

Submission ID: SC1B5ECB1

BEPS has concerns about how the Design Principles are reflected in the Works Plan and the DCO. We would be grateful if the ExA could look into these matters.

East Pye Solar EN0110014

BEPS RESPONSE ON DESIGN, THE WORKS PLAN AND THE DRAFT DEVELOPMENT CONSENT ORDER

Cross-reference of APP/7.17, APP/7.18, APP/2.3 Revision B and Draft DCO Revision 2

Submitted by BEPS (Block East Pye Solar [REDACTED])

Purpose: to identify whether the design outcomes relied upon by the Applicant are translated into enforceable spatial and legal controls, and to identify design flexibility requiring clarification or amendment during the Examination.

1. Executive summary

The Applicant presents the Design Principles, Parameters and Commitments document as the instrument which secures the assessed design envelope for the Scheme as a whole. That is not what Requirement 5 presently says.

Requirement 5 applies only to Works 1, 2 and 3. The parameters and commitments for the National Grid Substation, overhead-line works, cable corridors, general works, compounds, access works, habitat-management areas and permissive paths in Tables 4.4–4.11 therefore require a separate demonstration of how they are legally secured.

The fact that the DPPC is a certified document does not, by itself, impose a requirement to comply with every provision in it.

BEPS has cross-referenced the Applicant's Design Approach Document ('DAD'), Design Principles, Parameters and Commitments ('DPPC'), Works Plan Revision B and the current tracked Draft Development Consent Order ('dDCO'). The issue is not whether the design documents contain appropriate aspirations, but whether the development that could lawfully be built under the Works Plan and dDCO is constrained to the design outcomes and environmental assumptions relied upon in the Environmental Statement.

The Applicant's own design narrative states that good design will be secured through the Works Plan, the DPPC, outline management plans and the dDCO Requirements. DAD §6.1.4 says Requirement 5 requires 'the development' to be carried out in accordance with the DPPC, while DPPC §2.1.3 says the parameters and commitments in Tables 4.1 to 4.11 'would be secured by Requirement 5'. The operative text of Requirement 5 is narrower: it applies only to Work Nos. 1, 2 and 3.

This matters because Tables 4.4 to 4.11 contain material parameters and commitments for the National Grid Substation, overhead-line works, cable corridors, access and highway works, construction and decommissioning compounds, habitat management areas and permissive paths. Some individual matters are controlled elsewhere in the dDCO, but those separate controls do not obviously reproduce every DPPC parameter and commitment for Works 4 to 11. The Examination therefore needs a precise securing matrix rather than an assumption that certification of the DPPC alone makes every row binding.

The concern is amplified by the breadth of Schedule 1. Work No. 6 authorises not only cables but roads, drainage, drilling, tunnelling, PRow diversions and temporary construction and decommissioning laydown areas. Work No. 7 combines biodiversity mitigation with fencing, lighting, tracks, drainage, laydown areas and O&M buildings. Work No. 10 is described as habitat management but also authorises access and drainage. Schedule 1 then adds a broad associated-development power after Work No. 11, including site clearance, earthworks, drainage, lighting, access and tunnelling, provided those works remain within the scope of the ES.

BEPS therefore asks the ExA to require a complete design-security matrix, to amend Requirement 5 or provide equivalent controls for Works 4 to 11 where necessary, to resolve overlap between ecological land and construction or maintenance uses, and to tighten the repeated use of ‘substantially in accordance with’, ‘where practicable’ and ‘as far as practicable’ where the ES relies upon a commitment to avoid or mitigate an effect.

2. Documents reviewed and method

This submission is based upon APP/7.17 Design Approach Document Revision 1 (March 2026), APP/7.18 Design Principles, Parameters and Commitments Revision 1 (March 2026), APP/2.3 Works Plan Revision B (April 2026, Parts 1 and 2), and the tracked Draft Development Consent Order Revision 2 supplied for the Examination. References below are to sections, tables, Work numbers and Requirements so that the analysis remains usable if PDF pagination changes.

