



One Earth Solar Farm

Volume 9.0: Other Post-Submission Documents [EN010159]

Applicant Response to Rule 17 Letter

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Revision 01

1. Introduction

1.1 Context

- 1.1.1 This document provides the Applicant's response to the Examining Authority's Rule 17 letter dated 19 November 2025 regarding the exclusion of panels and associated infrastructure from Flood Zones 2 and 3. The Applicant's response to the second Rule 17 letter dated 19 November 2025 regarding the water environment more generally will be provided at Deadline 8, as requested.
- 1.1.2 The Applicant's response to the Rule 17 letter is set out below.

1.2 Response to Rule 17 Letter

Should the Secretary of State conclude that the Sequential Test has not been passed and the consequential failure of not passing this test outweighs the need for the proposed development...

- 1.2.1 This context of the letter is for the Applicant to consider the hypothetical scenario whereby the Secretary of State has (a) found that the Applicant has not complied with the Sequential Test; and (b) found that failure to comply with the Sequential Test outweighs the need for the Proposed Development. The Applicant's position on these points is well-established.
- 1.2.2 In response to (a), the Applicant has clearly and demonstrably applied the Sequential Test to its site selection and project design, in accordance with policy and guidance. The Applicant has taken a proportionate approach and focused on realistic alternatives, presenting a detailed analysis in its Sequential and Exception Test **[REP2-080]** and Addendum **[REP3-069]**. This analysis has extended beyond the local planning authority boundaries and has considered whether the site could be split across a number of alternative sites at lower risk of flooding. Ownership of land has not been a determining factor in the analysis. The outcome of the Sequential Test is that there are no reasonably available sites that are sequentially preferable that would deliver the same development need as the Proposed Development. No party has identified an alternative site or sites for consideration. Any suggestion that there are alternative site(s) available which could serve the intended market as effectively and with a reasonable prospect of being developed at the same time as the proposed development (as required by guidance) is mere assertion with no specificity or evidence.
- 1.2.3 In response to (b), even if the Secretary of State finds that the Applicant has not complied with the Sequential Test (which the Applicant strongly disputes), this would not outweigh the established need for the Proposed Development which is Critical National Priority Infrastructure. Section 104(3) of the Planning Act 2008 requires the Secretary of State to decide the DCO application in accordance with the national policy statements. NPS EN-1 establishes an urgent need for CNP

Infrastructure which in general will outweigh any other residual impacts (para. 3.3.63). Therefore, the decision on whether to grant consent must, as a starting point, afford substantial weight to the need case for the Proposed Development (para. 4.2.6) reflecting the importance and urgency of the Government's Clean Power 2030 Mission, decarbonisation and energy security requirements. Any perceived failure of the Sequential Test would be policy non-compliance only, there would be no "real world harm" and no unacceptable flood risk associated with the Proposed Development. The presumption of consent referred to in paragraph 4.2.15 of NPS EN-1 therefore remains intact.

...the applicant is asked to consider whether an amendment to exclude panels and associated infrastructure from Flood Zones 2 and 3 would represent the same Nationally Significant Infrastructure Project as originally applied for.

- 1.2.4 Notwithstanding its position on limbs (a) and (b) set out above, the Applicant has considered the potential for exclusion of panels and associated infrastructure from Flood Zones 2 and 3 as requested by the ExA. The Applicant considers that, on its facts, this would represent a fundamentally different NSIP from that applied for.
- 1.2.5 If the Applicant were to remove these panels and associated infrastructure, the area of Work No. 1 (solar PV and associated infrastructure) would be reduced by 59%, resulting in the removal of 537.7 ha from the Proposed Development. This would reduce the anticipated generating capacity from c.740MW to 320MW. This has a number of consequences. The amended scheme would not be meeting the same need as the current scheme if the capacity was reduced by almost half because it could not produce enough energy for more than 200,000 homes each year, which the current scheme will. In addition, the grid connection agreement would need to be amended which has timing impacts and additionally would then leave a residual capacity of up to 420MW which would still be available at High Marnham for another project to connect into. As identified within the application documents, any additional project would likely be within the Flood Zones and the issue that the ExA is seeking to resolve by removing infrastructure and panels from Flood Zone 2 and 3 would likely be replicated in any future application.
- 1.2.6 Such a reduction in anticipated generating capacity would also be entirely disproportionate to the residual negligible impacts on flood risk associated with the Proposed Development, and contrary to the Government's clear and established policy to urgently deliver CNP Infrastructure. The Applicant notes that paragraph 4.2.24 of updated NPS EN-1 (December 2025) states "*Measures that result in a material reduction in generation capacity for CNP infrastructure are unlikely to be considered to be appropriate as mitigation*". The removal of solar PV and associated infrastructure from Flood Zones 2 and 3 would have a direct and material reduction in the generating capacity of the Proposed Development, which is CNP Infrastructure, and therefore be inconsistent with Government policy. In any case the mitigation is entirely unnecessary as the residual effects of the Proposed Development on flood extent are negligible with no increase in flood risk.

