

By the applicant's own admission, site selection was initially led by grid connection availability, which later proved to be unavailable, and also by willing landowners. The discovery that there was no regional need for this project in T7 and the lack of capacity at the initial connection site - Norwich Main - should have resulted in the project being shelved, particularly once the sensitivities and serious constraints of this landscape were known. The generic 500MW scheme relates only to availability of willing land owners and not to the specific needs of our landscape, ecology or cultural heritage. The applicant seeks to permanently change our landscape and ecology to enable it to construct and operate a 'temporary' energy generation project. The multiple environmental constraints at each land parcel, which should have triggered avoidance, have been treated inconsistently across the scheme, undermining the mitigation hierarchy. The powers sought in the DCO are too broad and there is not enough detail, firm language or protections written in to it to enforce it.



East Pye Solar PINS Reference: EN0110014

Issue Specific Hearing 1 Submission:
Scope of the Proposed Development, Site Selection
and Draft Development Consent Order

Submitted by BEPS (Block East Pye Solar F816760F0)

1. Purpose of this submission

BEPS welcomes early examination of the Scheme definition, site-selection case and draft Development Consent Order. Before the environmental effects and compulsory acquisition powers of East Pye Solar can properly be tested, the Examination needs to establish what development the Order would actually authorise, which parts of that development are necessary and deliverable, why those particular Sites were selected, and whether the draft DCO limits the authorised development to the case actually assessed.

BEPS does not seek at ISH1 to repeat its forthcoming detailed Written Representation or to address every environmental topic. Its narrower submission is that several uncertainties go to the identity and structure of the Scheme itself rather than to ordinary detailed design.

The central questions are:

- What development is actually authorised by the DCO?
- Which principal Works are mandatory, optional or severable?
- Is the proposed grid connection infrastructure a sufficiently confirmed component of the Scheme?
- Why were the present Sites retained notwithstanding the concentration of known constraints?
- Does the Rochdale Envelope define and control a coherent whole-project worst case?
- Does the draft DCO secure the Scheme and mitigation actually assessed?
- If a Work is removed, reduced, delayed or no longer required, what happens to the associated DCO and land powers?

These questions should be identified and tested at this initial hearing and, where they remain unresolved after Deadline 1, determined through the subsequent written process and any further ISH before the Scheme is treated as a settled basis for the final dDCO and recommendation.

BEPS recognises that ISH1 takes place before Deadline 1 and therefore before the Written Representations, Local Impact Reports, ExQ1 responses and initial Statements of Common Ground are available. Consistent with its Preliminary Meeting submission, BEPS therefore treats this hearing as an initial examination of Scheme scope, site selection and the dDCO. The purpose of this submission is to identify the principal questions which should be tested now and the information which should be required from the Applicant. Where those questions remain materially unresolved after Deadline 1, BEPS respectfully asks that they be capable of further examination at a later ISH once the fuller evidence of Interested Parties and statutory consultees is before the ExA.

2. The DCO must identify the Scheme actually being authorised

The application is presented as an integrated solar generation and battery storage project with associated project substations, a new National Grid substation, overhead-line works, cable corridors, access works and supporting infrastructure.

However, the draft DCO appears capable of permitting materially different implementation scenarios.

BEPS identifies, among other possibilities:

- solar generation without the BESS;
- a BESS delivered substantially later than the solar component;
- a reduced or differently configured BESS;
- omission of individual solar Sites;
- omission or alteration of individual project substations;
- omission or alteration of the proposed National Grid substation solution;
- cable infrastructure becoming unused following changes to the connection solution;
- prolonged phased implementation;
- commencement followed by abandonment of individual Works; and
- substantial replacement of generating and storage equipment during the operational period.

Revised Requirement 2 now requires a construction phasing scheme, timetable and plan. That improves procedural control but does not appear to impose a maximum interval between phases, an overall construction long-stop, expiry of unused Works powers or consequences for a phase that is commenced but later abandoned. The Applicant should therefore identify the maximum temporal implementation scenario permitted by the DCO and assessed in the ES.

Revised Requirement 21 also allows the 60-year period to run by reference to final commissioning of each part of Work No. 1. The Applicant should identify the maximum whole-Scheme operational period that staggered commissioning could produce and whether any absolute long-stop prevents materially longer occupation of the Order Limits.

These are not simply different ways of constructing precisely the same development. Some would materially change the physical Scheme, the benefits delivered, the environmental effects arising and the land required.

