Ecology – Proof of Evidence Summary

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Acting on behalf of Rushcliffe Borough Council

for

Planning Appeal by Exagen Development Ltd Against the Refusal of a Full Planning Application for the construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar PV with co located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling

at

Land West of Bradmore Road and North of Wysall Road,
Land West of Wysall, Wysall
Known as: Old Wood Energy Park

Planning Application Reference: 24/00161/FUL

Planning Inspectorate Reference: APP/P3040/W/25/3375110

Heatons
Planning Environment Design

February 2026

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FIGURES

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Revision	Author	Checked by	Date
V1	RM	SW/PB/GI	February 2026

1 INTRODUCTION

1.1.1 This summary proof has been prepared by Rhia McBain BSc (Hons) MCIEEM, Director of Ecology at Heaton Planning Limited (Heatons). Heatons are a planning, environment, and design consultancy, with an experienced team of planners, geologists and ecologists. It sets out my summary assessment of the refusal reason three (skylark) in Decision notice of 19th June 2025.

1.1.2 RfR three cites conflicts with Policy 1 (Development Requirements), Policy 16 (Renewable Energy) and Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the LPP2 and Chapter 15 (Conserving and Enhancing the Natural Environment) of the NPPF. Although not cited in the Decision Notice, the Council also considers LPP1 Policy 17 to be of relevance in considering RfR three.

1.2 Ecology Baseline

1.2.1 As part of the appeal, the Appellant submitted an updated EcIA (CD 3.8) and a Summary of Changes document, showing additional fields for skylark mitigation (CD 3.5, Figure 1).

1.3 Appellant's Ecology Impact Assessment (EcIA) Comments

I agree with the Appellant's updated EcIA (CD 3.8) paragraph 3.6.4, that skylark would be subject to significant adverse impacts long term, increasing to at least Local level when cumulative impacts with the adjacent consented solar farm are accounted for.

2 ECOLOGICAL IMPACT ASSESSMENT CONCERNS

Concern	Description	Impacts assessed in the updated EcIA	Harm/Issues
Out of date surveys	Ecology survey in 2025 only included a general walkover, no bird surveys.	N/A	High wind speeds are stated as likely reducing recorded bird activity. No information on changes to territories since 2022, therefore a robust impact assessment cannot be undertaken. The updated EcIA does not justify why further surveys were not undertaken given only 4 surveys were undertaken in 2022 when the guidance now states 6 visits are required (CD 10.15).

Concern	Description	Impacts assessed in the updated EcIA	Harm/Issues
Updated mitigation impacts	Two additional fields have been brought in through the blue line for proposed skylark plots. These will be two small fields and a strip of land between the two access tracks post development.	No	A large area of the proposed additional area is unsuitable due to overhead cables and hedgerows/trees/buildings. The habitat suitability pre and post has not been assessed fully including any potential temporary construction compound which is indicated to be established in one of the proposed skylark mitigation fields.
Cumulative impacts from application 24/01542/PAQ	Change the use of existing disused barns to 8 residential units in the centre of the Appeal site.	No	Significant disturbance during construction. Once occupied, increased levels of disturbance and increase in predation risk due to pets / cats.

3 SUITABILITY OF PROPOSED MITIGATION

3.1.1 It is important to preface this section with the fact that, whilst skylark are a well-studied species with regard to nesting preferences, there is limited data on the efficacy of mitigation.

