

Answers to Selected EXQ1 Questions

East Pye Solar PINS Reference: EN0110014

Submitted by BEPS (Block East Pye Solar F816760F0)

Q1.1.2 – Community Liaison Group

BEPS objects to this Project and does not believe the current application is adequately designed or evidenced to be granted development consent.

If in future an acceptable Project and application is evidenced by the applicant, BEPS supports the principle of a Community Liaison Group, provided that it is properly constituted, independently administered and does not transfer onto affected residents work which properly belongs to the Applicant or the relevant authorities.

BEPS considers that one important matter is presently missing from the proposed arrangements: **community participation should be properly resourced.**

Local residents and community representatives have already spent a very substantial amount of time over approximately two years reading and analysing an exceptionally large and technically complex application, attending consultations and hearings, obtaining professional evidence and preparing representations. Much of that work has necessarily been undertaken outside normal working hours and, in some cases, at the expense of participants' own employment and businesses. It has meant missing time with family, not going on holiday, and working weekends and evenings. It would not be reasonable to assume that the same individuals can continue indefinitely to provide the Applicant with significant unpaid monitoring, liaison and preparation work throughout a lengthy construction programme.

If the Applicant wishes community representatives to participate meaningfully in a CLG, BEPS considers that the arrangements should therefore provide for reasonable remuneration of community representatives for attendance **and for the reasonable preparation time necessary to participate effectively.** Meetings should ordinarily take place within normal working hours rather than depending upon residents giving up evenings and weekends. Reasonable expenses should also be reimbursed.

The precise mechanism could be developed in the terms of reference, but the principle should be established before the CLG is constituted. Funding should come from the Applicant and should be administered transparently. It should not be dependent upon representatives agreeing with the Applicant, and remuneration should not compromise the independence of participating community organisations.

The CLG should also have an adequately funded independent secretariat so that community representatives are not expected to undertake agendas, minutes, document circulation, action tracking or other administrative work themselves.

Meaningful participation may also require access to independent specialist and legal advice. Community representatives cannot reasonably be expected to take informed positions on technical proposals without access to appropriate advice.

BEPS therefore considers that the CLG arrangements should include an Applicant-funded but independently controlled budget from which community representatives

can obtain proportionate specialist or legal advice where reasonably necessary to understand or respond to a material proposal, monitoring result, proposed change or compliance issue. The choice of adviser should rest with the community representatives, not the Applicant, and funding should not depend upon the advice supporting the Applicant's position.

This should be a defined and transparent mechanism for obtaining the professional advice reasonably required for informed participation in the CLG. Without such provision, there is a risk that technically complex matters will be presented to lay community representatives who are then expected either to accept them without adequate scrutiny or to fund the necessary expertise themselves.

The same principle applies to legal advice where questions arise about whether a proposal is within the authorised DCO envelope, whether a Requirement has been complied with, whether a material change is being introduced through a management plan, or whether the correct approval procedure is being followed. Those are not matters on which unpaid community volunteers should be expected to make uninformed judgments.

BEPS further considers that membership should extend across the whole geographical area affected by the Scheme, including communities affected by construction routes, cable works and associated infrastructure rather than only settlements adjoining the solar arrays. Parish councils and established community organisations should be represented, with NCC and SNDC officers invited where matters within their respective responsibilities arise.

The terms of reference should provide for:

- meetings at appropriate intervals before and throughout construction, with additional meetings where significant problems arise;
- sufficient advance circulation of papers to permit meaningful consideration;
- advance information about construction phasing, route changes, road and PRow closures, abnormal-load movements and other material works;
- access to relevant monitoring information, including traffic, noise, dust, drainage and environmental-compliance information where applicable;
- a named Applicant representative with sufficient authority to obtain answers and initiate corrective action;
- a formal complaints, escalation and resolution procedure;
- published minutes and an outstanding-actions register;
- transparent reporting of unresolved matters to the relevant authority where necessary;
- reasonable remuneration for community-representative attendance and preparation time;
- reimbursement of reasonable expenses;
- an independently administered budget for proportionate specialist and legal advice where reasonably required for informed community participation; and
- Applicant-funded independent administrative support.

Participation must remain voluntary. A community organisation should not be disadvantaged, or treated as having accepted a proposal or mitigation measure, because it chooses not to participate or lacks capacity to do so.

Most importantly, the CLG should not become a substitute for matters which should already be assessed, designed, mitigated and secured through the DCO. Its function should be communication, monitoring and resolution of implementation issues arising from an already acceptable scheme. It should not be expected to discover environmental problems, design mitigation for the Applicant, police compliance without adequate regulatory involvement, or resolve after consent matters which should have been determined through the Examination.

The effective operation of the CLG, including reasonable community-representative time, independent administration and access to necessary specialist and legal advice, should therefore be treated as part of the cost of constructing the Scheme rather than depending upon the continuing unpaid labour and private resources of the communities affected by it.

In addition, BEPS would like to submit that the experience of engaging with East Pye Solar over the past two years gives us no confidence that a community liaison group will actually make any material difference to what the applicant chooses to do. BEPS has consistently sent the applicant information, surveys, extremely detailed and well-researched consultation responses. The applicant has largely ignored these, contradicted community lived-experience, been uncollaborative, shown no genuine desire to protect where we live, and itself produced documentation of such poor quality that BEPS currently has no confidence that they are capable of delivering a scheme that is beneficial environmentally or in any other way.

Q1.2.2(d) – Gate 1 status and the absence of a demonstrated Gate 2 route for the BESS

BEPS considers that the Gate 1 status of the proposed 500 MW BESS creates a material uncertainty over whether, and when, that part of the Scheme can obtain a confirmed grid connection.

The NESO June 2026 Gate 2 Criteria Methodology (see WR Appendix) makes the position clearer than a simple distinction between Gate 1 and Gate 2. A project must satisfy both the Gate 2 Readiness Criteria and one of the Gate 2 Strategic Alignment Criteria before it can receive a Gate 2 Offer. The Strategic Alignment routes are:

- eligibility for one of the protections in section 6.2;
- alignment with the relevant CP2030 capacity;
- designation under the Project Designation Methodology; or
- for technologies outside the scope of CP2030, qualification under the separate section 6.3 route.

Battery storage is expressly treated as a CP2030 technology. The ‘out of scope’ route is therefore not available to East Pye’s conventional BESS.

The central question is consequently whether East Pye can satisfy one of the remaining three substantive routes: protection, available CP2030 capacity, or project designation.

Protection Clause 2b

Clause 2b applies to projects which are already significantly progressed through specified forms of formal support. It is important because the methodology expressly states that Clause 2b can guarantee a place in the CMP434 queue even where the relevant project exceeds the zonal or GB permitted capacity for its technology.

However, the qualifying routes are tightly defined. The project must hold one of the following before closure of the relevant CMP434 application window:

- a live Contract for Difference;
- a live Capacity Market contract;
- an approved LDES, interconnector or OHA cap-and-floor arrangement, or merchant-interconnector approval;
- a live NESO Network Services contract; or
- a qualifying offshore leasing award associated with coordinated network design. BEPS has identified no evidence that East Pye’s BESS currently holds any of those qualifying arrangements.

The distinction between ordinary battery storage and LDES is also explicit in the methodology. An LDES asset must be capable of discharge at full power for at least eight hours and satisfy the relevant technical requirements; lithium-ion storage which does not meet that definition is treated as ‘batteries’.

East Pye has not been presented as an eight-hour LDES project. It is therefore not apparent that the LDES cap-and-floor route could assist it.

If the Applicant says Clause 2b is its intended route, it should identify the qualifying contract or regulatory instrument upon which it relies and provide the evidential basis for expecting the BESS to secure it.

Protection Clause 3a

Clause 3a protects projects which submitted a planning application on or before 20 December 2024 and subsequently obtained planning consent, subject to the further CMP435/CMP434 requirements set out in the methodology. Such projects may exceed both zonal and GB permitted capacities.

East Pye cannot appear to qualify. Its DCO application was submitted after 20 December 2024.

Protection Clause 3b

Clause 3b applies to projects whose planning application had been validated on or before closure of the CMP435 gated application window on 26 August 2025 and which subsequently obtain planning consent, again subject to the relevant CMP435/CMP434 requirements. Those projects may exceed the zonal capacity, provided they remain within the GB total permitted capacity.

East Pye again does not appear to qualify because its DCO application post-dates that cut-off.

The methodology also makes an important point for hybrid projects. Where only one technology or stage of a hybrid project satisfies the Strategic Alignment Criteria, only that technology or stage receives a Gate 2 offer. The remainder does not automatically benefit.

That provision is directly relevant to East Pye. Gate 2 status for the solar element does not carry the 500 MW BESS with it. The BESS must independently satisfy a Gate 2 Strategic Alignment route.

Alignment with CP2030 permitted battery capacity

This is the ordinary route for batteries which do not benefit from protection or designation.

The difficulty is that T7 is already heavily oversubscribed. NESO evidence records 784 MW of Gate 2 battery capacity in the earlier T7 phase and 927.6 MW in the 2031–35 phase, giving 1,711.6 MW in total, against corresponding regional battery capacity figures of 200 MW and 200 MW. A further 4,283.1 MW of T7 batteries remain at Gate 1. NESO has described the T7 battery position as one of significant oversupply.

NESO's June 2026 methodology directly addresses such a situation. Where a project applies under ordinary CP2030 capacity alignment in a technology zone which is oversupplied both zonally and nationally, NESO may determine that the technology stage has failed Strategic Alignment before undertaking the detailed checks or queue-formation process. That exception does not apply where the project instead benefits from a protection or designation.

That provision is highly material to East Pye. The BESS presently sits at Gate 1 in a battery category which is already substantially oversubscribed in T7, while BEPS has identified no applicable protection.

Project designation

The remaining route is designation under the separate Project Designation Methodology.

NESO's June 2026 Gate 2 Criteria Methodology confirms that designation is a distinct Strategic Alignment route but does not itself establish that East Pye has been, or is likely to be, designated.

BEPS has identified no evidence that East Pye's BESS has been designated or that the Applicant has identified designation as its intended route to Gate 2.

The Applicant should therefore state expressly whether it intends to rely upon project designation and, if so, under what criterion and on what evidence.

The present position

On the evidence presently available:

- the BESS does not appear to hold a qualifying Clause 2b support or procurement arrangement;
- it cannot apparently satisfy Clause 3a because the DCO application post-dates 20 December 2024;
- it cannot apparently satisfy Clause 3b because the DCO application post-dates 26 August 2025;
- ordinary CP30 capacity alignment is problematic because T7 battery capacity is already substantially oversubscribed;
- and no project designation has been identified.

The Applicant has not presently demonstrated which Gate 2 Strategic Alignment route its 500 MW BESS is capable of satisfying under the current June 2026 methodology.

That is materially different from saying simply that the BESS is 'waiting' for Gate 2.

Cottam and West Burton do not demonstrate an East Pye pathway

The Applicant's reliance upon Cottam and West Burton does not answer that question. Those projects were already very substantially progressed before the present connections-reform system took effect. Cottam obtained development consent in September 2024 and West Burton had completed its DCO examination in May 2024. They therefore entered the reform process from the position of existing, highly progressed pre-reform projects rather than as a new Gate 1 BESS seeking Gate 2 under the current enduring methodology.

That distinction is critical because the present methodology contains specific protection provisions precisely for projects which were sufficiently progressed before or during the transition to connections reform. Clauses 3a and 3b are date-based protections tied to planning applications submitted by 20 December 2024 or validated by 26 August 2025.

Cottam and West Burton therefore cannot be treated as comparable simply because they also combine solar and BESS. Their relevant question is not whether their batteries eventually obtained Gate 2, but **which pre-existing connection agreement, protection or transitional route entitled them to do so.**

East Pye is in a materially different position. Its BESS has already been assessed under the reformed system and remains at Gate 1 while the solar component has been prioritised for Gate 2. The reform process has therefore already treated the two technologies differently.

The Applicant should accordingly identify:

1. the precise Gate 2 Strategic Alignment route upon which it relies for the East Pye BESS;
2. whether it holds any qualifying Clause 2b contract or regulatory approval;
3. whether it accepts that Clauses 3a and 3b are unavailable because of the East Pye application date;
4. how ordinary CP30 alignment is said to remain available given the existing T7 battery oversupply;
5. whether it intends to seek project designation;
6. the present expected connection date for the BESS and the evidence supporting it;
7. the specific protection or transitional route by which the Cottam and West Burton BESS components obtained Gate 2;
8. why that route is said to be available to East Pye under the materially different post-reform circumstances; and
9. the consequences for the Scheme if the BESS remains at Gate 1 or becomes operational materially later than the solar generating station.
10. Whether they have any reason to believe that NESO/DESNZ will give their BESS Gate 2 anyway despite it not meeting any of the above criteria.

Until those matters are answered, the Examination should distinguish between the physical co-location of solar and storage within the DCO and their actual electrical and temporal co-deliverability.

Q1.2.10 – Design and the experience and practical use of PRowS

BEPS considers that this question goes substantially beyond visual amenity or a matter capable of being left principally to detailed design. The issue was explored at ISH1 and remains unresolved.

In this part of South Norfolk, PRowS are not simply recreational routes through the countryside. They form an important part of the ordinary pedestrian network between homes, villages and local destinations because many of the surrounding rural roads have no pavements, safe pedestrian verges or street lighting. Residents use footpaths to walk from home into villages, to reach friends and neighbours, shops, churches, schools and bus stops, as well as for recreation and exercise.

BEPS explained at ISH1 that this has important implications for personal safety. In particular, women locally have expressed concern about existing open footpaths

becoming enclosed on both sides by fencing and solar development. A route which presently crosses open countryside may become, in practical experience, a fenced corridor or 'tunnel' from which a user cannot readily leave if another person causes concern or an emergency occurs. BEPS explained that the issue is not simply visibility of the Scheme but whether women and other users will continue to feel able to use the route at all.

BEPS also explained why the Applicant's response that new permissive paths would be provided does not resolve that concern. Local residents do not use PRoWs interchangeably as generic recreational mileage. They use particular paths because those paths connect particular places. BEPS gave examples at ISH1 of children using a footpath after leaving a bus in order to reach home without walking along an unpaved or unlit road, and of residents using particular paths to reach friends, shops or schools in neighbouring settlements. Where an existing route performs that function, a new permissive route elsewhere is not an equivalent substitute if the original route becomes materially less safe or attractive to use.

The Applicant's current reliance on a nominal 15 m stand-off from each side of a PRoW does not answer the point. At ISH1, after BEPS raised these concerns, the ExA asked whether the proposed fencing arrangements had been subject to a road-safety audit. The Applicant stated that, so far as it was aware, they had not, and instead referred to the 15 m offsets which could produce a 30 m-wide corridor where solar lies on both sides. Width alone does not establish that such a corridor is safe or acceptable. The experience of a route will depend upon the combined effect of:

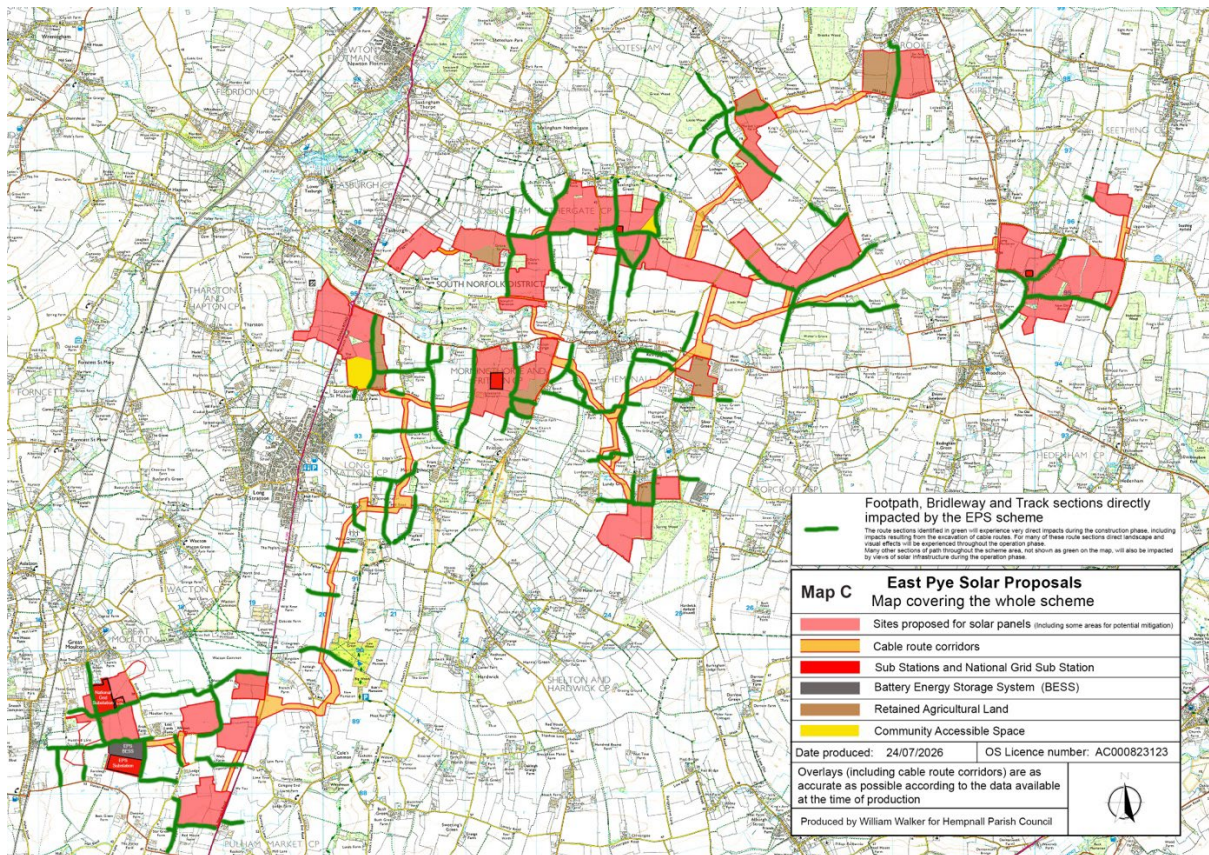
- whether arrays and fencing occur on one or both sides;
- whether the other side is also enclosed by a high hedge or woodland;
- the height and character of the fencing;
- whether planting subsequently creates additional enclosure;
- forward and lateral visibility;
- the number and location of exits and junctions;
- surveillance and the ability to see or be seen from nearby roads, houses or open land;
- CCTV and lighting infrastructure;
- the position of conversion units, switchrooms and other structures;
- the length for which the enclosed condition persists;
- and the way the route is actually used, including by women walking alone, children, older people and others for whom perceived safety may materially determine whether the route remains usable.

The same issue arises, in a different form, for bridleways. BEPS explained at ISH1 that enclosure by high fencing is not merely a visual effect for an equestrian user. Where a horse spooks and/or bolts because of moving infrastructure, noise, glare or an unfamiliar object, a rider requires sufficient space to circle and control the horse. A confined fenced corridor may materially reduce that ability and therefore create a physical safety issue.

This is consistent with BEPS's earlier scoping submissions, which warned that PRowS enclosed between extensive solar arrays, 2.5 m fencing and security infrastructure could become unattractive or intimidating to use and expressly raised rider safety where bridleways are enclosed by fencing (or fencing plus hedging) on both sides.

The Applicant should therefore assess each materially affected PRow as a functioning route, rather than simply confirming that its legal alignment remains open. For each such route, the Applicant should identify:

1. its existing practical function, including the settlements, homes, bus stops, schools, shops, churches and other destinations which it connects;
2. whether solar development, fencing or planting would occur on one or both sides;
3. what is on the other side;
4. the maximum length of any enclosed section;
5. the minimum corridor width and the height and character of boundary treatment;
6. forward and lateral visibility and opportunities to leave the route;
7. the location of junctions with other PRowS and roads;
8. the effect of mature mitigation planting upon visibility and enclosure;
9. implications for perceived personal safety, particularly for women walking alone and children;
10. separate physical-safety implications for equestrians where relevant;
11. whether the proposed arrangement has been subjected to an appropriate safety assessment; and
12. the DCO provision which secures the layout and mitigation upon which the conclusion of acceptability depends.



The question for the Examination is therefore not simply whether a PRow remains legally open or whether additional permissive paths increase the total length of the network. It is whether the Scheme preserves the **practical accessibility, safety and everyday connective function of the existing routes which local people actually use.**

Those matters are capable of determining the acceptability of the spatial layout. Detailed design may refine an already demonstrated acceptable relationship between development and a PRow. It should not be left until after consent to discover whether an existing route has effectively become an enclosed corridor which some of its present users no longer feel able to use.

Q1.2.15 – Proposed National Grid substation and consequences of an alternative point of connection

BEPS considers NGET's answers to this question to be of fundamental importance to the definition and deliverability of the Scheme. The issue is not confined to whether the National Grid substation ultimately occupies the precise Work No. 4 footprint at Site 1B. The submitted electrical architecture of East Pye Solar has been designed around Great Moulton as the point towards which the Scheme's generation, cable corridors and project substations converge.

