

11 September 2026

East Park Energy: Questions for the Examining Authority

Key issues of evidence, impacts and community safeguards for the ExA's consideration

Deadline 8 submission

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.

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1. Matters on which SEPE respectfully invites the Examining Authority to satisfy itself in reaching its conclusions and recommendation

As the Examination approaches its conclusion, SEPE does not intend to repeat the detailed evidence and representations already submitted across successive deadlines.

The Applicant has responded to some of the concerns raised by SEPE, the Host Authorities and other Interested Parties, and in several areas has amended or supplemented the Application. However, a number of important questions remain either unanswered, dependent on future assessment, or addressed on the basis that further controls are considered by the Applicant to be unnecessary.

SEPE recognises that current national policy attaches substantial weight to the development of renewable energy infrastructure, and that the Examining Authority must balance the claimed benefits of the Scheme against its impacts. Equally, the communities who would live alongside this development for at least 40 years are entitled to expect that material uncertainties are resolved where reasonably possible and that, where matters must properly be deferred, the Development Consent Order provides sufficiently clear and enforceable safeguards.

SEPE also considers it important that this balance is struck on the basis of sufficiently reliable information about the Scheme as now proposed. Critical questions remain regarding the accuracy and consistency of a broad range of aspects of the Application, while the now confirmed absence of the BESS import capability originally presented in the Application necessarily changes the basis for assessing some of the Scheme's claimed wider energy-system benefits. The resulting reduction in asserted system value assumes particular significance in the planning balance given the unusually high proportion of BMV agricultural land that would be taken out of production by the Scheme. These matters therefore warrant careful consideration alongside the adequacy of the safeguards discussed in this submission.

SEPE therefore respectfully invites the ExA to satisfy itself on the following matters before reaching its recommendation.

1.1 Does the planning balance reflect the Scheme benefits actually secured?

The Scheme exits Examination with a material change: it has not secured its originally claimed 100MW import capability. The consequence is significant. The battery energy storage system cannot import and store electricity from the transmission system, and will rely solely on the Scheme's on-site solar generation, leaving it under-utilised for prolonged periods and reducing the Scheme's overall energy-system value.

- At the start of the Examination in March 2026, the Application documents stated that the Scheme had a grid connection agreement for 400MW export and 100MW import and described the Scheme as a *"flexible energy hub"*, offering grid-balancing, flexibility and energy security functions.
- The National Energy System Operator's December 2025 Connections Reform results had already altered the position before the Examination began. National Grid Electricity Transmission's Deadline 1 submission confirmed that NESO had not offered the East Park Energy BESS a connection: *"the Promoter has received a Gate 2 offer for its connection for the solar farm only, with a Gate 1 offer for the battery connection ... NGET are only in a position to progress the designs for the solar connection under the Gate 2 offer at this stage."* At Gate 1, and without its own connection offer, the BESS cannot charge from or store grid electricity.
- The allocation of BESS Gate 1 status is significant given the UK's over-subscribed battery energy storage pipeline. According to the NESO Chief Operating Officer at last year's release of the Connections Reform queue outcomes: *"Only protected batteries were prioritised – 83 GW. The oversupply of Batteries by 2035 is 62 GW"*. SEPE has submitted detailed sector-specific evidence to the Examination – including from the Applicant's corporate parent, Brockwell Energy – to demonstrate the substantial and potentially enduring uncertainty inherent in Gate 1 status, particularly for battery and hybrid projects.
- At Deadline 6 the Applicant removed or qualified several references in its Application to import and grid-balancing capability.
- Notably, the Applicant retained its *"flexible energy hub"* description and a number of other references to energy security capabilities not typically attributed to intermittent, seasonally constrained solar-only generation.
- At Deadline 7, the Applicant stated that it *"accepts that progression from Gate 1 to Gate 2 for import is uncertain"*. It further appeared to accept that there had been what it referred to as a *"material discrepancy between the Scheme assessed and the Scheme under Examination"*.

- The ExA has a partial documentary basis on which to distinguish benefits secured by the Scheme’s current connection position from benefits dependent on any future import connection.
- Important evidential gaps remain: the Applicant did not supply the evidence expressly requested by the ExA in Q1.1.20 of the Scheme’s claimed Gate 2 grid connection offer and agreement. It also declined SEPE’s request to provide BESS operational details relevant to testing evidence before the Examination.
- In the absence of that operational evidence, a clear proxy for the difference in scheme utility and energy-system value between an import-enabled and a solar-dependent BESS is provided by the extensive and largely negative professional sector evidence submitted by SEPE to the Examination. This evidence reflects the value of the wider operational scope enabled by an import connection, including arbitrage and grid services. The reduced utility and system value associated with a solar-dependent BESS is further reinforced by the disclosures relating to Gate 1 status risks in the latest audited accounts of the Applicant’s ultimate holding company and its subsidiary.

1.1.1 Can the ExA be satisfied that the planning balance reflects the Scheme presently deliverable, rather than benefits dependent on an unsecured import capability?

1.1.2 What weight should be attached to retained Scheme descriptions and claimed benefits such as a “flexible energy hub”, grid stability, reliability, balancing supply and demand, and energy security, where the BESS would be dependent on the Scheme’s intermittent and seasonally constrained solar generation for charging, rather than importing electricity from the transmission system?

