PINS REF: APP/W1525/W/24/3344509 & APP/B1550/W/24/3344510
LPA REF'S: 23/00532/FUL AND 23/00285/FUL
PPG REF: P23-2671
DATE: 17TH SEPTEMBER 2024

FLOOD RISK STATEMENT OF COMMON GROUND

BETWEEN:

ENSO GREEN HOLDINGS J LIMITED
&
CHELMSFORD CITY COUNCIL
&
ROCHFORD DISTRICT COUNCIL

LAND SOUTH OF RUNWELL ROAD, RUNWELL, WICKFORD

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004

PROPOSAL:

"INSTALLATION OF A SOLAR FARM WITH BATTERY STORAGE AND ASSOCIATED INFRASTRUCTURE"

Signed:	**Signed:**	**Signed:**
Name: Alison Hutchinson	**Name:**	**Name:** Rob Riding
On behalf of: Hutchinsons (acting on behalf of Chelmsford City Council)	**On behalf of:** Rochford District Council	**On behalf of:** Pegasus Group (acting on behalf of the Appellant)
Date: 17th September 2024	**Date:**	**Date:** 17th September 2024

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1. INTRODUCTION

1.1 This Statement of Common Ground (SoCG) relates to flood risk and has been prepared by Pegasus Group on behalf of Enso Green Holdings J Limited ('the Appellant').

1.2 It has been prepared in conjunction with Chelmsford City Council ('CCC') and Rochford District Council ('RDC') (the LPAs) and relates to a Section 78 appeal concerning the proposed solar farm with battery storage on Land south of Runwell Road (A132), Runwell, Wickford, Essex, SS11 7QH ('the Appeal Site').

1.3 For the purposes of the Planning Application subject of this appeal, RDC as the Local Planning Authority for part of the Appeal Site, devolved its decision making powers for the application under Section 101 (1) of the Local Government Act 1972 to CCC.

1.4 RDC has confirmed that they intend to take no part in the appeal process but they have confirmed in writing on 13th September 2024 that they support CCC's stance on the appeal.

1.5 The purpose of this SoCG is to identify the areas where the principal parties (the Appellant and CCC) are in agreement and to narrow down the issues that remain in dispute on the matter of flood risk. This will allow the Public Inquiry to then focus on the most pertinent issues. This SoCG should be read alongside the Overarching SoCG.