BEPS therefore asks the Applicant to state clearly, for each principal Work:

- whether it is mandatory, optional or severable;
- whether another Work depends upon it;

- whether it can be constructed and operated independently;
- what minimum development must be implemented for the Scheme still to constitute East Pye Solar as assessed;
- and what happens to the associated powers if that Work is omitted.

The DCO should not function as a portfolio of permissions from which the undertaker may subsequently select a materially different project.

BEPS therefore requests a definitive Scheme-to-Powers and Severability Schedule.

3. The solar and BESS components require separate examination

The distinction between the connection status of the solar and BESS components is material to Scheme definition. BEPS does not submit that Gate 1 status itself legally prevents the BESS from being authorised. The narrower issue is whether the DCO and the Applicant's benefits case accurately reflect what may actually be implemented.

The Examination should establish:

- whether the BESS is legally required to form part of East Pye;
- whether the solar generating station can proceed and operate without it;
- whether the BESS may be constructed materially later;
- what BESS capacity and duration are actually controlled;
- whether different storage technology may be substituted;
- what benefits relied upon by the Applicant depend upon the BESS being operational; and
- what happens to BESS-specific land and powers if that component does not proceed.

The Applicant should not receive weight for an integrated solar-plus-storage benefit case while retaining the legal ability to construct principally a 500 MW solar generating station without the storage component. That relationship should be made explicit in the DCO and in the proposed Scheme-to-Powers schedule.

4. The National Grid connection solution is not presently confirmed to the degree suggested by the Scheme description

NGET's Relevant Representation materially qualifies the Applicant's presentation of Site 1B as the settled connection solution. NGET states that the final size, design and location of the point-of-connection solution may be affected by the final Gate 2 offers in the area and that it cannot presently confirm what that solution will be. It also states that the grant of DCO consent for the proposed National Grid substation would not itself oblige NGET to accommodate East Pye through that substation. Finally, NGET understands that the replacement connection agreement will not contain the previous

requirement for the Applicant to secure the land and consent for the National Grid substation. This is more than residual detailed engineering.

The Examination needs to establish:

- whether Site 1B remains the current agreed connection location;
- whether the six-hectare envelope is the final land requirement;
- whether the proposed pylon and overhead-line works represent the full presently anticipated transmission works;
- what design decisions remain reserved to NGET;
- who will construct each element;
- who will own the land;
- who will own, operate and maintain the infrastructure;
- whether NGET still requires East Pye to secure the relevant land;
- whether another NGET solution could ultimately be adopted;
- and what happens to Works Nos. 4, 5 and related cable and compulsory powers if that occurs.

BEPS therefore asks for a Grid Connection Status and Responsibilities Matrix, jointly verified by the Applicant and NGET, covering design, land acquisition, civil construction, electrical equipment, pylon works, environmental management, drainage, commissioning, ownership, operation, maintenance and decommissioning or permanent retention.

Where the connection solution remains unconfirmed, the DCO should include appropriate hold points. Powers for infrastructure that proves unnecessary to the final connection solution should not remain available simply because it formed part of an earlier option.

The current TEC Register identifies a number of proposed projects in the South Norfolk area as connecting at 'North Anglia Connection Node A', whereas East Pye alone is shown as connecting at 'Long Stratton 400 kV'.

Can NGET and the Applicant therefore explain:

- (a) the intended function and approximate location of North Anglia Connection Node A;
- (b) whether it forms part of, or is intended to connect with, the Norwich–Tilbury reinforcement;
- (c) whether connection of East Pye at North Anglia Connection Node A, or another coordinated connection point, has been considered;
- (d) why a separate permanent 400 kV substation at Great Moulton is presently necessary

If the final NGET point of connection is determined to be outside the Order Limits, including potentially at North Anglia Connection Node A, how would the Project

connect to that point, and have the environmental effects, land requirements and major infrastructure crossings associated with such an alternative connection been assessed?

5. The site-selection case should be tested against the history of the Scheme

BEPS accepts that the relevant NPSs establish strong national need for renewable and electricity infrastructure. It does not seek to reopen that policy. The site-selection issue raises specific questions: why this Scheme, at this scale, in this region, across these particular Sites?