NGET's Relevant Representation materially qualifies the Applicant's presentation of that arrangement as a settled connection solution. NGET states that the existing connection agreement required East Pye Solar to identify land and secure consent for the proposed National Grid substation, but that its understanding is that the replacement agreement arising from connections reform is not expected to impose that requirement. NGET also makes clear that the grant of the East Pye DCO would not oblige NGET to construct or use the proposed Site 1B substation and that the final transmission solution, including its size, design and location, remains subject to the wider connection and network process.

That uncertainty was explored at ISH1. The Applicant acknowledged that the replacement connection agreement had not yet been received and that the terms could change. It also accepted that the DCO would not oblige NGET to construct Work No. 4 and that, in principle, NGET could pursue a different substation solution through a separate planning route.

BEPS considers that the consequences of that possibility extend far beyond Work No. 4 itself.

The submitted Scheme is electrically organised around Great Moulton

The Application does not comprise ten independent solar areas which could simply connect wherever NGET ultimately chooses. Its internal electrical system has been designed as a directional collection network leading towards the proposed Great Moulton connection.

The Applicant's own Scoping Report described the cable route corridor as comprising multiple routes between the Sites and sub-Sites in order to transfer electricity from the solar arrays to the substations and ultimately the point of connection. It described:

- a central 400 kV project substation, now associated with Site 5, collecting generation from the wider Scheme;
- a southern 400 kV project substation close to the BESS/Site 1 area receiving that electricity;
- onward transmission from that southern project substation to the National Grid substation; and
- cable corridors specifically arranged to achieve that south-westerly transfer. NCC similarly recorded during consultation that the underground cables between Sites 1–10 were intended to connect to the BESS and the new National Grid substation, which constituted the proposed point of connection.

The Applicant then confirmed the design logic orally at ISH1. It explained that the number and position of project substations are driven by the geographical spread of the Scheme and by the need to gather electricity and transmit it efficiently towards the point of connection. In describing East Pye specifically, the Applicant said that electricity effectively flows from the north-east towards the south-west; that the Site 5 400 kV project substation collects electricity generated to the north-east and transmits

it along the cable corridor towards Site 1; and that the Site 1 project substation then receives that power before connection into the National Grid system.

Great Moulton is therefore not merely the proposed location of one peripheral item of associated development. It is the terminal point around which the submitted cable and substation architecture has been configured.

A materially different NGET location could therefore require material redesign of the Scheme

If NGET ultimately determines that its required substation should not be constructed at Great Moulton, the Applicant should demonstrate whether the submitted Scheme could still operate through the cable corridors and project substations presently proposed.

For example, if NGET were ultimately to select a point materially further north — on the other side of Long Stratton, or another location associated with a wider North Anglia transmission solution — the current assumption that generation should be collected and transmitted progressively south-west towards Site 1 would no longer necessarily represent the rational electrical configuration.

Such a change could affect:

- the direction, length and voltage of the main cable corridors;
- which solar Sites feed which project substations;
- the number and optimum location of the 132 kV project substations;
- the need for and location of the Site 5 400 kV project substation;
- the need for and location of the Site 1/BESS 400 kV project substation;
- the need for the 400 kV connection between Site 5 and Site 1;
- the need for Work No. 5 overhead-line works and new or replacement pylons at Great Moulton;
- the scale and location of construction compounds and haul routes required for the electrical infrastructure;
- the environmental effects of any new cable corridors or relocated substations;
- and the land and compulsory-acquisition powers actually required.

BEPS's point is that the Application is being assessed on the basis of one directional electrical architecture terminating at Great Moulton, whereas NGET has not confirmed that it will use that solution. The Applicant should therefore not be permitted simply to characterise an alternative NGET solution as a later variation to Work No. 4 without demonstrating whether the remainder of the submitted electrical system remains technically and environmentally coherent.

The question also goes to whether some of the development around Great Moulton would remain necessary at all.

A different point of connection also raises a more fundamental question about the justification for the concentration of East Pye infrastructure south of Great Moulton. The present Scheme brings together at or close to Great Moulton:

- the proposed National Grid 400 kV substation;
- major project-substation infrastructure;
- the BESS;
- 400 kV cabling;
- overhead-line diversion works and new/replacement pylons;
- permanent access infrastructure;
- and surrounding solar development.

Some of that infrastructure is present at Great Moulton precisely because Great Moulton is assumed to be the terminal point of the Scheme's electrical collection system. If the National Grid point of connection were ultimately moved materially north or west, the Applicant should therefore explain which elements of the Great Moulton development would still be required and why.

In particular, it should explain whether:

1. the Site 1 400 kV project substation would still be required in its present location;
2. the BESS would still require its present location;
3. the present high-voltage cable corridors towards Great Moulton would still be required;
4. Work No. 5 overhead-line and pylon works would still be required;
5. the same extent of solar development at Sites 1 and 2 would remain part of an efficient design; and
6. any land presently justified principally by its proximity to the Great Moulton connection would continue to have an electrical or operational function.

This is particularly important because the Applicant has relied throughout the site-selection and design case upon proximity to the proposed connection infrastructure when explaining the configuration of the Scheme.

If that connection infrastructure ultimately moves elsewhere, it cannot simply be assumed that all of the solar and electrical infrastructure presently concentrated around Great Moulton remains justified in the same location.

This also interacts with the site-selection evidence heard at ISH1

At ISH1, the Applicant confirmed that the original solar-site selection exercise had been substantially progressed around Norwich Main before the point of connection changed to Great Moulton. Four of the six stages had already been completed before that change, and the exercise was not restarted through a fresh unconstrained search centred on Great Moulton.

BEPS also specifically asked at ISH1 why, once Norwich Main became unavailable, connection through the emerging North Anglia infrastructure had not been considered. The Applicant responded that the Great Moulton overhead-line connection had been identified and contracted before the North Anglia connection nodes subsequently emerged, and described those nodes as later connection-reform ‘placeholders’ of presently uncertain location.

That history makes the present uncertainty especially important. The Scheme has already undergone one material change in point-of-connection strategy without a fresh site-selection exercise. If connections reform now produces a materially different NGET solution again, the Examination needs to know whether the Application before it still represents the electrical and environmental configuration that would actually be built.

This is not adequately answered by saying that the DCO can include Work No. 4 even if NGET never uses it

At ISH1 the Applicant suggested that there was effectively no disadvantage in retaining consent for the Great Moulton National Grid substation because, if NGET pursued another solution, the DCO powers for Work No. 4 simply need not be used. BEPS considers that this does not address the underlying issue.

If Work No. 4 is omitted because the point of connection moves elsewhere, the Examination must understand what happens to the infrastructure whose purpose is to convey electricity to Work No. 4. A non-implemented National Grid substation cannot simply be removed from the plan while assuming that all connecting 400 kV infrastructure, project substations, cable corridors and nearby solar development remain unchanged. A different configuration may also change the numbers of associated substations and other infrastructure throughout the rest of the scheme.

The appropriate reasonable-worst-case analysis should therefore include at least:

- the submitted Great Moulton connection solution;
- a materially different NGET point of connection within or close to the existing Order Limits;
- and, if realistically possible under the replacement connection agreement, a connection solution outside the presently assessed Great Moulton configuration.

For each realistic scenario the Applicant should identify the consequences for cable routing, project substations, BESS location, overhead-line works, solar layout, environmental effects, land powers and construction requirements.

Compulsory acquisition and land powers

The uncertainty also has direct consequences for the compulsory powers sought. The Applicant seeks powers over land for Work No. 4 and associated electrical infrastructure on the basis that they are required to connect East Pye Solar to the transmission system. If NGET does not intend to use that solution, or if the replacement

connection agreement no longer requires the Applicant to secure that land and consent, the ExA should establish what continuing case exists for permanent acquisition or permanent rights over land required only for that contingent configuration.

The same issue potentially extends beyond the Work No. 4 footprint where cable corridors, project substations, access works or overhead-line works are required only because electricity is being routed to Great Moulton.

Questions which BEPS considers should be answered

BEPS therefore asks that NGET and the Applicant provide clear answers to the following:

1. Is Great Moulton still NGET's presently expected location for the East Pye point-of-connection infrastructure?
2. If not, what alternative locations are presently under consideration?
3. Could the replacement connection agreement provide for a materially different point of connection?
4. If so, what geographical range is realistically possible?
5. Would an alternative NGET substation location require alteration to the East Pye cable corridors?
6. Would the number, voltage or location of the project substations change?
7. Would the Site 5-to-Site 1 400 kV electrical route still be necessary?
8. Would the Site 1 400 kV project substation still be necessary?
9. Would the BESS remain optimally or necessarily located beside Site 1?
10. Would Work No. 5 and the proposed pylon works at Great Moulton remain necessary?
11. Which parts of the solar development around Great Moulton remain necessary if Great Moulton is no longer the point of connection?
12. Would any alternative connection require land outside the current Order Limits?
13. Has that alternative configuration been environmentally assessed?
14. If not, by what mechanism could it lawfully be implemented without further development consent or other planning approval?
15. Which compulsory-acquisition powers presently sought would cease to be necessary if the Great Moulton solution is not implemented?

BEPS considers that these questions need to be resolved before the Great Moulton connection can be treated as a fixed component of the Scheme for the purposes of the environmental assessment, the assessment of alternatives, the justification for compulsory acquisition or the overall conclusion on deliverability.

The central issue is therefore not merely whether NGET will build the particular substation shown as Work No. 4. It is whether **the point of connection around which the entire East Pye electrical collection system has been designed is itself sufficiently certain**. If that point moves materially, the present cable, substation and potentially solar configuration may also require material redesign. This goes to BEPS's

submission that this application is premature as material issues are unknown and yet to be resolved or their significance understood.

Q1.3.2 – Relative influence of environmental and deliverability considerations

The site-selection process should show clearly how environmental constraints, engineering requirements, grid connection, land availability and landowner agreement influenced the selection and retention of land at each stage. The present material does not make that relationship sufficiently clear.

The Applicant's own evidence at ISH1 established that four of the six stages of the site-selection exercise had already been completed while Norwich Main remained the assumed connection point. When that strategy changed to Great Moulton, the exercise was not restarted from a new unconstrained search area. The Applicant instead retained the land already identified through the earlier stages and then considered whether other land within 20 km of Great Moulton should be added or substituted.

That chronology is important because it affects how the final land package should be understood. The examination needs to distinguish between land that remained in the Scheme because it had performed comparatively well against environmental constraints and land that remained because it had already been identified, was available to the Applicant and could be assembled into a deliverable project.

The distinction becomes material when the retained Scheme is compared with the environmental evidence now before the Examination. The Order Limits contain extensive Grade 2 and Grade 3a agricultural land, nationally important bat activity, overlapping barbastelle maternity-colony Core Sustenance Zones, ancient woodland interfaces, sensitive watercourses and groundwater receptors, private water supplies, significant landscape effects, numerous heritage assets whose settings are affected, and highway routes which remain unresolved or dependent upon later mitigation. Those constraints are not isolated. They recur across substantial parts of the retained land package.

The Applicant's site-selection evidence should therefore identify which of those constraints were treated as exclusionary at the stage when land was selected, which were treated only as matters capable of later mitigation, and how those judgments were balanced against landowner availability and engineering convenience. The present documents do not allow that weighting to be reconstructed with confidence. It is unclear which if any of those constraints had been properly evaluated or were fully understood when the options agreements were signed.

The treatment of agricultural land illustrates the point. The Applicant initially sought to avoid BMV land, but later reintroduced it when insufficient non-BMV land was available to deliver a scheme of the required scale. At ISH1 the Applicant explained that this change occurred during Stage 4 of the Norwich Main exercise. After the point of

connection moved to Great Moulton, a similar exercise was undertaken through Stages 5 and 6, again allowing BMV land to be considered where necessary.

That shows that environmental constraints were not applied as fixed exclusion criteria throughout. Some constraints were capable of being relaxed where they prevented assembly of a project of the preferred scale. The same question should therefore be asked across ecology, heritage, landscape, hydrology and transport: whether the environmental constraint determined the land choice, or whether the land choice was retained and the environmental effect subsequently addressed through mitigation.

This matters particularly where later evidence identifies a need for avoidance rather than mitigation. The final heritage assessment recommends deletion or avoidance at specific Sites because of effects on high-grade designated assets. The ecological evidence identifies areas where habitat connectivity, ancient woodland relationships and barbastelle maternity-colony function may not be capable of equivalent replacement. The water evidence identifies unresolved receptor and pathway issues which cannot be resolved simply by generic drainage design. Where those constraints now appear more serious than assumed during site selection, the examination needs to understand whether alternative land was genuinely excluded because it was environmentally worse, or whether it was never available within the Applicant's assembled land package.

The Applicant should therefore provide a clear account, supported by contemporaneous material where available, of the relative influence of:

- environmental suitability;
- proximity to the point of connection;
- electrical design and engineering efficiency;
- landowner willingness and land-control status;
- construction access;
- agricultural land quality;
- and the need to assemble sufficient land to deliver approximately 500 MW.

Without that information, it is difficult to determine whether the final Scheme represents the environmentally preferable configuration within the reasonable alternatives considered, or the configuration which remained deliverable after land availability and engineering constraints had already narrowed the choice.

Q1.4.1 – Aviation safeguarding and aviation safety

The aviation assessment has developed materially during the evolution of the Scheme. At scoping stage, the Applicant's own preliminary assessment identified solar reflections at some aerodromes above the threshold described as having a 'low potential for temporary after-image'. It also recorded that Norfolk Gliding Club at Tibenham had raised concerns about glint and glare, engine failure after take-off and thermal updrafts. The Applicant nevertheless proposed to deal principally with aviation

through a glint-and-glare assessment rather than through a wider aviation-safety assessment.

The subsequent examination evidence shows that the outstanding issues are considerably wider. They concern the continued safe operation of Tibenham Airfield, the availability of emergency landing areas, engine-failure-after-take-off scenarios, glider launch failures, the introduction of hard structures into potential forced-landing areas, turbulence and thermal effects, physical obstacles, construction cranes, lighting and cumulative development around the airfield. The same analysis should not be transferred indiscriminately to Seething. Tibenham and Seething are geographically separate airfields with different operational circumstances and should be assessed independently.

The distinction between them became particularly important at ISH1. [REDACTED], Head of Planning for the General Aviation Awareness Council, explained that she had discussed her evidence with the Chairman of Norfolk Gliding Club, Tibenham's Flight Safety Officer, the Head of Air Traffic Control at Duxford, the Chairman of the General Aviation Awareness Council and the Chairman of the All-Party Parliamentary Group on General Aviation. She explained that, at an unlicensed aerodrome, the Civil Aviation Authority regards the aerodrome operator as the relevant expert on safety at that aerodrome. She then drew the ExA's attention to the different treatment which the Applicant had given to Seething and Tibenham.

At Seething, the Applicant had undertaken a site-specific aviation assessment and had subsequently altered the location of proposed solar panels. At Tibenham, [REDACTED] said that no comparable exercise had been undertaken and that the Applicant's assessment had concentrated upon glint and glare. She explained that Tibenham's Flight Safety Officer had therefore applied the Applicant's own Seething methodology to Tibenham. That exercise identified foreseeable circumstances in which an aircraft suffering engine failure after take-off from Tibenham runway 08 would be required to land within land proposed for the East Pye development.

That evidence is materially different from a general concern that solar development happens to lie near an airfield. It identifies a specific runway, a specific failure mode and a specific area in which forced landing may be required.

[REDACTED] also explained that Tibenham accommodates a broad spectrum of aviation activity, including gliders and fixed-wing aircraft, and that standard practice is to keep the most likely off-airfield forced-landing area clear of hard structures where an aircraft may have to land following engine failure after take-off. Her concern was that East Pye proposes to introduce not simply solar panels into that area, but hard solar infrastructure, the BESS and National Grid infrastructure. She stated that the Applicant had not assessed the consequences for human health and life of an aircraft striking those structures during an emergency landing.

This is a significant point. A field of agricultural land is not operationally equivalent to a field containing steel-framed solar arrays, fencing, electrical equipment or battery

containers. Even where a forced landing is itself undesirable, the survivability of that landing can depend upon the nature of the ground and the absence of rigid obstacles. The assessment therefore needs to consider not simply whether some open land remains available in the general area, but whether the foreseeable forced-landing sectors associated with particular runway and launch-failure scenarios remain sufficiently clear.

██████████ referred to the Applicant's own experience elsewhere. In relation to Botley West Solar Farm, she stated that the Applicant had entered into a Statement of Common Ground with London Oxford Airport which provided for solar panels to be removed from part of the scheme in order to preserve a safe emergency-landing area. The Applicant did not dispute that this had occurred. It sought instead to distinguish Botley West on the basis that its own Tibenham assessment had concluded that East Pye would not significantly reduce available emergency-landing space.

That difference in conclusion requires examination of the methodology rather than assertion of the conclusion. If the same developer has accepted elsewhere that aviation safety can require the removal of solar development from an emergency-landing area, the Examination needs to understand why the identified Tibenham engine-failure area is treated differently.

The Applicant's response at ISH1 was that aviation matters outside glint and glare had been considered in its High Level Investigative Report, APP-222. It also stated that there is no specific UK guidance governing engine failure after take-off or glider launch failure and that the assessment had therefore used precautionary assumptions. Its conclusion was that the Scheme would not significantly reduce the available space for emergency landing scenarios.

The absence of a prescribed national methodology does not remove the need to resolve the factual disagreement. It makes the operational evidence from the aerodrome and aviation specialists more important. The ExA needs to understand what aircraft types were modelled, which runway configurations were assessed, what climb performance and failure points were assumed, what glide ratios and turning assumptions were used, what land was regarded as safely usable, what dimensions were required for each aircraft type, and how the BESS, substations, fencing and other hard infrastructure were treated within that analysis.

██████████ expressly rejected the suggestion at ISH1 that the issue had been resolved through engagement. After the Applicant referred to a forthcoming October meeting and Statement of Common Ground process, she stated that there was 'no common ground'; that engine failure had not been properly addressed; that the addition of the BESS and National Grid infrastructure had made the position worse; and that there had been no constructive discussion of that issue since the project began. The ExA then requested that the Applicant continue engagement and asked ██████████ to submit the appeal decision to which she had referred.

This history should be reflected accurately in the Applicant's ExQ response. A scheduled meeting or an intended Statement of Common Ground is evidence of continuing engagement, not evidence that the aviation-safety issue has been resolved.

The BESS and National Grid infrastructure materially alter the safety question because they introduce larger and harder structures than the solar arrays alone. The final Scheme includes solar panels up to 4.5 m high, BESS infrastructure, project substations, the National Grid AIS substation and new or altered overhead transmission infrastructure. At ISH1, the Applicant confirmed that the proposed new pylons could reach approximately 61 m compared with approximately 53 m for the existing pylons. Temporary cranes required during construction may introduce additional obstacles which do not exist during ordinary operation.

The aviation assessment should therefore distinguish between at least four separate mechanisms.

The first is glint and glare. The Applicant's own scoping material acknowledged that reflections above the stated aviation threshold were predicted at some aerodromes and that Tibenham had already raised concerns about flying operations. The material predicted 'yellow glare', capable of producing temporary after-image, on approach paths and circuit patterns at several nearby aerodromes.

The second is emergency landing and aircraft survivability. This requires identification of areas which may realistically be used following engine failure after take-off, glider cable failure, winch-launch failure, aerotow failure or an inability to return to the airfield. The relevant issue is not whether East Pye occupies every possible emergency field. It is whether it removes or materially obstructs land which forms part of the realistic safe options available in those predictable failure scenarios.

The third is fixed and temporary obstacle risk. This includes the new or altered pylons, substation structures, lightning protection, cranes and other tall equipment. Those effects should be assessed against the actual flight operations at Tibenham rather than simply by reference to the height of each structure viewed in isolation.

The fourth is aerodynamic and thermal effects. Norfolk Gliding Club raised thermal updrafts at the beginning of the project, and ExQ1 now expressly asks about turbulence and wind shear. The Applicant should identify the scientific evidence upon which its conclusions rely and distinguish between conventional powered-aircraft considerations and the particular dependence of glider operations upon local atmospheric conditions.

The experience at Schiphol Airport is directly relevant to the Applicant's reliance at ISH1 on the wording of NPS EN-3 that there was no evidence of significant impairment to aircraft safety from solar glint and glare. In March 2025, glare from the De Groene Energie Corridor solar park beneath the approach routes to Schiphol became sufficiently severe that landing aircraft were prevented from using the Polderbaan for two hours during sunny conditions because pilots' visibility was being impaired.

Schiphol, Air Traffic Control the Netherlands (LVNL), KLM and easyJet imposed the restriction expressly on flight-safety grounds, and subsequently extended it after further investigation confirmed impaired visibility over a longer period.

The case is particularly important because the solar park had not been developed without prior consideration of glare. The original environmental permit had required panels using deeply textured glass to reduce reflection. That condition was subsequently amended at the developer's request because such panels were said no longer to be available, and glare modelling was undertaken using standard light-textured glass incorporating an anti-reflection coating. The completed development nevertheless generated glare severe enough to interfere with landing operations.

