



EAST PARK ENERGY

East Park Energy

EN010141

**Applicant Response to Eaton Socon Power
Limited Deadline 6 Submission**

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Procedure) Regulations 2009: Regulation 5(2)(q)

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Planning Act 2008

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Applicant Response to Eaton Socon Power Limited Deadline 6 Submission

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Author:	BSSL Cambsbed 1 Ltd

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1.0 INTRODUCTION

- 1.1.1 This document sets out the response of BSSL Cambsbed 1 Limited ('the Applicant') to the Deadline 6 submission made by **Eaton Socon Power Limited [REP6-072]** in relation to the Development Consent Order (DCO) application for the East Park Energy project (the 'Scheme').
- 1.1.2 The Applicant has reviewed and considered the submission of Eaton Socon Power Limited (ESPL) at Deadline 6. The Applicant would first note that ESPL appear to have raised concerns over the Applicant being late to argue that the Part 1 Protective Provisions would apply. It should be noted that Part 1 of Schedule 13 of the draft DCO is applicable due to ESPL's status as a statutory undertaker, which relies on the generation licence ESPL obtained on 22 June 2026. ESPL did not notify the Applicant of this generation licence and so it was through the Applicant's own inquiry that this was confirmed. It was therefore reasonable for the Applicant to address Part 1 at Deadline 5.
- 1.1.3 ESPL argue that its project serves the Clean Power 2030 Mission and net zero objectives whilst quoting National Policy Statements, despite ESPL not operating a nationally significant infrastructure project. The Applicant considers that East Park serves identical overarching policy objectives but at a nationally significant scale. ESPL's reliance on NPS EN-1 and NPS EN-3 is inapposite given that those statements are specifically directed at decision-making for NSIPs – which ESPL's project is not. In any event, policy support for renewable energy does not create a hierarchy favouring earlier-consented projects over NSIPs. The Applicant therefore considers that there is little merit in arguing over the relative benefits of each project in relation to policy and the Government's net zero targets.
- 1.1.4 The documents submitted with the application and at previous examination deadlines are referenced using the reference number assigned by the Planning Inspectorate (PINS) i.e. **[APP-XXX]**.

2.0 ENGAGEMENT

- 2.1.1 The Applicant wishes to note the extensive engagement that has taken place before the submission of the Application and during the course of the examination, which demonstrate the Applicant's clear intentions to reach a position that would enable the coexistence of these projects and respective rights sought.
- 2.1.2 As noted in the Applicant's response to ESPL's relevant representation **[REP1-055]**, ESPL acquired an option agreement over the land that overlaps with the Scheme in July 2024, by which time the Applicant had already issued two land interest questionnaires ('LIQ') to ESPL and the relevant landowners and a statutory undertaker LIQ to both ESPL and National Grid Electricity Transmission plc ('NGET'). As part of its statutory consultation, the Applicant issued a notice required under section 42 of the Planning Act 2008 to ESPL in September 2024 (a year before the application for development consent for the Scheme was made). A site notice was also placed close to the entrance of the main access track to the Eaton Socon substation. In July 2025 the ESPL project was acquired by AGR Power Limited (ESPL). The Applicant understands that a lease of the ESPL Project's main site, which lies outside of the Scheme's Order Limits, was granted on 21 August 2025. On 8 August 2025 the Applicant issued a confirmation request to ESPL, a short-form LIQ designed to confirm if the information the Applicant holds is still correct or has changed. ESPL responded to this confirmation request by way of a letter dated 22 August 2025, which included a summary of ESPL's interests and the overlap between these interests and the Scheme. It also included a request to remove any overlapping land from the scope of the DCO, despite this land being part of the access to NGET's substation and the substation itself and forming an essential connection between the Scheme and NGET's substation in respect of which planning permission is necessary to ensure that the Scheme is connected to the grid.
- 2.1.3 In response, the Applicant responded on 29 September 2025 to clarify that the extent of the overlap was not as wide as described in ESPL's letter and

would be limited to the proposed cable easement and access easement to connect into National Grid's substation. The letter explained how the Applicant had taken all reasonable steps to engage with the relevant parties during each round of consultation. It also proposed next steps for managing the design of the respective connections to Eaton Socon substation, including an offer to progress heads of terms for a cooperation agreement with ESPL if appropriate. No further engagement took place following this letter despite the Applicant's various attempts.

