countryside Act. As nesting locations may change, or new nests become established, in order to determine the nesting locations of any Schedule 1 bird species (including red kite) an updated pre-construction survey would be undertaken prior to construction, as listed in Table 5.3 of the **outline Construction Environmental Management Plan [REP1-032].** SEPE cite two studies, DeVault et al. 2014[14] and Loss et al. 2015[15]. While citations for these are not provided in Section 25.4 of the Written Representation, following review this is assumed to refer to the studies referenced in the footnote below. Both these studies are from the United States of America, where red kite is not a resident species, and as such have limited relevance in the UK context. Neither of these studies assess collision risk with solar PV, with the former assessing collision risk in an aviation setting, and the latter assessing general causes of bird mortality from anthropogenic sources, but not assessing solar PV. In the wider context of bird collision risk with solar PV installations, a Natural England literature review[16] concluded '*little scientific evidence exists that demonstrates a direct impact of solar PV on birds*'. A further literature review conducted by BSG Ecology stated '*very few relevant research papers were found during the data search for this review that substantiated these contentions [that birds confuse Solar PV with waterbodies]. Furthermore no studies from the UK or Europe were found*'. There is little known research relating to collision risk of red kite with vehicles, however the species can swoop low or perch on roads when scavenging. Regarding collision risk with site traffic, there will be a maximum site speed limit, primarily for dust control, but also considered sufficient to minimise residual collision risk with site traffic. It is noteworthy that Natural England have raised no concerns relating to this matter in relation to the nearby Grafham Water SSSI. The Applicant contends there is no requirement for a '*Red Kite Risk Assessment Addendum*'.

[14] *Travis L. DeVault, Thomas W. Seamans, Jason A. Schmidt, Jerrold L. Belant, Bradley F. Blackwell, Nicole Mooers, Laura A. Tyson, Lolita Van Pelt (2014) Bird use of solar photovoltaic installations at US airports: Implications for aviation safety. Landscape and Urban Planning, Volume 122, 2014,Pages 122-128,*

[15] *Scott R. Loss, Tom Will, Peter P. Marra. 2015. Direct Mortality of Birds from Anthropogenic Causes. Annual Review Ecology, Evolution, and Systematics. 46:99-120. https://doi.org/10.1146/annurev-ecolsys-112414-054133*

[16] *Harrison, C., Lloyd, H. and Field, C. (2016) Evidence review of the impact of solar farms on birds, bats and general ecology (NEER012)*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
11D	**Absence of precautionary assessment under NEER012 framework.** The Applicant's Ecological Impact Assessment (ES Vol 1 Ch. 7 and Vol 2 App. 7-1) fails to assess the ecological risk pathways identified in Natural England's Evidence Review NEER012 (2017) (Evidence review of the impact of solar farms on birds, bats and general ecology). NEER012 identifies several key mechanisms of ecological impact, including: • polarised-light pollution from photovoltaic (PV) surfaces; • attraction and ecological-trap effects for insects, bats, and waterfowl; • habitat fragmentation and barrier/displacement effects along linear habitats; • altered foraging behaviour in riparian and wetland species. Given the large reflective footprint of the proposed scheme (c. 773 ha), its proximity to watercourses supporting Water Vole and riparian bird fauna, and the presence of multiple bat species, the omission of a NEER012-aligned precautionary assessment represents a material gap in the ES. By omitting assessment of polarised-light attraction, barrier effects, and altered movement/foraging patterns identified in NEER012, the Applicant's ES does not identify several foreseeable ecological risks. This prevents the Examining Authority from determining whether significant effects have been adequately assessed, contrary to EN-1, EN-3 and the EIA Regulations.	EN-1 – requires robust assessment of all likely ecological effects, including behavioural displacement and indirect effects. EN-3 – requires assessment of site- specific ecological risks arising from solar reflective surfaces, layout, and habitat fragmentation. EIA Regulations – requires identification of indirect, secondary, and cumulative ecological effects. NEER012 (Natural England, 2017): identifies insufficient evidence bases for solar ecological impact and recommends a precautionary approach and targeted risk- pathway assessment.	The Examining Authority should require the Applicant to submit a Precautionary Ecological Impact Assessment Addendum, including: 1. NEER012-aligned risk-pathway evaluation, quantifying potential polarised-light attraction and associated ecological-trap risks for insects, bats, and waterfowl. 2. Species-specific behavioural assessment for riparian mammals and farmland birds. 3. Updated multi-season ecological surveys addressing identified data gaps. 4. Revised HRA screening incorporating indirect and behavioural effects pathways. Mitigation proposals verified by an independent Ecological Clerk of Works.	Invertebrates were scoped in to the assessment within **ES Vol 1 Chapter 7 [APP-043]**. NEER012 does not directly explore the impacts of solar PV development on insects, however does acknowledge that some studies have shown polarised light can attract some aquatic insects and stimulate egg laying behaviour. While limited research has been conducted on this subject in a UK context, a literature review by BSG Ecology states that as *'solar parks in the UK employ grid-formed panels with anti-reflective films it is likely that the reflection of polarised light from these surfaces is already substantially reduced'*. The Applicant is not aware of any evidence or indication that glint and glare and (or) solar development in general results in adverse effects on birds or wildlife. The Applicant notes a Natural England 2016 report '*Evidence review of the impact of solar farms on birds, bats and general ecology*' makes no reference to evidence of glint and glare. As stated in paragraph 2.4.20 of **ES Vol 1 Chapter 2 [APP-038]**, panels will include anti-reflective coatings, which reduces potential glint and glare impacts. The Scheme has followed the mitigation hierarchy by including a minimum 10m buffer between the fenceline of the solar farm and the bank top of watercourses. It is expected that the Scheme would result in overall benefits to the invertebrate assemblage within the Site and immediate surrounds through implementation of landscape proposals and reduction in pesticide treatments commonly used within an agricultural setting.
11E	**Grid-connection corridor omissions.** The Environmental Statement provides only schematic mapping of the grid-connection corridor linking the generating site to the National Grid substation east of St Neots and does not present a corridor- specific environmental assessment. The cable route constitutes integral infrastructure, not ancillary works. No baseline surveys, alignment	EN-1 (adequacy of environmental information and assessment of all environmental effects); EIA Regulations (requirement to assess likely significant effects of the project as a whole and provide sufficient	The Examining Authority should require the Applicant to submit a Grid-Connection Corridor Environmental Assessment Addendum, including: • corridor-specific baseline surveys covering ecology, soils, hydrology, landscape and heritage receptors;	It is incorrect that the ES does not include an assessment of the grid connection. In relation to the points raised by SEPE: **<u>Ecology</u>** It is incorrect to say no baseline ecological survey has been undertaken, as the grid connection route was subject to extended habitat survey (including signs of protected and notable species), with watercourse crossing points also subject to targeted water vole survey and ponds subject to great crested newt eDNA survey.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	appraisal or topic-specific assessment is provided for ecology, soils, landscape, heritage, hydrology, traffic or construction effects, notwithstanding that the cable route will cross drainage features, hedgerows, agricultural land and Public Rights of Way and will require trenching, haulage access, temporary compounds and reinstatement works. The grid connection forms an integral component of the authorised development. In the absence of a corridor-level baseline and impact assessment the Environmental Statement does not enable the Examining Authority to determine the likely significant environmental effects of the development as a whole, including cumulative and construction-phase effects associated with the cable route. This omission represents a material adequacy deficiency under the EIA Regulations, preventing the decision-maker from reaching a reasoned conclusion on environmental effects.	information for a reasoned conclusion).	• mapping and appraisal of the corridor alignment and sensitive environmental features along the route; • a defined construction methodology (including trenching, temporary compounds, haulage access and reinstatement works); • an assessment of construction noise, vibration, dust and traffic effects affecting receptors along the corridor; and • an integrated cumulative assessment addressing interaction with other grid-connection or reinforcement works. Until such information is provided, the Examination cannot be satisfied that the Environmental Statement contains sufficient information to assess the environmental effects of the proposed development in accordance with EN-1 and the EIA Regulations.	**ES Vol 1 Chapter 7 [APP-043]** has assessed the Scheme as a whole, including an assessment of the grid connection corridor (Works No. 4). This, and all other elements of the Scheme as described in **ES Vol 1 Chapter 2 [APP-038]**, are accounted for when considering residual impacts to scoped in ecological receptors. As described in the **outline Construction Environmental Management Plan [REP1-032]** and shown on **ES Vol 2 Appendix 2-1 [APP-055],** works associated with the grid connection would be anticipated to take approximately 10 months, and would be undertaken in sections. As such, due to the temporary nature of the grid connection corridor and essentially comprising sequential small scale works, impacts associated with the grid connection are equivalent to or lesser than those associated with other aspects of the development. While fully assessed within **ES Vol 1 Chapter 7 [APP-043]**, it is considered that impacts can largely be controlled through the embedded **outline Construction Environmental Management Plan [REP1-032]**. Measures are included within Table 5-3 of the **outline Construction Environmental Management Plan [REP1-032]** and include: • Backfilling or fitting with means of escape for any trenches left open overnight; • Lighting control measures; • Pre-construction surveys; and, • Vegetation clearance under Reasonable Avoidance Measures. **Soils** **ES Vol 2 Appendix 13-1 [APP-115]** presents an agricultural land classification and soil resources survey of the grid connection corridor. This supports the assessment of the whole Order limits made in **ES Vol 1 Chapter 13 [APP-049]**. **Hydrology** **ES Vol 1 Chapter 8 [REP1-009]** and **ES Vol 1 Chapter 12 [REP1-012]** each consider the whole Order limits, including hydrological receptors that cross the grid connection. **Landscape** **ES Vol 1 Chapter 5 [APP-041]** provides a landscape and visual impact assessment of the Scheme, including impact of constructing the grid connection, which is assessed with reference to local landscape character areas and a number of viewpoints specifically chosen along the grid corridor. **Heritage** **ES Vol 1 Chapter 6 [APP-042]** provides an assessment of the impacts of the Scheme on the historic environment, including from the impacts of the grid connection. This is supported by archaeological investigation work, including geophysical survey reported in **ES Vol 2 Appendix 6-5 [APP-084]**.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				Noise and Vibration **ES Vol 1 Chapter 10 [APP-046]** includes an assessment of the construction phase for the grid connection as part of the assessment of noise and vibration impacts. Noise sensitive receptors are identified along the grid connection corridor in Section 10.6, and assessed in Section 10.8. **Cumulative Effects** The assessment of cumulative effects considers the Scheme alongside other emerging and committed developments, including shortlisted schemes identified in close proximity to the grid connection corridor. **Summary** A '*Grid Connection Corridor Environmental Assessment Addendum*' is not required, as the grid connection has already been assessed as part of the ES.
11F	**Omitted Biosecurity / Invasive Non-Native Species (INNS) Plan.** The Environmental Statement and Outline CEMP do not include a site-specific INNS Plan. No method statements are provided for plant/vehicle wash-down, soil/materials quarantine, bio secure working near watercourses, or INNS monitoring and eradication triggers. Given the scale of earthworks, hedgerow translocation, ditch management and watercourse crossings, the absence of a Biosecurity/INNS Plan represents a foreseeable and unmanaged environmental risk. The omission prevents the Examining Authority from determining whether the Applicant has adequately assessed or mitigated INNS-related risks, contrary to EN-1 and the EIA Regulations. INNS spread is a well-recognised construction risk on NSIPs, especially where drainage works, ditch reprofiling and hedgerow translocation occur.	EN-1 – requires avoidance of significant harm and prevention of spread of invasive species. EIA Regulations – ES must include information on secondary, cumulative and indirect effects, including risks of INNS spread. CIEEM EclA Guidelines (2018): require assessment and mitigation of INNS risks during construction and operation. Wildlife and Countryside Act 1981 (s.14): prohibits release or spread of listed invasive species.	The Examining Authority should require the Applicant to submit a site-specific Biosecurity and INNS Management Plan, secured by a new DCO Requirement, including: • vehicle/plant wash-down procedures; • topsoil and materials quarantine; • invasive species identification and mapping; • pre-construction surveys; • monitoring and eradication protocols; • annual reporting to the LPA.	Paragraph 3.6.3 of **ES Vol 2 Appendix 7-1 Ecological Baseline Report [REP1-024]** confirms that no invasive, non-native species were identified within the Site during the habitat surveys. Regardless of this, pre construction surveys would be carried out to update the baseline and the **outline Construction Environmental Management Plan [REP1-032]** already includes at paragraph 1.3.3 a commitment to prepare an Invasive Non-Native Species (INNS) Management Plan alongside the final CEMP. Given that no INNS have currently been identified, the Applicant does not consider it necessary to prepare a '*Biosecurity and INNS Management Plan*' at this stage.
11G	**Hedgerow Regulations consent strategy absent.** The Application proposes removal or breach of multiple hedgerow sections (V01–V14) but provides no Hedgerow Regulations 1997 compliance strategy. No Schedule 1 "important hedgerow" assessment is presented; no Hedgerow Removal Notice information is	Hedgerow Regulations 1997 (Reg. 7 and Schedule 1); EN-1 (protection of priority habitats and ecological networks);	The Examining Authority should require the Applicant to submit a Hedgerow Regulations Compliance Package comprising: • a Schedule 1 "important hedgerow" assessment for each section V01–V14;	The Hedgerow Regulations 1997 were introduced principally to prevent the unregulated loss of significant countryside hedgerows by introducing statutory controls. Under the Hedgerow Regulations, unless removal is authorised by planning permission, a separate hedgerow notification is required where removal is proposed unless the criteria under Regulation 6 are satisfied. The **draft DCO [REP1-005]** manages 'important hedgerow' consent through Article 8(2) which modifies Regulation 6 of the Hedgerow Regulations so that the list of permitted reasons for removal includes development authorised by the DCO, by inserting a new limb "*(k) for carrying*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	supplied; and no alternatives appraisal is provided to demonstrate that operational and construction access could not reasonably be achieved without long-term breaks in hedgerows. ES Vol 1 Ch. 2 confirms that 84 m of hedgerow will be removed, with 42 m not reinstated until after decommissioning, yet this long-term loss is not reconciled with the Hedgerow Plan (Doc 2.9), the BNG Metric, or any DCO Requirement on reinstatement timing. This omission prevents the Examining Authority from understanding whether hedgerows affected by the scheme qualify as "important" under the 1997 Regulations or whether their proposed removal can be properly assessed against the applicable policy and regulatory tests, contrary to EN-1's requirement for complete and reliable environmental information.	EN-3 (Solar PV – siting and landscape/ecology principles); EIA Regulations (adequate environmental information).	• a Hedgerow Removal and Consent Schedule setting out length, importance status, consent route and reinstatement proposals; • a net change table (m) distinguishing temporary vs 40-year hedgerow loss; • an access alternatives assessment demonstrating that hedgerow removal is a last resort; and • draft DCO Requirement wording securing hedgerow reinstatement timing (during operation, not merely "following decommissioning"), minimum planting specifications and 10-year establishment monitoring.	*out development which has been authorised by the East Park Energy Order*". This is needed because, without the modification, the normal exception (for development permitted by planning permission) would not apply to development authorised by a DCO. 'Important' hedgerow surveys and assessments are not routinely requested on applications under the TCPA or PA2008 regimes just because hedgerows are affected. They are typically only requested where hedgerow removal is substantial in the context of the individual site or proposal, or where the loss of a particular hedgerow or section of hedgerow could be an important consideration in the planning balance when determining an application. It is the Applicant's position that neither is the situation as part of this Scheme. On the East Park Energy project, the Applicant has taken a design approach that has explicitly sought to avoid impacts on hedgerows as far as practicable by providing adequate stand-off buffers, and utilising existing access points within hedgerows for cabling and access where possible. As a result, the extent of hedgerow loss is exceptionally limited for a project of this scale. The proposed hedgerow removals and the purpose are described in paragraphs 2.5.23 to 2.5.35 of **ES Vol 1 Chapter 2: The Scheme [APP-038]**, and also set out in Table 2-34 **[APP-038]**. In summary, it is anticipated that a total of 84m of hedgerow (cumulatively across 14 separate locations) would need to be removed to facilitate construction of the Scheme, with 42m of this to be reinstated at the end of the construction phase. No individual section of hedgerow removal is anticipated to be greater than 6m in width. This is a patently limited extent of hedgerow removal which is both justified, and necessary to deliver the project. To mitigate for the impacts of the Scheme and to compensate for the loss of hedgerow the Applicant is proposing approximately 17.4km of new native species hedgerow, which substantially outweighs the very limited removals. In the context of the limited extent of hedgerow removal, it is considered by the Applicant that undertaking further important hedgerow surveys and important hedgerow assessments would be disproportionate to the level of anticipated impact, and that such surveys and assessment are not necessary to reach a reasonable and informed decision on the harm and benefits caused by the Scheme. One could assume (under a worst case scenario) that each of the 14 hedgerows where clearance works are proposed is an 'important hedgerow' and the level of impact would nonetheless demonstrably be limited, justified, and acceptable. Hedgerows have been considered across the Site as part of: • **ES Vol 2 Appendix 2-2: Arboricultural Impact Assessment [APP-056]**; • **ES Vol 1 Chapter 5 Landscape and Visual [APP-041]**; • **ES Vol 1 Chapter 6 Cultural Heritage and Archaeology [APP-042]**; • **ES Vol 1 Chapter 7 Ecology and Nature Conservation [APP-043]**; and • **Biodiversity Net Gain Report [REP1-052]**. The above documents do not identity any significant adverse effects that result from a loss of hedgerow. The Applicant has prepared a framework of environmental management plans that cover each phase of the Scheme and set out how hedgerows will be protected during construction-related activities. The management regime for retained and proposed hedgerows is provided in the **outline Landscape and Ecological Management Plan [REP1-040]**. For the avoidance of doubt the Applicant considers that many if not all of the 14 hedgerows where works are proposed could be classified as 'important' hedgerows under the Regulations. However the Applicant is not seeking to benefit from any of the 'exceptions' to working on an important hedgerow (as set out under Regulation 6) other than through the grant of development consent for works described and assessed in the ES and proposed for removal through the **draft DCO [REP1-005]**. The works are clearly defined and impacts transparently assessed.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				In choosing to grant development consent, the Secretary of State would authorise works to hedgerows through Article 41(4) of the **draft DCO [REP1-005]** which allows removal only of those hedgerows (or parts) that are within the Order limits and specifically listed in Schedule 12, with Schedule 12 identifying the hedgerow sections proposed for removal by reference to the **Hedgerow Plan [APP-015]**. The amendments to the Hedgerow Regulations introduced by Article 8(2) of the **draft DCO [REP1-005]** would authorise the works under the Hedgerow Regulations.
11H	**Biodiversity Net Gain not legally secured or monitored.** The Application does not legally secure Biodiversity Net Gain (BNG) delivery, monitoring, funding or long-term management. The BNG Report and Policy Compliance Document rely on illustrative designs and non-binding commitments ("elects to claim", "endeavour") and defer delivery to post-consent iterations of the LEMP. No 30-year Habitat Management & Monitoring Plan (HMMP) is provided; no monitoring frequency, metric recalculation, remedial triggers, or independent audit are specified; and no legal securing mechanism (e.g. conservation covenant or s.106 agreement) is proposed. Long-term hedgerow breaks (42 m) are not reflected in BNG accounting. As a result, BNG outcomes are unenforceable and the ES does not contain sufficient environmental information to demonstrate delivery.	EN-1 (biodiversity enhancement must be secured and deliverable); EN-3 (Solar PV – siting/ecology requirements); Statutory BNG Metric (NE, 2024) – 30- year maintenance & monitoring; EIA Regulations (adequate environmental information).	The Examining Authority should require the Applicant to submit a legally binding BNG securing package, including: • a 30-year HMMP with funding, monitoring intervals, independent audit, and metric recalculation; • a legal mechanism (DCO Requirement + covenant/S106) securing delivery of habitat, hedgerow and watercourse units; • a fixed minimum BNG unit schedule; and • updated BNG Metrics reflecting long-term hedgerow loss.	The Applicant notes that the Scheme is not subject to any mandatory or legal requirement to deliver BNG. The Applicant has elected to provide a BNG assessment as part of the application, and then subsequently committed to achieving the net gain targets set out in Section 7.8 of the **Planning Statement [APP-031]**. The Applicant has updated Section 3.6 of the **outline Landscape and Ecological Management Plan [REP1-040]** at Deadline 1 to commit to providing the net gains described in the Planning Statement. The **outline Landscape and Ecological Management Plan [REP1-040]** covers management of habitats throughout the lifetime of the Scheme, which is 40 years. Biodiversity net gain requires significant on-site gains to be secured for 30 years, and as such the Scheme goes beyond minimum requirements. The minimum time period required for biodiversity net gain has been met and the calculation outputs are considered valid. Section 8 of the **oLEMP [REP1-040]** sets out how habitats will be monitored, with Section 8.2 referring specifically to BNG. Paragraph 8.2.4 of the oLEMP states that "*Details regarding the monitoring criteria and specific methods to be used for each habitat type will be outlined in a Biodiversity Net Gain Habitat Monitoring and Management Plan, to be prepared as part of the final LEMP.*" The Applicant therefore does not consider it necessary to include a specific 'BNG Requirement' in Schedule 2 of the draft DCO in order to make the Scheme acceptable, noting that the requirement for net gains in this case are elective and not mandatory. The elective net gains are adequately secured by Requirement 4 of the **draft DCO [REP1-005]** which prevents any phase of the authorised development from commencing until a landscape and ecological management plan (LEMP) for that phase, in substantial accordance with the submitted **oLEMP [REP1-040]** has been submitted to and approved by the LPA.
11I	**Habitats Regulations Assessment screening and in-combination analysis inadequate.** HRA screening relies on incomplete ecological baseline data and a narrow, qualitative in-combination analysis. It omits several relevant solar/BESS schemes and major NSIPs within ecological connectivity range. No evidence is provided of Natural England agreement. Screening conclusions lack sufficient scientific certainty. The competent authority cannot conclude no likely significant effect in the	Habitats Regulations 2017 reg. 63; EN-1; Waddenzee (C-127/02).	The Examining Authority should require the Applicant to submit, prior to any recommendation or decision, a Revised HRA screening and in-combination Assessment based on complete baseline data and full project cluster analysis, with Natural England consultation.	The Applicant has submitted **Information to Inform a Habitat Regulations Assessment [APP-035]** as part of the application. Natural England has reviewed this and confirmed in their **Relevant Representation [AS-023]** that they agree with the assessment. The Applicant has a draft **Statement of Common Ground with Natural England [REP1-062]** where it has been agreed that "Subject to delivery of the Scheme in accordance with the draft DCO and framework of environmental management plans, the Scheme will not result in adverse effects on the integrity of an internationally designated site". The Applicant contends there is no requirement for a '*Revised HRA screening and in-combination Assessment*'.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	absence of complete baseline and in-combination analysis.			
11J	**Inadequate public-facing ecological constraints information.** Confidential ecological reports (including badger and Schedule 1 bird material) have been submitted without any redacted, buffered or generalised public-facing constraints plan. This prevents affected communities, landowners and PRoW users from understanding how sensitive ecological zones interact with access tracks, compounds, hedgerow breaches and working corridors. The omission compounds consultation deficiencies and prevents informed participation.	Planning Act 2008; EIA Regulations; EN-1 (adequate environmental information); Natural England confidentiality protocols; NSIP precedent (Longfield 2023; Sunnica 2023).	The Examining Authority should require the Applicant to submit a Redacted or buffered Ecological Constraints Map showing indicative protection zones for badger, Schedule 1 birds, GCN, and bat corridors, sufficient to enable public understanding while protecting sensitive data. Require updated ES and DCO documents where necessary.	Of the receptors listed, only ecological information relating to badger and Schedule 1 birds has been kept confidential in line with standard practice and Natural England Standing Advice[17]. The need for the information to be kept confidential is in the interest of conservation due to the risk of ill treatment. It is not possible to provide buffers as if provided to any meaningful resolution (typically 30m for badger) this could enable unscrupulous parties to identify approximate locations.
12A	**Incomplete archaeological evaluation and insufficient heritage baseline evidence.** The Environmental Statement does not provide a sufficiently complete or reliable baseline to assess likely effects on archaeological remains, designated heritage assets and the wider historic landscape. Local authority archaeological advisers representing Bedford Borough Council, Cambridgeshire County Council and Huntingdonshire District Council have confirmed that the archaeological and heritage assessment remains incomplete and insufficiently evidenced at examination stage. Outstanding matters identified by the relevant authorities include: • incomplete trial-trench evaluation across Sites A, B and D; • absence of intrusive evaluation across cable routes and the grid-connection corridor; • artefacts not yet processed or analysed by specialist finds experts; • potential misclassification of asset sensitivity;	EN-1 (historic environment assessment and requirement for sufficient environmental information to enable decision-making); EN-3 (consideration of impacts on known and potential heritage assets); EIA Regulations (requirement for sufficient environmental information to enable the decision-maker to reach a reasoned conclusion on likely significant effects).	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit a comprehensive pre-determination Archaeological Evaluation and Heritage Baseline Package addressing the deficiencies identified above. This should include: • completion of trial-trench evaluation and reporting across Sites A, B and D and other areas where ground disturbance is proposed; • intrusive archaeological evaluation of cable routes, construction compounds, access routes and the grid-connection corridor, designed in consultation with the relevant local authority archaeological advisers; • completion of artefact processing, specialist finds analysis and reporting for material recovered during evaluation;	The Applicant acknowledges the reports for Site B and D are not complete, however the final reports including specialist assessment will be submitted during the examination period (April 2026). The assessment made in **ES Vol 1 Chapter 6 [APP-042]** was accordingly made on a reasonable worst case scenario basis subject to receipt of these reports. The final reports for **Site A [PDA-015]** and **Site C [APP-089]** have been completed. The final reports for Sites B and D will include all specialist assessments and provide the same level of detail as previously provided for the Site C report **[APP-089]**, which the Applicant would highlight has been noted by the CHET as being *'excellent and providing considerable detail'* (para. 4.4 **[RR-150]**). The Applicant notes that the **outline Archaeological Mitigation Strategy [REP1-048]** also highlights that further stages of archaeological evaluation work should be completed with paragraphs 5.3.1 and 5.3.2 **[REP1-048]** stating that *'the archaeological brief jointly issued by CHET and BBHET required two phases of archaeological investigation prior to construction. Therefore, following the granting of the DCO, a second phase of trial trenching will be undertaken…the general aim of these investigations… is to more accurately establish the potential for the presence/absence of archaeologically significant remains allowing the mitigation measures set out in Section 6.0 to be applied appropriately'.* Paragraph 5.4.2 **[REP1-048]** highlights that '*a WSI for this additional trial trenching will be developed in line with a new brief prepared by CHET and BBHET*'. The Applicant is committed to further archaeological research and investigation prior to construction of the Scheme, in order to establish the final archaeological mitigation measures to be embedded into the detailed design of the Scheme (including decommissioning) and is committed to ensuring the Archaeological Mitigation Strategy is updated in consultation with BBHET, CHET and Historic England (HE) at each stage of investigation. It is understood that the **outline Archaeological Mitigation Strategy (oAMS) [REP1-048]** will require multiple reviews alongside the Scheme design dependent on the results of further archaeological works. This process would include review of the archaeological significance of any

