

**TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURES) RULES
1990**

PROOF OF EVIDENCE BY SHROPSHIRE COUNCIL

Planning Inspectorate Appeal Reference:	APP/L3245/W/23/3332543
SC Planning Application Ref:	22/04355/FUL
SC Appeal Reference:	23/03207/REF

1.0	INTRODUCTION
	<u>Qualifications and Relevant Experience</u>
1.1	This proof has been prepared by Mike Davies MBA, MRICS, MRTPI, MCIQB, IHBC, Consultant Planner on behalf of Shropshire Council. I am a full member of the following professional bodies the Royal Institute of Chartered Surveyors, the Royal Town Planning Institute, the Chartered Institute of Building and the Institute of Historic Building Conservation. I also hold a Master of Arts in Architecture and Urban Design from Liverpool John Moores University, a Postgraduate Diploma in Urban and Regional Planning from Leeds Metropolitan University, a Postgraduate Diploma in Building Conservation from the College of Estate Management.
1.2	I have over 35 years professional planning experience working in a variety of roles in both the public and private sector.
	<u>Involvement in the scheme</u>
1.3	I have not been involved in the scheme prior to the submission of the appeal.
	<u>Declaration</u>
1.4	The evidence which I have prepared and provide for this Planning Inquiry in this Proof of Evidence is true and I confirm that the opinions expressed are my true and professional opinions.
	<u>Scope of Evidence</u>
1.5	Within the Council's Statement of Case submitted to the Planning Inspectorate on 28th December 2023, it was advised the Council's case will be to support the Members decision to refuse planning permission for the proposal.
1.6	Evidence on behalf of the Council will be in relation to Best and Most versatile land, visual amenity and planning will be presented by myself, with evidence in relation to landscape being covered by Tom Hurlstone and Ecology being covered by Diane Corfe.
1.7	The scope of my Proof of Evidence will cover the best and most versatile land, aspect of visual amenity and planning matters. I will provide details in relation to the BMV agricultural status of the land and its role in farming for food, and the balance between the need to produce green energy against food security and the reduction in resulting from sheep grazing at solar farms. Finally, I will consider the relevant local and national policies, other material considerations and will focus on the main issues and areas of

	disagreement which were identified at the Pre-Inquiry Meeting held on 4 th January 2024.
1.8	In preparing my evidence, I have had regard to the Statement of Case of Council, the draft Statement of Common Ground, the Statement of Case of the Appellant and the rule 6 party representations.
2.0	HISTORY OF THE SITE
2.1	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, it has little previous planning history. The farm itself extends to an overall area of 152.6 hectares.
2.2	A screening opinion was sought under Planning Ref: 22/00006/SCR for the proposed development prior to the submission of the planning application. It was ascertained that an Environment Impact Assessment was not required under the Town and Country (Environmental Impact Assessment) Regulations 2017 on 26th January 2022.
2.3	Pre-application advice was provided under PREAPP/22/00002 on 8 th March 2022.
3.0	PLANNING POLICY CONTEXT
	<u>The Adopted Development Plan</u>
3.1	Sections 70(2) and 79(4) of the Town and Country Planning Act (1990) (as amended) and section 38(6) of the Planning and Compulsory Purchase Act 11 (2004) (as amended) state that planning applications and appeals must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) (2023) () reinforces this statutory requirement.
3.2	The adopted Development Plan for Shropshire consists of the Core Strategy (2011) (), the Site Allocations and Management of Development (SAMDev) Plan (2015) () and any adopted formal Neighbourhood Plans. There is no adopted Neighbourhood Plan which relates to the appeal site.
3.3	The decision notice () referenced a number of Development Plan policies. These are the principal Development Plan policies of relevance to the refusal and are set out below. A full list is included in Section 6 of the Council's Statement of Case: <ul style="list-style-type: none"> • Core Strategy Policy C6 (Sustainable Design and Development Principles)

