



Rebuttal Planning Proof of Evidence by Anthony Heslehurst MPlan MRTPI

**Land south of Berrington, Shrewsbury, Shropshire,
SY5 6HA**

On behalf of Econergy International Limited

**Against the Refusal of Planning Permission by
Shropshire Council 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.”*

APP/L3245/W/23/3332543

LPA Ref. 22/04355/FUL

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1. Introduction

- 1.1.1. This rebuttal is submitted in response to matters raised by Mr Mike Davies of Shropshire Council in his planning proof of evidence. It is necessary to provide this rebuttal as Mr Davies' evidence includes several factual errors and misleading statements in relation to the Appellant's site selection process and impacts on BMV agricultural land.
- 1.1.2. This rebuttal only addresses a select number of key matters where corrections and clarifications are required, this does not mean that I agree with everything else that has been said in Mr Davies' evidence.

2. Site Selection – Search Area

- 2.1.1. At paragraph 4.18 of his evidence, Mr Davies describes the search area as a 'narrow' 3km corridor and suggests this has been 'artificially restricted' by the Appellant due to the absence of any best practice guidance. This is not true. The rationale for the 3km search area is provided in the Sequential Report, which sets out that this distance has been chosen as any further would result in increased environmental impacts due to the need to connect the array to the grid via underground cabling, and additionally a long cable route would result in thermal power loss, meaning the solar farm would export less energy. The Government's National Policy Statement for Renewable Energy Infrastructure (EN-3) states the following in relation to site selection for solar development at paragraph 2.10.25:

“To maximise existing grid infrastructure, minimise disruption to existing local community infrastructure or biodiversity and reduce overall costs, applicants may choose a site based on nearby available grid export capacity” (CD 6.4)

- 2.1.2. Mr Davies' proof refers several times to the Little Heath decision (CD 7.34). The Inspector in the Little Heath decision states the following at paragraph 59-60:

“Turning away from the clear national support, in principle, for renewable energy projects, a further element of national policy is that developers should not be required to demonstrate a need for such projects. Given this approach to need, it seemed surprising that much inquiry time was taken up with the question of the appellant's search for a site...

...Criticism that the search could have been more extensive does not take the matter much further, as the nature of electricity generating proposals could theoretically mean that a development could be located anywhere in the country, or even abroad. A line has to be drawn somewhere and it is concluded that the appellants undertook an extensive and reasonable site search”

- 2.1.3. In the recent Marden decision (CD 7.35), the Council similarly critiqued the Appellant's consideration of alternative sites, and the Inspector provided the below clarification, which references the Bramley judgement I have referred to in my proof of evidence:

“47. There is no requirement to carry out a sequential analysis of alternative sites as suggested by the Council. Had there been such a requirement in policy or

advice it would surely have said so. The recent judgement in Bramley Solar Farm v SOS for Levelling Up, Housing and Communities says just that in finding that PPG does not mandate the consideration of alternatives, still less that a sequential test be adopted. The best that can be said is that in cases such as this it should be shown that the use of agricultural land has been demonstrated to be necessary, and that could involve an assessment of potential alternatives.”

- 2.1.4. It is clear that the Appellant has undertaken a detailed site selection process, and that this reasonably demonstrates there are no suitable sites available on lower grade agricultural land.

3. Site Selection – Brownfield Sites

- 3.1.1. At paragraph 4.18 of his evidence, Mr Davies complains that brownfield sites within 3km were ‘discounted quickly’. This is not the case; it is unfortunately clear that Mr Davies has not properly reviewed the site selection report submitted with the application (CD 1.13). For completeness, this included a review of available brownfield sites within 100 miles of the site and an assessment of each. It is clear that there are no brownfield sites suitable to accommodate a solar proposal of this scale in the search area, or indeed further afield.