- 2.1.4 On 7 January 2026 representatives for the Applicant and ESPL met to discuss the contents of the Applicant's letter dated 29 September 2025, and the offer of a cooperation agreement, offered in addition to the statutory protection included in Part 1 of Schedule 13 of the draft DCO, was re-iterated.
- 2.1.5 On 29 January 2026 ESPL's relevant representation (dated 14 January 2026) was made available on the PINS website.
- 2.1.6 On 9 February 2026 the Applicant sent a further email to ESPL, including a request that ESPL formally respond to its letter dated 29 September 2025.
- 2.1.7 In April 2026 the Applicant provided ESPL with a draft cooperation agreement setting out how the interaction between these two projects could be coordinated given the different construction programmes, in line with the terms agreed in meetings between the technical teams. This draft agreement was rejected by ESPL's representatives.
- 2.1.8 On 17 August 2026 the Applicant met directly with representatives of ESPL to discuss key areas of disagreement in ESPL's proposed protective provisions.
- 2.1.9 The Applicant has sought to engage with ESPL on a number of occasions both voluntarily and in line with its statutory obligations under the Planning Act 2008, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and the Infrastructure Planning (Compulsory Acquisition) Regulations 2010.

3.0 SECTION 127 PLANNING ACT 2008

3.1.1 The Applicant acknowledges the position of ESPL in relation to section 127 Planning Act 2008. The Applicant notes that schedule 16 states that a licence holder who is entitled to exercise any power conferred by Schedule 3 of the Electricity Act 1989 shall be deemed to be a statutory undertaker. The Applicant acknowledges that section 10 of the Electricity Act 1989 does extend the effect of Schedule 3 to any other licence holder to the extent that the licence provides. Condition 14 of ESPL's licence confirms that Schedule 3 has effect in relation to the licensee to enable the licensee to carry on the activities authorised by the licence AND which relate to:

- a) the construction or extension of a generating station;
- b) the operation of a generating station; and/or
- c) the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines, and electrical plant associated with them, and any structures for housing or coverings such lines or plant, connecting a generating station with:
 - (i) the national electricity transmission system; or
 - (ii) a distribution system-, including, for the avoidance of doubt, whether these activities in sub-paragraph (c) are to be carried out by the licensee or another licence holder.

3.1.2 The licence defines "generating station" as to an electricity generating station which: (i) has, or will have when its construction or extension is completed, a capacity of not less than 50 megawatts or such other capacity as may be specified in relation thereto by order of the Secretary of State under section 36(3) of the Act; (ii) is, or will be when its extension or construction is completed, operated by or for the licensee; (b) "extension" in relation to a generating station includes the use by the person operating the station of any land (wherever situated) for a purpose directly related to the generation of electricity by that station.

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- 3.1.3 ESPL's apparatus does not relate to a generating station meeting the definition of the licence in respect of condition 14. On this basis, the Applicant continues to consider that there is a legitimate doubt over whether Schedule 3 could in reality be said to be in effect.
- 3.1.4 However, the Applicant does accept that, in the absence of certainty, it would be prudent for any decision maker to apply the tests of section 127 Planning Act 2008 regardless.

4.0 SECTION 138 PLANNING ACT 2008

- 4.1.1 The Applicant notes that ESPL's statements regarding the test of necessity. The Applicant would not agree that it argued that inclusion of the rights in its submission documents generates necessity, but reference to the Statement of Reasons and Book of Reference will enable the Secretary of State to determine what is required by the Applicant and why it is required. The Applicant would also point to its response to ESPL's relevant representation **[REP1-055]** as providing a full justification for the necessity of the rights sought.