	<ul style="list-style-type: none"> • Core Strategy Policy CS8 (Facilities, Services and Infrastructure Provision) • Core Strategy Policy CS13 (Economic Development, Enterprise and Employment) • Core Strategy Policy CS17 (Environmental Networks) • SAMDev Plan Policy MD12 (Natural Environment)
	<u>Shropshire Local Plan Review</u>
3.4	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 September 2021. As of October 2023, the Examination of the Local Plan is ongoing and therefore cannot yet be given significant weight, however some moderate weight can be given to the relevant draft policies as a material consideration.
	<u>National Planning Policy and Guidance</u>
3.5	The NPPF sets out the Government’s planning policies for England and how these should be applied. It is a material consideration in relation to this Appeal.
3.6	National Planning Practice Guidance (NPPG) consists of a range of online guidance which deal with specific areas of planning. NPPG is a material consideration in relation to this appeal.
3.7	The Overarching National Policy Statement for Energy (EN-1) and (EN-3) These set out national policy for the development of energy infrastructure, EN1 is the overarching policy and guidance. EN3 covers renewable electricity generation specifically.
	<u>Supplementary Planning Documents</u>
3.8	There are no adopted Supplementary Planning Documents which are relevant to material to the consideration of these proposals.
4.0	THE CASE FOR THE LOCAL PLANNING AUTHORITY
	<u>Introduction</u>
4.1	The Local Planning Authority resolved to refuse the proposal at the meeting of the Southern Planning Committee on 9 th May 2023. The minutes of the meeting provide a summary of the determination (). Within this Proof of Evidence, I will assess why I do not consider the proposed development to comply with the adopted development plan and the National Planning Policy Framework.

4.2	Taking into consideration the matters discussed at the Case Management Conference Meeting (CMC) with the Inspector, my Proof of Evidence will respond to the main issues to be dealt with at the Inquiry.
4.3	<p>The main issues as defined at the CMC are as follows:</p> <ol style="list-style-type: none"> 1) The landscape and visual effects of the proposal, taking account of the proposed mitigation measures. 2) The implications of, and the weight to be given to, the loss of best and most versatile agricultural land. 3) Whether the proposed off-site mitigation would provide an appropriate safe and undisturbed environment for successful Skylark nesting. 4) The effect of the proposal on the setting and significance of heritage assets. 5) The nature and extent of the benefits of the proposal and whether these would outweigh any harm arising from the issues above. <p>It was agreed at the CMC that the effect of the proposal on the setting and significance of heritage assets does not form part of the Local Planning Authority's case, but that the Rule 6 party wish to present evidence in relation to this matter.</p>
	<u>BMV Land</u>
4.4	The use of Best and Most Versatile (BMV) agricultural land and food security issues are a significant concern to the local planning authority. An agricultural land survey advises that 22.5ha of the site is of Grade 2 quality (54.1%) and 12.4ha is of Subgrade 3a (29.9%). - Therefore 34.9ha (88.2%) of the land surveyed is of best and most versatile agricultural land. The remaining 4.9ha of surveyed land being of Subgrade 3b (11.8%). A further 1.7 hectares (4.2%) was not surveyed, however it can be assumed that on the balance of probabilities given the existing survey work that this land may well be higher grade agricultural land.
4.5	Overarching Energy National Policy Statement (NPS) EN-1 (updated 17 th January 2024) states that on agricultural land (at paragraph 5.11.12): "Applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5). (para 5.11.13) states 'Applicants should also identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed.' At para 5.11.34 It also states. " 'The

	Secretary of State should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification. Where schemes are to be sited on best and most versatile agricultural land the Secretary of State should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.'
4.6	NPPF Paragraph 180 advises that 'planning policies and decisions should contribute to and enhance the natural and local environment by' amongst other matters b) 'recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'.
4.7	Paragraph 181 advises that Plans should: distinguish between the hierarchy of international, national, and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework;
4.8	Footnote 62 of Paragraph 180 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'.
4.9	The written ministerial statement accompanying the latest version of the NPPF states 'The new NPPF also strengthens protections for agricultural land, by being clear that consideration should be given to the availability of agricultural land for food production in development decisions' There is a requirement to 'recognise' the 'economic and other benefits of the best and most versatile agricultural land' (Para 180) for development applications affecting B&MV land. It is a matter for the decision taker to weigh up whether the loss of high-quality agricultural land for food production is justifiable against other matters such as renewable energy benefits as part of the planning balancing exercise.
4.10	National Planning Practice Guidance on renewable and low carbon energy (Department for Levelling Up Housing and Communities 18 June 2015) describes the specific planning considerations that relate to large scale ground-mounted solar photovoltaic farms. A local planning authority will need to consider amongst other matters that: "Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays."
	The WMS of 25 March 2015, which is to be read across from the relevant PPG as it is reference therein states 'The National Planning Policy Framework includes strong protections for the natural and historic environment and is quite clear that local councils when considering

