

*Stocking Pelham Parish Council
Cockswood Farm
Stocking Pelham
SG9 0HZ*

clerk@stockingpelhampc.org.uk

*Berden Parish Council
The Old Blades
The Street
Berden
CM23 1AY*

parishclerk@berden.org.uk

Inquiries and Major Casework Team
The Planning Inspectorate
3rd Floor
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Monday, 8 January 2024

Section62a@planninginspectorate.gov.uk

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”)**

With regards to the above section 62a planning application, we are both writing to set out our joint objection as neighbouring parish councils to two sides of this proposed development.

This letter is intended to convey a joint objection and the urgent request for a collaborative approach to such developments in terms of cumulative impact, sequential test for site selection on suitability (not ownership) and well-designed visual and landscape screening that otherwise will be overlooked and ignored.

Given the proliferation of these solar and battery projects around the existing National Grid substation, there is a clear need for a joined-up planning strategy dealing with both Councils’ districts and an overall masterplan led approach to the whole area which takes proper account of heritage assets, visual impact, landscape screening, access and loss of agricultural land. Development should be development plan and masterplan led, not follow a landowner’s constrained boundary line.

The latest NPPF requires a positive strategy for renewable energy and for the planning system to consider identifying suitable areas (paragraph 160). Given the status of the Council’s new Local Plan (which has not reached Regulation 19 (pre-submission) stage, this new NPPF will apply. The proper process for identified renewable energy projects in Uttlesford is via the development plan process, not ad-hoc commercial led planning applications. We have submitted representations to the Regulation 18 draft Uttlesford Local Plan to this effect.

We do not object to government policy for the delivery of low-carbon and renewable energy. However, we ask that this is done in an appropriate, Local Plan led and properly selected and screened manner. This is the purpose of the new NPPF and leads into the current Local Plan process. This Application is premature and undermines the development plan process.

We are writing to repeat our earlier objections and to object to this proposed development.

Our key concerns are:

1. Heritage views and assets – the site is at the centre of views to and from heritage assets that should be protected under local and national planning policies.
2. Consistency with recent planning decisions and updates to policies – the site shares many characteristics with the proposed almost adjacent Pelham Spring Solar Farm, a development that was declined in line with recent policy updates such as the new paragraph 164 of the NPPF, Section 102 of the Levelling-up and Regeneration Act 2023 and draft national planning policy changes
3. Lack of sequential testing for a suitable site – solar technology is versatile and can connect to the national grid at many points, not just next to a substation. Applicants should consider alternatives, including lower grade agricultural land, smaller developments, and developments further from heritage sites.
4. Lack of consideration for noise generation – the current BESS delivered by the Applicant generates unmitigated noise that can be heard in both parishes. Transformers in the proposed development will add to the noise.
5. Infill development on best and most versatile land – the proposed development would link Stocking Pelham to Berden via a single industrial complex, rather than currently productive BMV land.
6. Lack of consideration for cumulative impact – this is one of several proposals in the area for battery storage and solar farms. Residents and visitors are affected not just by this proposed development, but potentially by others leading to an industrial transformation of the area.
7. Confusion in this consultation – both the planning application and the Construction Management Traffic Plan are confusing with multiple incorrect references and changes.

This latest objection letter should be read alongside the earlier letters of objections and this latest letter is an update where applicable to policy and other considerations. In particular, the previous attached letters and enclosures are relevant:

- Letter 15th June 2021;
- Letter 14th April 2022;
- Letter 5th September 2022;
- Letter 11th November 2022;
- Letter 14th February 2023;
- Letter 27th February 2023.

We further comment as follows:

1. Council's Consultation – We flagged by our original objection letter dated 5th September 2022 that the letter sent by the Council to residents inviting representations on this application incorrectly refers to “Dewes Green Road” as the application address, not Ginns Road as stated on the planning application form.

This remains the case with reference to the Council's latest consultation letter dated 28th November 2023.

The Council's letter has caused further confusion with residents responding to the consultation as Dewes Green Road is located to the north and in a more remote part of Berden parish.

We note the gov.uk website refers to Ginns Road.

In fact reference by the applicant to Ginns Road is also misleading. The Essex County Council highways gazetteer references the road directly to the north of the application site as Pelham Road. The Hertfordshire County Council highways gazetteer references the road beyond the application to the west in Stocking Pelham as Ginns Road where this is within Hertfordshire (but not abutting the application site).