The Applicant's ES identifies a sequence which requires explanation:

- the original land search was associated with the Norwich Main connection strategy;
- that strategy did not proceed due to lack of capacity;
- the Applicant did not then undertake a new strategic site search from first principles;
- the Great Moulton connection solution was chosen to enable the existing assembled land package to be retained;
- the desired Scheme scale appears to have been substantially fixed before the environmental suitability of the resulting land package had been fully established;
- environmental constraints were then increasingly addressed through buffers, mitigation and design modification rather than avoidance through site selection;
- inconsistent treatment of the same constraints at different land parcels gives rise to an appearance of tokenistic rather than environmentally led 'avoidance'.

BEPS therefore asks the Applicant to explain what environmental or planning constraint would actually have resulted in the consistent exclusion of land.

That question matters because the evidence now includes:

- NWT continuing to favour removal of Site 3;
- major infrastructure concentrated at Site 1 on Grade 2 land close to multiple sensitive receptors;
- substantial BMV land;
- Site 5 accommodating a major 400 kV project substation in a highly sensitive landscape and heritage context;
- transport strategies for Sites 7–10, crossing the high pressure gas pipeline, which NCC and NGT do not support;

- and numerous examples where mitigation is required to make already selected land potentially acceptable.

The proper sequence under the mitigation hierarchy is avoidance first. The central question is whether environmental constraints determined the Scheme, or whether mitigation was used principally to preserve a pre-existing 500 MW land assembly.

A related site-selection question concerns the scale of development which the Applicant treated as necessary. BEPS does not challenge the national policy need for renewable generation. Its narrower concern is that the Applicant appears to have treated the need for East Pye Solar at approximately 500 MW in T7 as a fixed premise when considering reasonable alternatives, including a smaller Scheme and the ‘do nothing’ alternative.

That assumption requires examination in light of the project-specific grid evidence. The Applicant’s own evidence shows that the T7 region already contains more solar capacity in the pipeline than the identified regional pathway requires. East Pye would add approximately 500 MW beyond that position, yet the Applicant has not demonstrated any project-specific regional need for that additional capacity. If the Applicant cannot demonstrate a project-specific requirement for East Pye Solar to proceed at the proposed scale in this particular location, why was a materially smaller Scheme, removal of the most constrained Sites, or no development treated as an unacceptable alternative from the outset?

BEPS therefore asks that project-specific T7 capacity and Gate 2 evidence be examined insofar as it bears upon the Applicant’s claimed need for the selected scale and its rejection of less harmful site-selection alternatives, potentially in a less constrained region.

6. Material design evolution must be reconciled with the final Environmental Statement

Since Statutory Consultation, East Pye Solar has undergone material evolution including:

- selection of the Site 1B National Grid substation;
- abandonment of the southern alternative;
- relocation and upgrade of a project substation from 132 kV to 400 kV;
- taller transmission infrastructure;
- additional land associated with grid works;
- changes to AIL and construction routes;
- highway and visibility-splay changes; and
- other design amendments after the earlier consultation stages.

Despite all these changes, the Applicant stated that they had no environmental consequences and the PEIR therefore did not require updating. The question is whether the final environmental assessment demonstrably assessed the final Scheme across every affected discipline.

The Applicant should therefore provide a concise Design Evolution and Assessment Audit, identifying for each material change:

- when it occurred;
- what consultation preceded or followed it;
- which ES chapters were reconsidered;
- which worst-case assumptions changed;
- whether new surveys or modelling were undertaken;
- and where the final effect is assessed.

A generic conclusion that significance remained unchanged is not an adequate substitute for that reconciliation where the scale, voltage, height, location or construction requirements materially changed.

7. The Rochdale Envelope requires a coherent whole-project worst case

BEPS does not object to legitimate detailed-design flexibility. Its concern is the cumulative breadth of the retained envelope: panel technology and height, output, BESS design, substations, foundation and piling type, cable and HDD parameters, construction sequencing, compounds, haul routes, lighting and replacement.

The July revisions widen the importance of that issue. The revised Explanatory Memorandum confirms that no upper generating-capacity limit is sought, while Revision 2 preserves flexibility in BESS piling and expressly includes foundations within major Works descriptions. Neither point is objectionable in isolation. The Applicant must, however, demonstrate that every lawful combination remains within one coherent whole-project environmental worst case. A discipline-specific worst case is not sufficient if different chapters rely upon different configurations.

The Applicant has already identified a number of maximum and minimum design parameters in ES Chapter 4 and the 'Design Principles, Parameters and Commitments' document. BEPS does not seek duplication of that material. We ask instead for a consolidated reconciliation showing, for each environmentally material parameter:

- the maximum case assessed;
- the ES topics which rely upon that parameter; and
- the DCO Requirement, certified document or other binding mechanism which secures it.

