

Appeal by Econergy International Ltd

Land South of Berrington, Shrewsbury, Shropshire, SY5 6HA

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."

Appeal Reference: APP/L3245/W/23/3332543

LPA Reference: 22/04355/FUL

LPA Appeal Reference: 23/03207/REF

Statement of Common Ground between Econergy International Ltd (Appellant) and Shropshire Council

February 2024

1. Introduction

- 1.1 This Statement of Common Ground relates to an appeal by Eenergy International Ltd (Appellant) against the refusal of Planning Permission by Shropshire Council of Planning Application Ref. 22/04355/FUL 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."

- 1.2 The application was considered by the Shropshire Southern Area Planning Committee on 9th May 2023 with an Officer recommendation for approval, however Members resolved to refuse the application against this recommendation. The Decision Notice refusing planning permission was issued by the Council on 16th May 2023.

Purpose

- 1.3 This Statement of Common Ground has been drafted by the Appellant and agreed with the Council.
- 1.4 A draft core document list is provided at Appendix A.
- 1.5 The Appellant and the Council will seek to agree a list of suitable planning conditions prior to the inquiry.

Parties

- 1.6 This Statement of Common Ground is jointly agreed by:

Anthony Heslehurst
On behalf of the Appellant

Date: 19/02/2024

Mike Davies
On behalf of Shropshire Council

Date: 19/02/2024

2.0 Background to the Appeal

- 2.1 The Appellant undertook formal pre-application with Shropshire Council prior to submission of the planning application. Written advice was received from the Council on 8th March 2022, and a virtual meeting was held with the Case Officer Grahame French on 9th March 2022.
- 2.2 The Appellant undertook pre-application public consultation with the local community throughout February and March 2022. This included letters to Members and the Parish Council, public consultation leaflets to residents and businesses, an online webinar, an accompanied site visit with residents and the local Ward Member, and a public exhibition. Full details of the public consultation are provided in the Statement of Community Involvement submitted with the application.
- 2.3 The planning application was validated by Shropshire Council on 27th September 2022, and reported to Shropshire Southern Area Planning Committee on 9th May 2023.
- 2.4 At the time of the Planning Committee, the application was not subject to any objections from any of the Council's technical consultees. There had been 194 representations in support of the proposals, 107 representations objecting, and 2 neutral.
- 2.5 The application was refused against the Officer recommendation for approval, with three reasons for refusal cited in relation to 1) Loss of Best and Most Versatile Agricultural Land, 2) Adverse visual impact and 3) Adverse ecology impact. The Decision Notice refusing Planning Permission was issued by the Council on 16th May 2023.

3.0 Site and Surroundings

- 3.1 The appeal site measures 44.09 hectares in size and is located within the open countryside to the southwest of the village of Berrington. The site is formed of two field parcels, separated by a single-track public highway. The village of Berrington is located circa. 250m to the north of the site.
- 3.2 The site is in arable use and is bounded on all sides by mature hedgerows and occasional trees. The topography is gently undulating, with the areas of highest ground in the northwest section of the site.
- 3.3 There are no Public Rights of Way (PRoW) on the site, although there are some views of the site from PRoW in the surrounding area.
- 3.4 There are no landscape or ecological designations on the site. The nearest statutory designated sites are Berrington Pool SSSI, 400m to the north, and Bomere, Shoemere and Betten Pools SSSI, 1.1km to the northwest.
- 3.5 There are no Listed Buildings on the site. The nearest Listed Buildings to the site are Newman Hall Cottages (Ref. 1176937) to the southeast of the site, Cantlop Bridge (Ref. 1366715) to the southwest, and Boreton Bridge (Ref. 1176929) to the northwest.
- 3.6 The site is comprised partly of Best and Most Versatile (BMV) agricultural land (54.1% Grade 2, 29.9% Grade 3a, 11.8% Grade 3b). According to Natural England mapping, all agricultural land within 3km of the overhead line to the Point of Connection is either Grade 2 or Grade 3 agricultural land.
- 3.7 The only neighbour residents adjacent to the site are Newmans Hall Cottage to the southwest of the site, Cantlop Mill to the south of the site, and Cliff House to the northwest.

Planning History

- 3.8 There is no relevant planning history for the site.

Grid Connection

- 3.9 The Appellant secured a Distribution Network Operator (DNO) Grid Offer with Western Power Distribution in 2021, which is due to come into effect in 2024.

4.0 The Proposal

4.1 The Description of Development is as follows:

"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."

4.2 Access to the site, during both the construction and operational phase, will be gained via the creation of a new site access on the western site boundary on Shrewsbury Road, to minimise disruption to residents in Berrington village to the northeast.