5.0 PROTECTIVE PROVISIONS

- 5.1.1 The Applicant notes that ESPL state that the ESPL protective provisions are *“industry standard provisions for interfaces of this nature and have been included in DCOs on similar terms for interfaces between solar NSIPs and other renewable developments and grid infrastructure”*. The Applicant would note that ESPL have not provided examples of where such a set of protective provisions have been used to protect the grid cable route of a solar development. The Applicant does appreciate that the protective provisions sought by ESPL are grounded in precedent, but that precedent is primarily that of gas undertakers. The Applicant does not consider that their example is of relevance in this instance, given the very different level of risk posed by gas apparatus.
- 5.1.2 In relation to the acquisition of ESPL interests, beyond their apparatus, the Applicant’s comments stated in their Deadline 5 submissions continue to stand. It is important to note that ESPL have omitted to provide a full explanation of the operation of their paragraph (5) of the ESPL Protective Provisions. In paragraph 4.4.3 ESPL state that the ESPL Protective Provisions provide that the undertaker “may not appropriate, acquire or take temporary possession of any land or apparatus owned or leased by ESPL, or appropriate, acquire, extinguish, interfere with or override any easement, interest or right of ESPL, otherwise than by agreement”. However, reference to paragraph (5) will show that ESPL are in fact seeking a much broader, and in the Applicant’s view, unjustifiable restriction which is that they would seek a clause that states that the undertaker “may not appropriate or acquire or take temporary possession of any land... **forming part of the ESPL Project**” without the consent of ESPL. This would mean that ESPL would have a right to authorise the acquisition of land which ESPL might not even own. It would mean that where the Applicant is seeking rights in land owned by National Grid Electricity Transmission PLC in which ESPL have an interest, and the rights acquired are entirely subject to ESPLs interest that ESPL would retain the ability to approve the acquisition, even if rights were sitting alongside and

not interfering with ESPL. This is far beyond the relevant statutory tests of section 127 or 138.

- 5.1.3 In relation to ESPL's comments on the suitability of paragraph 7 of the Part 1 Protective Provisions, the Applicant considers that this argument rests on the relatively narrow point of whether the express requirement for works to be executed only in accordance with the reasonable requirements of ESPL amounts to an effective approval or not. What is unclear, however, is why an "approval" mechanism is necessary to ensure no serious detriment, if ESPL are able to impose any reasonable requirements on the execution of works and the undertaker is bound to execute those reasonable requirements. ESPL make an argument of inadequacy, but do not provide any reasoning for why it is necessary for an approval process to be in place in their instance (compared to that of other statutory undertakers relying on Part 1), and why the period of 56 days (just short of 2 months) is considered necessary to approve plans where those plans will amount to the crossing of electricity cables.
- 5.1.4 In relation to ESPL's comments on protection against electromagnetic interference, the argument against paragraph 7(2) being suitable appears to focus the fact that there is no certainty for ESPL to argue that a 10m offset distance (given as an example only) would be able to be imposed arbitrarily. ESPL argue that because the undertaker would have a route to arguing in arbitration that that a restriction is unreasonable that this makes paragraph 7(2) unsuitable. The Applicant considers it entirely appropriate that if it considers that a requirement being set by ESPL is unreasonable that it should be able to challenge that requirement in arbitration. If the Applicant is not able to do this then it would be subject to the unfettered discretion of ESPL who may impose any requirement they wish whether or not that is justified in being necessary to avoid a serious detriment to ESPL's undertaking. ESPL also state that the burden should not be on them to justify protective measures and that the Applicant should bear the obligation to ensure that serious detriment is not caused. The Part 1 Protective Provisions do not place any express

burden on ESPL to justify protective measures, but clearly if they are unable to justify these and the Applicant does not consider them justified, then that would underline the suitability of arbitration to determine their necessity.