[17] https://www.gov.uk/guidance/badgers-advice-for-making-planning-decisions

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	• incomplete assessment of heritage setting effects; • omission or limited consideration of glint and glare effects on heritage receptors; • lack of assessment of decommissioning impacts on buried archaeology; and • incomplete evaluation of the relationship between the Scheduled Roman Small Town south of Great Staughton and the surrounding archaeological landscape. Substantial areas of the Order Limits therefore remain unevaluated, and recovered artefacts have not undergone full specialist analysis, meaning the presence, extent and significance of buried archaeology have not been established. The assessment also fails to consider the wider archaeological landscape associated with the Scheduled Roman settlement at a spatially coherent level. The Environmental Statement relies heavily on post-consent investigation through a Written Scheme of Investigation (WSI). Where archaeological significance has not been characterised prior to determination, the Examination cannot reliably assess impact magnitude or mitigation adequacy, and this approach risks reversing the proper assessment sequence of significance, impact and mitigation. The absence of a completed archaeological baseline also undermines confidence that heritage constraints have been appropriately considered in site layout and design. Taken together, incomplete evaluation, unanalysed artefacts, unresolved questions regarding asset sensitivity and setting, and reliance on post-consent investigation mean that the Environmental Statement does not presently provide sufficient environmental information for the Examining Authority to reach a reasoned conclusion on likely significant effects on the historic environment.		• preparation of a revised Statement of Archaeological Significance identifying the presence, extent and importance of buried archaeological remains across the Order Limits; • an updated assessment of likely significant effects on designated and non-designated heritage assets and their settings, informed by the completed archaeological evidence base; • consideration of glint and glare effects on heritage receptors where relevant; and • submission of a fully evidenced Archaeological Mitigation Strategy informed by the completed baseline evidence. In the absence of this information the Environmental Statement may not contain sufficient environmental information for the purposes of the EIA Regulations to enable the decision-maker to reach a reasoned conclusion on the likely significant effects of the development on the historic environment. The absence of a completed archaeological baseline is also relevant to the alternatives and site-selection assessment, because where the presence and significance of archaeological remains are not properly characterised prior to determination, it cannot be demonstrated that the chosen site layout represents the least harmful option or that heritage constraints have been appropriately addressed through design.	remains identified as well as an assessment of the potential impact upon them and recommendations for mitigation measures, which would be confirmed by consultation with BBHET, CHET and HE at each stage of investigation. The final Archaeological Mitigation Strategy (AMS) must be prepared in substantial accordance with the oAMS prior to commencement of any phase of the authorised development, as per Requirement 15(4) of the **draft DCO [REP1-005]**. The final AMS must be approved by the relevant LPA in consultation with BBHET, CHET and Historic England. The Applicant disagrees with the SEPE comments regarding the 'incomplete settings assessment' and lack of evaluation of the '*relationship between the Scheduled Roman Small Town south of Great Staughton and the surrounding archaeological landscape*' and would once again highlight that they do not appear to explicitly address or reference any element of the assessment that forms **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]** nor any of the supporting Figures which are compiled within **ES Vol 3 Chapter 6 Cultural Heritage and Archaeology Figures [APP-143]** or any of the cross referenced viewpoints and photomontages compiled within **ES Vol 3 Chapter 5 Landscape and Visual Figures [APP-129 to APP-142]**. The assessment of setting impacts upon the Roman Town explicitly discusses its interrelationship with nearby designated assets and its current landscape setting, as is outlined on pages 53 to 54 of **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]**. The Applicant would also highlight that within HE's response it is noted they *'broadly agree with this conclusion'* (para. 2.33 **[REP1-079]**) in relation to the assessment of setting impacts upon the Roman Town and that they were *'aware that the scheme was modified to avoid direct impacts on buried archaeology in the designated area and to minimise the impact on the setting by maintaining visual connectivity with the ridge to the south and provision of a vegetation screening. We welcome these measures to mitigate impact by design and consider that they are appropriate in this case'* (para. 2.31 **[REP1-079]**). The Applicant notes SEPE's comment regarding *'glint and glare effect on heritage receptors where relevant'* but would highlight that the methodology and approach to conducting the assessment of settings impacts was agreed via scoping and consultation with BBHET and CHET. The assessment methodology is detailed fully within Section 6.4 of **ES Vol 1 Chapter 6 Cultural Heritage and Archaeology [APP-042]** and the elements relating to settings assessment are also summarised in paragraphs 1.1.1 to 1.1.6 of **ES Vol 2 Appendix 6-4: Settings Impact Assessment [REP1-022]**. The effects of glint and glare are considered within the assessment of the visual effect and the settings assessment was undertaken in line with relevant national planning policy (NPS EN-1 and EN-3), EIA regulations and Historic England's professional guidance[18] on assessing setting impact. The Applicant also notes SEPE's comment on the *'lack of assessment of decommissioning impacts on buried archaeology'.* The Applicant is committed to further archaeological research and investigation prior to construction of the Scheme, in order to establish the archaeological mitigation measures to be embedded into the detailed design of the Scheme (including decommissioning) and is committed to ensuring the **outline Archaeological Mitigation Strategy [REP1-048]** is updated in consultation with CHET, BBHET and HE at each stage of investigation. The Applicant updated paragraphs 7.4.2, 7.5.2 and 7.5.3 of the **outline Archaeological Mitigation Strategy [REP1-048]** to include details of the measures that would be in place in the

[18] *The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning: 3 (2nd Edition) | Historic England*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				event that significant maintenance works become necessary during the operational phase and provision for the Council's archaeological presence on Site, when required, during both the operational and decommissioning phases.
13A	**Construction traffic impacts inadequately assessed due to unreliable logistics envelope, arithmetic inconsistencies and absence of peak-tested cumulative modelling.** The Environmental Statement does not provide a sufficiently robust assessment of construction traffic impacts arising from the Proposed Development. The Transport Assessment relies on arithmetic inconsistencies in construction logistics estimates and the use of programme-wide averaging methodologies which obscure peak-period effects. Taken together, these issues undermine the reliability of the assessed construction traffic envelope and prevent the Examining Authority from reaching a reasoned conclusion on likely significant transport effects. The Transport Assessment does not provide an assessment of cumulative construction traffic impacts arising from interaction with other major infrastructure projects affecting the same rural road network and the Strategic Road Network (SRN), including: • the A428 Black Cat to Caxton Gibbet improvement scheme; and • East West Rail. The application lacks: • modelling of overlapping construction programmes with these schemes; • sensitivity testing of workforce occupancy assumptions; • robust modelling of A1/B645 junction performance, despite National Highways indicating further assessment may be required;	EN-1 (assessment of traffic and transport impacts and requirement for robust and reliable environmental evidence); DfT Circular 02/2013 (requirement for transport modelling to be based on sound evidence) EIA Regulations (requirement to assess cumulative effects and provide sufficient environmental information to enable a reasoned conclusion); Relevant case law concerning Environmental Statement adequacy including Blewett v Derbyshire CC, Lebus v South Cambridgeshire DC, and R (Mellor) v Secretary of State for Communities and Local Government.	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit a reconciled and peak-tested Construction Traffic Assessment package addressing the deficiencies identified above. This should include: • a reconciled construction logistics schedule demonstrating consistency between material quantities, delivery assumptions and total HGV movement forecasts; • updated construction traffic modelling reflecting the reconciled logistics envelope; • modelling of peak-day and peak-hour traffic flows derived from worst-case workforce levels, clustered delivery phases and abnormal-load events; • junction modelling for the A1/B645 junction and other relevant locations in accordance with National Highways requirements; • a cumulative construction traffic assessment addressing overlapping construction scenarios with other major infrastructure projects including the A428 Black Cat–Caxton Gibbet scheme and East West Rail; • assessment of potential impacts along shared diversion corridors including the B645, B660 and B661; and • confirmation that routing requirements, traffic caps,	The Applicant notes these comments and has the following responses: • Points 1 and 2: The trip generation forecasts used in the assessment have been accepted by the relevant Local Highway Authorities and National Highways as being robust and acceptable for use in assessing the potential impacts of the Scheme. • Point 3: The assessment presented in both **ES Vol 1 Chapter 9 [APP-045]** and the **Transport Assessment [APP-101]** already includes consideration of the impacts of construction traffic during periods of peak construction activity and for highway peak hours. • Point 4: This analysis was submitted at Deadline 1 in the **Technical Note on Impact on B645-A1 St Neots Junction [REP1-066]** and was issued to National Highways and the Local Highway Authorities for comment ahead of Deadline 1. • Point 5: The Applicant identified at Issue Specific Hearing 2 (ISH2) that it did not consider that there was any likelihood of any cumulative construction traffic impacts that would result from these two projects, as assessed in **ES Vol 1 Chapter 17 [APP-053]** and set out in the **Written Summary of Applicants Oral Submissions at Issue Specific Hearing 2 (ISH2) and Action Points [REP1-059]**. This position was supported by National Highways in oral submissions at the ISH2. • Point 6: As expressly set out within the construction traffic routing strategy within the **outline Construction Traffic Management Plan (oCTMP) [REP1-034]**, during normal construction operations there would be no use by HGVs of the B661 or the B660, other than for a very short distance between site accesses SA01 and SA02. These movements would be monitored, with any breaches noted and remediated, as per the measures set out in the oCTMP, which provides additional commitment to identifying a suitable GPS or camera-based monitoring system. The only permissible use of any alternative access routes would be as part of an authorised diversion route put in place by the police / National Highways / LHAs in the event of road closures. • Point 7: The requirement for delivering the measures set out in the CTMP is enforced through the provisions set out in Requirement 8 of the draft DCO.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	• assessment of shared diversion routes affecting the B645, B660 and B661 corridors; • quantified worst-case HGV and workforce movements during concurrent construction phases; and • secured mechanisms ensuring that routing, phasing, traffic caps and monitoring are enforceable through the DCO. In addition, the construction traffic envelope contains material arithmetic inconsistencies. The Applicant's own estimates indicate approximately 60,000 m³ of aggregate will be required, equating to around 9,600 two-way HGVmovements for aggregate deliveries alone. When combined with the stated 2,800 two-way HGV movements for panel deliveries, this total already approaches or exceeds the forecast for all construction HGV movements combined, without accounting for other logistics streams such as mounting frames, cabling, BESS equipment, concrete deliveries, waste removal or abnormal loads. As a result, the assessed traffic envelope does not appear to accommodate the full logistics demand of the development, undermining confidence in junction modelling, routing conclusions and related environmental assessments. A further deficiency arises from reliance on programme-wide average traffic flows rather than peak construction scenarios. Average flows derived from long periods do not reflect peak workforce levels, clustered deliveries or abnormal load movements and therefore risk masking short-duration but significant impacts on the SRN and local road network, including congestion, safety risks and noise and air-quality effects. The Environmental Statement therefore relies on averaged parameters and outline mitigation rather than peak-tested assumptions secured within the DCO, meaning the Examining Authority is not provided with sufficiently reliable environmental information to evaluate likely significant construction transport effects.		phasing controls and monitoring arrangements are secured through enforceable provisions within the Construction Traffic Management Plan Requirement at Section 20.10 of the draft DCO. Without this information the Environmental Statement may not provide sufficient environmental information for the purposes of the EIA Regulations to enable the Examining Authority to reach a reasoned conclusion on likely significant transport effects associated with construction of the Proposed Development.	

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
13B	**Unassessed diversion risk via B660/B661 corridor.** The Transport Assessment omits the B660 and B661 corridors from baseline modelling and construction-traffic analysis despite its direct function as a logical diversionary route between Kimbolton, Pertenhall, Riseley and Bedford. No assessment has been undertaken of: • overspill risk; • congestion effects; • school-zone conflict (Kimbolton School); • pedestrian and vulnerable user impacts; or • enforceable routing safeguards. This omission fails to assess a reasonably foreseeable diversion corridor, contrary to EN-1 and EIA requirements to consider indirect and displaced transport effects.	EN-1; EIA Regulations; DfT Circular 02/2013 s. 31	The Examining Authority should secure explicit inclusion of the B660 / B661 within the No-Go / No-Through-Routing Schedule under the CTMP Requirement at Section 20.10, including monitoring and enforcement provisions.	It is not considered that strict requirements on the face of the draft DCO for construction routes, including identifying specific prohibited routes, are necessary. The **oCTMP [REP1-034]** identifies proposed measures for monitoring construction traffic movements to ensure adherence to the prescribed access route and enforcing any breaches. It is considered that these proposed monitoring and enforcement mechanisms will provide the necessary level of safeguarding against any breaches.
13C	**Outline Construction Traffic Management Plan (CTMP) not fixed, peak-tested or enforceable.** The Outline CTMP does not secure the mitigation relied upon in the Transport Assessment. In particular, it lacks: • binding daily or weekly HGV caps; • enforceable school-hour embargoes; • mandatory GPS based route compliance and monitoring; • secured workforce routing controls and occupancy sensitivity testing; and • defined breach, escalation or sanction mechanisms; and • clear consultation and approval controls affecting the Strategic Road Network, as identified by National Highways. The routing commitment at paragraph 7.3.2 of the Transport Assessment, that construction vehicles will avoid passing through Great Staughton village, is not secured by enforceable DCO controls. Nor is the	EN-1 (adequate, reliable environmental information; transport impacts); EIA Regulations (sufficient information to enable a reasoned conclusion)	The Examining Authority should, prior to any recommendation or decision, secure the Construction Traffic Management Requirement set out at Section 20.10 in enforceable form.	The Applicant considers that the proposed measures set out within the **oCTMP [REP1-034]** are reasonable and appropriate and already cover the measures suggested by SEPE. Additional measures, including caps on vehicle movements and restrictions on movements during school hours, are not considered necessary. The requirement for delivering the measures set out in the CTMP is enforced through the provisions set out in Requirement 8 of the **draft DCO [REP1-005]**. It is not considered necessary to further restate specific provisions within the draft DCO.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	Construction Workforce Travel Plan fixed or supported by enforceable monitoring, as highlighted by National Highways. Accordingly, key mitigation measures forming part of the assessed traffic envelope remain discretionary and capable of alteration post-consent. Mitigation relied upon to support conclusions of non-significant effect must be secured and enforceable at decision stage. In the absence of fixed parameters, the CTMP cannot be relied upon as effective mitigation for the purposes of EN-1 or the EIA Regulations.			
13D	**Operational Transport impacts not quantified**. Operational traffic effects are described as "negligible" without: • quantified maintenance trip rates; • abnormal load event modelling; • replacement-phase logistics; • peak-event analysis; or • cumulative operational interaction. No operational logistics envelope is presented capable of being tested at decision stage.	EN-1; EIA Regulations	The Examining Authority should secure the Operational Traffic Management and Replacement Phase Requirement at Section 20.10	Detail regarding traffic movements during replacement activities was provided in response to Action Point 12 in the **Written Summary of Applicants Oral Submissions at Issue Specific Hearing 2 (ISH2) and Action Points [REP1-059]**. The **outline Operational Environmental Management Plan [REP1-036]** provides that any replacement activities which involve replacement of more than 20% of the solar panels within any 12-month period will require a management plan to be submitted to the LPA for approval, detailing proposed management measures that would be put in place for those replacement activities. It also sets out that these measures should be consistent with the principles of the CEMP, PRoWMP, CTMP and OEMP, and commensurate to the scale of any activity proposed. This is secured by Requirement 9 of the draft DCO.
13E	Workforce and logistics safeguards not secured. The Outline CTMP and CEMP do not secure: • off-site holding areas; • driver welfare facilities; • prohibition on verge parking or queuing; • workforce routing controls; or • enforceable logistics capacity reconciliation demonstrating no highway overspill. Given peak workforce levels (854 stated), unmanaged clustering risk is foreseeable.	EN-1 (protection from transport impacts); EIA Regulations (requirement to identify and mitigate transport and amenity effects); NPPF provisions to avoid significant adverse impacts on health and quality of life.	The Examining Authority should secure workforce and logistics controls through the CTMP Requirement at Section 20.10.	The Applicant considers that the proposed measures set out within the **oCTMP [REP1-034]** are reasonable and appropriate and already cover the majority of the measures suggested by SEPE. The suggested measures relating to off-site holding areas and driver welfare facilities are not considered necessary. The requirement for delivering the measures set out in the CTMP is enforced through the provisions set out in Requirement 8 of the draft DCO. It is not considered necessary to further restate specific provisions within the draft DCO.
13F	**PRoW effects not defined or secured.**	EN-1; EIA Regulations;	The Examining Authority should require the Applicant to submit, prior to any recommendation or decision,	The Applicant considers that the proposed measures set out within the **outline Public Right of Way Management Plan oPRoWMP) [REP1-042]** are reasonable and appropriate and alongside

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	The ES acknowledges PRoW interaction but does not specify: • affected routes by number; • closure duration; • mapped diversion routes; • operational amenity impacts; • reinstatement measures. Matters are deferred to post-consent liaison. Experience from comparable solar NSIP examinations demonstrates that where Public Rights of Way are affected by long-duration construction or operational infrastructure, their treatment as a deferred construction-management matter is inadequate. In the absence of a PRoW Management Plan, mapped closure schedules, defined diversion routes and reinstatement commitments, the Examining Authority cannot assess the duration, severity or distribution of effects on users. Such omissions prevent a reasoned conclusion on effects to population, amenity and community.	NPPF provisions safeguarding the natural environment, landscape character and environmental quality	a Public Rights of Way (PRoW) Management and Safeguards Plan, secured under the CTMP and operational Requirements at Section 20.10, which must include: Route Identification and Mapping – A definitive schedule and GIS mapping of all PRoWs within, crossing or adjoining the Order Limits, identifying: • routes subject to temporary closure, restriction or diversion; • routes subject to permanent realignment or loss; and • routes used by construction traffic or affected by access works. Closure and Diversion Details – A time-bound closure and diversion programme specifying: • duration of each closure or restriction; • diversion routes (mapped, signed and accessible); and • measures to maintain continuity of access wherever practicable. Amenity and Safety Safeguards • Standards for temporary surfaces, barriers, lighting, sightlines and safety separation where PRoWs run adjacent to construction activity or operational infrastructure; • Advance notice arrangements, on-site signage and public information	the other management plans already provide the framework by which the measures suggested by SEPE will be delivered in final plans. A schedule of all affected PRoWs is included within the oPRoWMP. These routes are mapped on the **Street Works, Rights of Way and Access Plan [APP-010]**.
13G	**Failure to address known NSIP compliance risks.** Evidence from comparable NSIPs (e.g. Cleve Hill) demonstrates routing non-compliance, verge damage and enforcement limitations during rural solar construction phases.	EN-1 (adequate environmental information / traffic impacts); EIA Regulations (sufficient environmental information);	The Examining Authority should require the Applicant to Demonstrate that enforcement, monitoring and compliance safeguards secured through Section 20.10 are proportionate to known implementation risks.	The Applicant cannot comment on the approach taken by another developer / contractor on another project, and any perceived shortcomings in enforcement. The decision on the East Park Energy application must be made on the evidence for this Scheme and the controls secured in the **draft DCO [REP1-005]**. Schedule 2 (Requirements) of the **draft DCO [REP1-005]** secures the mitigation and other measures identified in the Environmental Statement and the wider application documents. Failure to comply with the terms of a made DCO is a breach of the Order, and is enforceable through the

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	The application does not explain: • how comparable risks will be prevented; • how monitoring differs; • how enforcement capacity will be assured; or • how repeat breach scenarios would be controlled. Failure to address known NSIP implementation risk patterns undermines reliance on CTMP mitigation.	DfT Circular 02/2013 s. 31 (assessment of foreseeable routing impacts);		statutory regime, including criminal liability for breach of the terms of an order granting development consent (as per Section 161 of the Planning Act 2008). In such circumstances, the local planning authority can seek an injunction to restrain such activities (as per Section 171 of the Planning Act 2008). The application's outline management plan framework commits to monitoring and reporting to demonstrate compliance and to ensure corrective action is taken where necessary, and to logging, reviewing and acting on complaints, with corrective actions recorded. The Applicant considers the approach and legal framework for enforcement on this Scheme to be robust. The approach taken by another developer on another project should not be a material consideration for the determination of this application.
13H	**Unsupported and potentially unrealistic construction programme.** The Applicant asserts a 30-month construction period which is unsupported by: • critical-path analysis; • sequencing logic; • delay-risk assessment; • sensitivity testing to demonstrate that such a compressed programme is deliverable for a multi-site, fragmented NSIP. East Park Energy involves four dispersed construction zones, extensive internal track construction, multiple compounds, hedgerow and ditch crossings, and a c. 12 km grid-connection corridor. Comparator DCO-scale solar projects with fewer work fronts and simpler logistics (e.g. Longfield, Sunnica) required 24–30 months. In the absence of evidence, the 30-month figure appears optimistic, and the ES construction-phase assessments (traffic, noise, dust, workforce, PRoW, cumulative effects) are likely understated.	EN-1 (adequate information and construction traffic impacts); EIA Regulations (realistic assessment of likely significant effects).	The Examining Authority should require the Applicant to submit an **Evidence-based Construction Programme** and, where necessary, update peak traffic modelling to be secured under the proposed CTMP DCO Requirement in Section 20.10.	The Applicant has not presented the construction programme as a fixed programme, rather, the ES assesses an indicative 30-month construction programme and makes clear that the actual programme may be "slightly shorter or longer", with final sequencing dependent on detailed design and discharge of DCO Requirements. Section 2.5 of **ES Vol 1 Chapter 2 [APP-038]** explains that the phases shown in **ES Vol 2 Appendix 2-1 [APP-055]** are illustrative, that many activities would occur in parallel, and that this parallel working has been assessed as the reasonable worst case. **ES Vol 2 Appendix 2-1 [APP-055]** then identifies the anticipated phases across the full programme and the anticipated maximum monthly workforce, including the assessed peak. It should be noted that the assumptions around the size of workforce are conservative and worst-case assumptions, and the actual construction workforce would very likely be less. The approach taken is a conventional approach on NSIP applications, and the Planning Inspectorate's Advice Note 9 recognises that elements of a project may evolve before construction, provided the application defines clear parameters and the ES assesses the likely significant effects of the project on a worst case basis within those parameters. The ES explains why flexibility is required, including evolving technology and the fact that the construction contractor has not yet been appointed, and states that the EIA is based on a parameter-led approach using maximum and minimum assumptions so that the likely significant effects are identified on a reasonable worst-case basis. The EIA Regulations do not require every future sequencing permutation or contractor decision to be fixed years in advance; what matters is that the assessment is sufficiently robust to capture the likely significant construction effects of the authorised development. The Applicant considers that the assessed construction period is appropriate. Any delay or extension to the construction period would not change the forecast total number of traffic movements and would have the effect of reducing the number of movements during peak periods of construction activity compared to the figures used in the ES and TA assessments. For this reason, the conclusions drawn in the ES and TA with regard to potential traffic impacts are considered to be robust. The Applicant contends that an alternative construction programme is not required to understand the likely significant effects of the Scheme, or to ensure they are adequately assessed.