4.3 The proposal includes the following main elements:

- 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

4.4 The drawings for which planning permission is sought are as follows:

- Site Location Plan (Drawing No: 1051487-ADAS-XX-XX-DR-P-8006)
- Site Access Drawing (Transport Assessment Drawing Ref. 111182-10-01)
- Technical Details: Customer Substation (Drawing No. PL.006)
- Technical Details: MV Power Station (Drawing No. PL.005)
- Technical Details: Storage Container (Drawing No. PL.010)
- Technical Details: Mounting Structure (Drawing No. PL.001)
- Technical Details: Various (Drawing No. PL.007)
- Kazubaloo 1 (Drawing No. Drg.No.KL1)
- Site Layout Plan (V12) (Ref. 1051487-ADAS-XX-XX-DR-PL-8000)
- Landscape Masterplan (V15) (Ref. 1051487-ADAS-XX-XX-DR-L-8001)

5.0 Planning Policy

5.1 The adopted Development Plan for the purposes of 38 (6) of the Planning and Compulsory Purchase Act 2004, comprises the following:

- Shropshire Core Strategy, Adopted 24th February 2011
- Site Management and Allocation of Development Document (SAMDev), Adopted 17th December 2015

5.2 The site is located within the Open Countryside (Core Strategy Policy CS6), and the western edge is located within a Mineral Safeguarding Area (SAMDev Policy MD16). Neither policy precludes solar development subject to meeting the provided criteria.

5.3 There are no other designations on the site, and the Local Plan does not allocate any sites in the district for solar development.

5.4 The parties agree that the following policies are most relevant to this appeal:

- Core Strategy Policy CS5 'Countryside and Green Belt'
- Core Strategy Policy CS6 'Sustainable Design and Development Principles'
- 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 Policy MD2 'Sustainable Design'
- SAMDev Policy MD8 'Infrastructure Provision'
- SAMDev Policy MD12 'Natural Environment'
- SAMDev Policy MD13 'Historic Environment'
- SAMDev Policy MD16 'Mineral Safeguarding'

5.5 The Council alleges breaches with three policies in the Local Plan:

- Core Strategy Policy CS6 'Sustainable Design and Development Principles'
- Core Strategy Policy CS17 'Environmental Networks'
- SAMDev Policy MD12 'Natural Environment'

Emerging Local Plan

5.6 Shropshire Council is in the process of preparing a new Local Plan Review. The Local Plan Review was submitted to the Secretary of State on 3rd September 2021 and is currently at examination. The Inspector's Interim Findings letter was issued 15th February 2023, requiring the Council to undertake additional work.

5.7 Paragraph 48 of the National Planning Policy Framework (NPPF) sets out that weight may be afforded to relevant policies in emerging plans according

to the stage of preparation, the extent to which there are unresolved objections, and the degree of consistency with the Framework. The parties agree that relevant policies in the emerging plan can be afforded some weight.

5.8 The parties agree that the following emerging policies are most relevant to this appeal:

- Policy SP3
- Policy DP16
- Policy DP17
- Policy DP18
- Policy DP26

5.9 The Local Plan Review does not currently allocate any sites for solar development or identify where such development should occur. The Local Plan Review does not propose any new designations on the site.

6.0 Areas of Agreement

National Policy

- 6.1 Paragraph 163 of the NPPF advises that when determining planning applications for renewable development, Local Planning Authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Local Planning Authorities should approve such applications if their impacts are (or can be made) acceptable.
- 6.2 It is agreed that there is clear support at the national level for solar development and that such proposals should be approved where the impacts are (or can be made) acceptable.

Local Policy

- 6.3 The Local Plan is expressly supportive of renewable energy development. Core Strategy Policy CS8 sets out that the Council will positively encourage infrastructure, where this has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralized, low carbon and renewable energy generation.
- 6.4 It is agreed that the Appeal proposal will not result in a significant adverse impact on recognised environmental assets.

Climate Change

- 6.5 Shropshire Council declared a 'Climate Emergency' on 16th May 2019, and subsequently adopted a Climate Strategy and Action Plan on 17th December 2020.
- 6.6 It is agreed that there is a Climate Emergency and a need to deliver new renewable energy infrastructure including solar within Shropshire.