	<p>development proposals should take into account the economic and other benefits of the best and most versatile agricultural land. Yet, some local communities have genuine concerns that when it comes to solar farms insufficient weight has been given to these protections and the benefits of high-quality agricultural land. As the solar strategy noted, public acceptability for solar energy is being eroded by the public response to large-scale solar farms which have sometimes been sited insensitively.'</p> <p>The statement further adds 'Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high-quality agricultural land. Protecting the global environment is not an excuse to trash the local environment.' It goes onto state 'where a proposal involves agricultural land, being quite clear this is necessary, and that poorer quality land is to be used in preference to land of a higher quality.'</p> <p>The WMS finishes off with the following statement ' we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence.'</p>
4.11	<p>Core Strategy Policy CS6 states that new development should make effective use of land and safeguard natural resources, including high quality agricultural land. It is considered that as the application site consists mainly of BMV land the proposals are contrary to the objectives of this Core Strategy policy.</p>
4.12	<p>The appellant advises that the proposed solar farm is a temporary form of development which can be fully reversed. Agricultural production can also be maintained (though constrained) during the operational life of the solar park. Consequently, the development proposal would not result in the permanent loss or degradation of agricultural land. This argument is not accepted and the loss of High-Grade Agricultural Land for such a substantial period of time cannot in any instance to consider a temporary imposition on the site as it will impact the site for generations (see appeal decision APP/A1910/W/23/3317818 (para 19).</p>
4.13	<p>The appellant advises that agricultural enterprise is experiencing economic pressures, with 58 hectares of the wider landholding soon to come out of the Higher-Level Stewardship (HLS) agreement, resulting in a loss of revenue for the business and a need to restructure the farm for the years ahead. It is stated that the solar farm would provide additional revenue to support the wider farm, with opportunities to revert the land currently under HLS over to agricultural production, to offset the temporary reduction on the solar site. It is not considered that this offers sufficient justification to justify the loss of BMV land in this instance.</p>
4.14	<p>An agricultural production assessment advised that the agricultural business is facing a challenging future and needs to adapt if it is to remain economically viable. It is therefore critical to the longevity of the farm, that a purposeful approach is taken now, whilst opportunities are available and not at the end of the transitional period in 2028. Income is falling due to:</p>

	<p>i. The agricultural transition ii. The end of the HLS scheme and lack of detail about future funding streams iii. Rising costs of agricultural inputs</p> <p>Whilst this may be true this does not in itself, justify turning over high-grade agricultural land to a solar farm. National and local planning policy along with WMS's all acknowledge that sequentially this is the least desirable location for such infrastructure and where it such development is required in the countryside then it should be located on low grade agricultural land as opposed to BMV land.</p>
4.15	<p>The assessment advises that to maintain productivity, the business must consider alternative land usages, whilst weighing up how to maximise the potential of the land coming out of the HLS scheme. It is stated that the proposed solar farm will not only provide an additional income stream to support the wider agricultural enterprise but will also allow areas around the SSSI to the north to be used less intensively. The proposal seeks provide reassurance to the landowner that the farm business can remain active and viable for the operational life of the proposed solar farm. The assessment states that the 58 ha of wider landholdings, has the potential to offset a significant portion, if not all of, the loss of cereal output from the application site, through reinstating production to HLS land.</p>
4.16	<p>Relevant policies and guidance clearly advocate the use of poorer quality land in preference to the use of best and most versatile land in solar development. The appellant has not fully justified their choice of site and planning authorities must consider any impacts to B&MV land as part of the planning balancing exercise. The ability to graze sheep and other animals between the arrays is likely to be a material issue in assessing any temporary loss of B&MV land. The applicant states that the proposals would also facilitate more effective use of land which is rated as Grade 3b within the unit and would ensure that the landowner has a secure supply of income to reinvest in their agricultural business.</p>
4.17	<p>The loss of high-quality agricultural land for a 40-year period must be weighed against the benefits of the proposals including the ability to produce renewable energy, the Southern Planning Committee considered this in their deliberations and came to the conclusion that the benefits accruing from the development did not outweigh the loss of B&MV land of such a high quality in this case.</p>
	<p><u>Site Search</u></p>
4.18	<p>The site search was confined to a narrow 3 km corridor either side of the powerline running between the substations at Bayston Hill and Cross Houses it is therefore considered that the search area has been artificially restricted by the appellant as there is no best practice guidance to support their assertion that the search area is either a reasonable size or that expanding it would result in greater environmental impacts as suggested.</p>