In July 2025, the Noord-Holland District Court ordered the removal of more than 78,000 panels in two of the four solar fields. The Court concluded from the available investigations that the development had created a serious danger to flight safety and a significant risk of very serious accidents. Half of those panels were required to be removed by 1 September 2025 and the remainder by 15 October 2025.

The ultimate remedial response went substantially further. In August 2025, Schiphol, the solar-park operator, Haarlemmermeer municipality and the Dutch Ministry of Infrastructure and Water Management agreed that all approximately 229,000 panels across the four fields would be dismantled, provided with a special anti-reflective film and subsequently reinstalled, with completion targeted for September 2026. Dismantling had already begun on the approximately 78,000 panels in fields A and B and was then to extend to the approximately 150,000 panels in fields C and D.

The safety problem also affected a second runway while those works were being undertaken. From 28 August 2025 the Zwanenburgbaan was subject to reduced availability for landing traffic during sunny afternoon conditions because the remaining panels could still generate glare affecting pilots. Depending upon the position of the sun, restrictions occurred between approximately 14:40 and 17:00 for periods of up to one hour.

The significance of Schiphol is therefore not merely that glare was subsequently mitigated. It demonstrates that pre-construction glare assessment and anti-reflective panel technology did not prevent a real operational aviation-safety effect from emerging after installation, and that the eventual remedy required runway restrictions, court intervention and the dismantling and modification of an entire solar development comprising approximately 229,000 panels.

The circumstances at Schiphol are not identical to Tibenham. It does, however, establish that solar glare can in real operational conditions impair pilot visibility sufficiently to restrict runway use and require extensive physical modification of an adjoining solar development. It is therefore relevant evidence when considering whether the possibility of significant operational impairment can be dismissed as unsupported in principle.

The specific concern at Tibenham is that the airfield is becoming increasingly constrained by major infrastructure on different sides. East Pye and its associated Great Moulton electrical infrastructure affect the land to the north and north-east of the airfield. BEPS has separately identified the proposed Norwich to Tilbury transmission line as a major additional constraint to the west. Norfolk County Council required Norwich to Tilbury to be considered cumulatively with East Pye from the scoping stage. The cumulative aviation question is therefore not simply whether each project individually leaves some alternative open land available. It is whether the combined developments progressively remove or obstruct the finite sectors into which a glider or light aircraft can safely divert following a launch or engine failure.

This is particularly important for gliding because an unpowered aircraft cannot simply climb away, go around or divert in the same manner as a powered aircraft. The location and continuity of accessible 'outs' form part of the practical safety environment of the airfield. East Pye should therefore be assessed together with Norwich to Tilbury and any other sufficiently certain development which affects those available sectors.

The Applicant's cumulative assessment should map, rather than merely describe, the position. It should show Tibenham's runways and launch directions; the runway 08 engine-failure sector identified by the Flight Safety Officer; glider launch-failure areas; existing usable emergency-landing fields; East Pye solar arrays; the BESS; project and National Grid substations; new and existing overhead-line infrastructure; the Norwich to Tilbury alignment; construction cranes where relevant; and any other committed development which removes realistic emergency-landing land.

The assessment should also differentiate construction and operation. Crane operations may temporarily create a greater vertical obstacle than the completed infrastructure. Construction lighting may alter visual conditions. Temporary occupation or disturbance of agricultural land may remove fields from emergency use before the permanent solar arrays are installed.

The Applicant should therefore provide a single aviation-safety document which brings together the material currently dispersed between the Glint and Glare Assessment, APP-222, the Aviation Position Statement and consultation correspondence. For Tibenham it should identify:

1. each runway and normal launch configuration;
2. each aircraft and glider type reasonably representative of operations;
3. the engine-failure-after-take-off assumptions;
4. glider winch-launch and aerotow failure scenarios;
5. the Flight Safety Officer's identified emergency-landing sectors;
6. the land which would remain safely usable after construction of East Pye;
7. the land lost or made materially less safe by panels, fencing, BESS, substations or other hard structures;
8. the consequence of collision with those structures;
9. the effect of the proposed 61 m pylons and temporary cranes;
10. the basis of the turbulence, thermal and wind-shear conclusions;

11. the glint-and-glare effects for each operationally relevant approach and circuit;
12. cumulative effects with Norwich to Tilbury and other relevant developments;
13. the points on which Norfolk Gliding Club and the General Aviation Awareness Council agree or disagree with the Applicant;
14. any changes to the Scheme which would be necessary if their safety concerns are substantiated; and
15. the DCO controls which would secure those changes.

A Statement of Common Ground should record unresolved disagreement rather than convert continuing consultation into an assumption of acceptability. Where the Applicant relies upon the conclusion that sufficient emergency-landing land remains available, the underlying mapping and calculations should be provided so that the ExA and the aerodrome's safety representatives can test that conclusion.

The examination evidence now identifies a specific and technically defined disagreement about Tibenham: the Flight Safety Officer's application of the Seething methodology identifies East Pye land as a foreseeable forced-landing area following an engine failure from runway 08, while the Applicant concludes that the remaining emergency-landing space is sufficient. That conflict should be resolved on the evidence before consent is granted. The same applies to glint and glare. The Schiphol experience demonstrates that an apparently manageable solar reflection can become an operational runway-safety problem requiring restrictions and extensive physical intervention once real pilots encounter it.

Q1.6.4 – Fire risk and emergency response: reliance on future assessments, approvals and consultation

The final application contains a substantially more developed BESS safety framework than the PEIR. The Outline Battery Safety Management Plan (oBSMP) now addresses fire and explosion, chemical and electrical hazards, stranded energy, fire and gas detection, 24-hour remote monitoring, remote shutdown, equipment separation, firefighting access, onsite firefighting-water provision, containment and drainage, defective and fire-damaged batteries, emergency response and plume effects. It also requires the selected battery system to undergo large-scale fire testing or equivalent full-scale destruction testing, with site-specific consequence modelling used to validate separation distances and demonstrate that an incident can be confined to a single enclosure. Pins scoping response

The remaining issue is that the oBSMP is still an outline framework rather than a completed safety case for the battery system which would actually be installed at East Pye. The current design concept assumes units of approximately 5 MWh, but the oBSMP states that the exact technology and chemistry remain to be selected. Lithium-ion technology is proposed, with NMC and LFP identified as possible chemistries. The plume assessment uses an LFP concept, while the manufacturer, enclosure architecture, detailed internal configuration and final arrangement of the BESS remain unresolved.

That distinction is material because battery chemistry and enclosure design affect the initiation and propagation of thermal runaway, the nature and quantity of combustion products, explosion and overpressure behaviour, stranded electrical energy, the appropriate suppression response, the quantity of firefighting water required and the quantity and composition of contaminated runoff.

The oBSMP also anticipates a series of later system-specific safety studies. These include HAZID and HAZOP studies, fire-risk analysis, explosion-risk analysis, DSEAR assessment, FMEA or LOPA and the fire and explosion testing relevant to the selected system. Those are appropriate forms of safety assessment, but they have not yet been undertaken for the East Pye system because the system itself has not yet been selected.

The suppression strategy illustrates the significance of that remaining uncertainty. The oBSMP does not prescribe one fixed approach. A walk-in enclosure would require automatic water suppression. Other systems may incorporate different forms of active suppression. The oBSMP also allows a system to be designed to burn out safely where full-scale testing demonstrates that the incident will remain confined to a single enclosure. Those options have different implications for thermal propagation, emergency-service intervention, stranded energy, firefighting-water demand and contaminated firewater production.

The final BSMP, the large-scale fire-test evidence for the selected system, the site-specific consequence modelling, final layout, final separation distances, final suppression strategy and system-specific Emergency Response Plan are therefore all documents or assessments which remain to be produced after consent. The oBSMP provides for the final BSMP to be prepared before commencement of BESS construction and approved by the relevant planning authority following consultation with Norfolk Fire and Rescue Service and the Environment Agency.

The question raised by ExQ1 is therefore not whether some post-consent safety work is permissible. It is whether the later work merely confirms that a selected system fits within a safety envelope already demonstrated in the application, or whether it is still required to establish whether that envelope is achievable.

That distinction is particularly important because the Applicant's own plume modelling already identifies off-site effects. The BESS Fire – Emissions to Air Risk Assessment considers pollutants including hydrogen fluoride and carbon monoxide. It predicts no exceedance of the relevant Air Quality Assessment Levels at the modelled residential receptors. It does, however, predict exceedances at public rights of way under the sensitivity scenario.

The modelling identifies exceedances on Tivetshall St Margaret FP3 and Great Moulton Restricted Bridleways 18 and 19. At Tivetshall St Margaret FP3, the predicted one-hour hydrogen fluoride concentration is 1,024.5 $\mu\text{g}/\text{m}^3$, equivalent to 125% of the relevant one-hour AQAL. The four-hour HF concentration reaches 1,599.3 $\mu\text{g}/\text{m}^3$, or 196%. At eight hours, carbon monoxide reaches 17,629 $\mu\text{g}/\text{m}^3$, or 176% of its AQAL, while HF

reaches 2,305.8 $\mu\text{g}/\text{m}^3$, or 282%. Further exceedances are predicted at points on the Great Moulton bridleways.

The Applicant explains that the eight-hour scenario is deliberately conservative because it assumes peak emissions continuing for eight hours. That is a relevant qualification. It does not alter the fact that the Applicant's own modelling identifies a credible off-site emergency-management consequence.

The model also depends upon assumptions which the final BESS has not yet demonstrated. The source term is derived from GridSolv testing of an approximately 1.5 MWh unit, while the East Pye concept assumes units of approximately 5 MWh. The sensitivity assessment doubles the derived pollutant concentrations to represent the larger unit, while acknowledging that the relationship between unit size and emissions is not necessarily linear.

More importantly, the modelling assumes complete propagation within the initiating enclosure but no propagation beyond that enclosure. The second assumption depends upon future large-scale fire testing and site-specific consequence modelling demonstrating that the final equipment spacing and enclosure design prevent propagation between units. A fundamental boundary condition of the present plume assessment is therefore one of the matters which remains to be demonstrated after consent.

The final Applicant response should identify the consequence if the selected system does not reproduce that assumption. If large-scale testing shows a greater propagation distance, different emission profile or larger thermal consequence zone than the present model assumes, the ExA needs to know whether the Work No. 2 area can still accommodate the required separation distances without moving units, reducing capacity or altering the authorised layout.

The operational response to a plume event is also not fully resolved. The oBSMP provides that the operator will determine wind direction during a fire and seek to close an affected PRow or bridleway. It also proposes notification of potentially affected residents with advice to remain indoors and close windows.

That creates a practical emergency-response question. The closest PRow is approximately 50 m from the BESS and the Applicant's own modelling identifies Great Moulton and Tivetshall routes as potential exceedance locations. The final Emergency Response Plan therefore needs to establish who has authority to close the route, what concentration or incident threshold triggers closure, how quickly closure can be implemented, how people already on the path are warned or removed, how route closures are physically secured, and how those actions are coordinated with Norfolk Fire and Rescue Service, the highway authority and the police where necessary.

A generic statement that routes will be closed if required is not equivalent to demonstrating that the proposed response is practicable within the time available during a developing thermal-runaway incident.

The firewater and groundwater consequences require an equally detailed examination.

The oBSMP now contains substantial firewater controls. It provides for at least two firefighting-water tanks of not less than 230,000 litres each, capable of supplying 1,900 litres per minute for four hours. The BESS drainage is intended to incorporate an impermeable membrane with automatic isolation activated by the fire alarm and manual override as a secondary control. The final drainage system is intended to accommodate the 1-in-100-year rainfall event plus 45% climate-change allowance together with approximately 456 m³ of firefighting water. Retained water would be sampled before release, while contaminated water would be removed by tanker to an appropriately permitted facility.

These are significant improvements on the consultation-stage information. They do not, however, resolve the detailed questions subsequently raised by the Environment Agency. Their Relevant Representation, in EA20–EA25, asks for sealed drainage capable of retaining a reasonable worst-case combination of firewater and rainfall; automatic isolation with manual backup; bunding of polluting plant such as oil-filled transformers; tanker removal of contaminated water; and explicit confirmation that the full BESS and substation drainage systems are impermeable and prevent both uncontrolled surface runoff and subsurface infiltration.

The EA also asks how impermeable membranes will be protected from damage caused by construction activities such as piling. That is particularly relevant at East Pye because the design envelope permits piles to depths of up to 12 m for the BESS and substation infrastructure.

The Environment Agency's concerns extend beyond the initial containment event. EA23 asks for clear arrangements for manual operation, testing and maintenance of isolation systems, appropriate analysis of captured firewater and cleaning of the drainage system before reopening. It specifically identifies the risk that obtaining any necessary discharge permit may take time, during which further rainfall could consume the available storage capacity. The Agency therefore encourages tanker removal of potentially contaminated firewater rather than reliance upon later discharge.

EA24 identifies a further pathway after the visible firewater has been removed. Contaminants may remain within the gravel or aggregate drainage medium. The Agency therefore seeks arrangements for removal, cleaning or replacement of contaminated drainage components, management of contaminated cleaning water, inspection and protection of the impermeable liner during remediation and consideration of separately isolatable drainage zones. It notes that serious contamination could require temporary local removal of BESS units in order to remediate the drainage medium.

The effectiveness of the containment strategy therefore cannot be assessed solely by comparing the nominal firewater volume with the storage capacity behind an isolation valve. It has to remain effective through the incident, the period before contaminated water is removed, subsequent rainfall, sampling, cleaning and remediation.

The groundwater setting increases the significance of those controls.

The Environment Agency states that the south-western part of the Order Limits containing the BESS, National Grid Substation and Project Substations lies within Source Protection Zone 3 and approximately 500 m from SPZ1 of a public water-supply abstraction. It also asks that private groundwater abstractions are treated as high-sensitivity receptors. The H. Fraser Consulting Ltd ('HFCL') review commissioned by BEPS (see BEPS WR Appendix) identifies wider deficiencies in the hydrogeological conceptual model, including uncertainty concerning private water supplies, groundwater-dependent terrestrial ecosystems and the relationship between the Lowestoft Formation and the underlying Crag and Chalk Principal Aquifers.

The BESS firewater strategy therefore interacts directly with the unresolved groundwater assessment. An impermeable membrane is only protective if it is complete, durable, not punctured by construction, properly connected to the drainage system and capable of being inspected and repaired. If piling or other deep works create preferential pathways into the aquifer, the final Foundation Works Risk Assessment becomes part of the BESS pollution-control case rather than a separate ground-engineering matter.

The Environment Agency also requires the eventual Emergency Response Plan to include arrangements for notifying downstream surface-water or groundwater abstractors where an incident could affect their supplies. That requirement should be carried through into the final DCO control because the relevant receptors include drinking-water supplies rather than only ecological or drainage receptors.

The safety case should also address the construction, replacement and decommissioning phases rather than treating fire risk as an operational issue only.

The oBSMP contains a useful construction commitment that BESS installation will not commence until practical emergency provisions are in place, including filled firefighting-water tanks and a construction Emergency Response Plan coordinated with relevant stakeholders and emergency services. The Environment Agency has asked that this be extended expressly to sealed drainage and the isolation system, so that the containment infrastructure is operational before batteries arrive on site. That sequencing should be secured. Firefighting provision is of limited environmental value if batteries are installed before the system required to contain contaminated runoff is operational.

The replacement issue is substantial because the Scheme permits the BESS to be replaced up to five times over the 60-year operational life. Each replacement cycle potentially involves disconnecting, handling, temporarily storing, transporting and reinstalling large quantities of hazardous battery equipment. The final safety framework should therefore apply not only to the first installation but to every major replacement campaign.

The oBSMP already contains provisions for defective modules: disconnection, a specific removal risk assessment, use of an approved protective container and transfer to a dedicated safe location pending inspection. Following a fire, it provides for a post-incident recovery plan addressing reignition and disposal, with a fire watch maintained until damaged batteries have been removed.

The Environment Agency has nevertheless asked for clearer arrangements for the removal and temporary storage of damaged and end-of-life batteries and for confirmation that the batteries will be removed before fire-protection and surface-water-containment systems are decommissioned. The same principle should apply to replacement: containment, emergency access, monitoring and firefighting capability should remain operational until the last battery affected by that phase has been made safe and removed.

Emergency access also has to be tested against the actual transport arrangements rather than assumed independently. The final ERP will need reliable access for fire appliances, sufficient turning and standing space, access to the firefighting-water supply and the ability to maintain emergency access during other Scheme works. The Examination has already heard that parts of the construction and haul-road strategy remain under discussion with Norfolk County Council. The BESS emergency-access design should therefore be identified as a fixed safety requirement rather than left dependent upon later route negotiation.

The Applicant's schedule should accordingly distinguish between matters which are already demonstrated and matters whose outcome remains capable of changing the authorised BESS.

For each of the following, it should identify the current assumption, the evidence presently available, the post-consent work still required and the consequence if that work does not confirm the assumption:

- final battery manufacturer and chemistry;
- final unit size and enclosure design;
- HAZID and HAZOP;
- Fire Risk Analysis;
- Explosion Risk Analysis and DSEAR assessment;
- FMEA or LOPA where applicable;
- large-scale fire testing or equivalent full-scale destruction testing;
- demonstrated control of propagation beyond the initiating enclosure;
- final separation distances;
- final toxic-plume and consequence modelling;
- final suppression or controlled burn-out philosophy;
- firefighting-water requirement;
- firewater-storage capacity including rainfall;
- automatic and manual drainage isolation;
- impermeability and protection of the drainage liner;
- post-incident sampling, tanker removal and cleaning;

- contaminated aggregate or drainage-medium remediation;
- public and private water-supply protection;
- Foundation Works Risk Assessment for the BESS structures;
- emergency access and appliance turning;
- warning and closure arrangements for affected PRowWs;
- arrangements for notifying residents and water abstractors;
- construction-phase emergency arrangements;
- replacement-phase arrangements;
- damaged and end-of-life battery storage and removal;
- decommissioning sequencing;
- the final Emergency Response Plan;
- consultation with Norfolk Fire and Rescue Service;
- consultation with the Environment Agency; and
- the final BSMP.

The Planning Inspectorate's Scoping Opinion is also relevant to the way this distinction should be approached. At scoping, the Inspectorate agreed that Major Accidents and Disasters could be scoped out on the basis of the information then presented, but expressly expected the oBSMP to contain information on BESS fire risk and mitigation, including firefighting and environmental containment. It also required the ES to develop the physical description of the BESS, including technology and likely container numbers.

The Scoping Opinion therefore did not determine that any later battery design would necessarily be acceptable. Its conclusion was expressly based on the information available at the time and on the proposed battery-safety controls. The final DCO control should reflect that position. The final BSMP should operate as a pre-construction safety gateway for the actual system selected. It should demonstrate that the final chemistry, enclosure, layout, testing results, separation distances, plume consequences, firewater demand, containment system and emergency procedures remain within the assessed environmental envelope.

If the selected system requires larger separation distances, a different plume-management area, greater firewater storage, materially different access, relocation of BESS units or other changes which cannot be accommodated within the assessed Work No. 2 envelope, that is not simply a matter of refining detailed design. It would mean that the authorised development has not yet demonstrated an acceptable safety solution for the technology proposed to be installed.

That is the point which the Applicant's response to Q1.6.4 should make transparent.

Q1.9.1 – Schedule 2: 'substantially in accordance with'

The wording should be considered in the context of the amount of flexibility already built into the East Pye consent structure.

The Scheme is not defined by a fixed detailed layout. The Applicant relies upon a Rochdale-envelope approach using maximum parameters, broad Works Plan areas and a series of outline control documents which are themselves intended to be developed after consent. At ISH1 the Applicant confirmed that the indicative masterplan is not a secured document and that there is no commitment to construct infrastructure in the positions shown on it. The secured spatial control is provided by the Works Plans, within which infrastructure may be microsituated at detailed design.

The Design Principles, Parameters and Commitments document then provides a second level of control through maximum dimensions, minimum offsets, buffers and design commitments. The Applicant described those parameters at ISH1 as the basis upon which the reasonable worst case had been assessed and stated that the final design would sit somewhere within that envelope.

The outline management documents provide a third level of control. They do not specify every construction or operational detail. Their purpose is to establish the principles and mitigation which the later final plans must implement.

That distinction was clear from the beginning of the EIA process. In its Scoping Report, the Applicant stated that the final CEMP would be 'in accordance with' the Outline CEMP and that this would ensure construction impacts were minimised in accordance with the conclusions of the ES. It used the same formulation for the LEMP: the final LEMP would be 'in accordance with' the Outline LEMP. The original stated relationship was therefore one of compliance with the outline document, not approximate compliance with it.

The current use of 'substantially in accordance with' adds a further and undefined degree of discretion at the final approval stage. The issue is not semantic. The ES repeatedly relies upon commitments contained in the outline documents when reaching its residual-effect conclusions. If the final document is permitted to depart from those commitments to an undefined extent, the relationship between the assessed development and the development ultimately implemented becomes less certain.

This is particularly important where the commitment is quantitative.