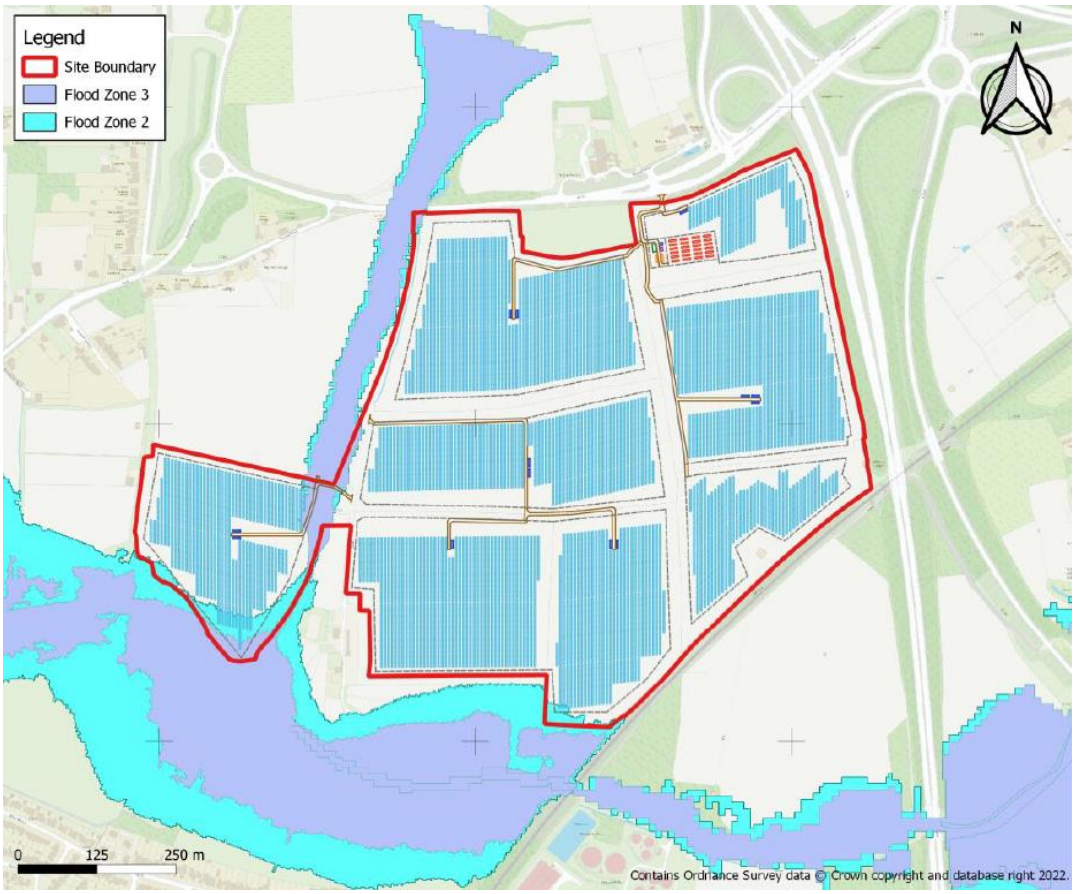
2. FLOOD RISK CHARACTERISTICS OF THE APPEAL SITE

2.1 The Appeal Site spans several agricultural fields and has an unnamed watercourse running through it from north to south, in addition to a number of field drains. The River Crouch is located to the south of the Appeal Site and flows in an easterly direction.

2.2 The Appeal site is raised to the north and the slope declines slightly to the south with a minimum elevation of approximately 8m AOD. The maximum ground level is approximately 23m AOD and the Appeal Site is bounded by higher elevations to the northeast and northwest.

Fluvial Flood Risk

2.3 The Environment Agency's (EA) flood map for planning for the area identifies that the majority of the Appeal Site lies within Flood Zone 1 (low risk) with minor areas of the Appeal Site in Flood Zones 2 and 3 along the River Crouch in the southern part of the Appeal Site and adjacent to the watercourse running north-south.