Procedural Deficiency No. [as identified by SEPE]	**Procedural Deficiency / Evidence gap** [as identified by SEPE]	**Relevant policy or legal reference** [as identified by SEPE]	**Action requested of the Examining Authority** [as identified by SEPE]	**Applicant's Response**
13I	**Omission of mid-life replacement scenario assessment.** The ES assumes a single end-of-life decommissioning event and omits quantified or foreseeable mid-life replacement of: • PV modules; • BESS units; • inverters and transformers; • fencing and infrastructure; • ancillary plant. No traffic, noise, waste, dust, or compound activity associated with replacement cycles is assessed. This omission also undermines the reliability of construction traffic, noise, waste and carbon assessments, all of which assume a single, front- loaded construction event.	EN-1 (traffic and transport / noise and vibration / biodiversity and geological conservation); EIA Regulations	The Examining Authority should require the Applicant to provide quantified lifecycle replacement logistics and secure through the OTMP and Replacement Phase controls at Section 20.10.	Detail regarding traffic movements during replacement activities was provided in response to Action Point 12 in the **Written Summary of Applicants Oral Submissions at Issue Specific Hearing 2 (ISH2) and Action Points [REP1-059]**. Standard mitigation measures controlling noise, dust, and waste are presented in the **outline Operational Environmental Management Plan [REP1-036]**.
13J	**Abnormal load impacts under-assessed and not reconciled.** The Environmental Statement and Outline Construction Traffic Management Plan do not provide clear or consistent evidence that abnormal indivisible load (AIL) movements associated with transformers and other oversized components are feasible or deliverable along the B645 and associated access routes. In particular, no evidence is provided that: • bridges, culverts or highway structures on the B645 have been assessed for Special Order loading; • swept-path analysis and worst-case bend/gradient modelling have been undertaken and reported at application stage; or • the stated abnormal load assumptions are reconciled with the Wynns Special Order assessment in terms of load weights, dimensions, frequency and routing. Given that AIL movements are plainly foreseeable and may require temporary road closures, police escort or traffic management,	EN-1 (adequacy and reliability of environmental information / socio-economic impacts / traffic and transport impacts); EIA Regulations (likely significant effects / adequacy of information before determination).	The Examining Authority should require the Applicant to submit: • a reconciled abnormal-load schedule consistent with the Wynns Special Order evidence (weights, dimensions and frequency); • swept-path analysis and route-geometry assessment for critical sections of the B645 and site access points; • a structure-assessment summary for affected bridges, culverts and parapets; and • an Abnormal Load Management Plan quantifying anticipated traffic management measures (including closures or stop-go working), timings, notice periods and resident mitigation.	Abnormal Load procedures are governed under the Road Vehicle Authorisation of Special Types Order 2003. This requires advance notice of AIL movements to be provided to police and highway authorities, along with an updated route appraisal based on the current situation at the time at which movements are scheduled to occur. An assessment of structures along the identified AIL route is included in Appendix 4 of the AIL Access Report prepared by Wynns included as Appendix A of the **outline CTMP (REP1-034)**. As identified in paragraph 4.2.10 of the oCTMP, it is anticipated that there would be a requirement for 3 AIL movements.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	these effects fall within EIA Regulations and should be assessed transparently rather than treated as incidental logistics.			
14A	**Construction Environmental Management Plan (CEMP) defers critical controls and lacks quantified thresholds.** The Outline Construction Environmental Management Plan (CEMP) defers substantive environmental controls to post- consent rather than securing defined parameters at application stage. Core topics including soil protection, hydrology and drainage management, ecology safeguards, construction traffic controls, waste handling, noise mitigation and pollution prevention are framed as principles without quantified thresholds, measurable performance standards, or enforceable trigger levels. In particular, the CEMP does not: • define binding quantitative limits (e.g. noise, dust, runoff, vibration, pollution response times); • provide receptor-specific environmental criteria; • secure monitoring frequency, reporting protocols or independent verification; • define breach-response or escalation mechanisms; or • clearly distinguish between outline principles and enforceable controls secured through DCO Requirements. As drafted, the CEMP operates as a high-level framework rather than a fixed environmental control instrument. This approach risks transferring substantive mitigation design to post- consent approval stages, thereby limiting the Examination's ability to determine whether likely significant construction effects have been fully identified, assessed and capable of effective control at the time of decision. EN-1 requires that environmental information relied upon in decision-making be sufficiently detailed and robust to enable a reasoned conclusion on likely significant effects. The EIA Regulations require that mitigation measures	EN-1 (assessment of environmental impacts; mitigation and management); EIA Regulations (sufficient information and description of mitigation measures)	The Examining Authority should require, prior to any recommendation or decision: 1. Submission of a Revised CEMP in final (not outline) form; 2. Inclusion of quantified environmental thresholds and receptor-specific criteria across all construction topics; 3. Defined monitoring frequencies, reporting requirements and breach-response protocols; 4. Independent verification or audit provisions where mitigation effectiveness is relied upon in the planning balance; and Clear cross-reference to binding DCO Requirements securing those controls.	The **outline Construction Environmental Management Plan (oCEMP) [REP1-032]** sets out how the necessary environmental mitigation and monitoring, identified as part of the EIA and set out in the Environmental Statement (ES), will be delivered during the construction of the Scheme. The oCEMP provides a framework for this environmental mitigation that must be adopted by an appointed contractor, and already includes clearly defined parameters or monitoring mechanisms that would be adopted as part of any final CEMP. Requirement 5 of the **draft DCO [REP1-005]** states that no phase of the authorised development may commence until a final CEMP in substantial accordance with the submitted oCEMP has been submitted to and approved by the relevant LPA. A final CEMP is therefore adequately secured. The **oCEMP [REP1-032]** already includes for (amongst other measures): 6m hedgerow buffers and 10m watercourse buffers for ecology, bunded fuel and chemical storage with 110% capacity, designated lined washout areas, no untreated discharge to groundwater or surface waters, regular monitoring by the ECoW/EcoCoW, pre- and post-construction highway surveys, construction noise control by reference to BS 5228, daily visual dust inspections, and quantitative dust monitoring with explicit trigger values, plus monthly reporting and remedial action where exceedances occur. It is therefore incorrect to claim that the oCEMP does not include binding 'quantitative limits' or other secured environmental mitigation. The LPAs have sign-off on the final CEMP before construction can commence, in consultation with other statutory bodies as appropriate. The Applicant notes that whilst points of clarification or suggested amendments have been made to the oCEMP, there are no significant concerns raised with regard noise, dust, run-off, vibration, or pollution. The Applicant will continue to keep the **oCEMP [REP1-032]** under review as the Examination progresses, and may submit future iterations prior to the close of Examination should further mitigation measures be deemed necessary. However, the overall approach taken in providing an outline plan with the 'final' plan secured by DCO Requirement is not proposed to change.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	forming part of the assessment are described with sufficient precision to be understood, evaluated and secured. Given the scale and duration of the Proposed Development across multiple rural receptors, reliance on outline principles without fixed environmental thresholds is not proportionate.			
14B	**Construction noise baseline and receptor mapping incomplete; source-control assessment not demonstrated.** The construction noise baseline is derived solely from monitoring undertaken between March and May 2024 and does not include weekend conditions, harvest periods, or other high agricultural activity scenarios typical of rural environments. The Environmental Statement does not demonstrate that this dataset is representative of the lowest ambient background conditions against which BS 5228 significance is to be assessed. The ES also does not provide a transparent receptor schedule linking the 22 Noise Monitoring Points to identified dwellings and community receptors within Hail Weston, Great Staughton, Perry or Kimbolton. This prevents independent verification of receptor distribution and assessment of impacts on population and human health. In addition, although impact piling and ground-mounted installation works are a foreseeable noise and vibration pathway for solar NSIPs, the ES does not evidence a proportionate best- available-techniques (BAT) assessment of lower- noise installation methods (e.g. hydraulic press-in, vibro-push-in or screw/helical piling) to demonstrate minimisation of noise at source as required by EN-1. Taken together, these omissions mean that the construction noise assessment cannot presently be independently verified as representative, receptor-specific, or demonstrably minimised at source. This engages EN-1 and the adequacy requirements of the EIA Regulations.	EN-1 (noise impacts; minimisation at source; adequacy of environmental information); EIA Regulations (sufficient information to enable a reasoned conclusion); BS 5228-1:2019	The Examining Authority should require, prior to any recommendation or decision: 1. Seasonally representative and weekend baseline monitoring; 2. A receptor-specific construction noise schedule with mapped dwellings and community receptors; 3. Cumulative construction noise assessment (including grid-connection works where relevant); 4. A best-available-techniques appraisal for piling/installation methods supported by comparative modelling; and 5. A DCO Requirement securing a Construction Noise and Vibration Management Plan with defined trigger levels, monitoring protocols and source- control measures within agreed stand-off distances of sensitive receptors and PRoWs.	The noise and vibration assessment reported in the ES was undertaken by a professional noise consultant with over 40 years' experience in the field of industrial and environmental acoustics. The lead author holds a Masters' Degree in Acoustics and is a Member of the Institute of Acoustics, Member of the Association of Noise Consultants, Member of the Academy of Experts, and an Incorporated Engineer. As explained in paragraphs 10.4.3 to 10.4.9 of **ES Vol 1 Chapter 10 [APP-046]** the relevant and appropriate guidance which provides a means of determining the magnitude of the impact, the observed effect level and the resultant significance of construction noise is the Design Manual for Roads and Bridges ("DMRB") LA111 `Noise and Vibration' Rev 2 (May 2020).  For the prediction of construction noise for residents of houses that could be exposed to construction noise, the guidance refers to BS5228-1:2009+A1:2014 `Code of practice for noise and vibration control on construction and open sites' – Part 1: Noise. It is therefore considered to be the appropriate standard. This standard requires `best practicable means' ("BPM") approach to control noise generation. The construction impact semantic scale is set out in DMRB LA 111 and provided in Table 10.8 of **ES Vol 1 Chapter 10 [APP-046]** and is taken from BS5228-1:2009+A1:2014 Annex E.3.2. The threshold level is determined by measuring typical ambient noise at the Noise Sensitive Receptors ("NSR") and comparing this with three threshold limits between the stated range. **The** lowest threshold level according to the Standard is 65dB $L_{Aeq,1hr}$ for daytime periods (0700 to 1900 hours) and includes Saturdays (0700 to 1300 hours) and being the lowest is set irrespective of baseline noise levels**.** The baseline levels assumed in this assessment are based on average L_{Aeq} levels established from sound surveys which were undertaken during March, May and June 2024 over four-day periods that included weekends at a total of 22 monitoring positions spread across the Scheme. The monitoring was carried out under appropriate weather conditions including periods when baseline levels are likely to be lower due to reduced traffic movement and includes quieter evening periods (which is outside of the proposed construction hours) and so is considered a robust approach and compliant with NPS EN-1. *Note: The guidance does not require the assessor to measure the lowest ambient level and average L_{Aeq} levels are deemed to be acceptable as a means of comparison.* In order to relate the threshold level in terms of an effect level and an impact magnitude, the guidance compares the calculated noise level at the NSR with the measured baseline and the determined threshold limit (i.e. Table 10.9 **[APP-046]**). According to Table 10.9 if the predicted noise level at residential receptors exceeds the baseline L_{Aeq} noise level but does not exceed the lowest daytime threshold of 65dB $L_{Aeq,1hr}$ then the impact would be slight and a minor level of effect. As can be seen by the predicted noise levels at Section 10.8 and Table 10.21 of **ES Vol 1 Chapter 10 [APP-046]**, the impact of the highest likely construction levels would result in a negligible to slight impact and neutral to minor level of effect.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				The location of receptors and baseline monitoring positions are provided on Figure 10-1 of **ES Vol 3 Chapter 10 Figures [APP-148]**. The detail of where baseline sound levels were recorded are defined in **ES Vol 1 Chapter 10 [APP-046]** at Table 10.17 and NSR locations at Table 10.19 which includes grid references. The closest receptors to plant noise sources are chosen to identify the greatest likely impact and therefore other NSR at similar or greater distance would produce similar or lower impacts. In terms of the application of BPM (as required by BS5228) and not BAT, the assessment provides this information at paragraphs 10.7.3 to 10.7.5 **[APP-046]**. This includes advice on careful choice of piling rigs and other methods to minimise noise and predicted vibration levels (as defined in Table 10.23 **[APP-046]**) would be below perceptible vibration levels and therefore no impact and BPM would be applied. This minimisation approach provides compliance with NPS EN-1. Grid connection works in terms of noise and vibration predicted levels and associated impacts are provided at paragraphs 10.8.30 to 10.8.38 and Tables 10.24 and 10.25 of **ES Vol 1 Chapter 10 [APP-046]**. The **outline Construction and Environmental Management Plan [REP1-032]** includes at paragraph 1.3.3 a commitment to providing a Construction Noise Management Plan as part of the final CEMP, which is secured by Requirement 5 of the **draft DCO [REP1-005]**.
14C	**Dewatering/discharge permitting & controls not defined.** The ES does not specify whether construction dewatering will require environmental permits, nor how water will be treated, monitored, or discharged. No turbidity/SS thresholds, hydrocarbon limits, PFAS screening, or emergency shut-off triggers are included. No coordination with EA, IDB or Anglian Water is evidenced. Risk of contaminated run-off entering Ouse/tributaries is not assessed.	EN-1; Water Framework Directive; EA GP3; EIA Regulations.	The Examining Authority should require the Applicant to submit a Dewatering & Discharge Plan, including: • permit pathway (EA/IDB); • pollution-prevention hierarchy; • monitored discharge thresholds (SS, turbidity, hydrocarbons, metals); • automatic isolation valves and stop-work triggers; • DCO Requirement securing compliance.	The risk of contamination of water bodies, including tributaries to the River Ouse, is assessed within **ES Vol 1 Chapter 8 [REP1-009]**, Table 8.12 for the construction stage and Table 8.13 for the operational phase. Within **ES Vol 1 Chapter 8 [REP1-009]**, Table 8.13 (ID 1.15), it was stated that dewatering is unlikely to be widely required during the course of construction of the scheme, however where any abstractions for dewatering do not meet the criteria for exemption[19] or where wastewater is produced, appropriate permitting will be sought where required in accordance with the legislation. Monitoring of water quality has been committed to in the **oCEMP [REP1-032]** (Table 5.4) and the specification of detailed monitoring plans will be defined at a post-consent stage within a final CEMP. The Applicant does not consider there to be a requirement for a separate '*Dewatering & Discharge Plan*'.
14D	**Absence of a climate-resilience and adaptation assessment for key project**	EN-1; EIA Regulations	The Examining Authority should require the Applicant to submit a Climate-Resilience Assessment	**2050/2080 scenario impacts** **ES Vol 2 Appendix 15-2 Climate Baseline [APP-117]** defines the future climate baseline at the Site using the latest UK Climate Projections (UKCP). Table 2 within **ES Vol 2 Appendix 15-2**

[19] *The Water Abstraction and Impounding (Exemptions) Regulations 2017*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	components (PV arrays, BESS, substations, drainage). The ES does not model performance under UKCP18 mid- /late-century scenarios for extreme rainfall, temperature, or drought, nor does it identify adaptive design measures. This prevents the Examining Authority from testing the scheme against future climate risk.		quantifying 2050s/2080s scenario impacts (rainfall intensity, flood depth, heat stress) and specifying adaptive measures (e.g. drainage oversizing, heat-rated plant, wildfire margins), to be secured through DCO Requirements.	**[APP-117]** summarises the future climate change data scenario summary which states the scenario assessed is 2060-2079. Due to a typographic error throughout the remainder of **ES Vol 2 Appendix 15-2 [APP-117]** and **ES Vol 2 Appendix 15-3 Climate Resilience Assessment [APP-118]**, the time horizon is stated as 2040-59. This is incorrect and is actually referring to the 2060-2079 scenario. From the future baseline scenario analysis in **ES Vol 2 Appendix 15-2 [APP-117]**, the following effects of climate change were identified: • Increased summer temperatures; • Decreased winter temperatures; • Increased winter precipitation; and • Extreme weather. **ES Vol 2 Appendix 15-3 [APP-118]** then assesses the key project components, including PV arrays, BESS, substations, drainage, (under the 'operational equipment' heading) to the above identified effects of climate change. However, the assessment does not rely on a specific value for the change to climate but more the direction and overall magnitude of change in climate. The effects on climate to 2080 are an extension of those to the nearer time horizons. As such whilst the climate change resilience assessment does quantity the effects of climate change up to 2080 the resilience assessment is considered to be robust to cover up to 2080. Quantified assessments of climate change in relation to flood risk are provided as part of **ES Vol 1 Chapter 8 [REP1-009]**. **<u>Adaptive measures</u>** Climate resilience mitigation measures have been outlined throughout **ES Vol 2 Appendix 15-3 [APP-118]** and have been summarised within section '15.7 Embedded Mitigation and Enhancement Measures' of **ES Vol 1 Chapter 15 [APP-051].** These include ventilation on electrical systems, building in accordance with British Standards, rainwater harvesting, elevated panels in areas of flood risk, bunding around the BESS compound, regular site maintenance, and vegetation cover to minimise soil stripping. These mitigation measures have been incorporated into the framework of environmental management plans which are secured through DCO requirements.
14E	**Lighting assessment and dark-sky/ecology controls omitted.** The ES provides no lighting strategy, lux contouring, receptor evaluation, or dark-sky assessment for compounds, fencing, PRoWs, or the BESS. Impacts on bats and nocturnal species are unquantified. No curfews, warm-spectrum specifications or full cut-off luminaires are committed.	EN-1; NPPF provisions conserving and protecting the natural environment; ILP GN01/21; EIA Regulations	The Examining Authority should require the Applicant to submit a Lighting & Dark-Sky Strategy with: • lux-level plots; • ecological mitigation zones; • timed curfews/PIR control; • warm-spectrum fittings; • secured by DCO Requirement.	The approach to lighting the Scheme is set out in **ES Vol 1 Chapter 2 [APP-038]**. The Scheme does not include for 24/7 lighting and it has been assessed on that basis, e.g. at paragraphs 5.8.71-72 of **ES Vol 1 Chapter 5 [APP-041]**. Mitigation for lighting impacts during the construction phase is set out at paragraphs 4.1.30 to 4.1.33 of the **outline Construction Environmental Management Plan (oCEMP) [REP1-032]**, in addition to assessment-specific mitigation set out in the tables in Section 5 of the oCEMP. Mitigation for lighting impacts during the operational phase is set out at paragraphs 4.1.35 to 4.1.38 of the **outline Operational Environmental Management Plan (oOEMP) [REP1-036]**, in addition to assessment-specific mitigation set out in the tables in Section 5 of the oOEMP. The potential impacts as a result of lighting have been adequately assessed and controlled through the Scheme's mitigation measures, and the Applicant contends there is no requirement to prepare a '*Lighting and Dark Sky Strategy*' for this Scheme.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
14F	**Construction carbon and materials management plan absent.** The ES and Outline CEMP provide no quantification of embodied carbon, no construction-phase carbon budget, and no measures to minimise emissions from materials, logistics or plant.	EN-1	The Examining Authority should require the Applicant to submit a Construction Carbon and Materials Management Plan (CCMP) prior to commencement, including: • Whole-life and embodied-carbon quantification for materials, plant and logistics; • Defined carbon-reduction measures (low-carbon material specifications, consolidated deliveries, local sourcing targets); • A construction-phase carbon budget with measurable reduction targets; • Monitoring and annual reporting to the LPA; and • Integration with the CTMP and CEMP to ensure carbon minimisation across construction activities.	The GHG emissions associated with the Scheme have been calculated within **ES Vol 2 Appendix 15-1 Assessment [APP-116]**, which includes GHG emissions (embodied carbon) across the whole lifecycle. Section 15.7 of **ES Vol 1 Chapter 15 [APP-051]** includes measures to mitigate GHG emissions during the construction stage such as minimising waste creation, maximising recycling and using of materials with lower embodied GHG emissions. The mitigation measures set out throughout **ES Vol 1 Chapter 15 [APP-051]** have been incorporated into the **oCEMP [REP1-032]**, **oOEMP [REP1-036],** and **oDEMP [REP1-038]** which will ensure the mitigation measures will be secured through DCO requirements. The Applicant contends that a '*Construction Carbon and Materials Management Plan*' is not required.
15A	**Omitted BESS–utility interaction assessment**. A strategic buried utility easement is shown running through Site D, yet the ES provides no assessment of interaction between the 100 MW BESS and this utility. No QRA, heat-flux, blast, or cascading-risk modelling is provided; no operator consultation is evidenced.	EN-1; EN-3; EIA Regulations.	The Examining Authority should, prior to any recommendation or decision, require the Applicant to submit a utilities-interaction QRA, utility-operator confirmation, and revised siting/mitigation before determination.	The Applicant has provided the required easements to the utilities that cross Site D, these offsets are embedded into the Scheme design and accounted for in the assessed layout. These buffers are, in part, designed to safeguard the utilities from damage or disruption. Where it is necessary to cross utilities, particularly during the construction phase, it will be necessary to agree safe working practices with the utility operators prior to undertaking works. The Applicant has consulted the relevant asset owners through the pre-application phase and remains in discussions with each of them, including in relation to protective provisions for their assets. The Applicant has prepared an **outline Battery Safety Management Plan [APP-162]** that includes measures to mitigate potential impacts in the unlikely event there was a fire at the BESS. With the control measures in place, the Applicant does not consider that a fire within the BESS would pose any material risk to the buried utilities.
15B	**BESS operational function, system-benefits and decarbonisation contribution not evidenced.** The Environmental Statement does not provide sufficient operational or contractual evidence to demonstrate that the proposed Battery Energy Storage System (BESS) will function as an integrated component of the renewable-energy scheme rather than as a merchant storage asset operating	EN-1 (assessment of system benefits and planning balance); EN-3 (efficient integration of solar generation with storage); NPPF provisions safeguarding environmental quality and public safety;	The Examining Authority should require the Applicant to submit, prior to any recommendation or decision, a BESS Operational Integration and Carbon Impact Statement demonstrating the operational role and climate contribution of the proposed storage facility. This should include:	Government guidance on associated development under section 115 of the Planning Act 2008 says there must be a direct relationship with the principal development, that associated development should support the construction or operation of the principal development or help address its impacts, and that it must be subordinate to it. NPS EN-1 confirms that associated development may be included in a DCO and that EN-1, together with the relevant technology-specific NPS, is the primary policy for determining it. NPS EN-3 states that solar proposals may include associated infrastructure such as energy storage, which may be treated as associated development on a case-by-case basis. The inclusion of BESS as part of a solar NSIP application is well-precedented, and this Scheme is not an anomaly. The planning regime does not require the BESS to be restricted to charging only from the co-located solar array, or to be restricted from wider grid-balancing services, in order to remain

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	independently of the co-located solar generation. The Applicant asserts that the BESS will contribute to grid balancing and renewable integration but provides no supporting operational evidence, such as: • an operational model, dispatch logic or cycling strategy; • state-of-charge modelling demonstrating integration with solar generation; • identification of specific system-service roles (e.g. frequency response, balancing reserve, inertia or resilience services); • evidence of contractual or operational linkage with National Grid ESO or equivalent system operators; or • confirmation of charging sources and whether grid-charging will occur independently of the solar generation. The Grid Connection Statement indicates that the BESS includes a 100 MW import capability, whichwould allow the facility to charge directly from the transmission network rather than exclusively from the co-located solar generation. In the absence of evidence demonstrating that charging will be constrained to renewable output from the scheme, the storage facility could operate independently of the solar arrays and respond primarily to wholesale electricity price signals. The Environmental Statement also does not quantify the resulting net decarbonisation contribution of the BESS, including: • annual energy throughput; • proportion of charging derived from solar generation versus grid import; • round-trip efficiency losses; or • net greenhouse-gas impacts associated with BESS operation. EN-1 requires that policy weight be attributed to infrastructure on the basis of demonstrable contributions to energy security, system resilience or decarbonisation. Where the operational function and carbon implications of	EIA Regulations (adequacy of environmental information for decision-making).	• the intended operational model, dispatch logic and cycling regime; • anticipated annual import and export energy throughput (MWh); • evidence of operational integration with the co- located solar generation; • confirmation of charging source and whether grid charging will occur independently of the solar generation; • round-trip efficiency losses and operational duty cycle; • identification of grid-service function / system- service roles (e.g. frequency response, balancing reserve or inertia services) or confirmation that the facility will operate on a merchant basis; • quantified net greenhouse-gas impact scenarios associated with BESS operation; • confirmation of whether BESS charging will be operationally constrained or linked to the scheme's renewable generation; and • explanation of the energy system benefits relied upon in the planning balance. In the absence of such information, the Examining Authority cannot determine whether the BESS forms an integrated component of the renewable- energy scheme or constitutes a separate commercial storage development requiring independent policy justification under EN-1.	associated development. National policy positively supports solar co-located with storage, and the policy framework treats battery capacity as part of the flexible system needed to store renewable output and balance the grid. The Scheme comprises a ground-mounted solar photovoltaic generating station with an associated on-site BESS, and the authorised development includes the solar generating station together with battery energy storage. Paragraph 2.4.41 of **ES Vol 1 Chapter 2 [APP-038]** confirms that "*The BESS will be an integral element of the Scheme, used to store electricity generated by the solar PV modules at times of low demand from the National Grid and release the electricity at times of peak demand*". Paragraph 2.4.42 then confirms that "*In addition to the BESS' function as an essential part of the Scheme, it will also be available to the National Grid for grid-balancing services*". The '*intended operational model, dispatch logic and cycling regime*' is not a matter that needs to be considered as part of the planning merits of the approach taken, and nor is it something that the Applicant could accurately quantify or define in any meaningful way at this stage. Accordingly, the BESS has been considered as part of the embodied carbon impact in the various phases of the Scheme, as set out in **ES Vol 2 Appendix 15-1 Greenhouse Gas Assessment [APP-116]**, but has not been accounted for in offsetting carbon given that its precise operational usage is at this stage undefined. This provides an appropriate worst-case assessment in that whilst the BESS would be expected to deliver additional carbon benefits, they cannot accurately be assessed and so are not accounted for in the benefits. The Applicant contends there is no legal or national policy requirement to provide a separate '*BESS Operational Integration and Carbon Impact Statement*' as requested by SEPE.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	the BESS are not evidenced, the claimed system benefits cannot be relied upon in the planning balance. In the absence of a defined operational model, the Environmental Statement does not provide sufficient information to enable the Examining Authority to determine whether the BESS forms an integrated part of the renewable-energy scheme, or whether its claimed system and decarbonisation benefits are attributable to the Proposed Development.			
15C	**Absence of site-specific Quantified Risk Assessment and incomplete assessment of major-accident consequences associated with the Battery Energy Storage System, preventing a reasoned conclusion on likely significant effects.** The Environmental Statement does not provide a site-specific Quantified Risk Assessment (QRA) for the proposed Battery Energy Storage System (BESS) and does not present sufficient analysis of credible accident scenarios and their potential off-site consequences for human health, public safety and the environment. The BESS installations proposed as part of the development represent major accident hazards, including thermal-runaway events, fire escalation and explosion risks associated with lithium-ion battery systems. However, the Environmental Statement relies primarily on qualitative design descriptions and generic safety assurances, rather than providing a quantified, evidence-based assessment of accident risk. The Environmental Statement does not include: failure-mode analysis identifying credible BESS incident scenarios; • quantified estimates of event frequencies for thermal-runaway or fire escalation events; • risk matrices or quantified risk modelling evaluating the likelihood and severity of potential accident scenarios;	EN-1 (assessment of major accident hazards and requirement for robust environmental evidence); EN-3 (assessment principles for energy infrastructure including battery storage); Environment Agency and National Fire Chiefs Council Fire Safety Guidance for Battery Energy Storage Systems (2023– 2024); NFCC Grid-Scale Battery Energy Storage System Planning Guidance (2023) EIA Regulations (requirement to assess risks of major accidents and disasters).	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit a site-specific BESS Quantified Risk Assessment and Emergency Response Assessment Package addressing the deficiencies identified above. This should include: • a full Quantified Risk Assessment identifying credible accident scenarios, failure modes and event frequencies associated with the BESS installation; • modelling of individual and societal risk contours for receptors surrounding the BESS site; • thermal-runaway and fire escalation modelling for credible worst-case scenarios; • modelling of gas and smoke plume behaviour, including dispersion and associated off-site consequences for identified receptors; • assessment of fire-water runoff and contaminated-water pathways to surface water and groundwater receptors; • mapping of downwind receptors, including residential properties,	The thrust of this point from SEPE is similar to that raised under 'Procedural Deficiency 6A'. As with 6A, the Environmental Statement (ES) must include the information "*reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment*". An Applicant is not required to provide comprehensive information on all conceivable environmental matters, irrespective of whether those matters are likely to generate significant effects, or are capable of influencing the reasoned conclusion. The Applicant considers that the ES provides an appropriate and proportionate assessment of risks to human health and environmental receptors arising from relevant major accidents and abnormal events, and that this is not deferred in a way that prevents examination. In terms of "*credible accident scenarios*", Section 16.4 of **ES Vol 1 Chapter 16 [APP-052]** identifies a shortlist of accident/disaster types that are relevant to the Scheme (including flood risk and fire risk) and explains where these matters are assessed in detail elsewhere in the ES (for example. The ES assesses the potential for likely significant effects, taking account of embedded design and management measures (including those secured through certified control documents). The **outline Battery Safety Management Plan [APP-162]** sets out the design and mitigation measures that will be adopted, and has been prepared by a professional battery safety and testing consultant with specific expertise in the BESS sector. This plan sets the framework for how each of the matters raised by SEPE will be addressed in the final Battery Safety Management Plan. The Applicant notes that in accordance with Requirements 3 and 10 of the **draft DCO [REP1-005]**, the LPA in consultation with the relevant fire service will have approval of the final BESS design and final Battery Safety Management Plan. The Applicant does not consider there is any need for a separate '*BESS Quantified Risk Assessment and Emergency Response Assessment Package*'.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	• mapped individual or societal risk contours for receptors surrounding the BESS installation; • a site-specific emergency response plan developed in collaboration with the relevant Fire and Rescue Service. Comparable NSIP examinations have demonstrated that large-scale battery energy storage systems cannot be assessed on the basis of generic design assumptions alone. Where BESS infrastructure introduces credible major- accident pathways, the Environmental Statement must provide a site-specific, front-loaded quantified risk assessment addressing accident scenarios, off-site consequences and emergency response capability. The Environmental Statement does not include any adequate or evidence-based off-site consequence assessment capable of defining the spatial extent of risk beyond an assumption-led 1 km study area. The ES provides no modelling of: • thermal-runaway fire scenarios; • toxic and flammable gas plume behaviour and dispersion resulting from battery fire events, including downwind exposure and concentration profiles; • smoke and– fire-gas dispersion affecting downwind receptors under representative and worst-case meteorological conditions; or • fire-water runoff and contaminated water pathways affecting surface water, groundwater and soils. The limited plume modelling presented is confined to an assumed 1 km study area, derived from 'professional judgement' and comparator schemes rather than a site-specific hazard envelope. It is based on a concept design, assumes a single- enclosure event, and relies on proxy and limited emissions data. It does not provide a sufficient evidential basis to exclude effects on receptors beyond 1 km, including nearby settlements. The Environmental Statement also does not provide mapping of potential receptors that		workplaces, Public Rights of Way and ecological receptors; • an emergency response and firefighting strategy developed in consultation with and co-signed by the relevant Fire and Rescue Service; • confirmation of BESS container spacing and layout design supported by independent fire-engineering certification demonstrating compliance with NFCC guidance or an equivalent verified safety standard; and • identification of design and operational risk-reduction measures, including container segregation, fire detection and suppression systems, and containment of contaminated fire-water runoff. Any agreed risk-reduction measures and emergency response provisions should be secured through enforceable DCO Requirements. Without this information the Environmental Statement may not contain sufficient environmental information for the purposes of the EIA Regulations to enable the Examining Authority to reach a reasoned conclusion on the major-accident risks associated with the proposed BESS infrastructure.	

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	could be affected by BESS failure scenarios, including: • nearby residential properties; • workplaces and farmsteads; • Public Rights of Way; • ecological receptors; or • surface watercourses and groundwater bodies. A further deficiency arises in relation to container spacing and fire-engineering design assumptions. The Application proposes separation distances between BESS containers in the order of 1–3 metres, notwithstanding guidance published by the National Fire Chiefs Council (NFCC) in 2023 indicating a typical recommended separation distance of 6 metres between containerised lithium-ion battery systems unless an equivalent safety level can be demonstrated. The Application does not provide: • a QRA demonstrating that the proposed spacing achieves an equivalent level of safety to the NFCC standard; • independent fire-engineering certification verifying the adequacy of the proposed design; • modelling demonstrating that fire escalation between containers is prevented under credible accident scenarios. Instead, the Applicant indicates that design confirmation and testing may occur at a later stage, potentially following consent. Core elements of the safety case, including large- scale fire testing, detailed consequence modelling and emergency response planning, are explicitly deferred to post-consent stages. The application therefore relies on future validation of safety- critical assumptions rather than demonstrating them at the point of determination.			