The Scheme relies upon fixed or minimum buffers to sensitive receptors. At ISH1 the Applicant referred to, among other measures, 10 m offsets from main rivers, watercourses and ditches, 30 m from badger setts, 10 m from hedgerows and 30 m from ancient woodland. South Norfolk District Council also specifically referred to the 30 m ancient-woodland buffers as part of the ecological network which should be protected and managed.

The function of such a buffer depends upon its numerical value. A 30 m buffer is not simply an example of the type of mitigation intended. It is the distance against which the development has been designed and assessed. If the final design only has to be 'substantially in accordance with' the document containing that commitment, it

becomes unclear whether 29 m, 25 m or some other reduced distance would still be considered sufficiently compliant.

The same problem arises with PRow offsets. The Applicant relied at ISH1 upon a 15 m offset on each side of a PRow as part of its answer to concerns about enclosure and safety. That offset was presented as the reason a route flanked by solar on both sides would retain an approximately 30 m corridor. If that figure is part of the mitigation relied upon to demonstrate acceptability, the final layout should comply with it. A general qualification allowing substantial rather than exact compliance weakens the very control on which the response depends.

The issue is equally clear in relation to physical parameters. The application uses maxima for structures and compounds rather than fixed dimensions. At scoping stage, for example, the BESS was described by reference to a maximum compound area and maximum unit dimensions, while the National Grid substation was similarly controlled by a maximum compound area, busbar height and fencing. The final application retains the same general approach across solar arrays, BESS, substations, fencing and other infrastructure.

Where the consent already allows the Applicant to choose any design within a maximum envelope, the additional ability to be only 'substantially' in accordance with the document defining that envelope is difficult to justify. The flexibility has already been provided through the envelope itself.

The CTMP provides a further example because route-specific mitigation is integral to the transport assessment.

The outline transport documents do not simply provide administrative procedures. They contain the proposed access strategy, construction routes, internal haul routes, delivery controls, worker-travel assumptions, call-forward arrangements and measures for managing interactions with PRows and the local highway network. A number of those matters are still under discussion with Norfolk County Council. At ISH1 NCC stated that it remained dissatisfied with parts of the strategy, particularly in relation to Sites 7–10, and the Applicant confirmed that discussions were continuing.

Once those matters are resolved and incorporated into the final outline CTMP relied upon for the Examination, they should form the baseline against which the final CTMP is approved. If a particular HGV route, haul road, traffic restriction or crossing arrangement is part of the basis on which the transport effects are assessed, the final CTMP should not be able to depart materially from that arrangement under a general 'substantially in accordance with' test.

The same applies to construction-hour restrictions. The Applicant's Scoping Report identified normal working hours and then specified limited circumstances in which work might take place outside them, including abnormal-load deliveries, concrete pours, night-time highway cable works and HDD. East Pye EIA Scoping Report 15.... If those restrictions are incorporated into the final control documents and relied upon in

the noise, traffic or amenity assessment, they should remain fixed unless a separate consent mechanism expressly authorises a departure.

The CEMP raises the same issue for pollution and ecological controls. It will contain method statements, pollution-prevention measures, responsibilities, monitoring and site-specific working practices. The Applicant stated at scoping that the purpose of requiring the final CEMP to be in accordance with the Outline CEMP was to ensure that the potential construction impacts remained consistent with the conclusions of the ES.

Where the ES assumes a particular mitigation measure in order to reach a residual conclusion, that mitigation forms part of the assessed project. The final CEMP can develop how the measure is implemented; it should not have discretion to dilute the underlying commitment.

The same applies to the OLEMP. Landscape planting, retained vegetation, habitat creation, buffers and long-term management are relied upon across both the landscape and ecological assessments. The Scoping Report described those measures as embedded mitigation and stated that the outline and final landscape-management documents would secure their establishment and implementation through construction, operation and decommissioning.

The wording is particularly important where the Applicant relies upon future planting to reduce a significant effect over time. A residual effect at Year 15 may depend upon specified planting having been established, managed and retained. If the final LEMP may depart from the outline strategy to an undefined extent, the assessment loses certainty about the mitigation which is supposed to produce that later reduction.

The BESS safety documents present a still clearer example. The outline BSMP is already deliberately provisional because the final battery manufacturer, chemistry, enclosure design, fire-test evidence, separation distances and suppression strategy will not be fixed until later. The final BSMP will therefore be the document in which those uncertainties are resolved and the actual safety case is demonstrated.

Allowing that final document merely to be ‘substantially in accordance with’ the outline version would add flexibility at the point where the design should become more, not less, specific. The final BSMP should demonstrate compliance with the safety principles and minimum controls established through the Examination, including containment, access, separation, firewater management and emergency response. If a selected system cannot comply, the answer should be a revised design or a formal variation mechanism, not an undefined relaxation of the secured standard.

A similar issue arises with the Design Principles, Parameters and Commitments document itself. At ISH1 the ExA repeatedly questioned the extent of the remaining design flexibility, including the location and number of conversion units, substations, fencing and other structures. The Applicant accepted that much of this would be resolved at detailed design but relied upon the DPPC and the maximum parameters as

the mechanism which ensures that the final Scheme remains within the assessed envelope.

That mechanism only works if the parameters and commitments are applied as actual limits.

If a maximum height is 15 m, a minimum buffer is 30 m, or a particular area is excluded from development, the final design should comply with that control. 'Substantially in accordance with' should not create scope for the later decision-maker to decide that a modest exceedance or reduction is acceptable without first considering whether the EIA relied upon the original figure.

This is also relevant to enforceability. A local planning authority discharging a Requirement needs a clear legal test. 'In accordance with' allows the authority to compare the submitted final document against the secured outline document and determine whether the relevant commitments have been retained. 'Substantially in accordance with' requires it first to decide how much departure is permissible and which provisions are sufficiently important that a departure becomes substantial. The DCO provides no objective threshold for that exercise.

The difficulty is greater because different commitments perform different functions. A small change to the wording of a reporting procedure may have no environmental consequence. A small change to a minimum stand-off from a watercourse, ancient woodland, residence or PRoW may have a direct effect on the environmental conclusion. A single general formulation does not distinguish between them.

If the Applicant considers that some limited ability to vary a final document is necessary, that should be dealt with expressly. The DCO could identify a defined variation mechanism under which the relevant planning authority may approve a departure only where it is satisfied, following consultation with the appropriate body where necessary, that the change:

- remains within the authorised Works Plans and maximum parameters;
- does not reduce a minimum environmental buffer or other fixed commitment relied upon in the ES;
- does not give rise to new or materially different environmental effects;
- does not undermine mitigation relied upon in the HRA or other statutory assessment;
- and does not conflict with another Requirement or certified document.

That would preserve genuine detailed-design flexibility while maintaining a clear relationship between the assessed Scheme and the development ultimately constructed.

The ExA's proposed replacement of 'substantially in accordance with' by 'in accordance with' is therefore consistent with the structure of the application itself. The Works Plans already provide spatial flexibility. The maximum parameters already

provide dimensional flexibility. The outline management plans already allow later implementation detail to be developed. The Applicant's own Scoping Report originally described the final CEMP and LEMP as documents which would be 'in accordance with' their outline versions.

A further undefined tolerance is not necessary to allow normal detailed design. Its principal effect would be to reduce certainty over whether the mitigation and parameters relied upon in the ES must actually be delivered.

BEPS therefore supports the ExA's proposed amendment to require the relevant final documents and detailed designs to be '**in accordance with**' the secured outline documents, parameters and commitments. Where a departure is genuinely necessary, it should be considered through a defined and transparent variation mechanism rather than through the general expression 'substantially in accordance with'.

Q1.14.1 – Reliance upon future transport mitigation and future approvals

The transport chapter contains a mixture of measures which are appropriately finalised after consent and matters which remain necessary to establish whether the construction strategy can physically be delivered. Those categories should be separated.

The final CTMP will inevitably need to contain operational details such as contact numbers, booking procedures, marshal locations, signage and day-to-day sequencing. Those matters can be finalised once the contractor and detailed programme are known.

Other unresolved matters are more fundamental. They include the final routing of construction traffic in areas which Norfolk County Council does not presently support; the position and design of passing places; highway-boundary information; visibility splays; vegetation removal; temporary traffic controls; speed-limit arrangements; land required for oversailing or vehicle overrun; bridge and culvert capacity; worker travel arrangements; abnormal-load routing; and the detailed configuration of internal haul roads and cable-route corridors.

The distinction was apparent at ISH1. Norfolk County Council stated that its preferred strategy is to use suitable larger roads and internal haul routes as far as possible, with the haul routes crossing minor roads rather than sending construction traffic along them. NCC said it remained dissatisfied with the strategy for a number of Sites, notably Sites 7–10. The Applicant confirmed that discussions were continuing.

Site 7 illustrates the problem. At ISH1 BEPS asked how the proposed Site 7 haul road would cross the National Gas high-pressure transmission pipeline. The Applicant did not provide a crossing design and relied instead upon the existence of protective provisions in Schedule 14 of the draft DCO. That does not demonstrate that the proposed haul-road crossing is deliverable.

NGT's own East Pye scoping response sets out materially more specific requirements. Construction traffic may cross the pipeline only at an agreed location. A permanent road crossing requires a surface-load calculation and a Deed of Consent. Temporary construction crossings require a purpose-designed ground-level protective raft, determined by reference to ground conditions, vehicle type and crossing frequency and approved by NGT before installation. NGT must also approve the material, dimensions and installation method of any protective measure, a formal contractor method statement is required, and works in close proximity must be monitored by an NGT representative.

NGT further requires the actual position and depth of the pipeline to be confirmed by trial-hole investigation under its supervision, states that ground cover over the pipeline should not be increased or reduced, and requires a safe working method where excavation or embankment works affect the pipeline. Written permission and a Deed of Consent are required for works within the easement strip.

The Examination therefore still needs to establish whether the Site 7 haul-road crossing has been designed at all; whether the required loading calculations and ground investigations have been undertaken; whether the necessary protective raft or permanent crossing can be accommodated within the proposed haul-road design; whether NGT has approved the crossing in principle; and whether the required Deed of Consent is obtainable. Until those matters are established, the protective provisions provide a process for protecting the pipeline if an acceptable crossing exists; they do not themselves demonstrate that an acceptable crossing exists.

The Krons provides another example. Local evidence at ISH1 described a very narrow route, floodplain meadows, an old bridge and a tunnel of mature trees. The Applicant stated that the route had been put forward during discussions with NCC, while NCC itself had already explained that the wider access strategy remained unresolved. If making that route usable requires vegetation removal, bridge works, drainage alterations or additional land, those effects must be known before reliance is placed upon it.

The same problem arises with passing places and visibility splays. A passing place is only deliverable if the necessary land falls within the available highway or Order Limits, suitable ground exists, drainage can be maintained and required vegetation can lawfully be removed. A visibility splay may require the permanent or recurrent removal of mature vegetation. The ecological, landscape and heritage consequences of those works cannot be treated as consequences of a later CTMP if they are part of the physical infrastructure necessary to make the route safe.

Abnormal indivisible loads remain separately important. The final port of entry, strategic route and local route need to be sufficiently defined to show that the transformers can physically reach the relevant substations. The route through Saxlingham Nethergate generated extensive concern at ISH1 about the war memorial, pavement, historic buildings, drainage and other roadside features. The Applicant agreed to obtain further information from its AIL specialist.

Worker traffic is also mitigation-dependent. Chapter 11 of the BEPS WR identifies uncertainty over workforce origins, shuttle provision, parking locations and achievement of the assumed modal split. Public transport across the affected rural area is limited. If the assumed modal split is not achieved, private-car movements increase and the assessed traffic distribution changes. That is capable of affecting both junction performance and the narrow local roads which also carry HGVs.

National Highways' position adds a separate strategic-network issue. At ISH1 it confirmed that additional work was required in relation to the A47/A140 junction and expressly raised cumulative construction traffic with Norwich to Tilbury.

The Applicant's ExQ schedule should therefore identify, for each future transport measure:

- what is presently fixed;
- what remains subject to agreement;
- whether additional land may be required;
- whether physical highway or vegetation works may be required;
- which environmental assessments rely upon the measure;
- and what happens if the relevant highway authority does not approve the proposed solution.

A final CTMP can regulate the implementation of a route which has already been shown to be physically and environmentally deliverable. It should not be used to discover after consent whether an essential construction route exists.

Q1.15.1 – Reliance on future infiltration testing

The outstanding infiltration testing cannot be treated simply as a matter of completing detailed drainage design after consent. HFCL's revised independent review identifies deficiencies in the hydrogeological evidence which mean that, at a number of locations, infiltration testing may determine whether infiltration is an acceptable drainage method at all.

The distinction is important because the Applicant's present drainage strategy assumes that infiltration will be available where feasible, with the detailed rate and dimensions to be established later. That approach is only secure where the receiving ground, groundwater regime and sensitive receptors are already sufficiently understood to demonstrate that infiltration is environmentally acceptable. HFCL's review concludes that this has not yet been demonstrated across the Scheme.

HFCL identifies the absence of an adequate site-wide hydrogeological conceptual model as a fundamental limitation. Its review records that the Scheme is underlain by a sequence which includes the Lowestoft Formation, Crag Group and Chalk, with the Crag and Chalk forming important groundwater resources. It considers that the application has treated the Lowestoft Formation too simplistically, in effect relying upon it as a protective low-permeability layer separating surface activities from deeper

groundwater. HFCL identifies evidence that the formation is heterogeneous, that recharge can occur through it and that localised sandier or more permeable horizons may provide hydraulic pathways to the underlying aquifers. The presence of Lowestoft Formation therefore does not, in HFCL's view, justify a general assumption of hydraulic isolation.

That concern is consistent with the Environment Agency's earlier scoping response. The Agency identified uncertainty in ground conditions across most of the Site, significant gaps in the BGS evidence and errors in the geological information used to inform the original conceptual model. It specifically warned that inadequate ground-condition information could result in unidentified pathways to the Principal Aquifer, Source Protection Zones and private and public water abstractions. It requested intrusive investigation to characterise those conditions.

The ES itself records that the Norwich Crag and Chalk beneath the Scheme are Principal Aquifers, while the Lowestoft Formation is classified as a Secondary undifferentiated aquifer. It also identifies extensive areas of the Scheme within groundwater Source Protection Zone 3 and groundwater vulnerability which is generally classified as medium, increasing to medium-high near parts of the Hempnall Beck system.

The outstanding infiltration evidence therefore needs to be considered against a groundwater system which is sensitive and incompletely characterised, rather than simply against the engineering question of how quickly water disappears into a trial pit.

HFCL also identifies unresolved uncertainty concerning private water supplies. This is particularly important because infiltration alters the rate, location and potentially the quality of recharge entering the groundwater system.

At scoping stage, the Environment Agency recorded 35 private water supplies within 250 m of the Site for which accurate locations and abstraction-strata information were unavailable. It required the Applicant to establish the locations and, where possible, the strata from which those supplies abstracted, and to apply a precautionary 50 m SPZ1 where potable use had to be assumed.

The Agency expressly described the risk to those supplies as unknown. It also required a 1 km search radius around the BESS and all substations because of the potential for HDD and foundation works to affect the bedrock and Secondary A aquifers.

HFCL's later field investigation and review does not support treating that issue as resolved. Its revised report identifies continuing shortcomings in the PWS baseline and in the understanding of the strata from which individual supplies draw water. The significance of that evidence is not confined to contamination. If an infiltration system changes local recharge or groundwater flow, a private supply may be affected even where no obvious surface-water pathway exists.

The same problem arises in relation to groundwater-dependent terrestrial ecosystems. HFCL identifies GWDTEs as receptors which have not been adequately incorporated into the Applicant's conceptual model. The acceptability of infiltration cannot therefore be determined solely by demonstrating sufficient permeability. A location may have technically favourable infiltration characteristics while being environmentally unsuitable because the infiltrated water enters a groundwater system which supports a sensitive habitat or modifies an existing groundwater–surface water interaction.

For that reason, the ExA's question should be answered directly: the outstanding infiltration testing is not simply a matter which can safely be deferred in its entirety to detailed design.

Where the Applicant has already established the geology, groundwater level, receiving aquifer, nearby abstractions and ecological receptors and has demonstrated that infiltration is an acceptable drainage method, later BRE 365 or equivalent testing can properly be used to calculate infiltration rates and size drainage features.

That is not the present position across the whole Scheme.

At locations where those baseline questions remain unresolved, the test result may determine whether infiltration is permissible at all. A poor infiltration rate may make the proposed system physically unworkable. A high infiltration rate may itself require further assessment where rapid percolation creates a more direct pathway to sensitive groundwater. Shallow groundwater may prevent the required unsaturated-zone separation from being achieved. Connectivity with a private supply or GWDTE may make infiltration environmentally unacceptable even though it is technically possible.

Those are materially different outcomes from adjusting the dimensions of an already accepted soakaway or infiltration basin. The Applicant should therefore identify the drainage assumption currently made for every part of the Scheme where infiltration may be used. That should include the BESS, National Grid substation, project substations, conversion units, construction compounds, access infrastructure and any other areas where runoff is being concentrated or managed.

For each location, the Applicant should provide:

- the geological unit into which infiltration is proposed;
- the evidence currently available for its permeability;
- whether site-specific infiltration testing has already been undertaken;
- the depth at which testing was undertaken;
- the observed and seasonal groundwater level;
- the depth of unsaturated material beneath the proposed infiltration feature;
- the relevant Principal or Secondary aquifer;
- nearby private water supplies and, where known, their source strata;
- nearby GWDTEs and surface-water receptors;
- the groundwater-flow direction and conceptual pathway relied upon;
- and the drainage alternative if infiltration cannot be used.

The fallback solution is not a secondary detail. If infiltration is not available, runoff must go somewhere else.

Depending upon the location, that could require additional attenuation, a larger basin, controlled discharge to an ordinary watercourse or main river, additional pipework, pumping, an alternative outfall or additional land. Those alternatives may alter flood risk, water quality, land take, landscape effects and ecological effects. They may also require third-party rights or regulatory consent which have not formed part of the assessed drainage solution.

The Applicant should therefore demonstrate that at least one viable fallback exists within the Order Limits and within the environmental envelope already assessed for every location where infiltration remains unconfirmed.

This is particularly important for the BESS and substation complex at Great Moulton. That infrastructure introduces concentrated runoff, transformers and other potentially polluting equipment and, in the case of the BESS, the additional possibility of contaminated firewater. The drainage design for that area cannot depend upon an infiltration solution whose suitability will only be established after the DCO has been granted.

HFCL's criticism also extends beyond individual drainage compounds. The proposed development covers a very large area of agricultural land and will introduce repeated rows of panels, access tracks, substations, compounds and other infrastructure. Water falling onto panels is redistributed to drip lines and the soil immediately below or between the arrays. The issue is therefore not confined to whether a formal SuDS basin infiltrates at a particular rate. There is also a Scheme-wide question about how the development alters the spatial pattern of infiltration, surface runoff and groundwater recharge.

That is relevant on the heavy clay-dominated parts of the Site because concentrated panel runoff can interact with soil compaction and local topography. It is also relevant where more permeable horizons or groundwater-connected features occur beneath apparently low-permeability superficial deposits.

HFCL's conclusion that the hydrogeological conceptual model remains incomplete means that the Applicant has not yet demonstrated, at a Scheme-wide level, how those altered recharge patterns interact with the Crag and Chalk aquifers, private supplies, GWDTEs and connected surface waters.

The issue can therefore be divided into two categories.

The first is detailed infiltration testing undertaken to determine the design rate for a drainage feature where infiltration has already been shown to be suitable. That can reasonably follow consent.

The second is investigation required to establish whether infiltration is physically and environmentally suitable, whether groundwater separation can be achieved, whether

sensitive groundwater receptors are connected to the site, or what alternative drainage solution would be required if it is not. HFCL's evidence shows that this second category remains unresolved at East Pye.

For that reason, BEPS considers that the ExA should not accept a general response that infiltration testing is a matter for post-consent detailed drainage design. The Applicant should first identify which parts of the Scheme fall into each category and demonstrate, before consent, that every area dependent upon infiltration has either:

1. an infiltration solution whose technical and environmental feasibility is already established; or
2. an alternative drainage solution which is demonstrably deliverable within the Order Limits and has been assessed in the ES.

Until that exercise is undertaken, the outstanding infiltration testing is capable of changing not simply the size of the drainage system but the drainage method, discharge location, land requirement and environmental effects. On HFCL's evidence, it therefore forms part of the information needed to establish the acceptability of the drainage strategy rather than merely to refine it after consent.

Q1.15.2 – Reliance on future drainage design

The Applicant's drainage case remains materially dependent upon detailed design after consent. On HFCL's evidence, that is not simply a matter of fixing the final dimensions of swales, pipes or attenuation basins. In several parts of the Scheme, the outstanding drainage design is dependent upon hydrogeological information which has not yet been adequately established, and the choice of drainage method may itself change once that information is obtained.

The Applicant's own approach has always been to rely upon later drainage design. At scoping stage, it stated that compounds, substations, cable routes and the BESS would incorporate a surface-water drainage strategy, with treatment before discharge either to a receiving watercourse or to ground 'as appropriate'. It then concluded that there would be no significant effect on WFD receptors on the basis that such a strategy would be provided. The same material states that the FRA and Drainage Strategy were still being developed to inform the Scheme design.

