Ian Stumpf [redacted]

6 January 2024

The Planning Inspectorate,
Major Casework Team,
Room 3J Kite Wing,
Temple Quay House,
2 The Square, Bristol,
BS1 6PN

Dear Sir/ Madam,

Section 62A Planning Application: S62A/22/0006 Berden Hall Farm, Ginns Road, Berden (LETTER OF OBJECTION)

I write again in relation to Berden Solar Limited's continued attempt at getting its planning application approved and to express my objection to the development.

In this letter, I make reference to the Applicant's "Representations for Re-determination" document dated 15 November 2023 (herein "the Submission").

Whilst paragraph 1 of the Submission recounts the back-story of this application, it is unclear to me how the points made in Paragraph 2 avail the Applicant's position, particularly the point about consistency, because the Planning Inspectorate recently rejected a very similar scheme within a short distance of the Applicant's proposed development (see application ref. S62A/2022/0011 – also referred to later in this letter). Additionally, the principles which the Applicant draws from previous case law at paragraph 2.4, include the philosophy that the decision maker must start the decision making again and is entitled to change its mind (i.e. there is nothing to prevent PINS from rejecting the scheme).

In the Submission, the Applicant asserts material changes in circumstance (Paragraph 3). However, when one looks closer at the matters referred to by the Applicant, it does not appear to me that there is any material change which is apposite to the application.

For example, the NPSs noted by the Applicant (3.1.1 to 3.1.7), are merely drafts and whilst they may recognise solar energy as a key part of Government strategy, they do not confirm that this overrides all other considerations and are therefore simply of generic value and do not carry a force for support that the Applicant contends.

The same applies to the Applicant's comments about National Energy Policy (the *Powering up Strategy)*. For example, the statement made by the Applicant at 3.1.10 is only confirming that "the government will not be making changes to the categories of agricultural land". This simply means that nothing changes.

The mention of the *Grid Connection Reform* (3.1.12 – 3.1.15) is not relevant to the application because that is simply saying that connections need to be accelerated – it is not giving any underlying support for solar "farms" to be built anywhere and everywhere.

The reference to the change in the NPPF which the Applicant points to at paragraph 3.1.17 of the Submission (i.e. the changing of one word) does not add any support for its application in my view and does not change anything in respect of how the application for this particular site should be judged.

The Applicant's reference to *The Energy Act 2023* (3.1.18 to 3.1.19) and *The Levelling-up and Regeneration Act 2023* (3.1.20 to 3.1.21) does not, in my view, add any support for the proposed development and the Applicant is left to simply saying that these Acts "do not give rise to any material changes in circumstance" and so I do not know the relevance of these references.

Paragraph 3.1.22 notes nine other solar developments that have been approved and of which it is said adds weight to the application (only two of these have occurred after the Consent Order of 14 September 2023). However, nothing is said about these applications which specifically goes to support the application in question, so their relevance to the Berden Hall development is not understood other than the fact that a number of solar farms have been approved in other parts of the country. In fact, the Applicant starts the paragraph by saying "*Whilst not material in the context of the Site*..." and further acknowledges that each case needs to be decided on its own merits (paragraph 4.34).

Accordingly, I do not agree that there has been "material changes in circumstance" as claimed by the Applicant in section 3 of the Submission.

In Section 4, the Applicant addresses the impact on heritage assets - the issue to which the error of law applied with regards to the original Decision. Even if it is determined that minimal harm would occur, there are still fundamental reasons why this development should be refused. Those fundamental issues include matters such as raised in my previous letter of 5 August 2022 (principally: the detrimental impact on the countryside and loss of arable land). The applicant has done nothing in its additional submissions to allay my concerns on those issues.

Whilst the impact on heritage assets is a matter for consideration by PINS, I do not personally agree with the Applicant's position that the benefits of the scheme outweigh the harms (nor why it should simply be accepted that the countryside must be subject to harm at all on the basis that there are better places for solar "farms"). I say this due to the sheer scale of the proposed development, which will decimate a huge expanse of rural land.

The Applicant then infers (4.16) that PINS was wrong in relation to the Manuden Decision. I am unsure how expressing this opinion avails the Applicant's position.

In terms of the quashing of the approval by the High Court in relation to the treatment of heritage assets, even if a future decision was considered to have dealt with this issue appropriately, the issues on which the Court did not need to decide (i.e. those stated in the submission at 1.2.2 and 1.2.3) should in my opinion continue to render this application inappropriate for approval.