- 1.2.7 Ultimately therefore, such a proposal would be a fundamentally different scheme from the one applied for, and not one which the Applicant seeks to promote. The reduction in Work No. 1 and the associated reduction in generating capacity would render the Proposed Development in its current form unviable.
- 1.2.8 As a result, the Applicant has not sought to amend the application documents to accommodate this change.

If it would, then the applicant is asked to consider, on a without prejudice basis, the alterations that would be required to the order limits, the Development Consent Order, the Land Plan, the Works Plan, and any other necessary alterations, to accommodate the changes that would be required to the application.

- 1.2.9 Given the response to the previous question, the Applicant has not considered updates to the application documents to accommodate this change.

The applicant is also asked to comment on the implications of these alterations for the functionality and viability of the proposed development overall, although we note the response already provided following ISH2 set out at page 32 of [REP3-065].

- 1.2.10 Whilst the Applicant does not propose to alter its application documents as suggested, the Applicant refers to its response above and also wishes to take this opportunity to make the following fundamental points:
- > The Flood Risk Assessment **[REP5-028]** is highly precautionary. The assessment considers a design flood event with a 39% climate change allowance. That is to say the design flood extent (where will flood and by how much) used in informing the design of the Proposed Development is based on a 1 in 100 year flood event; this is the level of flooding that emergency planners use for serious, damaging events, not everyday rainfall or normal winter flooding. In addition, to account for the impact of climate change, an additional 39% is added to river flows which in turn impacts upon the flood level and extent. Section 1.2 of the Applicant's Response to D5 Submissions maps the design flood event being used as a baseline, which sets important context when considering the negligible impacts of the Proposed Development. Figure 2 in that section demonstrates that if the Proposed Development was not brought forward but the design flood event plus 39% climate change scenario were to occur, flooding is extensive and includes the settlements of North Clifton, South Clifton and Dunham. The additional impacts of the Proposed Development are negligible and do not increase flood risk.
 - > The scheme has been designed to mitigate impacts on flood risk through sensitive siting and design of infrastructure, and a range of mitigation measures are secured through the DCO.

- > The fundamental need for the Proposed Development is rooted in climate change mitigation, via decarbonisation of the GB electricity system. The most significant source of flood risk over the coming decades can reasonably be attributed to climate change. To reduce or refuse to consent c.740MW of renewable energy due to a perception of policy non-compliance despite there being no real-world flood risk, is illogical. The suggested removal of solar PV panels in Flood Zone 2 and Flood Zone 3 would have no significant benefit to flood extent and associated risk (with effects already at a negligible level) but would severely restrict the generation capacity and function of the Proposed Development. The removal is therefore entirely contrary to national policy, specifically paragraph 4.2.24 of the updated NPS EN-1.

- 1.2.11 There is therefore no sound reason in policy terms for the Proposed Development to be amended to remove solar PV panels and associated infrastructure within Flood Zones 2 and 3. Such an amendment would reduce the anticipated generating capacity of the Proposed Development by 420MW and be contrary to Government policy. The Applicant considers that such a reduction in function, in the context of the compelling need case for maximising low carbon energy generation, cannot be justified. The Applicant therefore fundamentally disagrees with the proposed removal of solar PV panels and associated infrastructure and has not updated its application documents to accommodate this change.
- 1.2.12 The Applicant seeks development consent for the Proposed Development as applied for, as set out in its draft DCO **[REP5-018]** and Works Plan **[REP5-005]**.



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