

LAND AT BERRINGTON

APP/L3245/W/23/3332543

Application for erection of an up to 30 MW solar PV array with associated infrastructure

OPENING STATEMENT ON BEHALF OF FLOUR NOT POWER

Introduction

1. Flour Not Power is a group of local residents who live in and around the area surrounding the Appeal Site. Many of the group's members have lived there for decades. They are the "receptors" who regularly walk, ride, cycle and drive on the public rights of way ("PROW") and local highway network.
2. Flour not Power accepts there is a need for solar development to come forwards nationally to meet climate change targets. Some of its members supported the nearby Boreton solar farm. The careful design and siting of that scheme stands in striking contrast to what is proposed here.¹
3. The serious concern here is a site specific one. For the reasons explained in its Proofs and Evidence and summarised below, this scheme is simply in the wrong place. Flour not Power fully supports and endorses Shropshire Council's ("the Council") refusal.

Landscape

4. The unacceptable impacts in this case would be to both landscape character and visual amenity.

¹ See Hugh Elliot and Claire Wild's third party representations to the appeal

5. Starting with landscape character, Mr Bullock and Mr Leaver agree that the Appeal Site, which is currently undeveloped countryside with open views to the south, has a high susceptibility.² The landscape has tranquillity, a sense of remoteness, and very limited man-made detracting features.³
6. However, they differ in their assessment of value, which leads to a different conclusion on sensitivity. Mr Bullock agrees with the authors of the LVA that the landscape value is medium,⁴ emphasising its perceptual qualities and historic continuity.⁵ Mr Leaver by contrast puts it at “community” value, the lowest possible value available on his methodology. That simply cannot be right.
7. By combining his judgments on value and susceptibility, Mr Bullock concludes that the Appeal Site would have a high sensitivity.
8. As to magnitude of change, it is common ground with Mr Bullock and Mr Leaver that this would be substantial during the operational phase of the development.⁶ The development proposals would change the character of the Site from agricultural fields to a solar farm, a change that would inevitably be high for the whole 40-year life of the scheme.⁷
9. The scheme would not only comprise solar panels. The associated infrastructure would include security fencing, CCTV, two customer substations of up to 3.95 metres in overall height, and some seven inverter transformer stations of up to 3.5 metres in height.
10. Taken together, the high sensitivity and substantial magnitude of change mean that the effect on the landscape character of the Site would be large, very large, or major – depending on which methodology is used.⁸ That is common ground between four of the five landscape assessments of this scheme – the only

² Mr Leaver’s Proof at §§6.2.3-6.2.4

³ Mr Bullock’s Proof at §5.15

⁴ LVA CD1.18 at §§6.5-6.6 Mr Bullock at §5.18

⁵ Mr Bullock’s Proof at §7.9s

⁶ Mr Bullock’s Proof at §5.44, Mr Leaver’s Proof at §6.3.5

⁷ Mr Bullock’s Proof at §5.44

⁸ Mr Bullock’s Proof at §5.26, §5.44

outlier is Mr Leaver. There would also be material landscape effects beyond the site itself during operation of the scheme – these would be at least moderate within 0.5km.⁹

11. In all, Mr Bullock concludes that the landscape character and the recreational experience would be significantly diminished relative to current baseline conditions, due to the introduction of man-made industrial energy features.¹⁰

12. As to the construction and decommissioning stages, as has been noted in both the Council and the Rule 6 Party's Proofs, the LVA failed to assess the impacts in any detail, whether to landscape character or visual. Yet, as Mr Bullock explains, the construction stage would require an extensive workforce, daily HGV trips, and significant plant including a crane for lifting and positioning ancillary structures and a piling machine for ramming the mounted frames into the ground.¹¹ The landscape character effects would be large scale across the whole extent of the Site¹² and would bring perceptual impacts to the surrounding area.¹³

13. In terms of visual impact more generally, the Inspector has had the opportunity to view the Site from key local receptors including the PROWs and residences at Cantlop and to the east of the Site.¹⁴ What is clear to all is that due to the sloping topography and limited vegetation planting proposed, there would be clear views of the scheme from a number of publicly accessible locations and houses that would never be mitigated or screened in any significant manner.¹⁵ In several places the solar arrays would be not only visible but also prominent, on rising landform, and sometimes seen against the skyline.¹⁶

14. Looking from the Berrington side of the valley, the panels will impact on the sight lines to Caer Caradoc and the Lawley. Views from Cantlop would be

