

Monday 27th February 2023

Inquiries and Major Casework Team
The Planning Inspectorate
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Dear Sir/Madam

**Re: Planning Application PINS Reference: S62A/22/0006 (the “Application”)
Uttlesford District Council (the “Council”) Reference UTT/22/2046/PINS
Development of a ground mounted solar farm with a generation capacity of up to
49.99MW, together with associated infrastructure and landscaping (the
“Proposed Development”)
Land At Berden Hall Farm, Ginns Road/Pelham Road, Berden (the “Site”)
Berden Solar Limited (the “Applicant”)**

We are writing further to our letter dated 14th February 2023 having regard to our item 9 “Ecology & Protected Species” and the Applicant’s further information on the Skylark Mitigation Strategy (“SMS”) submitted 8th February 2023.

It has taken longer to consult with various experts on the latest Applicant’s submission of a revised SMS plan so this should be regarded as an addendum to the 14th February 2023 letter.

We maintain our objection that the Applicant has failed to properly provide open habitats for lost Skylark nesting. Specifically, the SMS which we deem is inadequate.

In the original application for Berden Hall Solar Farm, the report by Cherryfield Ecology noted the presence of skylark on the site and suggested that the skylarks could continue to nest among the solar arrays post-construction. This suggestion is flawed and was rejected by the statutory consultee Essex County Council Place Services, who raised a holding objection to the development based on this and other aspects of the development’s likely ecological impact.

In recent weeks we have consulted a number of expert ornithologists whose advice confirms that the SMS is inadequate. The reasons are as follows:

1. The SMS is not based on a site-specific survey as recommended by Essex County Council Place Services in the letter stating their holding objection to the application. The Planning Inspectorate cited this holding objection in their letter of September 7th to the applicant, referencing the need for ‘survey work.’ Despite these requests, the

SMS is based on guesswork; no Breeding Bird survey has been carried out to establish actual skylark numbers on the proposal Site.

2. Both the revised mitigation sites (Field 1 and Field 2) are too far from the Site of the proposed development, despite the stipulation by Essex County Council Place Services that they should be ‘nearby.’

Based on the middle of the Site and mid-point in the relocation sites, Field 1 is circa 2 kilometres north east and Field 2 is 1.6 kilometres to the north.

Moreover, both Fields are even further from the skylarks’ favourite nesting areas on the proposal site (most skylarks on the Site currently nest to the south and west near to Pelham sub-station rather than to the north and east adjacent to Berden village). This increases the distances even further.

3. The number of proposed skylark plots in the Mitigation Strategy is based on the assumption that they should be provided per nesting pair of skylarks displaced rather than per hectare of territory lost to the development. This metric is absurd, as currently the skylarks are able to nest within an area of c. 60 hectares, and the Mitigation will offer them 36 plots of 16 square metres, a vanishingly small area compared to their existing habitat. A local RSPB group leader argues that 2 plots should be offered per hectare lost, i.e., at least 120 plots.
4. The SMS is based on policy AB4: Skylark plots, a measure designed to incentivise farmers to encourage greater numbers of skylarks to nest on arable land where they already nest, typically fields sown to winter cereal crops. Skylark is known to exhibit high nest site fidelity,[1] and the applicant has submitted no evidence to support the suggestion that the birds on the proposed solar site will abandon their historic existing territories (where they are recorded as having nested since at least 1994 and probably for centuries) and relocate to fields a significant distance away for the convenience of the developers.
5. A family of Red Kites breeds and forage on both the Mitigation sites; whilst Red Kites favour carrion but are known to prey on ground-nesting birds such as lapwing and skylark fledglings. These birds of prey will decimate any skylark nesting fledglings at this location.
6. The mitigation sites have been chosen because they are owned by the landowner of the fields under application for the solar development, but there is no explanation of how the skylark plots will be maintained for the 40-year lifespan of the development – if, for example, the land where the proposed skylark plots are located is sold on to a third party.

In their letter dated September 7th the Planning Inspectorate indicated that the applicant should explain how ‘formal assessment of any related ecological mitigation proposals’ would be carried out. The Environmental Impact Assessment describes how the solar farm should be managed in terms of its ecology, but it does not explain how this management will be enforced, merely asserting that it will be.

The SMS is a matter of particular concern in relation to this issue of how formal assessment of the mitigation proposals might be carried out over a significant period of time, i.e., the 40-year lifespan of the proposed development.

The mitigation sites are beyond the Application red line boundary and the Applicant has provided no details of any legal or controlling interest in Fields 1 and 2.

The SMS requires small squares of arable land to not be seeded and crop sprayed with herbicide for 40 years plus and we query how this skylark mitigation strategy can be enforced.

The same landowner regularly ploughs over the footpath PROW crossing the alternative Field 1 and doubtless will pay scant regard to skylark plots in future years (40 of them). This further reduces arable production at a time when the Government is protecting quality food producing land.

Please do not hesitate to contact us in this regard.

Yours faithfully,

Berden PC

Berden Parish Council