



REVISED STATEMENT OF CASE

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

On behalf of Eenergy 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.”*

LPA Ref. 22/04355/FUL

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1. Introduction

1.1. Introduction and factual background

- 1.1.1. This Revised Statement of Case is submitted by ADAS Planning (Agent) on behalf of Econergy International Limited (Appellant) and relates to an Appeal against Shropshire Council's refusal of the following proposed development on land south of Berrington, Shrewsbury, Shropshire, SY5 6HA:

"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."

- 1.1.2. The Planning Application (Ref. 22/04355/FUL) was validated by Shropshire Council on 27th September 2022 and reported to Shropshire Southern Area Planning Committee on 9th May 2023. The Application was refused against the Officer's positive recommendation for approval, with three reasons for refusal 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.

- 1.1.3. An appeal was subsequently submitted on behalf of the Appellant, with an Inquiry held on 5-11th March 2024. The appeal decision dismissing the appeal was issued on 26th March 2024. In dismissing the appeal, the Inspector:

- (1) found that there would be a significant adverse effect on a priority species through net loss of breeding pairs of skylarks;
- (2) took the view that the proposal would result in significant adverse landscape and visual effects, to which he apportioned significant negative weight;
- (3) considered the matter of Agricultural Land Classification and Best and Most Versatile (BMV) agricultural land in detail and concluded that the Appellant's Site Sequential Selection Report provided 'clear support' for the development of the solar farm on the site, and the site would be capable of restoration at the end of the operational phase;
- (4) apportioned moderate weight to the failure to make the most effective use of BMV agricultural land
- (5) concluded that the detail in the Appellant's Built Heritage Statement was proportionate to the assets concerned, and concurred that the appeal proposal would have a neutral effect on the setting and significance of heritage assets.

- 1.1.4. The appeal decision contained a number of errors in law and was subject to a statutory challenge pursuant to section 288 of the Town and Country Planning Act 1990 (as amended). Sufficiently serious were the errors in law that the Secretary of State elected not to defend the claim. The Statement of Reasons confirms the concession on the part of the Secretary of State that the Inspector erred in law with respect to focussing on 'net

loss' of individual pairs of skylarks. Guidance seeks to achieve 'no net loss' of habitat and not numbers of species. The sealed order quashing the decision is dated 2nd July 2024.

1.2. Position of the Council and the Rule 6 Party

- 1.2.1. The Council has indicated that it no longer objects to the proposed development and will offer no evidence at the forthcoming redetermination.
- 1.2.2. Notwithstanding multiple attempts to make contact with the Rule 6 Party regarding its intentions, it has failed to respond. Following withdrawal of the Council from the appeal process, the Appellant would be prepared to consider working with the Rule 6 Party to see if amendments to the scheme falling within the principles set out in *Bernard Wheatcroft Ltd v SoS* [1981] 257 E.G. 934 and the PINS Planning Appeals: Procedural Guide (last updated on 20th August 2024) could be made. Accordingly, as at the date of writing this Revised Statement of Case, the Appellant remains unclear about whether the Rule 6 Party still wishes to contest the appeal.

1.3. Appeal procedure

- 1.3.1. Given the seriousness of the errors in law in the previous decision, it would be inappropriate for Inspector Rose to oversee the redetermination; a new Inspector must be appointed.

1.4. Legal principles applying to redetermination

- 1.4.1. A quashed decision is incapable of having any legal effect on the rights and duties of the parties. Where the Court quashes a planning permission, the decision maker must start the decision making again, with a clean sheet, having regard to the development plan and other material considerations, including material considerations which have emerged since the matter was originally considered (see *Kingswood District Council v Secretary of State for the Environment* (1989) 57 P&CR 153 (Graham Eyre QC sitting as a Deputy High Court Judge)).
- 1.4.2. A quashed decision is capable in law of being a material consideration (see *R. (Davison) v Elmbridge BC* [2019] EWHC 1409 (Admin)). However, a decision maker is entitled to change its/his/her mind in any fresh decision making. Any differences in judgments may require explanation. Whether a previously quashed decision is a material consideration for the purposes of the second decision is a fact specific assessment. It is unlawful for the subsequent decision maker to ignore the implications of a previously quashed decision, without further analysis.
- 1.4.3. The Council has now withdrawn its objection to the proposed development. There may well be disagreement between the Appellant on the one hand and Rule 6 Party as to the degree of materiality and helpfulness of the previously quashed decision which will be explored in evidence.

1.5. The Site

- 1.5.1. The site measures 44.09 hectares in size and is located in an area of open countryside to the southwest of the village of Berrington, Shropshire. The site is formed of two field parcels, separated by a single-track road. The village of Berrington is located circa. 250m to the north of the site.
- 1.5.2. The site is in arable use and is bounded on all sides by mature hedgerow and occasional trees. The topography of the site is gently undulating, with the area of highest ground in the northwest section of the site. There are no Public Rights of Way (PRoW) that cross the site, although there are some views from PRoW in the surrounding area.
- 1.5.3. 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. The Ecology Appraisal concludes that there will be no impact on these sites and the Council's Ecology Officer has raised no objection to the proposals.
- 1.5.4. 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. The Built Heritage Statement assesses that there will be no impact on these heritage assets and the Council's Heritage and Conservation Officer has raised no objection to the proposals.
- 1.5.5. The site is comprised mostly Best and Most Versatile (BMV) agricultural land, however this is characteristic of Shropshire District, and as we have demonstrated in the Site Sequential Report and Sites Assessment Addendum, there are no suitable alternative sites on lower quality land within the search area. Furthermore, the proposal is of a temporary nature (40 years), after which it can be fully restored to its existing agricultural use. The appeal proposal will therefore not lead to any permanent loss of any agricultural land. Further information on this issue is provided in Section 5 of this Statement of Case.
- 1.5.6. There are very few neighbour residents to the site. The only neighbour residents are Newmans Hall Cottage to the southwest of the site, Cantlop Mill to the south of the site, and Cliff House to the northwest of the site. The layout was subject to a series of revisions both at the pre-application stage, and throughout the planning application stage, to minimise any impacts on these neighbouring residents. These are summarised in Section 1.7 below and included removing panels from the southeastern and southern boundaries of the site, and the introduction of new tree planting on the southern boundary to further screen views of the site.