⁹ See Mr Leaver's Proof at §6.3.7

¹⁰ Mr Bullock's Proof at §4.16

¹¹ Mr Bullock's Proof at §§4.2-4.5, §5.35

¹² As set out by Mr Leaver at §§6.3.3-6.3.4 of his Proof

¹³ Mr Bullock §§5.29-5.31, Mr Leaver at §6.3.3

¹⁴ See 3rd Party Representation of David King

¹⁵ See for example Mr Leaver's Rebuttal at §3.5.1

¹⁶ Mr Bullock's Proof at §2.20, §§6.16-6.27

fundamentally altered for the duration of the scheme.¹⁷ There would be an undoubted material impact on users of the road bisecting the Site, which is used by walkers, equestrians, and cyclists¹⁸ but has limited vegetation cover – particularly on its northern half.¹⁹ Similar considerations apply to users of Cliff Hollow to the north.

15. Flour not Power agrees with and endorses the Council's conclusion that the proposals would conflict with both local and national planning policies concerning the natural environment.

Ecology

16. From the outset of this scheme, the Appellant has failed to take seriously the impact on skylarks, which are both red-listed in the Birds of Conservation Concern in the UK 2021 and listed under s.41 Natural Environment and Rural Communities Act 2006 as a species of principal importance.

17. Bird surveys back in 2022 identified some 11 territories on the Appeal Site.²⁰ That is a very high density by both national and County standards.²¹ However, no substantive mitigation was initially proposed. The Council sought on-site mitigation.²² Inadequate provision was suggested. At some point, the Appellant decided they would move the mitigation off-site – it is unclear how that decision was justified. That off-site mitigation was found inadequate by the Council.

18. The Appellant switched ecologists prior to submission of Proofs. Following receiving Proofs of Evidence setting out the wholly inadequate provision by both Mr Smith and Ms Corfe, the Appellant belatedly suggested a new solution. However, the pre-commencement condition now proposed simply does not resolve the issue.

¹⁷ Mr Bullock's Rebuttal at §1.48

¹⁸ Appeal Representation of David King

¹⁹ See Mr Bullock's Rebuttal at §1.31

²⁰ See SMP CD1.15 at §1.4

²¹ Mr Smith's Proof at §3.5

²² See SC Ecology Comments at CD2.1

19. It is common ground that, applying the precautionary principle, the Inspector must assume that the 11 territories will be lost.²³ The evidence is also clear that there are no known instances of Skylarks nesting in solar arrays.²⁴ No matter what is provided in the pre-commencement condition, the mitigation land secured by the Unilateral Undertaking proposed will not provide adequate compensation.

- a. First, while the Appeal Site is some 44ha, the compensation land is only 25ha.
- b. Secondly, the compensation land has not been surveyed. Yet, skylarks have already been recorded there on two occasions.²⁵ Any Skylarks resident there already have to be accommodated alongside the 11 displaced pairs.
- c. Thirdly, the compensation land is currently used as grazed pasture. This is a habitat that is significantly less favoured by skylarks than the habitat that would be lost on the Appeal Site.²⁶ As Mr Fearn states in his own Proof, ...*“25ha of intensive grazed pasture would be expected to support just 0.5 pairs of Skylark (25 x 0.02); improved grassland would likely support 1.25 pairs; and intensive silage 2 pairs...”*²⁷
- d. Fourthly, Natural England have not allowed the Appellant to convert the compensation land to arable. This is unlikely to happen: the compensation land, which has been in a stewardship scheme for many years, lies adjacent to the SSSI and Ramsar – an international designation.²⁸ Conversion of the mitigation site to arable land would almost certainly result in various forms of pollution through run-off – particularly due to the sloping nature of the mitigation land.²⁹
- e. Fifthly, even were the Appellant somehow allowed to convert the land to arable, their proposed provision of 12 skylark plots within 6ha is wholly inadequate. Critically, plots do not provide nest locations, and they do

²³ Mr Fearn’s Proof at §5.2.2

²⁴ Solar Energy paper CD10.12

²⁵ See Appellant’s Statement of Case CD4.2 at §5.4.6 and Mr Fearn’s Proof at §5.1.3