1.1.3 What weight should the ExA give to the resulting reduced utilisation of the BESS and the consequent reduction in the Scheme’s overall energy-system value?

1.2 Has the safety case for the 100MW BESS been demonstrated now, or is it principally to be demonstrated after consent?

The final BESS supplier, enclosure design and battery chemistry have not yet been selected. The final chemistry will only be confirmed through detailed design. As a result, key equipment-specific evidence relevant to the safety case does not yet exist for the system that will actually be deployed. Equipment-specific large-scale fire testing, fire and explosion evidence and consequence modelling will therefore inform the future detailed design and BSMP. Importantly, the Applicant's single-enclosure fire assessment relies on the eventual system demonstrating that fire will not propagate beyond the enclosure of origin. Whether that critical assumption is satisfied will therefore depend on evidence to be produced following technology selection.

- The Applicant's own revised fire emissions modelling illustrates why the single-enclosure assumption matters.
- For one of the modelled exposure periods, the Applicant's predicted hydrogen fluoride concentration equates to approximately 92.7% of the relevant AEGL-1 threshold, while the assessment still concludes no significant air quality effect for the modelled single-enclosure event. This leaves comparatively limited headroom within the Applicant's own assessment before the relevant threshold is reached, making the assumption that the event remains confined to a single enclosure material to the conclusion reached.
- The oBSMP separately requires the BESS selected at detailed design to have completed large-scale fire testing and/or full-scale destruction testing demonstrating that equipment loss will be limited to one BESS enclosure without firefighter intervention. It further states that large-scale fire testing and site-specific consequence modelling will be undertaken for the selected BESS design to demonstrate that loss will be safely limited to one enclosure.
- The ExA therefore needs to be satisfied that the conclusion remains robust for the technology ultimately selected and that failure of the non-propagation assumption is either assessed or prevented through a sufficiently robust secured approval gateway.

1.2.1 What evidence demonstrates either that propagation beyond one enclosure can reasonably be excluded or that the public safety and environmental consequences of a multi-enclosure event would remain acceptable?

1.2.2 If that evidence will only exist after technology selection, does the DCO provide a sufficiently robust independent approval gateway before the 100MW BESS can be approved and energised?

1.2.3 Given the LPAs' acknowledged lack of specialist BESS expertise, should Requirement 10 secure independent verification of the final system as a whole by an appropriately qualified and independent specialist with direct experience of utility-scale BESS systems of comparable scale and complexity?

1.3 Has the potential off-site emergency response to a BESS incident been sufficiently defined and examined?

The Applicant has made clear that no site-specific Emergency Response Plan (ERP) will be prepared until post-consent design stage. This is not simply an operational document concerning actions within the BESS compound: the Applicant's oBSMP identifies a range of potential emergency measures affecting surrounding communities – including a 'shelter-in-place' instruction.

- The oBSMP anticipates a series of off-site emergency measures affecting the public, including notifying residents, advising them to close windows and remain indoors, moving residents or members of the public to cleaner air, cancelling outdoor events and possible road closures.
- A fully developed, site-specific ERP setting out when and how these potentially significant measures affecting nearby communities would be triggered and implemented has not been made available by the Applicant for scrutiny during the Examination. It plans to develop its final content much later, at detailed design stage, when the document would be informed by equipment-specific thermal runaway and other safety evidence relating to the BESS selected by the Scheme operator.
- Without a prominent emergency response document detailing the Applicant's current description of potential off-site measures available for scrutiny either during consultation or the Examination, residents have not been made aware of the potential consequences of a BESS incident – and they have not had the opportunity to respond accordingly.

1.3.1 Can the ExA be satisfied that arrangements capable of directly affecting surrounding communities have been sufficiently examined where the plan defining when and how those arrangements would operate will only be produced after the Examination has concluded?

1.3.2 Can the ExA be satisfied that the site-specific ERP can properly be deferred in its entirety until after consent, particularly where the final plan will be informed by battery chemistry, enclosure design, supplier-specific fire behaviour and thermal runaway evidence which are themselves not yet known?

1.4 Has the proximity of the BESS to a live high-pressure gas pipeline been adequately explained and addressed?

The Application does not make explicitly clear that the proposed 100MW BESS compound would sit alongside a live high-pressure gas transmission pipeline. The Applicant states that it *“has never suggested these pipelines were not ‘live’”*. The issue, however, is one of clarity. While their operational status might have been discerned from disparate elements of the Application material, the pipelines were presented simply as utilities: it was not unambiguously apparent to Interested Parties that a multi-unit 100MW lithium-ion battery energy storage system was proposed in close proximity to an operational high-pressure gas transmission pipeline. The significance of this is demonstrated by National Gas Transmission PLC’s own extensive engagement during the Examination.

