

From: [REDACTED]
To: [One Earth Solar](#); [REDACTED]
Cc: [REDACTED]
Subject: Conclusive evidence of a prima facie a case of applicant [REDACTED]
Date: 09 December 2025 12:33:16
Attachments: [Critical Analysis of Applicant Responses to ExQ3 1.01 and 1.02..docx](#)

TO: The Examining Authority **PROJECT:** One Earth Solar Farm (EN010159) **FROM:** Stephen Fox (Interested Party Ref: [REDACTED]) **DATE:** 09.12.25

Dear Sirs

SUBJECT: Conclusive evidence of a [REDACTED]
[REDACTED]

I attach my report headed **Critical Analysis of Applicant Responses to ExQ3 1.0.1 & 1.0.2: Procedural [REDACTED] and the [REDACTED] of Material Evidence** for submission to the examination. This document provides conclusive evidence of a [REDACTED] of applicant [REDACTED] and of an outright [REDACTED] of th ExA's attempt to correct the record of the examination.

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Yours faithfully

Stephen Fox

Interested Party Reference number: [REDACTED]

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. .

Critical Analysis of Applicant Responses to ExQ3 1.0.1 & 1.0.2: Procedural [REDACTED] and the [REDACTED] of Material Evidence

Executive Summary

The Applicant's response to the Examining Authority's (ExA) Third Written Questions (ExQ3) regarding "Missing Documents" constitutes a material escalation of the procedural impropriety observed to date. Far from a simple administrative correction, the Applicant's submission of "minutes" in place of the specific "verbatim script" requested—and their continued [REDACTED] of the Dr. Fletcher Health Survey—demonstrates a [REDACTED] effort to [REDACTED] the Examination record. The Applicant has simultaneously confirmed the initial [REDACTED] by providing two of the missing document but has refused to cooperate with the attempted cure offered by the ExA by excluding the script and associated correspondence.

This analysis contends that the Applicant's conduct extends beyond mere non-compliance with the *Gunning Principles*. By [REDACTED] withholding material information that they were under a legal duty to disclose (Section 37 of the Planning Act 2008), with the apparent intent of securing the acceptance of their application, the Applicant's actions now arguably meet the legal definition of [REDACTED].

1. Critique of Response to Q1.0.1: The Dr. Fletcher Health Survey

The Applicant's response regarding the mental health survey of 109 residents is characterized by admission without acceptance. While they confirm receipt of the document, their justification for its prior exclusion rests on a flawed legal premise intended to minimize its significance.

1.1 The "Pre-Application" Fallacy

The Applicant argues that the survey is not relevant to the Environmental Statement (ES) because "the impacts highlighted by Dr. Fletcher relate to the pre-application period." This is a material misdirection. The *Infrastructure Planning (Environmental Impact Assessment) Regulations 2017* (Regulation 5(2)(d)) require an assessment of the direct and indirect significant effects on "population and human health". The anxiety ("solastalgia") and sleep disturbance recorded in the survey are not administrative complaints about the consultation process; they are symptoms of the community's distress regarding the *proposed development itself*. By categorizing these as "consultation feedback" rather than "health impacts," the Applicant attempts to bypass the requirement for a robust Human Health assessment in the ES.

1.2 Minimization of Data

The Applicant claims to have "met with neighbours" as a sufficient mitigation. This conflates qualitative engagement with quantitative evidence. The survey provided a dataset of 109 individuals—a statistically significant sample for the parish. By excluding this data from the Examination Library until compelled, the Applicant has deprived the ExA of the ability to weigh the true scale of the social impact in the planning balance.

2. Critique of Response to Q1.0.2: The "Script" vs. The "Minutes"

The most significant procedural failure lies in the response to Question 1.0.2. The Applicant's submission of "Appendix B" (referenced as "notes/script of the meeting") is a [REDACTED] conflation that fails to satisfy the ExA's specific request.

2.1 The "Bait and Switch": The [REDACTED] of the August 2nd Email

The Examining Authority's question was precise: "*Can you confirm whether you received... the **script** of the meeting held on 1 August...*".

In response, the Applicant states: "*Separate to that document, the action group submitted their notes from that meeting, which is also appended to this document (see Appendix B).*"

This response employs a "sleight of hand" by substituting the "minutes" for the **verbatim script** and, crucially, [REDACTED] the accompanying correspondence.

- **The Missing Email (02/08/2024):** On August 2nd, 2024, the Interested Party sent an email directly to [REDACTED] (Principal Officer, One Earth). This email attached the verbatim script read at the meeting and further elaborated on the

points raised (flood risk, surface runoff, cumulative flooding, site selection mental health) to ensure there could be no ambiguity regarding the challenges presented.