1.6. Grid Connection

- 1.6.1. 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. Therefore, subject to the outcome of this Appeal, the construction works can begin without delay and energy generated and fed into the national grid immediately.

- 1.6.2. To provide background to the constraints facing solar developers in this country, the Appellant currently holds a portfolio of circa. 1.7 GW of secured grid connections in the UK, however, this proposal is the only scheme nationally that can be built-out and connected from that portfolio within the next 12 months. This is due to long lead-in times for grid connection, both at the application stage and subsequent wait for the installation, which is currently 2034 or later (as communicated by the DCO).
- 1.6.3. This has serious consequences in terms of the UK's ability to achieve net zero by 2050, as committed to in the Climate Change Act 2008 (2050 Target Amendment) Order 2019. It is therefore imperative, that opportunities for renewable energy development are seized, particularly where agreements for grid connection are in place and will soon be live.
- 1.6.4. The availability of an immediate grid connection at a time of well documented delays nationally, is a significant benefit of this proposal.

1.7. The Proposed Development

- 1.7.1. The appeal proposal would involve the erection of an up to 30 MW Solar PV development, which would include the following main elements:
- Boundary Fencing
 - Customer Sub-Station
 - 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
- 1.7.2. 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.
- 1.7.3. At the end of the 40-year operational phase of the solar farm, the development would be decommissioned, and the equipment removed from the Site. Owing to the unintrusive nature of solar development, the land could then be quickly placed back into arable use in accordance with the submitted Soil Management Plan. The improved boundary hedgerows and planting would remain, however, leaving a legacy of enhanced landscape with richer biodiversity.

1.8. Planning Application Documents and Plans

1.8.1. The planning application comprised the following documents at the time the application was refused:

- Planning, Design and Access Statement
- Agricultural Land Classification (ALC) Report
- Arboriculture Assessment
- Archaeology Desk Based Assessment (DBA)
- Built Heritage Statement
- Great Crested Newt Survey
- Preliminary Ecological Appraisal (PEA)
- Flood Risk Assessment and Drainage Strategy
- Glint & Glare Study
- Transport Statement and Construction Traffic Management Plan (CTMP)
- Noise Assessment
- Site Sequential Selection Report
- Statement of Community Involvement (SCI)
- Berrington Farm Skylark Mitigation Areas
- Berrington Farm Skylark Mitigation Plot Locations
- Geophysical Survey Report
- Landscape and Visual Appraisal (LVA)
- Outline Soil Resource Management Plan (V2)
- Berrington Solar Park Agricultural Production Assessment
- Biodiversity Metric
- Biodiversity Net Gain Assessment (V3)
- Ecology Impact Assessment (V2)

1.8.2. The Planning Application comprised the following plans and drawings at the time the Application was refused:

- 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)

1.9. Appeal Plans and Documents

1.9.1. The following additional plans and documents have been submitted as part of this planning appeal, to provide further information and clarification:

- Landscape Statement of Case, prepared by Daniel Haigh.
- Soil Resource Statement of Case, prepared by Ruth Metcalfe.
- Letter from the Appellant setting out site-finding considerations and issues relating to grid delays.
- Letter from the Landowner setting out the wider farm context and why these fields are preferential for the solar farm.
- Sequential Site Selection Report Addendum: Sites Assessment (October 2023). This Addendum provides further information on the alternative sites that were considered for the development.
- Soil Management Plan (August 2023). This document has been updated to provide further information on soil compaction.
- Outline Construction Environmental Management Plan (CEMP) and Decommissioning Plan (August 2023). These documents have been produced to provide certainty that environmental impacts will be managed appropriately, and the site will be decommissioned and restored at the end of the operational phase of development.
- Additional photomontages taken from the publicly maintained road to Cantlop Mill – these are provided as part of the above Landscape Statement of Case.

1.10. Design Development

1.10.1. The proposal was subject to amends at the Pre-application and Planning Application stages, following engagement with the Council and the local community. Further information is provided in the Statement of Community Involvement (SCI) submitted with the Application, however the key amends following the pre-application consultation are summarised as follows:

- Panels were moved further away from Cantlop Mill to the south of the site in response to neighbour comments;
- Panels were moved further away from Newman's Hall Cottage to the southeast of the site in response to neighbour comments;
- Additional hedgerow planting was introduced along the northern boundary of the eastern parcel to provide additional screening of the site from Berrington in response to neighbour comments; and
- The main access point was moved from its initial position along the northern boundary off Cliff Hollow, to the unnamed highway on the western site boundary. This change was made to ensure construction traffic was diverted away from Berrington, in response to neighbour comments at public consultation.

1.10.2. During the course of the Planning Application, the proposal was further amended as follows:

- Panels were moved further from Newman's Hall Cottage to the southeast of the site, on the advice of the Case Officer who had met personally with the residents of that property. As a result of the further amends, the distance between the property and the closest panels is now c.170m.
- Panels were moved further from the southern site boundary near Cantlop Mill to further reduce coverage in this area, in response to neighbour comments to the Planning Application;

- Additional tree planting was incorporated on the southern site boundary to provide additional screening, in response to neighbour comments; and
- Following completion of the Geophysical Survey, an area of high archaeological potential was identified within the western parcel of the Site. Consequently, this area of solar panels was removed and a 5m buffer provided around the area.

- 1.10.3. The Appellant worked positively throughout the process to incorporate reasonable amendments wherever possible.
- 1.10.4. As above, the Appellant has been willing to work with the Rule 6 Party to address any residual concerns that it might have but no response has been forthcoming.