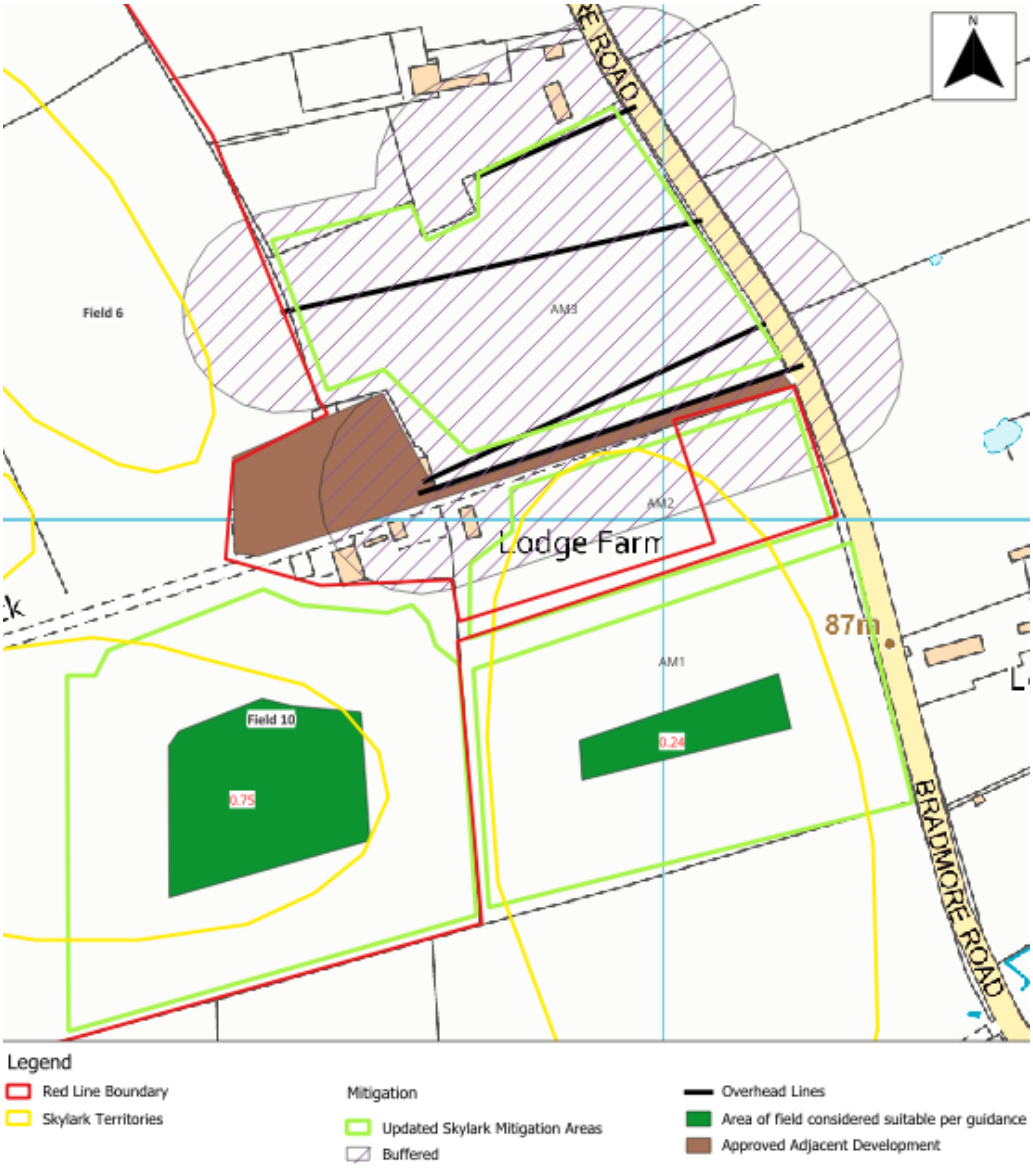
3.1.2 The Appellant's Main SoC Ecology Appendix relies heavily on a prototype that has, as yet, not become best practice nor has it become a widely used or accepted mitigation method. It also fails to apply well researched and evidence-based data including Government and RSPB guidance (CD 10.5, CD 10.9 & CD 10.10) on creating suitable habitat for nesting skylark taking into account nesting preferences and predation risks, including:

- Fields with open, unobstructed aspects (CD 10.4, 10.5, 10.6, 10.9 & 10.10);
- Limited/no boundary vegetation (Wilson et al. 1997 – CD 10.12 Summary paragraph 2 Pg. 1462);
- Hunnick et al, 2025 showed that "*increasing proximity of tall structures such as buildings, trees and electricity poles strongly reduced Skylark habitat occurrence… forests and single trees are strongly avoided up to around 100 m*" (Pg. 303 CD 10.13); and
- Mitigation should be located away from field boundaries/ tall structures, "*Candidate receptor fields should feature low (<2m high) boundary features, no buildings*" (H.Fox, 2022 CD 10.1).