The audit identifies each design claim or parameter in the DAD and DPPC, checks the relevant Works Plan envelope and then identifies the dDCO provision that makes the parameter or commitment enforceable. Where another Requirement provides a partial control, that is acknowledged rather than treating Requirement 5 as the only mechanism.

3. Requirement 5 and Works 4–11

DAD §§6.1.2–6.1.4 describes the Works Plan as securing the maximum spatial parameters and states that Requirement 5 requires the development to accord with the DPPC. DPPC §§2.1.1–2.1.4 and 3.1.4–3.1.5 describes the DPPC as a control document forming the basis of the EIA and says Tables 4.1–4.11 would be secured by Requirement 5.

Requirement 5 prevents commencement only of Work Nos. 1, 2 or 3 until details of layout, scale, finished levels, appearance, surfacing and access have been approved; those details must accord with the DPPC. Work Nos. 4 to 11 are not included in that detailed-design approval mechanism. This does not mean they are wholly uncontrolled, because other Requirements regulate fencing, drainage, archaeology, management plans and other matters. The question is whether those separate controls secure every parameter and commitment on which the ES and design case rely.

The point is material because DPPC Table 4.4 gives a maximum 6 ha National Grid Substation, maximum busbar height of 15 m, potentially 12 m-deep foundations, fencing, access, drainage and environmental offsets. Table 4.5 permits up to four new pylons, maximum height 61 m, a working width of up to 150 m and substantial access and compound requirements. Tables 4.6–4.11 control cable working widths, drilling pits, construction compounds, access, habitat management and permissive paths. The ExA should be able to identify the precise legal provision making each such parameter binding.

4. Works Plan flexibility and the Indicative Masterplan

The DAD uses the Indicative Masterplan to demonstrate design evolution and quality, but it is not the consented layout. Article 3 requires numbered works to be situated within the corresponding numbered areas on the Works Plan. The Works Plan therefore defines broad envelopes, often with several Work layers over the same land. The correct test is whether any detailed layout lawfully available inside those envelopes remains within the reasonable worst case assessed by the ES.

BEPS asks that every design benefit shown only illustratively be accompanied by a simple schedule stating whether it is legally secured, by what provision and with what permissible tolerance.

5. Work No. 7 and overlapping ecological / construction functions

Work No. 7 authorises fencing and gates, CCTV and lighting, biodiversity mitigation and enhancement, existing and new tracks, ramps, bridges, PRow diversions, earthworks and bunds, drainage, acoustic barriers, utilities, secondary temporary construction and decommissioning laydown areas and operational and maintenance buildings. The same numbered work can therefore describe both habitat and activities capable of disturbing or physically occupying that habitat.

Fixed ecological exclusion areas should be identified rather than relying on the generic Work No. 7 layer. This is directly relevant to Site 6, which has been presented as mitigation/BNG land while also requiring construction functions, and Site 7, where access interacts with ecological/open nesting-bird land. If a parcel can later be used for a haul route, secondary compound, replacement work or decommissioning, the ecological assessment and BNG metric should reflect that temporal disturbance and reinstatement.

6. Work No. 6 cable corridor

Work No. 6 is not simply an underground trench. It includes access tracks, roads, drainage, joint bays, drilling, tunnelling, PRow diversions and temporary construction and decommissioning laydown areas with hardstanding, parking, materials storage, offices, lighting, drainage and utilities. DPPC Table 4.6 gives a nominal 25 m working width but says it 'will be widened in places' for crossings and operations without stating a universal numerical maximum.

The ES and Works Plan should therefore be tested against the maximum realistic working envelope at watercourses, roads, utilities, hedgerows, PRowS and other sensitive receptors. Where trenchless construction is relied upon environmentally, it should be secured or the realistic fallback method should be assessed.