- The Applicant now expressly states that the pipelines are *“operational assets managed by National Gas Transmission”* and that the Scheme has been *“designed around”* them. The issue is why this important fact – critically in relation to the pipeline close to the BESS in Site D – was not clearly disclosed at the earliest stage.
- This is plainly not an insignificant concern. National Gas Transmission has made repeated submissions, sought protective provisions and financial security, and attended a hearing represented by a barrister. It describes the risk as *“low probability, high impact”* and has sought a parent company guarantee, bank bond or letter of credit.
- Against that background, reliance on easements and protective provisions does not answer why the Applicant chose to locate a 100MW BESS installation so close to nationally significant live high-pressure gas infrastructure, or whether the consequences of an incident affecting both assets have been adequately considered.
- The Applicant’s clarification of the pipelines’ operational status emerged at a late stage in the Examination rather than being clearly and prominently presented in the Application. Making that status clear from the outset would have enabled Interested Parties to identify and scrutinise earlier the siting, safety and infrastructure-resilience implications of placing the BESS in this location.

1.4.1 Can the ExA be satisfied that the safety and infrastructure-resilience implications of locating the BESS so close to a live high-pressure National Gas Transmission pipeline have been adequately assessed?

1.4.2 Given National Gas Transmission’s extensive engagement and its characterisation of the risk as “low probability” but “high impact”, what evidence demonstrates that locating the BESS in this position represents an appropriately robust design choice?

1.4.3 Has the failure to make the pipeline’s operational status explicit from the outset allowed sufficient scrutiny of its implications for public safety, potential environmental impacts and nationally significant energy infrastructure?

1.5 Are the construction traffic figures sufficiently reliable and, where relied on, sufficiently secured?

SEPE has consistently asked the Applicant to reconcile stated construction material quantities with its forecast HGV movements: SEPE's targeted test analysis indicates a significant inconsistency between the Applicant's published aggregates quantity and construction traffic assumptions. SEPE's reconciliation exercise has not been directly answered, while other omissions and corrections have emerged during the Examination. Relatedly, in response to concerns raised over highway safety impacts, the Applicant has repeatedly relied on an anticipated period-specific peak of 30 HGV arrivals and 30 departures per day.

- Despite several opportunities to do so, the Applicant has not dealt with SEPE's category-specific reconciliation for aggregates deliveries. SEPE's analysis points to one of two conclusions: either the Applicant's forecast construction traffic volumes are materially understated, or there is a further significant error in its greenhouse gas assessment.
- The Applicant relies on a construction peak of *"60 two-way movements (30 in each direction) per day"*. If the *"60 two-way movements"* figure is material to the conclusion that highway effects are acceptable, the ExA may wish to satisfy itself why the same numerical ceiling is not yet secured in the DCO or oCTMP.
- A numerical HGV ceiling is not unprecedented in DCOs: the AQUIND Interconnector's draft DCO Requirement 17(4) expressly limited a specific category of construction traffic to 71 two-way HGV movements per day.
- NPS EN-3 (2025, 2.10.131–2.10.132) provides for numerical controls on solar development site construction vehicle movements to be *"imposed on development consent"* where necessary.
- The Applicant states that compliance is to be monitored through routing data, ANPR or GPS/geofencing and corrective action where breaches occur, reinforcing the importance of distinguishing forecast behaviour and subsequent monitoring from limits which are explicitly secured.
- The Applicant has not provided a comprehensive Permitted Routes Plan covering all three phases; the proposed Construction Access Strategy does not go far enough.
- Local Parish Council evidence questions whether forecast routing reflects likely real world behaviour, particularly for workforce vehicles and HGVs using minor

roads and village shortcuts instead of prescribed routes. One PC contends that the oCTMP relies *“heavily on self-regulation and retrospective reporting”*.

1.5.1 Can the ExA be satisfied that the traffic assessment is based on complete and internally consistent vehicle numbers where SEPE’s test reconciliation identifies a discrepancy between construction material quantities and forecast HGV movements which remains unresolved?

1.5.2 If 60 two-way HGV movements per day represents the peak construction traffic on which the Applicant’s assessment and assurances are based, what is the justification for not securing that figure as a maximum? If the Applicant requires flexibility to exceed it, can the ExA therefore be satisfied that the reasonable worst case has been assessed?

1.5.3 Where specific HGV numbers, routing arrangements, car-sharing assumptions or other operational behaviours are relied on to conclude that effects are acceptable, should those assumptions be secured rather than left to voluntary compliance and retrospective monitoring?

1.5.4 Where reasonably practicable routing or timing restrictions could materially reduce interaction with villages, school-run and peak community traffic, is the ExA satisfied that reliance on monitoring breaches and taking corrective action afterwards provides an equivalent level of protection?

1.6 Are all material construction traffic impacts and assumptions adequately assessed?

SEPE has identified further substantive concerns regarding the completeness and robustness of the construction traffic assessment, including the scope of movements assessed, assumptions about likely travel behaviour, and the treatment of network and highway safety considerations. These matters raise a wider question as to whether the assessed traffic case represents a sufficiently complete, realistic and safe construction scenario.