²⁶ CD10.22 Table 1

²⁷ Mr Fearn’s Proof at §5.1.5

²⁸ see Ms Corfe’s Proof Figures p.34/53

²⁹ Mr Smith’s Proof at §7.4

not equate to territories – which are far larger.³⁰ Skylark plots can only be used for foraging if within the territory of a breeding pair.³¹ One plot does not suffice as mitigation for one displaced territory, and there is no evidence before this Inquiry to suggest that it does. All the RSPB Guidance says is that two plots should be provided per ha – which is an entirely different point.³²

- f. Sixthly, Mr Fearn has provided for the Inquiry a CIEEM paper that suggests a way of estimating whether compensation land is adequate without a survey.³³ Even following the steps set out there, 25ha is clearly inadequate in quantity, whether the mitigation land remains as pasture or is converted to arable.³⁴

20. The pre-commencement condition cannot remedy the fundamental flaws in the proposed mitigation. There is no possibility of a suitable mitigation strategy coming forward on the land proposed, and the Inspector can have no confidence that this protected species will not be significantly harmed.

21. There is clear conflict with both local and national policy, including policy CS17 of the Core Strategy and MD12 of the Shropshire Council Site Allocations and Management of Development (“SAMDev”) Plan.

Agricultural Land

22. According to the Appellant’s own Agricultural Land Classification (“ALC”) report, the vast majority of the site – some 88% - is best and most versatile (“BMV”) agricultural land.³⁵ That report also found the majority of the Site to be Grade 2 – “very good” quality.

³⁰ See CD10.22 on p.5 and CD10.12 on p.2/3

³¹ Mr Smith’s Proof at §6.2

³² See CD10.6

³³ CD10.22 Table 1

³⁴ CD10.22 Table 1

³⁵ ALC Report is CD1.3

23. There is one grade above Grade 2, Grade 1, which is described as “excellent”. While the ALC report did not map any Grade 1 land, it recognised that “[i]ncluded within the land mapped as Grade 2 are profiles of Grade 1 land quality”.³⁶
24. There is no explanation within the body of the ALC as to how many borings were Grade 1, where those Grade 1 areas are, or why they have been downgraded to Grade 2.
25. However, Mr Franklin has carefully reviewed the augur logs at Appendix 3 of the ALC Report. They reveal a significant number of Grade 1 results, many of which are grouped together but which have been ignored on the Appellant’s ALC map.³⁷
26. In addition to these areas where the Appellant found Grade 1 quality soil but did not include it in their mapping, Mr Franklin has also identified that in some areas the soil grade is limited by droughtiness. Applying the Ministry of Agriculture, Fisheries and Food (“MAFF”) Guidelines, there are grounds for upgrading those areas in light of the agreed available irrigation on site.³⁸
27. In all, Mr Franklin concludes that the Appellant has undervalued much of the Site – which comprises some Grade 1 land as well as the accepted Grade 2.³⁹
28. Undoubtedly, the appeal scheme would have an impact on the soils. Construction and decommissioning have the potential to lead to soil compaction.⁴⁰ That is particularly the case given the nature of the soils on the Appeal Site, which are clay loams in places – particularly vulnerable to damage when wet.⁴¹
29. While at the request of the Rule 6 Party a soils management plan is now included in the proposed list of conditions, there can still be no guarantee that

³⁶ CD1.3 at §4.2

³⁷ See Mr Franklin’s Appendix 3 p.33

³⁸ MAFF Guidelines CD9.1 at p.8

³⁹ Mr Franklin’s Proof at §9.2

⁴⁰ See CD4.6 Updated Soils Management Plan at p.9

⁴¹ Mr Franklin’s Proof at §5.23

the Appeal Site could return to arable farming after 40 years of operation and then a decommissioning process.⁴² In that context, Mr Franklin points out that recent global events such as the war in the Ukraine have reinforced the importance of domestic food security – with the Government having added a specific reference to food in the latest version of the NPPF at footnote 62.⁴³

30. Finally, the Appellant has not shown that use of this high grade BMV is necessary. Mr Heslehurst accepts that there is “*a requirement in policy and guidance to prefer lower grade agricultural land where possible*”.⁴⁴ As the Addendum Site Selection report shows, there is a considerable amount of Grade 3 land even within the Appellant’s own 3km search area.⁴⁵ Accordingly, the Rule 6 Party agrees with the Council that there would be conflict with both the emerging Policy DP26 and with the extant local plan.