At paragraphs 4.17 to 4.29, the Applicant wrestles (unsuccessfully in my view) with the difficult matter concerning the justification of the loss of BMV land. The Applicant's case is not compelling in my view because I do not consider the Applicant's alternative site analysis is sufficiently thorough and the fact that the Applicant acknowledges (4.18) that the majority

of the site is BMV land (circa 53 hectares!). I also do not agree that 40 years is temporary – that is a matter of perspective. If anything, the points made by the Applicant at 4.17, concerning planning policy, are to its detriment in my view. Additionally, I do not agree with the Applicant's interpretation and "downplaying" of the *Written Ministerial Statement* (4.24 to 4.26), nor that it has submitted the most compelling evidence to justify the use of BMV land – it falls well short of meeting this threshold.

As noted in my previous letter, I do not agree with the Applicant that this is the only appropriate site. The Applicant maintains (paragraph 4.21) that there are no alternative sites in the Council's area. That is a matter of debate, but in any event, it does not answer the question as to why it must be in the Council's area at all (especially if there are no suitable locations in the Council's district – it which case, it should simply be refused). As I noted previously, the application presupposes that it must be built in Uttlesford which is misleading and not relevant. The criteria by which a scheme is judged should not be based on a quota required to be delivered by any particular District Council; it may simply be the case that some districts have many sites which lend themselves to solar developments and others have less – there is no reason to impose them where circumstances are not favourable. I do not therefore consider that the Applicant's consideration of alternative sites has been carried out to the right level of diligence.

The Applicant has also claimed in its submissions that proximity to an existing grid is necessary and this is why it selected the location that it has (e.g. 4.21.2). Whilst my view has always been that the chosen location is inappropriate (even if the Applicant's claim is correct), this assertion should in the very least be tested by PINS via the opinion of an appropriate expert. In my view, all that the proximity to an existing sub-station achieves is a cost reduction for the Applicant's proposed development, and this is not of itself a good reason to ruin the countryside. At 4.21.2, the Applicant claims that the site is too large to connect at lower voltages and this justifies the proposed location near to the sub-station. I cannot comment on this, but even if it is correct, this does not justify the scheme, as the simple alternative would be to construct a number of smaller developments that can connect at lower voltages. The alternative site analysis is flawed in my view and lacks integrity.

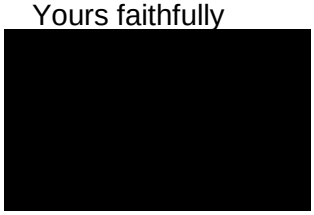
The countryside should be a last resort for these developments. The scale of the development of 73 hectares and some 91,000 solar panels would have a substantial and unacceptable impact and it should be located in a more suitable place that doesn't involve the trading-off of unspoilt countryside (and arable land at that) for a sustainable energy supply. That is simply a zero net gain of sustainability measures in my view (i.e. a gain on one hand and a loss on the other). Additionally and alternatively, there is zero net gain to the environment in sacrificing what should be seen as valuable countryside for the creation of sustainable energy. We (the UK) should be looking for sites that do not involve those kinds of dilemmas.

The Applicant talks about consistency of decisions (para 4.35) and believes that recent planning decisions elsewhere which approved solar "farms", somehow add weight to its own application, but then says that the "Manuden Decision" is an outlier and was rejected due to site specific issues (para 4.38). I aver that all developments have to be judged on their own specifics (acknowledged by the Applicant at para. 4.34) and therefore approvals given elsewhere do not set a blanket precedent. In any event, the specific problems with the Manuden proposal appear to me to include the same fundamental matters applicable to this

application – and the reason why it should also be rejected. If the application is granted, it would be inconsistent with PINS' rejection of the application by Low Carbon Solar Park 6 Limited (application ref. S62A/2022/0011), for a similarly substantial (76 hectare) solar panel facility very close to the Berden Hall site. The two schemes combined would effectively create a "wrap-around" effect of the existing sub-station – this, I understand, was built in the 1960s and would not in my opinion be granted consent in the modern era due to the impact on the countryside (and is therefore not a relevant factor which justifies the construction of the Applicant's solar farm).

I maintain my objection to this development and request PINS does not grant approval. A refusal would appear to be common sense to me.

Yours faithfully



Ian Stumpf

For and on behalf of:

(Ian Stumpf **(Charlie Stumpf**

(Edward Stumpf **(Beverley Stumpf**