That sequencing is important. The environmental conclusion was therefore reached before the detailed drainage solution had been fixed.

HFCL's revised review of 28 September 2026 identifies why that remaining design work is material. Its central finding is that the Applicant has not provided a sufficiently defined hydrogeological conceptual model for the Scheme. Chapter 9 does not describe the existing hydrogeological conditions adequately, Chapter 16 provides aquifer designations without a proper conceptual model, and the relationship between

the Lowestoft Formation and the underlying Crag and Chalk Principal Aquifers has been oversimplified. HFCL concludes that the assessment is therefore based upon a baseline which has not been fully characterised. [HFCL, §3.1.3.5, pp.14–15; Table 4.1, Ref. 10.]

HFCL gives the Lowestoft Formation as an example of why this matters. The Applicant has repeatedly treated the till as effectively impermeable. HFCL identifies published BGS evidence showing a materially more complex system: recharge to the Chalk through the till can amount to between 4.5% and 20% of effective rainfall; the weathered upper till can have appreciable hydraulic conductivity; sand and gravel horizons occur within it; and groundwater movement and storage can occur locally. HFCL also records that the Lowestoft Formation is classified by the Environment Agency as a Secondary (Undifferentiated) Aquifer and that private water supplies in the study area are known to abstract from it. [HFCL, §3.1.3.5, pp.14–15.]

The significance for drainage is direct. A drainage system which infiltrates water to ground cannot be assessed simply by asking whether the ground will accept the required volume. Its environmental acceptability depends upon where that water goes after infiltration, which aquifer or shallow groundwater system receives it, whether contaminants can migrate with it, whether it changes recharge to nearby private water supplies or groundwater-dependent habitats, and whether it alters groundwater-surface water interaction.

HFCL also identifies deficiencies in the receptor baseline. It found that the methodology for identifying private water supplies had not been demonstrated; that no systematic cross-checking against address and mains-water records had been undertaken; and that HFCL's limited field work identified an active supply at Boyland Hall which was not on the local authority list and had been assumed inactive by the Applicant. HFCL therefore considers it likely that additional private water supplies remain unidentified. [HFCL, §3.1.3.1, p.14.]

The Environment Agency has separately identified groundwater-dependent terrestrial ecosystems which the Applicant has not identified, and HFCL concludes that no assessment has been undertaken of the possible hydraulic connection between those receptors and the Scheme. [HFCL, §§3.1.3.2 and 3.1.4.2, pp.14–16.]

Those deficiencies are relevant to Q1.15.2 because the final drainage solution cannot properly be selected independently of them. A system based upon infiltration, discharge to a ditch or watercourse, attenuation and controlled release, or a combination of those methods may produce materially different effects depending upon the receptor network.

The Great Moulton infrastructure hub is the clearest example. HFCL identifies areas of surface-water flood risk within and around the 400 kV Project Substation and National Grid Substation at Site 1B. Appendix 9.1 itself states that an 'appropriate solution' for conveying exceedance flows from upstream fields will only be determined at detailed design. HFCL considers it 'critically important' that those surface-water exceedance

flows are not managed through the same drainage system relied upon to contain contaminated BESS or substation firewater, because a coincident fire and storm event could overwhelm the containment system. [HFCL, §3.2.1, p.16.]

That is not a question of minor drainage detailing. It requires the final layout to provide two distinct functions:

- safe conveyance of ordinary and exceedance surface-water flows through or around the infrastructure area; and
- secure isolation and containment of contaminated runoff or firewater generated by a BESS or substation incident.

The capacity and spatial requirements of those two systems need to be demonstrated together. The Examination currently does not know the final exceedance route, the extent of any attenuation required, how the ordinary drainage system is hydraulically separated from the pollution-containment system, or whether both can be accommodated within the authorised infrastructure area without creating a new flood or groundwater pathway.

The Environment Agency had already identified the same concern at scoping. It required the Surface Water Drainage Strategy to demonstrate that contaminated firewater could be contained without discharge to ground or surface water, to provide an impermeable base beneath the BESS and substation infrastructure, to retain sufficient headroom during intense rainfall, and to incorporate automatic isolation with a backup in the event of power failure.

HFCL's review concludes that the application still contains insufficient information to assess the likely effectiveness of that embedded mitigation. Table 4.1, Ref. 12 specifically identifies inadequate information concerning the interaction between surface-water flooding, firewater management and runoff at the 400 kV and National Grid substations at Site 1, together with insufficient detail about the BESS construction relevant to firewater containment. HFCL considers that further information is required. [HFCL, Table 4.1, Ref. 12, p.20.]

There is a further unresolved point in the Applicant's own drainage strategy. Appendix 9.1 states that the BESS 'may' be divided into compartments, each with a lined aggregate sub-base separated by access tracks, in order to assist isolation, testing and remediation following a fire. HFCL expressly criticises the use of the qualifying language 'may' and 'would', because it is impossible to determine whether compartmentalisation is actually part of the secured mitigation or merely a design option. [HFCL, §3.2.1, pp.16–17.]

That point should be answered through Q1.15.2. If compartmentalisation is necessary to make the firewater drainage system environmentally acceptable, it should be fixed as part of the drainage design and secured through the DCO. If it is not necessary, the Applicant should demonstrate how equivalent containment and remediation performance will be achieved without it.

The drainage issue also extends well beyond Site 1. The Scheme contains multiple project substations, conversion units, construction compounds, access tracks, cable corridors and areas of temporary hardstanding. The Applicant's original scoping material expressly recognised increases in impermeable area and stated that the BESS, substations, compounds and cable routes would all require surface-water drainage. The final response to Q1.15.2 should therefore identify the actual number of separate drainage systems still requiring detailed design and not describe drainage as though there were a single site-wide SuDS solution.

For each material infrastructure area, the Applicant should identify the following:

- the contributing drainage area;
- the proportion and type of impermeable or compacted surface;
- the intended drainage hierarchy;
- whether infiltration is proposed;
- the evidence demonstrating that infiltration is technically and environmentally suitable;
- the proposed attenuation volume;
- the intended discharge point and receiving waterbody;
- the proposed discharge rate;
- the design storm and climate-change allowance;
- exceedance-flow routing;
- interaction with existing field drainage;
- pollution-treatment stages;
- whether pumping is required;
- whether third-party rights, ordinary watercourse consent, environmental permits or other approvals are required;
- and the fallback arrangement if the preferred drainage route is unavailable.

That information is particularly important because HFCL identifies six WFD surface-water catchments and a groundwater body relevant to the Scheme and criticises the Applicant for screening out three surface-water catchments despite the presence of ditches within the Scheme which drain directly to those waterbodies. HFCL also criticises the screening out of the Broadland Rivers Chalk and Crag groundwater body merely because East Pye occupies a small proportion of its overall catchment. [HFCL, §3.1.2, pp.12–13; §3.2.2, p.17.]

The final drainage design may therefore discharge to or otherwise affect receptors which have not been adequately carried through the current WFD and EIA assessment.

The treatment of surface-water runoff from the solar arrays also requires clarification. The Applicant has generally relied upon the proposition that solar arrays drain to the existing ground and therefore do not normally create significant drainage effects. That assumption is not sufficient at the scale of East Pye.

The panels intercept rainfall and redistribute it to concentrated drip lines. Access tracks, repeated construction traffic and compounds can compact soils and alter

infiltration. Cable trenches and reinstated ground can create preferential flow routes. Rainwater harvesting removes some rainfall from the local drainage and recharge system. HFCL specifically notes that rainfall captured for Scheme use will not be wholly non-consumptive because some water will be removed as foul effluent or lost through evapotranspiration, and therefore overall infiltration and aquifer recharge will be reduced. It also states that rainfall interception by the panels will reduce infiltration to ground and questions whether that effect has been considered in the ecological and habitat assessments. [HFCL, §§3.1.4.1 and 3.2.3, pp.15–17.]

The drainage strategy therefore has to address both excess runoff and altered recharge. Exporting water more rapidly to a surface-water receptor may solve a local ponding problem while reducing groundwater recharge. Increasing infiltration may retain recharge locally but create a pathway to a private supply, GWDTE or Principal Aquifer. The correct solution cannot be selected without a reliable understanding of the hydrogeological system.

Construction drainage introduces a further set of unresolved pathways. The Applicant itself identified mobilisation of sediment and pollutants, contamination from fuels and oils, effects on private water supplies and changes to runoff as potential impacts. Cable excavation, temporary compounds, access tracks, dewatering and trenchless crossings all create temporary drainage conditions which differ from the completed operational Scheme. Detailed construction drainage cannot therefore be treated as simply the operational SuDS scheme brought forward in time.

The final design should identify how clean and dirty water are separated during construction, where temporary attenuation is located, where dewatering effluent is discharged, how sediment is treated, how existing ditch and field-drain networks are maintained and how drainage is managed where haul roads or cable works interrupt existing overland flow paths.

HFCL's conclusions make clear that this is not a request for unnecessary detailed engineering at DCO stage. Its review identifies fifteen material deficiencies or clarifications, several of which it considers require further environmental information. In relation to drainage specifically, those deficiencies include the incomplete hydrogeological conceptual model, incomplete private-water-supply baseline, omitted GWDTEs, inappropriate WFD screening and insufficient information to demonstrate effective surface-water and firewater management at Site 1.

The Applicant's answer to Q1.15.2 should therefore do more than confirm that the final drainage layouts will be prepared after consent. It should quantify the extent of what remains outstanding.

The response should state:

1. how many separate final drainage layouts are still required;
2. which Works or Sites each layout relates to;
3. how many discharge locations remain to be selected or confirmed;

4. how many infiltration systems remain dependent upon future testing;
5. how many hydraulic calculations remain to be completed;
6. how many drainage solutions depend upon third-party agreement or regulatory consent;
7. which schemes require pumping rather than gravity drainage;
8. where exceedance-flow routes remain unresolved;
9. where drainage interfaces with private water supplies, GWDTEs, SPZs or Principal Aquifers;
10. and which drainage assumptions are relied upon in the existing EIA conclusions.

For every item which remains unresolved, the Applicant should then identify whether a viable alternative has already been demonstrated within the Order Limits and within the assessed environmental envelope.

That last point is important. If infiltration subsequently proves unsuitable, the replacement drainage system may require a larger attenuation basin, additional land, an alternative outfall, pumping, longer pipework or a different discharge rate. If a proposed outfall cannot obtain the necessary agreement or consent, another receptor may have to be used. If the firewater and surface-water systems at Site 1 cannot be safely separated within the present footprint, the layout itself may have to change.

Those are not changes in the dimensions of an already established drainage solution. They can change the drainage method, discharge receptor, land take and environmental pathway.

On HFCL's evidence, the present position is therefore that the Applicant has not yet demonstrated a complete and receptor-specific drainage solution across the Scheme. The missing work is not confined to detailed hydraulic sizing. In material areas it remains necessary to establish the receiving hydrogeological system, identify all sensitive receptors, determine whether infiltration is appropriate, resolve exceedance routing and demonstrate that ordinary surface-water drainage and contaminated firewater containment can operate independently and safely.

The ExA can therefore distinguish two categories of post-consent drainage work.

Where the method, receptor, discharge route and environmental acceptability are already demonstrated, final hydraulic calculations and precise SuDS dimensions can appropriately follow consent.

Where the later work is still required to determine whether infiltration can be used, where water will discharge, whether a sensitive groundwater receptor is connected, whether sufficient attenuation can be accommodated or whether the BESS and substation drainage systems can contain firewater without being overwhelmed by surface-water flooding, the work is not merely detailed design. It is part of establishing whether an acceptable drainage solution exists at all.

HFCL's evidence places significant parts of the East Pye drainage strategy in that second category. The Applicant should therefore be required to demonstrate, before reliance is placed upon the present no-significant-effect conclusions, that at least one technically feasible and environmentally acceptable drainage solution exists for each material part of the Scheme, within the authorised land and within the environmental envelope already assessed.

Q1.16.1 – Ground conditions: adequacy of baseline and EIA

The adequacy of the ground-conditions baseline has been in issue since the beginning of the EIA process. The Applicant originally proposed to scope ground conditions out of the ES on the basis that contamination risk was generally low, targeted intrusive investigations could be undertaken later and standard measures could be incorporated into the CEMP. The Planning Inspectorate rejected that approach. It noted that historic ground workings had not been considered and that the Phase 1 Ground Conditions Assessment contained information for only a small proportion of the Site, leaving the risk across the majority of the Scheme unknown. It therefore concluded that there was insufficient information to rule out significant effects and required a standalone ground-conditions assessment across all phases. Pins scoping response

That conclusion was reinforced by the Environment Agency's scoping response. The Agency did not simply request additional engineering information. It identified defects in the conceptual understanding of the groundwater system itself. These included failure to recognise evidence of groundwater–surface water connectivity; omission of the WFD groundwater body underlying the Scheme; incomplete identification of contamination sources; insufficient information about private water supplies and their source protection areas; inadequate groundwater search buffers; no assessment of groundwater-dependent terrestrial ecosystems; and inadequate information about the depth and environmental consequences of piling, deep foundations and HDD. Pins scoping response

The Environment Agency specifically identified potential contamination associated with an historic landfill, infilled ground and the former military airfields. It also considered that the hydrogeological setting had been inadequately characterised because the existing understanding depended heavily upon a limited number of historic exploratory-hole records. Its conclusion was that ground conditions should be scoped into the ES because the existing information was insufficient to establish the groundwater baseline reliably.

The Planning Inspectorate separately required the Applicant to provide HDD design parameters and to demonstrate whether the proposed drilling could encounter groundwater bodies. It also required further investigation of unexploded ordnance because the Phase 1 assessment had identified moderate to high UXO potential associated with former military airfields and aircraft crashes, while the nature and extent of the risk remained unclear.

The final application contains a more extensive desk-based ground-conditions assessment than the material available at scoping. The issue raised by Q1.16.1 is whether that additional desk-based work has resolved the deficiencies which caused the Inspectorate and Environment Agency to reject the original proposal to scope the subject out.

The revised independent HFCL review of 28 September 2026 concludes that it has not.

HFCL identifies the absence of a coherent, site-wide hydrogeological conceptual model as a fundamental weakness in the application. The relevant information is distributed between Chapters 9 and 16 and their appendices, but those documents do not establish, in a sufficiently integrated form, the geological units, aquifers, groundwater levels, groundwater flow directions, groundwater–surface water relationships, private abstractions, groundwater-dependent ecological receptors, contamination sources and construction pathways necessary to understand how effects may propagate through the Scheme.

This is particularly important because the hydrogeology beneath East Pye is not as simple as an impermeable superficial layer over an isolated deeper aquifer.

The Scoping Report itself identifies the Norwich Crag and Chalk formations beneath the Scheme as Principal Aquifers. It identifies the Lowestoft Formation underlying much of the Scheme as a Secondary (Undifferentiated) Aquifer, with Secondary A sand, gravel and alluvial deposits along some watercourse corridors. It also records extensive areas within groundwater Source Protection Zone 3 and groundwater vulnerability classified generally as medium, increasing to medium-high in parts of the Scheme.

HFCL considers that the final ES nevertheless continues to place too much weight on the Lowestoft Formation as an effectively protective or low-permeability layer. Its review cites British Geological Survey evidence showing that the till is heterogeneous; that the weathered upper part can have appreciable hydraulic conductivity; that sand and gravel horizons occur within it; and that recharge can pass through it to the underlying Chalk. HFCL records published estimates of Chalk recharge through till of approximately 4.5% to 20% of effective rainfall.

The significance is not simply geological terminology. If hydraulic connection exists through or within the Lowestoft Formation, then construction at the surface or at depth can potentially create or strengthen pathways to the Crag and Chalk Principal Aquifers. The assumption that superficial deposits provide sufficient separation therefore has to be demonstrated locally rather than applied generically across the Scheme.

The private-water-supply evidence demonstrates why that matters.

At scoping stage the Environment Agency identified 35 private water supplies within 250 m of the Site for which accurate locations and abstraction-stratum information were unavailable. It considered the search radius potentially inadequate because of the uncertainty in ground conditions and required more accurate identification of the

supplies, their source strata and their protected areas. Pins scoping response The Planning Inspectorate likewise required the ES to identify and assess private water supplies and their buffers where significant effects might occur.

HFCL's later field work indicates that the resulting application baseline is still incomplete. Its revised review identifies an active private supply at Boyland Hall which was not contained on the local authority list and which the Applicant had treated differently in its existing evidence. The applicant has not visited any wells or boreholes in person nor physically assessed them. HFCL considers that its limited investigation demonstrates the weakness of relying on the available records alone and that additional supplies may remain unidentified. It also records evidence that supplies in the area abstract from different strata, including the Lowestoft Formation and the deeper aquifer system.

This matters to the source–pathway–receptor model. A receptor cannot be assessed reliably if its location, depth, construction or source aquifer is unknown. Nor can the Applicant assume that monitoring alone will be an adequate mitigation measure if subsequent investigation shows a direct hydraulic connection between construction works and a potable supply.

HFCL identifies a similar problem with groundwater-dependent terrestrial ecosystems. The Environment Agency had already objected at scoping to groundwater and GWDTE effects being scoped out because the groundwater system had not been adequately characterised. Pins scoping response HFCL concludes that relevant GWDTE receptors have still not been comprehensively incorporated into the Applicant's hydrogeological conceptual model and that their potential hydraulic relationship with the Scheme has not been adequately demonstrated.

The WFD groundwater baseline is also relevant. The Environment Agency specifically criticised the Scoping Report for failing to identify the WFD groundwater body underlying the Scheme. Pins scoping response HFCL subsequently identified continued concerns with the treatment of the Broadland Rivers Chalk and Crag groundwater body and with the logic used to screen groundwater effects. A groundwater body cannot be treated as environmentally insignificant merely because the Scheme occupies a small proportion of its overall geographical area where local source–pathway–receptor relationships remain unresolved.

There are then the contamination sources themselves. The former military airfields are important because the contamination history is not necessarily confined to locations of known spills or mapped structures. Former airfields can contain filled pits, fuel-related contamination, made ground, demolition material and areas affected by historic military activities whose precise locations are not apparent from modern surface conditions. The Environment Agency expressly referred at scoping to unknown contaminants arising from the historic airbases.

The same applies to historic landfill and infilled ground. The Scoping Report itself records an historic landfill close to Site 3 which accepted inert, commercial and liquid

sludge waste until 1975, while Site 3A formed part of RAF Hardwick and has a high UXO hazard classification.

The question is therefore not whether the Applicant has now produced a longer list of potential contaminant sources. It is whether the investigation undertaken is sufficient to establish whether those sources are present, their extent and concentration, and the pathways by which construction could mobilise them.

That issue becomes more important when the actual construction envelope is considered. East Pye does not involve only shallow solar-panel piles in arable fields. The authorised development includes extensive cable excavation; HDD and other trenchless crossings; BESS and project-substation infrastructure; the National Grid substation; access roads and compounds; deep foundations; drainage infrastructure; and potentially piled foundations extending materially below the existing surface. The Planning Inspectorate required the ES to assess the installation method for PV mounting structures on a reasonable worst-case basis where the method remained uncertain and separately required HDD parameters sufficient to determine whether groundwater bodies could be encountered. Pins scoping response

Different construction methods create different pathways. Driven or screw piles may penetrate superficial strata and encounter shallow groundwater. Deeper piles beneath BESS or substation infrastructure may penetrate through superficial deposits towards deeper water-bearing formations. Cable trenches can intercept shallow groundwater and create preferential linear drainage pathways. Dewatering can alter local groundwater levels and mobilise contaminants. HDD can intersect groundwater-bearing formations, introduce drilling fluids or create breakout pathways. Excavation of contaminated or infilled ground can mobilise material that was previously relatively immobile.

The Environment Agency therefore required a Foundation Works Risk Assessment or Piling Risk Assessment for BESS, substations and other structures requiring deep foundations, and a Hydrogeological Risk Assessment where HDD or other trenchless works might interact with Principal or Secondary A Aquifers, pass beneath watercourses or affect sensitive ecological receptors.

Those requirements are themselves evidence that the environmental consequences depend upon information not available from a desk study alone.

There is also a further pathway which should not be lost from the examination. The Environment Agency required the Applicant to assess the potential for heat from buried high-voltage cables to affect groundwater where the cables interact with groundwater resources. The final response to Q1.16.1 should identify where this has been assessed and the assumptions used about cable loading, burial depth, groundwater presence and heat dissipation.

The distinction which follows from this evidence is relatively clear. A desk-based baseline can be adequate where it establishes the geology, aquifers, groundwater

levels, contamination sources and sensitive receptors with sufficient confidence, and later intrusive investigation is required only to obtain engineering parameters such as bearing capacity or final foundation dimensions. That is not the only function which later ground investigation performs at East Pye.