- 5.1.5 In relation to ESPL's comments on engineering assessment, the Applicant would note that there would be nothing to stop ESPL from commissioning an independent engineering assessment to evaluate the impact of the works, should ESPL wish to do so.
- 5.1.6 In relation to paragraph 4.8, the Applicant is not clear on what basis ESPL have ascertained that the East Park Project could cause severe traffic disruption with the potential to interrupt access and egress arrangements. ESPL's core concern, it would appear from 4.8.3 is that they have access to their own site without disruption. The Applicant considers that an expectation to experience no disruption over an access route to NEG's substation is not proportionate to the statutory test of no serious detriment. Paragraph 7(2) explicitly states that ESPL would be able to provide reasonable requirements to ensure access to its apparatus is secured. On this basis, ESPL would be able to ensure that its access to the grid corridor and main panel area is secured. On that basis, the Applicant does not consider that approval of a "programme" is necessary to avoid serious detriment.
- 5.1.7 In relation to ESPL's arguments over the indemnity to be provided, the Applicant does not consider that section 127 or 138 generates an imperative that an indemnity must be provided on the statutory undertaker's terms. Part 1 provides an indemnity in paragraph 9 that clearly ensures the undertaker bear and pay the cost of making good damage to apparatus, or property, or costs in restoring the supply, and to provide compensation for any other expenses, loss, damages, penalty, or costs incurred by ESPL.
- 5.1.8 In relation to costs recovery and indemnity, ESPL argue that insurance is required due to the potential loss of a 40-year revenue stream. The suggestion that the Applicant could damage apparatus in a manner that would render ESPL's scheme inoperable for 40 years is not realistic. The indemnity

provided in paragraph 9 of Part 1 already covers the cost of making good damage to apparatus, restoring supply, and compensating ESPL for any other expenses, loss, damages, penalty, or costs incurred. Insurance requirements of the kind sought by ESPL are typically reserved for inherently dangerous apparatus (such as gas pipelines or railways) where third-party safety risks are materially higher. The risk profile of two cable systems in proximity does not warrant insurance beyond the indemnity already provided. The Applicant acknowledges that ESPL might wish to benefit from the assurance that insurance would provide, but does not consider that the absence of such assurance means rights cannot be acquired without serious detriment to ESPL.

- 5.1.9 In relation to paragraph 4.10 of ESPL's statement, which appears to suggest that if facilities and rights are "less favourable" this could compromise the continued delivery of energy generation, the Applicant would note that paragraph 6 of the Part 1 protective provisions must be read alongside paragraph 5. Under paragraph 5, apparatus may not be removed and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it may not be extinguished until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker. The Applicant struggles to see how this restriction could generate a situation whereby ESPL cannot continue to deliver energy.
- 5.1.10 The Applicant notes that ESPL have provided a list of "losses" in paragraph 4.12 and 4.13 which appear to be divorced from any actual appraisal of the anticipated impact of the project. No technical evidence has been adduced to support this speculative list of catastrophic outcomes. Part 1 provisions are specifically designed to ensure that such damage does not occur and as such a scenario of "forced abandonment" is outlandish.
- 5.1.11 The Applicant would also observe that the cumulative effect of ESPL's proposed protective provisions would impose a burden on the East Park

Project that is wholly disproportionate to the actual interface between the two projects. ESPL seek:

- (a) 56-day approval periods for plans (nearly two months);
- (b) a 10-metre buffer zone in all directions from apparatus;
- (c) £10 million insurance requirements;
- (d) independent engineering assessments; and
- (e) programme submissions with traffic management approval.

These cumulative requirements would cause substantial delay and cost to a nationally significant infrastructure project in circumstances where the interface amounts to a cable crossing and use of a shared access to a National Grid sub-station. Part 1 of Schedule 13 already provides appropriate protection for apparatus, and the additional mechanisms sought by ESPL are not necessary to satisfy the statutory tests.

6.0 CONCLUSION

- 6.1.1 The Applicant considers that the protective provisions included in Part 1 of Schedule 13 of the draft DCO remain appropriate for satisfying the statutory tests set out in section 127 and 138 Planning Act 2008.