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	Taken together, the absence of a site-specific QRA, the absence of off-site consequence modelling, including plume behaviour, dispersion and exposure assessment, and the absence of verified fire-engineering design evidence mean that the Environmental Statement does not presently provide sufficient information for the Examining Authority to reach a reasoned conclusion regarding the major-accident risks associated with the BESS infrastructure.			
15D	**Absence of operational acoustic modelling for the Battery Energy Storage System (BESS).** The Environmental Statement (ES Vol 1 Ch. 9 Noise and Vibration) and the Outline Construction Environmental Management Plan (CEMP 7.3) provide limited data for construction noise but omit any operational-phase assessment of continuous or intermittent sound from BESS cooling systems, HVAC units, inverters, or safety-venting equipment. No receptor-specific predictions, tonal/low-frequency analysis, or cumulative assessment with inverter compounds are presented. This omission prevents evaluation of compliance with EN-1, which requires quantified assessment of "the likely significant effects of operational noise," and contravenes EIA Regulations (description and magnitude of likely effects).	EN-1; NPPF provisions safeguarding the natural environment, landscape character and environmental quality; EIA Regulations; BS 4142:2014 +A1:2019	The Examining Authority should require the Applicant to submit a full Operational Noise Impact Assessment (ONIA) covering all BESS acoustic sources, demonstrating compliance with BS 4142 at the nearest residential and ecological receptors; include cumulative interaction with inverter compounds, transformer fans, and auxiliary plant; and secure enforceable operational noise limits through a DCO Requirement and periodic monitoring.	**ES Vol 1 Chapter 10 [APP-046]** provides information on predicted construction phase noise levels and impacts at paragraphs 10.8.1 to 10.8.8 and Table 10.21, with grid connection construction noise and impacts at paragraphs 10.8.30 to 10.8.35 and Table 10.24. Further details of the construction plant inventory that has been used to inform the assessment) is provided in **ES Vol 2 Appendix 10-3 [APP-105]**. In respect of the operational phase of the Scheme, paragraphs at 10.8.39 to 10.8.53 of **ES Vol 1 Chapter 10 [APP-046]** provide detail of the assumptions made in respect of the design, noise levels, noise predictions at NSR and impacts resultant from all plant in operation (i.e. Solar and BESS, or BESS only during night-time periods before sunrise). Paragraphs 10.8.41 to 10.8.42 **[APP-046]** provide the Applicant's expert opinion on the noise character aspects of the associated plant operation such as tonality, impulsivity and intermittency. It concludes that a noise character penalty would not be required, as a result of the design layout, application of design parameters for the key components of the scheme, assumed noise levels for the associated plant, and masking feature of the existing noise climate at NSR. In respect of the low frequency analysis and frequency spectral data for the solar and BESS plant this is provided in **ES Vol 2 Appendix 10-5 Low Frequency Noise Analysis and Sample Plant Frequency Spectra [APP-107]**. *Note: the operational noise predictions include the cumulative effect of the solar and BESS plant in operation as appropriate to the day and night-time operating periods.* The operational phase assessment complies with NPS EN-1 quantified assessment of the likely significant effects.
15E	**Absence of an EMF compliance statement and tonal/low-frequency noise assessment for the grid-connection compound, transformers, and associated switchgear.** The ES does not demonstrate compliance with ICNIRP public- exposure guidelines, nor does it assess potential low-frequency hum or tonal characteristics at nearby receptors.	EN-1 (Noise and Vibration); Public Health England/UKHSA EMF guidance; ICNIRP Guidelines; EIA Regulations	The Examining Authority should require the Applicant to submit submission of an EMF and Low-Frequency Noise Compliance Note demonstrating: • predicted EMF levels at the site boundary and nearest dwellings relative to ICNIRP limits; • low-frequency and tonal noise assessment for transformers and switchgear; and	The Applicant has provided an assessment in relation to Electromagnetic Fields in Section 16.5 of **ES Vol 1 Chapter 16 Other Environmental Topics [APP-052]**. The assessment concludes there would be no significant effects as a result of electromagnetic fields. Cambridgeshire County Council acknowledged this assessment at paragraphs 12.15-17 of their **Relevant Representation [RR-150]**. In respect of the low frequency analysis and frequency spectral data for the associated solar and BESS plant this is provided in **ES Vol 2 Appendix 10-5: Low Frequency Noise Analysis and Sample Plant Frequency Spectra [APP-107]**. The results show no exceedance of the NANR45 Guidance threshold levels for low frequency noise during daytime or night-time periods at the receptors with the highest likely predicted noise levels. This is with an open window scenario and therefore a realistic `worst-case' assessment. In respect of the grid-connection there is no proposed significant plant to be installed at the

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
			• any mitigation (setbacks, screening, acoustic design) secured by DCO Requirement.	existing Eaton Socon Substation as this is simply the connection point to the current electrical facility. No assessment of low frequency is therefore required. The Applicant contends there is no requirement for an additional '*EMF and Low-Frequency Noise Compliance Note*'.
15F	**Non-compliance with NFCC two-directional access requirement.** The BESS layout provides only a single external access route from the B645 which splits internally, contrary to NFCC BESS Fire Safety Guidance requiring two independent directional access points. This creates an unacceptable operational risk: smoke or HF plume propagation could block all access routes simultaneously, preventing Fire & Rescue from reaching the BESS compound.	EN-1; NFCC BESS Guidance (2022–2023); EIA Regulations.	The Examining Authority should require the Applicant to submit a Revised Site Layout providing two independent, plume-resilient emergency access routes approaching from different external directions.	The Applicant has consulted with Cambridgeshire Fire and Rescue Service (CFRS) during the pre-application phase, including in relation to access to the proposed BESS. In relation to Item 6 in the **Statement of Common Ground with Cambridgeshire Fire and Rescue Service [PDA-019]**, CFRS has agreed the approach to access with the Applicant. Paragraph 4.2.4 of the outline Battery Safety Management Plan [APP-162] states that "*Road networks within the Order Limits will enable unobstructed access to all areas of the BESS sites, two separate CFRS access points to the BESS sites have been integrated to ensure firefighters do not have to drive through a smoke or gas plume to access the BESS*." **ES Vol 3 Figure 2-1 Illustrative Environmental Masterplan [APP-121]** shows how the access design to the BESS is likely to come forward. This demonstrates two potential internal roads towards the BESS from the main site access with the B645, as well as two points of access into the actual BESS compound. This approach satisfies the NFCC guidance.
16A	**Operational plant noise assessment incomplete and not demonstrated against worst-case design envelope.** The Environmental Statement does not provide sufficient evidence to demonstrate that operational noise from plant associated with the Proposed Development can be controlled so as to avoid significant effects at nearby residential receptors. The operational noise assessment presented in ES Volume 1 Chapter 10 and ES Volume 2 Appendices 10-1 to 10-5 establishes indicative noise limits at identified noise-sensitive receptors (NSRs) and indicates that compliance will be achieved through mitigation secured in the Outline Operational Environmental Management Plan (OEMP) and associated draft DCO Requirement. However, the assessment does not provide sufficient technical evidence to demonstrate that the authorised design envelope will necessarily comply with these limits throughout the operational life of the development. The Environmental Statement does not provide source-specific sound power levels or	EN-1 (assessment of noise impacts and requirement for robust environmental evidence); Environmental Protection Act 1990 (statutory noise provisions); EIA Regulations (requirement for sufficient environmental information to enable a reasoned conclusion on likely significant effects); BS 4142:2014+A1:2019 (methods for rating and assessing industrial and commercial sound).	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit an Operational Plant Noise Assessment Addendum addressing the deficiencies identified above. This assessment should include: • sound power levels and spectral data for all operational plant including solar inverters, transformers, BESS equipment and associated cooling systems; • BS 4142-compliant noise predictions for all nearest residential receptors to the development, including application of tonal, intermittent and low-frequency character corrections where relevant; • worst-case envelope modelling assuming plant located at the minimum separation distances permitted by the authorised development envelope; • prediction of worst-case night-time operational noise levels at	Section 10.5 and paragraphs 10.3.39 to 10.3.40 of **ES Vol 1 Chapter 10 [APP-046]** provide information on the overall approach and design of the Scheme. This includes general information on the approach, the ongoing iterative process, technology progression, compliance with agreed noise limits to ensure protection of amenity and no adverse impacts and no significant effects at NSR, details of plant equipment, and assumed plant noise levels. **ES Vol 3 Figure 2-1 Illustrative Environmental Masterplan [APP-121]** provides a robust approach to the likely final positioning of equipment based upon experience of building similar facilities. This approach has formed the basis of the operational phase noise assessment. The assumed plant noise levels (as detailed in at paragraphs 10.5.7 to 10.5.8 **[APP-046]**) are based on example empirical data from technology providers who have provided noise levels from the associated plant used on other sites in the UK. Information on typical frequency spectral noise data for the associated solar and BESS plant is provided in **ES Vol 2 Appendix 10-5: Low Frequency Noise Analysis and Sample Plant Frequency Spectra [APP-107]**. As explained at paragraph 10.5.2 of **ES Vol 1 Chapter 10 [APP-046]**: *"The technology associated with solar development is advancing rapidly, and it is anticipated that this technological progression will continue at pace over the coming years as current research and development in the manufacturing sector yields new technologies. It is therefore essential to provide a degree of flexibility within the DCO to allow for such changes prior to the detailed design being undertaken, once a contractor is appointed."* Specifically named technology providers are not normally specified in any planning consent conditions, as it is important for the developer to be able to optimise the development design in terms of a range of factors. The site generated noise levels from either solar and BESS or BESS plant with all plant operating together during daytime and night-time operating periods has been assessed with the nearest NSR using noise prediction modelling software and industry recognised calculation standards. Refer to **ES Vol 2 Appendix 10-4 [APP-106]** for the different design scenarios. In respect of the operational phase of the Scheme, paragraphs at 10.8.36 to 10.8.50 of **ES Vol 1 Chapter 10 [APP-046]** provide detail of the assumptions made in respect of the design, noise

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	spectral data for key operational plant, including: • distributed solar inverters; • transformer kiosks and substations; • associated cooling fans; and • BESS cooling and auxiliary systems. The Environmental Statement also does not demonstrate that operational plant noise has been assessed under worst-case layout scenarios permitted by the authorised development envelope. In particular, the assessment does not confirm that plant has been modelled at the minimum separation distances between operational equipment and nearby residential receptors that could occur within the Order Limits. No sensitivity testing is presented applying BS 4142:2014+A1:2019 character corrections, including: • tonality corrections; • intermittency or impulsivity adjustments; or • potential low-frequency noise components associated with transformers or cooling systems. In addition, the Environmental Statement does not predict worst-case night-time operational noise levels at the nearest residential receptors to the solar arrays and associated infrastructure. Manufacturer-specific sound power data for the final plant has not been fixed and the assessment instead relies on indicative assumptions. Compliance with noise limits is therefore dependent on future design decisions and post- consent implementation of the OEMP, rather than being demonstrated through envelope-based modelling at examination stage. No receptor-specific operational noise limits are secured directly within the DCO, and the assessment does not demonstrate that any layout permitted by the Order would		all relevant noise-sensitive receptors; • identification of receptor-specific operational noise limits ensuring rating levels do not exceed background levels by more than 0–3 dB unless otherwise justified; • identification of acoustic mitigation measures including layout optimisation, increased separation distances, acoustic barriers or enclosure of plant where necessary; and • a DCO Requirement securing post- commissioning noise verification and ongoing compliance monitoring, including enforceable remedial measures in the event of exceedance. Without this information the Examination cannot be satisfied that likely significant operational noise effects have been fully assessed or that mitigation measures will ensure compliance with acceptable noise limits throughout the operational life of the development.	levels, noise predictions at NSR and impacts resultant from all plant in operation (i.e. solar and BESS, or BESS only during night-time periods before sunrise). Paragraphs 10.8.38 to 10.8.39 of **ES Vol 1 Chapter 10 [APP-046]** provide the Applicant's expert opinion on the noise character aspects of the associated plant operation such as tonality, impulsivity and intermittency. It concludes that a noise character penalty would not be required, as a result of the design layout, application of design parameters for the key components of the scheme, assumed noise levels for the associated plant and masking feature of the existing noise climate at NSR. In respect of the low frequency analysis and frequency spectral data for the associated Solar and BESS plant this is provided in **ES Vol 2 Appendix 10-5: Low Frequency Noise Analysis and Sample Plant Frequency Spectra [APP-107]**. Night-time operating periods are assessed in detail including worst case operating levels between 2300 to 0500 hours when BESS plant could be operating and 0500-0700 sunrise hours when BESS and Solar plant could be operating together as a `worst case scenario'. Compliance with noise limits are controlled by the requirements of the outline Operational Environmental Management Plan, specifically that: *"Prior to the date of final commissioning for any phase of the authorised development, an Operational Noise Assessment will be submitted to the relevant LPA, demonstrating how the Scheme design incorporates mitigation to ensure compliance with the operational noise rating levels set out in Paragraph 10.7.6 of ES Volume 1, Chapter 10: Noise and Vibration [EN010141/DR/6.1].* *The design as described in the operational noise assessment must be implemented as approved and maintained throughout the operation of the Scheme*". The noise limits at NSR have been agreed with the Local Planning Authority Environmental Protection Officer (EPO) and provide protection of amenity and sleep disturbance, which is detailed in paragraph 10.7.6 of **ES Vol 1 Chapter 10 [APP-046]**. The noise limits include `rating' level which provides for any perceptible noise character at NSR in the assessment methodology. The conclusion of the daytime operational noise assessment shows (at paragraphs 10.8.46 to 10.8.48 **[APP-046]**): • According to BS4142: 2014+A1:2019, the rating level relative to the assessment baseline noise would indicate negligible to slight impact magnitude at all receptors (refer to Table 10.13 **[APP-046]**). • The operational noise impacts from the Scheme are therefore considered to represent a neutral to minor level of effect and therefore would be not significant. The conclusion of the night-time operational noise assessment shows (at paragraphs 10.8.52 to 10.8.53 **[APP-046]**) • According to BS4142: 2014+A1:2019, the night-time rating level relative to the assessment baseline noise indicates a negligible to slight adverse impact magnitude (refer to Table 10.13 **[APP-046]**) at NSR. The operational noise impacts from the Scheme are therefore considered to represent a negligible to minor level of effect in EIA terms and not significant. In relation to the IEMA guidelines and making reference to Table 10.14 **[APP-046]**, it can be seen that the magnitude of the impact during night-time periods shows that the change in noise level ranges between 0dB and +0.6dB LAeq, which indicates negligible impact at NSR of high sensitivity. The predicted level of effect would therefore be neutral in terms of EIA and not significant for all NSR.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	necessarily comply with acceptable noise limits. In the absence of worst-case modelling, plant-specific acoustic data and enforceable receptor- based limits, the Environmental Statement does not provide sufficient environmental information for the Examination to determine whether operational plant noise could give rise to significant effects at nearby receptors.			
17A	**Failure to assess or mitigate construction damage to PRoW surfaces, verges and hedgerows.** The ES and Outline CEMP/CTMP do not provide a PRoW surface-condition baseline, verge/hedgerow protection methodology, or a quantified assessment of likely construction-phase damage from HGV/plant movements, temporary accesses, turning, laydown, and repeated crossings. No schedule identifies which PRoWs will be used/affected by construction traffic, where temporary widening or passing places may be required, or how verge overruns, rutting, compaction, and hedgerow breach damage will be prevented, monitored, and remedied. Mitigation is deferred to post-consent "good practice" commitments without enforceable triggers, inspection frequency, reinstatement specifications, or financial security. This prevents the Examining Authority from testing the realism and deliverability of amenity mitigation and understates likely significant effects on recreational users and rural character.	EN-1 (protect PRoW amenity/tranquillity and countryside character; require effective mitigation); NPPF provisions safeguarding the natural environment, landscape character and environmental quality; EIA Regulations (population/ health/amenity effects; mitigation)	The Examining Authority should require the Applicant to submit a pre-determination PRoW and Rural Lanes Protection & Reinstatement Plan secured by DCO Requirement, including: • PRoW condition survey (surface, drainage, furniture) with photo-log baseline; • mapped construction interfaces/crossings and any temporary diversions; • verge and hedgerow protection method statements (tracking mats, exclusion zones, no-go buffers); • monitoring/inspection regime with repair triggers and standards; • reinstatement specifications and programme (including hedgerow gap reinstatement timing); and • a bond/road–PRoW condition fund to guarantee reinstatement of PRoWs, verges and hedgerows post-construction.	The **outline Public Rights of Way Management Plan (oPROWMP) [REP1-042]** contains a list of the PRoWs affected, identifying the relevant associated drawing sheet, the type of interaction, and whether the route will be crossed, run alongside access, be used as a construction access road, or require a temporary local diversion for cabling. It identifies, for example, sections of Pertenhall 26 bridleway, Pertenhall 29 footpath, Bolnhurst and Keysoe 37 bridleway, Little Staughton 4 footpath, Hail Weston 112/7 bridleway and Hail Weston 112/8 footpath as routes affected by construction access. The **oPROWMP [REP1-042]** sets out a hierarchy of measures, namely keeping routes open where safe, managed crossings, short temporary closures where necessary, and full temporary closures or diversions only where lesser measures are not safe, providing route-specific mitigation. The oPROWMP also requires that, where any PRoW surfacing is temporarily or permanently altered, the final PROWMP must set out the location and extent of the change, the surfacing specification, installation method, safe passage measures, and the timing and standard of reinstatement, all for approval by the relevant authorities. The **outline Construction Traffic Management Plan [REP1-034]** separately provides for pre- and post-construction condition surveys of highways in addition to any sections of private roads or PRoWs affected by the Scheme, with the final CTMP to define the roads and PRoWs surveyed, the survey methodology and timing. Any defects attributable to construction of the Scheme are then to be corrected to the satisfaction of the relevant authority or landowner. The oCTMP also explains that existing access tracks may need to be upgraded or restored, that passing places will be established where necessary, and that hedgerow coppicing or similar vegetation management may be required only where needed to achieve safe visibility at access points. The oCTMP includes monitoring, review and enforcements provisions. The Applicant is in discussion with the local highway authorities with regard appropriate protective provisions to be included within the **draft DCO [REP1-005]** in relation to highway works.
18A	**Lifecycle carbon assessment incomplete and insufficiently evidenced.** Lifecycle carbon assessment incomplete and not supported by transparent inputs, scenario testing or full lifecycle modelling. The lifecycle greenhouse gas (GHG) assessment does not provide a sufficiently robust or transparent	EN-1 (climate change assessment and requirement for robust, evidence-based decision-making);	The Examining Authority should require the Applicant, prior to any recommendation or decision, to submit a revised Lifecycle Carbon Assessment addressing the deficiencies identified above. This assessment should include:	A Lifecycle Carbon Assessment (LCA) is a method used to measure the total GHG associated with a product, building, or system across its entire lifecycle. It is typically carried out according to a defined methodology and is an iterative process, meaning the assessment is refined and improved as more accurate data and insights become available. A LCA can be used to inform the choice of equipment as the carbon benefits and burdens for different options can be visualised and benchmarked. **ES Vol 2 Appendix 15-1 [APP-116]** is not a LCA. **ES Vol 2 Appendix 15-1 [APP-116]** has been completed to fulfil the requirements of the EIA Regulations. The GHG emissions calculated as part of **ES Vol 2 Appendix 15-1 [APP-116]** have been agreed as part of the consultation

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	basis for evaluating the carbon performance of the Proposed Development. The assessment relies on single-point assumptions for key lifecycle parameters and does not examine plausible variation arising from manufacturing origin, supply-chain characteristics, operational performance or replacement cycles. The Environmental Statement does not disclose: • product-level carbon data (e.g. PCFs or EPDs); • geographic origin of major components; • embodied carbon factors or underlying data sources. No bounded scenario analysis is provided addressing alternative manufacturing geographies, transport assumptions, replacement cycles or recycling outcomes. Mid-life replacement of major components over the proposed 40-year operational period is reasonably foreseeable, yet the assessment does not quantify associated emissions, logistics or waste impacts. In particular, it omits modelling of replacement manufacture, transport movements, heavy-lift operations and hazardous waste generation. The lifecycle assessment also lacks reconciliation between material quantities used in the GHG analysis and construction traffic assumptions, preventing independent verification of transport emissions inputs. Operational performance assumptions are presented without sensitivity testing. The assessment does not disclose P50/P90 generation scenarios, performance ratio assumptions or degradation sensitivity, all of which materially affect cumulative generation and carbon payback over the project life. Independent review of the Applicant's own quantities and assumptions also indicates that materially higher lifecycle emissions are plausibly generated by alternative but reasonable parameter selections drawn from the same underlying evidential base. SEPE's review indicates lifecycle emissions in the		• geographically bounded scenario analysis examining plausible variations in embodied emissions associated with different manufacturing locations and supply chains; • disclosure of embodied carbon factors and data sources, including product-level carbon data where available (such as PCFs or EPDs); • sensitivity testing for component replacement cycles and recycling assumptions, including modelling of mid- life replacement of battery systems and inverters; • quantified modelling of mid-life replacement impacts, including component inventories, logistics movements, hazardous waste volumes and associated embodied emissions; • a reconciliation table linking material quantities, payload assumptions, trip rates and total traffic movements used within the lifecycle carbon assessment and the Construction Traffic Assessment; • a clear statement of lifecycle boundary, study period, baseline/comparator and significance methodology consistent with IEMA 2022 guidance; • disclosure of energy yield modelling assumptions, including performance ratio, system loss factors and degradation assumptions; and • sensitivity analysis of lifecycle carbon outcomes under alternative energy yield and degradation scenarios. Without this information, and without a clear explanation of why the	process. The initial scope of the GHG Emissions Assessment was outlined in **ES Vol 2 Appendix 4-1 EIA Scoping Report [APP-064]** and following consultation and the issue of **ES Vol 2 Appendix 4-2 EIA Scoping Opinion [APP-065]**, the scope of the GHG emissions assessment was refined. The Applicant understands that there are limitations with **ES Vol 2 Appendix 15-1 [APP-116]** at this stage but would like to emphasise that the assessment has been produced to fulfil the requirements of the EIA Regulations and identify likely significant effects, and is not expected to be a LCA. In terms of the bullet points listed for inclusion within a revised LCA, **ES Vol 2 Appendix 15-1 [APP-116]** does allow for these already and have been outlined below. <u>Manufacturing location and supply chains:</u> Conservative assumptions have been made in terms of geographies, and these have been outlined in Table 5 of **ES Vol 2 Appendix 15-1 [APP-116]**. This allows for solar PV modules, transformers, inverters and batteries coming from China; cables and mounting structure coming from Europe; and fencing, concrete cement and aggregate coming from the UK. <u>Embodied emission factors and data sources:</u> The equipment specifications have not been chosen so specific EPDs cannot be incorporated into the assessment. Generic conservative assumptions have been used instead. Emission factors and data sources have been disclosed in Section 4.0 'Emissions factors' of **ES Vol 2 Appendix 15-1 [APP-116]**. <u>Replacement of equipment</u> Replacement of solar PV modules, transformers, inverters, batteries and fencing has been included within of **ES Vol 2 Appendix 15-1 [APP-116]**. The replacement assumptions are both conservative and in line with other DCO solar projects, so sensitivity is not required as the worst-case scenario has been expressed. The emissions associated with replacement incorporate the manufacture of new equipment and transport to the Scheme as well as transport of the replaced equipment to disposal/recycling and the recycling and disposal of the replaced equipment have also been included. <u>Lifecycle boundary, study period and baseline comparator:</u> The lifecycle boundary and baseline comparator have been clearly outlined in accordance with the ISEP Guidance in Table 15.8 and Section 15.6 of **ES Vol 1 Chapter 15 Climate Change [APP-051]** respectively. The study period is 40 years. This has been outlined in Section 2.2 of **ES Vol 2 Appendix 15-1 [APP-116]**. <u>Energy yield and degradation rate scenarios</u> The energy yield and degradation rate of the solar PV modules is very dependent on the specification chosen. A preliminary Energy Yield Assessment was completed to inform the yield and degradation rate used within the assessment. The assessment is aligned with the requirements of the EIA Regulations and has incorporated the points highlighted for a revised LCA. While it is not a LCA, **ES Vol 2 Appendix 15-1 [APP-116]** follows a clear methodology and addresses aspects such as manufacturing locations, embodied

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	order of c. 1,261,000 tCO_2e for a selection of three principal components of the scheme, compared with the Applicant's reported scheme total of approximately 666,000 tCO_2e. The significance of that divergence is not that SEPE advances a rival definitive figure, but that it demonstrates the degree to which the Applicant's stated result depends on unverified assumptions rather than fixed project characteristics. Taken together, the absence of supply-chain transparency, scenario testing, quantified replacement impacts, logistics reconciliation, performance sensitivity analysis and clear explanation of the basis for the Applicant's lower reported total mean that the Environmental Statement does not provide a sufficiently robust lifecycle carbon assessment. Without a transparent and bounded analysis, the Examining Authority cannot reliably evaluate the development's climate impacts or the credibility of the claimed carbon benefits.		Applicant's reported lifecycle total should be preferred to materially higher but plausible alternative outcomes for a range of scheme components generated from the same evidential base, the Environmental Statement may not provide sufficient environmental information for the purposes of the EIA Regulations to enable the decision-maker to reach a reasoned conclusion on the lifecycle greenhouse gas impacts of the development.	emission factors, equipment replacement, lifecycle boundaries, and energy yield scenarios using conservative assumptions and available data. These details are outlined in the relevant sections. Whilst the value of a LCA is acknowledged, it is premature to conduct one as the detailed design and equipment specifics are yet to be finalised.
18B	**Inadequate secured Decommissioning, Restoration and Financial Security Framework.** The Application does not provide a complete, enforceable framework guaranteeing full decommissioning, removal of infrastructure (including sub-surface works), hazardous-waste management, drainage reinstatement and restoration of agricultural land to pre-development condition at end of life. The proposed approach relies on narrative assurances and removal of "above-ground" infrastructure only, with no commitment to extract piles, foundations, buried cabling, ducting, drainage structures, geotextiles or road build-ups. No below-ground inventory, removal methodology, soil-function restoration standard or agronomic justification for retention is provided. No legally binding financial mechanism is secured to guarantee delivery over the operational lifetime. The absence of ring-fenced funding creates a material risk that restoration liabilities could become unfunded in	EN-1 (restoration and environmental protection principles); EN-3; EIA Regulations; Defra Construction Code of Practice for Sustainable Use of Soils (2009); Relevant DCO precedent (e.g. Cleve Hill Solar Park; Sunnica Energy Farm)	The Examining Authority should secure by DCO Requirement, prior to any ground disturbance: A certified Decommissioning, Waste, Recycling and Agricultural Restoration Plan, including: 1. Complete inventory of all above- and below-ground infrastructure with as-built drawings 2. Presumption of full removal of infrastructure unless independent agronomic evidence demonstrates retention will not impair soil function 3. Method statements for extraction of piles, ducts, cables and foundations suitable for BMV soils 4. Drainage reinstatement strategy restoring equivalent hydraulic capacity and performance 5. Soil-function recovery criteria (e.g. bulk density, penetration resistance, SOM, infiltration, yield proxy)	The Applicant's position is that the **draft DCO [REP1-005]** and **outline Decommissioning Environmental Management Plan (oDEMP) [REP1-038]** secure decommissioning and restoration in a clear and enforceable manner which is consistent with established practice on solar DCOs. The Applicant maintains that Requirement 18 of the **draft DCO [REP1-005]** provides an appropriate and well-precedented mechanism to securing decommissioning and restoration. As explained in the **Explanatory Memorandum [REP1-007]**, Requirement 18 provides that within 3 months of the date the Applicant decides to decommission any part of the Authorised Development, or no later than 6 months before the 40th anniversary of the date of final commissioning of the last phase of Work No. 1, the Applicant must submit to the relevant local planning authority a decommissioning environmental management plan, which is in substantial accordance with the outline decommissioning environmental management plan. Requirement 18 further provides that decommissioning of the Authorised Development will commence no later than 40 years following the date of final commissioning. The Applicant is fully aware of its obligations under the Order with regards to decommissioning, and notes that any undertaker that has the benefit of the Order would similarly be required to comply with those obligations. The Applicant further notes that it is a criminal offence under the Planning Act 2008 (**"the PA 2008"**) (Section 161 of the PA 2008) not to comply with a requirement in a DCO, and that the Proceeds of Crime Act 2002 acts as a further deterrent to such a breach given that the solar infrastructure would represent a valuable asset for the Applicant. There is no reason to believe that the Applicant would fail to 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. The **oDEMP [REP1-038]** provides, at paragraphs 2.4.2, 2.4.5 and 2.4.11, that at the end of the operational period the Scheme will be decommissioned, the principal solar, electrical and BESS infrastructure removed, and the Site restored to a condition suitable for its original use, with the land returned to landowners in accordance with the relevant commercial agreements. It makes

