



# Planning Proof of Evidence by Anthony Heslehurst MPlan MRTPI

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

On behalf of Econergy International Limited

Against the Refusal of Planning Permission by  
Shropshire Council for:

*“Erection of an up to 30 MW Solar PV Array,  
comprising ground mounted solar PV panels,  
vehicular access, internal access tracks,  
landscaping and associated infrastructure,  
including security fencing, CCTV, client storage  
containers and grid connection infrastructure,  
including substation buildings and off-site  
cabling.”*

APP/L3245/W/23/3332543

LPA Ref. 22/04355/FUL

**Updated 20/01/2025**

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## 1. Introduction

### 1.1. Qualifications

- 1.1.1. I am a Chartered Town Planner with over 10 years' experience in a broad range of planning and development matters. I hold a Master's Degree in Town Planning from the University of Sheffield and I am a Full Member of the Royal Town Planning Institute (RTPI).
- 1.1.2. I am employed as a Director by RSK ADAS Ltd (hereinafter referred to as 'ADAS') where I have worked since August 2020. I lead the Manchester planning team at ADAS and am responsible for overseeing major planning applications on behalf of clients throughout the UK.
- 1.1.3. Prior to joining ADAS, I was a Planner at Gladman Developments Ltd, working on strategic land promotion and managing applications and appeals. Prior to joining Gladman, I was employed by Thakeham Homes Ltd, a regional housebuilder in the southeast. I have a broad and comprehensive understanding of the planning process.
- 1.1.4. I am familiar with the appeal site, local and national planning policy and other related planning matters pertaining to this appeal.
- 1.1.5. I confirm that this Proof of Evidence is true and has been prepared in accordance with the guidance of the RTPI. I further confirm that the views expressed in my evidence are my true and professional opinions. I am aware that my duty as a professional planner is to the Inquiry, irrespective of by whom I am employed.

### 1.2. Structure

- 1.2.1. My Proof of Evidence is structured as follows:
  - Chapter 2 – Provides a background to the appeal
  - Chapter 3 – Describes the process of site selection
  - Chapter 4 – Describes the planning policy framework and the development plan
  - Chapter 5 – Provides a full planning policy assessment
  - Chapter 6 – Considers other material considerations
  - Chapter 7 – Sets out key Judgements and Appeal decisions
  - Chapter 8 – Considers comments by interest parties
  - Chapter 9 – Sets out the case for the Appellant
  - Chapter 10 – Provides the planning balance and conclusions

## 2. Background to this Appeal

### 2.1. Introduction

- 2.1.1. I have prepared this Proof of Evidence on behalf of Econergy International Limited (“the Appellant” or “Econergy”) in relation to the Planning Appeal submitted pursuant to Section 78 of the Town and Country Planning Act regarding the proposed solar PV development on land south of Berrington, Shrewsbury (“the Site”).
- 2.1.2. This Planning Appeal follows the decision of Shropshire Council (“the LPA”) to refuse an application for Full Planning Permission (LPA Ref. 22/04355/FUL) for the following:
- “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.”*
- 2.1.3. The Planning Application (Ref. 22/04355/FUL) 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. The Application was refused against the Officer’s recommendation for approval. The Decision Notice refusing planning permission was received on 16<sup>th</sup> May 2023.
- 2.1.4. The Council’s reasons for refusal were as follows:

#### 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.*

#### 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.*

### 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.*

- 2.1.5. An Appeal was subsequently submitted on behalf of the Appellant, with an Inquiry held on 5-11<sup>th</sup> March 2024. The Appeal Decision dismissing the Appeal was issued on 26<sup>th</sup> 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.
- 2.1.6. 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 2<sup>nd</sup> July 2024.