On the evidence presently available, later investigation may still establish:

- whether contamination exists at locations where intrusive works are proposed;
- whether shallow groundwater occurs at depths relevant to trenches and foundations;
- whether the Lowestoft Formation provides local hydraulic separation or contains permeable horizons;
- whether construction could create a preferential pathway into the Crag or Chalk;
- whether particular private water supplies are present and which aquifer supplies them;
- whether GWDTEs are hydraulically connected to affected groundwater;
- whether piling is environmentally acceptable at the proposed depth;
- whether HDD passes through or close to a groundwater-bearing formation;
- whether dewatering will be necessary and where that water can be discharged;
- whether infiltration drainage is appropriate;
- and whether contaminated land, groundwater and construction pathways coincide.

Those matters determine the source, pathway or receptor in the conceptual model. They are therefore not all conventional geotechnical detail.

The Applicant's response to Q1.16.1 should identify the actual extent of the remaining uncertainty rather than simply state that ground investigation is normal after consent. It should provide a site-by-site schedule showing what intrusive information presently exists; where no intrusive information exists; the depth and type of investigation already undertaken; the contaminants tested; groundwater monitoring undertaken; the private supplies and GWDTEs included in the conceptual model; the proposed foundation and excavation depths; and the additional investigations which remain necessary.

For every outstanding investigation, the Applicant should identify the question it is intended to answer.

If the purpose is simply to calculate pile diameter or confirm soil strength, it is reasonably characterised as detailed design.

If the purpose is to determine whether contaminated material is present, whether groundwater will be intercepted, whether a potable supply is connected, whether piling would create a contaminant pathway or whether an HDD crossing is hydrogeologically acceptable, it performs a different function. It provides environmental baseline information which is relevant to whether the proposed construction method is acceptable.

HFCL's revised review indicates that a material proportion of the remaining ground and groundwater work falls into that second category.

On the evidence presently before the Examination, BEPS therefore considers that the Applicant has not demonstrated that the ground-conditions and hydrogeological baseline is complete enough for all of the current no-significant-effect conclusions to be treated as established. The ExA should require the Applicant to identify precisely which conclusions rely upon assumptions that remain to be tested by intrusive investigation and what happens if those assumptions prove incorrect.

Q1.16.2 – Ground conditions: reliance on post-consent assessment and mitigation

The Applicant proposes to undertake a substantial body of ground and hydrogeological work after consent. The acceptability of that approach depends upon what those later investigations are intended to do.

There is an important difference between investigation which refines the engineering design of development already shown to be environmentally acceptable and investigation which is still required to determine whether the proposed construction method is environmentally acceptable.

The distinction is particularly clear from the Environment Agency's scoping response.

The Agency required a Foundation Works Risk Assessment or Piling Risk Assessment for the BESS, substations and any other structures involving deep or piled foundations because there was insufficient evidence and design detail to discount the possibility that those works could create contaminant migration pathways into deeper groundwater units. It separately required Hydrogeological Risk Assessment where HDD or other trenchless drilling might interact with Principal or Secondary A Aquifers, pass beneath surface watercourses or affect sensitive ecological receptors. Pins scoping response

Those assessments were not requested simply to optimise construction productivity. They were requested because the relevant environmental risks could not yet be excluded.

The Environment Agency also recorded that anticipated foundation depths and maximum excavation and drilling depths were not then available and that the conceptual understanding of groundwater, surface-water connectivity, private supplies and GWDTEs was inadequate.

The final application has supplied more design parameters, but HFCL's revised review concludes that several of the underlying conceptual uncertainties remain. The question raised by Q1.16.2 is therefore whether the DCO can safely leave those assessments

until after development consent has established the principle and authorised the relevant works.

Piling demonstrates the problem most clearly. The environmental effect of a pile is not determined by the fact that piling is a conventional construction technique. It depends upon what the pile penetrates. A pile may remain within relatively impermeable superficial material and create little hydrogeological risk. A deeper pile may penetrate a more permeable horizon, intersect shallow groundwater or provide a preferential pathway between contaminated shallow material and an underlying aquifer. The significance depends upon pile depth, pile type, geological sequence, groundwater levels, contamination present at the location and the receptors connected to the affected groundwater.

For East Pye, those conditions cannot safely be assumed to be uniform across the Order Limits. The Scheme extends over a large and geologically variable area underlain by the Lowestoft Formation, Crag and Chalk, with local sand, gravel and alluvial deposits and extensive groundwater receptors. The Applicant's own scoping material classifies the Crag and Chalk as Principal Aquifers and much of the Lowestoft Formation as a Secondary (Undifferentiated) Aquifer.

HFCL further identifies evidence that the Lowestoft Formation does not provide a uniform impermeable barrier. Permeable horizons, weathering and recharge through the till mean that a site-specific assessment is required before it can be assumed that deeper groundwater is protected from surface or shallow-ground activity.

A post-consent Piling Risk Assessment can therefore perform two very different functions. Where intrusive investigation has already demonstrated the geological sequence, groundwater levels, contamination conditions and sensitive receptors, it may simply select the least-risk piling technique. That is detailed design. Where those matters are not established, the assessment may determine whether piling can be used at all. That is materially different.

If the later assessment concludes that the proposed pile would create an unacceptable groundwater pathway, the Applicant must then use another foundation method, reduce the depth, relocate the infrastructure or introduce additional engineering controls. The Examination needs to know now whether those alternatives are physically available and environmentally assessed.

The same point applies to the BESS and substation infrastructure at Great Moulton. These are not structures for which foundation design is environmentally neutral. They coincide with groundwater protection issues, drainage and firewater containment, while the BESS and project-substation design envelope allows substantial foundation depths. If the final Foundation Works Risk Assessment demonstrates that piling through the superficial deposits presents an unacceptable risk to underlying groundwater, the Applicant needs an alternative foundation which can support the equipment while maintaining the integrity of the impermeable drainage and pollution-containment system. That alternative should not first be invented after consent.

HDD presents a parallel problem. At Scoping, the Planning Inspectorate expressly required HDD parameters sufficient to demonstrate whether groundwater bodies may be encountered. The Environment Agency required hydrogeological risk assessment for HDD and other trenchless works because drilling can introduce fluids into controlled waters or mobilise existing contamination.

The environmental consequence of HDD depends upon the alignment, entry and exit pits, drilling depth, geological strata, groundwater levels and pressures, drilling-fluid composition and the receptors above and below the bore.

Where a bore passes beneath a watercourse, a frac-out or inadvertent drilling-fluid return can provide a direct pathway to surface water. Where drilling intersects permeable groundwater-bearing strata, drilling fluid or mobilised contamination can enter controlled waters. Dewatering of pits may itself affect groundwater and create a discharge requiring treatment and consent.

A later hydrogeological risk assessment is therefore not merely a contractor method statement where the route and groundwater system have not yet been characterised sufficiently to establish that trenchless construction is viable.

The final application also retains flexibility over the balance between open-cut and trenchless construction at a number of crossings. If HDD subsequently proves unacceptable because of hydrogeological conditions, the fallback may be open-cut construction. That alternative may have materially different effects on watercourses, ecology, soils, archaeology, landscape and access. Conversely, if open-cut works prove environmentally unacceptable, the Scheme may become dependent upon HDD.

The Examination should therefore know whether both alternatives fall within the assessed envelope and whether at least one is demonstrated to be viable at every essential crossing.

Private water supplies provide another example of why deferral matters. The Scoping Opinion required private supplies to be identified and assessed because their precise locations and abstraction information were incomplete. The Environment Agency recorded 35 supplies within 250 m for which accurate location and abstraction-stratum information were unavailable and considered that the uncertainty justified wider investigation. HFCL's subsequent discovery of an active supply not properly represented in the Applicant's baseline demonstrates that this remains a real evidential issue.

If post-consent investigation establishes that a supply draws from groundwater directly connected to a proposed piling location, HDD route, dewatering area or infiltration system, the appropriate response cannot automatically be reduced to monitoring. Monitoring detects an effect; it does not necessarily prevent one.

The mitigation may instead require relocation of the works, a different foundation, prohibition of infiltration, an alternative cable-crossing method, changes to drainage or

a greater stand-off. The examination therefore needs evidence that those responses can be accommodated within the authorised Scheme without creating materially different environmental effects.

The same applies to GWDTEs. If later investigation identifies hydraulic dependence upon groundwater which the Scheme affects, the issue may require avoidance rather than monitoring or treatment after the event.

Contamination investigation presents the same distinction. Further investigation of a known or suspected contamination source can appropriately take place before construction where the presence of contamination is already understood and the available remediation options are known.

It is more problematic where the investigation is still required to determine whether a source exists and whether construction creates a pathway from that source to a sensitive receptor.

That is the concern around former airfield land, infilled ground and historic landfill. The Environment Agency identified those sources at scoping and criticised the Applicant's original conceptual model for failing adequately to incorporate them. Pins scoping response Site 3, for example, includes former RAF Hardwick land and lies close to a former landfill which accepted inert, commercial and liquid sludge wastes.

Where excavation, piling or cable works are proposed in such areas, post-consent intrusive investigation may determine not merely the disposal classification of excavated soil but whether contamination is present at concentrations capable of affecting groundwater or human receptors.

UXO demonstrates a related point. The Planning Inspectorate required further surveys because moderate to high risk associated with historic airfields and aircraft crashes remained insufficiently defined. Pins scoping response UXO investigation can normally be undertaken as a construction-safety measure, but if avoiding or remediating UXO materially changes excavation, foundation or cable-route methodology, those consequences also need to remain within the assessed development envelope.

The Applicant's post-consent programme should therefore be divided according to function rather than simply listed under the heading 'ground investigation'.

The response to Q1.16.2 should identify, for every proposed investigation or risk assessment:

- the existing baseline assumption;
- the information still required;
- why that information is not presently available;
- the decision which the later assessment will inform;
- the range of possible outcomes;
- the mitigation or alternative design available for each adverse outcome;
- whether that alternative has been assessed in the ES;

- whether it can be accommodated within the Works Plans and Order Limits;
- and the DCO mechanism which prevents construction until environmental acceptability has been demonstrated.

That exercise should cover at least the Foundation Works/Piling Risk Assessments, hydrogeological risk assessments for HDD and other trenchless crossings, intrusive contamination investigation, groundwater monitoring, private-water-supply investigation, GWDTE assessment, dewatering assessment and any further investigation required to determine the suitability of infiltration drainage.

The results can then be divided into three categories.

1. verification. This includes work which confirms a baseline already established with sufficient confidence. An example would be confirming a groundwater level which is already well constrained by existing monitoring.
2. engineering optimisation. This includes work which selects pile diameter, final foundation dimensions or construction sequencing within an environmental solution already demonstrated to be acceptable.

Those two categories can ordinarily be undertaken after consent, subject to appropriate Requirements.

3. determinative investigation: **work whose outcome decides whether the proposed construction method, location or drainage system is environmentally acceptable at all.**

HFCL's evidence indicates that this third category remains significant at East Pye.

Where later work may establish that a pile cannot safely penetrate the proposed strata, that an HDD crossing creates an unacceptable groundwater pathway, that a private water supply is hydraulically connected, that groundwater is shallower than assumed, that contamination is present in an excavation area or that infiltration is unsuitable, the assessment is not simply refining an acceptable design. It is determining what development can safely be constructed.

In those circumstances, a Requirement saying that a risk assessment will be undertaken later does not itself answer the environmental question. The Requirement may prevent works proceeding until a solution is approved, but the Examination still needs to know that an acceptable solution is realistically available within the development it is being asked to authorise.

Flexibility through the Rochdale Envelope can lawfully accommodate different construction methods only where the environmentally relevant alternatives have themselves been assessed and the DCO prevents implementation outside that envelope.

If piling is one authorised option, the ES should have assessed the reasonable worst case associated with piling. If piling later proves environmentally unacceptable, an alternative foundation should already be demonstrated to be technically feasible and environmentally assessed.

If HDD is one option and open cut is another, the relevant environmental consequences of both should be within the assessment where either may ultimately be selected.

If groundwater conditions require relocation of an infiltration basin, foundation or cable route, the alternative location should remain within the Order Limits and the assessed environmental envelope.

A post-consent approval process should not have to create a new environmental solution which the examination has never considered.

The same distinction should be reflected in the wording of the Requirements. For matters which genuinely represent verification or optimisation, approval before the relevant construction activity may be sufficient. Where a later investigation could demonstrate that the authorised method is unacceptable, the Requirement should secure both the investigation and the environmental criteria which any resulting alternative must satisfy. It should not simply require a report to be submitted.

The Environment Agency's scoping response is particularly important in this respect because it identified these risks before the ES was prepared. The Applicant was on notice from February 2025 that the groundwater conceptual model was inadequate; that private-water-supply information was incomplete; that GWDTEs had not been properly considered; that contamination sources had been omitted; and that piling and HDD required specific hydrogeological risk assessment.

HFCL's September 2026 review finds that significant elements of those concerns remain unresolved in the application now before the Examination.

Post-consent geotechnical investigation is normal and appropriate where the environmental basis of the development is already established. However, East Pye still relies upon future investigation to answer questions which determine the existence of environmental pathways and the acceptability of construction methods. In those circumstances, the Applicant should demonstrate **before consent** that every material adverse outcome of the deferred investigation has an alternative solution which is technically feasible, lies within the Order Limits, remains within the assessed environmental envelope and is secured through the DCO.

If it cannot do so, the deferred assessment is not merely detailed design. It is evidence still required to establish whether the development authorised by the DCO can be implemented without unacceptable effects on groundwater, private water supplies, surface waters and other sensitive receptors.

Q1.10.1 – Bat surveys: adequacy of the baseline, barbastelle maternity-colony function and Site 3

Although Q1.10.1 is addressed principally to Natural England, BEPS considers that additional evidence should be placed before the Examination because the issue is not simply whether the Applicant has completed activity surveys in accordance with standard guidance. The evidence now before the Examination raises a more specific question: whether those surveys are sufficient to establish how the East Pye landscape functions for a nationally important bat assemblage, and particularly for the barbastelle maternity-colony network which overlaps the Scheme.

The Applicant's own final Bat Activity Survey Report removes any doubt about the ecological importance of the landscape. Its surveys recorded eleven bat species, with barbastelle detected at every static-detector location across the Order Limits. Barbastelle was the third most frequently recorded species after common and soprano pipistrelle, with 11,699 passes and a mean Bat Activity Index of 23.12 passes per hour. The Applicant expressly describes barbastelle activity across the Scheme as 'high' and concludes that the Order Limits are of **national importance for bats**. Its formal assemblage assessment scores 22 out of a possible 28, or 78% of the maximum threshold, above the 70% threshold used for national importance.

That is a significant starting point. The case is no longer one in which objectors are seeking to establish that the Scheme happens to contain some sensitive bat habitat. The Applicant itself concludes that the Order Limits support a nationally important bat assemblage and that barbastelles occur throughout the development area.

The survey report also records that the Order Limits provide better bat habitat than the generic habitat classification might suggest. Although the individual habitats are generally characterised as of moderate suitability for foraging and commuting bats, the Applicant concludes that the observed activity is 'above what would generally be expected' for habitat of that nominal quality. It attributes that activity to the combination of arable land, woodland, hedgerows, tree lines, ditches and waterbodies and to the connectivity between the Order Limits and the wider landscape.

That distinction is important because the ecological value of East Pye cannot properly be assessed by looking at individual habitat parcels in isolation. The bat evidence indicates that the value lies substantially in the way those components operate together as a connected landscape.

The Applicant's desk study also now incorporates the Norfolk Barbastelle Study Group's 2025 evidence (See BEPS WR Appendix). It records eleven maternity-colony records supplied by the NBSG and identifies multiple colonies whose Core Sustenance Zones overlap the Scheme. These include Spring Wood, Little Wood, Brooke Wood, Saxlingham Grove, Tyrrels Wood, Smockmill Common, Gawdy Hill Woods, Tacolneston and Earsham Woods. The Applicant records Spring Wood approximately 300 m north of CRC9, Little Wood approximately 500 m west of Site 8B and Brooke Wood approximately 650 m west of Site 9.

The Applicant therefore accepts the central factual premise advanced by BEPS and the NBSG: East Pye lies within a landscape supporting multiple barbastelle maternity colonies rather than a landscape containing an isolated roost.

The Norfolk Barbastelle Study Group's own December 2025 report goes further (submitted with BEPS's WR). It concludes that the 6 km Core Sustenance Zones of six maternity colonies lie within or abut the East Pye Scheme area, that two colonies lie next to the cable route and that one colony would also be surrounded by solar arrays. It also records that other woodlands within or close to the Scheme had not yet been investigated adequately, particularly towards the eastern end.

The Study Group's 2025 work was specifically designed to address that deficiency. It assessed Spring Wood at Hempnall Green, Little Wood, Brooke Wood, Lower Spring Wood and Round Wood for barbastelle roost potential, undertook targeted acoustic surveys and, where appropriate, trapping and radio-tracking under Natural England licence. The results materially alter the baseline.

At Little Wood, three female barbastelles were captured during a pre-parturition survey. Two were assessed as pregnant and radio-tagged. Those animals were tracked to roost trees and emergence counts confirmed a maternity colony, with a peak pre-parturition count of 36. The Study Group considers the likely post-parturition colony to be approximately 55 bats, which it describes as large in the Norfolk context.

At Brooke Wood, the acoustic evidence reached the Study Group's maternity-colony prediction threshold on four nights, including a peak of 15 early-evening calls. At Lower Spring Wood the threshold was exceeded on two nights. The report therefore predicts maternity colonies in both woods and states that further radio-tracking is required to confirm them.

Spring Wood produced a more complex but equally important result. Female barbastelles were not successfully trapped during the 2025 sessions, but the Study Group records barbastelle calls in both May and July, previous acoustic evidence and direct evidence that the woodland is used for roosting and feeding. It expressly states that **further work is needed to confirm roost status**. It also explains that trapping was materially constrained by the lack of suitable rides close to the mature oak belt.

The absence of a radio-tracked maternity female at Spring Wood cannot therefore reasonably be treated as evidence that maternity use has been excluded. The specialist group which undertook the work reaches the opposite conclusion: the status remains unresolved and further targeted investigation is required.

The Applicant's own activity results reinforce that concern. The static detector serving Site 3 recorded barbastelle throughout the survey season and produced 1,362 barbastelle passes. Activity occurred in April, June, July, August, September and October, with a pronounced peak of 686 passes in September. The Applicant identifies barbastelle as the third most abundant species at that detector.

More importantly, Site 3 produced the **second-highest number of barbastelle passes recorded within the Applicant's defined emergence window** across the entire Scheme. The Applicant recorded six such passes at Site 3, exceeded only by Site 7H with eight. It interprets these early records as potentially indicating roost resources close to the detector.

The Applicant itself therefore identifies Site 3 as one of three principal locations where barbastelles were recorded particularly close to emergence time. Its evaluation states that Site 3 is adjacent to Spring Wood, which it describes as a known barbastelle roost site and foraging area, and acknowledges that trees within or adjacent to these locations may provide roosts which support the wider maternity populations.

That evidence should be considered alongside Norfolk Wildlife Trust's position. NWT identifies bats as one of the most significant ecological issues arising from East Pye and expressly records that the Applicant's own ES describes the Scheme as supporting a 'nationally important assemblage of foraging and commuting bats'. It is concerned that the assessment understates the importance of hedgerow networks, woodland edges, tree lines and watercourse corridors and questions the assumption that temporary breaks in those features will not materially affect barbastelle movement.

NWT's concern is landscape-scale rather than simply roost-specific. It notes that bats are using multiple development parcels and considers that the Scheme therefore has the potential to affect ecological functionality across the wider landscape. It asks the Examination specifically to scrutinise the spatial distribution of activity, key commuting corridors, treatment of barbastelle records, assumptions about habitat retention and functionality, lighting controls and the enforceability of mitigation.

Site 3 is singled out for stronger treatment. NWT states: 'Specifically relating to Site 3, we have previously recommended that this site is dropped from the site selection due to potential impacts on the CWS/ancient woodland/bats.'

Although NWT acknowledges the changes subsequently made by the Applicant, it remains concerned about impacts in this location and states that it would **'ideally recommend that the site is dropped from the overall scheme.'**

That is significant in applying the mitigation hierarchy. NWT's position is not that the present buffers merely require minor adjustment. Its preferred ecological response remains avoidance of Site 3.

The evidence submitted by [REDACTED] at OFH1 adds a further site-specific element which is not adequately represented by treating Spring Wood only as woodland adjacent to solar development. Spring Wood occupies part of the former RAF and USAAF Hardwick airfield. Along its northern edge, immediately adjoining Site 3, are surviving wartime bunkers associated with the former heavy bomb dump. Approximately thirty years ago those structures were deliberately converted by [REDACTED] of the Norfolk Bat Group into bat hibernacula. Records supplied by Mr Tilson document their long-established conservation use. The hibernacula support Daubenton's and Natterer's bats, while

Norfolk Biodiversity Information Service records also identify common and soprano pipistrelle at Site 3.

The Spring Wood/Site 3 relationship must therefore be assessed across seasons. The location is not simply adjacent to summer foraging habitat. It contains a combination of woodland roosting and feeding habitat, known bat hibernation structures, long-established woodland-edge habitat and a wider landscape used intensively by barbastelle and other bat species.