The reconciliation should also identify any material construction parameter for which no scheme-wide or site-specific maximum has yet been fixed.

Revised Requirement 2 does not itself define that worst case. A phasing timetable is not a secured maximum construction scenario. The Applicant should identify the maximum number of concurrent work fronts, maximum Site duration, maximum overlap between principal Works and maximum interval between phases assumed by the ES.

For design parameters, this should include panel technology and dimensions; BESS dimensions and principal design limits; project and National Grid substation dimensions; cable and HDD parameters; and other principal electrical infrastructure.

For construction parameters, particular attention should be given to matters which do not presently appear to be brought together into a complete quantified maximum case, including site-by-site construction duration; simultaneous work fronts; pile numbers and piling rigs; maximum foundation type, depth and dimensions for each principal infrastructure type, including the BESS, project substations and National Grid substation; HDD number and length; dewatering; compound areas; haul-road extent; construction lighting; out-of-hours working; and maximum construction traffic and AIL assumptions.

The purpose of this exercise is not to create a second Design Principles document. It is to demonstrate that the design and construction envelope assessed in the ES is complete, internally consistent across disciplines and legally controlled.

Where an environmentally material parameter is relied upon to support a significance conclusion but is not secured, the assessed case and the development legally authorised by the DCO are not the same.

8. The DCO must secure the environmental case

The ExA's Rule 6 letter already recognises that mitigation effectiveness and the extent to which mitigation is secured through the DCO will run throughout the Examination. BEPS therefore asks that the draft DCO ultimately demonstrate a clear chain:

assessed effect → relied-upon mitigation → binding control → approval process → monitoring → remedial trigger → enforcement.

The post-acceptance revisions confirm that these issues remain live. Revised Requirement 13 introduces a Permitted Preliminary Works Environmental Management Plan. BEPS welcomes that additional control, but the Applicant must identify exactly what activities remain within 'permitted preliminary works', which normal pre-commencement Requirements will not yet apply, and whether any environmentally consequential activity can occur before the mitigation relied upon by the ES is operative.

Revision 2 also improves the traceability of the Commitments Register, but the Register remains expressly unsecured and substantive commitments continue to use qualifications such as ‘where practicable’ and ‘where possible’. Where such a measure is relied upon to support a significance conclusion, the Applicant should identify the binding DCO mechanism securing the required environmental outcome. Traceability is not enforceability.

Particular scrutiny is required of:

- permitted preliminary works;
- the definition of commencement;
- segmented commencement;
- the meaning of maintenance;
- replacement and repowering;
- ‘substantially in accordance with’ formulations;
- ‘where practicable’, ‘where appropriate’ and similar qualifications;
- outline management plans;
- consultation requirements on discharge;
- monitoring and remedial action;
- decommissioning;
- successor responsibility; and
- the treatment of abandoned or omitted Works.

BEPS acknowledges that Revision 2 now requires relevant original consultees to be consulted on later amendments. That improvement should be retained. It does not answer the separate concern that Schedule 15 permits deemed approval through administrative silence. Environmentally material mitigation should require a positive determination, not become approved merely because a decision period expires.

BEPS is not asking for all detailed design to be completed during Examination. **The proper distinction is between how an already demonstrated acceptable solution will be implemented, which may appropriately be left to detailed design and whether an acceptable solution exists at all, which must be established before consent.**

That distinction should guide the ExA's treatment of the DCO throughout the Examination.

9. Removal or alteration of Works during Examination must produce corresponding changes to the DCO

BEPS asks for express confirmation on this point. If any Site, Work, Scheme component, mitigation measure or power is removed, reduced or materially altered during Examination, the change must be carried through consistently to:

- the draft DCO;
- Works Plans;
- Land Plans;
- Streets and Access Plans where affected;
- Book of Reference;
- compulsory-acquisition schedules;
- certified documents;
- environmental assessment; and
- relevant control documents.

It should not be sufficient for the Applicant to state that it no longer intends to construct a Work while leaving the legal power to construct it in the Order. Likewise, land powers should not survive merely to preserve optionality for infrastructure no longer required.

BEPS asks the ExA to require a clear schedule of consequential amendments whenever a material Scheme change is made.

