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Tuesday 14th February 2023

Inquiries and Major Casework Team
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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 refer to your letter dated 9th January 2023 advising of the Applicant’s further submissions including the Environmental Statement and responses to your letters relating to the above section 62a planning application.

We are writing, as joint Parish Councils, with further comments and further objections in addition to our original objection letter dated 5th September 2022 and further letter dated 11th November 2022.

Whilst the Applicant’s submitted Environmental Statement seeks to deal with impact on both the landscape and heritage assets (given our original objection highlighted these fundamental concerns), not only does it fail to address these concerns it also fails to address the multitude of further adverse impacts and planning concerns as raised by ourselves, third parties and statutory consultees.

We note the Environmental Statement is marked as a draft submission and we question whether the Applicant will be addressing the multitude of further issues and points as raised by the Parish Council, consultees, third parties and objectors in a further version.

This letter should be read alongside these earlier objection letters (not instead of).

1. Proposed Reforms to National Planning Policy

The Government’s Department for Levelling Up, Housing, and Communities is currently consulting on how new national planning policy is developed to support wider objectives.

The current consultation (until 2nd March 2023) includes a proposed approach to updating to the National Planning Policy Framework (“NPPF”). Whilst the proposed approach is for more onshore wind energy production, Chapter 7 (Protecting the environment and tackling climate change) of the consultation document deals with the food production value of farmland and paragraphs 10 – 11 headed “Recognising the food production value of farmland” states:

10. *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 crisis and shocks. We have some of the best performing farms in the world, with 57% of agricultural output coming from just 33% of the farmed land area. To emphasise the important role that our best performing farms have on food security, alongside imperatives such as energy security, we are seeking initial views on increasing the consideration given to the highest value farmland used for food production in the Framework for both plans and decision making.*
11. *The Framework currently expects that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services including the economic and other benefits of the best and most versatile agricultural land. Best and Most Versatile land is defined as grades 1-3a in the Agricultural Land Classification. To build on this, we propose a change to the current Framework footnote 58 by adding detail on the consideration that should be given to the relative value of agricultural land for food production, where significant development of higher quality agricultural land is demonstrated to be necessary, compared to areas of poorer quality land. This should not prevent the achievement of government’s objectives in relation to nature recovery and creation of ecosystem services to enable and offset development elsewhere.*

Alongside this consultation, the proposed changes to the text of NPPF have been published including a change in the footnote at paragraph 178 (where plans should ... allocate land with the least environmental or amenity value, where consistent with other policies in this Framework) which now says (new text highlighted in bold):

*67 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. **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.***

As set out in our earlier objection, 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.

The Government’s agricultural land quality records (reference Enclosure 1) confirms the Site is Grade 2 “Very Good”. Given the Site is in private ownership, we have not

had any opportunity to survey and test the soil ourselves. The Site has and remains currently farmed for arable crops.

As such, the emerging Government NPPF revisions seek to protect higher quality food producing land (which the Site is) and areas of poorer quality land should be considered first.

As per our original objection, 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”).

The Government’s agricultural land quality records (reference Enclosure 1) confirm there are large areas of Grade 3 to the southwest and east, all of which are within connection distance of the Pelham Substation. Whilst we are neither promoting nor suggesting these other areas, the point is the Applicant has failed to carry out a proper sequential test of alternative and lower grade agricultural land. This is further highlighted in section 7 below.

2. Failings of the Environmental Statement Scope

As a general statement, the Applicant’s scope for the Environmental Statement seeks to deal with only visual impact from public rights of way that pass through the Proposed Development (reference the Applicant’s letter 2nd September 2022).

Whilst such views are important, the Environmental Statement should (and fails to) deal with wider views of the Site from the surrounding area (of which the views are considerable) and the views and impact on heritage assets.

The Applicant has sought to minimise this visual impact assessment by only studying views from PROWs within the Site. Views from private ownerships, heritage assets, roads and the wider area must be properly assessed. The Applicant has failed in this regard.

Against this background, in July 2022 the landowner of the Site submitted an application to the County Council to divert Berden Footpaths 2, 16, 22, 23, 24 and 26 together with Clavering Footpath 59 as a means to limit PROW views of the Proposed Development.

3. Landscape & Visual Impact

Our original objection refers to the Site as located within open countryside, and this is a wholly rural landscape with far reaching views from the north and east.

