

**From:** [REDACTED]  
**To:** [One Earth Solar](#)  
**Subject:** Necessity to Issue Rule 17 Directions regarding Fundamental Evidentiary Gaps  
**Date:** 14 December 2025 17:09:40

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To: The Examining Authority

Case Team: One Earth Solar Farm (EN010159)

From: Stephen Fox (Interested Party Reference: [REDACTED])

Date: 14 December 2025

Subject: URGENT PROCEDURAL SUBMISSION: Necessity to Issue Rule 17 Directions regarding Fundamental Evidentiary Gaps

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.**

### **1. Procedural Status of Outstanding Requests**

I write regarding the four of my Requests for Further Information previously submitted to the Examination by the Interested Party. I note that while the Examining Authority (ExA) has "published" these documents in the Examination Library as Written Representations, it has not yet exercised its powers under **Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010** to formally *issue* them to the Applicant.<sup>1</sup>

### **2. The Inadequacy of "Publication" vs. "Issuance"**

I respectfully submit that merely publishing these requests is procedurally insufficient to discharge the ExA's inquisitorial duty in this specific instance. The distinction is critical to the integrity of the Examination:

- **Publication** merely invites the Applicant to comment. As evidenced by the Applicant's response to the Action Points from Issue Specific Hearing 3 (ISH3), their established strategy is to respond to technical queries with circular references to existing, defective documents rather than providing the specific raw data requested.
- **Issuance (Rule 17 Direction)** creates a binding procedural obligation. It compels the Applicant to provide specific data points (e.g., Runoff Coefficients, Financial Models) under the threat of adverse inference.

### **3. Evidence of Procedural [REDACTED] (The "ISH3" Precedent)**

The necessity for a formal Direction is proven by the Applicant's conduct regarding the **Solar Runoff Calculation**. During ISH3, the ExA granted an Action Point

requiring an explanation of the calculation of mitigation for solar panel runoff. In their "Written Summary of Oral Submissions at ISH3," the Applicant responded not with the requested calculation, but with a procedural instruction directing the ExA and Interested Parties to "Section 4 of the Flood Risk Assessment and Outline Drainage Strategy (FRA/ODS)" .

This response constitutes a refusal to engage. The Action Point was issued precisely because the existing FRA was deemed insufficient to explain the specific hydraulic impact of concentrated runoff from glass panels. By pointing back to the disputed document, the Applicant has successfully evaded scrutiny. If the ExA continues to treat my requests merely as "comments" to be noted, this pattern of evasion will continue, leaving the Examination with a "Failure to Inquire" into:

1. **Safety:** The volumetric capacity of the drainage system (The Exception Test).
2. **Viability:** The financial proof required to reject safer alternative sites (The Sequential Test).

**4. The Request**

I formally request that the ExA **issues the four texts attached to this letter as Rule 17 Directions** to the Applicant immediately.

If the ExA decides to rely on the Applicant's unverified assertions and refuses to compel this primary data, I request a **Procedural Decision** explaining how the ExA intends to verify the project's compliance with the Exception Test and Compulsory Acquisition tests in the absence of this evidence.

Yours faithfully,

Stephen Fox

Interested Party Reference: [REDACTED]

(Litigant in Person)

**APPENDIX A: Rule 17 Request – Financial Viability (Sequential Test)**

**SUBJECT: NECESSITY OF QUANTIFIED COMPARATIVE FINANCIAL DATA**

Rationale:

The Applicant has rejected safer, Zero-Flood-Risk sites (AP14, AP15, AP17) based on an unquantified assertion of "commercial feasibility" . To verify compliance with the Sequential Test, the ExA is requested to compel the Applicant to submit a Comparative Financial Model containing the following specific metrics:

<b>Metric</b>	<b>High Marnham (Proposed Site)</b>	<b>Zero-Flood-Risk Alternative (e.g., AP14)</b>	<b>Justification for Materiality</b>
<b>Total Capital</b>	Submitted figure, including required flood mitigation	<b>Calculated Figure:</b> Estimated cost of extended cable routing (including civil	To verify that the cable extension cost for the alternative site is sufficiently high

<b>Expenditure (CapEx)</b>	infrastructure (e.g., raised BESS and substations)	works, materials, and land rights assembly).	to negate the benefit of avoiding significant flood risk.
<b>Operational Costs &amp; Process Losses</b>	Long-term operational costs, including insurance and maintenance in a 54% Flood Zone 2/3 area.	<b>Calculated Cost:</b> Monetary valuation of the incremental process losses (reduced yield due to cable distance, AC/DC losses, etc.) over the entire project lifetime.	To test the economic efficiency argument for grid proximity against the environmental mandate .
<b>Net Present Value (NPV)</b>	Final calculated financial return, incorporating all mitigation costs.	<b>Calculated NPV:</b> Final financial return, incorporating the CapEx/OpEx penalty of the extended cable run.	To directly compare the commercial viability, which is essential to determine if the Applicant has complied with NPS EN-1.