The Council have both incorrectly and misleadingly referenced the application address as Dewes Green Road. This is a clear administrative error and both the Applicant and the Council are misleading residents on the location of the Proposed Development.

2. Pelham Spring Solar Farm, Maggotts End, Manuden - There is an essential need for consistency in planning decisions and the very close proximity of the Site to the similar solar farm scheme at Pelham Springs which was refused planning permission by PINS is a very material consideration.

Several of the material considerations and weight given to planning matters are duplicated for this Application as those which led to the refusal of permission for Pelham Spring Solar Farm.

In particular, the Crump (Listed Building and Scheduled Monument) is located almost at a mid-point between the Site and Pelham Spring Solar Farm and both schemes can be seen from the Crump. Indeed, the Crump is more visible from the Site. Both sites can be seen from the junction of Park Green and Brick House End.

The Pelham Spring Solar Farm refusal stated:

“The proposal would clearly result in wider benefits including the moderate contribution to the local and national aspirations to transition to a low carbon future, the significant benefit arising from the renewable energy creation and future energy mix, the modest weight to socio-economic benefits and the modest benefits to ecology and biodiversity. However, these fail to negate the harms identified to character and appearance, landscape and visual matters, the settings of designated heritage assets, archaeological remains, loss of BMVAL, highway safety, biodiversity and noise. The benefits in this case are clearly outweighed by the harms identified.”

3. High Court Consent Order – We consider this redetermination of the Application by PINS should consider all planning considerations, not just those matters referred to in the High Court Consent Order.

Whilst PINS should start a new planning evaluation taking into account the development plan and other material considerations, the refusal of planning permission by PINS for the Pelham Spring Solar Farm is a significant material consideration in the determination of this Application. PINS are duty bound to consider the same matters from this almost neighbouring scheme.

In particular, great weight must be given to the significance of heritage assets in the Planning Balance. As below, the NPPF provides for this in paragraphs 205 and 206 and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to have “special regard” to the desirability of preserving the setting of heritage assets. Under the NPPF, “any harm” to the significance of a designated heritage asset should require clear and convincing justification.

4. National Planning Policy – The latest updated version of the NPPF was published on 20th December 2023. Given the status of the Council’s Local Plan (see below), this latest NPPF will apply to the Council’s proposed plans.

This contains a number of changes which are relevant to this Application and which represent a material change in circumstance in terms of planning policy.

There is now increased emphasis in the NPPF on the importance of using Best and Most Versatile (“BMV”) land for food production only. BMV is defined as grades 1-3a in the Agricultural Land Classification BMV land.

The Government’s food strategy highlights that the UK maintains a high degree of food security. The strategy sets out an aim to broadly maintain domestic production at current levels to build the UK’s resilience to future crises and shocks.

NPPF Footnote 62 states: “*Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality*”.

We have consistently made representations to Uttlesford District Council on both solar farm applications for a sequential test for areas of poorer quality land to be identified in the locality. This has been ignored but is not required by national planning policy.

There is also increased emphasis in the NPPF on ensuring that renewable energy is located at the point of consumption. A new Paragraph 164 has been included which requires as follows:

164 In determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local

planning authorities should also apply the policies set out in chapter 16 of this Framework.

Paragraph 163 establishes that planning applications for renewable and low carbon development should only be approved if the impacts of the Proposed Development are (or can be made) acceptable.

Paragraph 180 states that: *“Planning policies and decisions should contribute to and enhance the natural and local environment by: ... b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”*. As above, Footnote 62 requires areas of poorer quality land should be preferred to those of a higher quality.

Footnote 62 further adds *“The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.”*

Paragraph 205 considers the impact of a proposed development on the significance of a designated heritage asset, and great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). The Application affects a scheduled monument and Grade 1, Grade 2 and Grade 2* assets.

5. National Policy Statement for Energy (Draft) – We note that this is still a draft policy statement (March 2023) and of limited weight having regard to this Application. However, it does indicate the direction of travel for Government policy and reinforces the NPPF comments above.

Draft Policy EN3 provides for large scale ground-mounted solar deployment across the UK mainly on brownfield, industrial and low and medium grade agricultural land (paragraph 2.10.11).

Paragraph 2.10.29 again states that where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible. ‘Best and Most Versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification’.