1.11. Reasons for Refusal

- 1.11.1. The Planning Application was reported to the Shropshire Council Southern Planning Committee on 9th May 2023. The Case Officer's Report recommended Approval subject to conditions. Despite the Officer's positive recommendation, the Application was refused by Planning Committee, with 3 reasons for refusal as follows:
- 1.11.2. "1. Loss of Best and Most Versatile Land. 88.2% of the land within the 44.09-hectare site is best and most versatile quality with 54.1% being the higher Grade 2 quality. It is not considered that the renewable energy benefits of the proposals or the applicant's justifications for this choice of site are sufficient to outweigh the adverse impact of losing the arable production potential of this best and most versatile land for the 40-year duration of the proposed solar farm, assuming the land is physically capable of reverting to intensive arable production at the end of this time period. The proposals are therefore contrary to paragraph 174B of the NPPF and Core Strategy Policy CS6 (and the accompanying explanatory paragraphs). The proposal is also contrary to policy DP26(part 2.k) of the emerging Shropshire Local Plan which states that solar farm developments should use lower grade land in preference to best and most versatile land."
- 1.11.3. A full response was provided in the Soil Resource Appeal Statement which was submitted with the appeal and which is summarised below in Section 5 of this Revised Statement of Case.
- 1.11.4. "2. Adverse visual impact. The proposed solar farm site would potentially have a visually oppressive effect for users of the publicly maintained highway leading to Cantlop Mill which bisects the site. This is due to the height difference of up to 6m locally between the highway and the top of the proposed arrays. The proposals would also have an adverse effect on existing expansive and high-quality views in the vicinity of the public footpath at Cantlop which is in an elevated position overlooking the site. Other publicly accessible views of a generally pristine rural environment exist from the Berrington Road to the north and the Eaton Mascot Road to the east. Additional field margin planting has been proposed and solar arrays have been pulled back in some margins with the objective of seeking to reduce such views. However, full screening is not physically possible due to the local topography, and it is not certain how effective planting would be as a visual mitigation measure. The proposals therefore have the potential to adversely affect the local

landscape and visual amenities from a number of public viewpoints surrounding the site due to the replacement of the current arable fields with solar arrays and associated built infrastructure. This conflicts with Core Strategy Policies CS6, CS17 and SAMDev policy MD12.”

- 1.11.5. A full response was provided in the Landscape Appeal Statement which was submitted with the appeal and which is summarised below in Section 5 of this Revised Statement of Case.
- 1.11.6. “3. Adverse ecological impact. Skylarks are protected under the EU Birds Directive 79/409/EEC. The application affects land which is used by Skylarks for nesting. The applicant proposes to mitigate for the loss of nesting opportunity by providing protected plots on land to the immediate north of the site. However, this land is of a different character and the general area is also used for seasonal shooting which may coincide with the Skylark nesting season. It is considered that the applicant has not demonstrated sufficiently that the proposed off-site mitigation would provide an appropriate safe and undisturbed environment for successful Skylark nesting. The proposals are therefore contrary to Core Strategy Policy CS17 and SAMDev policy MD12.”
- 1.11.7. The response to this reason for refusal, including details of new evidence which will be submitted during this redetermination process is provided below in Section 5 of this Statement of Case.

2. The Development Plan

2.1. Introduction

2.1.1. The development plan for Shropshire comprises the following:

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

2.1.2. The Planning, Design and Access Statement submitted with the Application provides a full assessment of the proposals against the relevant policies in the development plan.

2.1.3. A list of relevant policies will be agreed with the Council through an updated Statement of Common Ground.

2.1.4. The site is located within the Open Countryside (Core Strategy Policy CS6) and the western edge is located in a Mineral Safeguarding Area (SAMDev Policy MD16). Neither policy precludes solar development in this location, provided it meets the provided criteria.

2.1.5. Core Strategy Policy CS8 'Facilities, Services and Infrastructure Provision' sets out the following in relation to infrastructure provision:

"The development of sustainable places in Shropshire with safe and healthy communities where residents enjoy a high quality of life will be assisted by:

- *"[...] Positively encouraging infrastructure, where this has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, and working closely with network providers to ensure provision of necessary energy distribution networks"*

2.1.6. The Council alleged breaches with three policies in the development plan – Policies CS6 and CS17 of the Core Strategy, and SAMDev Policy MD12.

2.1.7. Core Strategy Policy CS6 'Sustainable Design and Development Principles' sets out the following as is relevant to the appeal proposal:

"To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness, and which mitigates and adapts to climate change. This will be achieved by: [...]"

Ensuring that all development: [...]"

- *Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design*

guidance, landscape character assessments and ecological strategies where appropriate;

- *Contributes to the health and wellbeing of communities, including safeguarding residential and local amenity and the achievement of local standards for the provision and quality of open space, sport and recreational facilities.*
- *Is designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision and taking account of site characteristics such as land stability and ground contamination;*
- *Makes the most effective use of land and safeguards natural resources including high quality agricultural land, geology, minerals, air, soil and water;”*

2.1.8. Core Strategy Policy CS17 sets out the following as is relevant to the appeal proposal:

“Development will identify, protect, enhance, expand and connect Shropshire’s environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all development:

- *Protects and enhances the diversity, high quality and local character of Shropshire’s natural, built and historic environment, and does not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors;*
- *Contributes to local distinctiveness, having regard to the quality of Shropshire’s environment, including landscape, biodiversity and heritage assets...”*

2.1.9. SAMDev Policy MD12 ‘The Natural Environment’ sets out the following as is relevant to the appeal proposal:

“In accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the avoidance of harm to Shropshire’s natural assets and their conservation, enhancement and restoration will be achieved by:

Ensuring that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on any of the following:

- i. the special qualities of the Shropshire Hills AONB;*
- ii. locally designated biodiversity and geological sites;*
- iii. priority species;*
- iv. priority habitats*

v. important woodlands, trees and hedges;

vi. ecological networks

vii. geological assets;

viii. visual amenity;

ix. landscape character and local distinctiveness.

will only be permitted if it can be clearly demonstrated that:

a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;

b) the social or economic benefits of the proposal outweigh the harm to the asset.

In all cases, a hierarchy of mitigation then compensation measures will be sought."

- 2.1.10. Core Strategy Policy CS8 is expressly supportive of renewable energy development such as the Appeal proposal. The proposal will not lead to any significant adverse impact on any recognised environmental assets and is in full accordance with the adopted development plan when viewed as a whole. The Appellant strongly disagrees with the alleged policy conflict with Policies CS6 and CS17 of the Core Strategy, and SAMDev Policy MD12, as set out in Section 5 of this Statement of Case.