## APPENDIX B: Rule 17 Request – Land Acquisition (Commercial Motive)

### SUBJECT: CHRONOLOGICAL LAND ACQUISITION LOG

#### Rationale:

The Planning Practice Guidance (PPG) states that alternative sites "do not need to be owned by the applicant to be considered 'reasonably available'" . To audit whether the site selection was driven by pre-existing land deals rather than planning merit (as required by the EIA Regulations regarding "reasonable alternatives"), the ExA is requested to compel the Applicant to submit a Chronological Land Acquisition Log for all parcels within the Order Limits.

#### Required Data Points:

1. **Date of Initial Contact:** The date the Applicant (or its agent) first engaged with the landowner regarding the land parcel.
2. **Date of Option Agreement Execution:** The date any legally binding option agreement or heads of terms for a lease was executed for that specific parcel.

#### Objective:

This data will be cross-referenced against the date of the "Alternative Site Assessment" to determine if the rejection of alternative sites was predetermined by prior commercial commitments at High Marnham .

**APPENDIX C: Rule 17 Request – Solar Runoff Calculation (Exception Test)**

**SUBJECT: FAILURE TO PROVIDE CRITICAL FLOOD RISK MITIGATION CALCULATION DATA**

Rationale:

The Applicant failed to address the ISH3 Action Point regarding solar panel runoff, merely referring back to the FRA. Standard "Greenfield" calculations ( $Q_{bar}$ ) fail to model the high-energy "disconnected impervious surface" effect of solar arrays, which can increase peak discharge by up to 11 times compared to natural ground .

**Required Information:**

Data Point	Description
<b>Post-Development Runoff Coefficients (\$C\$)</b>	The precise coefficient values applied to the PV array areas, justified by how they explicitly model the accelerated, concentrated flow from solar panels (i.e., accounting for the "disconnected impervious surface" effect).
<b>Attenuation Volume Calculation</b>	The specific calculations demonstrating how the required storage volume for all attenuation features was derived from the calculated post-development peak flow ( $Q_{post}$ ) for 1-in-100 year events plus climate change allowance.

**APPENDIX D: Rule 17 Request – Floodplain Storage Tolerance (Policy Compliance)**

**SUBJECT: DISCREPANCY IN STORAGE LOSS TOLERANCE AND EA AGREEMENT**

Rationale:

The Applicant asserts a "5mm tolerance" for flood depth increase is agreed with the Environment Agency (EA). The EA's filings suggest no such formal agreement exists. The ExA cannot adjudicate this on "trust."

**Required Information:**

The ExA is requested to issue a direction requiring the Applicant and the Environment Agency to complete the following table to clarify the position on the record:

Date	Applicant Action/Claim	EA Response/Position	Procedural Status
10/06/2025	SoCG Rev 1: Applicant asserts "EA has agreed to	EA clarifies position: "Engagement ongoing, no definitive agreement	Disputed

	5 mm tolerance."	reached."	
<b>01/11/2025</b>	Final SoCG: Applicant cites "agreement in principle."	EA issues statement: "Non-binding; no formal threshold endorsed."	<b>Disputed</b>

**Volumetric Justification:**

The Applicant is further required to produce the specific Volumetric Evidence that justifies the claim that a +2.2mm (West) and +3.5mm (East) increase in flood depth results in "negligible" loss of floodplain storage, specifically addressing where the displaced water is re-distributed .

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**References:**

1 The Infrastructure Planning (Examination Procedure) Rules 2010, Rule 17(1).

Issue Specific Hearing 3 (ISH3), Action Point regarding calculation of mitigation for solar panel runoff.

Applicant's Written Summary of Oral Submissions at ISH3, Response to Action Points.

Overarching National Policy Statement for Energy (EN-1), paragraph 4.3.15.

The Applicant's flood mitigation strategy necessitates raising critical infrastructure (BESS/substations) outside Flood Zones 2/3.

National Planning Policy Framework (NPPF), Paragraph 167 (Sequential Test).

Planning Practice Guidance (PPG), Flood Risk and Coastal Change, paragraph 028.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, Schedule 4, Paragraph 2 (Reasonable Alternatives).

Baiamonte et al., regarding "disconnected impervious surfaces" and hydrological impact of PV arrays.

Environment Agency Guidance: "Flood risk assessment: local flood risk standing advice" (No Net Loss principle).

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Regards

Stephen