Paragraph 2.10.118 deals with heritage assets and further states the significance of a heritage asset derives not only from its physical presence but also from its setting and careful consideration should be given to the impact of large-scale solar farms which depending on their scale, design and prominence, may cause substantial harm to the significance of the asset.

In essence, this states that the Application should seek to minimise impacts on BMV and preferably use land of Grade 3b and below except where this is inconsistent with other sustainability considerations. It goes on to say that proposals should not be sited on BMV without justification. This justification case has not been proven.

6. Local Plan – Having had a series of draft new Local Plans declared unsound, the Uttlesford District Local Plan remains the version adopted 2005 and typically has little provision for renewable energy given its age. This is now over 16 years old and pre-dates both the original NPPF (2012) and the latest version (2023).

However, the adopted Local Plan does contain the following policies that are still relevant:

- Policy S7 (Countryside) - The Site is located outside the development limits of Berden and is therefore located within the Countryside where Policy S7 applies. This specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.
- Policy ENV2 (Development affecting Listed Buildings) – This requires that development affecting a listed building should be in keeping with its scale, character, and surroundings, adding that development proposals that adversely affect the setting and alterations that impair the special characteristics of a listed building will not be permitted.
- Policy ENV4 (Ancient Monuments) – This ensures the protection of Ancient Monuments and Sites of Archaeological Importance, whether they are scheduled or not. Development will not be permitted until satisfactory provision has been made for a programme of archaeological investigation and recording prior to commencement of the development.
- Policy ENV5 (Protection of Agricultural Land) - Development of the best and most versatile agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. Where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise.
- Policy E4 (Farm Diversification) – This allows for alternative uses of agricultural land provided the development includes proposals for landscape and nature conservation enhancement, the development would not result in a significant increase in noise levels or other adverse impacts beyond the holding, the continued viability and function of the agricultural holding would not be harmed, and that the development would not place unacceptable pressures on the surrounding rural road network.
- Policy GEN2 (Design) This applies a general requirement that development safeguards important environmental features in its setting. This requires that development does not cause an unacceptable loss of privacy, loss of daylight, overbearing impact or overshadowing to neighbouring residential properties.
- Policy GEN1 (Access) – This relates to safe access and states that development will only be permitted where a) Access to the main road network must be capable of carrying the traffic generated by the development safely and c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.

In May 2021, the Council published its draft Solar Farm Development Supplementary Planning Document Consultation Document (draft SPD). The draft SPD contains local guidance on preparing and submitting proposals for solar farms. However, this merely refers to the policy approach in the NPPF and local planning policies.

7. Draft Local Plan - The Council has recently consulted on its Regulation 18 draft Local Plan. As such, the NPPF will take precedent (as paragraph 229 of the NPPF will apply to plans that have not yet reached Regulation 19 (pre-submission) stage.

Whilst the draft Local Plan holds limited weight, we have made representations to Core Policy 25: Renewable Energy Infrastructure as follows:

The policy intention is to satisfactorily address the cumulative impact on the listed items in i) to ix). This intent can be abused by scoring in the wrong way to assess overall impact.

Firstly, this policy should make it clear as a standalone statement that the best and most versatile agricultural land should not be used for standalone ground mounted installations.

Secondly, the policy intent needs to be strengthened by revising the following:

Planning applications involving renewable energy development will be encouraged provided that any adverse impacts can be addressed satisfactorily, including cumulative impact, on:

To read:

Planning applications involving renewable energy development will only be permitted where any adverse impacts (including cumulative impact) are avoided on each and any of the following:

Whilst subject to review by the Council, we bring this to the attention of PINS as decision maker.

8. Levelling-up and Regeneration Act 2023 – The Act includes a new duty to enhance the setting of heritage assets which is a material planning consideration given the close proximity to the Crump which is a Scheduled Monument.

Section 102 amends the Town and Country Planning Act by inserting new language as follows:

“Duty of regard to certain heritage assets in granting permissions

(1) In considering whether to grant planning permission or permission in principle for the development of land in England which affects a relevant asset or its setting, the local planning authority or (as the case may be) the Secretary of State must have special regard to the desirability of preserving or enhancing the asset or its setting.

(2) For the purposes of subsection (1), preserving or enhancing a relevant asset or its setting includes preserving or enhancing any feature, quality or characteristic of the asset or setting that contributes to the significance of the asset”.

