



30th January 2023

Laurence Ackrill
Uttlesford District Council
London Road
Saffron Walden
CB11 4ER

By email only

Thank you for requesting advice on this application from Place Services' ecological advice service. This service provides advice to planning officers to inform Uttlesford District Council planning decisions with regard to potential ecological impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Uttlesford Application Reference: UTT/22/2046/PINS

PINS Application Reference: S62A/22/0006

Location: Land At Berden Hall Farm Dewes Green Road Berden

Proposal: Consultation on S62A/22/0006 – Development of a ground mounted solar farm with a generation capacity of up to 49.99MW, together with associated infrastructure and landscaping

Dear Laurence,

Thank you for re-consulting Place Services on the above application.

Holding objection due to insufficient ecological information on European Protected Species (Great Crested Newt) and protected species (Badger)

Summary

We have reviewed the documents supplied by the applicant including the Ecological Appraisal (Cherryfield Ecology, February 2022), Landscape and Ecological Management Plan (Sightline Landscape, February 2022), Planting Plan drawing no. 375_MP_04_Rev A (Sightline Landscape, November 2022), Environmental Statement (RPS, November 2022), Skylark Mitigation Strategy (RPS, November 2022), Biodiversity Net Gain Assessment (RPS, November 2022) and Desk Study and Habitat Survey (RPS, November 2022) relating to the likely impacts of development on designated sites, protected & Priority habitats and species and identification of proportionate mitigation.

In principle we agree with the proposed compensation measures for Skylark outlined in the Skylark Mitigation Strategy (RPS, November 2022), however, we note that one of the fields proposed for providing Skylark plots has a pylon running through it (Field 1). The pylon and adjoining cables act as a potential perch for predators of Skylark, much like the hedgerows at the field boundary which have been avoided. We therefore recommend that the proposed Skylark mitigation strategy is updated with a more suitable



location for Skylark plots chosen. If suitable land is not available in the applicant's control, then the offsite compensation measures will be required to be secured via a legal agreement.

We also consider impacts to the nearby Priority habitats and Local Wildlife Sites to have now been considered with appropriate mitigation measures in place.

We are however still not satisfied that there is sufficient ecological information available for determination of this application as we note that the proposed mitigation in relation to Great Crested Newt and Badger has changed compared to the Ecological Appraisal (Cherryfield Ecology, February 2022).

The Environmental Statement (RPS, November 2022) now states that the site will be registered under Natural England's District Level Licensing Scheme for Great Crested Newt. The LPA will need an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination.

The Environmental Statement (RPS, November 2022) also states that construction activities involving heavy machinery can come within 30m of a Badger sett as long as it is timed for outside the December-April period when dependent cubs are below ground. We do not agree with the justification for this as Badger and their setts are protected at all times and at all life stages. If works that could damage or destroy a sett or disturb a Badger whilst using the sett are due to take place within 30m of a sett, then a licence from Natural England may be required unless suitable mitigation is provided.

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Subject to the above required information, we support the proposed biodiversity enhancements including the planting of new hedges, trees, woodland and wildflower meadows, as well as the provision of log piles and bird boxes which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2021. These enhancement measures should be secured by a condition of any consent. The Biodiversity Net Gain Assessment (RPS, November 2022) showed an increase in habitat and hedgerow units at the site. The Landscape and Ecological Management Plan (Sightline Landscape, February 2022) also states that all trees, hedges and shrubs planted as part of the mitigation shall be retained, which we support.

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.



We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

Please contact me with any queries.

Yours sincerely

Ella Gibbs ACIEEM BSc (Hons)

Senior Ecological Consultant

Place Services at Essex County Council

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Place Services provide ecological advice on behalf of Uttlesford District Council

Please note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter.