

28 July 2026

East Park Energy: procedural fairness and request for extension of the Examination timetable

Procedural request to the Examining Authority in relation to the Applicant's deferral of substantive responses and resulting risk of procedural prejudice

Stop East Park Energy (SEPE) is an independent, community-led group established in response to concerns over the proposed East Park Energy development. The group operates on an unfunded, voluntary basis and has over 1,000 registered supporters. SEPE includes individuals with professional expertise in agriculture, analysis, civil engineering, construction, ecology and environmental science, energy, finance, law and planning, as well as professional experience with the NSIP process.

1. Procedural circumstances giving rise to this request

This procedural request arises from the combined effect of the compressed Examination timetable, closely sequenced deadlines and the timing of publication of Examination documents, culminating in the Applicant's deferral of its substantive Deadline 5 responses to Deadline 6.

SEPE advances this request on the basis of four principal concerns:

1. Limited opportunity to respond: Interested Parties have no meaningful time or opportunity to reply to the Applicant's deferred substantive Deadline 5 responses before the Examination closes.
2. Reduced iterative scrutiny: Beyond limiting Interested Parties' ability to respond, deferring substantive Deadline 5 responses to Deadline 6 also effectively removes one timetabled stage of iterative scrutiny, preventing meaningful testing of the Applicant's reasoning on a number of material issues that have yet to be fully examined.
3. Premature rebuttal: The Applicant has used its interim response at Deadline 5 to characterise and rebut concerns without sufficient supporting material. This risks creating the impression, in advance of any substantive justification, that those concerns have already been addressed.

4. Impact on procedural fairness: The sequencing of submissions creates a procedural imbalance that limits reciprocal scrutiny and response during the Examination.

2. Procedural prejudice arising from the sequencing of submitted documents

In its Deadline 5 Cover Letter (REP5-001), at item 8 the Applicant states:

“Response to Stop East Park Energy [REP4-081 to REP4-086]

The Applicant acknowledges the six Deadline 4 submissions [REP4-081 to REP4-086] made by Stop East Park Energy (SEPE). The Applicant notes that a number of the underlying themes have been raised previously by SEPE and have been addressed in the Applicant’s earlier examination submissions, including the Applicant Response to Stop East Park Energy [REP2-045] and its subsequent responses. However, the Applicant recognises that the Deadline 4 submissions develop a number of those matters further and contain additional analysis. The Applicant is undertaking a review of the submissions across the relevant legal and technical disciplines and against the Applicant’s earlier responses. However, for the reasons explained above regarding the limited time available between Deadline 4 and Deadline 5, it has not been practicable to complete a full review and detailed response at this deadline. The Applicant intends to provide a response at Deadline 6, together with any targeted updates to the application documents considered necessary or appropriate. No inference should therefore be drawn from the absence of a response to any particular point raised by SEPE at Deadline 5, and that absence should not be treated as agreement with or acceptance of the matters raised. The Applicant’s earlier responses and stated positions therefore continue to apply unless supplemented or amended in a subsequent submission.”

At paragraph 1.2.3 of its ‘Applicant Response to Deadline 4 Representations’ (REP5-023), the Applicant states:

“As set out in the Applicant’s Deadline 5 Cover Letter [EN010141/DR/8.62], the Applicant is continuing to review the comments submitted by the Host Authorities, together with the six Deadline 4 submissions made by Stop East Park Energy, the joint submission made by the Borough of Bedford Local Access Forum and British Horse Society, and submissions by other interested parties. The Applicant intends to provide responses at Deadline 6, together with any consequential document updates considered necessary or appropriate.”

SEPE recognises that the Applicant has been required to prepare its responses within the timetable established for the Examination. However, the combination of a five-month Examination timetable, the close succession of deadlines, and delays in the publication of Examination documents, has now resulted in a material reduction of the time available to all parties to review, scrutinise and respond to submissions.