- The Applicant has acknowledged errors in some estimated construction traffic volumes. A further potential omission remains: the oCTMP provides for mobile welfare units at satellite compounds, but it is unclear whether their delivery, servicing and removal are included in the forecast traffic figures.
- Forecast workforce traffic relies on expected car-sharing and minibus use, yet those arrangements are optional. The Applicant nevertheless provides parking for the full peak workforce, indicating that individual vehicle travel remains a realistic scenario rather than merely a theoretical worst case.
- SEPE has identified a gap in modelling and assessment of impacts at the A1 junctions where construction traffic must make U-turns north and south of the A1/B645 junction due to the 'left in/left out' restriction. Consultation with Interested Parties and highway authority agreements therefore rely on incomplete traffic evidence and impact assessment.
- The Applicant's assessment records a fatal car/HGV collision at Pigg's Hill on the B645, selected as the principal route to the main construction compound at Site D, despite an alternative access option and local evidence identifying this section as an accident blackspot, with tight bends, pronounced cambers, restricted visibility and hazardous winter conditions. Two further fatalities are recorded at the A1/B645 and B645/Moor Road junctions, through which construction or replacement traffic is proposed to pass. The Applicant minimises these fatalities, concluding that the PIA data demonstrates "*no existing highway safety concerns which are likely to be exacerbated by the Scheme.*"

1.6.1 Has the Applicant demonstrated that every category of construction traffic is included in the assessed vehicle totals?

1.6.2 Is reliance on aspirational, insufficiently substantiated voluntary car-sharing and minibus use appropriate where parking is provided for the full peak workforce and those behavioural assumptions are not secured?

1.6.3 Does the traffic assessment adequately assess A1 U-turn movements and highway safety conditions on the B645 principal construction route?

1.7 Have the effects of operational replacement works on local communities been adequately assessed and controlled?

The Applicant now accepts that a replacement campaign involving around 20% of the solar panels would constitute a *“major operational activity”* capable of generating environmental effects across a range of receptors. It acknowledges that successive campaigns below the 20% threshold could occur. The revised operational arrangements route replacement traffic through communities, including Great Staughton, which the construction routing assumptions were designed to avoid.

- The scale and routing are now clear from the Applicant’s own documents. It acknowledges that a 20% panel replacement campaign would be a *“major operational activity in its own right”*.
- The Applicant’s Replacement Works assessment suggests that, for just one of the multiple solar panel replacement programmes anticipated over the Scheme’s 40-year life, a five-crew operation would mean up to 30 additional two-way HGV and crew vehicle movements per day through Great Staughton for 12 weeks. Table 5.5 of the oOEMP expressly allows operational LGV/HGV movements associated with maintenance, repair and replacement to route along Causeway Road past the highly sensitive location of Great Staughton Primary School, subject only to scheduling movements *“outside school drop-off and pick-up periods on school days”* and not a full fixed embargo.
- The replacement works framework differs materially from the construction strategy: removal of internal haul roads requires local road movements through villages the Applicant claims construction traffic was specifically routed to avoid.
- The Applicant acknowledges that technological advances may drive future replacement and that replacement equipment may differ from that originally installed. Over a 40-year operational life, future technologies could therefore entail materially different dimensions, materials, foundations or engineering requirements, potentially heightening the construction-like nature and environmental effects of replacement campaigns; yet those future effects have not been demonstrated to fall within the assessed environmental envelope.

1.7.1 Can the ExA be satisfied that the environmental effects of repeated replacement campaigns over 40 years have been adequately assessed, particularly where successive substantial campaigns may fall below the notification threshold?

1.7.2 Are the proposed controls sufficient to protect communities from repeated traffic, noise and other construction-like impacts throughout the Scheme's operational life?

1.8 Can the ExA reach a sufficiently reliable conclusion on the Scheme's greenhouse gas effects from the evidence presently before it?

As the Examination has progressed, the Applicant's greenhouse gas assessments have been subject to increasing scrutiny, with errors continuing to emerge. The Applicant has corrected calculation errors identified by SEPE and others and accepted that at least one particularly significant assumption is problematic. Yet additional apparent mistakes in data selection and application remain unaddressed. These are questions of straightforward accuracy and deficiency – not “*methodology*” or “*exact certainty*” – and materially compromise the reliability and credibility of the assessment.

- SEPE's emissions analysis exposed errors in the Applicant's emissions assessment, in significant part conceded by the Applicant, which also accepts that SEPE's assumptions “*broadly align*” with its own. Yet SEPE analysed only part of the Scheme and still found emissions significantly above the Applicant's whole-scheme figure. With “*errors ... identified during the Examination*” in the part tested, the untested remainder cannot be assumed error-free.
- Accepted Applicant miscalculations include its Forbes “*emission factor error*” when it incorrectly calculated the BESS production emissions, understating by a factor of four, and an “*error in the calculation*” for worker travel.
- Notably, following SEPE's analysis, the Applicant states that it “*reviewed the literature*” and confirmed what should already have been apparent: that its 20-year lithium-ion battery life assumption is flawed. The established age-related performance degradation and safety risks of lithium-ion cells mean that such a long service life is not an industry-standard input to a competent emissions assessment. The Applicant nevertheless maintains that its assumption of a single battery replacement over a 40-year period is “*not an error*”, despite the technical evidence suggesting otherwise.¹ The Applicant recalculated by applying a 10-year life assumption. This increased overall emissions to 809,000tCO₂e; yet the current GHG assessment still reports 735,000tCO₂e.
- While the Applicant “*acknowledges that errors have been identified in some of the assumptions*”, it has not answered SEPE's critique of the avoided-emissions figure underpinning its claimed climate benefit, including basic data selection errors and evident confusion between Green Book consumption- and generation-based data.