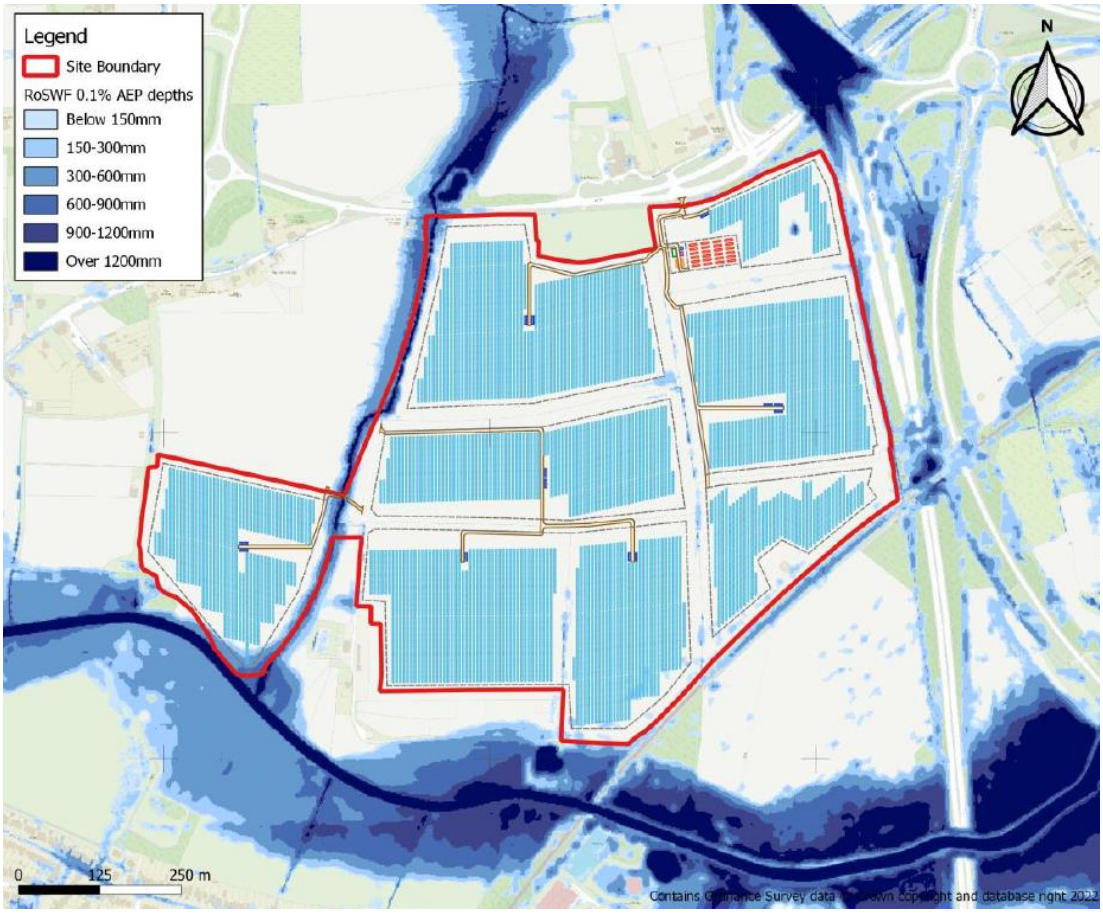


Historical Flooding

2.4 The Environment Agency historic flood map does not show any record of historic flooding at the Appeal Site.

Surface Water Flood Risk

2.5 The Environment Agency surface water flood map for the area displays the depths associated with the 0.1% AEP. Areas of flooding are attributed to the unnamed watercourse (also shown in the fluvial flood map), the field ditches and some minor areas of pooling.



Groundwater Flood Risk

2.6 Groundwater levels vary across the site, with water levels likely to be less than 3m below the ground surface within the floodplains of the River Crouch and the unnamed watercourse.

Reservoir Flood Risk

2.7 The Environment Agency's reservoir flood map indicates that the Appeal Site is not at risk of flooding from reservoirs.

3. PLANNING POLICY FRAMEWORK

3.1 All parties agree that the following planning policies at a national and local level are relevant to the consideration of flood risk at the Appeal Site.

National Planning Policy Framework (December 2023)

3.2 **Paragraph 165** explains that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk and where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

3.3 **Paragraph 168** states that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

3.4 **Paragraph 169** explains that if it is not possible for development to be located in areas with a lower risk of flooding (taking into account the wider sustainable development objectives), the Exception Test may have to be applied. The need for the Exception Test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3 of the NPPF.

3.5 **Annex 3** categorises different types of development according to their vulnerability to flood risk and solar farms are classified as 'Essential Infrastructure'.

3.6 **Paragraph 170** explains that the application of the Exception Test should be informed by a site-specific flood risk assessment and for it to be passed it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

3.7 **Paragraph 171** states that both elements of the Exception Test should be satisfied for development to be permitted.

National Planning Practice Guidance

3.8 **'Flood Risk and coastal change'** forms one of the chapters of the NPPG.

3.9 **Paragraph 027** explains that the Sequential Test should be applied to 'major' and 'non-major' development proposed in areas at risk of flooding. For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.

3.10 **Paragraph 029** explains that the LPA, as the decision maker, is responsible for deciding whether an application passes the Sequential Test.

3.11 **Paragraph 032** advises that the Exception Test should only be applied as set out in Table 2 and only if the Sequential Test has shown that there are no reasonably available, lower-risk sites, suitable for the proposed development, to which the development could be steered.