## 2.2. Position of the Council and the former Rule 6 Party

- 2.2.1. The Council has confirmed that it no longer objects to the proposed development and will offer no evidence at the forthcoming redetermination. The Council based this decision on various changes in circumstances since the Inquiry, including the (then) proposed changes to the NPPF, recent appeal decisions and the High Court case, as well as financial considerations.
- 2.2.2. The Appellant engaged in negotiations with the former Rule 6 Party to agree 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 20<sup>th</sup> August 2024).
- 2.2.3. Subsequent to the previous appeal decision, the landscape strategy for the proposed development has been updated following a site visit by the Appellant team and through discussions with the former Rule 6 Party. Whilst still retaining the vast majority of established green infrastructure, the updated scheme now includes additional hedgerow and woodland elements that will help to strengthen landscape structure and screen views from some of the nearest sensitive visual receptors. The updated Landscape Masterplan includes a specification with regards to native trees and shrub species selection and sizes that would be included in various planting mixes. These enhanced mitigation measures form part of the landscape design and overall proposed development, and represent a meaningful improvement on the previous proposals, developed in consultation with the former Rule 6 Party.
- 2.2.4. As a result of these updates, the former Rule 6 Party has confirmed it no longer wishes to contest the appeal, as have a number of local residents.

## 2.3. Legal principles applying to redetermination

- 2.3.1. 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)).
- 2.3.2. 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 their 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.

- 2.3.3. In addition to the errors in law in relation to the approach to skylarks, the Inspector's approach to landscape and visual impacts was, in our view, unexpectedly strong given the limited and localised nature of the impacts. However as set out above, the landscaping scheme has been further enhanced following direct negotiations between the Appellant and the former Rule 6 Party.
- 2.3.4. The Council and the former Rule 6 Party have now withdrawn their objections to the proposed development, and it is common ground with the Council that the proposed amendments to the scheme represent material improvements to the scheme that 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.

## 2.4. Scope of this Proof of Evidence

- 2.4.1. My evidence relates to matters of planning policy and appraisal. I will also undertake the overall planning balance for the appeal proposal.
- 2.4.2. My Proof of Evidence should be read alongside the evidence and related material prepared by the following expert witnesses:
- Soil – Mrs Ruth Metcalfe (ADAS)
  - Landscape – Mr Daniel Leaver (Stephenson Halliday)
  - Ecology – Mr Howard Fearn (Avian Ecology)
- 2.4.3. To arrive at my overall conclusions, I have relied upon the professional views and expertise of the aforementioned witnesses as expressed in their own proofs of evidence submitted to this Inquiry.
- 2.4.4. In relation to soil, I will rely on Ms Metcalfe's evidence in relation to technical matters (the impact on BMV and whether it is capable of being reverted to BMV land and matters of food security) while my evidence will address matters relating to policy, benefits and harm, and the planning balance.
- 2.4.5. In addition, my evidence should be read alongside 'Heritage Note - Written Statement in Response to Rule 6 Party Statement of Case Addendum' (CD 12.8), prepared by Mr Simon Britt of Pegasus and submitted to this appeal.
- 2.4.6. An updated Statement of Common Ground between the Appellant and the Council, dated 10<sup>th</sup> January 2025, has been agreed and submitted to this appeal.

## 2.5. The Site

- 2.5.1. A full description of the site is provided in the Appellant's Statement of Case (CD 4.2).

## 2.6. Planning History

- 2.6.1. There is no planning history associated with the appeal site, as confirmed in the Officer's Committee Report (CD 3.1).

## 2.7. The Proposal

- 2.7.1. The appeal proposal is for a solar PV development. A detailed description of the proposed development is provided in the Appellant's Statement of Case ("SoC") (CD 4.2). Confirmation of the plans and documents on which the Council's decision was made are also set out in the Updated Statement of Common Ground between the Appellant and the Council for redetermination of appeal dated 10 January 2025 (CD 4.23).

## 2.8. EIA Screening

- 2.8.1. Prior to the submission of the planning application, the Appellant submitted an EIA Screening Request, with the LPA confirming that EIA would not be required on 26<sup>th</sup> January 2022 (CD 3.4).