	<p>Paragraph 2.4 of the Sequential Site Selection Report Addendum: Site Selection () quickly discounts brownfield sites from the site search due to the self imposed 3km corridor restriction. There is no assessment of whether there are any suitable brownfield sites or their location. This represents a fundamental weakness in the site selection process as effectively all brownfield sites were discounted immediately without any proper assessment of their merits.</p>
4.19	<p>At 2.5.1 Table 1 states for ‘the purposes of site selection, this assessment discounts sites wholly within Grade 2 or higher, but considers and assesses potential alternative sites in the same indicative grade as the appeal site (Grade 3) to identify whether there are any other sites more suited to solar PV development within the same grade or lower.’ The majority of the appeal site is Grade 2 land and not grade 3 as suggested by the appellant in this table. Therefore by their own methodology this site should have been discounted early on.</p>
4.20	<p>At 3.1.4 the appellant underplays the quality of the ALC of the site suggesting ‘The subsequent site specific ALC survey found the appeal site to include some Grade 2 and 3a land’. This must be seen in the context that 84% of the site is Grade 2 and 3a (BMV land). Large scale ground mounted photovoltaic solar farm proposals should show how they make effective use of previously developed and non-agricultural land. Where a proposal requires the use of agricultural land, poorer quality land should be used in preference to land of a higher quality, in accordance with Policy DP26 of the draft local plan.</p>
4.21	<p>It is noticeable that there has been no in-depth soil analysis of any of the other sites considered in the Sequential Site Selection Report with all being given a blanket Grade 3 grading. Therefore, it is not possible to ascertain if there were more preferable sites available on lower grade land as all other sites appear to have been disregarded fairly quickly to arrive at the chosen application site. It therefore leads to the question of whether the site was chosen in advance of the sequential assessment being undertaken or whether as implied the site was chosen as a result of a rigorous exercise to find the most appropriate site.</p>
	<p><u>The effect of the proposal on, and the potential loss of agricultural land and an agricultural enterprise.</u></p>
4.22	<p>Both national and local planning policy recognise the continued importance of farming for food production in rural areas including the economic and other benefits of the best and most versatile (BMV) agricultural land. The NPPG Renewable and low carbon energy () encourages a local planning authority to focus large scale solar farms on previously developed and non-agricultural land. Footnote 62 of the NPPF 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’. Policy DP26 of the Draft Local Plan also advocates that poorer quality land should be used in preference to land of a higher quality.</p>