This is an increase in the duty of decision-takers when it comes to heritage assets - the desirability of preserving heritage assets is expanded to the desirability of preserving and enhancing.

9. Agricultural Land Quality – As above, Paragraph 180 of the NPPF provides for the protection of soils and recognising the wider benefits from natural capital and ecosystems services – including the economic and other benefits of the best and most versatile agricultural land.

Annex 2 of the NPPF defines “best and most versatile land” as land in grades 1, 2 and 3a of the Agricultural Land Classification”.

NPPF footnote 62 confirms that for significant development of agricultural land, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

Local Plan Policy ENV5 states that where agricultural land is required, developers should seek to use areas of poorer quality except where other sustainable considerations suggest otherwise.

The Application confirms 72% of the Site is made up of NPPF defined “best and most versatile land” (grades 2 and 3a). Grade 3a is not subgrade.

The report by the Applicant does not include all of the Site so it is not known if this 72% is a minimum. The soil survey only includes 63.4 hectares of the Site and the remaining 8.18 hectares is not graded which seems to be a divisive move.

As below, the Applicant has made no effort to undertake a sequential test of lower agricultural grade land in the area. The Application is geared to the Site because of its single ownership, a willing landowner, and the opportunity for increased profit due to the low cost of connection to the Stocking Pelham National Grid substation (“Pelham Substation”) (see point 9).

The Government’s agricultural land quality records confirm there are large areas of Grade 3 to the south west and east, all of which are within connection distance of the Pelham Substation.

We are concerned that any development works will see the valuable topsoil being ‘stripped’ and taken off-site (given its monetary value). This has been seen on similar solar farm developments. This must be prevented.

10. Agriculture – Policy E4 allows for alternative uses of agricultural land provided development would not result in adverse impacts on the continued viability and function of the agricultural holding.

The Site comprises a massive area of the landowner’s currently viable arable farming operation (71.58 hectares, 177 acres). There is no evidence presented or statement made as to whether the landowner will be able to continue farming a much smaller farm holding.

The Government Guidance Note states that where a solar farm proposal involves greenfield land the proposal should allow for continued agricultural use where applicable.

Typically promoters of solar farms refer to sheep farming, beekeeping or wildflower meadows. There is no definitive proposal for any viable and valid continued agricultural use of the Site. The Applicant refers to “sheep grazing within the solar farm if appropriate/practical” but there is no commitment or justification for this.

Whilst the currently arable land around the solar arrays and associated infrastructure could potentially be used for sheep grazing, it is likely that over the 40-year life of the proposed development there would be a significant reduction in agricultural production over the whole development area. This would not be an effective use of BMV land, as reflected in the planning practice guidance.

11. Sequential Test – Paragraph 180 of the NPPF makes it very clear that there is a hierarchy in allocating land with the least environmental or amenity value together with using areas of poorer quality agricultural land instead of those of a higher quality.

This overarching principle is further reinforced in the Government’s Guidance Note and the Ministerial Statement. The Written Ministerial Statement on solar energy (March 2015) states that use of BMV for solar farms needs to be justified by the most compelling evidence.

The Planning Practice Guidance (PPG) on renewable and low carbon energy (also dated 2015) sets out the planning considerations for large scale solar development. These include: encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land; where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

Even the 2005 Local Plan Policy ENV5 requires areas of poorer quality to be used. Policy ENV5 states that development of BMV agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. Where development of agricultural land is required, poorer quality land is preferred except where other sustainability considerations suggest otherwise.

Against this clear policy background, the Applicant has made no effort to consider or appraise other sites by way of a sequential test. This is well established as the Applicant rather surprisingly given the policy requirement stated in the questions document after a public exhibition: “Question: What other locations did you consider? Answer: None!

The Applicant is of the view that as this is not Green Belt land there is no need for any sequential test. This approach is clearly incorrect.

Whilst the Applicant will claim the main reason for locating the solar farm at this location is its proximity to the existing Pelham Substation, it is misleading to suggest that there is a requirement to connect a solar farm directly to a substation. In fact, a

large number of solar farms are connected to the grid by overhead power lines on pylons. For example, the approved solar farm at Cole End, Wimbish (Uttlesford planning reference UTT/21/0688/FUL) confirms in the application: “The point of connection to the local distribution network will be via an existing OH cable route that runs to the south west of the southern site parcel”.