7. National Grid infrastructure and overhead-line works

Work Nos. 4 and 5 illustrate why the Requirement 5 issue is not a minor drafting point. DPPC Tables 4.4 and 4.5 contain the principal dimensions and commitments for the National Grid Substation and overhead-line works, yet those Works are outside Requirement 5. The ExA should require the Applicant to identify which parameters are directly binding and how any National Grid-driven change is tested against the ES, Works Plan and DPPC.

8. Ecology, BNG and lifecycle

Requirement 9 secures only a minimum 10% habitat, hedgerow and watercourse BNG ‘during the operation of the authorised development’ and requires a future BNG strategy substantially in accordance with the Outline LEMP. The DAD also says the BNG calculations will be updated at detailed design. These provisions need to be reconciled with the Works Plan and decommissioning.

Work No. 10 is described as habitat management but permits fencing, earthworks, ponds, trenching, swales, access and drainage. Requirement 21 includes Work No. 10 among associated development to be decommissioned no later than the related solar development. The Applicant should identify which habitat gains remain permanently, which cease with the Scheme, which may be returned to agriculture and whether any land credited as BNG is available for construction, replacement or decommissioning activity.

9. Qualified commitments

The DPPC repeatedly uses ‘where practicable’, ‘wherever practicable’ and ‘as far as practicable’ for matters including cable routing, PRoW avoidance, access selection, flood-risk siting and soil handling. Such flexibility may be justified in engineering terms, but where the ES relies on the measure as embedded mitigation the ExA should require an objective test for impracticability, an identified approving body and an assessed fallback.

10. ‘Substantially in accordance with’ and later amendment

The dDCO repeatedly requires later plans to be ‘substantially in accordance with’ the outline BSMP, LEMP, protected species strategy, BNG strategy, archaeology strategy, CEMP, OEMP, CTMP, OTMP, PRoW plan, soil plan and DEMP. Requirement 10 applies the same formulation to permanent fencing details. This adds an undefined tolerance to the spatial and technological flexibility already present in the Works Plan.

Requirement 3 also allows amendments to certified documents and requirement-approved plans where the relevant planning authority is satisfied that no materially new or materially different environmental effects would arise. BEPS asks for express protection against amendments that reduce a minimum buffer, exclusion zone or other mitigation relied upon by the ES, HRA or other assessment.

11. Permitted preliminary works

The definition of ‘commence’ excludes permitted preliminary works, which include surveys, intrusive investigations, contamination remediation, diversion of apparatus, contractor facilities, temporary enclosure and site clearance including vegetation removal and demolition. Requirement 13 requires those works to comply with the preliminary works environmental management plan, but the wider pre-commencement Requirements do not necessarily bite before they occur.

The ExA should therefore confirm that preliminary works cannot prejudice protected species, habitats, archaeology, soils, hydrology or later compliance with the mitigation hierarchy, and that the preliminary works plan contains equivalent safeguards where necessary.

12. Replacement cycles and maintenance powers

The dDCO definition of ‘maintain’ includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace (including scheduled replacement) and improve. Article 5 permits maintenance at any time within the Order limits provided it does not give rise to materially new or materially different environmental effects.

The design controls should therefore state whether major replacement campaigns must use the original approved access, compound and laydown areas; whether BNG and protected ecological areas are excluded; whether replacement compounds require approval; and how soil, drainage, traffic, noise and ecology effects are controlled.

13. Heritage and landscape design claims

The DAD presents setbacks at Sites 4B, 5 and 7 and increased mitigation at Site 3 as successful design evolution. The ExA should distinguish between screening or offset and genuine avoidance. Where the heritage or ecological case depends upon a setback, the setback should be a fixed minimum control rather than only an Indicative Masterplan feature.

14. PRow and fencing

The DPPC states a 15 m offset between solar modules and PRow and a 15 m buffer between permissive paths and Scheme infrastructure, excluding landscaping. Those numbers do not, by themselves, establish the practical character of the route because Work No. 7 also permits fencing, CCTV, lighting, tracks and other works, and Work No. 9 permits access.

