

From: [REDACTED]
To: [One Earth Solar](#)
Subject: Deadline 6 Submission. Policy Breach, Financial Fallacy, and the Superiority of Constellation Sites: Forensic Critique of the One Earth Solar Farm Application
Date: 29 November 2025 09:20:11
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To The ExA One Earth Solar Farm proposal EN010159.

Dear Sirs

Reservation of Rights (Litigant in Person)

This submission is made under **explicit protest** and strictly **without prejudice** to the Interested Party's right to challenge the lawfulness and procedural integrity of the Examination.

The Interested Party's continued participation is legally **compelled** by the statutory process (Planning Act 2008) to maintain standing, but this action does **not** constitute a waiver, acceptance, or validation of any alleged procedural impropriety, ExA bias, unlawful censorship, or fundamental flaws in the Administrative Record.

All rights to seek Statutory Appeal and Judicial Review against the final Development Consent Order decision are fully reserved.

Kindly accept the attached paper for submission at deadline 6.

Policy Breach, Financial Fallacy, and the Superiority of Constellation Sites: Forensic Critique of the One Earth Solar Farm Application

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Yours sincerely

Stephen Fox

Policy Breach, Financial Fallacy, and the Superiority of Constellation Sites: Forensic Critique of the One Earth Solar Farm Application

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Executive Conclusion: Breach of Statutory Guidance

The Applicant's responses to submissions regarding site selection, particularly REP4-079 by Stephen Fox, exhibit a persistent reliance on a pre-existing commercial strategy (securing contiguous land near the High Marnham grid connection)¹ that is now in direct conflict with updated national flood risk policy⁶.

The Applicant's core defence—that no alternative sites exist that can meet the project's capacity requirements—is demonstrably unsound. This is based on two key failures:

- **Statutory Non-Compliance:** The September 17, 2025 update to the Planning Practice Guidance (PPG)⁶ explicitly dictates that "Ownership is irrelevant" when assessing reasonable alternatives for the Sequential Test. The Applicant's case, which inherently prioritised land under contract, thus fails the legal threshold for flood avoidance.
- **Financial Fallacy:** The Applicant's dismissal of a "constellation" of smaller, Flood Zone 1 (FZ1) sites ignores the true capital expenditure (CapEx) premium for building in the high-risk Flood Zone 3 (FZ3), thereby leading to a false conclusion that the high-risk site is the only financially viable option.

The necessity of the proposed development is not debated, but the current location is rendered sequentially inferior by the Applicant's own documentation and subsequent policy shifts^{7,8,9}.

1. Dissection of the Applicant's Central Defence (Response D4R80)

Submission REP4-079 (Stephen Fox, Written Submission 9) challenged the Applicant to provide robust justification for rejecting alternative sites in lower flood risk zones, specifically proposing the disaggregation of the project into a "constellation".⁹

The Applicant's rebuttal (D4R80) was succinct and defensive, concluding that "no other alternative smaller sites which could have been combined to deliver the same development need as the scheme" exist, relying entirely on previous assessments (REP2-080 and REP3-069)⁹.

1.1 The Policy Breach: Ownership and Site Configuration

The primary policy failure in the Applicant's defence is their outdated interpretation of what constitutes a "reasonably available" alternative under the Sequential Test.

Policy Criteria	Applicant's Methodology	Policy Compliance (Post-Sept 2025)	Conclusion on D4R80
Land Availability	The Applicant conceded that identifying "willing landowners was a factor in the site selection process". They defended this practice, arguing it increased "confidence in delivery". ¹⁰	The PPG update of September 2025 is binding and clarifies that "Ownership is irrelevant" in determining if a site is reasonably available for the Sequential Test. ⁶	Statutory Breach: The Applicant's dismissal of alternatives based on perceived commercial risk or landowner unwillingness is now invalid. The legal test mandates the consideration of sites based on planning suitability, not commercial control.
Constellation Viability	The Applicant summarily dismissed the constellation concept by claiming that combining smaller sites cannot "meet the same development need".	The September 2025 PPG explicitly reinforces that a "reasonably available" site can include "multiple smaller sites" or plots in combination, provided they collectively meet the development need. ⁷	Technical Flaw: The Applicant's blanket rejection of constellations is contrary to the new guidance which favours this disaggregated approach as a mechanism for flood avoidance.