The OFH evidence also draws attention to the peer-reviewed evidence considered in the BEPS Written Representation. Tinsley et al. found significantly lower activity for several bat groups at ground-mounted solar developments, including reduced *Myotis* activity along field boundaries. Barré et al. subsequently identified altered flight and feeding behaviour and reduced feeding-habitat quality at solar farms. Those studies are directly relevant to the assumption underlying much of the Applicant's mitigation case: that retention of hedgerows and woodland boundaries is sufficient to retain existing ecological function when the habitat between those boundaries is converted to solar infrastructure.

That assumption requires particular scrutiny because the Applicant's own data shows barbastelle use throughout the fields as part of the connected landscape. Static detectors recorded barbastelle at every one of the 28 detector locations. The Applicant describes the species as ubiquitous across the Order Limits and records high activity. The species was also detected on 13 of the 16 Night-time Bat Walkover transects across the combined survey period.

The survey report nevertheless concludes that the Order Limits themselves do not contain 'notably significant areas of high quality habitat', while simultaneously concluding that their connectivity with surrounding woodland and wetland habitats makes them important supporting habitat for barbastelle and that the Order Limits are nationally important for bats. Those propositions need to be reconciled.

The ecological issue is not whether individual arable fields possess exceptional botanical distinctiveness. For barbastelle, the relevant question is whether the combination of open feeding habitat, mature hedgerows, woodland edge, tree lines, wetlands and dark flight routes enables maternity colonies to function across the landscape. The Applicant's own results indicate that these ostensibly moderate-quality habitats are supporting unexpectedly high bat activity.

Natural England's March 2024 Definition of Favourable Conservation Status (see BEPS WR Appendix) provides an important context for that assessment. Natural England states that barbastelles are closely associated with broadleaved woodland containing veteran and dead trees, that they require large numbers of roost trees and that roosts belonging to one colony may be spread across approximately 100–200 ha, sometimes considerably more. Females frequently change tree roosts but show long-term fidelity to roosting areas.

Foraging requirements operate at an even larger scale. Barbastelles are specialist moth predators. Natural England records that most bats forage within approximately 7 km of their roosts but may travel more than 20 km to productive hunting areas. They particularly use woodland edge, tree lines, hedgerows, riparian habitats and other structurally diverse habitats. Female colony members can maintain largely separate foraging territories and repeatedly use the same feeding areas between years.

Natural England also identifies landscape connectivity as a material component of favourable conservation status. Genomic evidence indicates that artificial lighting negatively affects connectivity between colonies, while broadleaved woodland and riparian habitats facilitate gene flow. Barbastelle is described as strongly light-averse and sensitive to disturbance.

The favourable-conservation-status objective is particularly important because Natural England concludes that barbastelle is **not presently in favourable conservation status in England**. Its best current estimate is approximately 21,000–42,000 individuals, whereas the favourable population is estimated at 73,000–147,000. Natural England identifies a minimum of approximately 11,700 km² of suitable supporting habitat as necessary for favourable status and states that existing and potential roost sites should be protected from disturbance and development.

Natural England also records that there is currently no proven short- or medium-term mitigation or compensation capable of replacing lost barbastelle woodland-roosting habitat. New woodland may take around 50 years or more to provide sufficient natural roosting opportunities, and even existing woodland may require decades of favourable management before its value to barbastelle increases materially.

That evidence should affect how the mitigation hierarchy is applied at East Pye. It means that the function of the landscape has to be understood before conclusions are reached that individual development parcels are replaceable or that impacts can safely be mitigated through later habitat enhancement.

The Norfolk Barbastelle Study Group identifies precisely the further work it considers necessary. Its December 2025 report states that **further radio-tracking is needed at Brooke Wood, Lower Spring Wood and Spring Wood, Hempnall** in order to confirm the presence and extent of maternity colonies. It also recommends assessment of other woodlands within or close to the Scheme regardless of size. Specifically identified candidates include:

- Hempnall Little Wood;
- Winters Grove;
- Ringers Grove;
- Tindall Wood;
- Sexton Wood;
- Hedenham Wood;
- Park Plantation; and

- other small scattered woodlands east and west of Hempnall which may provide roosting resources for the wider barbastelle metapopulation. Barbastelle Maternity Colonies ...

The Study Group's conclusion is unusually direct: 'The impacts of the East Pye Solar Scheme on barbastelles cannot be properly assessed without a full understanding of barbastelle distribution and habitat use within the scheme area.'

That conclusion should be addressed expressly by Natural England.

It is particularly important because the Applicant's own survey methodology acknowledges limitations which bear directly on the question. The Bat Activity Survey Report states that bats are highly mobile, that they may travel long distances in a single evening and that the survey cannot capture every potential flight path. It also acknowledges that acoustic pass numbers cannot identify the number of individual bats and that survey data provide an indication of the type and intensity of use rather than a complete characterisation of movements.

Those are normal limitations of acoustic surveys. They become material here because the unresolved question is precisely which colony is using which part of the landscape and which habitats are necessary to sustain that colony.

Static detectors can demonstrate that barbastelle activity is widespread and high. Transects can show that the species crosses particular parts of the Scheme. Neither technique identifies the maternity colony to which a recorded bat belongs or maps the full sequence of movements between roost, commuting corridor and individual feeding area. The NBSG radio-tracking evidence therefore answers a different ecological question from the Applicant's activity surveys. This is why the issue should not be reduced to a debate over whether the Applicant has completed the number of survey nights prescribed in generic guidance. The relevant question for Q1.10.1 is whether the available evidence is sufficient for the ExA to understand the ecological consequences of the Scheme.

Site 3 is a particularly important test of that question because several strands of evidence converge there:

- Spring Wood is used by barbastelle for roosting and feeding and its maternity status remains unresolved;
- the NBSG says further work is required there;
- the Applicant's Site 3 detector recorded 1,362 barbastelle passes;
- Site 3 produced the second-highest number of barbastelle records within the Applicant's emergence window;
- the Applicant itself acknowledges the possibility of nearby roost resources supporting the maternity population;
- Spring Wood contains deliberately created bat hibernacula immediately adjoining the development area;

- NWT recommended at statutory consultation that Site 3 be removed and maintains that recommendation in its Relevant Representation;
- and the surrounding landscape forms part of overlapping barbastelle Core Sustenance Zones.

In those circumstances, the decision to retain Site 3 and rely upon buffers and later detailed mitigation requires a stronger evidential basis than would be required for ordinary arable land remote from known colony resources.

The same is true more widely across the Scheme. The Applicant has recorded barbastelle at every static detector, accepts that multiple maternity-colony Core Sustenance Zones overlap the Order Limits and assesses the bat assemblage as nationally important. The NBSG has then identified additional colonies and further woodland requiring investigation.

BEPS therefore considers that Natural England should be asked to address the following matters expressly in answering Q1.10.1:

1. whether the Applicant's activity surveys are sufficient to identify the functional relationship between the known and potential maternity colonies and the Scheme;
2. whether the present baseline sufficiently distinguishes between general barbastelle activity and habitat which is specifically supporting maternity-colony function;
3. whether additional radio-tracking is required at Spring Wood, Brooke Wood and Lower Spring Wood, as recommended by the Norfolk Barbastelle Study Group;
4. whether the additional woodlands identified by NBSG, including Hempnall Little Wood, Winters Grove, Ringers Grove, Tindall Wood, Sexton Wood, Hedenham Wood and Park Plantation, require maternity-colony assessment before the Scheme's effects can be determined reliably;
5. whether the existing evidence sufficiently maps commuting routes and important feeding areas associated with the colonies whose Core Sustenance Zones overlap the Scheme;
6. whether the very high and widespread barbastelle activity recorded by the Applicant is consistent with its conclusion that the Order Limits do not contain notably significant areas of high-quality habitat;
7. whether retention of hedgerows and woodland-edge buffers is sufficient to demonstrate maintenance of ecological function where the adjoining feeding landscape is converted to solar arrays;
8. whether construction noise, lighting, vegetation removal, cable crossings, fencing and repeated construction movement could affect maternity-colony function even where no roost tree is removed;
9. whether operational effects from solar arrays, conversion equipment, substations and lighting have been assessed adequately for a species which Natural England identifies as light-averse, disturbance-sensitive and dependent upon landscape connectivity;

10. whether the Spring Wood hibernacula and the wider seasonal function of Site 3 require additional winter and transitional-season assessment;
11. whether NWT's recommendation that Site 3 should be removed is supported by the available evidence and the mitigation hierarchy; and
12. whether the present information is sufficient to conclude that the Scheme would be compatible with maintenance and recovery towards favourable conservation status for barbastelle.

Natural England's existing Relevant Representation does not resolve those questions. It records protected species as an **amber** issue and asks for clarification concerning protected-species licensing, but it does not itself undertake a substantive assessment of the adequacy of the barbastelle maternity-colony baseline.

That is why Q1.10.1 is important. The ExA is now asking Natural England specifically for its view on whether sufficient information exists to establish the bat baseline and assess significant effects. The answer should be informed by the evidence which has emerged since Natural England prepared its Relevant Representation, particularly the Applicant's final activity survey, the NBSG's 2025 maternity-colony work, NWT's maintained objection to Site 3 and the Spring Wood evidence presented at OFH1.

The appropriate distinction is between evidence of **presence** and evidence of **function**. The Applicant has demonstrated presence beyond serious dispute. Barbastelle occurs throughout the Order Limits, at high activity levels, within a bat assemblage the Applicant itself assesses as nationally important. What remains uncertain is how the individual parts of that landscape support the maternity colonies which collectively occupy it.

That uncertainty is material because the mitigation hierarchy depends upon knowing which parts of the landscape should be avoided before the development footprint is fixed. Later monitoring can determine whether predicted effects have occurred; it cannot restore the pre-consent opportunity to avoid placing infrastructure within habitat subsequently shown to be important to maternity-colony function.

For Site 3 in particular, the evidence already points strongly towards avoidance. NWT has twice recommended its removal; NBSG identifies unresolved roost status at Spring Wood and calls for further work; the Applicant records substantial barbastelle activity and early emergence records immediately beside that woodland; and the adjoining landscape also contains long-established bat hibernacula deliberately created and protected for decades.

On that evidence, BEPS considers that Site 3 should not remain within the developable solar area unless the Applicant can demonstrate, on the basis of the additional functional work identified by the NBSG and an express assessment by Natural England, that development there is compatible with the continued functioning of the Spring Wood bat assemblage and the wider barbastelle maternity-colony network.

The issue is therefore not whether another round of generic activity monitoring would be desirable. It is whether the outstanding maternity-colony and habitat-use evidence is required to determine where avoidance is necessary. The NBSG evidence indicates that it is.

Q1.10.7 – Biodiversity Net Gain: baseline uncertainty, ecological loss, durability and what is actually secured

The first issue raised by Q1.10.7 is the difference between the minimum BNG secured through the draft DCO and the substantially higher figures presented by the Applicant. Requirement 9 secures a minimum 10% BNG, whereas the Applicant's BNG calculations identify gains of 37.42% for habitat units, 31.35% for hedgerow units and 16.08% for watercourse units. The ExA is therefore right to ask which figures are actually relied upon in Chapter 8 and in the planning balance. If only 10% is secured, the higher percentages should not be treated as guaranteed Scheme benefits unless the DCO or another enforceable mechanism requires those higher outcomes to be delivered and maintained.

For East Pye, however, the more important question is whether the current BNG calculation is sufficiently reliable to support the ecological conclusions being drawn from it. That depends upon three matters which need to be considered together: whether the ecological baseline is complete enough to establish what is currently present; whether the calculation captures the actual harm which construction, operation, replacement and decommissioning will cause to the existing nature-rich landscape; and whether the habitats relied upon to generate the claimed gain will survive through the full project lifecycle.

South Norfolk Council had already identified the need for greater transparency in the BNG baseline. It asked for the onsite habitat baseline to be broken down by Site and sub-site, for separate baseline maps and parcel areas to be provided, for the condition assessments to be supplied and linked to each sub-site, and for the Applicant to identify what habitats would be created after development. It also asked the Applicant to identify which habitats would actually remain after decommissioning. Those requests remain important because a Scheme-wide percentage conceals where the losses and gains occur and whether a gain shown in one part of the Order Limits is being used to offset a materially different ecological loss elsewhere.

There is a more fundamental problem with the baseline itself. A BNG metric is only as reliable as the habitat and condition baseline entered into it. If significant ecological features have not yet been fully surveyed, or if their functional value is incompletely understood, the calculation may give the appearance of precision while the ecological starting point remains uncertain.

That issue is particularly acute at East Pye because important elements of the ecological evidence remain incomplete. The bat evidence is a clear example. The Applicant's final Bat Activity Survey Report records a nationally important bat assemblage, with barbastelle detected at every static detector location and high levels

of activity across the Order Limits. At the same time, the Norfolk Barbastelle Study Group has identified additional maternity-colony evidence and expressly recommends further radio-tracking at Spring Wood, Brooke Wood and Lower Spring Wood, together with investigation of additional woodlands within or close to the Scheme. The remaining uncertainty is therefore not whether barbastelle is present, but which parts of the landscape are functionally important to individual maternity colonies and their commuting and foraging networks.

Aquatic ecology also remains incomplete. The Planning Inspectorate's Scoping Opinion required aquatic invertebrates to be assessed and specifically required white-clawed crayfish surveys at relevant watercourse crossings because Environment Agency records identified the species in the River Tas system. The later BEPS crayfish evidence records a confirmed breeding population within the connected chalk-stream system and identifies the need for downstream survey work where cables and haul roads may affect suitable habitat. Until those surveys are completed and the affected reaches are properly characterised, it is difficult to know whether the ecological baseline against which aquatic gains and losses are being measured is complete.

The same concern applies to botanical and habitat condition evidence where surveys have not covered the full range of habitats and seasons necessary to identify rare assemblages and the condition of existing species-rich areas. A habitat parcel entered into the metric as relatively ordinary arable land, grassland, ditch or field margin may nevertheless support species or ecological functions of much greater conservation importance than its generic habitat classification suggests. The Applicant's own bat results demonstrate that problem: habitats described as only moderate in generic suitability are supporting a nationally important assemblage and unexpectedly high barbastelle activity.

The ExA should therefore require the Applicant to explain which parts of the BNG baseline are based upon completed field evidence and which depend upon incomplete, provisional or desk-based assumptions. Where botanical, aquatic or protected-species surveys remain outstanding or functionally incomplete, the Applicant should identify how those gaps affect the confidence which can be placed in the baseline habitat condition, distinctiveness and ecological value used in the metric. A BNG metric cannot correct for an incomplete ecological baseline.

There is then a second distinction which needs to be made clearly. BNG accounting is not the same exercise as assessing ecological harm.

The metric converts habitat type, area, condition, distinctiveness and risk into units. It does not itself quantify the loss or displacement of particular populations, nor does it establish that the species which currently make this landscape important will benefit from the habitat units subsequently created.

That matters because East Pye is already a nature-dense landscape. The Applicant itself identifies a nationally important bat assemblage. The wider area contains ancient woodland, mature hedgerows, County Wildlife Sites, chalk-stream and aquatic

habitats, veteran trees, farmland-bird habitat and multiple protected and priority species. The correct comparison is therefore not between a poor baseline and an improved future landscape. It is between the existing functioning ecological network and the landscape that will exist during and after construction.

The Applicant should therefore quantify ecological harm by phase before relying upon a headline BNG percentage as a benefit. There is also analysis of what impact constructing the scheme will have on the existing rare ecology populations, or what effects operation will have on them either.

During construction, the relevant effects include vegetation removal, soil stripping and compaction, trenching, access tracks, haul roads, construction compounds, lighting, noise, vibration, sediment mobilisation, watercourse crossings, fencing and repeated movement of people and heavy vehicles. Some of those effects are temporary in engineering terms but may be substantial in ecological terms if they coincide with breeding, maternity, hibernation, nesting or migration periods.

During operation, the land may remain nominally classified as grassland, hedgerow or field margin while its ecological function changes. Solar arrays alter openness, shade, rainfall distribution and vegetation structure. Fencing alters movement. Inverters, substations and BESS introduce noise, lighting and built form. Maintenance continues throughout the 60-year operational period. The important question is therefore not merely whether the habitat polygon still exists on a plan but whether it continues to perform the same ecological function. Island Green Power's existing solar farm at Trowse does not fill BEPS with confidence in their ecological management as it is dominated by invasive ragwort.

The same analysis is required for replacement cycles. The Scheme is not static for 60 years. Solar panels and associated electrical equipment will require replacement, and the BESS may be replaced repeatedly. Those works will require renewed access by heavy vehicles, cranes, laydown areas, working compounds and temporary storage.

The application also appears to contain specific spatial conflicts between areas relied upon for BNG and areas required for construction access or compound use. At Site 7, the proposed access arrangement passes through land identified for ecological mitigation/BNG purposes, including the open area retained for nesting birds. BEPS had already identified during the targeted consultation that the Site 7 access point was shown in the middle of the proposed open nesting-bird area, making its ecological function questionable if construction traffic is required to pass through or immediately alongside it. This is not a theoretical concern. If a habitat parcel is counted towards BNG but is also traversed by construction traffic, its actual condition, disturbance regime and ability to perform the ecological function attributed to it need to be reflected in the metric and the ecological assessment.

A similar issue arises at Site 6, where land identified for ecological enhancement/BNG also coincides with the proposed construction-compound function. That overlap requires a clear explanation from the Applicant. A construction compound involves

hardstanding, vehicle movements, material storage, welfare facilities, lighting, fencing and repeated disturbance; the Applicant's own description of construction compounds includes temporary hardstanding, parking, secure storage, fencing and lighting. If the same land is also being counted as habitat creation or enhancement, the Applicant should state when the BNG habitat is to be established, whether the compound is removed before habitat creation begins, whether the metric assumes any temporal delay or degradation caused by construction use, and whether that habitat can subsequently be reused during panel, inverter, transformer or other equipment replacement.

These examples reinforce the need for the BNG schedule to be spatially reconciled with the construction and operational plans rather than treated as a separate ecological layer. The Applicant should identify every BNG parcel which overlaps or adjoins a construction compound, temporary laydown area, access route, haul road, cable working area, replacement working area or decommissioning compound, and explain how its condition and continuity are protected over the full 60-year life of the Scheme. Where a BNG area may be disturbed and then recreated, the metric should reflect the actual duration of habitat loss, the time required to regain target condition and the risk that repeated disturbance prevents that target condition from being achieved. Otherwise, the same land risks being counted simultaneously as both a functioning biodiversity gain and a future construction resource.

These conflicts also sharpen the decommissioning question. If areas such as the Site 6 ecological land are restored after compound use and then relied upon to generate BNG over the operational period, the Applicant must explain whether they remain ecological habitat after decommissioning or are returned to agriculture. If they are ploughed or otherwise reinstated to agricultural production, the biodiversity gain is temporary. If they are retained permanently, the Applicant should identify the extent of agricultural land which will not in fact be returned to its former use. The same accounting should be applied to Site 7 and any other BNG areas affected by access, replacement or decommissioning activity. Without that lifecycle reconciliation, the headline BNG percentage does not establish the amount of biodiversity gain that will genuinely survive as a consequence of the Scheme.

This creates a serious issue for the BNG case because some of the same areas being relied upon to deliver habitat gain may later be required for construction activity. The Applicant should therefore identify which proposed BNG habitats lie within or close to areas that may be reused as construction compounds, laydown areas, haul routes or working areas during panel, inverter, transformer, cable or BESS replacement. It should state whether those areas are legally excluded from future construction use and, if not, how the metric accounts for their possible loss or disturbance during replacement cycles.

If a habitat created in Year 1 is later dug up, compacted or used for temporary storage in Year 20, 30 or 40, it cannot simply continue to be counted as an uninterrupted biodiversity gain.

The same point applies to access routes. A habitat corridor may be established successfully during the early operational years but repeatedly disturbed if it forms the only practical access to equipment which must be replaced. The Applicant should therefore demonstrate spatially that habitats relied upon to deliver BNG are compatible with the operational and replacement requirements of the Scheme for the full 60-year period.

That issue should be addressed expressly in the LEMP and the DCO rather than left to future management discretion. Areas relied upon for BNG should be mapped, protected from incompatible operational use and subject to clear procedures where emergency or replacement works are unavoidable.

Decommissioning creates the most difficult durability question. The Applicant's case is that the solar land will ultimately be restored to agricultural use. At the same time, a substantial part of the claimed ecological gain appears to depend upon the establishment and long-term management of new grassland, scrub, woodland-edge habitat, ponds, hedgerows and other ecological features during operation.

South Norfolk Council identified this issue directly. It referred to the Applicant's statement that some linear terrestrial, riparian and aquatic habitats would remain after decommissioning and asked for the application to show clearly which habitats would actually be retained. It also advised that habitats created within ancient-woodland buffer zones and the wider ecological network should remain after decommissioning. The Applicant's answer to Q1.10.7 should therefore state, habitat by habitat, what happens at decommissioning.

If land currently used for agriculture is converted to species-rich grassland and that grassland generates BNG units during operation, will it remain as species-rich grassland after the solar farm is removed, or will it be ploughed and returned to arable cultivation?