## 2.9. Pre-App and Public Consultation

- 2.9.1. The Appellant engaged the Council for pre-application advice, and carried out a programme of pre-application public consultation, the full details of which are set out in the Statement of Community Involvement (CD 1.14).
- 2.9.2. Following the pre-application meeting with the Council, a written response was received from the Case Officer on 8th March 2022 (CD 1.14). The Council's response advised that the proposal could be acceptable in principle, subject to satisfactorily addressing any environmental or technical matters.
- 2.9.3. The public consultation with the local community included the following stages:
- Letters to Elected Members and Berrington Parish Council – 8th February 2022
  - Public Consultation Leaflets to residents – 8th February 2022
  - Online Webinar Presentation via Zoom – 22nd February 2022
  - Accompanied Site Visit – 21st March 2022
  - Public Exhibition at Berrington Village Hall – 21st March 2022
- 2.9.4. Interested parties had an opportunity to have their say in both online and in-person events, both of which were well attended.
- 2.9.5. The application (Ref. 22/04355/FUL) was validated by Shropshire Council on 27<sup>th</sup> September 2022.

## 2.10. Design Development

- 2.10.1. The proposed development was subject to a number of amendments following the initial pre-application stage, and then during the course of the Planning Application. The key revisions are set out in the Appellant's Statement of Case (CD 4.2, Section 1.8). A sincere effort was made throughout to address the concerns of residents, including:

- The main site access was moved from the initial position on the northern site boundary off Cliff Hollow, to the western site boundary, and all construction traffic diverted away from Berrington village;
- The panels were moved further from Newman's Hall Cottage the southeast of the site, on the advice of the Case Officer who had personally met with the residents of that property. The property is now some 170m away from the nearest panel on the site;
- Additional tree planting was incorporated on the southern site boundary to further screen views for residents; and
- The panels were also moved from the southern site boundary near Cantlop Mill in response to neighbour comments to the planning application.

2.10.2. As set out above at paragraph 2.2.3, the landscape strategy for the proposed development has subsequently been updated following a site visit by the Appellant team and through discussions with the former Rule 6 Party.

## 2.11. The Decision

2.11.1. The application was reported to Shropshire Southern Area Planning Committee on 9<sup>th</sup> May 2023, with an officer recommendation for approval and no outstanding objections from any of the Council's technical consultees. The application was refused by Members of the Planning Committee, and the Decision Notice refusing Planning Permission was issued by the Council on 16<sup>th</sup> May 2023.

### 3. Site Selection

#### 3.1. Introduction

- 3.1.1. In this section, I will set out the details of the site selection process that was undertaken by the Appellant. I will begin by setting out context in relation to the grid offer, and the relationship of the appeal site to the wider farm business.
- 3.1.2. There is no legal or policy requirement to carry out 'sequential testing' for solar farms, and neither is there a local validation requirement to submit any such report as part of a planning application. In the recent Bramley Solar High Court Judgement<sup>1</sup>, Justice Lang confirmed there was no requirement to undertake any sequential test, and nor was there a duty on the Inspector to consider alternative sites (CD 7.1).
- 3.1.3. Nonetheless, as will be discussed further in section 4 of this proof, there is a requirement in policy and guidance to prefer lower grade agricultural land where possible.

#### 3.2. Grid Connection

- 3.2.1. Solar farms are restricted in where they can be delivered, due to the need for a viable grid connection. The capacity of the local grid network to accept a new solar farm locally is critical to the viability of the scheme. It is an essential requirement of a solar farm.
- 3.2.2. Unfortunately, there are significant grid delays nationally, with many grid offers now extending over 10 years. In a speech on 20<sup>th</sup> September 2023 announcing a push for renewables infrastructure (CD 11.3), then Prime Minister Rishi Sunak summarised the scale of the challenge and the risk this poses to achieving net zero:

“But one of our biggest constraints to reaching Net Zero and improving our energy security, is this:

We're investing billions in new energy projects, yet we don't have the grid infrastructure to bring that power to households and businesses.

And when energy security is national security – that's unacceptable.

Right now, it can take fourteen years to build new grid infrastructure.”

- 3.2.3. To provide further 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, 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.
- 3.2.4. The appeal site has a grid offer. The Appellant secured a Distribution Network Operator (DNO) Grid Offer with Western Power Distribution in 2021, therefore subject to the outcome

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<sup>1</sup> Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing and Communities & Ors [2023] EWHC (Admin) (15<sup>th</sup> November 2023)

of this Appeal, the construction works can begin without delay and energy generated and fed into the grid immediately.

- 3.2.5. The availability of an immediate grid connection at a time of well documented delays is a significant consideration for this appeal.

### 3.3. The Farm Business

- 3.3.1. The appellant submitted an Agricultural Production Assessment (CD 1.20) during the planning application process, to provide further information about the implications of the proposal on the wider farm business. For context, the appeal site is part of a wider estate that extends to 152.6 hectares, with the land predominantly used for arable cropping and dairy grazing. In 2012, some 58 hectares were entered into Entry-Level (ELS) and Higher-Level (HLS) Stewardship Agreement. The stewardship payments are paid to the farmer to make up for loss of production due to the restrictions put on the land within the agreement. Due to the phasing out the HLS and Countryside Stewardship schemes, and the reduction in subsidies, the farm business will lose a significant portion of its income over the next few years. The delivery of a solar farm on the appeal site will generate income for the wider business, which is an active farm, with opportunities to improve productivity on some of the land that has now come out of stewardship.

- 3.3.2. A letter has been submitted to this planning appeal (CD 4.9) from the Landowner's Agent, setting out why these parcels were put forward rather than any other parcels within their control. The letter sets out that the land has been farmed by the landowner for over 20 years and based on their extensive experience, the quality of the land for cereal food production is considered poor compared to other land in the area. The letter explains:

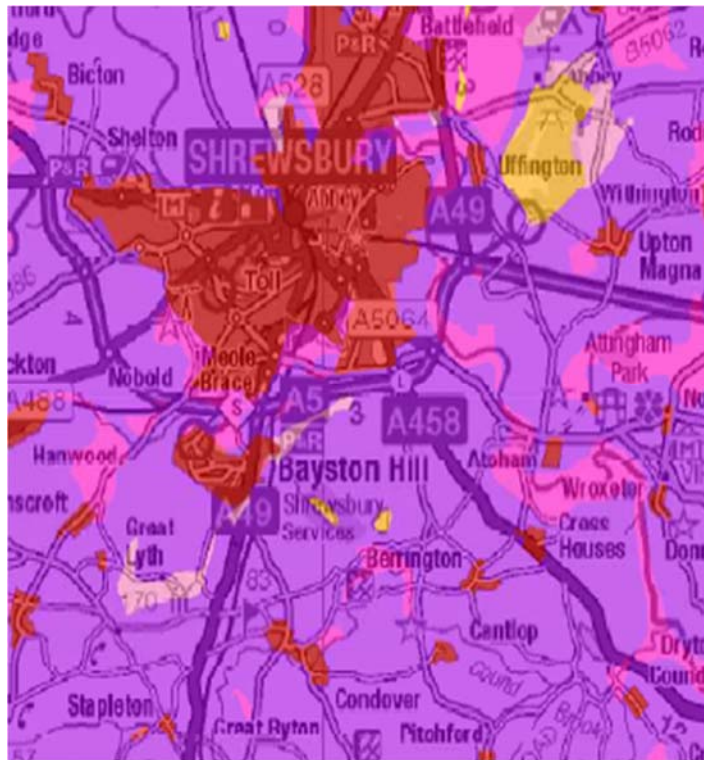
“Historically, the topsoil in areas across the field has been removed to fill in natural undulations. This has resulted in a significant variation in soil quality across the parcels, from very light sand to solid clay. The sandy nature of parts of the site makes average yields difficult to achieve, especially in drought conditions which are more prevalent due to changing climate. The clay parts are challenging to manage in wet periods. The inconsistency of the soil and the undulating ground all contribute to making it difficult to farm. Average yields received across these parcels for both cereal and pulse crops have been consistently below yields across other areas of Berrington Farm.