3. Other Material Considerations

3.1. Energy and Climate Change Legislation and Policy

3.1.1. There is overwhelming policy support for renewable energy and as part of its planning case, the Appellant will refer to relevant energy and climate change legislation and policy which includes:

- Climate Change Act 2008
- Climate Change Act (2050 target amendment) Order 2019
- Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017
- UK Parliament's declaration of an Environmental and Climate Change Emergency in May 2019
- Energy White Paper: Powering our Net Zero Future published in December 2020
- UK Government's press release of acceleration of carbon reduction to 2035, dated April 2021
- 'Net Zero Strategy: Build Back Greener' published by the UK Government in October 2021
- British Energy Security Strategy, published in April 2022 by the UK Government
- Government Food Strategy, published in June 2022 by the UK Government
- National Policy Statement for Energy (EN-1) (January 2024)
- National Policy Statement for Renewable Energy Infrastructure (EN-3) (January 2024)
- UK Government Solar Strategy 2014
- Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25 March 2015
- Written Ministerial Statement on Solar Energy and Food Security made on 15th May 2024
- Written Ministerial Statement on 'building the homes we need' and the revised NPPF consultation made on 30 July 2024

3.1.2. Reference will also be made to progress made towards meeting carbon reduction targets, including:

- The latest version of the Digest of United Kingdom Energy Statistics, currently the July 2022 version
- 'Achieving Net Zero' published by the National Audit Office in December 2020.

3.2. Written Ministerial Statement on 'building the homes we need' and the revised NPPF consultation, 30th July 2024

3.2.1. On 30th July 2024, the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government, Angela Rayner, issued a Written Ministerial Statement (WMS) on the Government's proposed reforms to the planning system. The WMS, titled 'building the homes we need' places a focus on housing, but also contained a number of important proposed amendments designed to support solar and other renewable

development. The WMS sets out that the Government will ‘boost the weight that planning policy gives to the benefits associated to renewables’ and changing the thresholds for solar development to reflect developments in solar technology. This represents a marked positive shift from the new Government to supporting new solar development.

- 3.2.2. The accompanying draft revised NPPF, which the Government is consulting on until 24th September 2024, includes a number of positive updates that are targeted towards supporting delivery of renewable development. Paragraph 164 requires Local Authorities to ‘support planning applications for all forms of renewable and low carbon development’ and to ‘give significant weight to the proposals contribution to renewable energy generation and a net zero future’

3.3. National Planning Policy Framework (NPPF) December 2023

- 3.3.1. The NPPF is a key material consideration in the determination of planning applications. The Framework, updated in September 2023, confirms the statutory presumption in favour of the development plan and sets out the Government’s national planning policies for the achievement of sustainable development.
- 3.3.2. Paragraph 7 advises the purpose of the planning system is to contribute to the achievement of sustainable development.
- 3.3.3. Paragraph 8 goes on to advise that sustainable development has three overarching objectives, an economic objective, a social objective and an environmental objective. Moving to a low carbon economy forms part of the environmental objective.
- 3.3.4. Paragraph 11 advises that decisions (on planning applications) should apply a presumption in favour of sustainable development. As such, development proposals that accord with the development plan should be approved without delay.
- 3.3.5. Paragraph 81 states that planning decisions should help to create the conditions in which businesses can invest, expand, and adapt. It states that significant weight should be placed on the need to support economic growth and productivity, considering both local business needs and the wider opportunities for development.
- 3.3.6. Paragraph 84 of the NPPF states that planning decisions should support a prosperous rural economy by enabling the development and diversification of agricultural and other land-based businesses.
- 3.3.7. Paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate. It states that the planning system should help to shape places in ways that contribute to a radical reduction to greenhouse gas emissions, encouraging the reuse of existing resources, and supports renewable and low carbon energy and associated infrastructure.
- 3.3.8. Paragraph 158 of the NPPF states 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; and
- approve the Application if its impacts are (or can be made) acceptable.

3.3.9. Paragraph 174 advises that policies and decisions should contribute to and enhance the natural and local environment by inter alia: (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); (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; (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

3.4. Planning Practice Guidance – Climate Change

3.4.1. This PPG document addresses the role that the planning system can play in addressing climate change. Specifically, it refers to the importance of supporting the delivery of appropriately sited green energy. Furthermore, it states that LPAs should ensure that protecting the local environment is properly considered when factoring in the broader issue of protecting the global environment. This PPG also reiterates that responding to climate change is central to the economic, social and environmental aspects of sustainable development.

3.5. Planning Practice Guidance – Renewable and Low Carbon Energy

3.5.1. This PPG document states that planning has an important role in the delivery of new renewable and low carbon energy infrastructure, specifically stating that increasing the amount of energy from renewable sources is a key aspect in ensuring that the UK has a secure energy supply, as well as also slowing down the negative impacts of climate change and stimulating investment in new jobs and businesses. Furthermore, this PPG also specifically discusses larger scale ground-mounted solar photovoltaic farms. It notes the importance of assessing a proposal's visual impact, the effect of the development on the landscape, and the impact of potential glint and glare.

3.6. Overarching National Policy Statement for Energy (EN-1)

3.6.1. The current version of EN-1 was designated on 17th January 2024. While the proposed development the subject of this appeal is not an NSIP, it is confirmed at paragraph 1.2.1 of EN-1 that this document can be a material consideration in the determination of planning applications.

3.6.2. Paragraph 3.3.20 notes that wind and solar are the lowest cost ways of generating electricity, helping to reduce costs and providing a clean and secure source of electricity supply. EN-1 highlights the central role of solar in achieving net zero: "Our analysis shows

that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar”.

- 3.6.3. Significantly, the updated EN-1 states that there is now a critical national priority (CNP) for the provision of national significant low carbon infrastructure, which includes solar PV. Furthermore, EN-1 states that substantial weight should be given to this urgent need.
- 3.6.4. The appeal proposal responds to this urgent need for solar PV and would make a significant contribution towards achieving net zero, providing enough clean power for 7,000 homes. It also positively reflects that wind and solar are the lowest cost ways of generating clean and secure electricity, in line with EN-1.