¹ SEPE has already set out examples of technical evidence on the safety of ageing battery cells (IEEE, Preger *et al.* (2022), Collath *et al.* (2022), Palacin (2018)). By way of an additional example, a government study on ageing and ‘second life’ batteries links ageing batteries with both safety and performance deterioration: ‘A study on the safety of second-life batteries in battery energy storage systems’, Office for Product Safety and Standards, 2023, <https://assets.publishing.service.gov.uk/media/63d91ff0e90e0773da7fdb92/safety-of-second-life-batteries-in-bess.pdf>

- The Applicant’s characterisation of SEPE’s avoided-emissions analysis as a different “*methodology*” or “*counterfactual*” sidesteps the specific and readily identifiable errors and deficiencies documented by SEPE. Basic questions of accuracy cannot credibly be recast as methodological disagreement.
- SEPE’s emissions and emissions-avoidance analysis, by a technical analyst experienced in NSIP solar and battery lifecycle analysis, indicates that the Scheme would generate more carbon dioxide emissions than it would save – a net carbon increase of over 1,200,000tCO₂e.

Relevant legal test – R (Finch) v Surrey County Council-2024-UKSC 20

The present Application contains errors identified by SEPE and acknowledged by the Applicant; further potential errors that have been identified but remain unaddressed by the Applicant; and, in light of the foregoing, additional errors that may remain unidentified. In these circumstances, SEPE respectfully submits that “*the ability [of the ExA] to reach a reasoned conclusion on the significant effects of the project on the environment*” (para 76 of the Supreme Court judgment in *R (Finch) v Surrey County Council-2024-UKSC 20*), as previously noted by SEPE, is seriously compromised.

Accordingly, the Applicant has failed to comply with, *inter alia*, Article 5(1) of the Environmental Impact Assessment (EIA) Directive, which is transposed into UK law by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Regulation 14(3)(b) states that an environmental statement 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 wording echoes that used by their Lord Justices in *Finch* and, again, SEPE would respectfully submit that the Applicant has similarly failed to comply with the EIA Regulations.

1.8.1 Given a series of acknowledged calculation errors, assumption flaws and data selection mistakes, can the ExA be satisfied that the Applicant’s assessment is sufficient to support a “reasoned conclusion” on the Scheme’s greenhouse gas effects?

1.8.2 Where calculations have been wrong, assumption defects have not been corrected in the current published assessment and wider challenges to basic accuracy remain unresolved, what GHG figures can the ExA safely rely on?

1.8.3 In the planning balance, can substantial weight properly be attributed to the Scheme’s claimed net climate benefit where the underlying generated- and avoided-emissions calculations remain materially unreliable or unresolved?

1.9 What secures the removal of this ‘temporary’ development and restoration of the land?

The Scheme’s temporary status depends on decommissioning and restoration after 40 years. The Applicant identifies a foreseeable liability and says it is confident funding will be available, yet no funds or equivalent financial security are secured. SEPE and other Interested Parties have raised decommissioning security repeatedly during the Examination because the issue is not necessarily whether another DCO has required an identical mechanism, as the Applicant argues, but whether a legal obligation falling due decades into the future provides adequate protection where the financial capacity of a future undertaker cannot be guaranteed.

- The Applicant’s apparent upper estimate for decommissioning is approximately £10 million. While a likely underestimate, this is broadly consistent with the very limited official UK evidence available, which does not establish the full costs of decommissioning NSIP-scale schemes and restoring productive agricultural land.
- No bond, ring-fenced fund or equivalent guarantee is proposed.
- National Gas Transmission PLC is seeking a parent company guarantee, bank bond or letter of credit because of the Scheme’s proximity to its live high-pressure gas pipelines, including the BESS compound. That security is sought against a contingent event that may never occur. By contrast, decommissioning and restoration are an inherent part of the Scheme as proposed and are intended to occur at the end of its operational life.
- National Gas Transmission’s concern that an SPV’s legal obligations may be of little practical value if funds are unavailable applies with greater force to the Scheme’s future decommissioning and restoration obligations.
- The Helios DCO demonstrates that financial provision for decommissioning can be secured for a solar NSIP.
- Against that Helios precedent, the Applicant relies on financial security not generally having been required for earlier solar DCOs. The wider precedent is largely untested: there is not yet established experience of solar NSIPs reaching end of life and undertakers meeting substantial decommissioning liabilities decades after consent and changes of ownership.

- For a £370–380 million Scheme operating for 40 years, the issue is whether a future legal obligation adequately protects against the risk that the undertaker lacks the funds at the critical decommissioning stage.
- There is an apparent inconsistency in addressing long term financial risk. Schemes such as the government’s Contracts for Difference framework support the financial viability of renewable generation, yet no comparable provision routinely secures the foreseeable cost of eventual removal and land restoration.

1.9.1 Can the ExA be satisfied that the Scheme’s temporary nature is adequately secured where the Applicant is an SPV and, notwithstanding a future legal obligation to decommission, no financial security is provided to ensure that the necessary funds will be available to discharge its decommissioning and restoration obligations after 40 years and likely changes in project ownership?

1.9.2 Should the DCO secure a bond, ring-fenced guarantee or equivalent mechanism to ensure that funds are available when decommissioning and restoration become due?