The proximity to the Pelham Substation is not an essential requirement. Uttlesford has a considerable number of solar farm developments and these do not critically need to be located next to a regional substation.

The current planning application north east of Bishop’s Stortford (Uttlesford reference UTT/21/318/FUL) is some miles from the Pelham substation but is still being promoted as viable.

The Council is currently considering another solar farm application on land at Cutlers Green near Thaxted (reference UTT_21_1833_FUL). The planning statement confirms: “the project is proposed to connect to the local network (UK Power Networks) via underground cables into the grid at the 132/33kV Substation, east of Thaxted, which is approximately 4km from the site”.

A sequential test must be carried out by the Applicant for a number of key issues including lower grade agricultural land, less visual impact, less damage to the setting of heritage assets etc. The Application cannot be properly considered without this. The obligation is on the Applicant to show that alternative options, on previously-developed land, or land of lesser quality, for example, are not available. The Site is mainly best and most versatile land and this gives substantial weight against the Proposed Development unless a full and comprehensive sequential test has been carried out.

We have raised this point in previous correspondence with the Council over several occasions.

There are compelling reasons and planning precedent for a sequential test to demonstrate proposals which have the potential to cause environmental damage should be approached on a “worst first” or “sequential” basis, having regard to the availability of alternative sites. We refer to the appeal decision at Valley Farm, Wherstead in this regard (PINS ref: 2204846 dated 2 June 2014).

Appeal evidence is clear that any sequential test search area should be substantial and not confined to a single administrative area. The Site is on the border of Uttlesford and East Hertfordshire and is in close proximity to North Hertfordshire. All three districts have a number of solar farms and not all are in close proximity to regional substations.

12. Landscape & Visual Impact - The Site is located outside the development limits of Berden within open countryside and is therefore located within the Countryside where Local Plan Policy S7 applies.

As above, this specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within

which it is set or there are special reasons why the development in the form proposed needs to be there.

A core principle of the NPPF is to recognise the intrinsic beauty of the countryside. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

The Landscape Character of Uttlesford District Assessment identifies the Site at a local level as falling within the 'Berden and Farnham Chalk Upland' landscape character area. The character assessment stipulates that this area is an extremely varied with wide vistas on the higher ground contrasting with the more intimate feel of the steep slopes.

From a wider perspective, the Site is located within the South Suffolk and North Essex Clayland (National Character Area 86), as identified by Natural England. The assessment describes this as: "It is an ancient landscape of wooded arable countryside with a distinct sense of enclosure. The overall character is of a gently undulating, chalky boulder clay plateau, the undulations being caused by the numerous smallscale river valleys that dissect the plateau. There is a complex network of old species-rich hedgerows, ancient woods and parklands, meadows with streams and rivers that flow eastwards. Traditional irregular field patterns are still discernible over much of the area, despite field enlargements in the second half of the 20th century."

The Proposed Development will have a negative impact on the rural environment, particularly more so in this recognised undulating landscapes. The scheme is neither well-planned nor well-screened and is in conflict with the surrounding sensitive landscape.

The Site and surrounding area topography is within a zone of visual influence and the fundamental change to the landscape from a solar farm will be fundamental. These conflicts arise from the intrinsic scale of the Proposed Development and the sensitivity of the Site, particularly in relation to its openness, its representativeness of the character type, and its relationship to footpaths (both permissive and ProWs). It is impossible to see how the current scheme, or a revised version of similar scale, could ever be made acceptable in landscape and visual terms.

The Proposed Development will have a serious infilling effect of the positive landscape and countryside gap between Stocking Pelham and Berden almost completely.

The visual impact is both close (the numerous footpaths and local views) and distant as the Site can be seen from Clavering and Rickling. These key long views can be confirmed to the Inspector at a site meeting.

The landscape and visual effects clearly conflict with the planning policy at both national and local level and in that context are deemed to be unacceptable.

This is very apparent given the Applicant constructed a battery storage scheme in 2018 on the land directly adjacent to the Site. Whilst this was promised to be within a green agricultural style barn with mature landscape planting, the sad reality is bleak white battery units with bare minimum whip planting. This is a very visible blight from numerous directions and some distance from the Site.

We refer to our earlier representations with photos of the as built battery units. The reality, 5+ years after construction, is far from this carefully screened and hidden “promise”.