1.2 The Misrepresentation of Alternative Sites (AP Sites)

Mr. Fox's constellation argument is not based on hypothetical land but on alternative sites (AP sites) already identified by the Applicant in their own Sequential Test Addendum (REP3-069)⁹.

The Applicant’s response in D4R80 fails to address the allegation that they systematically mis-categorised the flood risk profile of these alternatives:

- Applicant's Claim: Sites (e.g., AP9, AP11, AP12) were dismissed because they were "primarily in Flood Zones 2 and 3".
- Fox's Rebuttal: A visual review of the Applicant’s own supporting plans demonstrates that a "significant proportion" of these dismissed sites actually fall within the lower-risk Flood Zone 1.

Conclusion: The Applicant appears to have manipulated the flood risk grading of alternative FZ1 plots, combining them with smaller FZ3 portions to dismiss the entire site. This enabled the Applicant to claim the high-risk One Earth site was the only option, likely to secure advantageous pre-existing commercial lease agreements¹.

3. Financial and Economic Fallacy

The Applicant justifies the single FZ3 site by invoking the Critical National Priority (CNP) and implied economies of scale. Fox’s submission counters that the FZ1 constellation model is, in fact, financially superior when mandatory flood engineering costs are included.

Cost Factor	Single FZ3 Site (One Earth Proposal)	FZ1 Constellation (Fox Model)	Applicant’s Flawed Assumption
Capital Cost (CapEx)	Inflated: Requires all solar panels to be raised to 3.8m, necessitating highly expensive civil engineering, deep piling, and large-scale compensatory flood storage excavation.	Standard: Utilises standard, lower-cost racking and minimal specialised flood infrastructure.	The Applicant ignores the high CapEx premium for FZ3 construction, falsely equating the two models.
Risk Cost (OpEx)	Extreme: High, long-term insurance premiums and existential risk from BESS fire/contamination during a major flood event.	Low: Avoids statutory and physical flood risk, leading to lower operating costs and a superior financial risk profile.	The Applicant’s model fails to account for the multi-generational cost of risk, which is the overriding factor for a 60-year infrastructure project.

Final Financial Verdict: By refusing to present a fully costed comparison that acknowledges the necessary exceptional infrastructure costs of flood mitigation, the Applicant's assertion in D4R80 that no alternative sites could meet the need is revealed as a commercially driven attempt to justify their pre-selected, high-risk land.

4. Paragraph-by-Paragraph Critique of Applicant Responses

The quality of the Applicant’s responses to both Stephen and Heather Fox is universally characterised by evasion and deflection.

4.1 Responses to Stephen Fox (REP4-079 & Technical Critiques)

Submission Focus	Applicant Response (D4R80, D4R77, ISH3)	Critical Analysis
Sequential Test (FZ1 Alternatives)	"The Applicant has submitted information on the Sequential Test... and concludes that there are no available sites which could deliver the scheme in areas of lower flood risk."	Evasion: This response is purely recursive, pointing back to the flawed antecedent documents (REP2-080/REP3-069) that demonstrably miscategorised FZ1 land. It fails the test of transparent scrutiny.
Runoff Modelling (Rule 17)	The Applicant provided a procedural instruction to consult Section 4 of the FRA/ODS, refusing to submit a separate Technical Note on runoff calculations.	Procedural Impropriety: This is a clear case of defying an ExA request for specific, auditable, mathematical data. It leaves the key parameters—like the post-development runoff coefficient (—) —unverified, thus failing the safety requirements of the Exception Test.
Financial/Economic Viability	D4R80 rejects the need to model constellation sites.	Substantive Failure: The Applicant avoids the core of the financial argument: that the exceptional cost of flood resilience invalidates the economic case for the current high-risk location. This risks the Secretary of State approving a decision based on an incomplete financial risk ledger.
Procedural Governance	The Applicant claims compliance with all statutory duties and denies making any effort to minimise community opposition.	Legalistic Defence: This approach is belied by the formal ExA intervention (Rule 17) to compel the removal of panels from FZ2/3 and requests for missing survey data. The pattern of refusal to provide critical data suggests a failure in the Duty to Assist the ExA.