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	circumstances such as SPV insolvency, ownership transfer or corporate restructuring. The draft DCO provisions do not remedy this deficiency: • Requirement 18 requires submission of a plan only when decommissioning is triggered • Requirement 7 does not secure soil restoration outcomes • Article 48 applies solely to compensation liabilities arising from acquisition powers • No provision secures funding for restoration, waste recovery or environmental remediation Compensation security and restoration security address fundamentally different risks, beneficiaries and time horizons. The present drafting secures only the former. Where reversibility of Best and Most Versatile agricultural land loss is relied upon in the planning balance, restoration must be demonstrably deliverable rather than contingent on future intentions. This deficiency should be read alongside Procedural Deficiency #7A concerning the absence of credible project funding and security for statutory liabilities.		6. Minimum five-year post-restoration monitoring with independent agronomist verification 7. Hazardous-waste handling, recycling and disposal strategy AND A legally binding financial security mechanism: • calculated on a reasonable worst-case decommissioning cost basis • ring-fenced and independently enforceable • inflation-indexed • subject to periodic review (e.g. every five years) • with clear trigger and call provisions in the event of default or non-performance • established prior to commencement and maintained for the operational life and until restoration complete • capable of being called in the event of non- performance Consent should not be recommended unless both the technical restoration framework and secured financial mechanism are in place.	clear that the detailed approach to decommissioning and restoration will be secured through an approved decommissioning environmental management plan, in line with the relevant standards at the time, all of which will be submitted and approved by the relevant local planning authorities, prior to commencement of decommissioning. The oDEMP also sets out, at a framework level, the specific measures that will govern soil and land restoration. In particular, Table 5.9 **[REP1-038]** identifies measures for soil handling and storage, reinstatement of soil profiles, reseeding and soil condition assessment. Importantly, the oDEMP confirms that the final DEMP will operate alongside a suite of decommissioning phase management plans, including a Soil Management Plan, which will ensure the sustainable management of soils and materials by setting out strategies for handling, storage, reuse, and disposal, minimising waste, preventing contamination, and protecting soil health throughout the decommissioning phase of the project. The Applicant's position is therefore that soil and land is suitably secured through a defined and enforceable framework of management plans, including a dedicated Soil Management Plan, all required to be approved by the relevant local planning authorities and implemented pursuant to Requirement 18. The Applicant also notes SEPE's representations in respect of Article 48. Article 48 of the **draft DCO [REP1-005]** prevents the Applicant exercising the powers of compulsory acquisition granted by the DCO until guarantees or alternative forms of security in respect of the liability of the undertakers to pay compensation are in place. The form of guarantee or security and the amount of these must be approved by the Secretary of State. Article 48(3) of the draft DCO also requires any guarantee or other security to be enforceable against the guarantor or provider of security by any person to whom compensation in relation to compulsory acquisition is properly payable. Article 48 therefore ensures that adequate funding will be in place before any compensation liability arises and requires that a guarantee or alternative form of security is in place for more than 15 years after the date in which the powers are exercised. The justification for this article comes from the interference with property rights resulting from the exercise of compulsory acquisition powers. The Applicant notes that this article is well precedented and similar drafting is found in Article 45 of Byers Gill Solar Order 2025, Article 42 of Oaklands Farm Solar Park Order 2025, Article 44 of the Mallard Pass Solar Farm Order 2024 and Article 45 of the Awel y Môr Offshore Wind Farm Order 2023. The Applicant therefore maintains that Article 48 suitably secures the funding of the project, and that it is well established and entirely consistent with established solar DCO practice. The approach taken by the Applicant is also consistent with and well supported by policy. In particular, the Applicant has complied with all the following requirements of NPS EN-3: • Paragraph 2.10.146 on decommissioning, requires an Applicant to put forward outline plans for decommissioning; • Paragraph 2.10.147 provides that where the consent for a solar farm is to be time-limited, there should be a requirement in the DCO setting that time-limit from the date the solar farm starts to generate electricity; and • Paragraph 2.10.149 provides that the requirements should secure the actual decommissioning itself. It is also well-established that policy does not require a decommissioning bond or financial security for solar development as a matter of principle. This position was notably upheld by the Secretary of State in the decision on The Oaklands Farm Solar Park Order 2025, where the Secretary of State omitted the recommendation to include a decommissioning fund requirement. In doing so, the Secretary of State held that "there is no policy requirement for a decommissioning fund to be imposed", that "the Secretary of State does not consider that imposing a decommissioning fund requirement is necessary" and further that this approach "*is consistent with paragraph 4.1.16 of NPS EN-1 which stipulates that the Secretary of State should only impose requirements that are, amongst other things, necessary, and the requirement in paragraph 4.1.16 of NPS EN-1 that only*

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				relevant requirements should be imposed." The Applicant recognises that there is limited precedent in the Helios Renewable Energy Project Order for such a requirement. However, the Applicant notes that in this instance, the relevant requirement was included in the draft DCO at the discretion of the relevant Applicant. Accordingly, the Applicant's position is that there is no precedent for the Secretary of State including decommissioning funding security in any solar DCO decisions and made Orders and further that the Secretary of State has consistently upheld that NPS EN-3 does not require a decommissioning bond. Further examples of this beyond the Oaklands Farm Solar Park Order 2025 include: Mallard Pass Solar Farm Order, Sunnica Energy Farm Order, and the Cleve Hill Solar Park Order (please note that the precedents cited by SEPE in Appendix M **[REP1-156]** do not include such provisions). In respect of the Sunnica Energy Farm Order, the Applicant notes that SEPE's representations state that the Recommendation Report for this Order "*required a fully funded decommissioning and environmental response bond*" and that this "*establishes clear precedent that financial security is an expected component of NSIP scale solar and solar and BESS schemes*". The Applicant has reviewed the Sunnica Recommendation Report and the relevant Order and does not agree that any such precedent was established. The Recommendation Report does not recommend a "*decommissioning or environmental response bond*", and no such requirement appears in the made Order. Lastly, the Applicant notes that the position of the Secretary of State on this issue has also been consistently upheld by Examining Authorities on solar DCOs where this point has been raised and considered during examination. This includes the Examining Authority for Stonestreet Green Solar, which expressly cited the Secretary of State's decision on the Oaklands Farm Solar Park Order 2025, noting that there is "*no policy requirement for a decommissioning fund to be imposed*" having regard to paragraphs 2.10.146 to 2.10.151 of NPS EN-3, observed (by reference to paragraph 2.10.68 of NPS EN 1) that "*solar panels can be decommissioned relatively easily and cheaply*", and applied the policy test in paragraph 4.1.16 of NPS EN-1 that requirements should only be imposed that are, inter alia, necessary and reasonable, before concluding that "*an additional Requirement is not necessary*". This was also recently confirmed by the Secretary of State in its decision to grant development consent for Springwell Solar DCO. The Secretary of State agreed with the position precedented in Oaklands Solar DCO and declined to include a requirement for a bond for a decommissioning fund within the DCO. This confirms that sufficient reliance and weight should be given to the controls available within the planning regime (notably the existence of offences for breach) which are sufficient protection to prevent abandonment of works. All of this, of course, emphasising that the Applicant does not seek compulsory acquisition powers over circa 92% of the land within the Order Limits and is, therefore, privately required to reinstate the Site upon decommissioning of the Scheme. For the reasons set out above, the Applicant strongly argues that these suggestions are not required and that the issues raised by SEPE are appropriately covered in the draft DCO as well as control documents read alongside and certified by the draft DCO.
19A	**Cumulative Effects Assessment deficient.** The Environmental Statement (ES Vol 1 Ch.17 and ES Vol 2 App. 4–5) identifies numerous proximate solar developments, together with major regional NSIPs including the A14 Cambridge–Huntingdon Improvement Scheme	EN-1 (need for full and reliable environmental information); EN-1 (combined landscape and visual effects);	The Examining Authority should, prior to any recommendation or decision, require the Applicant to submit a Revised Integrated Cumulative Effects Assessment (ICEA) for all solar, BESS and strategic infrastructure projects within	The Applicant has assessed the likely significant cumulative effects that would result from the Scheme in combination with other emerging developments in **ES Vol 1 Chapter 17 Cumulative and In Combination Effects [APP-053]**. As is required by the EIA Regulations, this assessment is focused on identifying likely significant effects. The Applicant has also provided a detailed submission in relation to cumulative effects assessment within Section 2.5 of the **Written Summary of Applicant's Oral Submissions at Issue Specific Hearing 2 (ISH2) and Action Points [REP1-059]** and does not look to repeat

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	(Brampton Hut), the A428 Black Cat–Caxton Gibbet Improvement Scheme, and the East West Rail Bedford–Cambridge section. All fall within a realistic Zone of Influence of approximately 0–10 km around the East Park Energy Order Limits. Despite identifying these schemes, the ES fails to provide any quantitative cumulative assessment of: • landscape and visual impacts, including cumulative LVIA and ZTV mapping; • construction HGV and workforce flows, or combined traffic loading on the A1/B645/B660/A428 corridors; • operational noise or EMF contours across the shared receptor field; • hydrology, drainage or flood-risk interactions across the 12.5 km development corridor; • soil/BMV loss or region-wide agricultural land- use change; • ecological connectivity or habitat fragmentation; • heritage setting impacts, including to Grade I churches and Conservation Areas within overlapping ZTVs; • amenity and PRoW effects on communities already surrounded by solar/BESS development. No multi-project scenario testing is provided and no Integrated Cumulative Effects Assessment (ICEA) has been carried out. The absence of integrated cumulative modelling prevents a reasoned conclusion on combined effects as required by EIA Regulations.	EN-1 (cumulative transport and traffic impacts); EN-3 (cumulative effects for solar development); EIA Regulations (cumulative, transboundary and interactive effects).	a minimum 10–15 km study radius, including: • cumulative LVIA and ZTV mapping; • cumulative construction traffic modelling (HGV + workforce); • cumulative noise and EMF modelling; • cumulative hydrology/flood-risk assessment; • cumulative BMV loss/agricultural impact analysis; • cumulative ecology/connectivity assessment; • cumulative heritage/setting analysis; • PRoW, amenity and socio-economic cumulative effects; • identification of required mitigation and proposed DCO Requirements.	those points here. The Applicant is maintaining an up-to-date list of sites within the 10km ZoI for the assessment of potentially significant cumulative effects from the Scheme and other proposed developments. The long list and associated long list plan were updated as part of the Applicant's Deadline 1 submission. It has not been necessary for the Applicant to update the short list or the cumulative effects assessment provided in **ES Vol 1 Chapter 17 [APP-053]** on the basis that none of the schemes that have been added to the long list are considered to have the potential to give rise to significant cumulative effects with the Scheme.
20A	**Draft DCO internal inconsistencies affecting clarity of environmental controls.** The draft Development Consent Order contains a number of internal inconsistencies and ambiguities across the Articles, Schedules and Requirements. These include conflicting definitions, missing or inconsistent	EN-1 (clarity and enforceability of consent); EIA Regulations	The Examining Authority should request the Applicant to provide an updated and consolidated draft DCO and Requirements Schedule during the Examination, supported by an Errata or Change Log identifying: • corrected definitions	**Overview and internal consistency of the draft DCO** The Applicant notes that SEPE's concern regarding the internal consistency of the draft DCO appears to stem from the matters identified in the Planning Inspectorates' (PINS) **Section 51 advice to the Applicant [PD-003]**, which was published following the acceptance of the Application for Examination. The Applicant has responded to these matters in its **Response to Section 51 following Acceptance Cover Letter [AS-001]** responding to this advice and submitted an updated **draft**

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	development parameters, ambiguous controls on construction working hours, and uncertainty regarding the status of the proposed "agri-research" activity as either principal or associated development. While it is recognised that the draft DCO will be refined during the Examination, these inconsistencies make it difficult to determine how key mitigation measures relied upon within the Environmental Statement would be secured and enforced. Clear drafting is necessary to enable the Examining Authority to test the development envelope and confirm that environmental mitigation relied upon in the ES is effectively secured.		• confirmed development parameters • clarified working hours and operational controls • confirmation of the planning status of "agri- research" activities.	**DCO [AS-008]** at that time to address the matters that required amendments to be made. The Applicant submitted a tracked version of the **draft DCO [AS-009]** into the examination at that time, and then each subsequent time amendments have been made to the draft DCO. The Applicant has also submitted a **Schedule of Changes to the draft DCO** at each deadline where amendments have been made to the draft DCO to facilitate easy and clear identification of the amendments made to the draft DCO. The Applicant will continue to keep the draft DCO under review throughout Examination and will update the document where necessary. Nevertheless, the Applicant disagrees that any of the matters identified in PINS' **Section 51 advice to the Applicant [PD-003]** were sufficient to result in material uncertainty regarding the environmental controls set out in the draft DCO and its requirements, for example the Examining Authority raised issues such as consistency in referencing or the requirement for full terms instead of abbreviations, and is of the view that the intended controls are clear. The Applicant's response to each of the other matters referred to in SEPE's submission are considered in more detail below. **Development parameters** The Applicant disagrees with the submission that the design parameters for the authorised development are inconsistent or not clearly secured by the **draft DCO [REP1-005].** The Applicant would refer SEPE to section 8 of the **Explanatory Memorandum [REP1-007]**, which explains that the design parameters assessed in the Environmental Statement (ES) are captured in the **Design Parameters and Principles Statement [REP1-030],** which is in accordance with the details found in the ES. The **Design Parameters and Principles Statement [REP1-030]** is secured by Requirement 3 (detailed design approval) of Part 1 of Schedule 2 to the **draft DCO [REP1-005]**. In summary, Requirement 3(1) provides that no phase of the authorised development may commence until details of the layout, scale, proposed finished ground levels, fencing, external apparatus and vehicular access, parking and circulation areas relating to that phase have been submitted to and approved in writing by the local planning authority. Under Requirement 3(3) the authorised development must be carried out in accordance with these approved details. Requirement 3(2) provides that the details submitted to the local planning authority must be in substantial accordance with the **Design Parameters and Principles Statement [REP1-030]** 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 ES. This mechanism will ensure that the detailed design of the authorised development is in accordance with the Design Parameters and Principles Statement and as such the ES, except in circumstances where deviation would not give rise to any materially new or materially different environmental effects than those reported in the ES. This mechanism is well rehearsed and can be found on most DCOs, not only in respect of solar schemes, and provides sufficient certainty and a clear illustration of what will ultimately be delivered. **Construction working hours** The Applicant disagrees that there is any ambiguity around the controls placed on construction working hours. These are clearly set out at Requirement 17 (construction working hours) of the **draft DCO [REP1-005]**, which reflects Requirement 20 of the Oaklands Farm Solar Park Order 2025 subject to the following:

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				(a) sub-paragraph 17(1) has been amended to permit deviation from the construction working hours if agreed with the local planning authority (see paragraph 4.1.3 of the **outline Construction Environmental Management Plan [REP1-032]** for further details on why this is required); and (b) sub-paragraph 17(2) has been amended to confirm that no construction works are to take place on public holidays or bank holidays following receipt of s51 advice from PINS (see the Applicant's **Cover Letter [AS-001]** responding to PINS' **Section 51 advice to the Applicant [PD-003]** for reference). The Applicant submitted an updated version of the **Explanatory Memorandum [REP1-007]** at Deadline 1 to provide further clarity on the operation of the requirement. It is hoped that this update will provide the clarification sought by SEPE. **Status of the agrisolar research area** The Applicant would refer SEPE to the Applicant's **Cover Letter [AS-001]** responding to PINS' **Section 51 advice to the Applicant [PD-003]**, which confirms the status of the agrisolar research area (Work No. 10) as associated development.
20B	**Protective provisions not evidenced.** The Draft DCO and Explanatory Memorandum do not evidence agreed Protective Provisions, or even heads of terms, with statutory undertakers, Internal Drainage Boards or the highway authority in respect of critical interfaces, including watercourse crossings and drainage works, highway access alterations and abnormal-load routing, and protection of third-party utilities. The Environmental Statement assumes effective third- party control at these interfaces, but those assumptions are not secured in law, creating a disconnect between assessed impacts and the DCO.	Planning Act 2008; EN-1 (clarity, certainty and deliverability of mitigation).	The Examining Authority should require the Applicant to submit, prior to the close of Examination: • a Protective Provisions status schedule identifying all affected third-party interests; and • either agreed Protective Provisions or clearly defined heads of terms for each relevant body, to ensure legal certainty and alignment with the Environmental Statement assumptions.	The draft DCO submitted with the application, as well as the amended versions submitted at Procedural Deadline A and Deadline 1, contain generic protective provisions which afford the necessary statutory safeguards to the interests, functions, assets and statutory powers of statutory undertakers grouped according to all main services and sectors, such as electricity, gas and water, network operators and drainage authorities. These have been included in a generic form and ensure that sufficient protection is afforded. In addition to this, and only where special circumstances justify this, the Applicant may include bespoke protective provisions to the protection of specific and named statutory undertakers. The status of negotiations with affected parties regarding protective provisions can be found in Part 2 of the **Land and Rights Negotiations Tracker [PDA-013]**. The Applicant remains in discussion with key stakeholders regarding bespoke protective provisions and/or other agreements to allow objections to be withdrawn where relevant. Heads of terms in respect of agreements for protective provisions are not submitted to the Examination and the Applicant considers that it would be unnecessary to do so. Once agreement is reached, the final bespoke protective provisions will be included in the draft DCO. The Applicant will provide further updates to the Examination as and when protective provisions are agreed or the relevant statutory undertaker's concerns are resolved.
20C	**Statutory nuisance defence unsupported by complete environmental evidence.** The Statutory Nuisance Statement (Document 7.19) concludes that the Proposed Development is unlikely to give rise to statutory nuisance from noise, vibration, dust, lighting or emissions. However, those conclusions rely primarily on outline management plans and mitigation	EN-1 (requirement for robust environmental assessment and secured mitigation); Environmental Protection Act 1990 (statutory nuisance framework); EIA Regulations (requirement for sufficient	The Examining Authority should require the Applicant, prior to any recommendation or decision, to: • remove Article 9 from the Draft DCO, or • amend Article 9 so that any statutory nuisance defence applies only where the relevant mitigation measures and	**Overview of Article 9 (statutory nuisance)** Article 9 of the **draft DCO [REP1-005]** is intended to cover a legislative gap left by section 158 of the Planning Act 2008 (PA 2008). In summary, section 158 of the PA 2008 already confers statutory authority for carrying out the authorised development for the purpose of providing a defence in civil or criminal proceedings for proceedings brought in a Magistrates' Court under section 82(1) of the Environmental Protection Act 1990 (EPA 1990) in relation to certain nuisances set out in section 79(1) of the EPA 1990. However, the prevailing view is that section 158 of the PA 2008 does not apply where an application is made to the Magistrates' Court under section 82 of the Environmental Protection Act 1990 on the basis that a local authority ought to be tackling a nuisance using its statutory nuisance powers, but it is not.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	measures that remain incomplete or subject to post-consent approval, including the Outline CEMP, CTMP, BSMP and OEMP. Key nuisance pathways remain insufficiently evidenced, including construction noise baseline and receptor mapping, operational noise from BESS and transformers, construction traffic intensity and routing, and operational lighting impacts. Despite these uncertainties, Article 9 of the Draft DCO seeks to confer a statutory defence against nuisance proceedings arising from the authorised development. In the absence of complete environmental evidence and secured mitigation controls, the Environmental Statement does not demonstrate that nuisance risks have been fully assessed or that effective mitigation will be enforceable. This creates a disconnect between the assessment assumptions and the legal protections proposed in the Draft DCO, preventing the Examining Authority from verifying that statutory nuisance will be avoided in practice.	environmental information for decision- making)	monitoring regimes have been fully defined and secured through enforceable DCO Requirements. In the absence of complete environmental evidence and secured mitigation controls, the statutory nuisance defence is premature and should not be relied upon.	In line with standard practice for DCOs, the Applicant has sought to restrict Article 9 so that it only applies to nuisances identified as potentially resulting from the Authorised Development, as set out in the **Statutory Nuisance Statement [APP-170]**. Article 9 is therefore only applied in relation to the following statutory nuisances in section 79(1) of the EPA 1990 being: (a) - any premises in such a state as to be prejudicial to health or a nuisance; (d) - any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance; (e) - any accumulation or deposit which is prejudicial to health or a nuisance; (fb) - artificial light emitted from premises so as to be prejudicial to health or a nuisance; (g) - noise emitted from premises so as to be prejudicial to health or a nuisance; and (ga) - noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street. The defence under Article 9 will only apply if the nuisance: (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the Authorised Development and that nuisance is attributable to the carrying out of the Authorised Development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or (b) is a consequence of the construction, maintenance or decommissioning of the Authorised Development and cannot reasonably be avoided; or (c) is a consequence of the use of the Authorised Development and cannot reasonably be avoided. The **Statutory Nuisance Statement [APP-170]** explains that following the implementation of mitigation measures the construction, operational and decommissioning phases of the Authorised Development are not expected to give rise to impacts that would constitute a statutory nuisance under the sections 79(1)(a), (d), (e), (fb), (g) and (ga) of the Environmental Protection Act 1990. However, it is considered appropriate and proportionate in any event to provide a defence to any proceedings in respect of the statutory nuisance referred to above in case they do arise. The **Statutory Nuisance Statement [APP-170]** relies on both embedded mitigation and mitigation secured through the outline CEMP, CTMP and OEMP to reach these conclusions, all of which are secured by Requirements in Schedule 2 of the **draft DCO [REP1-005]**. In each case the relevant Requirement provides that the final management plan submitted to the local planning authority must be in substantial accordance with the relevant outline management plan. Each requirement also requires the implementation of the final management plan, ensuring that the mitigation within them is secured.
21A	**Compulsory acquisition: Failure to demonstrate a compelling case in the public interest.** The Applicant has not demonstrated that the statutory tests for compulsory acquisition under section 122 of the Planning Act 2008 are met.	PA2008; DCLG Compulsory Acquisition Guidance (2013); EN-1; EN-3;	The Examining Authority is invited to require the Applicant to provide: • a transparent and GIS-based alternatives assessment; • evidence of meaningful and ongoing negotiations with affected land interests;	The Applicant would like to refer to the case set out in the **Statement of Reasons [PDA-007]**, which should be read together with the documents set out in paragraph 1.1.3 of the statement. Section 122 of the PA 2008 states that: "*An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met.*" The conditions in subsection (2) are that the land: a) is required for the development to which the development consent relates; b) is required to facilitate or is incidental to that development; or

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	In particular, the Statement of Reasons does not evidence that compulsory acquisition is necessary and proportionate, that reasonable alternatives have been properly assessed, that meaningful negotiations have progressed, that the relied-upon public benefits (including carbon reduction) are supported by robust evidence, or that grid- connection deliverability and scheme viability are sufficiently secured to justify interference with private property rights. These matters must be considered cumulatively in light of unresolved evidential deficiencies identified elsewhere in this Written Representation. Where public benefit is relied upon to justify interference with A1P1 rights, that benefit must be clearly evidenced and proportionate. Material uncertainties remain as to necessity, deliverability and environmental effects. Accordingly, a compelling case in the public interest has not been demonstrated on the evidence currently before the Examining Authority.	EIA Regulations; A1P1 / Arts 6 & 8 ECHR.	• a completed and internally consistent lifecycle carbon assessment; • confirmation of grid-connection deliverability; and • clarification of how the identified environmental and transport uncertainties affect the necessity and proportionality of compulsory acquisition powers. In the absence of such evidence, the statutory compelling case test cannot presently be concluded to be met.	c) is replacement land which is to be given in exchange for the order land under section 131 or section 132 of the PA2008 [*not applicable or required for the Scheme]*. The condition in subsection (3) is that there is a 'compelling case in the public interest for the land to be acquired compulsorily' In order to demonstrate that there is a compelling case in the public interest the Applicant must show that there is a public need for such scheme and that the scheme cannot be reasonably delivered without the grant of compulsory acquisition powers. The **Planning Statement [APP-031]** sets out in detail the need for the Scheme and the contribution it would make towards achieving the objectives of policy, including UK Government policy, as set out in the National Policy Statements. That case is not repeated in full here and this response should be read alongside the Planning Statement. The Scheme is of Critical National Priority infrastructure under NPS EN-1, for which the urgent need for the delivery of this type of infrastructure is expected to outweigh most residual adverse effects. Alternatives to the Scheme have been considered by the Applicant and are set out in **ES Vol 1 Chapter 3: Alternative and Design Evolution [APP-039].** The Applicant has undertaken a staged site selection and design iteration process in developing the proposals forming this DCO application, in which land availability by voluntary agreement has been a factor informing siting, layout and design decisions. The starting point for any renewable energy generation project is identifying a part of the National Grid where there is available grid capacity to connect a renewable energy project. The Applicant therefore entered into a connection agreement with National Grid to provide 400 MW of electricity generation to the Eaton Socon Substation and began a site search exercise to identify a land area suitable to accommodate the Scheme. This has also been addressed in response to 'Procedural Deficiency 4A' of this table. In terms of demonstrating the Applicant's efforts to acquire land voluntarily, reliance on compulsory acquisition powers as a last resort and proportionality, Section 5.2 of the **Statement of Reasons [PDA-007]** provides a detailed explanation of the Applicant's position. The Applicant has signed option agreements with landowners representing **100%** of the total area required for solar panels (close to 92% of the land within the Order Limits), BESS and onsite substation within the Order limits. The option agreements provide the Applicant with all necessary rights over those parts of the Order limits for the purposes of the construction, operation and decommissioning of the Scheme. The entirety of the land required for solar panels is excluded from the land for which the Applicant seeks compulsory acquisition powers. The Applicant seeks to acquire **new rights** and **temporary possession** of approximately **8%** of the land within the Order Limits. This is required mainly for the laying of underground cables, works within NGET's Eaton Socon Substation [see commentary at '*Procedural Deficiency 21C*' for more detail on this] access works and ecological mitigation and for construction compounds temporarily. The Applicant does not seek to acquire any land permanently. This is the result of extensive successful negotiations with affected landowners. The Applicant submitted updated land documentation at Procedural Deadline A reflecting further reductions to the extent of land over which new rights are sought to be acquired compulsorily. This shows the result of progress being made in negotiations and voluntary negotiations with affected landowners and how the extent of land over which the Applicant seeks compulsory acquisition powers has reduced significantly since the application for this DCO was made.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
				Please see our response to '*Procedural Deficiency 21C*' below setting out the grid connection deliverability and the extent of powers sought by the Applicant within NGET's Eaton Socon Substation.
21B	**Cumulative Procedural Deficiencies – incomplete environmental information.** Combined omissions across multiple topics, including soils, hydrology, noise, landscape, grid connection, traffic, ecology, BESS safety and socio-economics, indicate that the Environmental Statement does not presently meet the adequacy requirements of the EIA Regulations. While individual gaps may appear limited in isolation, their cumulative effect deprives the decision-maker of the reliable information necessary to reach a reasoned conclusion. Comparable NSIP examinations demonstrate that widespread reliance on outline mitigation, post- consent plans and unresolved assessments engages issues of legal adequacy rather than planning judgment. Until these deficiencies are addressed, the application is not supported by sufficient environmental information to enable a robust determination.	EN-1; EIA Regulations	The Examining Authority should, prior to any recommendation or decision, Issue a Formal Request for Further Information under the EIA Regulations and refrain from recommendation until adequacy is achieved.	The thrust of this point from SEPE is similar to that raised under '*Procedural Deficiency 6A*'. As with 6A, the ES must include the information "*reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment*". An Applicant is not required to provide comprehensive information on all conceivable environmental matters, irrespective of whether those matters are likely to generate significant effects, or are capable of influencing the reasoned conclusion. As is also set out above in relation to '*Procedural Deficiency 19A*', the Applicant has assessed the likely significant cumulative effects that would result from the Scheme in combination with other emerging developments in **ES Vol 1 Chapter 17 Cumulative and In Combination Effects [APP-053]**. As is required by the EIA Regulations, this assessment is focused on identifying likely significant effects. The Applicant has also provided a detailed submission in relation to cumulative effects assessment within Section 2.5 of the **Written Summary of Applicant's Oral Submissions at Issue Specific Hearing 2 (ISH2) and Action Points [REP1-059]** and does not look to repeat those points here.
21C	**Prematurity of the application and reliance on compulsory acquisition powers in the presence of unresolved project uncertainties.** The Application is premature because a defined grid-connection solution has not been identified. Instead, the Applicant seeks Development Consent Order powers, including compulsory acquisition, across a broad precautionary corridor to preserve design and commercial optionality. In the absence of a defined route, it cannot be demonstrated that the land is required, that the extent sought is no more than reasonably necessary, or that a compelling public interest case exists. The Environmental Statement therefore relies on envelope assumptions across land that may never be used, preventing a reasoned conclusion on likely	Planning Act 2008; EN-1	The Examining Authority should, prior to any recommendation or decision: • require the Applicant to identify a defined and justified grid connection solution, including a demonstrably minimised land-take; • require a revised assessment of reasonable alternatives demonstrating that compulsory acquisition is genuinely a last resort; and • decline to recommend consent unless and until it is satisfied that the statutory tests under Planning Act 2008 s.122 and the decision-stage adequacy test under EIA Regulation 18 are fully met.	Following the widely publicised grid reform process undertaken by the National Energy System Operator (NESO) over the past few years, the Applicant received a 'Gate 2' generation connection offer to the Eaton Socon Substation which is 2030-aligned. This connection offer is not transferable to another point of connection, and is not speculative. A Grid Connection Agreement is a firm obligation by National Grid Electricity Transmission (NGET) to enable the Applicant to connect the Scheme to the NGET Eaton Socon Substation. This is clearly defined and there are no uncertainties in respect of this. Due to planned upgrade works to the substation, NGET has been unable to confirm the exact point of connection for the Scheme within its current substation to date; however, it will be necessary to connect the East Park Substation (Work No. 3) to the NGET Eaton Socon Substation via 400 kV cable (Work No. 4). This does not mean that the cable route between panel areas or from the Applicant's proposed onsite substation to NGET's substation is uncertain. The only uncertainty is in respect of the exact point of connection within NGET's substation and it represents a small proportion of the land the Applicant seeks to develop. The Applicant and NGET are working together to identify the exact point of connection; however, to ensure the deliverability of the Scheme the Applicant has sought to acquire new rights compulsorily under the draft DCO in relation to land surrounding and within the NGET Eaton Socon Substation. Once the point of connection has been confirmed, the Applicant will limit the exercise of compulsory acquisition powers to the plots required to ensure connection. It is not uncommon for linear elements of schemes to require limits of deviation to allow for micro-siting post consent, and this is no different to the approach taken by the Applicant. Consequently,

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	significant effects and engaging the adequacy test under EIA Regulation 18. Compulsory acquisition powers should not be granted to preserve optionality rather than to deliver a clearly defined scheme. Where essential infrastructure remains uncertain, the statutory tests in section 122 of the Planning Act 2008 may not be satisfied.			the Applicant disagrees with the suggestion that the Application is immature. It is also unfounded that the Applicant's approach is to preserve commercial optionality, when instead it is one of necessity. **<u>The Applicant's case for compulsory acquisition</u>** In respect of the Applicant's case for compulsory acquisition, this can be found in Section 7 of the **Statement of Reasons [PDA-007]**, which demonstrates how the tests set out at section 122 of the PA 2008 are met. Moreover, the Applicant has strived to acquire land voluntarily, where possible, and the substation area in NGET's ownership is no exception. However, at this point in time NGET have not been able to confirm the exact point of connection to the Eaton Socon Substation and have not been able to grant the Applicant with the necessary easements. For this reason, the Applicant reserves a degree of flexibility. **<u>Regulation 18 of the EIA Regulations</u>** The Applicant assumes that Regulation 18 of the EIA Regulations has been quoted in error, which deals with circumstances where an applicant fails to comply with the publicity requirements for accepted applications under Regulation 16 of those regulations. Instead, it is believed that the intention was to refer to Regulation 14 of the EIA Regulations (equivalent to Regulation 18 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017). This does not set out an "adequacy test" as such but does detail the requirements for an ES accompanying a DCO application. As set out above, it is not uncommon for linear elements of schemes to require limits of deviation to allow for micro-siting post consent and it is the Applicant's position that the inclusion of flexibility in relation to the 400 kV cable corridor (Work No. 4) does not create a material inadequacy in the ES.
21D	**Unconsulted or unquantified post-consultation boundary amendments.** The Applicant acknowledges material post-consultation changes to Order Limits and infrastructure locations (including BESS relocation, widened land parcels, and additional land added), but provides no comparative plan set, quantified schedule, or clear record of whether newly affected parties were subject to targeted engagement. The consultation record does not allow verification of who was consulted on the final submitted scheme.	Planning Act 2008; PINS Advice Note 16 (v2, 2022); EIA Regulations; EN-1 (requirement for complete environmental information).	The Examining Authority should require the Applicant to submit: (1) a comparative GIS plan showing the consultation-stage and submitted Order Limits; (2) a tabulated schedule of boundary changes identifying new parcels, receptors, and access points; and (3) confirmation of targeted re-consultation or notification of newly affected parties. Examination to be paused pending disclosure if newly included land materially alters the environmental baseline.	The Applicant acknowledges that very minor amendments were made to the Order limits between statutory consultation and the submitted Scheme. These amendments are described and shown in Section 5 of the **Design Approach Document [APP-034]**. The changes made to the Order limits were entirely within land parcels of landowners already affected and consulted at the statutory consultation, and did not introduce any new land interests. Similarly, the changes to the Order limits were not material for the purposes of environmental assessment, as they did not introduce any new environmental receptors or resources not already assessed at the time of the statutory consultation. The ES assessed the final Scheme boundary which included the changes. Accordingly, the Applicant was satisfied that the threshold for undertaking further targeted consultation was not met, and such consultation was not required.
21E	**Inadequate consultation evidence and failure to demonstrate regard to consultation responses.**	Planning Act 2008 (consultation with prescribed bodies, consultation with local	The Examining Authority should require the Applicant to submit, prior to any recommendation or decision:	**<u>Approach to consultation generally</u>** The Applicant disagrees with the submission that it has failed to comply with its statutory duties in respect of statutory consultation, and that there is no transparent record of how consultation has influenced the Scheme.

