



Specialising in Landlord & Tenant, Forensic Science, Expert Evidence and Procurement

FAO: John Wheadon

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15th June 2026

Via Email Only: BotleyWestSolar@planninginspectorate.gov.uk

Dear Mr Wheadon,

EN010147 - Botley West Solar Farm

Submission on behalf of Dustin Dryden

Response to Secretary of State's 11 June 2026 invitation to comment

Submission 1: Procedural fairness, transparency and the inadequacy of the Applicant's post-examination response to the Secretary of State's Request for Information.

Dear Mr Wheadon,

I write on behalf of Mr Dustin Dryden, an Interested Party in the Botley West Solar Farm DCO application.

This is the first in a short series of submissions which Mr Dryden intends to make in response to the Secretary of State's letter dated 11 June 2026 inviting all Interested Parties to comment by 16 July 2026 on the responses submitted to the Secretary of State's Request for Information ("RFI").

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This first submission addresses the overarching procedural issue. Later submissions will address, as necessary, topic-specific matters including the Applicant's response insofar as it affects Mr Dryden's land, business and agricultural interests, compulsory acquisition, environmental adequacy, landscape and residential effects, and the wider implications of the Applicant's revised post-examination case.

The central submission made on Mr Dryden's behalf is that:

The Applicant has not, in its 9 June 2026 responses, provided a complete, reliable, tested and decision-ready evidential basis enabling the grant of development consent. The Secretary of State cannot treat the RFI process as having cured the fundamental deficiencies in the Applicant's examined case. If the Secretary of State is minded to rely on materially new or materially revised evidence submitted after the close of the Examination, fairness requires a further meaningful opportunity for Interested Parties to comment on the adequacy, implications and consequences of that material.

This point goes directly to the lawfulness, fairness and safety of any decision which may now be made.

1. The relevant chronology:

The Secretary of State issued a Request for Information originally dated 14 April 2026, subsequently republished/amended on 20 April 2026 and then amended/clarified again on 28 April 2026. The common deadline for response was 9 June 2026.

On 22 May 2026, the Applicant wrote seeking a substantial extension of time. The requested extension was not a matter of days. The Applicant sought an extension of approximately ten further weeks, beyond the existing 9 June deadline, to 25 September 2026.

The Secretary of State did not refuse that request until 8 June 2026, the day before the deadline expired.

The Applicant then submitted a large volume of material presumably before 9 June 2026. This was published by PINS. On the same day, the Secretary of State wrote to all Interested Parties inviting comments on the responses provided, with a deadline of 23:59 on 16 July 2026.

Mr Dryden welcomes the fact that the Secretary of State has now invited all Interested Parties to comment. However, the fact that such a consultation has been judged necessary is itself significant. It confirms that the material now before the Secretary of State is not merely peripheral or administrative. It is material capable of bearing on the decision.

The Applicant's own conduct also matters. On 22 May 2026 the Applicant evidently considered that it could not properly respond to the Secretary of State's RFI within the existing timetable and required a further ten weeks. The refusal of that extension on 8 June 2026 could never have removed the difficulty the Applicant had itself identified. It is inherently improbable that a response which the Applicant said required a further ten weeks could, one day after refusal of that request, have become fully complete, adequate and capable of supporting a lawful final decision.

This conclusion is supported by the published responses of important consultees and Interested Parties (also published on 11 June), many of whom identified unresolved matters, missing information, unverified assumptions, draft mechanisms, uncompleted agreements, or further information still awaited.

2. The issue is not whether some matters have been answered; the issue is whether the Applicant's response is adequate overall:

Mr Dryden accepts that some discrete matters appear to have been addressed.

For example, Historic England appears to have confirmed that the updated Works Plan removed Works 1, 6 and 8 from Field 1.13 and that the impact on the Sansom's Platt scheduled monument had been adequately addressed. The Environment Agency appears to have confirmed that the Hensington Cutting landfill/leachate issue had been satisfactorily addressed and that aspects of the flood-risk case were acceptable from its technical perspective. Oxford Aviation Services Limited appears

to have accepted that the revised glint-and-glare work materially reduced its concern, albeit with residual caveats.

Those points should be recognised. However, they do not answer the central question of whether the Applicant's RFI response as a whole provides the Secretary of State with a complete and reliable decision-making basis across all material matters raised during the Examination by the ExA and in the RFI. On that question, the answer is no.

Many significant matters remain unresolved, unverified or inadequately evidenced by 9 June 2026. These include, for example:

1. heritage and the final adequacy of the updated Heritage Impact Assessment;
2. landscape and visual impact assessment;
3. residential visual amenity assessment;
4. skylark compensation and ecological mitigation;
5. ancient and veteran trees;
6. aviation thermal plume / heat-induced turbulence;
7. bird-strike mitigation and the absence of a signed agreement;
8. airport socioeconomic effects;
9. waste capacity and decommissioning/recycling information;
10. further drainage efficacy information;
11. statutory undertaker land and section 127 issues;
12. unresolved compulsory acquisition agreements.