BEPS asks for route-specific cross-sections showing the path, fence, array, CCTV, access track, planting and drainage on both sides of affected PRow, and for the DCO to make clear what the 15 m is measured to and what may occupy the intervening space.

15. Requested actions

- Require a complete design-security matrix for every row of DPPC Tables 4.1–4.11, identifying Work number, Works Plan polygon, precise DCO article or Requirement, permissible tolerance and the ES reasonable-worst-case assessment.
- Require the Applicant to explain the inconsistency between DAD §6.1.4 / DPPC §2.1.3 and Requirement 5, and amend Requirement 5 or provide equivalent controls for Works 4–11 where DPPC parameters are relied upon.
- Require composite conflict plans for Sites 3, 6 and 7 and the Great Moulton infrastructure hub showing Works 1–11, mitigation/BNG, PRowS, ecological buffers, watercourses, heritage-sensitive areas, compounds, access and cable works.
- Create fixed exclusion areas preventing land counted as BNG or essential ecological mitigation from being used for construction, replacement, maintenance or decommissioning unless that use is expressly assessed and included in the BNG metric.
- Require a maximum assessed Work No. 6 working width at each sensitive crossing and secure any trenchless method relied upon to avoid significant effects.
- Define or replace ‘substantially in accordance with’ where outline documents contain mitigation relied upon by the ES, and prevent reductions in fixed minimum mitigation without equivalent assessment.
- Identify every ‘where practicable’ / ‘as far as practicable’ commitment relied upon as mitigation and provide objective exception criteria and a secured fallback.
- Clarify the status of Work No. 10 at decommissioning and identify which BNG habitats remain after land is restored or returned to agriculture.
- Confirm how panel, inverter, transformer and BESS replacement cycles are spatially controlled and how they avoid mitigation/BNG land.
- Confirm that permitted preliminary works cannot remove vegetation or undertake intrusive works without equivalent protected-species, archaeology, water, soil and contamination safeguards.
- Provide route-specific PRow cross-sections and fix any heritage/ecological setback relied upon by the design case.

Appendix A – Detailed design-control audit

The table identifies points requiring the Applicant to demonstrate that the relied-upon design outcome is genuinely secured and remains within the assessed reasonable worst case. A ‘challenge’ does not assume that the relevant work is unlawful; it identifies a control, overlap or ambiguity requiring examination.

Priority	Issue	DAD / DPPC position	Works Plan / dDCO position	BEPS challenge / requested action
1 – Very high	Requirement 5 does not globally secure the DPPC	DAD §6.1.4: Requirement 5 secures ‘the development’; DPPC §2.1.3: Tables 4.1–4.11 would be secured by Requirement 5.	Req.5 applies only to Work Nos.1, 2 and 3.	Require row-by-row securing matrix; amend Req.5 or add equivalent controls for Works 4–11.
2 – Very high	National Grid Substation parameters	Table 4.4: 6 ha; 15 m busbars; 12 m piles; 3 m fencing; 8 m access; 1.7 ha compound; buffers/drainage.	Work 4 lies outside Req.5.	Identify legal hook for each parameter, especially if National Grid design changes.
3 – Very high	Overhead line / pylons	Table 4.5: up to 4 new pylons; max 61 m; working width up to 150 m; compound/access.	Work 5 outside Req.5.	Confirm pylon number, height, working width and access envelope are binding.
4 – Very high	Work 7 multi-purpose envelope	Biodiversity, fencing, CCTV/light, tracks, bridges, drainage, laydown, O&M buildings all in one Work.	Wide Works Plan coverage; outside Req.5.	Separate ecological exclusion zones from construction/operational uses.
5 – Very high	Site 6 BNG / compound conflict	DAD presents mitigation area; Scheme also requires construction functions.	Potential overlap of Works 7/8/9/6 with ecological land.	State sequencing, disturbance, temporal loss, reinstatement and protection from later reuse.
6 – Very high	Site 7 ecological land / access conflict	Open/mitigation areas relied upon ecologically.	Work 9 and Work 7 can authorise access/tracks/works.	Overlay access against BNG and nesting-bird land; adjust habitat condition and species assessment.
7 – Very high	Work 10 habitat area contains access infrastructure	Table 4.10: tracks 3.5 m, 6 m passing places; fencing, drainage, earthworks.	Work 10 outside Req.5 and included in Req.21 decommissioning.	Do not treat all Work 10 land as uninterrupted habitat; explain post-decommissioning outcome.
8 – Very high	BNG secured only during operation	DAD presents BNG as benefit; calculation updated at detailed design.	Req.9 secures 10% only ‘during the operation’.	Identify permanent vs temporary BNG and amount retained after decommissioning.
9 – Very high	Work 10 itself decommissioned	Work 10 creates/maintains habitat management areas.	Req.21(b) includes Work 10 in associated development to be decommissioned.	Explain what decommissioning habitat management means and reconcile with durable BNG claims.
10 – High	Indicative Masterplan not consented layout	DAD uses it to demonstrate design evolution.	Article 3 + Works Plan are operative spatial controls.	For every claimed design benefit, state if and how legally fixed.
11 – High	Broad / overlapping Works Plan envelopes	DAD says Works Plan secures maximum spatial parameters with flexibility.	Large overlapping work areas.	Assess worst permissible detailed layout, not only indicative layout.
12 – High	Work 6 is more than cables	Roads/tracks, drainage, drilling, tunnelling, PRoW diversions, laydown areas.	Extensive Work 6 corridors; outside Req.5.	Assess as full construction/decommissioning corridor.