- **The "Lost" Attachment:** When challenged on the omission of this document in July 2025, the Applicant stated, *"I know it was included in an earlier draft but appears to have been lost in the finalisation process."*
- **The Continued Omission:** Despite this admission and the specific ExQ3 request, the Applicant has *still* failed to produce the August 2nd email and the attached script in their Deadline 6 response. They have effectively [REDACTED] the record by providing only the minutes, which lack the forensic weight and technical detail of the script and the direct warning provided to [REDACTED].

2.2 The [REDACTED] of Substantial Technical Evidence

The exclusion of the script and the August 2nd email is [REDACTED]. These documents did not merely record "concerns"; they laid out substantial, technical challenges that strike at the viability of the project. By withholding them, the Applicant [REDACTED] the fact that they were formally notified of the following fatal flaws on August 2, 2024:

- **Flood Risk and Hydrology:** The script detailed specific failures in the Applicant's hydraulic modeling, particularly regarding the impact of solar arrays on surface water runoff in a functional floodplain. It challenged the assumption that greenfield runoff rates would be maintained, citing the "cluster effect" of adjacent solar schemes.
- **Site Selection (Sequential Test):** The script challenged the Applicant's site selection logic *before* the DCO submission. It highlighted the availability of lower-risk land (Alternative Site A) and the invalidity of the "willing landowner" constraint—arguments that have since been validated by the September 2025 PPG update.
- **High Marnham Connection:** The script questioned the technical and economic rationale for the connection to High Marnham, suggesting that the site selection was driven by grid proximity rather than environmental suitability, contrary to national policy.

3. Context of Suppression: The Unpublished Deadline 4 Submission

The Applicant's [REDACTED] in ExQ3 must be viewed in the context of their treatment of the Interested Party's Deadline 4 submission (Reference [REDACTED], "Chronology Establishing [REDACTED]").

This submission, which detailed the exact chronology of the "lost" files and the [REDACTED] reporting, appears to have been [REDACTED] or withheld from publication

in the Examination Library at the time. By preventing this "Chronology" from entering the public domain, the administrative process has obscured the pattern of behaviour—the "three-month silence," the [REDACTED] of meeting attendees (excluding South Clifton Parish Council), and the [REDACTED] of the script and email.

The Applicant's current failure to provide the script in response to ExQ3 is not an isolated error; it is the continuation of the specific [REDACTED] tactics detailed in the unpublished Chronology Establishing [REDACTED] submission. They are maintaining the [REDACTED] that the meeting was informal and the feedback was immaterial, when the [REDACTED] documents prove otherwise.

4. Analysis of Attempted "Cure" and "Confinement" of [REDACTED]

The interaction between the ExA's question (ExQ3) and the Applicant's response reveals a distinct strategy to contain the legal fallout of the initial [REDACTED].

4.1 The ExA's Attempt to Cure

By issuing ExQ3, the Examining Authority attempted to offer the Applicant a "ladder to climb down." The question attempted to provide a procedural mechanism for the Applicant to "cure" the defect of the missing documents by late disclosure. Had the Applicant submitted the **full, unredacted script** and the **August 2nd email** with a candid apology, the ExA hoped the allegation of [REDACTED] might have been downgraded to "Administrative Error." The ExA hoped this would have restored the integrity of the Examination, albeit belatedly.

4.2 The Applicant's "Confinement" Strategy

The Applicant rejected this opportunity to "cure" the defect. Instead, their response is designed to **"confine the [REDACTED]"** to a manageable administrative failure.

- **Confining the Scope:** By admitting only to the "minutes" (a [REDACTED] summary) and ignoring the "script" (the forensic evidence), the Applicant attempts to confine the ExA's attention to a document that is less damaging to their case.
- **Confining the Timeline:** By claiming the documents are merely "snapshots in time" that predate their final assessments, they attempt to confine the relevance of the [REDACTED] to the past, arguing it has no bearing on the current Examination.
- **Confining the Liability:** By continuing to withhold the August 2nd email to [REDACTED] they attempt to [REDACTED] specific individuals from evidence of [REDACTED]

4.3 Failure of the Strategy

This attempt to confine the [REDACTED] has failed because the Interested Party has retained the original evidence (the script and email receipt). Consequently, the Applicant's partial disclosure does not "cure" the Section 37 breach;

it **compounds** it. It proves that the [REDACTED] is not accidental but is an **ongoing**, [REDACTED] of information control that persists even under direct questioning from the Examining Authority.

