

**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**

**January 2025**

## **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 9<sup>th</sup> 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 16<sup>th</sup> May 2023.
- 1.3 A subsequent appeal (APP/L3245/W/23/3332543) was dismissed, and this decision was subsequently subject to Statutory Challenge and quashed, with the sealed order dated 2<sup>nd</sup> July 2024. Neither the Secretary of State nor the Council elected to defend the claim and the Court Order confirms that the Inspector erred in law with respect to focussing on net loss of individual pairs of skylarks, which is at odds with the guidance which seeks to achieve 'no net loss' of habitat rather than numbers of species.

### **Purpose**

- 1.4 This Statement of Common Ground has been drafted by the Appellant and agreed with the Council.
- 1.5 The Appellant and the Council will seek to agree a list of suitable planning conditions prior to the Hearing.

### **Parties**

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

Signed:                      Date: 10/01/2025

Anthony Heslehurst  
On behalf of the Appellant

Signed:                      Date: 10/01/2025

Mike Davies  
On behalf of Shropshire Council

## **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 8<sup>th</sup> March 2022, and a virtual meeting was held with the Case Officer Grahame French on 9<sup>th</sup> 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 27<sup>th</sup> September 2022, and reported to Shropshire Southern Area Planning Committee on 9<sup>th</sup> 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 16<sup>th</sup> May 2023.
- 2.6 As set out above, the subsequent appeal (APP/L3245/W/23/3332543) was dismissed but the decision was subsequently subject to Statutory Challenge and quashed, with the sealed order dated 2<sup>nd</sup> July 2024.
- 2.7 Subsequent to the quashing of the appeal decision, the Council confirmed that it no longer wished to oppose the proposed development due to various changes in circumstances since the public inquiry, including the (then) proposed revisions to the NPPF, recent appeal decisions and the High Court case, as well as financial considerations.
- 2.8 The Appellant has also subsequently sought to make a number of changes to address comments by the Inspector and by the Rule 6 Party during the previous inquiry, including:
  - Enhanced Landscaping Plan to provide additional screening, produced and agreed in collaboration with the Rule 6 Party.
  - Traffic Management Plan produced and agreed in collaboration with the Rule 6 Party, to provide greater certainty that any highways impact will be suitably managed.

- Landscape Maintenance Plan, including provisions requiring maintenance and replacement planting, to be carried out were necessary for a minimum of 10 years from completion of the development. This document is currently being finalised and will be subject to a condition.

2.9 Following the above amendments and negotiation between the Appellant and the Rule 6 Party, the Rule 6 Party has also withdrawn from the Appeal and does not oppose the grant of planning permission.

2.10 It is agreed that the proposed amendments to the scheme represent material improvements to the scheme which was considered by the previous Inspector.

### **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 neighbouring residents adjacent 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.

## 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) as supplemented by the Traffic Management Plan (ref: 111182-TMP-REV01)
- 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 (V20) (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 3<sup>rd</sup> September 2021 and has since encountered significant delays. On 29<sup>th</sup> October 2024, the Planning Inspector suspended further hearings, citing "significant concerns about the soundness of the Plan in respect of a number of areas". These areas will be set out in detail in a separate letter, which has yet to be published.

- 5.7 Paragraph 48 of the National Planning Policy Framework December 2024 (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 limited 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**

### **NPPF (December 2024)**

- 6.1 Paragraph 163 of the NPPF (December 2024) states that the need to mitigate and adapt to climate change should also be considered in preparing and assessing planning applications, taking into account the full range of potential climate change impacts.
- 6.2 Paragraph 168 of the NPPF (December 2024) advises that when determining planning applications for renewable development, Local Planning Authorities should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.
- 6.3 It is agreed that there is clear support at the national level for solar energy developments as a form of renewable and low carbon energy development and that significant weight should be given to the benefits associated with the scheme.

### **Clean Power 2030**

- 6.4 Subsequent to the previous appeal decision, the UK Government published the Clean Power 2030 Action Plan on 13<sup>th</sup> December 2024 which sets out how the UK will achieve a fully decarbonised electricity system by 2030.
- 6.5 Clean Power 2030 emphasises the need for rapid deployment of renewable energy infrastructure, including solar development, representing clear intent on the part of the new Government to actively support solar development.