3.12 **Table 2** is provided at **Paragraph 079** (Flood risk vulnerability and flood zone 'incompatibility') and is repeated below:

Flood Zones	**Flood Risk Vulnerability Classification**				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✔	✔	✔	✔	✔
Zone 2	✔	Exception Test required	✔	✔	✔
Zone 3a †	Exception Test required †	X	Exception Test required	✔	✔
Zone 3b *	Exception Test required *	X	X	X	✔ *

Key:

✔ Exception test is not required

X Development should not be permitted

3.13 For essential infrastructure within Flood Zones 3a and 3b, the notes to Table 2 advise:

- "†" In Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood.
- "*" In Flood Zone 3b (functional floodplain) essential infrastructure that has passed the Exception Test, and water-compatible uses, should be designed and constructed to:
    - remain operational and safe for users in times of flood;
    - result in no net loss of floodplain storage;
    - not impede water flows and not increase flood risk elsewhere.

3.14 **Paragraph 035** explains that it is the responsibility of the Applicant to provide evidence to the LPA on how both elements of the Exception Test are satisfied.

Chelmsford Local Plan (May 2020)

3.15 **Strategic Policy S2 (Addressing Climate Change and Flood Risk)** explains that the Council will encourage new development that, inter alia, minimises the impact of flooding.

3.16 **Policy DM18 (Flooding/SUDS)** advises that planning permission for all types of development will only be granted where:

i. it can be demonstrated that the site is safe from all types of flooding, either because of existing site conditions or through flood risk management from the development, now and for the lifetime of the development; and

ii. it does not worsen flood risk elsewhere.

3.17 The policy advises that in addition to the above requirements, development within areas of flood risk will be required to:

i. provide a safe means of escape or suitably manage risk through some other means; and

ii. manage surface water run-off so that the run-off rate is no greater than the run-off prior to development taking place or, if the site is previously

developed, development reduces run-off rates and volumes as far as is reasonably practical; and

iii. locate the most vulnerable development in areas of lowest flood risk unless there are overriding reasons for not doing so.

Rochford Core Strategy (December 2011)

3.18 **Policy ENV3 (Flood Risk)** states that the Council will direct development away from areas at risk of flooding by applying the sequential and, where necessary, the exception test.

4. BACKGROUND TO THE APPEAL

4.1 It is agreed that the Environment Agency raised no objections to the Proposed Development in their consultation response dated 20th July 2023 subject to passing the Sequential and Exception tests.

4.2 It is agreed that CCC as the decision-maker for the Planning Application was responsible for determining whether the Sequential and Exception tests had been passed.

4.3 CCC considered the issue of flood risk in their Committee Report dated 5th December 2023 and agreed the following:

Paragraph	Commentary
2.5	"The site is primarily Flood Zone 1. Minor areas of the site are within Flood Zones 2 and 3. These are along the southern site boundary close to the River Crouch and following a drainage channel which is connected to balancing ponds to the north of the A132."
Section 5	Confirmed that the Environment Agency had no objections to the Proposed Development.
6.1	Identified 'Flooding and Drainage' as one of the main issues to consider.
6.130	"This FRA and drainage strategy outlines how surface water will be managed during operational phases of the development and provides an overview maintenance plan for the key SuDS features proposed."
6.131	"No critical infrastructure has been placed within the mapped flood zones. Some PV panels are located within the mapped flood zones; however, this is considered acceptable and in line with current NPPF guidance for Essential Infrastructure. New landscaping would provide some improvement by intercepting runoff and promoting

Paragraph	Commentary
	sedimentation, filtration and infiltration which is appropriate mitigation in the context of very minimal impact on flooding."
6.132	"The proposed solar panels and tracks will not lead to any significant increase in run-off. However, as a precautionary measure, swales are proposed to store run-off from the steepest areas of the site and filter strips are provided for the remainder of the site. Ancillary buildings will be surrounded by a crushed stone apron consisting of clean 40-70mm clean stone and the larger substation will be served by a soakaway which has been sized to accommodate the 6hr 100yr + 40% climate change rainfall event".
6.133	"The outline drainage scheme proposed ensures the proposed development will not increase flood risk away from the application site. "
6.170	"The proposal would not have a harmful adverse impact on ecology, residential amenity, highway safety or flood risk, subject to controls recommended by planning conditions."