3.7. National Policy Statement for Renewable Energy Infrastructure (EN-3)

- 3.7.1. The current version of EN-3 was also designated on 17th January 2024, and it too is a material consideration for planning applications. This NPS sets out the Government's current policy for renewable development, and therefore represents the Government's most up-to-date statement of policy on solar.
- 3.7.2. EN-3 confirms that the Government is committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions by 2050. EN-3 re-affirms the commitment in the British Energy Security Strategy (2022) to increase solar capacity five-fold by 2035.
- 3.7.3. Of particular relevance to the appeal proposal, is the recognition of the importance of the grid connection as a consideration for solar farm development. The following paragraphs are pertinent to site selection:
- 3.7.4. Paragraph 2.10.22:

“Many solar farms are connected into the local distribution network. The capacity of the local grid network to accept the likely output from a proposed solar farm is critical to the technical and commercial feasibility of a development proposal.”
- 3.7.5. 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.”
- 3.7.6. In relation to agricultural land classification and land type, EN-3 provides the following guidance at paragraph 2.10.29:

“While land type should not be a predominating factor in determining the suitability of the site location 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.'

- 3.7.7. EN-3 acknowledges at paragraph 2.10.30 that solar is not prohibited on BMV land, but the impacts should be considered. At paragraph 2.10.32, it states that where solar farms are sited on agricultural land, consideration may be given to whether the proposal allows for continued agricultural use on the site.
- 3.7.8. EN-3 makes plain that a suitable grid connection is an essential requirement of a solar farm, and that applicants will necessarily choose a site within a reasonable distance to minimise impacts on the environment. The Applicant has carried out a detailed site selection process, which demonstrates that the use of some BMV is required in this case. Furthermore, the site can continue to be used for some agricultural purposes – this is a valid consideration in line with EN-3 paragraph 2.10.32.
- 3.7.9. In relation to the temporary nature of solar PV development, EN-3 notes at paragraph 2.10.65 that an upper limit of 40-years is typical and at paragraph 2.10.66, sets out what is meant by the term 'temporary':
- "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."
- 3.7.10. This is an important clarification and confirms the temporary nature of such proposals as this.

3.8. Emerging Local Plan Review

- 3.8.1. The emerging Local Plan Review was submitted to the Secretary of State on 3rd September 2021. The Local Plan Review sets out the vision and framework for the development of Shropshire for the period 2016-2038.
- 3.8.2. The most relevant emerging policies are as follows:
- Policy SP3 'Climate Change'
 - Policy DP26 'Strategic, Renewable and Low Carbon Infrastructure'
- 3.8.3. **Emerging Policy SP3** states that development in Shropshire will support the transition to a zero-carbon economy in accordance with the policies of the Local Plan. This will be done in part by integrating or supporting both on-and-off site delivery of renewable and low carbon energy by supporting the development of community energy generation and distribution schemes, where they meet the policy requirements of the Local Plan and any relevant national policy.
- 3.8.4. **Emerging Policy DP26** states that the delivery of sustainable communities in Shropshire relies on the provision of new strategic infrastructure and the continued operation of existing strategic infrastructure. Furthermore, it states that non-wind renewable and low carbon development will be supported where the impact is, or can be made, acceptable.

- 3.8.5. Where a large-scale solar farm requires the use of agricultural land, poorer quality land should be used in preference to land of a higher quality (see also Policy DP18). Proposals should allow for continued agricultural use wherever possible and/or encourage biodiversity improvements around arrays.

3.9. Climate Change Act 2008 (2050 Target Amendment) Order 2019

- 3.9.1. The Act introduced the UK's statutory target to reduce its' carbon dioxide emissions to below 80% of the country's 1990 levels by 2050. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 increased the percentage to 100%, committing the UK to achieving net zero by 2050.

3.10. British Energy Security Strategy

- 3.10.1. The British Energy Security Strategy was published by the Government in April 2022. It outlines the UK targets to increase the country's electricity being produced by low-carbon means to 95% by 2030 and 100% by 2035. In meeting these targets, specific reference is made with respect to the importance of cheaper, cleaner, and more sustainable renewables as the best defence against fluctuation in global gas prices. Significantly, the British Energy Security Strategy sets out a target to grow solar generating capacity fivefold by 2035.

3.11. Planning Appeal Decisions and Legal Cases

- 3.11.1. The Appellant will refer to other planning decisions / appeal decisions of relevance to the Appeal proposal. These will be agreed with Shropshire Council and provided as Core Documents.

4. Committee Report

- 4.1.1. The Planning Application was reported to the Shropshire Southern Area Planning Committee on 9th May 2023. The Case Officer's Report (OR) recommended approval subject to conditions and an s106 legal agreement providing off-site skylark mitigation.
- 4.1.2. The OR provides a full assessment of the proposals against the development plan and other material considerations.
- 4.1.3. Section 4 of the OR sets out the representations that were received to the application from statutory consultees and neighbours.

4.2. Climate Change Consultee

- 4.2.1. Paragraph 4.3 summarises the comments from the Council's own Climate Change Task Force. The Case Officer summarises some of the key comments as follows:

"It is recognised by the Climate Task Force that the development would contribute 30MW towards the approximate total of 5,000MW required to make the county self-sufficient in renewable energy. According to Greenhouse gas reporting: conversion factors 2022 – UK electricity this development would be expected to produce an approximate carbon saving of 5.8 ktCO2."

4.3. Ecology Officer

- 4.3.1. At paragraph 4.9, the OR notes that further clarification was requested by the Council's ecologists on measures to mitigate against the loss of skylark habitat, and notes that this additional information had been subsequently provided by the Applicant. Any further comments from the Council's ecologist would be reported to Committee.
- 4.3.2. The Council's ecologist confirmed in writing on 9th May 2023 that he/she did not object to the application, subject to conditions and an s106 agreement for the management of the skylark compensation areas. At the Planning Committee meeting, against the advice of some Members and against the advice of the Case Officer, a Member of the Planning Committee insisted on including loss of skylark habitat as a reason for refusal, despite the agreed compensation immediately adjacent to the site that had been negotiated over many months with the Council's ecologists.

