

[REDACTED]

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**From:** Charlie Fox [REDACTED]  
**Sent:** 22 June 2026 16:42  
**To:** One Earth Solar  
**Subject:** Written Representation in Response to the Secretary of State's Consultation Letter dated 21st May 2026 Requesting Responses to the Post Examination Submissions Regarding Draft Requirements 7 and 22.

Formal submission to the Secretary of State

Interested Party Reference: FCC2DAFFA

Project: One Earth Solar Farm EN010159

Written Representation in Response to the Secretary of State's Consultation Letter dated 21<sup>st</sup> May 2026 Requesting Responses to the Post Examination Submissions Regarding Draft Requirements 7 and 22.

22<sup>nd</sup> June 2026

Dear Secretary of State,

I am writing to you as an Interested Party in response to your letter of 21<sup>st</sup> May 2026, requesting responses to the previous responses to your initial request for further information on 1<sup>st</sup> May 2026.

After reading all responses to your request the point I would like to address concerns the Applicant's FRA and ODS, involving safety of the BESS and consequent public safety. These are legitimate issues, since public safety is paramount in policy. The Secretary of State must be certain of this at the point of consent. The law and policy dictates it cannot be left to future assurances. There remains a high level of detail to be determined post consent covered by the Requirements 7 and 22.

Regarding this I note NCC (the LLFA), in their response to the change in wording of the requirement, they remark that they do not object to further amendments to the wording of the Requirements but they qualify this by the following phrase "which appears to provide greater clarity on the scope of the Battery Safety Management Plan and Flood Risk Mitigation to be submitted post consent". I am sure NCC chose their words carefully to communicate their thoughts. The inclusion of the word "appears" conveys significant doubt that the wording of the requirement will do as it intends. When the word "appears" is used in a statement it means "to seem" or "give the impression of being true". It indicates that the statement is presented in a certain way but leaves open the possibility that the underlying reality could be different. Hence, that statement from NCC, instils no confidence that changes to the wording of the requirements, or even the requirements themselves, contribute any or further security, as to public safety at the point of consent.

NCC defer to the EA over the fluvial flood risk, but they are the LLFA and the area is subject to surface, ground and reservoir flooding. The Environment Agency then defer to the LLFA on these matters, yet the LLFA (NCC) have openly declared they have neither the "expertise nor resources" to deal with this proposal. So, the Secretary of State is asking these authorities to comment on the wording of the Requirements, when those same authorities defer to each other: one of which lacks expertise and resources, and the other one defers to that authority.

NCC in their response do, with justification, ask the Secretary of State to consider the representations of residents on the issue of flood risk. This issue has such a high level of detail to be determined post consent.

LCC gave a full account of the word changes and their remark that it would have been helpful for the reasoning behind the amended wording to have been included "was logical."

The repose from South Clifton Parish Council rightly reinforces the policy guidance of using the precautionary approach in matters of uncertainty surrounding public safety.

The Applicant, in their response, take it upon themselves to presumptuously suggest to the Secretary of State that he would find it helpful if they provided more information in relation to the existing use of land to support consideration of food security following a review of his decision on Springwell Solar Farm! During the examination the Applicant frequently tried, mistakenly, to reference other solar farm outcomes as being in line with their proposal. Even the Examining Inspector at ISH2 01:45; 35:12, pulled them up on their comparison to Byers Gill saying "the size of the area that is in flood risk within that site, whether there's areas, um, that are at greater risk and so on. And bearing in mind we have areas where you're proposing panels that will be submerged, whether you're comparing an apple with an apple". That was very much the case for every example of comparison the Applicant endeavoured to put forward.

The unqualified acceptance of the word amendments by the Environment Agency (EA) is what I would have expected from them, given the acquiescence I witnessed towards the Applicant's submission during the examination. The EA had noted the absence of The Sequential Test being applied in the PEIR but nothing was made of it. They had asked for assistance with the upkeep of the flood defences. None was forthcoming. They initially asked for 300 -600mms freeboard and no voids under Inverters. That got dropped. The alleged "standard model tolerance" was given to a completely non-standard situation. The EA gave assurances that the Applicant was committed to surveys of the flood defences. That went to "if deemed necessary". The need for level for level compensatory storage for lost storage capacity was dismissed and at no point did the EA reveal that they had checked any figures regarding the applicant's lost storage volume calculations.

Policy guidance is explicit in its consideration of all sources of flooding and there have been recent updates to the EA's Surface Water Flood Map data and rainfall climate change assumptions. These represent unexamined material relevant to this project, and which current policy dictates must be considered. This new data invalidates the data used in the Applicant's FRA and ODS. The EA's updated figures expose expanded surface water flow paths and increased modelled flood depths across the site. As I understand it, reliance by any authority on outdated or factually lacking data and environmental assessments is not legally acceptable (The Shadwell Principle). A determining authority cannot legally rely on historical statutory advice or environmental assessments that have subsequently been proven to be outdated or factually deficient. The Applicant's drainage strategy was modelled against lower surface water baselines and under the new EA mapping the panels will now encounter wider surface water flow routes.

Also, since the extent of the high-risk surface water zones has changed the Applicant's Sequential and Exception Tests are no longer accurate. The proposal's footprint now conflicts with areas that the EA defines as high-risk flow paths. The Applicant has not demonstrated that the development can satisfy the Sequential and Exception Tests under the newly mapped areas.

My conclusion is therefore that the Requirements 7 and 22 which attempt to give certainty and security, remain insecure and fundamentally flawed due to the use of outdated data and recent scientific studies being ignored. These scientific updates have been rigorously and competently evidenced by Interested parties. In response to ExA question 1, point 12.0.9 relating to the Applicant's statement about water run-off, the Applicant admits to using research from Cook and Mc

Cuen 2013 as the basis for the statement. They also admit that “this research does not assess a solar farm of the scale proposed”. This research has subsequently been superseded by Baiamonte et Al 2023 and has been adequately described and referenced by Interested parties.

At Deadline 6, Wednesday December 3<sup>rd</sup>, 2025, I submitted that a search for the specific scientific evidence the EN-3 paragraph 2.10.84 that “since solar panels drain to existing ground, the impact of flooding will not, in general, be significant” is based on, proved fruitless. I found it quoted in circularity with other planning policies but not where it arose from. The EN policies were published in 2011 and Cook and McCuen in 2013 so unless the government used unpublished and therefore unscrutinised papers its derivation remains obscure. The qualifying phrase “in general” may be pertinent in a small area but this is not the case here.

If the Secretary of State grants the DCO based on the outdated, non-compliant flood data which exists in the application, the decision will leave the local community exposed to severe flood risk and render the DCO vulnerable to a Judicial Review, irrespective of modification to the wording of the Requirements 7 and 22.

I thank the Secretary of State for their time and consideration of the above response.

Yours sincerely

Heather Fox