Whitestone Solar Farm Registration Reference Number [redacted]

Dear Planning Inspectorate Examination Authority

There is a critical omission regarding the recent application for planning permission for the proposed Whitestone Solar Farm.

The draft environmental assessments submitted by the applicant in support of the application contravenes existing statutory legislation which shall have legal consequences for both the Planning Inspectorate and the Applicant.

Statutory legal protections and wildlife obligations ensure some species of birds are afforded strict enhanced protection under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). Under Section 1(5) of the Act, it is a strict liability criminal offence to intentionally or recklessly: -

Kill, injure, or take any Schedule 1 species.

Take damage or destroy the nest of a Schedule 1 species while it is in use or being built.

Disturb a Schedule 1 species while it is in, or near, a nest containing eggs.

Disturb the dependent young of a Schedule 1 species.

Application of the law to territory and habitats. Land immediately adjacent to the development hold formal statutory designation, Crabtree Wood (Site of Special Scientific Interest) and Blue Mans Bower (Scheduled Monument) both subject to mandatory protection. Because of the mandatory designations the Wildlife and Countryside Act 1981 provide absolute legal protection to territory and habitats of Schedule 1 species affected by the development.

The close proximity of Whitestone Solar Farm, and the sub stations required for the development create two severe legal and statutory vulnerabilities for any future permissions: -

Direct risk of reckless disturbance (Section 1(5).

Under UK law proceeding with heavy construction in known breeding proximity without appropriate site-specific mitigation satisfies the legal threshold for “reckless disturbance”.

Failure of material planning consideration.

Under the National Planning Policy Framework (NPPF Paragraph 187 – 201) and the Environment Act 2021, planning authorities have a statutory duty to conserve and enhance biodiversity. The presence of Schedule 1 protected species is a material planning consideration. A failure to identify resident breeding species or evaluate the ecological impact on their active hunting habitat during the determination process fundamentally undermines the adequacy of the Applicants Environmental Impact Assessment (EIA). The Applicants Construction & Environmental Management Plan (CEMP) will need major consideration to establish clear protocols to avoid criminal liability under Section 1(5) of the 1981 Act, during all ground clearing and development phases,

Proceeding with approval of the Applicant’s submission in ignorance of established Schedule 1 species, exposes developers and contractors to criminal prosecution under the Wildlife and Countryside Act 1981 (as amended), and leaves all decisions vulnerable to legal challenge. The Inspectorate should revisit the application before commencing the agenda for detailed examination.

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