Best and Most Versatile Agricultural Land

- 6.7 Solar farms are often required to be delivered within the countryside due to the requirements for large sites. The Appeal site is located within the countryside.
- 6.8 As set out within the submitted Sequential Site Selection Report (October 2023), the Appellant has undertaken a site search for alternative sites within 3km of the overhead line, which the Appellant considers to be the maximum viable distance for the proposed solar farm. According to Natural England mapping, all agricultural land within this search area is either Grade 2 or Grade 3. The Appeal site itself is identified as potential Grade 3, which is the lowest grade agricultural land in the search area.
- 6.9 It is agreed that, at the point of site selection, it is reasonable to rely on the Natural England mapping to avoid the highest-Grade land where

possible, rather than undertaking site-specific surveys on the whole search area.

- 6.10 As part of the planning application, a site-specific Agricultural Land Classification (ALC) Survey was undertaken, which identified that the site is a mixture of Grade 2, Grade 3a and Grade 3b. Other site-specific ALC surveys in the local area have similarly found the Grade to be higher quality than indicated on the Natural England mapping.
- 6.11 It is agreed that the ALC Grade of the Appeal site is broadly consistent with that of the rest of the search area.
- 6.12 It is agreed that the Appeal proposal is temporary and will not result in any permanent loss of agricultural land on the site subject to adherence with the submitted Soil Management Plan.
- 6.13 It is agreed that some agricultural activity, such as grazing, can continue on the Appeal site throughout the operational phase of the development.
- 6.14 It was suggested by the Case Officer Grahame French in the week prior to the Planning Committee, that an 'Agricultural Mitigation Fund' be provided by the Appellant, to provide a small amount of funding towards improving agricultural quality in the local area. However, this was not supported by Committee and there is no agreed mechanism by which this could be delivered. It is agreed by the Parties that there is no policy requirement for such a fund, and there is no agreed mechanism by which it could be delivered.

Landscape and Visual

- 6.15 The Council's external Landscape Advisor raised no objection to the proposal and confirmed the LVA methodology to be "appropriate and proportionate, and in accordance with best practice in GLVIA3".
- 6.16 It is agreed that the methodology used to produce the Landscape and Visual Appraisal was appropriate and proportionate and the key viewpoints are agreed between the parties.

Ecology

- 6.17 The Council's Ecology Officer confirmed on 9th May 2023 that they have no objection to the application, subject to securing the management of the skylark mitigation areas.
- 6.18 At the Planning Committee meeting, Grahame French advised Members against including a reason for refusal in relation to skylarks, as this may be difficult to defend given that Council's Ecology Officer had withdrawn their objection.

Heritage

- 6.19 The Council's Conservation Team responded to the application and did not raise any objection.

Flooding and Drainage

- 6.20 The Appeal site is located within Flood Risk Zone 1 and will not result in increased flood risk off-site. The Council's drainage team did not object to the planning application subject to soakaways being secured. It is agreed between the parties that the Appeal proposal is acceptable in relation to flooding and drainage.

Glint and Glare

- 6.21 There is no objection based on glint and glare impacts which could potentially affect road users, airports and airfields. However, there is a visual impact component to glint and glare.

Highways

- 6.22 The appeal proposal will not give rise to unacceptable levels of traffic and trip generation and will not cause any harm to the safety of the users of the Public Highway network.

Benefits

Mitigating climate change and transitioning to a low carbon economy

- 6.23 The appeal proposal has the potential to offset the average annual UK electricity consumption of approximately 7,000 households per annum. It is agreed that this is a benefit that should be given appropriate weight.

Energy Security

- 6.24 The appeal proposal will contribute towards ensuring an independent, secure energy supply, a benefit that should also be given a positive material consideration.

Biodiversity Net Gains

- 6.25 The appeal proposal will deliver substantial biodiversity net gains (132% for habitats units and 76% for hedgerow units).

Green Jobs and the Transition to a Green Economy

- 6.26 As set out in the comments by the Council's own Climate Taskforce to the planning application, it is envisaged that the renewable energy sector can become a major local industry with significant employment and wealth generation for Shropshire. The appeal proposal is for a large-scale solar development, which will result in the creation of new job opportunities both during the construction and operational phases. It is agreed that this is a

benefit that attracts moderate weight and should be weighed into the planning balance.

7.0 Areas of Disagreement

Best and Most Versatile Agricultural Land

- 7.1 The parties disagree on whether the benefits of the proposal outweigh the impact of losing full agricultural potential of BMV land for the 40-year operational period of the solar farm.

Landscape and Visual Impact

- 7.2 The parties disagree on whether the proposal would potentially have a visually oppressive effect for users of the publicly maintained highway leading to Cantlop Mill.
- 7.3 The parties disagree on the level of landscape and visual impact from viewpoints surrounding the site.

Ecology

- 7.4 The parties disagree on the suitability of the proposed off-site skylark mitigation land.