10. Legal plans and powers should be reconciled

East Pye Solar's complexity makes reconciliation of its legal documents particularly important. BEPS asks for a Legal Plans and Land Powers Reconciliation

Schedule linking:

- each Work No.;
- Works Plan;
- Land Plan plot;
- Book of Reference entry;
- access/highway power;
- compulsory or temporary possession power;
- and environmental purpose.

This should use a current geographical base and identify superseded documents.

This would allow the ExA and Interested Parties to determine quickly whether the physical works, land take, rights and environmental assessment genuinely correspond.

The July Schedule of Changes also appears to define the 'special category land plan' as the document certified 'as the streets plan'. If that is a drafting error, it should be corrected expressly and the relevant plots, Works and powers reconciled before the final Order is settled.

11. Compulsory acquisition consequences

BEPS recognises that detailed compulsory-acquisition objections will be considered separately, including at any CAH. However, ISH1 necessarily has consequences for that later exercise.

The principle is straightforward:

the connection solution should determine the land requirement; uncertain land powers should not be granted first in order to preserve an unresolved connection option.

That is particularly important at Site 1B because NGET's representation indicates both that the final connection solution remains unconfirmed and that the replacement agreement is not expected to require East Pye itself to secure the substation land and consent.

If Works are optional, severable or ultimately unnecessary, the corresponding compulsory powers must be reconsidered.

Revision 2 also introduces express provisions concerning special category land. BEPS reserves the detailed statutory and necessity case for the CAH, but at ISH1 the Applicant should identify which Works require those plots and confirm that the associated powers fall away if those Works are removed or become unnecessary.

12. Information BEPS asks the ExA to require

At the Preliminary Meeting BEPS requested a number of consolidated schedules to make the Examination more efficient. The substantive discussion above demonstrates why those schedules are required. BEPS therefore renews that request and asks the ExA to require:

- a Scheme-to-Powers and Severability Schedule;
- a Grid Connection Status and Responsibilities Matrix, jointly addressed with NGET;
- a Consolidated Maximum Design and Construction Parameters Schedule;
- a Design Evolution and Assessment Audit;
- a Legal Plans and Land Powers Reconciliation Schedule; and
- before final consideration of the dDCO, a Consolidated Mitigation Route Map / Mitigation-to-DCO Audit.

The July revisions reinforce the need for those schedules. The maximum-parameters and mitigation audits should show, for every materially revised provision, what development is authorised, where its worst case was assessed, what mitigation is relied upon, how that mitigation is secured and what discretion remains after consent.

These schedules do not require the Applicant to create a new environmental case. They require it to reconcile the case it has already submitted.

13. Conclusion

BEPS's concern at ISH1 can be reduced to one proposition:

The DCO should follow from a sufficiently defined and demonstrated Scheme. It should not confer the broadest possible development and land powers first and leave essential questions of Scheme identity, connection configuration, severability, environmental parameters and actual land requirements to be determined afterwards.

Before the ExA can safely treat East Pye Solar as a stable project for the remainder of the Examination, the Applicant should establish:

- what must actually be built;
- what may be omitted;
- what grid solution is genuinely being authorised;
- why the selected Sites remained appropriate despite their identified constraints;
- what maximum development has actually been assessed;
- how that maximum case is secured;
- and what happens to legal and compulsory powers when development is changed or omitted.

Where the answer requires deletion, reduction or redesign, the legal and environmental documents must change with it. The July revisions demonstrate that the legal controls remain in development; the Examination must ensure that the final DCO is no wider than the Scheme assessed and that every material environmental control is precise and enforceable.

Because ISH1 precedes Deadline 1, BEPS does not ask the ExA to determine every issue now. It asks that the Applicant's position be fixed, the requested reconciliations be provided, and any materially unresolved Scheme-scope or DCO issue be capable of further examination after Written Representations, Local Impact Reports, ExQ1 responses and initial Statements of Common Ground are available.

AI Disclaimer

BEPS's submissions are based on research undertaken by multiple human research teams. Given the scale and complexity of the East Pye Solar application, BEPS also uses a closed-project bespoke GPT to assist with cross-referencing and analysing evidence across the application, Planning Inspectorate documents, statutory-consultee evidence, relevant guidance and peer-reviewed research.

AI is used as a research and document-analysis tool, not as a substitute for human judgement. All submissions are compiled, reviewed, edited and checked by BEPS, who determine the arguments advanced and verify material sources and evidential propositions.

BEPS accepts responsibility for the contents, accuracy and arguments of its submissions.