Whilst the appeal site is currently used for arable production, the practical challenges of farming the land for cereal food crops contributed to the Landowner's decision to put these two field parcels forward for the solar development. The site is considered suitable for sheep grazing, so will remain in agricultural use should the appeal scheme be allowed.”






- 3.3.3. The appeal proposal will therefore allow the diversification of the farm business to support the wider vitality of the farm, whilst utilising for solar the field parcels that are least useful for farming.

### 3.4. Best and Most Versatile Agricultural Land

- 3.4.1. The site is identified on Natural England mapping as likely Grade 3 agricultural land, with a high likelihood (>60%) of being BMV. Subsequently, a site-specific ALC Survey was undertaken on the site, which found the site to be 54.1% Grade 2, 29.9% subgrade 3a, and 11.8% subgrade 3b.
- 3.4.2. I draw attention to Natural England’s published Likelihood of Best and Most Versatile Agricultural Land Map for the West Midlands (scale 1:250 000) (2021). The map shows that the Appeal Site lies within a wider area of high likelihood of best and most versatile agricultural land i.e. more than 60% of the land is likely to be classified as best and most versatile agricultural land. Furthermore, the map shows that there is a high likelihood that the best and most versatile agricultural land is present in the much wider area.
- 3.4.3. Figure 1. Extract from Natural England’s Likelihood of BMV land map.



**Predictive BMV Land Assessment © Defra**

	High likelihood of BMV land (>60% area bmv)
	Moderate likelihood of BMV land (20 - 60% area bmv)
	Low likelihood of BMV land (<= 20% area bmv)
	Non-agricultural use
	Urban / Industrial

- 3.4.4. It is evident that the entire surrounding area is dominated by high grade agricultural land, with few opportunities on lower grades, a point that was noted by the Inspector in the recent Ledwyche decision, also in Shropshire<sup>2</sup>:

“The main soil types within the search area for the proposed development, with the exception of land within the AONB, are predominantly grades 2 and 3a.” (CD 7.9, para 34)

### 3.5. The Appellant's Site Selection Process

- 3.5.1. Econergy undertakes careful due diligence before making the significant commitment to bring forward a site. It is in Econergy's interest not to progress sites that are encumbered with significant planning risk. In this case, as with any other, Econergy reviewed the site constraints, including its ALC grade, and considered whether there were alternative suitable sites. Econergy was satisfied at the due diligence stage that in the absence of any other significant constraints, and the prevalence of similar grade agricultural land across the wider area, that this was the most suitable site.
- 3.5.2. ADAS undertook its own detailed review, the findings of which are set out in the 'Sequential Site Selection Report' that was submitted with the planning application (CD 1.13) and the subsequent Addendum Report submitted to this Appeal (CD 4.5).
- 3.5.3. As set out above in section 3.2 of this proof, an essential requirement for a solar farm is access to a viable grid connection. For the purposes of site selection, a 6km search corridor was then utilised (3km either side of the OH line). This is considered a reasonable search area, as any further would result in increased environmental impacts due to the need to connect the array to the grid via underground cabling. A longer route would also result in thermal power loss, meaning the array would export less energy. There is no guidance in local or national policy on the minimum search area that should be used for the purposes of an assessment such as this, some are less than 3km, some are more.
- 3.5.4. A search was then undertaken for any sites at least 35 hectares in size, that might be more suitable to accommodate the proposed solar farm. No previously developed sites were found within the search area. For all other potential sites, the following constraints were considered in detail and mapped:
- ALC Grade – All sites wholly within Grade 2 were discounted. Given the high likelihood of BMV (>60%) within the search area, it was likely all such sites would be higher value BMV. Other sites within the same indicative grade as the appeal site (Grade 3) were considered.
  - Environmental designations – All ecological designations were mapped, including SSSI and RAMSAR sites within the search area. Sites adjacent to these were not discounted. However, the potential impacts were considered in the individual site appraisals.
  - Heritage assets – All designated heritage assets were mapped, including Listed Buildings, Registered Parks and Gardens, Conservation Areas and Scheduled

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<sup>2</sup> Ledwyche, Shropshire (APP/L3245/W/23/3314982) (7<sup>th</sup> July 2023)



Monuments in the search area. For the purposes of site searching, a 200m buffer was drawn around Conservation Areas and Scheduled Monuments. Around individual Listed Buildings, sites were not discounted, but potential impacts were considered in individual site appraisals.

