

**Section 62A Planning Application: S62A/22/0006**  
**Berden Hall Farm, Ginns Road, Berden**

**Submissions regarding the Written Ministerial Statement dated 15<sup>th</sup> May 2024**  
**on behalf of the Applicant**

**1. Response**

- 1.1 This is a response on behalf of the Applicant to the Written Ministerial Statement ('the WMS') dated 15<sup>th</sup> May 2024. It is agreed by the Applicant that the WMS is a material consideration in this appeal. However, it is clear that the driving concern behind it are 'large scale solar developments' (NSIP scale projects) which are proceeding at pace. This scheme is not one of those. Further, there is particular concern expressed about geographical clustering of proposed solar developments in some rural areas, such as in Lincolnshire. Whilst there are other schemes in the locality, the Applicant submits that this scheme does not raise such 'large scale' cumulative concerns either.
- 1.2 The WMS is entirely aligned with the National Policy Statement which was adopted in January 2024 and which is already a material consideration in this appeal. The WMS introduces no new policy tests.
- 1.3 The WMS repeats the Government's commitment to solar energy generation in the following terms:

'We are combatting this by racing ahead with deployment of renewable energy; nearly half of our electricity today is produced from renewables which is up from only 7 percent in 2010. **Solar power is a key part of the Government's strategy for energy security, net zero and clean growth.** This position was reinforced in the new National Policy Statement (EN-3), published in January this year, which stated that "Solar also has an important role in delivering the government's goals for greater energy independence and the British Energy Security Strategy states that government expects a five-fold increase in combined ground and rooftop solar deployment by 2035 (up to 70GW)'. (emphasis added).
- 1.4 Government recognises that, in some instances, solar projects can affect local environments which may lead to unacceptable impacts for some local communities. However, where it can be sensibly developed, solar energy generation needs to come forward to help with energy security.
- 1.5 Food security is an essential part of national security but the application site would make an extremely small contribution to it; agricultural use would of continue with the solar farm in place.
- 1.6 The National Policy Statement can also be a material consideration in determining applications under the Town and Country Planning Act 1990 and is broadly consistent with the approach to agricultural land in the National Planning Policy Framework which states that:

“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”.

- 1.7 In the normal way, due weight needs to be given to the proposed use of BMV land, just as the Applicant has done in the planning balance. The scheme is not on the ‘highest quality agricultural land’ (which would be Grade 1) and a proportionate degree of weight needs to be applied to the underutilisation of areas of Grade 2, Grade 3(a) and Grade 3(b) land respectively. Use of the application site has been fully justified during the planning process.
- 1.8 Whilst there are schemes in the locality, the Applicant submits that this is not a case in which the cumulative impacts of loss of BMV from the clustering of large scale solar developments should be given anything other than very low weight in the planning balance.
- 1.9 In relation to Soil Surveys, there is no real challenge made regarding the quality or accuracy of what has been done.
- 1.10 The Applicant has fully justified why the scheme cannot be located on commercial rooftop space. Clearly, those aspects of the WMS which relate to rooftop mounted solar panels on residential developments do not apply.
- 1.11 In short, the WMS is a timely reminder of the centrality of solar energy development to the Government’s plans for energy security. It is primarily addressed at much larger schemes which are promoted under the NSIP regime and which have the potential to cause significant cumulative losses of agriculturally productive farmland in ‘hot spots’ such as Lincolnshire.
- 1.12 The WMS is a relevant consideration but if anything, strengthens the case for the Applicant. It is not the type or scale of development which gives rise to the types of concern which lay behind the common sense and understandable announcement.

**David Hardy (Partner)**

**6<sup>th</sup> June 2024**

**CMS Cameron McKenna Nabarro Olswang LLP**