Both Berden and Stocking Pelham villages have retained a well-preserved rural settlement character, both located on the border of their respective Counties. The two villages are linked by a local road which has clear and extensive views into the Site. The view from this road of the Proposed Development is one of many fundamental visual impact issues when considering the relative remoteness and historic character of both villages.

This is both a remote and historic location on the County border which is typified by its arable pedigree and is set within a farming landscape that has remained largely unchanged for decades and, in part, for centuries.

We reference the view of the Proposed Development from this road as a prime example of how no amount of hedge planting can mitigate this visual intrusion and blight on the natural landscape caused by a solar farm. This is a 40 year life scheme yet proposed hedge planting and screening will take 15+ years to provide any effective mitigation.

This landscape both around and towards the Site is highly valued and has a very special intrinsic character and beauty. The Environmental Statement both ignores and fails to address the requirements of paragraph 170 of the NPPF. The clear NPPF intention is to protect and enhance valued landscapes and to recognise the intrinsic character and beauty of the countryside including the economic and other benefits of the best and most versatile agricultural land.

The Environmental Statement relies on limited and selective viewpoints. These viewpoints exclude some PROW views despite the Applicant regarding these as the main visual harm impact. Even the detail of the photomontages from these viewpoints are lacking. The Applicant's efforts to enhance the NPPF "valued landscape" takes the form of areas of new planting including trees, hedges and a 'community woodland'. As above, these will take many years to become established and do little to screen, mask or compensate for the urban blight caused by the solar panels.

The Applicant provides neither detail nor substance of any landscape maintenance. As per our original objection, the Applicant is an off-the-shelf new company with a balance sheet of £1. There is no certainty of any management, and any planning condition provides no guarantee.

Regarding the 2.7-hectare wildflower meadow, the landowner has provided this in the 2022 summer months. As per the photos shown at Enclosure 2, for 3 months this provided a pleasant area of yellow and lilac flowers but soon became a brown mess and is now a mass of weeds. Even with a 40 year fully funded maintenance plan, at no point has or will this provide any visual screening or real community benefit.

A community woodland should be part of a planned urban extension to a town, not compensation for a small rural village. Both villages are surrounded by historic woodlands, this makes a mockery of the heritage of this area.

As per our original objection, the Applicant has demonstrated by previous performance of the appalling mitigation that landscape planting provides (reference the neighbouring 2018 battery scheme by the Applicant).

The photomontages contained with the Environmental Statement do nothing to inspire any confidence in the Applicant's ability to screen the Proposed Development. In fact, these photomontages cannot properly demonstrate how the impact of the Proposed Development can be properly mitigated.

The 2018 battery hedge screening clearly demonstrates how, 5 years later, it is wholly ineffective. The photomontages can easily be shown as being misleading and ineffective by just looking at the neighbouring battery units. Such new planting provides barely any effective screening even after 7-10 years particularly with the poor level of maintenance that is typical.

4. Heritage & Archaeology

The Applicant, in preparing the Environmental Statement, faces a tough challenge to assess and mitigate adverse impact on the key heritage assets of (a) Grade I listed Church of St Nicholas, (b) Grade II* listed Berden Hall (which overlooks the Site and the Site can be seen from the upstairs windows) and (c) the overlooking Crump scheduled monument to the east which is a Medieval moated ringwork site. There are also various listed buildings and the further Medieval remains at the Rookery to the south east of the Site.

The Applicant seems to approach this difficult task by reducing the critical importance of these heritage assets and then not fully assessing the impact that the Proposed Development will have. The Environmental Statement fails in both regards. The heritage assessment selects limited viewpoints and ignores other key views and settings.

The Environmental Statement concludes the following impact on key heritage assets:

- (a) St. Nicholas church harm would be ‘neutral’.
- (b) Berden Hall is also assessed as ‘neutral’.
- (c) The Crump harm to the setting is dismissed on the basis that it is ‘small scale’ and reversible’.

These very conclusions undermine the credibility of the Environmental Statement and make a mockery of the evaluation process.

The Crump overlooks the Site; its historic purpose as a moated Anglo Saxon fortification was to protect and defend the surrounding area including the Site. Ringworks defended aristocratic or manorial settlements, including the Site. These are rare nationally with only 200 recorded examples and less than 60 with baileys. As such, and as one of a limited number and very restricted range of Anglo-Saxon and Norman fortifications, ringworks are of particular significance for our understanding of the period.

The industrialised change in character of the Site from the Proposed Development will have a very significant impact on the Crump, the church and Berden Hall.