Priority	Issue	DAD / DPPC position	Works Plan / dDCO position	BEPS challenge / requested action
13 – High	25 m cable width can widen without stated universal cap	Table 4.6 says 25 m ‘will be widened in places’.	No universal maximum stated in commitment.	Provide maximum assessed width by crossing type and secure it.
14 – High	Trenchless method not fixed	DPPC allows trenchless techniques; Schedule 1 also broad construction methods.	No universal DCO requirement for HDD at sensitive crossings.	Secure relied-upon method or assess fallback.
15 – High	Drainage conditional on later infiltration testing	DPPC provides fallback overflow/outlet if infiltration inadequate.	Req.11 leaves detailed drainage to later approval.	Demonstrate viable solution now; later design should refine, not discover feasibility.
16 – High	BESS safety remains system-specific	Table 4.2 requires LSFT and consequence modelling after system selection.	Req.6: BSMP substantially in accordance with outline plan.	Add hard safety gateway criteria and control any layout change.
17 – High	Repeated ‘substantially in accordance with’	Outline plans guide detailed plans.	Reqs 6–9, 12–19, 21 and fencing use the phrase.	Define permissible departure and prevent weakening assessed mitigation.
18 – High	Requirement 3 amendment power	Certified/approved documents form control system.	Req.3 allows amendments if no materially new/different effects.	Protect minimum buffers/exclusions/mitigation and require transparent change control.
19 – High	‘Where practicable’ commitments	Used for cable routing, PRoW avoidance, access, flood risk, soil measures.	Leaves discretion even where DPPC applies.	Give objective exception test, approving body and assessed fallback.
20 – High	Generic ecological buffers	Standard 30 m AW/CWS, 15 m trees, 10 m hedges/water, 15 m PRoW etc.	Securing differs by Work; site-specific evidence may require more.	Use receptor-specific buffers where evidence warrants.
21 – High	Site 3 buffer presented as completed mitigation	DAD celebrates increased mitigation/enhancement buffer.	Work 1 remains within Site 3 envelope.	NWT/NBSG evidence requires continuing avoidance/function analysis.
22 – High	Heritage setbacks may not be fixed	DAD presents Site 4B/5/7 setbacks as mitigation.	Broad Works Plan envelopes remain unless fixed elsewhere.	Secure any setback relied on by heritage assessment.
23 – High	PRoW 15 m buffer may not secure open corridor	DPPC: 15 m to PV / permissive paths.	Work 7 fencing/CCTV/tracks; Work 9 access.	Provide route-specific cross-sections and define measurement point.
24 – High	Permissive paths cease at decommissioning	DAD presents community access benefits.	Req.17(4) ends permissive-path permission at decommissioning.	Do not present as permanent benefit; state duration.
25 – High	Replacement cycles and broad maintenance power	60-year design and repeated equipment replacement.	Maintain includes alter/remove/reconstruct/replace/improve; Art.5 permits maintenance if no materially new/different effects.	Fix replacement access/compounds and exclude BNG land unless assessed.
26 – High	Permitted preliminary works before normal commencement controls	Preliminary works include investigation and site preparation.	Definition includes vegetation removal/demolition; Req.13 preliminary EMP applies.	Confirm equivalent ecology, archaeology, water, soil safeguards.
27 – Medium/High	Work 8 decommissioning compounds	Table 4.8 identifies compounds for construction and decommissioning.	Req.21 includes Work 8.	Assess second disturbance cycle and protect intervening BNG.
28 – Medium/High	Work 9 covers maintenance/decommissioning access	Table 4.9 access dimensions.	Work 9A covers construction, maintenance and decommissioning; 9B permanent access.	Clarify repeated vegetation/splay/access works and controls.