4.4 It is agreed that the site-specific Flood Risk Assessment (dated October 2022) and the Flood Risk Assessment Addendum (dated June 2023) provided CCC with sufficient information upon which to consider and determine the Planning Application.

4.5 It is agreed that CCC raised no objections at the determination of the Planning Application in respect of flood risk and drainage.

4.6 It is agreed that CCC as the decision-maker for the Planning Application did not raise any objections to the Proposed Development in respect of the Sequential and Exception Tests,.

4.7 It is agreed that there is no Reason for Refusal relating to flood risk and drainage, and in particular the Sequential and Exception Tests.

4.8 The Appellant considers CCC's positive consideration of the Planning Application in respect of flood risk and drainage confirms that the Council were satisfied that the Sequential and Exception tests had been passed.

4.9 It is agreed that CCC only raised the issue of the Sequential and Exception Tests after the determination of the Planning Application and when the Planning Appeals had been lodged despite there being no material change in circumstances at the Appeal Site since the Planning Application was refused.

4.10 Nevertheless, the parties agree that the Inspector has to be satisfied that the requirements of national policy are met including that the Appellant has satisfied the Sequential and Exception tests.

5. SEQUENTIAL TEST

5.1 Both parties agree that there is no national or local guidance that defines the extent of a Search Area in the application of the Sequential Test. A reasonable Search Area to identify reasonably available sites should therefore be defined by local circumstances for the type of development proposed.

5.2 Paragraph 4.10 of the Flood Risk Sequential and Exception Tests Assessment (*Core Document 9.13*) explains that the Appellant engaged with the National Grid to identify substations within England and Wales which had spare capacity and the Rayleigh substation was one of those identified that had spare capacity. The Council notes that the area of search was England and Wales but that the document does not identify any other substations that have capacity and whether there were sites suitable for a solar farm that could feed into other substations that would be at lower risk of flooding.

5.3 The Appellant has entered into an agreement with the National Grid for the Proposed Development to connect into the Point of Connection at the Rayleigh substation in 2027.

5.4 The Appellant notes that the Connections Action Plan published in November 2023 explains that over the least five years the volume of connection applications to the transmission network has grown approximately tenfold and this has led to an average delay of over five years for projects applying to connect to the transmission network (*Core Document 2.3, Page 5*).

5.5 It is agreed that the Proposed Development would be able to make an early contribution to the generation of low carbon energy.

5.6 The Council agree that the distance of the Proposed Development from the Point of Connection is a factor in setting the Search Area for the Sequential Assessment. The Appellant however considers it to be the defining factor for setting the Search Area and in this case the Search Area was set around the Rayleigh substation.

5.7 It is agreed that in respect of Rayleigh substation, each of the alternative locations identified by the Appellant in Flood Risk Sequential and Exception Tests Assessment are each subject of their own associated flood risk constraints to an equal or greater extent than the Appeal Site.

6. EXCEPTION TEST

6.1 It is agreed that a solar farm is classified as an 'essential infrastructure' land use as set out in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance.

6.2 It is agreed that there is no vulnerable infrastructure development proposed in the areas that fall within Flood Zones 2 and 3, and areas at risk of surface water flooding. The location of some PV panels in Flood Zones 2 and 3 is agreed to be acceptable and consistent with national guidance on the location of essential infrastructure.

6.3 It is agreed that sustainability benefits of the Proposed Development would outweigh flood risk.

6.4 It is agreed that the Proposed Development would be safe during its operational lifetime.

6.5 It is agreed that the proposed outline drainage scheme ensures the proposed development would not increase flood risk at the Appeal Site or elsewhere.