If new scrub, woodland, ponds or wetland habitats are created, are they permanent features or temporary ecological measures lasting only for the operational period?

If a new hedgerow is counted as part of the 31.35% hedgerow gain, will that hedgerow remain after decommissioning?

If aquatic habitat is created or enhanced and contributes to the 16.08% watercourse gain, is that habitat permanent?

The Scheme cannot simultaneously claim a long-term biodiversity gain from habitats which are then removed in order to restore the land to its previous agricultural condition unless the temporal limitation is made explicit and reflected in the weight attributed to the benefit.

The decommissioning phase itself may also damage habitat which has taken decades to establish. Removal of piles, cables, access tracks, substations, BESS units and drainage infrastructure will require heavy machinery and renewed disturbance. If BNG

habitats occupy the same areas as access routes or decommissioning compounds, their condition may be materially affected at the very end of the project.

The BNG calculation should therefore demonstrate not only that habitat is created, but that it survives construction, routine maintenance, replacement cycles and decommissioning. That is particularly important where the claimed gain depends upon future habitat condition. A metric may assume that newly created grassland, hedgerow or woodland will achieve a target condition after a specified period. If that habitat is later disturbed or removed before the end of the Scheme, the assumed gain is not equivalent to a permanent improvement in the ecological resource.

The Applicant should therefore identify the duration for which each habitat unit is intended to exist and whether the metric assumes permanence beyond decommissioning.

There is also an important species-specific point. The metric does not ensure that the biodiversity gain benefits the species which currently make East Pye important.

The lapwing example illustrates the problem clearly. Several parts of the Scheme have been managed through Countryside Stewardship for farmland-bird assemblages, including lapwing, skylark and turtle dove. If lapwing cease to use those fields after arrays are installed (as has been recorded by Gwent Wildlife Trust due to the solar farm installed there), a habitat-unit increase elsewhere does not establish that this loss has been compensated.

Equally, a general increase in common and adaptable species (for example crows or pigeons) would not answer the loss of a species of conservation concern. A 10% increase in overall habitat units cannot sensibly be interpreted as equivalent to a 10% improvement for lapwing, barbastelle, turtle dove, white-clawed crayfish or any other priority species.

The Applicant should therefore distinguish between generic habitat gain and species-specific ecological outcome.

For those species and assemblages which are material to the existing baseline, the LEMP and protected-species strategy should identify measurable outcomes which relate to the receptor itself. For lapwing, that may require retention or creation of genuinely suitable open breeding habitat and monitoring of continued use. For barbastelle, it should involve maintenance of identified commuting routes, dark connectivity and functional access between maternity colonies and feeding areas. For aquatic species, it should involve maintenance or improvement of appropriate water quality, flow, substrate and habitat condition.

The aim should not be to guarantee that every species population increases numerically, which may not be possible to secure through a DCO. The point is that a claimed biodiversity benefit should not be based entirely on generic habitat units while the species of greatest conservation importance are displaced or decline.

This also means that the mitigation hierarchy must remain distinct from BNG. Existing high-value habitat and species function should first be avoided and protected. Mitigation required simply to prevent or reduce harm should not then be presented again as an additional biodiversity benefit. Only genuine enhancement beyond the mitigation necessary to make the development acceptable should be treated as net gain.

The uncertainty in the baseline makes this particularly important. If later bat, botanical or aquatic surveys identify habitat or species functions which are more important than currently assumed, the mitigation hierarchy may require avoidance of areas that are presently treated in the BNG calculation as ordinary developable land. That could change both sides of the metric: the baseline value and the post-development gain.

The Applicant should therefore be required to state whether the BNG metric will be recalculated if outstanding surveys materially change the ecological baseline, and what DCO mechanism requires that recalculation and prevents the Scheme from proceeding on an outdated metric.

The response to Q1.10.7 should, in BEPS's view, provide a single auditable schedule identifying, for each Site and sub-site, the baseline habitat, condition and distinctiveness; the survey evidence supporting that baseline; any outstanding ecological survey relevant to that parcel; the habitat lost, retained, enhanced or created; the species of conservation importance currently using it; the construction and operational effects upon those species; whether the habitat is vulnerable to later construction or replacement activity; the period for which the habitat is secured; its treatment at decommissioning; and whether it is retained permanently after the land is otherwise returned to agriculture.

It should also identify separately the percentage legally secured through the DCO, the percentage relied upon in Chapter 8, the percentage relied upon in the Planning Statement and planning balance, and the extent to which those percentages depend upon habitats which are temporary, vulnerable to disturbance or dependent upon ecological baseline assumptions which have not yet been confirmed.

The distinction the ExA needs to make is therefore not simply between 10% and 37.42%. The more important distinction is between a modelled habitat-unit gain and a genuine long-term improvement in the ecology of the area of South Norfolk impacted by East Pye Solar.

At present, that second proposition has not been demonstrated with the same precision as the metric percentages. Important elements of the existing baseline remain incomplete or functionally unresolved; the consequences of construction and repeated replacement activity for proposed BNG areas are not yet transparent; and it is not clear which of the habitats generating the claimed gains would survive decommissioning and the return of the land to agriculture.

Until those matters are resolved, the higher BNG percentages should be treated with caution. They may represent a useful modelled indication of potential habitat enhancement, but they do not yet demonstrate that the Scheme will leave the ecological resource of East Pye measurably better at the end of its life than it is before construction begins.

Q1.8.2 – Heritage schedule: reconciling the Applicant’s assessment with the independent evidence

BEPS supports the ExA’s request for a single consolidated heritage schedule because the Examination presently contains materially different professional assessments of both the extent and degree of heritage harm. The Applicant’s Environmental Statement concludes that there will be no harm to the great majority of designated heritage assets and identifies less-than-substantial harm only to a very small number of Grade II assets. By contrast, the independent Heritage Impact Assessment prepared by David Edelston (see BEPS WR Appendix) identifies less-than-substantial harm arising from the principal built development to 36 designated heritage assets and further effects associated with the highway and abnormal-load works, producing 41 affected designated assets overall. Those affected assets include two Grade I and three Grade II* listed buildings. The difference is therefore not confined to minor disagreement over the degree of effect on one or two receptors; it concerns which assets are affected at all, how their settings contribute to their significance, and whether the effects have been avoided or merely screened.

The need for this comparison is reinforced by the history of the Applicant’s assessment. At scoping stage the Applicant identified a large designated heritage resource (of over 300 Listed Buildings) around the Scheme but proposed to focus detailed assessment on those assets which its summer 2024 walkover considered most sensitive, relying upon distance, topography and screening to exclude many others. For Site 4 alone, however, the Applicant’s own Scoping Report recorded the Grade I Church of St Michael approximately 45–50 m from Site 4B, the Grade II* Old Rectory approximately 70 m away, the Grade II Barn north of the Old Rectory only about 10–15 m away, together with Church Farmhouse, the Cedars and other listed buildings forming part of the same historic settlement group. At Site 5, the Grade I Church of St Catherine at Fritton was identified approximately 25 m from Site 5B. At Site 7, the Applicant itself identified the Grade II* Oaks Farmhouse approximately 180 m from Site 7L together with a dense group of Grade I, Grade II* and Grade II assets associated with the Saxlingham, Hempnall and Tasburgh landscape.

Historic England had already warned at scoping that Grade II listed buildings whose settings might be affected should not be excluded simply because of distance, and that the likely effects of the substations and other infrastructure upon heritage assets required assessment. The Applicant’s final ES states that it has addressed those comments, but the continuing disagreement identified by the Edelston HIA demonstrates why the ExA’s proposed schedule is necessary.

The schedule should not therefore be an administrative list reproducing the Applicant's existing conclusions. It should be a comparative evidential document which allows the ExA to understand exactly where the two assessments diverge. For each designated heritage asset it should record the NHLE reference, designation and grade; the Site, sub-site, cable corridor, access route or highway work capable of affecting it; the elements of significance relevant to the assessment; the contribution made by setting; the Applicant's assessment of effect; Edelston's assessment; the extent of any disagreement over visibility, historic relationship, openness, tranquillity, group value, approach or landscape function; the level of harm identified; the mitigation relied upon; the residual harm after mitigation; and whether avoidance by deletion or relocation has been considered.

That level of detail is particularly important because Edelston's assessment does not treat setting as synonymous with a view. It examines how the historic buildings were intended to relate to their surrounding agricultural landscape, how they are approached and experienced, whether they form a group, and whether the openness and agricultural character of the surrounding land contribute to the ability to understand their significance. These are precisely the aspects of setting which can be materially altered even where planting eventually reduces direct visibility of solar panels.

Site 4B is the clearest example. The Grade I Church of St Michael, the Grade II* Old Rectory and the Grade II barn north of the Old Rectory form a coherent historic group immediately adjoining the proposed development. The Applicant's own scoping material records the church approximately 45–50 m from the Site, the Old Rectory approximately 70 m away and the barn only about 10–15 m away. The significance of this group does not derive solely from the fabric of the individual buildings or from uninterrupted views between them. The church, rectory, barn and surrounding agricultural land express an historic ecclesiastical and agricultural relationship which can still be read in the landscape. Edelston's HIA concludes that the proposed solar development would alter that relationship by replacing the open agricultural context with extensive energy infrastructure and identifies a moderate level of less-than-substantial harm. Its recommendation is not simply additional planting but avoidance through removal of the relevant development parcel.

That distinction should be made explicit in the schedule because screening and avoidance are not equivalent heritage responses. Screening may reduce visual perception of infrastructure once planting matures, but it can itself alter the character of setting by closing historically open relationships and views. Where significance derives partly from openness, agricultural use and the historic relationship between church, rectory, farm buildings and fields, the introduction of dense planting may conceal the development without restoring the contribution made by the original setting.

The same issue arises at Site 5B. The Applicant identified the Grade I Church of St Catherine only about 25 m from the Site. Edelston's assessment gives greater weight to the church's relationship with the surrounding open agricultural landscape and the way in which that rural setting contributes to the experience and significance of the building.

Where a nationally important medieval church is immediately adjacent to a large solar development, the relevant question is not merely whether panels remain visible from a particular fixed viewpoint once landscaping matures. The assessment needs to address how the development changes the character of the church's setting, the approach to it, its visual and historic prominence within the landscape, and the relationship between the church and the fields which historically surrounded it.

Site 7L raises the same methodological difference in relation to Oaks Farmhouse, a Grade II* listed building. The Applicant's own Scoping Report identifies Oaks Farmhouse approximately 180 m east of Site 7L. Edelston's HIA identifies harm because the significance of the asset is not confined to the house itself or to a single principal elevation. Its setting includes the surrounding agricultural land and the surviving relationship between the farmhouse and the landscape from which its historic function and status derive. A solar array across that landscape changes the character of that relationship even if individual views are filtered by hedges or later planting.

The schedule should also identify where groups of assets are affected together. The rural historic environment around East Pye contains numerous churches, rectories, farmhouses, barns and village-edge buildings whose significance is partly relational. An assessment which records a minor or negligible effect on each asset independently may fail to identify the cumulative effect of transforming the shared agricultural landscape which gives those assets context. Edelston's report is valuable because it considers that wider pattern rather than treating every building as an isolated receptor.

Seasonality also needs to be incorporated into the schedule. Much of the Applicant's initial field assessment was undertaken during summer 2024, when hedgerows and trees were in full leaf. The Scoping Report expressly refers to summer walkover surveys when explaining why the majority of assets were considered unlikely to be sensitive because of distance, topography and screening. Edelston's field assessment identifies places where winter conditions materially increase intervisibility and where seasonal vegetation alters the extent to which development is experienced from heritage assets and approaches to them. For a development intended to remain for up to 60 years, a conclusion based substantially upon summer screening is insufficient. The schedule should therefore indicate whether the assessment is dependent upon seasonal vegetation and whether the degree of harm differs in winter.

The highway and abnormal-load works should be incorporated in the same schedule rather than treated as a separate transport issue. The proposed construction and AIL routes pass through or close to conservation areas, listed buildings, historic walls, narrow rural lanes, mature roadside hedgerows and historic settlement approaches. Where widening, visibility splays, vegetation removal, temporary traffic management, abnormal-load movements or repeated HGV traffic alter the character or fabric of those settings, those effects are heritage effects in their own right. The relevant question is not confined to whether the solar arrays are visible from the asset.

This is particularly important because the Edelston HIA's total of 41 affected designated assets includes additional assets affected by highway and AIL works

beyond the 36 affected by the principal built development. Those additional effects should not disappear from the heritage schedule merely because they arise from associated construction infrastructure rather than the solar arrays themselves.

Historic England's Relevant Representation is also important to the way the schedule should be constructed. Historic England did not endorse a conclusion that all heritage concerns had been removed through embedded mitigation. Its position recognised residual policy harm notwithstanding the Applicant's EIA conclusion of no significant residual heritage effect. That distinction should be visible in the schedule. A finding that an effect is not 'significant' for EIA purposes does not mean that there is no harm to the significance of a heritage asset for planning-policy purposes. The Applicant's own Policy Compliance Document acknowledges that less-than-substantial harm is identified for some assets even though Chapter 10 concludes that there are no significant residual EIA effects.

The ExA's schedule should therefore contain separate columns for EIA significance and heritage-policy harm. That would prevent a 'minor adverse' or 'not significant' EIA conclusion being mistaken for a finding of no heritage harm. It would also enable Historic England's position, the Applicant's position and Edelston's independent assessment to be compared on the same basis.

The mitigation hierarchy should then be applied asset by asset. Where Edelston identifies harm which could be avoided by deleting a parcel, such as the recommended removal of development affecting Site 4B, Site 5B or Site 7L, the schedule should record whether the Applicant has considered that option and, if rejected, why. The Applicant should not be permitted to move directly from identifying a setting effect to relying upon planting without demonstrating whether the effect could first be avoided through layout change.

The value of the schedule is therefore not simply administrative consistency. It would allow the ExA to distinguish four different questions which are presently blurred together: whether an asset is affected at all; what contribution setting makes to its significance; what degree of harm results; and whether that harm has genuinely been avoided or merely reduced or screened. Given the scale of the difference between the Applicant's conclusions, Historic England's recognition of residual policy harm and Edelston's identification of effects on 41 designated assets overall, that reconciliation is necessary before the heritage effects can be weighed reliably in the overall planning balance.

Q1.8.1 – Revised NPPF and heritage: effect on the assessment and planning balance

The revised National Planning Policy Framework does not remove the need to establish the heritage effects of East Pye accurately before undertaking the planning balance. The principal disagreement in the Examination remains evidential: the Applicant identifies harm to very few designated heritage assets, whereas Edelston's independent HIA identifies a materially wider pattern of less-than-substantial harm,

including harm affecting Grade I and Grade II* assets. Historic England has also identified residual policy harm notwithstanding the Applicant's conclusion that no significant residual heritage effects remain. The first task is therefore to resolve the factual and professional disagreement over significance, setting and effect before applying the revised national policy.

The current NPPF, published in August 2026 and now presented in its updated accessible form, continues to treat heritage assets as an irreplaceable resource and requires development affecting the significance of heritage assets, including any contribution made by their setting, to avoid harm where possible and otherwise minimise it. Policy HE5 requires the significance of affected assets and the contribution of setting to be assessed, requires the degree of harm to be identified, and expressly requires decision-makers to be satisfied that assessments accurately reflect the effects caused by the proposal.

The revised framework is therefore directly relevant to the disagreement exposed by the Edelston HIA. It does not allow the Applicant simply to take its existing asset selection and existing findings of no harm and apply new policy wording to them. Policy HE5 makes the accuracy of the underlying assessment itself a decision-making issue. Where another professional assessment identifies harm to assets which the Applicant has treated as unaffected, that disagreement has to be examined before the policy balance can be undertaken.

The revised NPPF also retains strong protection for designated heritage assets. Policy HE6 requires substantial weight to be given to conservation, with greater weight for more important assets, and states that any harm to a designated heritage asset is a matter of considerable importance and weight. Where harm is identified, it must be weighed against the public benefits of the proposal, while substantial harm to assets of the highest significance, including Grade I and Grade II* listed buildings, remains subject to a particularly stringent approach.

That framework is consistent with the current EN-1 heritage provisions. EN-1 requires considerable importance and weight to be given to preservation of heritage assets, requires clear and convincing justification for any harm to a designated heritage asset and requires less-than-substantial harm to be weighed against the public benefits of the proposal.

The revised policy therefore makes the disagreement over Site 4B, Site 5B and Site 7L particularly important. If the Applicant is correct that those assets experience no heritage harm, they do not enter the balance as harmed designated assets. If Edelston is correct that the Grade I Church of St Michael, Grade II* Old Rectory, Grade I Church of St Catherine and Grade II* Oaks Farmhouse experience less-than-substantial harm through changes to their settings, that harm must be recognised and afforded the weight required by the current policy framework.

The difference cannot be resolved simply by reference to visibility. Edelston's assessment gives greater weight to the historical and functional relationship between

buildings and their surroundings, the openness and agricultural character of the landscape, approaches to assets, group value, tranquillity and the way in which assets are experienced while moving through the landscape. Those are relevant aspects of setting because the policy test concerns the effect upon the asset's significance, not simply whether a development can be seen from a particular point.

The Applicant's reliance upon landscape screening therefore requires careful examination. If planting genuinely reduces an incidental visual effect without affecting the historic character or legibility of the setting, it may reduce harm. Where the significance of an asset derives partly from openness, however, screening can change the setting in a different way rather than eliminate the heritage effect. A church historically experienced as a landmark across open agricultural land does not necessarily retain the same contribution from setting merely because a solar development becomes concealed behind new planting.

Historic England's position is material in this respect. Its acknowledgement of residual policy harm demonstrates that the conclusion of 'no significant residual effect' in the EIA should not be treated as equivalent to a conclusion of no harm for heritage policy. The Applicant's own policy document illustrates the distinction: it records less-than-substantial harm to Moulton Farmhouse and Barn Cottages while Chapter 10 nevertheless concludes that no significant residual cultural-heritage effects occur. The ExA should therefore require the revised NPPF response to state separately the EIA significance of each effect and the existence and degree of heritage-policy harm.

The mitigation hierarchy is also relevant under the revised framework. Policy HE4 now expressly states that proposals affecting heritage significance should avoid harm or, where avoidance is not possible, minimise it. That makes the design history important. Where Edelston concludes that harm to highly graded assets could be materially reduced or avoided by deleting development from Site 4B, Site 5B or Site 7L, the Applicant should explain whether those avoidance options were considered and why the development was retained.

This is different from asking whether enough vegetation can eventually be planted to reduce visibility. The policy sequence requires consideration of avoidance before reliance upon mitigation.

The revised policy also strengthens the need to address the cumulative pattern of harm. East Pye is not a development affecting a single isolated listed building. It extends across a historic rural landscape containing numerous medieval churches, rectories, farmhouses, barns and conservation areas. Edelston's HIA identifies a dispersed but repeated pattern of setting harm across that landscape. Even where each individual effect is less than substantial, the ExA needs to understand the aggregate heritage consequence of introducing a single large infrastructure project across the settings of numerous designated assets.

That does not mean that separate less-than-substantial harms are simply added together to become 'substantial harm' in policy terms. The correct approach is to

identify the harm to each asset accurately and then ensure that the planning balance reflects the number, importance and degree of the affected assets rather than allowing a Scheme-wide ‘not significant’ EIA conclusion to obscure the pattern.

Seasonality should similarly inform the revised assessment. The Applicant’s original sensitivity judgments in its Scoping report were informed in part by summer 2024 fieldwork and screening. The Edelston HIA identifies greater winter intervisibility at a number of locations. Since East Pye is proposed for up to 60 years, winter effects are not exceptional conditions but a recurring part of the annual experience of the assets. The revised assessment should therefore identify whether any no-harm conclusion depends materially upon summer vegetation and whether the conclusion remains the same under leaf-off conditions.

Highway and AIL effects should also be brought into the revised policy assessment. Vegetation removal, road widening, visibility splays, temporary works and repeated heavy traffic can affect the character and setting of listed buildings and conservation areas independently of the solar arrays. Where Edelston has identified additional designated assets affected by those works, those harms should be included in the same heritage balance rather than relegated to the transport assessment.

The Applicant’s response to Q1.8.1 should therefore not be confined to stating that it has reviewed the August 2026 NPPF and that its conclusions remain unchanged. It should demonstrate that it has reconsidered the heritage evidence against the revised policy framework by addressing the assets identified by Edelston, Historic England and other Interested Parties; explaining why it agrees or disagrees with each identified harm; reassessing the contribution made by openness, historic land use, approaches, group value and seasonal setting; distinguishing EIA significance from heritage-policy harm; identifying where avoidance remains possible; and then undertaking the planning balance on the basis of the resulting asset-by-asset findings.

The important point is that the revised NPPF does not cure an evidential disagreement by changing terminology. Its decision-making policies require the decision-maker to be satisfied that the assessment accurately reflects the effect of the development upon the significance of the heritage assets. [GOV.UK](https://www.gov.uk) Where the Applicant, Historic England and Edelston reach materially different conclusions about that harm, the disagreement needs to be resolved before the public-benefit balance can reliably be undertaken.

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