These are not minor drafting matters. They go to the core of the planning balance, environmental assessment, enforceability, compulsory acquisition justification, statutory protections, heritage harm, ecological mitigation, aviation safety and fairness to affected landowners.

3. The Applicant's RFI response appears to be partial, not comprehensive:

Some matters have been answered. Others have not. The distinction matters.

The following table summarises the position as Mr Dryden understands it from the available record.

Issue	Apparent position by 9 June 2026	Consequence
Sansom's Platt scheduled monument	Historic England appears satisfied that removal of specified works from Field 1.13 addresses this point	Discrete issue likely closed
Hensington Cutting landfill / leachate	Environment Agency appears satisfied	Discrete issue likely closed
Certain flood-risk matters	Environment Agency appears broadly satisfied, subject to final legal judgment by the decision-maker	Partly closed, but not a complete answer to all drainage matters
Heritage Impact Assessment	Historic England had only seen a draft updated HIA, had provided comments, and did not know by 9 June whether those comments had been adopted	Not safely closed
LVIA	Oxfordshire Host Authorities were still awaiting further information, including proposed changes to the LVIA	Not closed
RVAA / residential visual amenity	OHA considered a bespoke property-by-property exercise necessary and expressed concern about post-consent deferral	Not closed
Skylark compensation	OHA awaited further survey results, habitat analysis and off-site habitat options	Not closed
Ancient/veteran trees	OHA criticised methodology, absence of full survey and adequacy of proposed protection protocol	Not closed
Thermal plume / aviation turbulence	OASL reserved its position because it could not obtain independent technical peer review	Not closed
Bird-strike mitigation	Agreement remained draft and unsigned	Not closed

Issue	Apparent position by 9 June 2026	Consequence
Airport socioeconomic effects	OASL considered further economic impact appraisal should have been undertaken	Not closed
Waste / recycling capacity	OHA awaited further information on national/local recycling infrastructure and timelines	Not closed
Drainage efficacy	Environment Agency had not received requested further information on central and southern areas	Not closed
Thames Water operational land	Thames Water maintained objection; agreements incomplete; section 127 concerns remained	Not closed
Without-prejudice reduction exercise	OHA said no discussions had taken place on this exercise	Not closed and procedurally concerning

The successful responses appear mostly narrow and technical. The unresolved responses appear to concern matters capable of materially affecting the planning balance and the lawfulness of any Order.

This table demonstrates why the Secretary of State should not treat the RFI response as having cured the defects in the examined application.

4. The Applicant's request for a ten-week extension is highly relevant to the weight to be attached to its 9 June response:

The Applicant's 22 May 2026 request for an extension to 25 September 2026 should not be treated as incidental.

The Applicant was, by that point, already more than three weeks into the RFI period. It had the benefit of the Secretary of State's original letter, the amended/reissued letter, and the clarification letter. Yet it still sought a very substantial extension.

That request should be read together with the later consultee responses. The published record suggests the Applicant's own assessment of the scale and difficulty of the task was correct. The Applicant appears to have been unable to put all relevant matters into a complete, tested and reliable form by 9 June 2026.

The Secretary of State refused the extension on 8 June 2026. That refusal may have been understandable in timetable terms. But the refusal does not prove adequacy. It merely maintained the deadline.

The proper question is not whether the Applicant filed something on 9 June. It is whether what was filed was sufficient.

On the available evidence, it was not.

5. The 11 June consultation;

The Secretary of State's 11 June 2026 letter invites all Interested Parties to comment on the responses provided to the RFI.

Mr Dryden welcomes that step. It is plainly preferable to a process in which only the Applicant's further evidence was considered, without wider comment.

However, the 11 June consultation does not resolve the fundamental requirement of fairness problem, because it does not provide any further opportunity to comment on contributions made by other Interested Parties by 16 July.

The Applicant is not prevented from and is likely, in response to the June and July submissions, to file further explanation, rebuttal, updated technical evidence, agreements, assessments, or revised control documents, then Interested Parties will again be at risk of being excluded from commenting on material that may influence the final decision.

The Secretary of State should therefore confirm now how the process will proceed if the 16 July responses reveal continuing gaps, new assertions, new technical material, or further Applicant commentary. It is essential that there should be a further round of consultation once the 16 July documents are available.

6. This process must continue the high quality consultation process put in place by the ExA before and during the Examination;

The Examination has closed. The Applicant had the Examination period to make its case. The ExA reported to the Secretary of State. The Secretary of State then found it necessary to ask extensive further questions.