4.4. Landscape Advisor

- 4.4.1. Section 4.12 summarises the advice received from the Council's external Landscape Advisor. The 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".

4.5. Councillor Claire Wild

- 4.5.1. Section 4.13 summarises the objections received from Councillor Claire Wild, who is a neighbour resident to the site. Councillor Wild raises several objections as set out in the Officer Report. The Appellant engaged with Councillor Wild at the pre-application stage, including attending an accompanied site visit and the community exhibition. Full details of this are provided in the Statement of Community Involvement.

4.6. Public Comments

- 4.6.1. At paragraph 4.14, the OR summarises the public comments that were received to the application. It notes that at the time of writing the OR, 194 representations had been received in support of the application, 107 objecting, and 2 neutral. The comments in support note the benefits of clean energy and the contribution towards energy security, carbon saving and reducing energy poverty, as well as the biodiversity benefits. The comments objecting to the proposals cover a broad range of issues but focus on the visual impact of the proposal and the temporary loss of BMV agricultural land.

4.7. Officer Appraisal

- 4.7.1. Section 6 of the OR provides the Case Officer's planning assessment of the proposals. At paragraph 6.1.1, the Case Officer notes the clear policy support at the national level:

"There is clear instruction in national policy that renewable energy development should be approved where impacts can be made acceptable".

- 4.7.2. In Section 6 the Case Officer sets out an assessment of Policies CS8, CS17, MD2, MD8 and MD12. In paragraph 6.1.7, the Case Officer confirms that in accordance with policy, if there are no unacceptable adverse impacts after mitigation and/or the benefits outweigh any residual impacts, then the relevant policy tests will be met, and the development would be 'sustainable' and should be granted.

- 4.7.3. In Section 6.2, the Case Officer describes the public benefits of the proposal. These include the provision of clean energy for up to 7,000 homes, 132% net gains in biodiversity, and substantial economic benefits.

- 4.7.4. In Section 6.4, the Case Officer considers the matter of the temporary loss of BMV land and discusses the planning policy context. The Case Officer notes the following at paragraph 6.4.16:

"Whilst relevant policies and guidance advocate the use of poorer quality land in preference to better quality there is no absolute policy prohibition against the use of best and most versatile land in solar development. Instead, applicants must justify 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.

Whilst there would be a temporary loss of B&MV land this must be weighed against the benefits of the proposals including the ability to produce renewable energy.”

- 4.7.5. In Section 6.5, the Case Officer considers landscape and visual impact. At paragraph 6.5.7, the Case Officer noted:

“The officer has visited the site and notes that the local landscape is generally of a high quality. Views of the site would be available in particular from Cantlop which is located to the south of the site on the opposite side of a small valley. Trees on the site’s southern boundary would provide some mitigation but would not fully screen the site given the topography. Additional views are possible from the track which runs through the site to Cantlop Mill. The applicant has proposed additional hedgerow planting either side of this track to screen these views.

The Council’s landscape adviser has supported the LVIA methodology and conclusions that the proposals can be accepted in terms of visual and landscape effects. The renewable energy benefits of the proposals must also be taken into account, as highlighted by the Council’s climate change task force.”

- 4.7.6. From paragraph 6.7.5, the Case Officer considers the matter of ecology. The Case Officer notes that the proposal will deliver 132% net gains in biodiversity, and subject to conditions and a s106 agreement for skylark mitigation, the proposal complies with relevant planning policy regarding ecology and biodiversity. At paragraph 6.7.9, the Case Officer summarises:

“SC Ecology has not objected subject to a number of ecological conditions linked to habitat / biodiversity management / enhancement (included in Appendix 1). They requested further information in relation to mitigation for effects on Skylark habitat. In response the applicant has identified a specific area for Skylark mitigation in fields to the immediate north of the proposed site and has put forward specific management measures for this area to ensure that the habitat remains optimal for Skylark throughout the operational life of the proposed development. These provisions would be secured by means of a s106 Legal Agreement. Subject to this it is concluded that the Proposed Development complies with relevant planning policy regarding ecology / biodiversity (CS6, CS17, MD12).”

- 4.7.7. The Case Officer’s planning balance and conclusions are provided in Section 7 of the OR. The conclusion is provided at paragraph 7.5 as follows:

“The NPPF advises that the production of renewable energy is a material consideration which should be given significant weight and that sustainable development proposals which accord with the development plan should be approved without delay (S158). It is concluded that the proposals are sustainable.

There have been no outstanding objections from technical consultees with respect to issues such as highways, trees, ecology and drainage. Detailed planning conditions have been recommended to ensure the highest level of control of the development. Subject to this it is considered that the proposal also meets the criteria for development in the countryside as set out in Core Strategy Policy CS5. The proposal is therefore in general accordance with the Development Plan. Overall, it is considered that the public benefits of the proposals including renewable energy provision are sufficient to outweigh any identified residual impacts and permission should be granted subject to the conditions set out in Appendix 1."

- 4.7.8. The Appellant agrees with the Case Officer's professional recommendation that the proposal comprises sustainable development and is in accordance with the development plan. The Appellant is also in agreement with the Case Officer that the production of renewable energy is a material consideration that should be given substantial weight in the planning balance.
- 4.7.9. As indicated above, the Council has now confirmed that it does not object to the proposed development.

5. Response to the Council's Reasons for Refusal

5.1. Introduction

5.1.1. The Appellant's response to the three reasons for refusal is provided as follows:

- Reason for Refusal 1 - Loss of Best and Most Versatile Agricultural Land – See attached Soil Management Statement of Case, summarised in Section 5.2 below.
- Reason for Refusal 2 – Adverse Visual Impact – See attached Landscape Appeal Statement, summarised in Section 5.3 below.
- Reason for Refusal 3 – Adverse Ecological Impact – See Section 5.4 below.