13. Landscaping, Planting & Screening – As above, recent experience dictates that the Applicant’s assurances of mature planting, screening, and properly coloured/painted plant and battery containers (not white) were false promises. Should planning permission be granted we are concerned that (based on previous experience of the battery unit scheme) the Applicant will seek to vary plans, reduce planting and undertake no maintenance or care as we have seen for the past 4 years.

To the extent that the visual impacts of the Proposed Development are capable of being mitigated (which we question given the undulating and visible nature of a large portion of the site) it is for the Inspector to properly scrutinise and assess such matters and to obtain guarantees and enforce these.

In the event planning permission is given (to which we strongly object), such matters must not be left to be discharged by way of planning conditions. These matters must be included in the detailed design now.

We consider the proposals do not offer the maximum level of mitigation that could be realised through the design. The proposed landscaping and screening is poorly lacking. The colour of visible plant and materials needs to be matched to the background to blend in visually (and not white colour). If this mitigation cannot be achieved, the extent of development should be reduced or removed.

The proposed 2.4 acres of new community woodland is referenced to a list of trees ranging in height from 45 to 150 cm height. There is no detail on numbers or any maintenance and doubtless there will be spartan planting that will wither and die in the hot and dry summer months that are now common. This has been seen by the Applicant’s battery scheme. The community woodland is criticised by the County Council’s Place Services as not being appropriate given that the Site historically has been open agrarian land.

This woodland is critical to screening those houses that directly overlook the Site yet will take 40 years to grow to any suitable height to offer protection just as the permission lapses.

The planting proposals refer to 7.3 acres of species rich meadow with wildflowers. The landowner has provided this early by planting in February 2022 as a means to demonstrate the benefit to biodiversity and screening.

The photographs shown at Enclosure 5 were taken 20th May 2022 and 22nd August 2022 and show that such intentions and ‘benefits’ are short lived for a number of weeks, not months and certainly not 40 years.

No amount of landscape planting or screening will mitigate to any degree the industrialised view created by these solar arrays.

14. Heritage & Archaeology – Firstly, the Site is named “Berden Hall Farm” and this was historically part of the Berden Hall ownership which is a Grade II* building directly to the east of the Site within the village. The Site is overlooked and seen from the

upstairs windows of Berden Hall. The Built Heritage Advice from Essex County Council recognises the historic connection between the two. This gives context to the setting of listed buildings.

The County Council goes on to express concern that the Proposed Development will result in a more industrial character contrary to the prevailing rural character of the Site and this would cause harm to the setting of both the Grade I listed Church of St Nicholas and Berden Hall, which shares a historic connection to the Site (reference letter dated 11th August 2022).

Secondly, the Site is overlooked by the Crump scheduled monument to the east which is a Medieval moated ringwork site.

The Crump is recognised by Historic England as “... *rare nationally with only 200 recorded examples and, as one of a limited number and very restricted range of Anglo-Saxon and Norman fortifications, ringworks are of particular significance to our understanding of the period*”.

Historic England also comments (in its letter dated 18 January 2023) that: “*the proposed development will result in harm to the significance of the adjacent scheduled monument known as The Crump through development within its setting. We consider the harm would be less than substantial and, at least, moderate in scale*”.

We previously wrote to the Council on 14th April 2022 to highlight the further Medieval remains linked to the Crump at the Rookery to the south east of the Site (and within an area proposed for solar arrays). Solar arrays must not be built over the Rookery and damaging this valuable heritage asset which may even warrant being a Scheduled Monument given its association to the Crump.

Given the Site is very close to the Grade 1 St Nicholas Church and previously part of Grade II* Berden Hall and overlooked by the Crump scheduled monument, material harm will be caused to the significance of heritage assets and this leads to a presumption against development. There is clear intervisibility between several of the designated heritage assets and we are concerned that the proposed solar farm would result in an industrialising effect, contrary to the rural landscape setting of several designated heritage assets. The scheme will result in an adverse impact to their rural setting and character.

The planning legislation (Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990) confirms that the Inspector “shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

The Application fails to preserve the setting of the listed buildings, in being contrary to the clear expectations of s66(1) of the PLBCA, which anticipates special regard being had to that preservation. The dual conflict of the proposal with national policy and statute, and the cumulative harm that would arise from them, are matters of very significant weight that militate against them succeeding.