Procedural Deficiency No. [as identified by SEPE]	Procedural Deficiency / Evidence gap [as identified by SEPE]	Relevant policy or legal reference [as identified by SEPE]	Action requested of the Examining Authority [as identified by SEPE]	Applicant's Response
	Consultation evidence indicates that engagement with statutory consultees and the public was incomplete or insufficiently evidenced. Several host and neighbouring authorities report that key baseline data, routing information or technical material was incomplete, provided late, or insufficient to enable meaningful review. Technical consultees, including highways, flood risk, archaeology and ecology specialists, similarly report that submissions were partial or inadequate for informed assessment. Public consultation responses recorded substantial opposition to elements of the scheme, yet the Environmental Statement does not demonstrate that this feedback materially influenced scheme design, Order Limits, layout or mitigation. Much of the response is characterised as "general opposition" without clear evidence of how concerns were addressed. These issues raise doubts as to whether statutory consultation duties, including provision of adequate information and proper regard to responses, have been satisfied. In the absence of a transparent record showing how consultation influenced the scheme, the Examination cannot be satisfied that consultation obligations under the Planning Act 2008 have been properly fulfilled.	communities, and duty to have regard to consultation responses); EIA Regulations (requirement to provide sufficient environmental information to enable effective consultation and reasoned decision-making); EN-1 (importance of meaningful consultation and transparent engagement in NSIP development); PINS Advice Note 16 (Consultation and engagement expectations for nationally significant infrastructure projects).	• a Consultation-Response Matrix demonstrating how each statutory consultee and local authority comment has been addressed within the Environmental Statement and scheme design • a public consultation response schedule identifying how major themes of public feedback (including BMV land loss, landscape impact, traffic and scale of development) were considered and what design or mitigation changes resulted; and • clarification of any instances where consultees report incomplete or late information and explanation of how those issues have been remedied Where the Examination is satisfied that consultation material did not provide sufficient information for consultees to respond on an informed basis, or that responses were not properly considered, targeted re-consultation may be required to ensure compliance with Planning Act 2008 duties.	The Applicant's approach to consultation can be found in the **Consultation Report [APP-023]** and **Consultation Report Appendices 1 to 7 [APP-024] to [APP-030]**, which were submitted with the Application. Section 5 of the Consultation Report sets out the statutory consultation undertaken by the Applicant in compliance with sections 42, 46, 47 and 48 of the PA 2008 and evidence can be found in the relevant appendices, in particular **Consultation Report Appendix 3 [APP-026]** and **4 [APP-027]**. A summary of the responses received to the statutory consultation, including the changes made to the Scheme as a result of the consultation can be found at Section 6 of the **Consultation Report [APP-023]**, with further detail provided in **Consultation Report Appendices Part 5 [APP-028]**. It is clear from this document that the Applicant has had regard to the consultation responses received in accordance with the requirements of section 49 of the PA 2008 and changes that were made to the Scheme as a result of the consultation process included: • reduction in size of panel area; • location of the BESS and internal substation; • design changes to two proposed site access points; • an increase to the level of funding for the East Park Legacy Fund; • width of the underground cable corridor between Site B and C. A summary of changes that were <u>not</u> made to the Scheme design can be found with the reasons why at paragraphs 6.7.19 to 6.7.41 of the **Consultation Report [APP-023]**. The Applicant notes SEPE's request for a "consultation-response matrix" and would direct SEPE to the **Consultation Report Appendix 5-1 and 5-2 [APP-028]**, which details the Applicant's responses to submissions made by statutory consultees, including detailing whether a change was made to the Scheme following the consultation. Similar information is provided in respect of non-prescribed consultees at Appendix 5-3 **[APP-028]** of the Consultation Report. In terms of SEPE's request for a public consultation response schedule, the Applicant would again refer SEPE to **Consultation Report Appendix 5-2 [APP-028]**, which provides a breakdown of responses received from consultees under sections 42(1)(d) and 47 PA 2008 by theme, including the Applicant's response and whether a change was made to the Scheme as a result of the comments made. On this basis, it is clear that the Applicant has had proper regard to the representations received during the statutory consultation. **<u>Consultation with local authorities and statutory undertakers</u>** The Applicant is in active communication with key stakeholders and statutory consultees, including all three host authorities. Additionally, the Applicant notes that all three of the host authorities submitted adequacy of consultation responses in relation to the Applicant's duties under section 42, 47 and 48 of the PA 2008 (see Bedford Borough Council **[AoC-001]**, Cambridgeshire County Council **[AoC-002]** and Huntingdonshire District Council **[AoC-006]**). Each of the three responses confirms that the relevant host authorities were satisfied that the legislative requirements were complied with. If the local authorities or statutory undertakers have concerns regarding the statutory consultation undertaken by the Applicant they should raise this directly with the Applicant and/or the Examination to allow these matters to be addressed. However, based on the above the Applicant considers that there are no deficiencies in the approach taken to statutory consultation.

APPENDIX A: REVIEW OF CASE LAW CITED BY SEPE

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
1	**R (Blewett) v Derbyshire CC [2003] Env LR 29** **Applicant note:** The Applicant believes that the case citation provided above is incorrect and should read "[2004] Env. L.R. 29]. **Neutral citation:** [2003] EWHC 2775 (Admin) **BAILII weblink:** Blewett, R (on the application of) v Derbyshire County Council [2003] EWHC 2775 (Admin) (07 November 2003)	**Adequacy of the Environmental Statement (EIA Regulations)** **Summary** The Court held that an Environmental Statement should be assessed from the perspective of a "reasonable reader" and should not be subjected to excessively technical or hypercritical analysis. The purpose of EIA is practical – to inform decision makers and the public of the likely environmental effects of a proposal. However, the Court also emphasised that an ES must contain sufficient information to enable the decision-maker to reach an informed conclusion on those effects and cannot rely on missing material or matters left to post-consent determination. **Legal principle** An ES must be sufficiently complete, intelligible and robust at the point of decision to allow a reasoned conclusion on likely significant effects. Essential environmental information cannot be deferred. **Relevance to the Proposed Development** The WR identifies areas where baseline data, risk analysis or mitigation detail is incomplete or reliant on future surveys or outline plans. These matters are relevant to whether the ExA can confidently assess environmental effects and the effectiveness of mitigation. EN-1 requires decisions to be based on adequate environmental information and to demonstrate that impacts have been avoided or minimised where reasonably practicable. Where conclusions depend on unresolved matters, the confidence that can be placed in those conclusions may be reduced. **WR cross-references** ss. 2, 3, 4, 5, 14, PD #13A While Blewett is expressly cited in the sections identified above, its principles are applied more broadly throughout the Written Representation in assessing the adequacy, coherence and completeness of the Environmental Statement.	"*As set out in the accompanying Legal Appendix (Appendix B), established authorities (including Blewett, Moseley, Lebus, ClientEarth and Holborn Studios) indicate that proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination*." (Page 2 and 23). "*Incomplete environmental baseline – Omission of full ALC mapping, erosion/infiltration modelling, hydrological assessment and contamination testing, contrary to EN-1 and the evidential standards in Blewett*." (Page 4 and 25). "*an incomplete ES may not provide a sufficient basis for informed determination (Blewett)*" (Page 5 and 26). "*As set out in the accompanying legal appendix (Appendix B), established authorities including Blewett, Lebus, Moseley, Holborn Studios and ClientEarth emphasise that determination of a nationally significant infrastructure project requires sufficient and accurate environmental information, meaningful consultation, and effective mitigation measures that are clearly defined and capable of implementation*." (Page 28). "*The courts have consistently emphasised that environmental information must be presented in a manner that enables an informed and rational decision, including in Blewett [2003], Holborn Studios [2020], and ClientEarth [2021]*." (Page 31). "*In Blewett [2003] and Holborn Studios, the courts emphasised that where key methodological assumptions, data sources, or limitations are not explained, the assessment may lack the intelligibility required by the EIA regime.*" (Page 50). "*In Blewett [2003] Env LR 29, the Court confirmed that environmental information must be presented in a form that is "comprehensible and adequate to enable an informed decision to be taken." Where essential baseline information, such as full Agricultural Land Classification coverage or a transparent assessment of food-production implications, is absent or incomplete, the Examining Authority may be materially constrained in its ability to reach a reasoned conclusion on the significance of effects*." (Page 67 and 68). "*An Environmental Statement must not overstate or misstate scientific evidence (Blewett; Holborn Studios)*." (Page 250).	**Summary** This case concerns an application to the High Court for judicial review by a claimant seeking to quash a planning permission granted by the defendant local planning authority (LPA) for "*land reclamation by waste disposal with restoration to agricultural, woodland, grassland and nature conservation uses at Smith's void, Former Glapwell Colliery, Palterton Lane, Sutton Scarsdale*". In this case, the claimant objected to the scheme on the basis that the noise, dust and smells arising from landfilling operations at other sites in the area had exacerbated his medical conditions. One of the three grounds argued by the claimant ("**Ground 1**") was that the environmental statement (ES) did not include an assessment of the potential impact of the use of the site for landfill on groundwater and human health pursuant to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and instead had unlawfully left those matters to be assessed after permission had been granted. Ultimately, the argument made in relation to Ground 1 failed, however the application was allowed in part and the planning permission on other grounds unrelated to the adequacy of the ES. Mr Justice Sullivan at [68] concludes his consideration of Ground 1 as follows- *"I have dealt with it in some detail because it does illustrate a tendency on the part of claimants opposed to the grant of planning permission to focus upon deficiencies in environmental statements, as revealed by the consultation process prescribed by the Regulations, and to contend that because the document did not contain all the information required by Schedule 4 it was therefore not an environmental statement and the local planning authority had no power to grant planning permission. Unless it can be said that the deficiencies are so serious that the document cannot be described as, in substance, an environmental statement for the purposes of the Regulations, such an approach is in my judgment misconceived. It is important that decisions on EIA applications are made on the basis of "full information", but the Regulations are not based on the premise that the environmental statement will necessarily contain the full information. The process is designed to identify any deficiencies in the environmental statement so that the local planning authority has the full picture, so far as it can be ascertained, when it comes to consider the "environmental information" of which the environmental statement will be but a part."* **Applicant commentary** The Applicant notes that this case principally concerns the adequacy of an ES under the Town and Country Planning (Environmental Impact Assessment) (England and Wales)

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				Regulations 1999 rather than the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, but it does set out some principles of relevance to the adequacy of the ES. In this case the main issue was whether the LPA had lawfully granted planning permission on the basis of a potentially deficient ES. On this point, the court held that the LPA was not precluded from granting planning permission by the deficiency of an environmental statement, unless the deficiencies were so serious that the document could not reasonably be described as an environmental statement. On this basis the Applicant considers that this case does not obviously support the principles submitted by SEPE. Additionally, the Applicant considers that the factual matrix of this case, and the principles that it establishes, are significantly removed from the facts of the Scheme. For completeness, the Applicant notes that the quoted text "*comprehensible and adequate to enable an informed decision to be taken*" referenced at page 67 of SEPE's WR does not appear in the judgement for *R. (on the application of Blewett) v Derbyshire CC [2004] Env. L.R. 29*.
2	**R (Lebus) v South Cambridgeshire DC [2002] EWHC 2009 (Admin)** **BAILII weblink**: Lebus & Ors, R (on the application of) v South Cambridgeshire District Council [2002] EWHC 2009 (Admin) (27 August 2002)	**Omission of significant effects** **Summary** The Court held that environmental information must identify and assess the likely significant effects of the proposal so that consultees and decision-makers can understand its impacts. Failure to assess a relevant impact, or omission of material information necessary to appreciate those impacts, may undermine the integrity of consultation and the decision-making process. **Legal principle** Consultation must be based on sufficient environmental information to permit intelligent and informed responses. Omission of a significant effect or relevant data may render the environmental information inadequate. **Relevance to the Proposed Development** The WR identifies concerns regarding the completeness of baseline data available during consultation, including matters relating to soils, hydrology and safety risk. These issues are relevant to whether affected parties were able to understand the likely impacts of the proposal and respond meaningfully. EN-1 emphasises transparent decision-making and proper consideration of environmental effects; consultation conducted without adequate information may weaken confidence in the evidential basis of the application. **WR cross-references** ss. 2, 3, 4, PD #4A, PD #13A	"*As set out in the accompanying Legal Appendix (Appendix B), established authorities (including Blewett, Moseley, Lebus, ClientEarth and Holborn Studios) indicate that proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination*" (Page 2 and 23). "*consultation and alternatives assessment must be meaningful and evidence led (Moseley; Lebus)*" (Page 5 and 26). "*As set out in the accompanying legal appendix (Appendix B), established authorities including Blewett, Lebus, Moseley, Holborn Studios and ClientEarth emphasise that determination of a nationally significant infrastructure project requires sufficient and accurate environmental information, meaningful consultation, and effective mitigation measures that are clearly defined and capable of implementation*" (Page 28). "*In R (Lebus) v South Cambridgeshire DC [2002] and Holborn Studios v Hackney [2020] EWHC 1509, the courts confirmed that the purpose of an alternatives assessment is not to dictate the ultimate planning outcome, but to ensure that choices are made on the basis of intelligible, objective evidence rather than assertion*" (Page 33). "*The courts have consistently emphasised that where policy requires alternatives to be considered, the decision-maker must be supplied with sufficient information to enable a rational and intelligible comparison (R (Lebus) v South Cambridgeshire DC [2002]; Holborn Studios Ltd v Hackney LBC [2020] EWHC 1509 (Admin))*" (Page 36). "*EIA Adequacy – The decision-maker must be satisfied that sufficient information has been provided to enable a reasoned*	**Summary** This case concerns an application for judicial review of a decision by the defendant LPA, to grant planning permission for the erection of an egg production unit without first having commissioned an environmental impact assessment (EIA). The claimants wrote to the defendant LPA contending that an EIA had not been carried out and that such an assessment was mandatory under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 Reg. 7. The defendant LPA responded by letter indicating that an EIA was not mandatory, that consideration had to be given to each proposal and its effect on the environment and that the defendant LPA would not request an EIA where the necessary information would be covered in sufficient detail in the application. Before the matter went to the planning committee a summary screening table had been produced, but that was placed not in the planning register but in the planning officer's working file. When the matter went before the committee the planning officer's report indicated that all relevant factors had been taken into account and that an EIA was not required. The committee granted the application for planning permission and the applicants sought and obtained permission to seek judicial review. The High Court granted the application and held that although the defendant LPA was correct to state that an EIA was not mandatory the issue was whether there was any screening opinion for the purpose of the relevant EIA Regulations. In this case there was no screening opinion, the summary screening table was not placed in the register but on the planning file, the applicant for planning permission was not given a copy and the

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
		While R (Lebus) v South Cambridgeshire District Council is expressly cited in the sections above, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing the adequacy and lawfulness of the Environmental Statement.	*conclusion on likely significant effects. Where materially different infrastructure strategies have not been comparatively assessed, the adequacy threshold is engaged (Lebus; Holborn Studios)*" (Page 38). "*As established in Lebus and Hayes, where policy anticipates consideration of alternatives, decision-makers must be provided with sufficient objective material to understand how that consideration has informed site selection. On the information currently before the Examining Authority, that evidential chain is not clearly set out*" (Page 43).	table did not amount to a screening opinion. The necessary statutory opinion as to whether an EIA was or was not required was not to be found. The High Court found that the defendant LPA had been guilty of two errors of law: (a) the LPA proceeded on the impermissible premise that it was unnecessary to obtain an EIA if the information would be received in sufficient detail in the application; and (b) the defendant LPA's approach to the statutory question of the need for an EIA was affected by its view that planning conditions could be imposed and enforced. The High Court found that the defendant LPA had failed to consider whether the development as described in the application would have a significant environmental impact. Instead, it had considered whether the development as described subject to mitigation measures would have a significant impact. It was not appropriate to start from the premise that there might be significant impacts, but that those could be controlled. The correct course would be to require an environmental statement to set out the impacts and then determine what measures were required as controls. It followed that the defendant LPA's approach to the EIA Regulations was flawed. **Applicant commentary** The Applicant considers that SEPE's written representation presents this judgement out of context. The case in question relates to a situation where the defendant local planning authority failed to request an EIA at all, on the basis that mitigation could be controlled by way of condition. It therefore failed to consider whether the development as described in the application would have a significant environmental impact. Consequently, the case is not applicable to the Scheme, where the Applicant has been through the EIA screening process and has produced an ES. On this basis, the Applicant considers that this case does not establish or support the principles SEPE's submissions seek to derive from it. The Applicant's position is therefore that this authority is of minimal or no relevance to SEPE's submissions.
3	**R (Mellor) v Secretary of State for Communities and Local Government [2009] UKHL 2** **Applicant note:** The Applicant believes that the case reference provided above is incorrect, which	**Duty to seek further information** **Summary** The House of Lords clarified that environmental information relied upon in decision making must be available to consultees and the public, and that reliance on undisclosed or unspecified background material is inconsistent with the purpose of EIA. Where information is necessary for an informed assessment of environmental effects, it must be provided.	"*The Environmental Statement does not provide a sufficiently robust assessment of construction traffic impacts arising from the Proposed Development*." (Page 527) "*Relevant case law concerning Environmental Statement adequacy including Blewett v Derbyshire CC, Lebus v South Cambridgeshire DC, and R (Mellor) v Secretary of State for Communities and Local Government*" (Page 527).	**Summary** The background to this case is that Mr Mellor, the appellant, brought judicial review proceedings against the Secretary of State for Communities and Local Government as respondent. The respondent had issued a screening direction that EIA had not been required for a planning application for a medium secure hospital unit at Harrogate in North Yorkshire. The project was considered to fall within Schedule 2 of the Town and Country Planning (Environmental Impact

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
	relates to the extradition case Mucelli v Albania. Instead, the Applicant believes that SEPE are referring to the reference made from the UK Court of Appeal to the European Court of Justice (ECJ) of the same name, which carries citation C-75/08. As far as the Applicant is aware this case did not reach the UK House of Lords. **EUR-Lex weblink:** EUR-Lex - 62008CJ0075 - EN - EUR-Lex	**Legal principle** If essential information required to understand environmental impacts is missing, the authority should obtain further information before determining the application. **Relevance to the Proposed Development** The WR identifies several areas where additional technical information may be necessary to assess environmental effects, including safety risk, cumulative impacts and long-term environmental performance. This authority is relevant to the ExA's discretion to request further information where required to enable a lawful and informed recommendation under the EIA Regulations and EN-1. **WR cross-references** PD #13A While R (Mellor) v Secretary of State is expressly cited in PD #13A, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing whether the Environmental Statement provides sufficient information to enable a reasoned conclusion on likely significant effects.		Assessment) (England and Wales) Regulations 1999; however, the respondent stated that having taken into account the selection criteria in Schedule 3, and representations made by the appellant, the proposal would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. The issues between the parties were whether the respondent had been required to give reasons for deciding that EIA was not required, and, if so, whether her decision had provided adequate reasons. The Court of Appeal stayed proceedings and referred the following questions to the ECJ for a preliminary ruling: 1. Whether under Article 4 of [Directive 85/337] Member States must make available to the public reasons for a determination that in respect of an Annex II [to that directive] project there is no requirement to subject the project to assessment in accordance with Articles 5 to 10 of [that] directive? 2. If the answer to Question 1 is in the affirmative whether that requirement was satisfied by the content of the letter dated 4 December 2006 from the Secretary of State? 3. If the answer to Question 2 is in the negative, what is the extent of the requirement to give reasons in this context?" In summary, the ECJ concluded that the competent authority was required to inform third parties of the reasons for its decision not to subject a project to an EIA, either in the decision notice or in separate correspondence made at a third parties' request. It was necessary to provide reasons for its decision to allow third parties and administrative authorities to be able to satisfy themselves that a decision on whether EIA was required was carried out in accordance with the relevant laws, and to allow parties to have full knowledge of the relevant facts before deciding whether to apply to the courts to challenge a decision. **Applicant commentary** This judgment relates to whether a competent authority is required to give reasons for a decision not to require an EIA assessment to be carried out. It does not pertain to the contents of the Applicant's ES, the information required, nor does it impose a "duty to seek further information" as suggested by SEPE. On this basis, the Applicant considers that this case does not establish or support the principles SEPE's submissions seek to derive from it. The Applicant's position is therefore that this authority is of minimal or no relevance to SEPE's submissions.
4	**R (Plan B Earth) v Secretary of State for BEIS [2021] EWCA Civ 90**	**Climate impacts and lifecycle considerations** **Summary** The Court considered whether the Secretary of State had lawfully taken account of climate impacts when designating a	"*The implications of this approach are directly relevant to: […] the principles recognised in Plan B Earth v Secretary of State for Transport [2021], confirming that climate impacts of*	**Summary** This case concerns an application by environmental campaigners to seek judicial review of the policies of the UK Government relating to climate change.

