



Town and Country Planning Act 1990

Appeal Statement on behalf of Shropshire Council

**APPEAL ON BEHALF OF ECONERGY INTERNATIONAL LTD AGAINST THE REFUSAL OF SHROPSHIRE COUNTY COUNCIL OF AN APPLICATION FOR erection of an up to 30 MW Solar PV Array, comprising ground mounted solar PV panels, vehicular access, internal access tracks, landscaping and associated infrastructure, including security fencing, CCTV, client storage containers and grid connection infrastructure, including substation buildings and off-site cabling.**

**Land To the West Of Berrington, Shrewsbury, Shropshire SY5 6HA.**

PINS Ref: APP/L3245/W/23/3332543

LPA Ref: 22/04355/FUL and 23/03207/REF

## INTRODUCTION

1. This appeal statement has been prepared on behalf of Shropshire Council the local planning authority in response to the appeal by Econergy International Ltd following the refusal of Planning Application 22/04355/FUL for the following reasons:

*(1) 88.2% of the land within the 44.09-hectare site is best and most versatile quality with 54.1% being the higher Grade 2 quality. It is not considered that the renewable energy benefits of the proposals or the applicant's justifications for this choice of site are sufficient to outweigh the adverse impact of losing the arable production potential of this best and most versatile land for the 40-year duration of the proposed solar farm, assuming the land is physically capable of reverting to intensive arable production at the end of this time period. The proposals are therefore contrary to paragraph 174B of the NPPF and Core Strategy Policy CS6 (and the accompanying explanatory paragraphs). The proposal is also contrary to policy DP26(part 2.k) of the emerging Shropshire Local Plan which states that solar farm developments should use lower grade land in preference to best and most versatile land.*

*(2) The proposed solar farm site would potentially have a visually oppressive effect for users of the publicly maintained highway leading to Cantlop Mill which bisects the site. This is due to the height difference of up to 6m locally between the highway and the top of the proposed arrays. The proposals would also have an adverse effect on existing expansive and high-quality views in the vicinity of the public footpath at Cantlop which is in an elevated position overlooking the site. Other publicly accessible views of a generally pristine rural environment exist from the Berrington Road to the north and the Eaton Mascot Road to the east. Additional field margin planting has been proposed and solar arrays have been pulled back in some margins with the objective of seeking to reduce such views. However, full screening is not physically possible due to the local topography, and it is not certain how effective planting would be as a visual mitigation measure. The proposals therefore have the potential to adversely affect the local landscape and visual amenities from a number of public viewpoints surrounding the site due to the replacement of the*

*current arable fields with solar arrays and associated built infrastructure. This conflicts with Core Strategy Policies CS6, CS17 and SAMDev policy MD12.*

*(3) Skylarks are protected under the EU Birds Directive 79/409/EEC. The application affects land which is used by Skylarks for nesting. The applicant proposes to mitigate for the loss of nesting opportunity by providing protected plots on land to the immediate north of the site. However, this land is of a different character and the general area is also used for seasonal shooting which may coincide with the Skylark nesting season. It is considered that the applicant has not demonstrated sufficiently that the proposed off-site mitigation would provide an appropriate safe and undisturbed environment for successful Skylark nesting. The proposals are therefore contrary to Core Strategy Policy CS17 and SAMDev policy MD12.*

## **SITE AND SURROUNDINGS**

2. The Application Site extends to 44.09 hectares (ha) of agricultural land and is located in an area of open countryside to the south-west of the village of Berrington. The Site is formed of two field parcels, separated by a single-track road.
3. There is an existing Site access to the northern Site boundary on Cliff Hollow, a further farm access to the eastern Site boundary, as well as from the unnamed single-track road running through the centre of the Site.
4. The Site is currently in agricultural use and is bound on all sides by hedgerow and occasional trees. The character of the Site surroundings is mixed. The village of Berrington is located circa 250m to the north of the Site, and immediately to the west is the Boreton 'Motocross' Track. Candover Solar Farm is also located circa 670m to the west of the Site.
5. The topography of the Site is undulating, with the area of highest ground comprising the northern section of the Site. There are no Public Right of Ways (PRoW) running through the Site. However, outside of the Site there is a route running in a north west to south east orientation through Berrington to the north (Ref's 8905, 6259 and 8900). There is also route from the west which terminates at Shrewsbury Road (Ref. 5342) and a route running in a west to east orientation through Cantlop (Ref's 12641 and 12642). A public highway also runs through the middle of the two fields which comprise the site. The gradient of the site makes it visually prominent from the south.