The RFI process must not become a mechanism by which the Applicant is permitted to modify an inadequate application after the close of the Examination, while other Interested Parties are denied the ability to test the new material properly.

This is the core fairness issue.

If the Applicant's June and / or July material is incomplete or inadequate, the Secretary of State should not rely on it.

If it is material, it ought to be capable of proper scrutiny.

The Secretary of State cannot fairly proceed on the basis that substantial new or revised evidence is both important enough to support consent and yet not important enough to be properly tested.

7. Transparency: communications between the Applicant and DESNZ:

Mr Dryden is also concerned about transparency in the period following the RFI and particularly between the Applicant's 22 May extension request and the Secretary of State's 8 June response.

During the Examination, communications between the Applicant and the Examining Authority / PINS were routinely documented and placed on the public planning portal. That transparency was an important safeguard. It enabled Interested Parties to understand the procedural position and respond accordingly.

The public record now appears materially less clear.

The Applicant's request for a substantial extension was made on 22 May 2026. The Secretary of State's response was not issued until 8 June 2026. Interested Parties are entitled to know whether any meetings, calls, correspondence, emails, procedural exchanges, or other communications took place between DESNZ, the Applicant, the Applicant's solicitors, consultants or representatives during that period, or in relation to the Applicant's ability to respond to the RFI.

This is not an allegation of impropriety. It is a request for basic transparency in a major public decision-making process.

Mr Dryden therefore asks the Secretary of State to confirm:

1. whether any communications took place between DESNZ and the Applicant, or its representatives, between 28 April 2026 and 8 June 2026 concerning the RFI, the extension request, the scope of the Applicant's response, or the material to be submitted;
2. whether any communications took place between DESNZ and the Applicant, or its representatives, between 8 June 2026 and publication of the 11 June 2026 consultation letter;
3. whether notes, minutes, emails, call notes or other records exist of any such communications;
4. whether those records will be published on the PINS project page;
5. if not, why not.

The transparency standard should not reduce merely because the matter has moved from the Examination stage to the Secretary of State's decision stage. If anything, transparency is more important at this stage because the Secretary of State is considering whether to rely on material submitted after the Examination has closed.

8. Publication of the Examining Authority (ExA) Report:

Mr Dryden repeats his concern that Interested Parties remain at a substantial disadvantage because the ExA Report has not been published.

It is appreciated that the ExA Report is not normally published before the Secretary of State's decision. However, Botley West is not a normal case. The Secretary of State has issued an extensive post-examination RFI. The Applicant has filed a very large body of new and revised material. Interested Parties have been asked to comment without knowing the ExA's conclusions or the extent to which the RFI was prompted by deficiencies identified by the ExA.

That is unsatisfactory.

The present position is procedurally imbalanced. The Secretary of State has the ExA Report. The Applicant has been permitted to respond to extensive questions apparently arising from the post-examination decision process. Interested Parties are asked to comment on the resulting material without the same understanding of the ExA's findings.

That does not promote confidence in the fairness of the process.

At the very least, the Secretary of State should explain why, in the unusual circumstances of this case, he does not consider publication of the ExA Report, in whole or part, necessary or appropriate to enable informed consultation.

9. Residential Buffer Distances and the Secretary of State's 250-Metre Question:

A further matter of particular concern is the apparent absence of a clear and comprehensive response to the Secretary of State's question concerning the use of a minimum 250-metre buffer between solar infrastructure and residential properties.

This issue is of central importance because it goes directly to residential amenity, visual dominance, overbearing impacts, outlook, living conditions and public acceptability of the scheme. The Secretary of State's decision to raise this issue demonstrates that it was regarded as a potentially significant means of reducing harm.

However, even after the Applicant's submission on 9 June, the material available does not appear to contain a transparent assessment of the consequences of applying a genuine 250-metre buffer across the development, including the resulting reduction in panel coverage, generation capacity, land-take, heritage effects, landscape effects and impacts upon individual residential receptors.

Instead, Oxfordshire Host Authorities appear to have concluded that a standardised buffer is not an adequate solution and that a detailed property-by-property Residential Visual Amenity Assessment remains necessary. That position itself indicates that the issue remains unresolved.

The Secretary of State should therefore be cautious about treating the Applicant's response to this aspect of the RFI as complete. If a meaningful 250-metre buffer, or an equivalent bespoke mitigation approach, would materially alter the scale, layout or impacts of the scheme, then that issue goes directly to the planning balance and cannot properly be dismissed as a minor design refinement.

10. The proposed “without prejudice” scheme:

The “without prejudice” reduction exercise is of particular concern.

It is not clear whether the Applicant has put forward, will put forward or is relying upon, any reduced, amended, reconfigured or alternative form of the scheme.