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
	Applicant note: The Applicant believes that the case reference provided above is incorrect, which relates to landlord and tenant case called Cornerstone Telecommunications Infrastructure Ltd v Ashloch Ltd. The Applicant notes that there are multiple cases carrying the name referred to by SEPE, including a judicial review application decided in 2018 (neutral citation [2018] EWHC 1892 (Admin)) and a second application decided in 2021. The Applicant assumes that SEPE are referring to the later case R. (on the application of Plan B Earth) v Prime Minister [2021] EWHC 3469 (Admin) (to which BEIS was a defendant). **BAILII weblink**: Plan B Earth & Ors, R (On the Application Of) v The Prime Minister & Ors [2021] EWHC 3469 (Admin) (21 December 2021)	national policy statement. It emphasised that climate considerations must be addressed transparently and rationally where they are material to the decision. **Legal principle** Where climate effects are a material consideration, decision-makers must demonstrate that they have been properly assessed and taken into account. **Relevance to the Proposed Development** The WR raises issues relating to lifecycle emissions, material sourcing and end-of-life impacts. These matters are relevant to assessing the net environmental benefit of the scheme and the weight to be attributed to its contribution to decarbonisation. EN-1 requires consideration of both benefits and adverse impacts; transparent assessment of climate effects supports that balancing exercise. **WR cross-references** ss. 18, PD #18A While R (Plan B Earth) v Secretary of State for BEIS is expressly cited in Section 18 and PD #18A, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing the adequacy, transparency and policy alignment of climate and carbon assessment.	*nationally significant infrastructure must be assessed on an intelligible and evidence-based basis*." (Page 300). "*Plan B Earth v Secretary of State for Transport [2021] (requirement for transparent climate evidence in infrastructure decision-making)*" (Page 554).	The claimants relied on four grounds relating to various purported breaches of the Climate Change Act 2008 and ECHR. The grounds were that the Government had failed to: (1) take practical and effective measures to align UK greenhouse gas emissions to the Paris Agreement temperature limit of 1.5°C above pre-industrial levels; (2) take measures to prepare for the impacts of climate change or to support others to do so; (3) take measures to align UK financial flows to the Paris temperature limit; or (4) implement the "polluter pays" principle or implement a framework to compensate those suffering climate change loss and damage, whether in the UK or beyond. The High Court refused permission to allow the claimants to seek judicial review on all grounds. **Applicant commentary** This judgment relates to proposals and policies prepared by the Secretary of State and programmes laid before Parliament under sections 13 and 58 of the Climate Change Act 2008 respectively. It focusses on whether those actions were compliant with those provisions of the Climate Change Act 2008 and wider human rights legislation but does not establish the legal principles that SEPE seek to rely on. Moreover, it is not clear from the judgement that it concerns the designation of National Policy Statements as the policies in question are not directly referenced. On this basis, the Applicant considers that this case does not establish or support the principles SEPE's submissions seek to derive from it. The Applicant's position is therefore that this authority is of minimal or no relevance to SEPE's submissions.
5	**R (Burridge) v Breckland District Council [2013] EWHC 4064 (Admin)** **Applicant note:** The Applicant believes that the case reference provided above is incorrect, which relates to the extradition case Celen v Turkey. The Applicant believes that SEPE meant to refer to the Court of Appeal judgement of R. (on the application of Burridge) v Breckland DC with neutral citation reference [2013] EWCA Civ 228.	**Adequacy of environmental information and reliance on supporting material** **Summary** The Court held that environmental information relied upon in decision-making must be sufficiently clear, accessible and available to consultees and the public. Reliance on material that is unclear, incomplete or not properly presented may undermine the effectiveness of consultation and the decision-making process. **Legal principle** Environmental information must be presented in a manner that enables consultees and decision-makers to understand the likely significant effects of the development; reliance on unclear or inadequately presented material may render the assessment unlawful. **Relevance to the Proposed Development**	"*For the avoidance of doubt, this Appendix is expressly directed to the Infrastructure Planning (EIA) Regulations 2017, which requires assessment of the likely significant effects of the Proposed Development "taking into account cumulative effects with other existing and/or approved projects, and reasonably foreseeable future developments." The schemes identified herein meet the legal test of reasonable foreseeability as established in R (Burridge) v Breckland District Council [2013] and R (Holborn Studios Ltd) v London Borough of Hackney [2017], yet have not been assessed cumulatively within the Applicant's Environmental Statement*" (Page 467).	**Summary** The case in question relates to the grant of planning permission for a biomass renewable energy plant and combined heat and power plant. The original application was for the two plants to be on adjoining rural sites, a screening opinion was carried out for the renewable energy plant, which concluded that the development would not have a significant impact on the environment. The application was later amended to relocate the power plant to an industrial site, but no further screening opinion was carried out before planning permission was granted. An application was made for judicial review requesting that the planning permissions were quashed. The High Court at first instance (case reference [2012] EWHC 1102 (Admin)) held that a further screening opinion had not been required and declined to quash the permissions, accepting the witness statement of the principal planning for the local authority who stated that the relocation of the power plant and pipeline aspect would not result in any increased or

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
	BAILII weblink: Burridge v Breckland District Council [2013] EWCA Civ 228 (19 April 2013)	The WR identifies instances where technical material, supporting documents or underlying assumptions are not presented in a clear or accessible manner, including in relation to environmental baselines, risk assessment and mitigation. These issues are relevant to whether consultees and the ExA can properly understand and evaluate the likely environmental effects of the Proposed Development, consistent with EN-1 and the EIA Regulations. **WR cross-references** Appendix I While R (Burridge) v Breckland District Council is expressly cited in Appendix I, the principles established in that judgment inform the assessment of environmental information clarity and accessibility throughout this Written Representation.		different environmental impact from the original screening opinion. The Court of Appeal ultimately agreed with the High Court that a further screening opinion was not required and dismissed the appeals without quashing the planning permissions. **Applicant commentary** The Applicant considers that SEPE's written representation presents this judgement out of context. The case is principally concerned with the question of whether the LPA should have obtained a second screening opinion when the development proposals were amended, which is not relevant to the examination of the Scheme. Additionally, the Applicant notes that in Appendix I, SEPE refer to this case as having established a "*legal test of reasonable foreseeability*". This test is not explicitly referred to in the judgement itself. On this basis, the Applicant considers that this case does not establish or support the principles SEPE's submissions seek to derive from it. The Applicant's position is therefore that this authority is of minimal or no relevance to SEPE's submissions.
6	**R (Samuel Smith) v North Yorkshire CC [2020] UKSC 3** **BAILII Weblink**: Samuel Smith Old Brewery (Tadcaster) & Ors, R (on the application of) v North Yorkshire County Council [2020] UKSC 3 (5 February 2020)	**Alternatives as a main issue** **Summary** The Supreme Court confirmed that alternatives must be considered where planning policy or the nature of the proposal makes them a central issue. Decision-makers must engage with relevant policies and cannot treat harmful impacts as inevitable without considering whether they could be avoided or reduced. **Legal principle** Where policy requires consideration of alternatives, the decision-maker must address that requirement in substance, not merely in form. **Relevance to the Proposed Development** EN-1 and EN-3 emphasise the importance of considering reasonable alternatives, particularly where significant land-use impacts arise. The WR examines whether the application provides a transparent explanation of site selection and alternatives in relation to BMV land and deployment options. This authority underscores the relevance of that analysis to the planning balance. **WR cross-references** ss. 4, PD #4A While R (Samuel Smith) v North Yorkshire CC is expressly cited in Section 4 and PD #4A, the principles established in that judgment are applied more broadly throughout this Written	"Simil*arly, in R (Samuel Smith Old Brewery) v North Yorkshire CC [2020] UKSC 3 and R (Hayes) v Wychavon DC [2014] EWHC 221 (Admin), the courts recognised that where development plan or national policy directs attention to alternative means of achieving an objective, the failure to engage meaningfully with realistic lower-harm options may weaken the robustness of the decision-making process, depending on the circumstances*" (Page 33). "*As the Supreme Court confirmed in R (Samuel Smith Old Brewery) v North Yorkshire CC [2020] UKSC 3, where policy directs attention to a particular consideration, the decision-maker must properly engage with that requirement*" (Page 37).	**Summary** This case concerned an appeal by an LPA against a decision that it had misunderstood the meaning of "openness" within the meaning of paragraph 90 of the National Planning Policy Framework ("NPPF") as relevant to mineral working. A quarry operator had applied for planning permission for a six-hectare extension to the operational face of a quarry, situated in the green belt, the planning officer concluded that the proposed development preserved the openness of the green belt and planning permission was granted. The grant of planning permission was subsequently challenged on the basis that the planning officer had failed to consider the visual impact of the development. The High Court found that visual impact was not an implicit requirement of the openness proviso, which was overturned and the planning permission quashed by the Court of Appeal on the basis that visual impact was a necessary part of the assessment. The Court of Appeal decision was challenged in the Supreme Court, which overturned with the decision so that the planning permissions would stand. **Applicant commentary** The Applicant notes that the primary issue in this case was the meaning of the word "openness" in paragraph 90 of the NPPF as it applies to mineral working. This was not a case dealing with the consideration of alternatives. The concept is mentioned only briefly and by

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
		Representation in assessing alternatives, policy application and planning judgment.		analogy at paragraph [30] of the judgement where the Court cites the case of Derbyshire Dales District Council v Secretary of State for Communities and Local Government [2009] EWHC 1729 (Admin); [2010] 1 P & CR 19. Moreover, where this case references harm this is in the context of harm to the openness of the green belt within the meaning of the NPPF. On this basis, the Applicant considers that this case does not support the arguments put forward by SEPE, particularly those made on page 33 of the written representation. It is however accepted that the judgement provides some general commentary on the factors that decision makers must take into account. The test considered at [32] is whether visual impacts (in that case) were expressly or impliedly identified in law or policy as considerations to be required to be taken into account by the authority "as a matter of legal obligation" or alternatively whether, on the facts of the case, they were "so obviously material" as to require direct consideration.
7	**R (Hayes) v Wychavon DC [2014] EWHC 221 (Admin)** **Applicant note:** The Applicant believes that the case reference provided above is incorrect and has not been able to find a case with this reference. The Applicant believes that SEPE are referring to the High Court case R. (on the application of Hayes) v Wychavon DC [2014] EWHC 1987 (Admin) **BAILII Weblink**: Hayes, R (on the application of) v Wychavon District Council & Anor [2014] EWHC 1987 (Admin) (24 June 2014)	**Failure to consider realistic alternatives** **Summary** The Court held that failure to consider a realistic alternative may be unlawful where policy requires such consideration and where alternatives could materially reduce harm. **Legal principle** Available alternatives capable of avoiding or reducing harm must be examined where they are relevant to the planning decision. **Relevance to the Proposed Development** The WR discusses potential alternative land configurations and deployment pathways that may reduce impacts on high-quality agricultural land. EN-3 encourages directing development away from BMV land where reasonable alternatives exist. This authority highlights the importance of demonstrating why the chosen scheme represents a reasonable option in light of those alternatives. **WR cross-references** s. 4 While R (Hayes) v Wychavon District Council is expressly cited in Section 4, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing the adequacy of environmental information and planning judgment.	SEPE raise this in relation to the project's potential impacts on high-quality agricultural land. They claim that: "*Available alternatives capable of avoiding or reducing harm must be examined where they are relevant to the planning decision*." (p 417 pdf 423) "*As established in Lebus and Hayes, where policy anticipates consideration of alternatives, decision-makers must be provided with sufficient objective material to understand how that consideration has informed site selection*." (p 37 pdf 43)	**Summary** This case concerns an application for judicial review of the defendant LPA's decision to grant planning permission for the erection of an agricultural building for goats and chickens, and for tractor and equipment storage. The claimant's grounds for judicial review were as follows: • that there was an unlawful failure to consult the Environment Agency, which was abandoned by the claimant; • that the defendant's planning officer failed to make sufficient inquiries, meaning the officer's report was deficient and the subsequent decision by the defendant was unsupported by evidence, unlawful and irrational; • that the defendant's planning officer failed to understand or apply relevant policy and thus failed to have regard to a material consideration; and • that the defendant failed to have regard to the legal consequences of failing to impose a condition regulating the nature of the development. Mrs Justice Lang found against the claimant and dismissed the application for judicial review. **Applicant commentary** The Applicant considers that this case is not relevant to the submissions made by SEPE. The case itself mentions alternatives only briefly in an extract from the officer's report at paragraph [64], and only in the context of a local plan requirement that "*any new buildings or structures are sited close to existing farm or forestry buildings, unless the functional need for a more isolated site can be clearly demonstrated*". The case does not turn on the consideration of

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				alternatives more widely and where alternatives are mentioned the judgement turns largely on inconsistencies in the planning officer's report, with the High Court ultimately finding that these errors did not disclose an error of law in the LPA's decision making process or create doubt regarding the LPA's conclusions on the issue. On this basis, the Applicant considers that this case does not establish or support the principles SEPE's submissions seek to derive from it. The Applicant's position is therefore that this authority is of minimal or no relevance to SEPE's submissions.
8	**R (Mount Cook Land) v Westminster CC [2003] EWCA Civ 1346** **BAILII weblink**: Mount Cook Land Ltd & Anor v Westminster City Council [2003] EWCA Civ 1346 (14 October 2003)	**A flawed or incomplete alternatives review undermines lawfulness** **Summary** The Court held that alternatives assessment must be meaningful where environmental harm is significant and that superficial consideration is insufficient. **Legal principle** An incomplete or perfunctory alternatives assessment may undermine the lawfulness of the decision. **Relevance to the Proposed Development** Where substantial land-use change and environmental effects are proposed, EN-1 expects decision-makers to understand whether impacts could be avoided or reduced. The WR's analysis of site selection is relevant to determining whether the proposal reflects a constraint-led approach consistent with national policy. **WR cross-references** None (not expressly cited in the main body of the WR) While R (Mount Cook Land) v Westminster City Council is not expressly cited in the main body of this Written Representation, the principles established in that judgment are relied upon in assessing alternatives, the adequacy of environmental information and planning judgment.	This case is not mentioned in the main body of SEPE's written representation.	**Summary** This case concerns an appeal by a claimant property owner against the refusal of permission to bring an application for judicial review of the LPA's decision to grant planning permission for minor external alterations to a leaseholder of the property. The claimant had been intending to develop the property and alleged that the applicant had not considered how its proposals would preserve or enhance the relevant conservation area and that some alterations might prejudice the future use of the upper floors for retail, producing design options but without making a planning application. The LPA considered that the claimant's proposals were too vague for consideration but that the objections would be put before the planning applications sub-committee. The director of planning and transportation for the LPA prepared a report detailing the objections and advised that they were irrelevant to the consideration of the applicant's scheme, which were approved. The claimant's application for judicial review was initially refused on paper and then after an oral hearing. The Court of Appeal also dismissed the application. Much of the judgement turns on costs, but in respect of the alternative scheme the Court of Appeal found that only in exceptional circumstances would it be relevant to consider alternative proposals which were not the subject of a planning application, and even then the alternative would have to be likely or a real possibility in the foreseeable future. The materiality and weight of such an application was a matter for planning judgment, and it was open to the court to hold that it would have been irrational to have regard to such proposals, or give it sufficient weight so as to defeat the application. The Court also held that claimant's proposals were not material considerations or, if they were, the local authority could not reasonably have taken notice of them. **Applicant commentary** The Applicant considers that SEPE's written representation presents this judgement out of context.

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				The case concerns the consideration of alternative, but does so in the context of a party seeking to object to an ongoing planning application by submitting alternative development proposals. The factual matrix of this case is very far removed from the Applicant's Scheme and is largely irrelevant for the purposes of an EIA-based alternatives assessment carried out by an applicant. On this basis, the Applicant considers that this judgement is not at all relevant to the examination of the Scheme.
9	**R (Moseley) v Haringey LBC [2014] UKSC 56** **BAILII Weblink**: Moseley, R (on the application of) v London Borough of Haringey [2014] UKSC 56 (29 October 2014)	**Statutory consultation must be fair, evidence-based and transparent** **Summary** The Supreme Court confirmed that consultation must be fair, transparent and conducted at a formative stage, with sufficient information provided to allow consultees to understand the proposal and its impacts. **Legal principle** Consultees must be able to make informed representations; consultation based on incomplete or misleading information may be unlawful. **Relevance to the Proposed Development** The WR identifies concerns regarding consultation materials and the availability of technical information. This authority is relevant to whether the consultation process enabled meaningful engagement, an issue the ExA may consider when assessing procedural adequacy. **WR cross-references** ss. 2, 3, 4 While R (Moseley) v London Borough of Haringey is expressly cited in the sections above, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing fairness, transparency and the adequacy of consultation.	"*As set out in the accompanying Legal Appendix (Appendix B), established authorities (including Blewett, Moseley, Lebus, ClientEarth and Holborn Studios) indicate that proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination*" (Page 2 and 23). "*Defective consultation – Host-authority representations confirm incomplete technical material, inconsistent engagement, and failure to demonstrate how consultation influenced design, contrary to Moseley principles*" (Page 4 and 25). "*consultation and alternatives assessment must be meaningful and evidence led (Moseley; Lebus)*" (Page 5 and 26). "*As set out in the accompanying legal appendix (Appendix B), established authorities including Blewett, Lebus, Moseley, Holborn Studios and ClientEarth emphasise that determination of a nationally significant infrastructure project requires sufficient and accurate environmental information, meaningful consultation, and effective mitigation measures that are clearly defined and capable of implementation*" (Page 28). "*In R (Moseley) v Haringey [2014] UKSC 56, the Supreme Court confirmed that consultation must be conducted on a basis that enables consultees to make an "intelligent consideration and response," recognising that this does not require full technical detail but does require sufficient clarity about the nature and implications of the proposals*." (Page 39).	**Summary** This case concerns an appeal by the claimant against a decision that a consultation conducted by the local authority in respect of its council tax reduction scheme was not unlawful. The local authorities' consultation document, which was sent to 36,000 households, contained no reference to options for meeting a shortfall in central government reimbursement of relief from council tax, other than by a reduction in relief from council tax (the other options being increasing council tax, reducing the funding of H's services and applying its deployable reserves of capital). The Supreme Court found in favour of the claimant, finding that the local authority had failed to comply with its statutory duty of consultation, in part because it presented the proposed reduction in relief from council tax as an inevitable consequence of the Government's funding cuts, which misleadingly implied that there were no possible alternatives. **Applicant commentary** The Applicant notes the principles established by this case and their potential relevance to planning decisions in the context of adequacy of consultation. The Applicant is subject to an explicit statutory duty to carry out consultation under section 42 of the Planning Act 2008 and associated legislation. The Applicant has complied with this duty as evidenced in the **Consultation Report [APP-023]**. The Applicant disagrees that the case supports SEPE's submissions that the case "*indicate[s] that proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination" or that it "emphasise[s] that determination of a nationally significant infrastructure project requires sufficient and accurate environmental information, meaningful consultation, and effective mitigation measures that are clearly defined and capable of implementation*". This case did not concern EIA or planning matters and as such it does not touch on environmental information (in the context of EIA) or the adequacy of mitigation.

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
10	**R (Plantagenet Alliance) v Secretary of State [2014] EWHC 1662 (Admin)** **BAILII Weblink**: Plantagenet Alliance Ltd, R (On the Application Of) v Secretary of State for Justice [2014] EWHC 1662 (QB) (23 May 2014)	**Summary** The Court emphasised that consultation must be genuine and meaningful, and that consultees must have sufficient information to participate effectively. **Legal principle** Material changes to a proposal may require further consultation where they alter the nature or impacts of the scheme. **Relevance to the Proposed Development** The WR discusses changes to Order Limits and project components during the pre application process. This authority highlights the importance of ensuring that affected parties had adequate opportunity to comment on the proposal as ultimately submitted, consistent with the principles of procedural fairness underpinning EN-1. **WR cross-references** s. 4 While R (Plantagenet Alliance) v Secretary of State for Justice is expressly cited in Section 4, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing procedural fairness and the lawfulness of decision-making.	"*Read alongside Plantagenet Alliance [2014] EWHC 1662 (Admin), these principles do not suggest that the consultation process was unlawful per se, but they do indicate that the iterative development of the scheme, in the absence of a clearly articulated alternatives framework, has limited the practical value of consultation responses on site selection and land-use impacts. This matter is therefore relevant to the weight that can properly be attached to the consultation outcomes in respect of alternatives and BMV land take, and reinforces Procedural Deficiencies 4E and 4F*." (Page 39)	**Summary** This case concerned the exhumation and reinterment of the remains of King Richard III, and a challenge to the absence of public consultation as to the place of reburial of King Richard III's remains under the Burial Act 1857. The Court held that, although a duty to consult may in some circumstances be implied, there was on the facts no duty to consult, no promise or established practice to do so, and no public law grounds to interfere in the decisions challenged. The Court further held that the Secretary of State had not acted irrationally in declining to revisit the licence because they already had sufficient information and no further inquiry or public consultation was required. **Applicant commentary** The Applicant considers that SEPE's submissions' reliance on this case is entirely misplaced. This case related to a judicial review challenge to the absence of public consultation as to the place of reburial of King Richard III's remains under the Burial Act 1857. It did not concern EIA, the DCO regime or planning more widely, and did not establish or support any principle that "*Material changes to a proposal may require further consultation where they alter the nature or impacts of the scheme*." Further, to the extent SEPE's submissions seek to derive from this case any wider public law principles or propositions concerning consultation on alternatives in the DCO context, the Court's judgment does not assist with this. The Applicant's position is therefore that the case has no relevance to SEPE's submissions.
11	**Caring for the Environment v Secretary of State for the Environment & Test Valley BC (1997) JPL 917** **Applicant note:** The Applicant cannot identify any case under "Caring for the Environment v Secretary of State for the Environment & Test Valley BC" and accordingly notes that it is unclear what authority SEPE is seeking to rely upon.	**Summary** The Court recognised that agricultural land quality, including Best and Most Versatile (BMV) land, is a material planning consideration requiring evidence-based assessment. Decision-makers must evaluate the significance of agricultural land loss and cannot treat it as a neutral or incidental consequence of development. **Legal principle** Loss of high-quality agricultural land is a potentially significant planning harm and must be explicitly assessed and justified, particularly where alternatives exist. **Relevance to the Proposed Development** The WR identifies that a substantial proportion of the Order Limits comprises BMV agricultural land and examines whether the application demonstrates that this loss is necessary and proportionate. EN-3 establishes a preference for directing solar development away from BMV land where reasonable	"*In Caring for the Environment Ltd v SSCLG [2018] EWHC 1895 (Admin), the Court recognised that where restoration outcomes are uncertain, it may be reasonable to treat long-term functional change as carrying effects comparable to permanence for the purposes of the planning balance*." (Page 59) "*In Caring for the Environment v SSE & Test Valley BC (1997) JPL 917, the court accepted that loss of high-quality agricultural land constituted a material adverse effect*." (Page 60)	**Summary** Please refer to the Applicant commentary below. **Applicant commentary** The Applicant cannot identify any case under "Caring for the Environment v Secretary of State for the Environment & Test Valley BC". It is therefore unclear what authority SEPE's submissions seek to rely upon. Further, the citation provided corresponds to R v Parliamentary Commissioner for Administration ex p Balchin (No 1). That case concerned a judicial review of an Ombudsman's decision in relation to alleged maladministration by the Secretary of State for Transport, arising from a failure to draw a local authority's attention to its discretionary compensation powers under section 246(2A) of the Highways Act 1980 in the context of a confirmed road order. It did not concern Best and Most Versatile Agricultural Land and did not establish any principle relevant to this application.

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
		alternatives exist. This authority underscores the importance of treating agricultural land loss as a substantive planning issue requiring transparent justification. **WR cross-references** s. 5 While Caring for the Environment v Secretary of State for the Environment & Test Valley BC is expressly cited in Section 5, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing agricultural land quality, BMV loss and planning judgment.		Therefore, subject to SEPE identifying the correct authority and any relevant passages relied upon, the Applicant considers that no weight can be given to this citation as relied upon in SEPE's submissions.
12	**Hallam Land Management Ltd v Secretary of State for Communities and Local Government [2015] EWHC 2475 (Admin)** **Applicant note:** The Applicant believes that the case citation provided above is incorrect and should read "[2017] EWHC 2865 (Admin)". **Neutral citation:** [2017] EWHC 2865 (Admin) **BAILII weblink**: Hallam Land Management Ltd v Secretary of State for Communities and Local Government & Anor [2017] EWHC 2865 (Admin) (16 November 2017)	**Summary** The Court held that decision-makers must consider the cumulative loss of productive agricultural land and the broader implications for land resources. Agricultural impacts cannot be assessed in isolation where wider regional losses are occurring. **Legal principle** Cumulative loss of productive agricultural land is a relevant planning consideration requiring explicit assessment and justification. **Relevance to the Proposed Development** The WR addresses cumulative land-use change and the implications of long-duration withdrawal of productive farmland. EN-1 requires consideration of cumulative effects and efficient use of land resources. This authority supports the relevance of evaluating agricultural impacts beyond the immediate site. **WR cross-references** ss. 5, 8 While Hallam Land Management Ltd v Secretary of State for Communities and Local Government is expressly cited in Sections 5 and 8, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing planning judgment, policy application and the balancing of harms and benefits.	"*In Hallam Land Management v SSCLG [2015] EWHC 2475 (Admin), the High Court emphasised the relevance of cumulative national losses of productive farmland*." (Page 60) "*Decision-makers are entitled to afford limited weight to mitigation that is speculative or unsupported by empirical evidence. This principle has been confirmed in case law (for example, Hallam Land v SSCLG [2018] EWHC 285 (Admin)) and reflected in multiple solar NSIP decisions where optimistic vegetation assumptions were discounted in the absence of verification*." (Page 106)	**Summary** Hallam Land concerned whether the Secretary of State had been entitled to uphold a refusal of planning permission for a residential development, notwithstanding an acknowledged shortfall in the five-year housing supply in the local planning authority's area. It considered how the extent of the shortfall in five-year housing land supply should have been determined, the weight to be given to policies (including paras 14 and 49 of the NPPF and certain restrictive local plan policies), and whether the Secretary of State had given adequate reasons in refusing planning permission in light of certain recent appeal decisions. The Court held that policies in paras 14 and 49 of the National Planning Policy Framework did not specify the weight to be given to the benefit of reducing a shortfall against the five-year supply requirement; nor did they stipulate the degree of precision required in calculating the supply of housing land, although the decision-maker had to identify at least the broad magnitude of any shortfall. In doing so, the Court also reiterated that the weight to be given to relevant harms and benefits is a matter of planning judgment. **Applicant commentary** SEPE submits that in Hallam Land the Court "*emphasised the relevance of cumulative national losses of productive farmland*" and that "*cumulative loss of productive agricultural land is a relevant planning consideration requiring explicit assessment and justification*". The Applicant consider that this is a material mischaracterisation and/or misinterpretation of the case. As noted, this case concerned issues around the weight to be given to policies (in this case, paras 14 and 49 of the NPPF and certain restrictive local planning policies), the precision to which any shortfall in the housing supply in the local authority's area should have been determined, and wider principles around consistency in planning decisions. Further, the only reference the Applicant has been able to identify in the judgment to agricultural land is at paragraph 32, where the Court notes that the Secretary of State considered

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				that "the loss of "best and most versatile" agricultural land carries moderate weight against the proposal". At most, the case implicitly confirms that site-specific loss of "best and most versatile" agricultural land may be a material consideration, and that the weight given to that harm, alongside competing benefits and policies, remains a matter for the decision-maker's planning judgment on the facts of the particular case. However, the Court did not emphasise "*the relevance of cumulative national losses of productive farmland*", nor did the case establish or uphold any principle that "*cumulative loss of productive agricultural land is a relevant planning consideration requiring explicit assessment and justification*". As such, the Applicant considers that the factual matrix of this case, and the principles that it establishes, are significantly removed from SEPE's submissions.
13	**R (Save Britain's Heritage) v Secretary of State for Communities and Local Government [2011] EWCA Civ 334** **BAILII Weblink**: Save Britain's Heritage), R (on the application of) v Secretary of State for Communities and Local Government [2011] EWCA Civ 334 (25 March 2011)	**Summary** The Court held that the characterisation of development impacts as "temporary" does not negate their significance where effects are long-lasting or effectively irreversible. A development lasting several decades may constitute a permanent change in planning terms. **Legal principle** Long-duration impacts cannot be discounted merely because they are described as 'temporary'; their real environmental consequences must be assessed. **Relevance to the Proposed Development** The WR considers the implications of long-term land-use change over the operational life of the scheme. EN-1 requires assessment of effects over the lifetime of the development, including decommissioning. This authority highlights the importance of evaluating whether long-duration occupation of land should be treated as a significant effect rather than a reversible one. **WR cross-references** s. 5 While R (Save Britain's Heritage) v Secretary of State for Communities and Local Government is expressly cited in Section 5, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing the adequacy of environmental information, heritage impacts and planning judgment.	"*In Save Britain's Heritage v SSCLG [2018] EWHC 3141 (Admin), the High Court confirmed that it is legitimate for decision-makers to look beyond labels such as "temporary" and to examine the practical effects of a proposal over its full lifespan. In this context, the description of a 40-year land use as "interim" does not of itself resolve the question of how that loss should be characterised in the planning balance*." (Page 58) "*in Save Britain's Heritage v SSCLG [2011] EWCA Civ 334, the Court of Appeal rejected attempts to downplay long-term impacts through reliance on nominal temporariness where practical restoration was uncertain. These authorities do not establish a rule that long-term temporary uses must always be treated as permanent, but they confirm that uncertainty over recovery is a legitimate consideration*." (Page 59)	**Summary** Save Britain's Heritage was a Court of Appeal case concerning whether demolition works were capable of being a "scheme" for the purposes of Directive 85/337 art.1(2). The Court held that demolition works were capable of being a "scheme" and could fall within the Directive, including where the project comprised demolition and restoration of the site. **Applicant commentary** SEPE submits that Save Britain's Heritage establishes or supports a principle that "Long-duration impacts cannot be discounted merely because they are described as 'temporary'; their real environmental consequences must be assessed. The Applicant considers this to be a material mischaracterisation and/or misinterpretation of the case. This case concerned whether demolition works were capable of being a "scheme" for the purposes of Directive 85/337 art.1(2), and whether demolition works could fall within the EIA regime. The Applicant has not identified any passage in the judgment which supports SEPE's submissions that in this case, the Court "*rejected attempts to downplay long-term impacts through reliance on nominal temporariness*", or that it confirmed that decision-makers may "look beyond the label "temporary" and assess the practical effects of a proposal over its full lifespan." The nearest passage to these propositions that the Applicant has been able to identify is the Court's observation at paragraph 22 that, where a demolition site may remain vacant for some time, that may be relevant to considering the steps reasonably necessary to leave the site in a condition which both protects the public and preserves public amenity. However, that is plainly a different point.