## **APPEAL PROPOSALS**

6. The application is for a solar generating facility with a capacity of 30 megawatts. The solar farm would consist of the following:
  - Boundary Fencing
  - Customer Sub-Stations
  - MV Power Stations
  - Fencing and CCTV Cameras
  - Landscaping Works
  - Internal Access Tracks
  - Welfare Units
  - Compound Area/Track Type 1
  - Waterless Toilet
  - Britcabs x 3
  - Set Down Area
  - Other associated infrastructure
7. The solar arrays would be laid out in multiple parallel rows running north-south across the site covering c80% of the site. The panels would track the sun throughout the day.
8. Construction would take six months and the solar farm would have an operational lifespan of 40 years.

## **PLANNING HISTORY**

9. The Council provided a screening opinion (22/00006/SCR) on the 15 December 2021 in relation to the EIA regulations.
10. Pre-application advice was subsequently provided under PREAPP/22/00002 on 8<sup>th</sup> March 2022.

## **PLANNING POLICY**

11. Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise.
12. For the purposes of the assessment of this application, the development plan presently comprises the adopted Shropshire Council Local Development Framework Core Strategy 2011, the Site Allocations and Management of Development (SAMDev) Plan.
13. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. National Planning Practice Guidance (NPPG) consists of a range of guidance webpages addressing specific planning matters. The NPPF and NPPG represent material planning considerations in the planning application process.
14. Shropshire Council is at an advanced stage of a Local Plan Review. The Draft Shropshire Local Plan (2016 – 2038) which represents a fully formed version of the Local Plan, was submitted to the Secretary of State for examination on the 3rd of September 2021. As of October 2023, the Examination of the Local Plan is ongoing and therefore can only be given limited weight.

### **Development Plan Policy**

15. The following Development Plan Policies are relevant in relation to this appeal:

#### **Core Strategy Policies:**

CS1 Strategic Approach

CS5 Countryside And Green Belt

CS6 Sustainable Design And Development Principles

CS8 Facilities, Services And Infrastructure Provision

CS13 Economic Development, Enterprise And Employment

CS17 Environmental Networks

CS18 Sustainable Water Management

#### **Site Allocations and Management of Development (SAMDev) Plan Policies:**

MD1 Scale and Distribution of development

MD2 Sustainable Design MD6 Green Belt And Safeguarded Land

MD7b General Management Of Development In The Countryside MD8  
Infrastructure Provision

MD12 Natural Environment

### **National Planning Policy and Guidance**

16. The NPPF will also inform the Council's case focusing on the following parts

2. Achieving sustainable development

6. Building a strong, competitive economy

11. Making effective use of land

12. Achieving well designed places

14. Meeting the challenge of climate change, flooding and coastal  
change

15. Conserving and enhancing the natural environment

17. The council may also refer to advice in the Government's Planning  
Practice Guidance (NPPG) including on some or all of the following  
subjects: Green Belt. Natural Environment, Renewable and Low Carbon  
Energy.