1.9.3 In the absence of financial security, can the ExA be satisfied that the risk of future insolvency or insufficient funds is not effectively transferred to landowners, local authorities and, ultimately, the public?

1.10 Has the extensive use of Best and Most Versatile agricultural land been justified by a sufficiently robust alternatives exercise?

The East Park Energy proposal has one of the highest proportions of BMV agricultural land-take across NSIP-scale solar power developments. Approximately 75% of the agricultural land within the Scheme is identified or assumed to comprise BMV land. National and local policy includes a clear and continuing preference for the conservation of more productive land, with NPS EN-3 (2025, 2.10.21) stating: *“Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible”*.

- The selected site, Zone B, contains the highest BMV proportion of the three alternatives.
- Detailed soil investigations followed rather than preceded the initial site-identification exercise.
- No soil sampling was undertaken outside the selected site.
- The comparative appraisal omitted several environmental considerations.
- The Applicant relied on a desk-bound review of Brownfield Land Registers which have been independently criticised as lacking the comprehensiveness, accuracy and detail required for effective decision-making.
- The site-selection process appears to have been materially shaped by land offered by interested landowners.
- The Applicant’s original search area was limited to 15km on unevidenced *“technical engineering”* grounds, potentially excluding reasonable alternatives – other solar NSIP schemes’ cable corridors are significantly longer, with ranges including 22 and 27.5km, and search areas at a 20km radius.
- The Applicant has itself stated that its connection offer has *“always been for the Eaton Socon Substation”* and that this *“has therefore dictated the site selection process and consideration of alternatives”*. Its own comparative appraisal also records Zone C as performing better on a number of the Applicant’s own criteria than the selected Zone B for agricultural land classification, proximity to dwellings and accessibility, with Grid Connection being its lower-rated criterion.

SEPE and a number of other Interested Parties have previously noted the pertinence of important case authority, most particularly ‘the Lullington case’, to the factual situation raised by the current application. Attention has been drawn to the finding made by the Honourable Mr Justice Jarman in *Lullington* that “*an assessment which involves no soil surveys outside the [appeal] site is not sufficiently robust*”. The Applicant has explicitly accepted that this was indeed the *ratio decidendi* of the judgment in *Lullington*.

SEPE has also noted that this judgment is entirely consistent with prevailing government planning policy. Indeed, as recently as 21 July 2026, in response to a question raised by Sir John Hayes MP, Michael Shanks MP, Minister of State (Minister for Energy), Department for Energy Security and Net Zero, stated: “*Planning policies guide developments away from Best and Most Versatile land where possible.*”

1.10.1 Can the ExA be satisfied that the Applicant has demonstrated, on a sufficiently robust evidential basis, that previously developed land, poorer-quality agricultural land or land of equivalent agricultural quality materially closer to the Eaton Socon connection point was not reasonably available?

1.10.2 In particular, was the alternatives exercise genuinely testing the best location for the Scheme, or principally identifying land capable of accommodating a project whose connection point and available land interests had already substantially determined its location?

1.10.3 Given the cumulative development of BMV land nationally and regionally, does this reinforce the importance of giving meaningful effect, at project level, to the policy preference for poorer quality land in determining this Scheme?

1.11 Can the ExA be satisfied that the Scheme will not cause long term or permanent damage to agricultural soils?

The Applicant states that the majority of the site “*would not be permanently adversely impacted by the Scheme and could be easily reverted to its existing agricultural condition upon completion*”. That assertion is not supported by a broad body of technical and academic evidence. Studies of solar developments identify soil compaction, structural damage and changes to soil carbon, biological function and hydrology, with some effects potentially permanent. There is no evidence from solar developments operating over a 40-year period to demonstrate that affected agricultural soils can be “*easily reverted*” to their existing condition.

- ADAS found that solar development can cause soil compaction and structural damage, reducing permeability to water and air and increasing runoff and erosion.² The report states that reversing compaction may take years and, in some cases, the damage may be permanent. It also identifies uncertainty over possible soil contamination from galvanised piles and beams in the soil for 40 years.
- Carvalho *et al.* studied 32 solar farms in England and Wales.³ Beneath solar panels, soil compaction was 14.4% higher than in gaps and 15.5% higher than in pasture; soil organic carbon was 9% lower than in gaps; and particulate organic matter was 29.1% lower than in gaps and 23.6% lower than in pasture. The authors link increased soil compaction to greater erosion risk and recommend solar site management that protects long term soil carbon storage.
- Moscatelli *et al.* found that after just seven years of solar panel soil coverage, soil fertility changed, with a significant reduction of water-holding capacity and soil temperature, while electrical conductivity and pH increased. Under the panels, soil organic matter was dramatically reduced, inducing a parallel decrease of microbial activity.⁴

² ‘2020/21 Soil Policy Evidence Programme: The impact of solar photovoltaic (PV) sites on agricultural soils and land’, ADAS, March 2023, <https://www.gov.wales/sites/default/files/publications/2023-08/impact-solar-photovoltaic-sites-agricultural-soils-land-spep21-22-03-work-package-4.pdf>

³ ‘Plant and soil responses to ground-mounted solar panels in temperate agricultural systems’, Carvalho *et al.*, Environmental Research Letters, 20, 2025, <https://iopscience.iop.org/article/10.1088/1748-9326/ada45b>

⁴ ‘Soil properties changes after seven years of ground mounted photovoltaic panels in Central Italy coastal area’, Moscatelli *et al.*, Geoderma Regional, Volume 29, June 2022, <https://www.sciencedirect.com/science/article/abs/pii/S2352009422000207>

- Hernandez *et al.* comment that renewable energy development “*can require a complex set of environmental tradeoffs*”. In relation to utility-scale solar development, the authors identify soil and hydrological effects associated with vegetation removal and compaction, including implications for erosion, soil moisture and nutrient dynamics.⁵

1.11.1 Given this sample of the available evidence, on what basis can the ExA be satisfied that soils affected by the Scheme for 40 years could be “easily reverted” to their existing agricultural condition?