More significantly, the Applicant's deferral of its substantive responses, together with any consequential document updates, from Deadline 5 on 21 July to Deadline 6 on 4 August, leaves Interested Parties able to respond only at the final Deadline 7 on 18 August, three days before the Examination closes. This deferral has effectively removed one stage of iterative scrutiny from the Examination process. It is particularly prejudicial where material issues have yet to be fully examined.

2.1 Material issues risk remaining unresolved before the close of the Examination

Although a final deadline remains, it affords no meaningful opportunity for Interested Parties to scrutinise, test or respond to deferred substantive responses before the Examination closes. That prejudice is particularly acute because the responses concern a number of material issues submitted by SEPE that have yet to be fully examined or evidenced, including but not limited to:

- the continuing material discrepancy between the capabilities and benefits of the Scheme described in the Application and those of the Scheme currently under Examination, arising from the absence of a stand-alone grid connection for the Applicant's battery energy storage system
- outstanding questions concerning SEPE's technical analysis of construction traffic and transport, the associated impacts, and potential inconsistencies and unreconciled assumptions within the Application and its supporting evidence
- issues relating to the proposed replacement works framework, which the Applicant acknowledges remain entirely unaddressed (item 7, REP5-001)
- concerns regarding the interaction between the proposed battery compound and existing national gas infrastructure, alongside wider concerns about battery safety and associated risks
- potential flaws in the Applicant's assessment of carbon balance, and
- the absence of any secured decommissioning and restoration funding, in light of the Applicant's status as a special purpose vehicle.

3. Preliminary rebuttal without sufficient supporting evidence

Procedural prejudice is further compounded by the Applicant's decision to provide a high level response to a number of the representations submitted at Deadline 4, including those which raise issues also advanced by SEPE, while indicating that its

substantive responses will follow at Deadline 6. In doing so, the Applicant has been able to offer an initial rebuttal of those concerns, including conclusions and characterisations that cannot presently be tested, without setting out detailed reasoning or supporting evidence said to justify its position. This risks creating the impression that the matters raised by Interested Parties have been satisfactorily addressed when, in reality, any substantive justification has been deferred until Deadline 6.

This creates an asymmetry in the Examination process: the Applicant is able to characterise Interested Parties' submissions before providing any substantive reasoning, whereas Interested Parties are afforded no corresponding opportunity to comment on that reasoning, or wider substantive points, ahead of the final deadline of the Examination.

4. Lack of reciprocal opportunity to respond

The same prejudice arises in respect of SEPE's Deadline 5 submission (REP5-033), which further developed a number of the issues raised during the Examination. That submission was itself necessarily limited in scope, having been prepared within the constraints of the compressed timetable and the late publication of Examination documents. The Applicant will have the benefit of considering and responding to these submissions at Deadline 6, whereas SEPE will have no equivalent opportunity to scrutinise, test or challenge the Applicant's more substantive responses before the Examination concludes.

5. Request for an extension in the interests of procedural fairness

SEPE respectfully submits that these procedural circumstances have resulted in an imbalance which is inconsistent with the principles of a fair and effective Examination. While SEPE acknowledges the Examining Authority's efforts to progress the Examination efficiently, the circumstances now demonstrate that the compressed timetable has materially constrained the ability of Interested Parties to engage with late substantive submissions.

In the interests of procedural fairness, SEPE therefore respectfully requests that the Examining Authority exercises its discretion to extend the examination period beyond the currently scheduled five-month timetable and amend the Examination timetable accordingly by inserting an additional procedural deadline after Deadline 6 to enable Interested Parties to respond to the Applicant's substantive submissions and any consequential amendments to the Application documents.

An extension would restore a meaningful opportunity for Interested Parties to consider, scrutinise and respond to the Applicant's Deadline 6 responses and any consequential amendments to the Application documents before the close of the

Examination. This would ensure that all parties have a fair and reciprocal opportunity to engage with the evidence and arguments advanced by others, and avoid procedural prejudice arising solely from the sequencing of submissions and the constraints of the Examination timetable.