### **Draft Shropshire Local Plan**

18. Policies that would be relevant include:

SP1. The Shropshire Test

SP2. Strategic Approach

SP3. Climate Change

SP4. Sustainable Development

SP10. Managing Development in The Countryside

DP11. Minimising Carbon Emissions

DP12. The Natural Environment

DP16. Landscaping and New Development



DP17. Landscaping and Visual Amenity

DP26. Strategic, Renewable and Low Carbon Infrastructure

## **SUMMARY OF THE COUNCIL'S CASE**

### Refusal Reason 1

19. The Council will provide evidence to demonstrate that the proposed development is not in accordance with the adopted Development Plan conflicting with paragraph 174B of the NPPF and Core Strategy Policy CS6 (and the accompanying explanatory paragraphs). The proposal is also contrary to policy DP26(part 2.k) of the emerging Shropshire Local Plan.
20. The Council will provide evidence to demonstrate that the proposed development fails to recognise the importance of the Grade 2 and 3a agricultural land for farming for food production and fails to promote rural enterprise referencing Core Strategy Policy CS13. The Council will provide evidence demonstrating that the proposed development does not contribute to and enhance the natural and local environment by recognising the wider economic 10 benefits from natural capital of this best and most versatile (BMV) agricultural land in accordance with Section 15 of the NPPF.
21. The Council will provide evidence to demonstrate that the renewable energy benefits of the proposals and the applicant's justifications for this choice of site are insufficient to outweigh the adverse impact of losing the arable production potential of this best and most versatile land for the 40-year duration of the proposed solar farm, assuming the land is physically capable of reverting to intensive arable production at the end of this time period.
22. The Council will provide evidence to demonstrate that in addition to the proposed site being Grade 2/3a agricultural land, it has value for organic farming. The Council will provide evidence demonstrating that as an agroecological system, organic farming offers a sustainable form of development which itself mitigates and adapts to climate change and is a form of development which appropriately fulfils the three overarching objectives specified in paragraph 8 of the NPPF.
23. The Council will provide evidence demonstrating that achieving the organic status of the land, which now forms the proposed development site, results in its additional value. This will include reference to guidance provided in relation to organic farming by the Department for Environment, Food and Rural Affairs.

24. The Council will also provide evidence to demonstrate that lower grade agricultural land which is more appropriate for a solar farm use is available in the vicinity.

### Refusal Reason 2

25. The Council will provide evidence to demonstrate that the proposed development is not in accordance with the adopted Development Plan conflicting with Core Strategy Policies CS6 and CS17 and SAMDev Plan MD12. In addition, Section 15 of the NPPF and NPPGs Natural Environment (2019) and Renewable and Low Carbon Energy (2015) and DP17 of the Draft Local Plan will be referred to.

26. The Council will provide evidence to demonstrate that the proposed development conflicts with Development Plan strategy to maintain and enhance countryside vitality and character. The social and economic benefits of the proposed development are not consistent with this strategy.

27. The Council will provide evidence to demonstrate that the proposed development conflicts significantly with the views of the affected local community who bestow substantial value to the existing landscape character.

28. The Council will provide evidence that solar farm site would have a visually oppressive effect for users of the publicly maintained highway leading to Cantlop Mill which bisects the site.

29. The Council will provide evidence that due to the height difference of up to 6 metres locally between the highway and the top of the proposed arrays. The proposals would also have an adverse effect on existing expansive and high-quality views in the vicinity of the public footpath at Cantlop which is in an elevated position overlooking the site.

30. The Council will provide evidence to demonstrate that effective screening of the site is not physically possible due to the local topography, and that such a measure would not provide an effective visual mitigation measure given the undulating nature of the site and its surrounds.

31. The Council will provide evidence to demonstrate that the proposals will adversely impact the local landscape character and visual amenities from a number of public viewpoints as well as several dwellings

surrounding the site due to the replacement of the current arable fields with solar arrays and associated built infrastructure.

32. The Council will provide evidence to demonstrate that less visually prominent sites which are considered more appropriate for a development of this type are available in the locality.

### Refusal Reason 3

33. The Council will provide evidence to demonstrate that the proposed development is not in accordance with the adopted Development Plan conflicting with Core Strategy Policy CS17 and SAMDev policy MD12.
34. The Council will provide evidence to demonstrate that the proposed mitigation for the loss of skylark nesting opportunity by providing protected plots on land to the immediate north of the site is unsatisfactory.
35. The Council will provide evidence to demonstrate that the site of the proposed new skylark nesting opportunities is of a different character.
36. The Council will also present evidence to show that the general area in which the mitigation is proposed is also used for shooting.
37. The Council will evidence that the applicant has not demonstrated sufficiently that the proposed off-site mitigation would provide an appropriate safe and undisturbed environment for successful Skylark nesting.

## **CONCLUSIONS**

38. The Council will demonstrate that the proposed development is not consistent with the policies of either The Development Plan or the NPPF. There are no other material considerations to justify departing from the Development Plan.
39. For this reason and following submission of proofs of evidence by expert witnesses covering the planning issues identified above, the Council's case will conclude by respectfully requesting that the appeal be dismissed.

## **OTHER MATTERS**

The Local Planning Authority will engage with the appellant on the production of a Statement of Common Ground and provide its comments on this to the appellant. It is the intention to submit an agreed and signed version of a Statement of Common Ground in advance of the commencement of the Public Inquiry.