The Application conflicts with Policies ENV2 and ENV4 of the LP which require that where nationally important archaeological remains and their settings are affected by proposed development there will be a presumption in favour of their physical

preservation in situ and development affecting a listed building should be in keeping with its scale, character and surroundings.

The Application conflicts with Chapter 16 of the NPPF. Conserving and enhancing the historic environment of the Framework, which include in determining applications, local planning authorities should take account of the desirability of sustained and enhancing the significance of heritage assets and that great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

We consider that there is clear harm to the significance of heritage assets and this is fully set out in the objection made by Protect the Pelhams.

15. Ecology & Protected Species – We refer to our earlier correspondence and representations particularly the Skylark nesting habitat that will be lost.

We are concerned about the impact on wildlife including the protected species.

16. Noise – Given the current unacceptable noise from the existing Statera battery scheme, we are concerned at ongoing noise disturbance.

The noise assessment confirms the solar inverters and transformer will have a maximum operational sound power level (SWL) of 91 dBA LW (reference section 4.3).

The noise assessment has regard to existing background noise levels which were recorded and the assessment concludes the noise from this development is less than the existing background level.

However, this ignores the Parish Council's previous comments and concerns that the background noise surveys are made higher and inflated by the noise from the existing 2018 Statera battery plant.

Whilst the extra noise from the Proposed Development may well be less than current background, this does not deal with the fact the current background is too high.

We have previously highlighted to the Council the error made in 2017 by the planning officers regarding the grant of the Statera battery scheme variation planning permission which regrettably omitted any noise mitigation and imposed no noise planning condition (reference UTT/17/2075/FUL).

The original grant of planning permission (reference UTT/16/2316/FUL) had highlighted adverse noise consequences and had required a substantial 4 metres acoustic screen.

Due to the error in the new variation permission, there is no noise mitigation in place at all. There are historic letters sent to the Council in this regard (reference Enclosure 3).

The consequence of this is that the Applicant's noise consultant has recorded an inflated high background base noise level because of the noise from the unmitigated

and unscreened existing battery plant which the Council itself approved and then accepted a variation to remove all noise mitigation (seemingly in error).

We raised this background noise matter with the Council by email dated 14th February 2022 (reference Enclosure 6) and asked that this is highlighted now to Statera requesting their noise consultants take this unacceptable baseline position into account. This has not been done and we are faced with more unmitigated noise. This email trail also highlights the ongoing complaints to the Council regarding noise from the Statera battery units. The Environmental Health Officers at both East Herts and Uttlesford are aware of the ongoing complaints and are monitoring the situation. Complaints increase during the summer months when windows are open at night.

The Statera battery scheme is audible to Berden and Stocking Pelham residents despite a detailed noise assessment confirming this would not be the case.

In the event planning permission is given (to which we strongly object), it is essential to agree the noise mitigation scheme fully at this planning stage, not left to planning conditions.

Local Plan Policy E4 (Farm Diversification) allows for alternative uses of agricultural land provided the development would not result in a significant increase in noise levels or other adverse impacts beyond the holding. This is not the case.

17. External Lighting – Any external lighting will cause spill and glare. It is the glare that cannot be measured yet which causes the most harm in the rural area with raised topography.
18. Fire & Explosion Joint Assessment – Whilst not a battery scheme, this solar farm will be linked to the adjacent Statera batteries and two other current planning applications for adjacent battery schemes.

There are numerous articles and research into fires and explosions from lithium-ion battery technology in large scale storage systems and the risk to public health and safety.

This Proposed Development must have a cumulative emergency plan to deal with a joint explosion, fire or risk event. This needs to be approved by the local Fire and Rescue Services (both Hertfordshire and Essex given the location).

19. Flood Risk & Surface Water Drainage – Whilst the flood risk assessment and drainage strategy are noted, we remain concerned at the impact of the panel, plant, containers and hard surfacing on the natural drainage and increase in surface water run-off.

Section 6.10 confirms the Site drains to the culverted drain running through Berden. This is correct.

However, the existing run-off from the Site to this watercourse often causes local flooding along the Street and this collects and floods the road at the junction of the Street-Pelham Road and Chapel Hill. This is referenced in section 6.14 but this is an annual if not more frequent flooding event.