Historic England’s letter dated 18th January 2023 makes clear reference to “*high evidential value in this asset*” and “*this scheduled monument in the rural, agricultural landscape is a rare survival. The setting of the scheduled monument contributes to its significance, and the monument draws a considerable amount of significance from how it is experienced in the landscape*”.

Historic England’s reference to archaeological remains and important information relating to the occupation and development of the Site was previously raised by our letter dated 14th April 2022 (copy attached at Enclosure 3) concerning the Rookery which was linked to the Crump. This has not been properly addressed by the Applicant.

The Environmental Statement proposes screening as mitigation for the impact (and presumably harm) on these heritage assets. Historic England's advice is clear in this regard: *'As screening can only mitigate negative impacts, rather than removing impacts or providing enhancement, it ought never to be regarded as a substitute for well-designed developments...'*

The impact of the Proposed Development on the setting of these heritage assets will be both significant and dramatic. The existing agricultural and historic village setting will be lost.

5. Cumulative Impact and Harm

The Applicant applies great weight to the existing visual intrusion of the overhead electric pylons and the existing Pelham Substation. It is not good planning to assess something as poor and then use this as weight to add something worse.

From a heritage perspective, Historic England's guidance is very clear with regard to cumulative harm; *'where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies, consideration still needs to be given to whether additional change will further detract from ...the significance of the asset'*.

From a landscape view, we can already see from the Applicant's neighbouring battery scheme that the unmitigated white battery units are a greater and severe eyesore against the blended grey backdrop of the Pelham Substation.

The Applicant's argument has no strength or weight.

The Applicant has still failed to properly consider the cumulative impact of this Proposed Development with other similar renewable energy schemes.

The Environmental Statement refers to five other renewable energy schemes identified for cumulative assessment; these being:

UTT/21/0688/FUL – Cole End Lane, Wimbish; permission granted;

S62A/22/0004 (UTT/22/1474/PINS) - Land East of Parsonage Road, and South of Hall Road, Takeley; permission granted;

UTT/21/2846/FUL – Green Energy Hub, Chesterford Park, Great Chesterford; permission granted;

UTT/22/0007/FUL – Land East of School Lane, Felsted; permission granted;
and

3/22/0806/FUL – Stocking Pelham Battery Energy Storage System, current application.

For reasons unknown to us, the following have not been raised and included in the cumulative assessment:

Pelham Substation; as built.

UTT/16/2316/FUL and UTT/17/2075/FUL – the Applicant’s neighbouring battery storage scheme; as built.

3/21/0969/FUL – The neighbouring Green’s Farm, Stocking Pelham battery storage scheme; current application.

3/21/0806/FUL – The neighbouring Crabbs Green, Stocking Pelham battery storage scheme; current application.

3/21/2601/FUL – Wickham Hall, Farnham 35 MW solar farm; permission granted.

S62A/2022/0011 – Pelham Spring Solar Farm, current application.

Why has the Applicant included a cumulative assessment of schemes several miles away, yet ignored those directly neighbouring and within close walking distance? There are three battery storage schemes with built or proposed directly adjacent to the Site, plus the Pelham Substation plus a current application for another solar farm.

The Applicant has consistently failed to consider the potential cumulative effects of these actual, approved and proposed renewable energy schemes, many of which are neighbouring or within close proximity.

6. Transport & Highways

Further to our second objection letter dated 11th November 2022, the Environmental Statement contains a revised Construction Traffic Management Plan (“CTMP”) but this fails to address our issues and concerns raised.

The CTMP fails to properly address how construction is possible given the abundance of PROWs crossing the Site. No detail is given as to how the Proposed Development can be built without risking health & safety to the public. This is a fundamental issue and cannot and should not be left to planning conditions.

There is no highway safety assessment or construction safety assessment for any aspect of highways access or construction affecting highway and PROW matters.

Given its rural location, the Site can only be accessed by small roads which pass through small villages (Berden, Manuden, Clavering and Stocking Pelham etc.). These roads are often very narrow in places (4 metre width) and insufficient to allow HGVs to pass cars, pedestrians and cyclists.

The Environmental Statement does not include any Transport Statement which is concerning. The Applicant references total HGV trips but then applies a monthly average which is incorrect. A proper calculation is required with assessments of avoiding school times and peak periods. Even the total HGV trips seems unrealistically low.