Heritage

31. The appeal site lies in an area that by any count is rich in heritage interest. Within the 1km study area of the Built Heritage Statement there are some **31** designated heritage assets.⁴⁶ Dr Jenkins’ Statement explains the interconnectivity of the historic environment of the Cound Brook Valley, noting that the assets cannot be considered in isolation and form part of largely unspoiled rural landscape stretching back thousands of years.⁴⁷

32. Dr Jenkins’ Statement focuses in on the impact the appeal proposal would have in relation to four specific assets in particularly close proximity: Cantlop Bridge (Grade II*); Berrington Farmhouse (Grade II); Cantlop Mill (locally listed); and Newman Hall Cottages and Pump (both Grade II). However, that is by no means an exhaustive list of assets that could be affected.⁴⁸

⁴² Mr Franklin’s Proof at §5.20

⁴³ Mr Franklin’s Rebuttal at p.5

⁴⁴ Mr Heslehurst’s Proof at §3.1.3

⁴⁵ CD 4.4 part 2, p.2/5

⁴⁶ CD1.6 at §1.4

⁴⁷ Dr Jenkins’ Statement at §§4.2-4.29

⁴⁸ Dr Jenkins’ Statement at §1.0

33. Dr Jenkins concludes there would be harm to each of these assets, through changes in setting that would negatively affect our understanding of the assets and reduce their historic illustrative interest.
34. While Dr Jenkins' conclusions differ to those of Mr Britt and the Built Heritage Statement, he has had the benefit of additional images to and from these assets.⁴⁹ It is also notable that the authors of the Built Heritage Statement did not even visit Cantlop – despite the presence of a Grade II* listed building very close to the site boundary.⁵⁰
35. While it is not proposed to summarise Dr Jenkins conclusions in any detail in Opening, we finally flag that it is remarkable that Historic England were not consulted as part of this application, when a Grade II* structure would be situated less than 200m from the closest solar array.⁵¹ Historic England's own guidance states that they must be consulted or notified of any planning application which the local authority or Secretary of State thinks would affect the setting of a Grade I or II* listed building.⁵²
36. In all, Dr Jenkins' Statement is very clear that the Appellant has underestimated the intervisibility and historic connections of the appeal site to all four assets – Mr Britt's conclusions cannot be relied upon. He finds that the proposed development does not accord with the relevant legislation and national and local policy relating to heritage.⁵³

Balance and Conclusion

37. In all, Flour not Power agrees with the Council that the proposed development is inappropriate and harmful, and that it does not accord with the policies of the development plan taken as a whole. Accordingly, applying s.36(8) of the Planning and Compulsory Purchase Act 2004, permission should be refused, unless material considerations indicate otherwise.

⁴⁹ As explained in Dr Jenkins' Statement at §5.1

⁵⁰ CD1.6 at §3.6 states "On the date of the site visit, access to Cantlop was not possible due to road closures"

⁵¹ Dr Jenkins' Statement at §5.6

⁵² Dr Jenkins' Statement at §5.7

⁵³ Dr Jenkins' Statement at §1.0

38. Flour not Power acknowledges that provision of renewable energy is considered by the Government to be a very important consideration in light of the climate crisis.

39. However, that does not provide “carte blanche” to build schemes regardless of the impacts. This is an application that has been poorly conceived from the outset. No proper site selection report was originally undertaken. The Site is sloping, such that landscape mitigation will be ineffective from a number of public viewpoints. It is high grade agricultural land. It has a very high number of red-listed skylarks. The mitigation for those remains inadequate, with last-minute changes continuing until last week. Multiple heritage assets will be affected.

40. The Inspector has here an opportunity to preserve the character and beauty of what is currently a peaceful, tranquil part of the countryside, which is deeply valued by the residents who live in and around it.

41. Accordingly, in due course, the Inspector will be invited to refuse the appeal.

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Odette Chalaby

No5 Chambers

London – Birmingham – Bristol

Tel 0870 – 203 5555

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infrastructure**

APPEARANCES FOR FLOUR NOT POWER

Counsel: **Odette Chalaby**
No5 Chambers

Instructed by: **Mark Turner**
Partner
Aaron & Partners Solicitors
Lakeside House, Oxon Business Park
Shrewsbury, SY3 5HJ

Witnesses: **James Bullock**, BS Hons PGDipå CMLI
Landscape

Sam Franklin, BSc (Hons) MSc MRICS FAAV FBIAC MISoilSci
Agricultural Land

Leo Smith, BSc (Hons) Editor, The Birds of Shropshire
Ornithology / Ecology

Dr Tim Jenkins, PhD MA BA (Hons) FRSA FRHistS
Heritage