5.2. Reason for Refusal 1 – Loss of Best and Most Versatile Agricultural Land

5.2.1. Reason for Refusal 1 relates to the temporary loss of full utilisation of Best and Most Versatile (BMV) Agricultural Land:

“88.2% of the land within the 44.09-hectare site is best and most versatile quality with 54.1% being the higher Grade 2 quality. It is not considered that the renewable energy benefits of the proposals or the applicant's justifications for this choice of site are sufficient to outweigh the adverse impact of losing the arable production potential of this best and most versatile land for the 40-year duration of the proposed solar farm, assuming the land is physically capable of reverting to intensive arable production at the end of this time period. The proposals are therefore contrary to paragraph 174B of the NPPF and Core Strategy Policy CS6 (and the accompanying explanatory paragraphs). The proposal is also contrary to policy DP26(part 2.k) of the emerging Shropshire Local Plan which states that solar farm developments should use lower grade land in preference to best and most versatile land.”

5.2.2. This issue was dealt with comprehensively by Inspector Rose in the quashed decision letter and it is to be hoped that a proportionate view will be taken as to how this matter is addressed in the redetermination process.

5.2.3. In the Soil Management Statement of Case submitted with the Appeal, Mrs Metcalfe confirmed that the site has been surveyed in detail and found to be a mixture of Grade 2, Subgrade 3a and Subgrade 3b quality.

5.2.4. Mrs Metcalfe sets out the purpose of the Soil Management Plan (SMP) that was submitted with the planning application as follows:

- to ensure the protection and conservation of soil resources on site
- identify best practice to maintain the physical properties of the soils on site
- provide on-site reference on the management of the soil resource for site operators

5.2.5. Mrs Metcalfe sets out that the SMP follows the principles of best practice to maintain the physical properties of the soil with the aim of restoring the land to its pre-construction condition at the end of the operational phase of the lifetime of the solar farm. Mrs Metcalfe

assesses that subject to adherence to the SMP, the land should be physically capable of reverting to agricultural production.

- 5.2.6. In relation to the justification for the choice of site, the Appellant has submitted an additional *Site Sequential Report Addendum: Sites Assessment Report*, which provides a detailed assessment of potential alternative sites in the search area. The report considered several potential alternative sites, which were subject to further assessment. These were assessed in turn and found to be no better suited to the development than the Appeal site. The entire search area is Grade 2 or 3 Agricultural Land, and the alternative sites in the search area are demonstrably subject to additional physical or policy constraints, including ecological and heritage designations, flood risk and topographical constraints. The full assessment is provided in the submitted Addendum Report.
- 5.2.7. The Planning Application was also submitted with an Agricultural Production Assessment (APS), prepared by the ADAS Agricultural Land Specialists and the landowner. The purpose of the APS was to provide background to the farm enterprise, and how the proposed solar development would support the wider farm business, particularly at a time when much of the wider farm is coming out of Higher Level Stewardship (HLS), presenting economic challenges, but also new opportunities in terms of returning some HLS land back to arable production.
- 5.2.8. The Appellant's case in relation to the temporary loss of BMV agricultural land is summarised as follows:
- The Appeal proposal is temporary for a period of 40-years, following which it can be fully reverted to agricultural production, resulting in no permanent loss of any agricultural land.
 - The site can continue to be used for some agricultural purposes, with grazing areas for livestock beneath the solar panels.
 - This soil quality will be preserved throughout the operational phase by adhering to the detailed measures set out within the submitted Soil Management Plan.
 - As demonstrated in the submitted *Site Sequential Report* and the subsequent *Addendum: Sites Assessments Report*, there are demonstrably no suitable alternative sites on lower grade land within the search area.
- 5.2.9. The Inspector considered the matter of Agricultural Land Classification and Best and Most Versatile (BMV) agricultural land in detail, concluding that the Appellant's Site Sequential Selection Report provided 'clear support' for the development of the solar farm on the site, and the site would be capable of restoration at the end of the operational phase. The Inspector apportioned moderate weight to the failure to make the most effective use of BMV agricultural land, in line with the Appellant's position.

5.3. Reason for Refusal 2 – Adverse Visual Impact

- 5.3.1. Reason for Refusal 2 relates to visual impacts:
- 5.3.2. *"The proposed solar farm site would potentially have a visually oppressive effect for users of the publicly maintained highway leading to Cantlop Mill which bisects the site. This is*

due to the height difference of up to 6m locally between the highway and the top of the proposed arrays. The proposals would also have an adverse effect on existing expansive and high-quality views in the vicinity of the public footpath at Cantlop which is in an elevated position overlooking the site. Other publicly accessible views of a generally pristine rural environment exist from the Berrington Road to the north and the Eaton Mascot Road to the east. Additional field margin planting has been proposed and solar arrays have been pulled back in some margins with the objective of seeking to reduce such views. However, full screening is not physically possible due to the local topography, and it is not certain how effective planting would be as a visual mitigation measure. The proposals therefore have the potential to adversely affect the local landscape and visual amenities from a number of public viewpoints surrounding the site due to the replacement of the current arable fields with solar arrays and associated built infrastructure. This conflicts with Core Strategy Policies CS6, CS17 and SAMDev policy MD12.”

5.3.3. In the Landscape Appeal Statement submitted as part of this Appeal, Daniel Haigh considered in detail the visual effects of the proposal, as follows:

- Visual effects on users of the road leading to Cantlop Mill.
- Visual effects on users of the public footpath at Cantlop (0407/5R/2).
- Visual effects on users of road that runs along the northern boundary (known locally as the Berrington Road).
- Visual effects on users of the road that runs along the eastern boundary (known locally as the Eaton Mascot Road).

5.3.4. The Landscape Appeal Statement addresses how the proposal would affect the visual amenity of those visual receptors listed above.

5.3.5. In relation to the visual effects on users of the road leading to Cantlop Mill, Mr Haigh concludes that at completion and after 15 years, there would be open views of the proposal from sections of the road where gaps in the vegetation occur for field access, and partial views from the northern sections of the road, with glimpses possible through vegetation for the remaining length of road. Mr Haigh notes however that the proposed panels will be set back from the road and would not be oppressive or seen over the vegetation running along the road where it passes the site.

5.3.6. In relation to the visual effects on users of the public footpath at Cantlop (0407/5R/2), Mr Haigh assesses that there are open views of the site from most of the PRow, with clear views to the high ground in the north of the site, whilst the lower ground in the south of the site is screened from views by existing vegetation. Mr Haigh assesses that although there would be open views of the site at completion, after 15 years the magnitude of change would reduce to moderate as the vegetation would have matured around the site, softening the visual impact of the proposal.