1.11.2 In light of the evidence that compaction and changes to soil structure, carbon, biological function and hydrology can persist over time and may not be readily reversible, what evidence demonstrates that the Applicant’s proposed measures would prevent or adequately remediate these effects over the Scheme’s 40-year operational life?

1.11.3 In the absence of evidence covering a 40-year operational period, should uncertainty over the extent and reversibility of soil damage weigh against the Applicant’s claim that the land – assessed as comprising more than 75% Best and Most Versatile quality – is readily restorable?

⁵ ‘Environmental impacts of utility-scale solar energy’, Hernandez *et al.*, Renewable and Sustainable Energy Reviews, 2014, <https://pubs.usgs.gov/publication/70048499>

1.12 Has the cumulative impact of the emerging local concentration of solar and energy development been sufficiently assessed?

East Park Energy would add a major solar development to an area where substantial solar and energy infrastructure is already operational, under construction or planned. NPS EN-3 (2025) states that where applicants “*choose a site based on nearby available grid export capacity*”, they “*should consider the cumulative impacts of situating a solar farm in proximity to other energy generating stations and infrastructure.*”

- Local concentration already includes operational schemes known as Manor Farm, Little Staughton Airfield and Top End Farm; Cobholden is under construction; and High Wood is at pre-construction.
- The Applicant has scoped out operational schemes and included them within the EIA baseline. That does not appear to answer the specific EN-3 requirement to consider the cumulative impacts of locating East Park Energy in proximity to other energy infrastructure.
- Scheme developers or operators behind High Wood, Cobholden and Manor Farm have themselves made representations to the Examination, providing direct evidence of interaction between East Park Energy and neighbouring solar developments.
- National Grid Electricity Transmission states that East Park Energy is only “*one of a number of projects*” requiring future connection at Eaton Socon, specifically identifying Clearstone Energy and Telis Energy projects. Neither appears to have been referenced or included in the Applicant’s cumulative assessment.
- The resulting concentration forms an emerging solar development ‘corridor’ extending around 12km, with estimated land-take exceeding 2,800 acres even before Clearstone and Telis schemes are included.

1.12.1 Can the ExA be satisfied that the Applicant has properly applied NPS EN-3 paragraph 2.10.18 to the full concentration of existing, committed and emerging energy development around the East Park Energy sites?

1.12.2 Does excluding operational schemes as part of the baseline, while omitting further projects specifically identified by NGET, provide a sufficiently complete assessment of the cumulative impacts expressly required by EN-3?

1.13 Can the ExA be satisfied that the effects on the public rights of way network are acceptable and adequately mitigated?

The Scheme would affect an established public rights of way (PRoW) network used by walkers and equestrians from the local communities and beyond. The Ramblers, Borough of Bedford Local Access Forum, British Horse Society (BHS) and other Interested Parties continue to raise concerns about the safety of users during construction; visual effects from PRoW, particularly along the elevated BW37; and the use of permissive rather than permanent new routes. Important details about how PRoW users will be protected during construction will not be finalised until after consent.

- The final PRoW Management Plan will set out temporary diversions, closures and arrangements for PRoW users where routes interact with construction activity. The BHS continues to raise specific safety issues relating to how close the proposed diversion of BW37 would be to the works, and how users of BW40 would be protected – there are no safety measures planned for users to the north of its intersection with BW37. Where concerns have been raised over whether a proposed diversion is far enough from construction activity, its final location is not a minor administrative detail.
- The final PRoW arrangements will not have been seen or tested by the ExA and Interested Parties during the Examination. The ExA is being asked to accept that these safety issues can be properly resolved post-consent, without seeing the final routes and arrangements.
- There are unresolved visual effects, particularly for users of elevated BW37. Keeping a PRoW open does not mean that its recreational value is unchanged. Users would still experience the solar development from routes through and overlooking the Scheme.
- The Applicant proposes around 5.3km of new permissive access for the operational life of the Scheme. These routes would not become part of the definitive PRoW network and could be removed when the Scheme is decommissioned after 40 years or more. This raises a simple question about the claimed access benefit. If the new routes disappear with the Scheme, they are a temporary benefit rather than a permanent improvement to the PRoW network.

1.13.1 Can the ExA be satisfied that PRoW users, particularly equestrians, will be adequately protected during construction when concerns about BW37 and BW40 remain unresolved and the final diversions and safety arrangements will only be agreed after consent?

1.13.2 Has the Scheme adequately addressed the effects on the recreational experience of PRow users, particularly the visual effects from elevated BW37, rather than simply whether routes remain open?