4. Site Selection – Availability of Lower Grade Agricultural Land

- 4.1.1. At paragraph 4.19 of this evidence, Mr Davies states the site should be discounted because it was later found to be Grade 2. This misunderstands the purpose of the report, which is to search for sites of lower grade than the appeal site. Land that is grade 2 or above, in an area with a high likelihood of BMV (60%+) is logically unlikely to be lower grade than the appeal site.
- 4.1.2. Mr Davies also complains at paragraph 4.20 that ‘no in-depth soil analysis’ was undertaken on alternative sites. As I have set out in my evidence, it is clearly unreasonable to expect the Appellant to undertake site-specific ALC surveys on alternative sites, and in any case the area has a high likelihood of BMV, which indicates this would be a futile exercise. In the recent Marden decision (CD 7.35), the Inspector considered this matter:

“49. Criticism was levied at the Appellant’s lack of detailed land quality assessment studies at alternative sites. But requiring such extensive, time consuming and no doubt expensive analysis (even if permission was granted by the landowner) would be a disproportionate and unreasonable burden on prospective developers.”

- 4.1.3. Mr Davies states at paragraph 4.25 that there is no ‘proper assessment’ of alternative sites, however this has not been substantiated. The site selection process has been clearly explained, and each alternative site has been considered in detail. Mr Davies has not presented in his evidence any examples of what we would consider to be a ‘proper’ assessment.

5. BMV – Matters relating to Food Security

- 5.1.1. At paragraph 4.4 of his evidence, Mr Davies states that food security is a ‘significant concern’. However, there is no acknowledgement that two of the biggest threats to food security are in fact climate change and biodiversity loss. It cannot be correct to raise concerns about food security, whilst ignoring the main causes, that will be positively addressed by the appeal proposals. Furthermore, the solar farm can continue to be used for grazing beneath the panels, which would retain some food production capacity on the land. For these reasons, I do not accept the suggestion that the proposal will have a negative impact on food security.

6. BMV – Temporary or Permanent Loss

- 6.1.1. At paragraph 4.12 of his evidence, Mr Davies cites the Little Heath decision, in arguing that the loss of BMV land could not be considered temporary. In the Little Heath decision cited however, the Inspector’s commentary was in relation to the Green Belt. The Inspector was not talking about the permanence of the solar array, but about the fundamental aim of the Green Belt, which *to keep land permanently open*. Clearly, any period of time would conflict with this purpose. From this, it does appear that Mr Davies has misunderstood the Inspector’s reasoning at paragraph 19 of this decision.
- 6.1.2. As I have set out in my evidence, the PPG is clear that reversibility is a relevant consideration, as is the continued agricultural use of the site. At paragraph 013, the Renewable and Low Carbon Energy PPG (CD 6.2) states that when considering proposals in BMV land, ‘particular factors a local planning authority will need to consider include’:

“...solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use”.

- 6.1.3. The new NPS EN-3 (January 2024) also states the following at paragraph 2.10.65 in relation to the temporary nature of solar:

“Time limited consent, where granted, is described as temporary because there is a finite period for which it exists, after which the project would cease to have consent and therefore must seek to extend the period of consent or be decommissioned and removed.”

- 6.1.4. Mrs Metcalfe sets out in detail in her evidence how the soil resource will be managed on the site, and the site restored to its pre-construction condition following the operational phase. Mrs Metcalfe also sets out how the conversion of intensive arable land to glassland is known to bring benefits to land and soil structure through an increase in the soil organic matter content.

7. Benefits

- 7.1.1. Mr Davies gives only ‘moderate weight’ to the significant net gains in biodiversity from the appeal proposals. This is inconsistent with recent decisions, as listed in section 7.4 of my

evidence. The appeal proposals will result in net gains of 123.5% in habitat units and 76.4% hedgerow units, which is a significant material planning benefit.

- 7.1.2. Mr Davies gives 'neutral weight' to the economic benefits of the proposal; however, Mr Davies only refers to the benefits associated with the use of the land. There are additional economic benefits including jobs that would be created during the construction and operational phases, both directly and via the supply chain which are a clear planning benefit.