- Flood Zones – The site is in Flood Zone 1, therefore all sites at higher risk were discounted.
- Settlements – A 200m buffer was drawn around settlements based on the Council's settlement hierarchy. Sites immediately adjacent to settlements are likely to be less suitable, due to wider amenity impacts and competing uses.
- Public Rights of Way (PROW) – All PROWs were mapped in the search area. Sites with PROWs crossing them were not discounted. However, any potential impacts on them were considered in the individual site appraisals.
- Highways – The local road network was also mapped, to identify sites that have potential access to the public highway.

3.5.5. Following the mapping of the above constraints, potential development sites were identified across the search area and appraised in more detail.

3.5.6. The assessment of each potential site found that most sites in the search area were significantly more constrained than the appeal site, with extensive constraints to development. The appeal site is particularly suitable relative to other sites in the search area as follows:

- The site is neither on nor near any designated ecological sites, the nearest designated site (Berrington Pool SSSI) is some 400m from the site.
- The site is not in proximity to any Conservation Areas or Scheduled Monuments, which are found elsewhere in the search area. There will also be no impact on any Listed Buildings.
- The site is located within Flood Risk Zone 1, at the lowest risk of flooding from rivers and the sea. Large parts of the wider search area are at risk of flooding.
- The appeal site is predominantly BMV land. However, it is not possible to find sites at lower grades within a large search area. The search area is almost entirely provisional grade 2 and 3 with a high likelihood (>60%) of BMV. There are large areas of provisional grade 2 land.
- The site is undulating with some views in from some receptors. However, our assessment found this to be likely in the case of most sites in the area, particularly owing to the extensive PROW network. Unlike many other sites in the search area, there are no PROWs either on or adjacent to the site.

3.5.7. Overall, the assessment finds that there are no alternative sites that are likely to be better suited to the development than the appeal site. Most importantly, almost the entire surrounding area is provisionally at least grade 3, with a high likelihood (>60%) of being BMV, therefore there are no suitable sites on lower grade agricultural land that could accommodate this development.

## 4. Policy Context

### 4.1. Development Plan

4.1.1. The development plan for the area comprises:

- Core Strategy 2006–2026 (Adopted February 2011) (CD 5.1)
- Site Allocations and Management of Development (“SAMDev”) Plan (Adopted December 2015 (CD 5.2)

4.1.2. There is no relevant Neighbourhood Plan for the area.

4.1.3. The Draft Shropshire Local Plan (2016–2038) was submitted to the Secretary of State on 3<sup>rd</sup> September 2021, has since been beset by significant delays. On 6<sup>th</sup> January 2025, the Council received the Inspector’s findings following stage 2 hearings (Examination Document ID47) (CD 5.8) which sets out ‘serious shortcomings’ that make the plan unsound:

*“Given the scale of these concerns and the amount of work that would be required to them (including additional SA work, a revised GB review, finding new sites and consultation) it is likely to take a significant amount of time.”*

4.1.4. Given the above, it is my view that only limited weight can be given to the Draft Local Plan.

4.1.5. The policies listed in the Decision Notice (CD 3.2), the Council’s SoC (CD 4.11) and Flour not Power’s SoC (CD 4.13) are listed below. The Council alleged breaches with three policies in the development plan – Policies CS6 and CS17 of the Core Strategy, and SAMDev Policy MD12 (in bold below).