5.3.7. In relation to the visual effects on users of the road that runs along the northern site boundary, Mr Haigh assesses that although at completion there would be open views of the proposal from the sections of the road where gaps occur in the vegetation for site

access, the magnitude of change taken as a whole over the length of the road would be minor at completion, and the level of effect at completion would be slight.

- 5.3.8. In relation to the visual effects on users of the road that runs along the eastern boundary, Mr Haigh assesses that there are small open views of the site where gaps in the vegetation for field access occur, and there are partial views across the eastern field parcel from a 20m section of the road to the south east corner of the site. Oblique glimpsed views are possible along some sections of the road that runs adjacent to the site where the vegetation thins out. At completion, Mr Haigh assesses that the magnitude of change would be minor adverse when taken as a whole over the length of the road, and the level of effect would be slight.
- 5.3.9. Overall, Mr Haigh concludes that the site is visually well contained due to surrounding landform, existing vegetation and the low visual profile of the scheme. Visibility would be localised and limited with the exception of the rising ground to the south of the site. Mr Haigh notes that the proposal has been carefully designed to conserve the majority of the landscape features of the site, topography, hedgerows, trees and field pattern. The proposal would be set within the existing landscape framework of the landscape.
- 5.3.10. The Council's external landscape consultee raised no objection to the proposal and confirmed the LVA methodology to be "appropriate and proportionate, and in accordance with best practice in GLVIA3".

5.4. Reason for Refusal 3 – Adverse Ecological Impact

- 5.4.1. Reason for Refusal 3 relates to the acceptability of off-site skylark mitigation:
- 5.4.2. *"Skylarks are protected under the EU Birds Directive 79/409/EEC. The application affects land which is used by Skylarks for nesting. The applicant proposes to mitigate for the loss of nesting opportunity by providing protected plots on land to the immediate north of the site. However, this land is of a different character and the general area is also used for seasonal shooting which may coincide with the Skylark nesting season. It is considered that the applicant has not demonstrated sufficiently that the proposed off-site mitigation would provide an appropriate safe and undisturbed environment for successful Skylark nesting. The proposals are therefore contrary to Core Strategy Policy CS17 and SAMDev policy MD12."*
- 5.4.3. A Skylark Mitigation Plan ('SMS') was provided by ADAS¹, based on baseline survey data gathered in 2022, with eleven Skylark territories identified within the Appeal Site. As a direct result of concerns raised at the previous inquiry, breeding bird surveys of both the Appeal Site and the proposed Skylark Mitigation Area were undertaken by Avian Ecology in spring 2024. These adopted a six-visit methodology presented in the 'Bird Survey Guidelines' website². The 2024 surveys found six Skylarks territories within the Appeal

¹ ADAS. (2023). Skylark Mitigation and Management Plan; Land South of Berrington, Shrewsbury.

² <https://birdsurveyguidelines.org/methods/survey-method/>

Site, and therefore a reduction in numbers; however, such fluctuations are entirely normal as densities depend on crop types (which rotate) and wider environmental factors.

- 5.4.4. A revised SMS will be provided. A precautionary approach to Skylark numbers will be adopted, whereby the SMS continues to assume eleven pairs are present at the Appeal Site regardless of the 2024 survey results.
- 5.4.5. The Proposed Development achieves a very substantial Biodiversity Net Gain (BNG) increase of +123.5% habitat units and +76.4% hedgerow units.
- 5.4.6. In summary, the Appellant's case will demonstrate that the Proposed Development will deliver adequate mitigation for Skylarks and wider biodiversity benefits.
- 5.4.7. The Appellant will seek to agree an updated Statement of Common Ground with the Council, confirming the matter of skylarks to be fully addressed.

6. Conclusions

- 6.1.1. The Council no longer objects to the proposed development. The position of the Rule 6 Party is not known as of the date of writing this Revised Statement of Case.
- 6.1.2. As a direct result of concerns raised at the previous inquiry, breeding bird surveys of both the Appeal Site and the proposed Skylark Mitigation Area were undertaken by Avian Ecology in spring 2024. These adopted a six-visit methodology presented in the 'Bird Survey Guidelines' website . The 2024 surveys found six Skylarks territories within the Appeal Site, and therefore a reduction in numbers; however, such fluctuations are entirely normal as densities depend on crop types (which rotate) and wider environmental factors.
- 6.1.3. A revised SMS will be provided. A precautionary approach to Skylark numbers will be adopted, whereby the SMS continues to assume eleven pairs are present at the Appeal Site regardless of the 2024 survey results. It is hoped by the Appellant that agreement can be reached with the Rule 6 Party on this issue which appeared to be the determining issue for Inspector Rose on the last occasion.
- 6.1.4. The Appellant will demonstrate that the proposed development is suitably located and that there are no sequentially preferable sites available. There will be no permanent loss of Best and Most Versatile Agricultural Land.
- 6.1.5. The Council's external landscape consultee raised no objection to the proposal and confirmed the LVA methodology to be "appropriate and proportionate, and in accordance with best practice in GLVIA3". The Appellant will address the landscape character and visual amenity impacts resulting from the proposed development and will demonstrate why it disagrees with the previous conclusions of Inspector Rose on these matters. As above, the Appellant indicates a willingness to discuss potential changes to the detailed design of the proposed development with the Rule 6 Party if this would facilitate withdrawal of its objection.
- 6.1.6. The Appellant will demonstrate through detailed evidence that the proposal is in full accordance with the development plan, that there are no material considerations to justify a refusal, and that the proposal should have been approved in line with the Case Officer's positive recommendation. The proposed development will deliver significant net gains in biodiversity, amongst other benefits.
- 6.1.7. This important proposal presents an opportunity to provide enough clean, renewable energy for up to 7,000 homes per annum. It will directly address the challenges of climate change and energy security which is overwhelmingly supported in national and local planning policy. Planning permission should be granted in the form in which it has been sought.



STATEMENT OF CASE

**Proposed 30MW Solar PV Array on Land South of
Berrington, Shrewsbury, Shropshire, SY5 6HA**

On behalf of Econergy International Limited