### **Local Policy**

- 6.6 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.
- 6.7 It is agreed that the Appeal proposal will not result in a significant adverse impact on recognised environmental assets.

### **Climate Change**

- 6.8 Shropshire Council declared a 'Climate Emergency' on 16<sup>th</sup> May 2019, and subsequently adopted a Climate Strategy and Action Plan on 17<sup>th</sup> December 2020.
- 6.9 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**

- 6.10 The matter of Best and Most Versatile Agricultural Land was examined in detail at the original planning inquiry. The Appellant and the Rule 6 Party provided expert witnesses, who were cross examined in full. The Inspector's decision covers the matter in detail (paras 54-108), including policy and guidance, site selection, agricultural land quality, construction and operational effects, food production and security and farm diversification. The Inspector concluded that the Site Selection Report and its Addendum provides 'clear support' for the development.
- 6.11 Overall the Inspector gave moderate negative weight to the harm arising from the failure to make most effective use of high-quality agricultural land and conflict with Core Policy CS6. The parties are agreed that this finding is fair and proportionate.

## **Landscape and Visual**

- 6.12 The SoCG dated February 2024, as agreed by Shropshire Council, noted the suitability of the ADAS LVA methodology, the extent of landscape setting and character type and the need for the proposed development to be cognisant of '*the intrinsic beauty of the countryside*' (NPPF 2024, Para 174 (b)), albeit it is agreed that the site is not part of a valued landscape. It was also agreed that whilst the mitigation measures provided a means to improve landscape structure, green infrastructure and biodiversity value the final detail of the proposed landscaping would remain a matter to be considered pursuant to a detailed submission.
- 6.13 Areas of disagreement centred on the level of harm that would be experienced by landscape and visual receptors at a local level with regard to the site and the effectiveness of the proposed mitigation measures.
- 6.14 Following the quashing of the appeal decision letter, the Eenergy consultant team has revisited the site and held a number of meetings including a site walkover with members of the Rule 6 party to address its concerns regarding visual impacts from local roads and properties. In response, additional planting has been added to the Landscape Masterplan. In particular, new native mixed woodland and hedgerow planting to further screen the proposed development and reinforce the existing landscape structure is proposed. Details of planting mixes have also been included to provide further reassurance of the type and density of planting with the preparation of a landscape and ecological management plan (LEMP) to remain a matter to be conditioned.
- 6.15 Whilst it is accepted that some localised effects on landscape character and visual amenity will result from the proposed development, it is agreed that none would be unacceptable and the proposed amendments to the scheme represent material improvements to the scheme which was considered by the previous Inspector and are sufficient to overcome the concerns raised by him and those of the local people who would be most affected by the proposed development.

## **Skylarks**

- 6.16 It is agreed that the matter of skylark mitigation can be secured via condition and Section 106 Agreement such that all legislative, regulatory and policy concerns can be dealt with satisfactorily. Additional survey information has been submitted by the Appellant which was not available to the previous Inspector.

## **Heritage**

- 6.17 It is agreed that the appeal proposal would have a neutral effect on the setting and significance of heritage assets, in line with the findings of the original Inspector.

## **Flooding and Drainage**

- 6.18 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**

- 6.19 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**

- 6.20 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. Following discussions with the Rule 6 Party, the Appellant has introduced Traffic Management Plan (ref: 111182-TMP-REV01) to address highways concerns raised by local people. It is agreed that the proposed amendments are acceptable and an improvement over what was considered by the previous Inspector.

## **Benefits**

### ***Mitigating climate change and transitioning to a low carbon economy***

- 6.21 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 significant weight.

### ***Energy Security***

- 6.22 The appeal proposal will contribute towards ensuring an independent, secure energy supply, a benefit that should be given significant weight.

### ***Biodiversity Net Gains***

6.23 The appeal proposal will deliver substantial biodiversity net gains.

### ***Green Jobs and the Transition to a Green Economy***

6.24 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 in the planning balance.