Priority	Issue	DAD / DPPC position	Works Plan / dDCO position	BEPS challenge / requested action
29 – Medium/High	Schedule 1 catch-all associated development	DAD focuses on numbered works and DPPC.	After Work 11, Schedule 1 adds broad access, drainage, lighting, site clearance, tunnelling and mitigation works within ES scope.	Explain spatial/dimensional limits and prevent bypassing DPPC commitments.
30 – Medium/High	Good-design outcomes stated too definitively	DAD describes infiltration, connectivity and other outcomes as delivered by design.	Drainage, BNG, protected species and later design remain partly unresolved.	Treat as objectives unless demonstrated and secured.

Appendix B – Proposed drafting and clarification points

Provision	Requested clarification / amendment
Requirement 5	Extend detailed-design approval to all Works for which DPPC Tables 4.4–4.11 contain EIA parameters/commitments, or provide equivalent work-specific requirements.
Requirement 3	Prevent amendments from reducing minimum buffers, exclusion zones, maximum parameters or relied-upon mitigation without equivalent environmental assessment and consultation.
Requirements 6–18 and 21	Define the permissible degree of departure where ‘substantially in accordance with’ is retained.
Requirement 9	Clarify duration of 10% BNG, what survives decommissioning, and whether land credited as BNG may be used for compounds, access or replacement.
Work Nos. 6–10	Provide sub-zones distinguishing cables, compounds, access, ecological mitigation and BNG rather than relying on broad overlapping work layers.
Work No. 10 / Requirement 21	Clarify whether habitat management areas are removed, cease to be managed, or remain after decommissioning.
Permitted preliminary works	Confirm equivalent protected-species, archaeology, water, soil and pollution controls before vegetation removal or intrusive works.
Replacement and maintenance	Require major replacement campaigns to use approved access/compounds and protect BNG/mitigation areas.
Heritage / ecological setbacks	State any setback relied upon by the ES/design case as a binding minimum rather than only an illustrative feature.

Source note

Primary documents cross-referenced: East Pye Solar Design Approach Document APP/7.17 Revision 1; Design Principles, Parameters and Commitments APP/7.18 Revision 1; Works Plan APP/2.3 Revision B, Parts 1 and 2; and Draft Development Consent Order Revision 2 (tracked), including Schedule 1 and Schedule 2.

AI declaration

BEPS works from research undertaken and checked by its human research team. A bespoke GPT operating within the closed BEPS project has been used to cross-reference the uploaded design documents, Works Plan and draft DCO and to assist in structuring this submission. The legal and evidential arguments, document selection, editing and final responsibility for the submission remain with BEPS.