4.23	General land grading for this part of Shropshire demonstrates that the majority of land directly to the south of Shrewsbury is Grade 2 and 3. The vast majority of the site is categorised as BMV land and overall the site, as good to moderate quality agricultural land.
4.24	The NPPG on Renewable and low carbon energy which was updated in August 2023 provides a list of factors for local planning authority consideration that relate to large scale ground-mounted solar photovoltaic farms. These include where a proposal involves greenfield land whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land and ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. The NPPF indicates 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.
4.25	It is acknowledged that land between and beneath the solar panels could be used for seasonal sheep grazing and permanent biodiversity enhancements would be introduced. However, there is no proper assessment of alternative sites which could be of lower grade, or which contain a lower percentage of BMV land than the proposed site. I believe that the proposal would result in the underutilisation of a significant area of Grade 2 and 3a BMV land for a 40-year generational change period through the reduction of its productivity and versatility. This proposal would harm the BMV resource, which amounts to over three quarters of the total available hectareage and would make an unacceptable indent on the contribution that a large proportion of the site makes towards food security for a significant period of time. Installing a solar farm over this substantial percentage of BMV land would result in a failure to recognise its important contribution in local farming for food production as required by CS13 and would not encourage the effective use of this land.
4.26	The Energy NPS EN-3 further states at 2.10.11 that ‘The Powering Up Britain: Energy Security Plan states that government seeks large scale ground-mount solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land.’ Again at 2.10.29 it states ‘applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible. ‘Best and Most Versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification’.
4.27	I put forward that the inclusion of BMV land and the most effective use of this land are not consistent with this proposal. As existing, these agricultural fields already provide a sustainable form of development which itself

	mitigates and adapts to climate change, contributes to improved farming for food production, supports the viability of a rural enterprise and maintains the intrinsic landscape character valued by the local community. As undeveloped BMV agricultural land the site appropriately fulfils the three overarching objectives specified in paragraph 8 of the NPPF.
	<u>Permanence</u>
4.28	It should be noted that at paragraph 19 of the appeal decision APP/A1910/W/23/3317818 () the inspector acknowledged that solar farms are not temporary uses in the way most people would understand and in fact will change the character for a least a generation with no guarantees of what might happen at the end of the forty-year operational lifespan.
	<u>Benefits and Disbenefits</u>
4.29	It is acknowledged that the proposal would make a contribution to local and national energy resilience and security and that this factor would align with national and local policy supporting the transition to a low carbon economy, affording this specific consideration substantial weight. The lack of suitable available lower grade agricultural land has not been demonstrated by the Appellant as the site selection consideration submitted with the proposal is localised to within 3km of the overhead powerlines. Nor is site consideration given to the wider area of countryside where the LPA have approved solar farms with suitable connection. It is considered that a more comprehensive overview of land availability to justify the selection of this valued site is required as the extent of the search area is considered to be unduly limited.
4.30	The loss of BMV land is a major disbenefit of this proposal and it is considered contrary to the NPPF, the NPPG, existing and emerging development plan policies, WMS's and Government Energy Policy which all state that that lower grade agricultural land should be used for solar farm projects as opposed to BMV land.
4.31	Whilst, it is accepted that the development will contribute in providing energy security to the country, the proposal would harm the BMV resource which amounts to over three quarters of the total available hectareage and would make an unacceptable indent on the contribution that a large proportion of the site makes towards food security for a significant period of time. Installing a solar farm over this substantial percentage of BMV land would result in a failure to recognise its important contribution in local farming for food production as required by CS13 and would not encourage the effective use of this land.
4.32	Neutral weight should be afforded to the economic benefits which could be achieved through the proposal as the land that is subject to this proposal is high grade agricultural land. It is acknowledged that the specific way agricultural land is used is not a matter subject to planning controls and that the land around the solar panels would be used for seasonal sheep grazing

	during the operation period, however that to replace an existing sustainable form of development with another sustainable form of development I do not consider would result in an effective use of land.
4.33	The appellant acknowledges that the development will result in harm to the landscape and visual amenity. However, they seek to downplay the resultant level of harm. Adjacent roads to the development, nearby public footpaths and neighbouring properties will all experience a profound change in character due to this large solar installation and it is considered that impact will be substantially negative in terms of the impact on the landscape character as well as visual impact.
4.34	The Biodiversity Net Gains resulting from the proposal are considered to have moderate weight and therefore the Council would concur with the appellants view on this point.
4.35	The underutilisation of a significant area of Grade 2 and 3a BMV land for a 40-year generational change period would result in an overall reduction of its productivity and versatility. Significant weight is given to this harm in addition to the harm resulting from the impact of the development on the countryside where it would not appropriately conserve, enhance, connect or restore natural assets.
4.36	Therefore, it is not considered that all the factors advanced by the Appellant when taken together, would combine with sufficient weight to overcome the harm in terms of the loss of BMV land to justify a solar farm development of this scale in this location.