7. Alternative Sites & Sequential Test

Our original objection set out the planning policy basis in NPPF for 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 is further reinforced in the Government's Guidance Note and the Ministerial Statement and as above the consultation draft revised NPPF. Even the 2005 Local Plan Policy ENV5 requires areas of poorer quality to be used.

To repeat the original objection, against this clear "schoolchild" policy background, the Applicant has still made no effort to consider or appraise other sites by way of an alternative site and sequential test.

The Applicant correctly references within the Environmental Statement to EIA Regulations requirements but then provides no evidence of consideration of any other sites.

The Applicant has been very consistent in this approach; in the Applicant's questions document issued after a public exhibition: "Question: What other locations did you consider? Answer: None!".

The Applicant simply references the reason for the Site's selection as its proximity to the Pelham Substation. Yet we know this is purely a financial reason for a reduced length high voltage cable connection, not planning led.

The Applicant refers to "*high solar irradiance associated with the area*". We cannot see any evidence or case to justify why these fields on this specific part of the Hertfordshire-Essex border receives more sunlight than elsewhere in both counties. Indeed, the Site slopes down to the north with less winter sun than other better orientated areas.

Similarly, the Applicant's comments on the Site being visually enclosed with effective screening within a short timeframe are fictions. The only enclosure the Site has is from key heritage assets and historic built villages.

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 solar farm on land at Cutlers Green near Thaxted (reference UTT_21_1833_FUL) will have underground cables into the grid approximately 4km from the site.

8. Biodiversity Net Gain ("BNG")

The Applicant's assessment shows a failure to meet the Trading Rules Standard and the explanations given are flawed. As such this is not acceptable.

The Site is current actively farmed arable fields with existing substantial hedged margins and an existing wildflower meadow (as above, already provided not proposed).

9. Ecology & Protected Species – The failure to properly provide open habitats for lost Skylark nesting is concerning.

In the Applicant's original submission, the presence of skylarks on the Site was suggested to be dealt with by nesting between the solar arrays. Fortunately, the new ecologist has correctly indicated that Skylarks may forage between solar arrays, but they nest in open fields.

The Applicant's skylark mitigation strategy is lacking in detail and enforceability for adequate offsite replacement. This needs to properly allow for existing nesting areas to be retained and not developed.

The Applicant has failed to properly deal with distances from the existing skylark territories and also the fact that the proposed mitigation sites are home to a successful family of Red Kites which will prey on small birds including Skylarks.

The offsite relocation requires small squares of arable land to not be seeded and crop sprayed with herbicide. These plots are outside the Site planning application red line 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.

We note Place Service's concerns about Great Crested Newts and badgers. Presumably the Applicant will carry out seasonal surveys in May and before this Application is determined.

10. Flood Risk & Surface Water Drainage – The Environmental Statement still fails to properly understand the existing flooding in the centre of Berden and the degree of field run-off which will greatly worsen without proper attenuation.

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

11. Noise

We share the concerns of both the East Herts and Uttlesford environmental health officers on cumulative noise and the objection confirmed by the notice dated 1st and 3rd February 2023 respectively. East Herts have received numerous complaints regarding current unacceptable noise from the Applicant's existing battery scheme and there are two further current planning application for two more battery storage schemes direct next to this.

The Proposed Development further adds solar inverters and transformers adding noise + noise + noise to that existing.

As our previous objection, the Applicant's noise assessment is flawed as it has regard to existing background noise levels which are inflated by the Applicants existing battery scheme which has no noise mitigation.

We have previously highlighted to the Council the planning error made in 2017 (reference Enclosure 4).

12. Future Reinstatement – The Applicant has still failed to provide any detail or guarantee about the future ability to revert the land to agricultural use. We still object based on concerns of failure to provide a proper mechanism for this.

The Applicant has a balance sheet of £1 and presumably will assign any option to lease the Site either after planning or after construction. The Applicant offers no obligation for the landowner to be liable and responsible for the future reinstatement

in 40 years. Both the landowner and the Applicant are jointly liable for this visual blight.

For completeness and ease of reference, we enclose our original objection letter dated 5th September 2022 and further letter dated 11th November 2022 (Enclosures 5 and 6 respectively).

Please do not hesitate to contact us in this regard.

Yours faithfully,

Berden PC

Berden Parish Council

Stocking Pelham PC

Stocking Pelham Parish Council

Enc.

Copy: [REDACTED]
Uttlesford District Council

[REDACTED]
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