4.2 Responses to Heather Fox (Flood Resilience and Freeboard)

Submission Focus	Applicant Response (D4R9, D4R29, D4R66)	Critical Analysis
Flood Extent and Mitigation	Confirmed that 63% of the solar array extent area is	Dangerous Over-reliance on Mitigation: Acknowledging

	within the design flood extent. All panels are now proposed to be raised above the design flood level as agreed with the EA.	that almost two-thirds of the generation area is within the flood extent validates the critical need for a Sequential Test pass. The claim that raised panels are sufficient ignores the failure to avoid the risk first.
"5mm Tolerance"	Confirmed the Environment Agency (EA) agreed to a 5mm tolerance for flood level increase, meaning the development is appropriately designed.	Flawed Metric: Relying on the EA's agreement for a 5mm tolerance skirts the technical reality that a tolerance this small is negligible given the kinetic energy effects of accelerated runoff and the possibility of debris accumulation. It transfers the margin of error and risk to local communities.
Turbulence and Erosion	Notes the EA requested a supplementary assessment on impact to flood flow conveyance. Soil erosion will be managed via the Outline Soil Management Plan.	Deferral of Core Risk: Deferring the proof of flood safety to an outline plan (post-consent) rather than resolving the technical flaw during the Examination fails to satisfy the safety requirements of the Exception Test.

Footnotes

1. One Earth Solar Farm Ltd is a joint venture between Padero Solaer Ltd (PS Renewables) and Ørsted Onshore UK Ltd.
2. The application proposes a capacity of up to 740 MW.
3. The DCO application covers approximately 1,409 hectares of land.
4. The total number of responses received during the statutory consultation period was 348.
5. Only 43 individuals responded via the official online or paper questionnaire during the consultation.
6. The Planning Practice Guidance (PPG) update on Flood Risk and Coastal Change was published on 17 September 2025.
7. The updated PPG clarifies that for the Sequential Test, 'Ownership is irrelevant' in defining a 'reasonably available' alternative site.
8. The PPG also confirms that a 'reasonably available' site can include 'multiple smaller sites' or plots in combination.
9. The Applicant stated that identifying willing landowners was a factor in site selection.
10. The Applicant's response to REP4-079 asserts that alternative smaller sites could not be combined to meet the same development need.

11. West Lindsey District Council noted that Alternative Sites AP9, AP11, and AP12 appeared to contain a "significant proportion" of Flood Zone 1 land despite the Applicant classifying them otherwise.
12. Floodplain areas within the project boundary constitute 56% of the overall site area.
13. The Flood Risk Assessment (FRA) originally identified that 63% of the solar array extent area is within the design flood extent.
14. All panels are now proposed to be raised above the design flood level to a maximum of 3.8m in high-risk areas.
15. Stephen Fox's technical analysis challenges the Applicant's assumption of hydrological neutrality, citing research that solar panels can increase peak discharge by up to 11.7 times.
16. Fox formally requested a Rule 17 action for a Technical Note on Runoff Mitigation Calculation, specifically demanding the post-development runoff coefficients () and attenuation volume calculations.
17. The Applicant's response to the runoff calculation was merely a procedural instruction to refer to the FRA/ODS.
18. Fox quantified the uncompensated flood storage loss resulting from the 5mm tolerance agreement as at least 39,900 cubic meters.
19. The Environment Agency (EA) confirmed an agreed 5mm tolerance for flood level increase in the floodplain, below which the development is deemed acceptable.
20. The Applicant confirmed that the management of soil erosion and compaction would be via the *Outline Soil Management Plan*.
21. The Examining Authority issued a second Rule 17 request on 19 November 2025, inviting the Applicant to consider, without prejudice, removing panels and associated development from Flood Zones 2 and 3.
22. Heather Fox raised concerns about the deliberate omission of a Mental Health Survey conducted by a local doctor from the Consultation Report.
23. The Consultation Report states that the mental health survey was considered as feedback, despite community claims of omission.
24. The ExA issued written questions (ExQ3) on 19 November 2025, requesting confirmation on whether the Applicant received the survey and script, confirming the issue was unresolved post-Deadline 4.
25. The Examination is scheduled to close on 8 January 2026.