The FRA confirms at section 7.4 that solar farms actually improve surface water drainage over arable or livestock grazing fields because the full vegetation cover beneath the solar panels is maintained. The planting plan refers to grass with sheep grazing and this is highlighted in the FRA at section 7.

Any grant of permission by the Inspector should ensure this area of the Site is properly maintained for the 40 years to deal with this surface water flow attenuation and erosion is not allowed to form.

The drainage strategy does not seem to adequately provide for any restricted discharge to greenfield rates and does not provide any attenuation storage at the right level to properly work and function.

The Applicant has not carried out any infiltration testing of soil.

The FRA seems to not adequately deal with drainage or any attenuation. The existing Site causes existing flooding in Berden which can only worsen.

20. Cumulative Impact – We consider that this proposal needs to be considered in the wider context of the other renewable energy proposals around the Pelham Substation. An overall carefully constructed masterplan led approach is required together with Supplementary Planning Guidance in the absence of any meaningful Local Plan policies.

Three solar farms and two further battery schemes are proposed within a small radius of Pelham substation. There is also an emerging fourth solar farm.

These three key solar farms should not be dealt with in a fragmented way with scant regard for overall masterplanning with boundaries merely following landowner's ownership lines with poorly planned development boundaries. Any solar farm needs properly structured screening, buffers and regard taken of views, visual impact, noise and fire control measures. A comprehensive review is needed.

These solar farms are:

- (a) Battles Farm/Pelham Spring (Berden Parish) Uttlesford reference UTT/21/3356/FUL. Refused by the Council in February 2022
- (b) Land At Wickham Hall Estate East Herts reference 3/21/2601/FUL -.Current planning application.
- (c) this Proposed Development

The battery schemes are:

- (d) Land Off Pelham Road Berden Uttlesford reference UTT/22/1203/FUL; current planning application.
- (e) Land At Greens Farm East End Stocking Pelham East Herts reference 3/21/0969/FUL current planning application.
- (f) the Statera constructed scheme adjacent to the Site.

It is an essential key issue in determining the suitability of any such development proposals to undertake a sequential test. This is needed firstly to question whether the use of agricultural land is necessary and whether other lower grade agricultural, suitable brownfield land or non-agricultural land is available within a reasonable search area.

21. Future Reinstatement – We remain concerned about the future ability to revert the land to agricultural use. We would hope the Inspector applies a rigorous process and financial guarantee assessment to this matter should consent be granted (to which we strongly object).

Given the Applicant has a balance sheet of £1, the future reinstatement in 40 years must be tied to the land ownership by way of a Section 106 agreement. The landowner and the Applicant must be obligated to jointly reinstate in 40 years.

It is unlikely a bond will be ineffective and unavailable for such a 40 year term. Both the Applicant and the landowner must be obligated via a Section 106 agreement on the Site requiring the reinstatement. Both parties could contribute to a reserve fund on an annual basis to guarantee the cost of reinstatement.

22. Construction Traffic Management Plan – The traffic route shows a direct access from the A120 new bypass through Albury to Stocking Pelham. This route does not exist and is fictional.

The traffic plan is incorrect and all construction traffic will be routed through Little Hadham, Albury and Stocking Pelham by wholly unsuitable roads (single width in places).

The photographs shown in Enclosure 7 are Ginns Road between Stocking Pelham and Patmore Heath; a wholly unacceptable road for HGV traffic.

23. Hearing – As set out in our email of 30th August 2022, we ask for the opportunity to make a presentation to the Inspector at any future hearing or other meeting to consider this proposal.
24. Site Visit – We would welcome the opportunity to accompany the Inspector on a site visit.

To conclude, we repeat the statement referred to above by Eric Pickles: “Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land. Protecting the global environment is not an excuse to trash the local environment.”

The Applicant’s Proposed Development is the wrong development in the wrong location and will result in the loss of BMV agricultural land and trash the local countryside environment.

The benefits in this Application are clearly outweighed by the harms identified. The Proposed Development would not accord with the adopted development plan when considered as a whole and there are no material considerations which indicate a decision otherwise than in accordance with it. It would also conflict with significant parts of national planning policy identified, including those principally contained within the Framework.

Yours faithfully,

Berden PC

Berden Parish Council

Stocking Pelham PC

Stocking Pelham Parish Council

Enc.

Copy: Development Control
Uttlesford District Council
Council Offices
London Road
Saffron Walden
CB11 4ER

planning@uttlesford.gov.uk