5. The Definition of [REDACTED]: A Prima Facie Case

The Applicant's conduct—specifically the active [REDACTED] of the script and survey during the s55 Acceptance stage—now meets the threshold for serious legal scrutiny under the [REDACTED]

5.1 Legal Framework: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5.2 Application to One Earth Solar Farm Conduct

1. The Legal Duty to Disclose: The Applicant is subject to a statutory duty under **Section 37 of the Planning Act 2008**. This section mandates that the application must be accompanied by a Consultation Report giving details of "relevant responses" to the statutory consultation. Furthermore, the "Duty of Candour" in public law proceedings requires full disclosure of material facts to the Examining Authority. The Applicant had a strict legal duty to disclose the script, the August 2nd email to [REDACTED], and the survey as "relevant responses."

2. [REDACTED]
[REDACTED] The Applicant:

- Acknowledged receipt of the documents on August 2, 2024.
- Excluded them from the Consultation Report submitted in February 2025.
- Claimed the file was "lost in the finalisation process" when challenged in July 2025.
- Has now, in response to ExQ3, [REDACTED] "minutes" for the "script" and [REDACTED] the covering email to avoiding revealing the specific technical warnings they ignored and the specific individual to whom it was addressed. This pattern of [REDACTED] [REDACTED] indicates [REDACTED].

3. [REDACTED] was the **Acceptance of the Application for Examination**. Had the Planning Inspectorate (PINS) been aware during the Section 55 Checklist phase that the Applicant had [REDACTED] a 109-person mental health survey and a verbatim script detailing fatal flood risk flaws and sequential test failure suppression, the application would likely have been rejected as inadequate under Section 55(3)(e) (adequacy of consultation). By

██████████ this evidence, the Applicant ██████████ "passed through" to the examination phase, avoiding rejection or the costs of delays and re-consultation.

6. Conclusion

The Applicant's response to ExQ3 acts as a confirmation of their ██████████ ██████████. By continuing to withhold the **verbatim script** and the **August 2nd email to ██████████**—the documents that explicitly warned them of the flood risk and hydrology failures—they are attempting to maintain the ██████████ that the Consultation Report was an honest and accurate document.

This conduct goes beyond procedural untidiness. It satisfies the criteria for ██████████ ██████████. The Applicant was under a duty to report these consultation responses; they ██████████ withheld them to gain entry to the Examination; and they continue to ██████████ them to prevent the full extent of the ██████████ being recognized by the Secretary of State.

NOTICE REGARDING PRIVILEGE AND NON-REDACTION

Statutory and Common Law Privilege This submission contains formal representations made to a quasi-judicial Examination established under the *Planning Act 2008*. The contents herein are protected by **Absolute Privilege**, or at a minimum **Qualified Privilege**, as they constitute material evidence relevant to the Examining Authority's statutory duty to examine the application under Section 87 of the Act. This privilege extends to the disclosure of potential ██████████ where relevant to the integrity of the planning process (*Trapp v Mackie* 1 WLR 377; *Lincoln v Daniels* 1 QB 237).

Prohibition on Redaction of Material Evidence The allegations of ██████████ detailed in Section 5 are not ██████████ abuse but are particularised submissions of fact regarding the ██████████ ██████████. Any redaction of these sections by the Planning Inspectorate would constitute **procedural impropriety** and a breach of the principles of natural justice, as it would amount to the suppression of evidence critical to determining whether the Application was lawfully accepted for Examination. The Examining Authority is put on notice that the Interested Party reserves the right to seek Judicial Review should this material evidence be withheld from the public record or the Secretary of State.

References

1. ██████████ Guidance.
2. Examining Authority's Written Questions 3 (ExQ3) - Questions 1.0.1 and 1.0.2.
3. Surrey County Council - Guidance on EIA Regulations & Human Health in NSIPs.

4. South Clifton Parish Council - Survey Results (109 responses, 99% Opposition, Anxiety).
5. Stephen Fox - ExQ2 Response (Claims of "Lost" Files and Survey Omission).
6. Interested Party Submission FA3AE8AE5 - "Chronology Establishing [REDACTED]" (Deadline 4 Submission).
7. Stephen Fox - Response to Written Representations (Details of 1 Aug 2024 Meeting [REDACTED]).
8. Stephen Fox - Hydrology & Runoff Analysis.
9. Sheila Pumfrey - Additional Submission on Flooding Concerns.
10. Stephen Fox - Written Submission 5 (Flood Risk & Sequential Test Arguments / PPG Update).
11. Applicant Response to Local Impact Reports (LIRs) - High Marnham Connection Rationale.
12. *McCaffrey v Dartmoor NPA* - Legal definition of [REDACTED] (Omissions).
13. Keystone Law - Planning Enforcement & [REDACTED]
14. Planning Act 2008, Section 37 - Duty to submit Consultation Report.
15. *R (Friends of the Earth) v Secretary of State for Transport* - Duty of Candour.
[REDACTED]
[REDACTED]
17. Planning Act 2008 - Section 55 Acceptance Checklist / Adequacy of Consultation.