1.13.3 How much weight should the ExA give to approximately 5.3km of new permissive access when it is temporary?

2. Are the communities most affected by the Scheme adequately protected by the controls actually secured, rather than by measures presently anticipated?

The adequacy of safeguards where additional controls have been rejected

Across a wide range of topics – including BESS safety, construction and replacement traffic, emergency response and decommissioning – a recurring issue has been the distinction between what the Applicant says it expects or intends to happen and what the DCO or certified management plans actually require to happen.

SEPE and other Interested Parties have proposed additional preventative safeguards including construction traffic mitigation and safety measures, independent verification of the final BESS design and financial security for decommissioning. The Applicant has variously considered additional controls unnecessary, disproportionate or more appropriately addressed through later management plans.

One example illustrates the wider concern. SEPE and local residents have sought preventative controls intended to reduce the interaction between Scheme traffic and local communities, including clearly defined no-go/no-through routes and restrictions during school and commuter peak periods.

The Applicant has rejected the proposed school-hour controls, stating that a fixed embargo was “*not necessary or proportionate*” and would be “*unnecessarily inflexible*”, preferring “*routing, delivery booking, timing, monitoring and corrective action*”. That response relies in part on its construction haul road strategy avoiding Great Staughton and other settlements, yet SEPE and Interested Parties including Parish Councils have consistently voiced widespread concerns over the effectiveness of the measures proposed.

The Applicant characterises this particular control suggested by local residents as “*an indiscriminate restriction across the whole Scheme*”. This does not address whether a time-limited restriction during school arrival and departure periods would in fact be a targeted response to a foreseeable risk. The B645 is a principal route through the affected area and is an important transport corridor for local schools and communities. Construction HGVs and crew vehicles using the B645 and other local roads would inevitably interact with school buses and other traffic as they converge on the routes from towns and villages across the area during the broad spread of school travel times. These are precisely the road users whom such a restriction was intended to protect.

The question is therefore not whether a school-hour restriction would apply across more than one part of the Scheme, but whether avoiding a limited number of

predictable periods of heightened community traffic would provide a reasonably practicable preventative safeguard. If the Applicant's construction programme requires unrestricted access during those periods, the ExA is invited to consider whether the resulting interaction between Scheme HGVs, school traffic and other road users has been adequately assessed and justified.

For communities affected by construction and replacement traffic, the distinction between prevention and retrospective enforcement is far from academic. A warning or sternly worded letter to a contractor after an inappropriate routing movement has occurred would be of little comfort to the parents of a child injured outside school or on a village road.

SEPE does not suggest that every safeguard proposed by an Interested Party must necessarily be imposed. The question for the ExA is, where a foreseeable risk can reasonably be reduced through a clear and enforceable safeguard, does reliance on monitoring and corrective action after a breach provide an equivalent level of protection?

More broadly, where safeguards have been rejected in favour of operational flexibility or future management, can the ExA identify with confidence the assumptions essential to its conclusions on acceptable impacts and confirm that those assumptions are secured by enforceable controls? Where an assurance is not secured, what weight can properly be attached to it?

The extent of reliance on future assessment and management

A recurring feature of the Applicant's case is reliance on matters that will be determined, demonstrated, monitored or corrected in the future. SEPE's concern is not that appropriate matters can never be deferred, but that the greater the reliance placed on future evidence and future management, the greater the importance of securing the necessary safeguards now.

SEPE recognises that no major infrastructure project can be completely designed in every detail before consent and that appropriate flexibility is inherent within the DCO process. The concern throughout this Examination has not been flexibility in itself, but whether the degree of flexibility sought by the Applicant has been matched by sufficient evidence and sufficiently robust controls.

The communities surrounding East Park Energy would experience the consequences of this development not only during construction, but throughout its proposed 40-year operational life, during major replacement works, and finally through decommissioning and restoration. Those communities will not have the benefit of another six-month Examination when detailed decisions are subsequently taken.

SEPE therefore respectfully invites the Examining Authority, before reaching its recommendation, to distinguish clearly between matters which have been demonstrated by the evidence before it, matters which remain dependent on future assessment, and safeguards which the Applicant says will be provided but which are not explicitly secured.

Securing safeguards through future changes in ownership and control

Where material uncertainty remains, the importance of securing necessary safeguards through the DCO should not be underestimated. The individuals presently negotiating the Application, giving assurances during the Examination and responding to concerns raised by communities will not necessarily be those responsible for constructing, operating, maintaining, replacing or ultimately decommissioning the Scheme over its proposed 40-year life. Contractors, operators, landowners and decision-makers may change. Future communities should not therefore have to rely on the intentions or assurances of those presently involved, or on provisions contained only within outline or draft management plans which may subsequently be amended without the same level of public and independent scrutiny provided by the Examination, where a material safeguard can reasonably be expressed as an enforceable requirement on the face of the DCO. Fundamentally, the enduring protection is the consent itself, not the identity or stated intentions of those presently promoting the Scheme.

Securing sufficient protection for the long term consequences of the Scheme

Against that background, the ultimate question is not simply whether the Applicant considers further control unnecessary, but whether the Examining Authority itself is satisfied that sufficient protection is secured for the communities, land and environment that will bear the long term consequences of the Scheme.