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				As such, this case does not establish or support the principles SEPE's submissions seek to derive from it. The Applicant's position is therefore that this authority is of minimal or no relevance to SEPE's submissions.
14	**R (Frack Free Balcombe) v West Sussex CC [2014] EWHC 4108 (Admin) R (Frack Free Balcombe) v West Sussex CC [2014] EWHC 4108 (Admin)** **BAILII Weblink**: Frack Free Balcombe Residents Association, R (on the application of) v West Sussex County Council [2014] EWHC 4108 (Admin) (05 December 2014)	**Summary** The Court confirmed that where development involves potentially hazardous activities, decision-makers must understand the credible risks and their consequences before granting consent. Reliance on unspecified future mitigation may be insufficient where risks are significant. **Legal principle** For hazardous or high-risk development, decision-makers must be satisfied that risks have been adequately assessed and are acceptable. **Relevance to the Proposed Development** The WR discusses safety considerations associated with battery energy storage systems and the adequacy of risk assessment evidence. EN-1 requires applicants to demonstrate that risks to health and safety have been assessed and managed. This authority supports the importance of robust pre-determination analysis of major accident risk pathways. **WR cross-references** ss. 2, 3, 4, 20 While R (Frack Free Balcombe Residents Association) v West Sussex County Council is expressly cited in the sections above, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing the precautionary approach, risk assessment and the adequacy of environmental information for hazardous development.	"*The Applicant relies on a limited, assumption-led 1 km study area that excludes nearby settlements, while critical safety evidence is deferred to post-consent stages, contrary to EN-1 and Frack Free Balcombe*." (Page 4) "*hazardous infrastructure requires robust, quantified risk assessment (Frack Free Balcombe)*." (Pages 5 and 26) "*The Applicant relies on a limited, assumption-led 1 km study area that excludes nearby settlements, while critical safety evidence is deferred to post-consent stages, contrary to EN-1 and Frack Free Balcombe*." (Page 25) "*These omissions leave the Examining Authority without the minimum evidence required under EN-1 and the public safety principles recognised in Frack Free Balcombe for hazardous energy infrastructure*." (Page 30) "*Case law such as Frack Free Balcombe [2014] and Buglife [2019] does not prohibit the use of post-consent controls, but it does emphasise that the likely significant effects of hazardous infrastructure must be understood at a level sufficient to inform the decision*." (Page 51) "*This approach reflects the precautionary principle embedded in EN-1 and is consistent with case law confirming that hazardous infrastructure requires robust assessment of worst-case risks prior to consent (e.g. R (Frack Free Balcombe Residents Association) v West Sussex CC)*." (Page 348)	**Summary** This case concerned a judicial review challenge to West Sussex County Council's grant of planning permission for temporary exploration and appraisal works at an existing hydrocarbon borehole. One of the principal grounds advanced by the Claimant was that the planning officer had wrongly advised the committee to leave matters such as pollution control, air emissions and well integrity to other statutory regulators, including the Environment Agency and the Health and Safety Executive. The Court dismissed this claim and upheld that there is ample authority for a planning authority, in the exercise of its discretion, to leave matters of regulatory control to the relevant statutory regulators and to avoid duplication of specialist controls, proceeding on the basis that those regimes will operate effectively where there is no proper basis for concluding otherwise. **Applicant commentary** The Applicant considers that SEPE's submissions materially mischaracterise and/or misinterpret this authority, and that it does not establish or support the principles SEPE's submissions seek to derive from it. For example, the judgment does not support SEPE's submissions that "*hazardous infrastructure requires robust, quantified risk assessment*" or that decision-makers must themselves possess "*the minimum evidence required under…the public safety principles recognised in Frack Free Balcombe for hazardous energy infrastructure*." As noted above, the Court instead held that where relevant issues fall within the remit of competent statutory regulators, a planning authority may lawfully avoid duplication and proceed on the basis that those regulators will perform their functions, absent any information demonstrating that such reliance would be misplaced. Accordingly, any attempts to derive from the case any broader principles around minimum evidential thresholds or quantified risk-assessment are unsupported. The Applicant therefore maintains that the authority has been materially mischaracterised and does not assist SEPE's submissions.
15	**R (Buglife – The Invertebrate Conservation Trust) v Thurrock Thames Gateway Development**	**Where scientific uncertainty exists, the precautionary principle must apply** The Court emphasised that ecological impacts must be assessed rigorously where significant uncertainty exists, particularly where habitats or species may be affected.	"*Case law such as Frack Free Balcombe [2014] and Buglife [2019] does not prohibit the use of post-consent controls, but it does emphasise that the likely significant effects of hazardous infrastructure must be understood at a level sufficient to inform the decision*." (Page 51).	**Summary** Whilst the local planning authority had not considered a planning policy statement phrase-by-phrase when granting planning permission for development on a site where rare and endangered invertebrates lived, it had sufficiently analysed

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
	Corporation [2019] EWHC 1997 (Admin) **Applicant note:** The Applicant believes that the case citation provided above is incorrect. **Neutral citation:** [2009] EWCA Civ 29 **BAILII weblink**: Buglife The Invertebrate Conservation Trust, R (on the application of) v Thurrock Thames Gateway Development Corporation & Ors [2009] EWCA Civ 29 (28 January 2009)	Decision-makers should adopt a precautionary approach where evidence is incomplete. **Legal principle** Where environmental effects are uncertain but potentially significant, robust assessment and precautionary decision-making are required. **Relevance to the Proposed Development** The WR identifies areas of ecological uncertainty and baseline limitations. EN-1 and the EIA Regulations require decision-makers to reach a reasoned conclusion on environmental effects. This authority highlights the importance of ensuring that ecological impacts are adequately understood before consent is granted. **WR cross-references** s. 4 While R (Buglife – The Invertebrate Conservation Trust) v Thurrock Thames Gateway Development Corporation is expressly cited in Section 4, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing ecological impacts, mitigation and the adequacy of environmental assessment.		considerable evidence in the context of its overall duty to have regard to the purpose of conserving biodiversity. In relation to planning policy (in particular PPS9 (Planning Policy Statement 9 entitled "Biodiversity and Geological Conservation") paragraphs 1(vi) and 16, and when striking the necessary balance, read as a whole PPS9, envisages the decision maker coming to an overall view with the long term in mind. It is important to note that the application was accompanied by an immensely detailed environmental statement. Under the Town & Country Planning (Environmental Impact Assessment (England & Wales) Regulations 1999) ("the 1999 Regulations"). The planning authority must take the environmental information into consideration. Such a statement must also include "*a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects*". This case concerned examining local possible alternative sites when are and endangered / rare invertebrates are present, the balance between protecting wildlife and the need for the development and mitigation measures. The possibility of alternative sites was raised by the appellants in submissions and alternative sites were suggested, these representations were incorporated into the officers' report to committee. The LPA correctly considered alternative sites and were right in their approach to the planning balance. The LPA found that short-term harm might be caused to the ecology, but considered the long-term benefit and granted planning permission with conditions. One being that a phasing plan to secure the survival of the invertebrates be submitted and approved. On phasing, the court found provisions had been made which were appropriate by way of phasing depended on the detailed development involved, and a close monitoring of it in relation to the emerging effect on the environment, including on the rare invertebrates. It was also noted that Natural England (a statutory consultee), with expertise it conservation matters, following detailed discussions and scrutiny, withdrew its objection to the planning application. The appeal was dismissed. **Applicant commentary** The Applicant believes that the case citation relied upon in the WR, namely [2019] EWHC 1997 (Admin), is incorrect. The Applicant's reading of the case is that PPS9 does not impose a rigid, step by or precaution led veto on development, it allows the decision-maker to take an overall planning judgment, allows them to rely upon the environmental

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				statement and it allows them to take into account proposed mitigation, phasing and conditions, It is also worth noting that this case was decided under PPS9 and not the current NPPF/Environment Act regime, its relevance therefore is context-specific. The case does not provide authority on the level of ecological assessment. In this case analysis was sufficient. There is no reference to a 'precautionary approach' or 'uncertainty' in the judgment. <u>Therefore, reliance upon Buglife is misplaced and is not authority for the proposition relied upon in this WR.</u>
16	**R (ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy (Drax Power Ltd) [2021] EWHC 330 (Admin)** **Applicant note**: The Applicant believes that the case citation provided above is incorrect. **BAILII weblink**: ClientEarth, R (on the application of) v Secretary of State for Business, Energy and Industrial Strategy & Anor [2021] EWCA Civ 43 (21 January 2021)	**Mitigation must be "specific, certain and enforceable"** The Court held that reliance on mitigation measures requires those measures to be specific, certain and enforceable. Decisions based on aspirational or uncertain controls may be vulnerable if mitigation is not secured. **Legal principle** Mitigation relied upon in the planning balance must be clearly defined and capable of effective enforcement. **Relevance to the Proposed Development** The WR reviews whether the draft DCO secures the mitigation measures assumed in the ES. EN-1 emphasises that mitigation must be deliverable and effective. This authority highlights the relationship between enforceability and the weight that can be attributed to mitigation in the planning balance. **WR cross-references** ss. 2, 4, 5, 20 While R (ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy (Drax Power Ltd) is expressly cited in the sections above, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing the adequacy of environmental assessment, compliance with legal obligations and the need for effective and enforceable mitigation.	"*As set out in the accompanying Legal Appendix (Appendix B), established authorities (including Blewett, Moseley, Lebus, ClientEarth and Holborn Studios) indicate that proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination*." (Page 2 and 23). "*As explained in Appendix B, deficiencies of this scale engage established public-law principles confirming that:* *• an incomplete ES may not provide a sufficient basis for informed determination (Blewett);* *• consultation and alternatives assessment must be meaningful and evidence led (Moseley; Lebus);* *• decision-makers cannot rely on vague or deferred mitigation (ClientEarth; Holborn Studios); and* *• hazardous infrastructure requires robust, quantified risk assessment (Frack Free Balcombe).* *The East Park Energy application fails to meet these requirements*." (Page 5 and 26). "*As set out in the accompanying legal appendix (Appendix B), established authorities including Blewett, Lebus, Moseley, Holborn Studios and ClientEarth emphasise that determination of a nationally significant infrastructure project requires sufficient and accurate environmental information, meaningful consultation, and effective mitigation measures that are clearly defined and capable of implementation*." (Page 28). "*The courts have consistently emphasised that environmental information must be presented in a manner that enables an informed and rational decision, including in Blewett [2003], Holborn Studios [2020], and ClientEarth [2021]*." (Page 31). "*Similarly, ClientEarth v Secretary of State for BEIS [2021] EWCA Civ 43 emphasises the importance of clear, comprehensible and evidence-based information being available to inform environmental decision-making. While ClientEarth does not impose an absolute requirement to consult on every conceivable alternative, it underlines the need for decision-makers, and those engaging in the process, to*	**Summary** This case is concerned with the interpretation of the Overarching National Policy Statement for Energy EN-1 and the National Policy Statement for Fossil Fuel Electricity Generating Infrastructure EN-2, both designated in July 2011. An environmental law charity (Client Earth) appealed against the dismissal of its claim for judicial review following the grant of a DCO. The DCO was to build and operate two gas-fired generating units. The ExA found that consent should not be granted. However, the SoS accepted that the development would have significant adverse environmental impacts but concluded that it would meet a national need for carbon capture ready fossil fuel generation, as set out in EN-1, which outweighed those impacts. There were three grounds to the appeal, first, whether the SoS misinterpreted EN-1 on the approach to assessing an energy NSIP's contribution to satisfying the need for the type of infrastructure proposed. Second, whether the SoS misinterpreted EN-1 on the approach to greenhouse gas emissions and third, whether the SoS misapplied section 104(7) of the Planning Act 2008. Section 104 governs the determination of an application for a DCO where a relevant national policy statement has effect. The section confirms that the SoS is required to "have regard" to "any relevant national policy statement". Further section 104(3) states "The SoS must decide the application in accordance with any relevant national policy statement". Section 104(7) notes that it applies if the SoS is satisfied that the adverse impact of the proposed development would outweigh its benefits. The Court concluded (paragraph 104) that the purpose of the balancing exercise in section 104(7) is to establish whether an exception should be made to the requirement in section 104(3) that an application for a DCO must be decided "in accordance with any relevant policy statement". The exercise involves a straightforward balance, setting "adverse impact" against

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
			understand the basis on which reasonable alternatives have been approached. Where alternatives reasoning emerges only after consultation, the ability of consultees to engage effectively with the environmental implications is necessarily constrained." (Page 39). "*As noted in R (ClientEarth) v Secretary of State for BEIS [2022] EWHC 1841 (Admin), decision-makers must still be satisfied that the environmental effects of a proposal have been assessed with sufficient clarity and completeness to enable a reasoned conclusion to be reached*." (Page 66). "*In ClientEarth v Drax 333 Power Ltd [2021] EWHC 330 and R (Holborn Studios) v Hackney LBC [2020] EWCA Civ 1505, the courts confirmed that it is unlawful to rely on mitigation whose scope, timing, funding or effectiveness is left to future discretion*." (Page 339)	"benefits". It is not expressed in such a way that it excludes considerations arising from national policy itself. The ExA had agreed with ClientEarth's contention that under EN-1 no weight should be given to the need for the proposed development because when current projections and other relevant factors were considered, there was no need for it. However, the SoS's decision was the opposite: paragraph 36 of the judgment "*Having referred to paragraphs 3.1.1 and 3.1.3 of EN-1, she quoted the statement in paragraph 3.6.1 that fossil-fuel power stations play a "vital role in providing reliable electricity supplies*", and the statement in paragraph 3.6.8 that "*there is a need for [carbon capture ready] fossil fuel generating stations*" further "*a gas-fired generating station which would be carbon capture ready (with directly linked battery storage)*" – is "*a type of infrastructure … covered by EN-1 and [EN-2] and as such the presumption in favour of granting consent … in paragraph 4.1.2 of EN-1 should apply*" Holgate J's view (paragraph 50) was that when reading EN-1 as a whole, rather than selectively, "[it] is plain that the NPS … does not require need to be assessed in quantitative terms for any individual application". He further noted that (paragraph 51) "EN-1 expressly provides, in paragraph 3.1.4 that "substantial weight" is to be given to the contribution a project makes to the identified need". The court found that the SoS had not misinterpreted EN-1 in her approach to the assessment of "need". Determination of individual applications under the policy did not require a general assessment of need in quantitative terms. The Appellant argued that EN-1 required a "quantitative" assessment of need and you could not just assume that that if a project fell into a category there was automatically a need. The court found that the decision-maker had to consider that question by judging what weight would be proportionate to the anticipated extent of the development's actual contribution to satisfying the need for infrastructure of that type. The court found that the SoS had correctly applied the policies, the appeal was dismissed. **Applicant commentary** The Applicant believes that the case citation relied upon in the WR, namely [2021] EWHC 330 (Admin), is incorrect. The court held that EN-1 does not require a quantitative assessment of need for an individual project and that the weight to be given to "need" is a matter of planning judgment, to be assessed qualitatively and proportionately. They also confirm that nothing the SoS did was unlawful. ClientEarth concerns the interpretation of national energy policy on "need" and the treatment of greenhouse gas emissions in DCO decision making. It confirms that assessments of need and the weight to be given to environmental harm are matters of planning judgment and

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				does not establish principles on the certainty or enforceability of mitigation. Reliance upon ClientEarth is misplaced and is in our opinion not authority for the proposition relied upon in this WR.
17	**R (Holborn Studios) v Hackney LBC [2020] EWCA Civ 1505** **Applicant note**: The Applicant believes that the case citation provided above is incorrect. **Neutral citation**: [2020] EWHC 1509 (Admin) **BAILII weblink**: Holborn Studios Ltd, R (on the application of) v London Borough of Hackney & Anor [2020] EWHC 1509 (Admin) (11 June 2020)	**Reliance on future mitigation** The Court held that planning conditions must be precise, enforceable and unambiguous. Reliance on vague or discretionary controls may undermine the lawfulness of the decision. **Legal principle** Conditions and requirements must provide sufficient certainty to ensure that mitigation will be implemented as assessed. **Relevance to the Proposed Development** The WR examines the extent to which key environmental controls are deferred to outline plans or future approvals. EN-1 requires decision-makers to have confidence that mitigation will be effective. This authority reinforces the importance of clarity in DCO requirements. **WR cross-references** ss. 2, 3, 4, 14, 15, 20, Appendix I, PD #4A While R (Holborn Studios) v Hackney LBC is expressly cited in the sections noted above, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing the certainty of conditions and requirements, mitigation enforceability and the lawfulness of decision-making.	"*As set out in the accompanying Legal Appendix (Appendix B), established authorities (including Blewett, Moseley, Lebus, ClientEarth and Holborn Studios) indicate that proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination.*" (Page 2). "*As explained in Appendix B, deficiencies of this scale engage established public-law principles confirming that:* *• an incomplete ES may not provide a sufficient basis for informed determination (Blewett);* *• consultation and alternatives assessment must be meaningful and evidence led (Moseley; Lebus);* *• decision-makers cannot rely on vague or deferred mitigation (ClientEarth; Holborn Studios); and* *• hazardous infrastructure requires robust, quantified risk assessment (Frack Free Balcombe).* *The East Park Energy application fails to meet these requirements.*" (Page 5 and 26) "*As set out in the accompanying Legal Appendix (Appendix B), established authorities (including Blewett, Moseley, Lebus, ClientEarth and Holborn Studios) indicate that proposals advanced without sufficient environmental information or secured mitigation may not provide a sound evidential basis for recommendation or determination.*" (Page 23). "*As set out in the accompanying legal appendix (Appendix B), established authorities including Blewett, Lebus, Moseley, Holborn Studios and ClientEarth emphasise that determination of a nationally significant infrastructure project requires sufficient and accurate environmental information, meaningful consultation, and effective mitigation measures that are clearly defined and capable of implementation.*" (Page 28). "*The courts have consistently emphasised that environmental information must be presented in a manner that enables an informed and rational decision, including in Blewett [2003], Holborn Studios [2020], and ClientEarth [2021].*" (Page 31). "*In R (Lebus) v South Cambridgeshire DC [2002] and Holborn Studios v Hackney [2020] EWHC 1509, the courts confirmed that the purpose of an alternatives assessment is not to dictate the ultimate planning outcome, but to ensure that choices are made on the basis of intelligible, objective evidence rather than assertion.*" (Page 33). "*The courts have consistently emphasised that where policy requires alternatives to be considered, the decision-maker must be supplied with sufficient information to enable a rational*	**Summary** This case concerned the viability of documents for inspection, guidance on lobbying planning committee members and interpretation of the development plan policy. It was held that the LPA had failed to comply with its obligations under the Local Government Act 1972 s.100D by failing to make available for inspection documents relating to the viability of a proposed development. The claimant, a leaseholder of a building applied for judicial review of the defendant local authority's decision to grant planning permission to redevelop the site. The developer submitted a redacted version of a viability assessment report, which the local authority posted on its website. It was not possible to understand the development's viability from the redacted version, since none of the figures relevant to the calculation of viability that were contained within it. Planning permission was granted. The claimant challenged the grant under three grounds: Firstly, the claimant argued that the defendant's approach failed to comply with national planning policy in relation to the provision, transparency and disclosure of viability evidence. Secondly, the claimant alleged that the defendant's guidance for members of its planning committee were unlawful as they precluded members from reading lobbying material submitted to them by consultees. Thirdly, the contention that the defendant's officers failed in the committee report to properly interpret the development plan policies in relation to the retention of the existing use as an important component of the creative industries in the administrative area. Ground one was successful, grounds two and three were dismissed, planning permission was quashed. The court held, in line with the NPPF and PPG, save in exceptional circumstances, viability assessments were to be placed in the public domain. The material in the public domain was not comprehensive and coherent enough to meet the deficiencies in relation to the LPA's s.100D obligations and policy requirements. The publication of the redacted version was found to be a clear and material error. The LPA's code of practice regarding lobbying was not followed. It was also found that there was nothing unlawful in the way the committee had interpreted the relevant policies.

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
			and intelligible comparison (R (Lebus) v South Cambridgeshire DC [2002]; Holborn Studios Ltd v Hackney LBC [2020] EWHC 1509 (Admin))." (Page 36). *"EIA Adequacy – The decision-maker must be satisfied that sufficient information has been provided to enable a reasoned conclusion on likely significant effects. Where materially different infrastructure strategies have not been comparatively assessed, the adequacy threshold is engaged (Lebus; Holborn Studios)*." (Page 38). "*In Blewett [2003] and Holborn Studios, the courts emphasised that where key methodological assumptions, data sources, or limitations are not explained, the assessment may lack the intelligibility required by the EIA regime. All references to this case in the WS are along the same things as those above and none are relevant to the case*." (Page 50). "*An Environmental Statement must not overstate or misstate scientific evidence (Blewett; Holborn Studios*)." (Page 250). "*Mitigation that depends on post-consent confirmation may attract limited weight at determination stage unless it is secured with sufficient precision and enforceability, consistent with the principles in Holborn Studios Ltd v London Borough of Hackney [2020]*." (Page 278). "*In accordance with Holborn Studios Ltd v London Borough of Hackney [2020] EWHC 1509, mitigation should not be relied upon at determination where it is materially undefined such that its likely effectiveness cannot be properly assessed.*" (Page 282). "*In Holborn Studios Ltd v London Borough of Hackney [2020] EWHC 1509 (Admin), the Court emphasised that decision-makers should not rely on mitigation that is vague, uncertain or deferred in a manner that prevents proper assessment of likely significant effects*." (Page 329). "*The courts have consistently held that essential mitigation relied upon to justify consent must be defined and secured at the decision stage. In ClientEarth v Drax Power Ltd [2021] EWHC 330 and R (Holborn Studios) v Hackney LBC [2020] EWCA Civ 1505, the courts confirmed that it is unlawful to rely on mitigation whose scope, timing, funding or effectiveness is left to future discretion*." (Page 340).	The decision was unlawful where key assumptions and underpinning material were opaque, inconsistent or insufficiently explained, such that confidence in the outcome could not properly be justified. **Applicant commentary** The Applicant believes that the case citation relied upon in the WR, namely [2020] EWCA Civ 1505, is incorrect. Holborn Studios is not a planning conditions case. The Court did not lay down any principles concerning the lawfulness of planning conditions, the precision or enforceability of conditions, or the use of conditions to secure mitigation. The case is concerned with viability evidence and the transparency and intelligibility of material relied upon by the decision-maker, particularly where policy compliance is said to be justified by viability considerations (in that case, affordable housing). Reliance upon Holborn Studios is therefore misplaced. The case does not concern reliance on future mitigation through planning conditions or requirements, nor does it establish a principle that conditions must themselves secure mitigation with sufficient certainty, The Court was concerned with the adequacy and transparency of viability evidence available at the point of decision, not with the structuring or timing of mitigation controls. The case is also not authority on the use of future mitigation mechanisms in DCO decisions. SEPE note: "*The courts have consistently emphasised that environmental information must be presented in a manner that enables an informed and rational decision, including in Blewett [2003], Holborn Studios [2020], and ClientEarth [2021]*." (Page 31). This was somewhat a consideration in the case as the viability assessment published was redacted and the LPA failed to list background papers or to provide them for inspection. However, the key issue in this case was when it was justifiable to withhold exempt materials rather than information provided being informed or rational. For these reasons, the Applicant consider references to Holborn Studios within the WR are inaccurate.
18	**R (Boot) v Elmbridge BC [1988] AC 357** **Applicant note**: The Applicant believes that the case citation provided above is incorrect. **Neutral citation**: [2017] EWHC 12 (Admin)	**National "need" does not override the requirement for proper planning judgment** The House of Lords confirmed that planning decisions must involve a balanced judgment, taking into account both need and environmental impact. Demonstration of need does not automatically justify development. **Legal principle**	This case is not expressly cited within the WR.	**Summary** The Applicant was unable to locate the cited case and has reviewed the case of the same name cited [2017] EWHC 12 (Admin). This case concerns the interpretation of paragraphs 79-93 of the National Planning Policy Framework (NPPF) (March 2012), in particular paragraph 89, which provides that the construction of new buildings in the Green Belt is inappropriate development unless it falls within a listed exception, including

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
	BAILII weblink: Boot, R (On the Application Of) v Elmbridge Borough Council [2017] EWHC 12 (Admin) (16 January 2017)	Need is one factor in the planning balance and must be weighed against harm and policy considerations. **Relevance to the Proposed Development** The WR considers whether the scheme's benefits outweigh identified impacts in this location. EN-1 recognises national need for energy infrastructure but requires assessment of site-specific impacts. This authority emphasises that need does not displace the requirement for planning judgment. **WR cross-references** None (not expressly cited in the main body of the WR). While R (Boot) v Elmbridge BC is not expressly cited in the main body of this Written Representation, the principles established in that judgment are relied upon in assessing the lawfulness of planning judgment and the balancing of harms and benefits.		the provision of appropriate facilities for outdoor sport and recreation provided they preserve the openness of the Green Belt and do not conflict with its purposes. The High Court held that where a decision-maker concludes that a proposal causes harm to the openness of the Green Belt, even if that harm is limited, the development cannot fall within the paragraph 89 exception. As a matter of policy interpretation, such development is inappropriate and therefore must be justified by very special circumstances. The claimant, a local resident sought judicial review of the defendant local planning authority's (LPA) decision to grant planning permission for a new sports facility within the Green Belt. The planning officer's report accepted that the development would have a limited adverse impact on openness but nevertheless concluded it was an appropriate development under paragraph 89. The claimant had 2 grounds of challenge; First, the LPA erred in concluding that the sports facility could be appropriate development even though it harmed the openness and purposes of the green belt. Supperstone J accepted that the LPA erred in its interpretation of paragraph 89 noting that this was not a matter of planning judgment but a question of policy interpretation. Secondly, it was alleged that the LPA failed to have regard to a material consideration, namely a planning inspector's 2013 decision that an indoor archery centre on an adjacent green-belt site would be inappropriate development. The court distinguished the two developments, and this ground was not made out. The claim succeeded and the decision to grant planning permission was quashed. **Applicant commentary** The case of Boot is a High Court decision, not a House of Lords authority, and there is no report at [1988] AC 357. Boot concerns the interpretation and application of policy, not the weighing of competing considerations. The case is therefore of limited relevance to the argument advanced. It addresses threshold compliance with a strict policy test as a matter of interpretation, not the balancing of need against potential environmental harm. While national need is capable of being weighed where a planning balance lawfully arises, Boot does not address that stage of the decision-making process.
19	**R (Jones) v Mansfield DC [2004] EWCA Civ 1206** **Neutral citation**: [2003] EWCA Civ 1408	**Proportionality in planning decisions** **Summary** The Court reinforced that proportionality and the scale of development relative to its benefits are key components of	This case is not expressly cited within the WR.	**Summary** This case concerned whether an EIA was required before granting outline planning permission for an industrial estate in open countryside adjacent to the claimant's home. The local planning authority (LPA) granted permission without requiring

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
	BAILII weblink: Jones, R (on the application of) v Mansfield District Council & Anor [2003] EWCA Civ 1408 (16 October 2003)	planning judgment. Decisions must be based on a full understanding of impacts. **Legal principle** The planning balance must evaluate whether the scale and siting of development are justified by its benefits. **Relevance to the Proposed Development** The WR addresses proportionality in relation to land use, environmental effects and energy contribution. EN-1 requires decision-makers to assess whether adverse effects are outweighed by benefits. This authority supports the relevance of proportionality analysis. **WR cross-references** ss. 8, PD #8B While R (Jones) v Mansfield DC is expressly cited in the sections above, the principles established in that judgment are applied more broadly throughout this Written Representation in assessing planning judgment and the adequacy of reasoning.		an EIA, the claimant challenged that decision on the basis that the authority had failed lawfully to consider whether an EIA was required. Following the challenge, the LPA agreed to reconsider the question, two reports from the Head of Planning and Building control were considered. These were (a) a report recommending that an EIA was not required and (b) a report recommending that outline permission be granted. The LPA decided that both an EIA was not required and that permission be granted. Under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 Reg.4(2), an EIA is only necessary if the industrial estate was likely to have significant effects on the environment. The court held that the LPA had sufficient information, such as ecological reports and representations from various consultees on particular wildlife, to have allowed it reasonably to decide that the industrial estate would be unlikely to significantly affect the environment and therefore no EIA was required. The Court of Appeal upheld the initial decision by Richards J. The court determined that the LPA's decision not to require an EIA was both reasonable and lawful. The committee responsible exercised appropriate judgment based on the information available, reliance on conditions and undertakings by the developer did not constitute an unlawful substitution of an EIA. Although there were acknowledged uncertainties, these did not prevent the authority from reasonably concluding that the development was unlikely to have significant environmental effects. **Applicant commentary** There is no reference to Jones v Mansfield DC in the main body of the written representation and the cross-references cited appear to be incorrect. In any event, reliance upon this case to support an argument about proportionality in planning decision-making is misplaced. The case concerns the lawfulness of an EIA screening decision and confirms that the question of whether a Schedule 2 development is likely to have a significant environmental effect is a matter of planning judgment, reviewable only on *Wednesbury* grounds. The case does not address proportionality, nor does it concern the weight to be given to environmental effects in the planning balance. The key principles to take from *Jones* is that the decision maker must have sufficient information to reach an informed judgment on whether significant environmental effects are *likely*. It does not require a comprehensive assessment of all potential impacts, nor does it establish that omission of further

No.	Case	SEPE Commentary	Key extracts from SEPE WR	Summary of case law, and Applicant commentary
				surveys or unresolved uncertainties necessarily undermines decision making process. Further, *Jones* is concerned with circumstances in which a decision maker concludes that no EIA is required. That issue does not arise here, as the East Park Energy project is supported by a full environmental statement and has been subject to a comprehensive EIA process. The decision in Jones v Mansfield DC is therefore of no material relevance to the assessment of the Development Consent Order application.