3.1.3 Government guidance (CD 10.9 & 10.10) on land management to improve chance of successful skylark broods. The table below summarises these points:

Original AB4 Gov guidance (CD 10.9 in the 'Where to use this option' and 'Where this option cannot be used' sections)	**Updated AHW4 guidance (CD 10.10 in the 'Where you can do this' and 'Choosing the right location' sections)**
Fields must be >5 hectares with an open aspect (or at least 10ha where fields are bounded by tall vegetation/woodland)	Fields should be >5 hectares with an open aspect (or at least 10ha where fields are bounded by tall vegetation/woodland)
>50m from field boundaries and margins	>80m from field edges, telegraph poles, pylons.

Figure 1 Skylark Mitigation Suitability Plan Showing areas following above guidance/research.



4 CONCLUSIONS

Issues with the original mitigation (one field split with the eastern part c. 3.62ha as mitigation)	**Relevant guidance/research**	**Any changes to the issues raised when considered against the updated mitigation (Fields outside red line boundary and part of Field 7.**
<5ha field & no open aspect	Fails to meet government, RSPB & CFE advice (CD 10.5, CD 10.6, CD 10.9 & CD 10.10)	None, each field is still <5ha and no open aspect
Enclosed by >2m tall vegetation/buildings/pylons	Fails against all relevant and widely accepted guidance and research as well as not meeting the preferred boundaries as per H.Fox, 2022 - see paragraph 3.4.2 bullet 5 above. (10.4, CD 10.5, CD 10.6, CD 10.7, CD 10.8, CD 10.9, CD 10.10 and CD 10.12).	Additional field AM3 has further suitability restrictions due to presence of multiple overhead wires (increased predation risk).
Post landscaping and construction the field becomes further enclosed by security fencing and landscaping including trees.	As per above	As per above.
Cumulative impacts (22/00303/FUL)	As per Appellant's EcIA (CD 3.8), there will remain a significant level of impact to skylark of up to Local level. This is an unacceptable level of impact to a protected species.	No change.
Cumulative impacts (24/01542/PAQ)	No assessment has been made clear within the Appellant's ecology documentation to date on how indirect impacts e.g. disturbance once inhabited or sublethal impacts of pets will affect the proposed mitigation areas which are adjacent to the residential application. (Cresswell, 2008 CD 10.11)	No change
Appellant's Main SoC Ecology Appendix referencing the residual impacts being acceptable due to the natural skylark annual variations.	This would be a cumulative impact, the annual variations in addition to the loss through lack of mitigation could significantly increase the loss of skylark in the area.	No change.
Appellant's Main SoC Ecology Appendix referencing the number of territories to be mitigated based on the H.Fox 2022	From Table 2 page 7 the organic set-aside baseline ratio which inaccurately inflates the number of territories that could be mitigated. The area in question would be standard	No change.

prototype	set-aside not organic- 0.39 territory densities vs 0.56 on organic set-aside makes a significant difference.	
Territories mitigated based on the H.Fox/Clarkson & Woods 2022 prototype		
Mitigated territories –based on territory densities	<1 territory at most 2 territories mitigated, leaving 6 or 7 of the 8 This leaves >50% of the impacted territories unmitigated.	Small change, potentially up to 4 territories mitigated N.B. reduced to a maximum of 1 with relevant guidance applied still <50% mitigated.
Area of land for mitigation required based on the 2022 prototype (it should be noted that RBC views the resultant areas below as excessive in this case).		
Mitigation area required in line with the proposed mitigation metric	25.8ha (or 38ha if the cumulative impacts to 50% of the adjacent skylark territories are included). Proposed is <10ha with all fields included.	No change, this is a calculation based on the number of territories within the development boundary and is the amount of land deemed appropriate to mitigate for that number.

4.1.1 Therefore, the Councils objection stands as the loss of potentially >50% of onsite skylark territories is entirely unacceptable.

4.1.2 A further significant loss is likely due to impacts from adjacent developments which includes a residential development within the centre of the proposed skylark mitigation fields. This has the potential due to disturbance and both lethal and sublethal impacts by domestic pets to collapse the on site population.

4.1.3 Even following the H.Fox 2022 calculation for the proposed mitigation metric and ignoring the usual best practice guidance and methods, the area required to compensate the 8 territories on standard set aside is 25.8ha, however <10ha is currently proposed if both the original field and the additional fields are used.

4.1.4 Whilst the addition of a solar development aligns strongly with National policy, a substantial negative weight should be assigned to the inevitable long term, significant negative impacts to a protected species.