Such a scheme would affect:

1. the planning balance;
2. the assessment of alternatives;
3. heritage harm;
4. landscape and visual effects;

5. residential amenity;
6. ecology and mitigation;
7. grid and cable routes;
8. compulsory acquisition;
9. land-take;
10. effects on particular landowners, including Mr Dryden.

It is therefore deeply concerning that the Host Authorities indicated in their 9 June submission that no discussions had taken place with them on the without prejudice scheme.

If the Secretary of State is considering, or prepared to consider, a reduced or amended scheme, Interested Parties must be given a proper opportunity to understand and comment on that scheme. It would be unfair and unsafe to treat a “without prejudice” exercise as a private exchange between the Applicant and the Secretary of State.

The Secretary of State should confirm whether any such reduced or amended scheme is being, or would be, considered if the Applicant proposed it before – or even after - 16 July and, if so, what process would be followed to allow Interested Parties to comment meaningfully on it?

11. The position of Mr Dryden:

Mr Dryden has participated extensively and responsibly in this DCO process. He has repeatedly raised concerns about the adequacy of the Applicant’s case, the implications for his land and agricultural holding, the compulsory acquisition case, the lack of sufficient information, and the fairness of allowing the Applicant to supplement its case after Examination.

Those concerns have not now been answered merely because the Applicant has filed a large volume of material.

Mr Dryden’s position remains that the Applicant did not submit sufficient adequate evidence during the Examination to enable the Secretary of State lawfully and fairly to grant consent.

The RFI process confirms that concern. It does not cure it.

Mr Dryden reserves the right to make further submissions on the Applicant's specific documents and their implications for his land, rights and interests. Nothing in this first submission should be taken as acceptance that the Applicant's revised material is complete, accurate, lawful, enforceable, or sufficient.

12. What the Secretary of State should now do:

Mr Dryden believes the SoS's use of the RFI process is effectively extending the Examination, and therefore the SoS should continue the same high standard in respect of consultation and communication as adopted by the ExA. He invites the Secretary of State to now take the following steps:

1. **Confirm and publish the procedural record -**
Confirm whether any communications took place between DESNZ and the Applicant or its representatives concerning the RFI, the extension request, the scope of the Applicant's response, or the material filed, and publish records of such communications.
2. **Distinguish closed issues from open issues -**
Identify which RFI matters the Secretary of State considers closed and which remain open, with reasons.
3. **Require a proper RFI compliance schedule -**
Require the Applicant to provide a document-indexed RFI compliance schedule mapping each RFI question to the exact document, paragraph, plan, appendix, agreement or requirement said to answer it.
4. **Require clarity on outstanding matters -**
Require the Applicant to identify all matters that remain draft, unsigned, unresolved, dependent on future agreement, or deferred to post-consent approval.
5. **Confirm the status of the "without prejudice" reduction exercise -**
Confirm whether any reduced, amended or alternative scheme is being considered and, if so, provide a fair opportunity for Interested Parties to comment on it.

6. Provide a further consultation opportunity if further material is filed or relied upon -

Confirm that if the Applicant files any further response, rebuttal, technical note, revised assessment, revised control document, signed agreement, updated mitigation strategy or further explanation after 16 July, Interested Parties will be given a fair and adequate opportunity to comment.

7. Do not rely on untested material without explanation -

If the Secretary of State proposes to rely on material not properly tested during the Examination, he should explain why he considers it fair and lawful to do so.

8. Refuse consent if the evidential basis remains inadequate -

If the Secretary of State cannot reasonably be satisfied with the evidential sufficiency and quality in front of him, he should refuse consent rather than attempt to cure fundamental evidential deficiencies through post-examination correspondence with the Applicants.

13. Conclusion:

The Secretary of State's RFI process has revealed a fundamental problem.

The Applicant's case was not decision-ready at the close of the Examination. Botley West was not a fully formed scheme for which the DCO application was made, but in fact was a proposal, looking for DCO approval so that something of financial potential could be built. It was entirely speculative.

The Applicant then sought a substantial extension to the RFI process because it could not adequately respond within the existing timetable. That extension was refused only one day before the deadline. The Applicant then filed a substantial body of material. Several important consultees and Interested Parties have nevertheless indicated that material information remains outstanding, unverified, draft, incomplete, or unresolved.

The Secretary of State should not treat that as an adequate basis for granting development consent.

The issue is not whether the Applicant has now produced more partial evidence. The issue is whether the Secretary of State has a fair, tested, reliable and legally adequate basis for making a decision of this magnitude.

Mr Dryden submits that he does not. He would hope, that if the evidence remains incomplete following the 16th July submissions, the Secretary of State would accept that he is unable to make the Order.

[REDACTED]

[REDACTED] - Barrister – Authorised to Conduct Litigation (BSB)