### 4.2. Core Strategy

- Policy CS1 Strategic Approach
- Policy CS5 Countryside and Green Belt
- Policy CS6 Sustainable Design and Development Principles
- Policy CS8 Facilities, Services and Infrastructure Provision
- Policy CS13 Economic Development, Enterprise and Employment
- Policy CS17 Environmental Networks
- Policy CS18 Sustainable Water Management

### 4.3. Site Allocations and Management of Development (“SAMDev”) Plan

- Policy MD1 Scale and Distribution of Development
- Policy MD2 Sustainable Design
- Policy MD7b General Management of Development in the Countryside
- Policy MD8 Infrastructure Provision
- Policy MD12 Natural Environment

## 5. Planning Policy Assessment

### 5.1. Introduction

- 5.1.1. In this section, I will describe the policies cited in the reasons for refusal and appraise conformity with them. A full assessment of all relevant policies is provided in the Planning, Design and Access Statement (CD 1.2).

### 5.2. Core Strategy

- 5.2.1. It is important to first acknowledge that the Core Strategy is expressly supportive of renewable energy development. Policy CS8 'Facilities, Services and Infrastructure Provision' states the Council will encourage the development of sustainable places 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."

- 5.2.2. Policy CS6 'Sustainable Design and Development Principles' is cited in the Council's first and second reasons for refusal (BMV land, and visual impact respectively). Policy CS6 sets out to ensure all development protects, restores, conserves and enhances the natural environment and is appropriate in scale, design, density, pattern and design. New development should be designed to a high quality, with appropriate landscaping. In relation to Best and Most Versatile ("BMV") land, new development should make effective use of land and safeguard natural resources, including high quality agricultural land.
- 5.2.3. Policy CS6 was cited in the first reason for refusal in relation to BMV land. Policy CS6 does not preclude development on BMV land but states that high quality agricultural land will be safeguarded.
- 5.2.4. The appeal proposal is for a period of 40-years, after which it will be removed from the site and the site restored. An Updated Soil Management Plan (SMP) (CD 4.6) is submitted to this appeal, which will ensure the protection and conservation of soil resources on the site. In her evidence, 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 solar farm. Mrs Metcalfe assesses that subject to adherence to the SMP, the land should be physically capable of reverting to agricultural production. Further, Mrs Metcalfe notes that the change in agricultural land use from arable cropping to grassland for an extended period is known to positively influence the organic matter content of the soil. In my view, these measures will all ensure that the BMV land on the site is safeguarded, in full accordance with Policy CS6.
- 5.2.5. The Appellants first preference is to avoid BMV land entirely wherever this is possible. However, in this case the entire surrounding area is dominated by high quality agricultural

land and other material planning constraints. The need to deliver the proposal on this site, is set out in section 3 of this proof of evidence.

- 5.2.6. Policy CS6 was also cited in the second reason for refusal, in relation to visual impacts. New development should protect, restore, conserve, and enhance the natural environment and be appropriate in scale and design, with appropriate landscaping.
- 5.2.7. Mr Leaver's evidence provides a full assessment of the landscape and visual impacts of the appeal proposal. Mr Leaver notes the proposed siting of the solar farm within a gently undulating landform, combined with the existing woodland and field boundary vegetation, ensures that the visual envelope of the scheme would be limited to the immediate environs of the site and predominantly to 0.5km to the south and east. Mr Leaver assesses that permanent adverse landscape effects would be at most Moderate/Minor to within the local landscape area, reducing to Negligible within the wider Estate Farmlands LCT, and the assessed permanent visual effects would be at most Moderate from the footpath at Cantlop, and Minor from the local road network in the vicinity of the site.
- 5.2.8. In my view, based on the evidence of Mr Leaver, it is clear that the proposal will not adversely impact on any environmental assets in relation to visual impacts.
- 5.2.9. Policy CS17 'Environmental Networks' is cited in the Council's second and third reasons for refusal (visual impact, and ecological impact on skylarks respectively). Policy CS17 states that 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 or their immediate surroundings. New development will contribute to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets.
- 5.2.10. In relation to visual impact, I rely again on Mr Leaver's evidence, which finds that the permanent visual effects of the proposal would be at most Moderate/Minor from the footpath at Cantlop, and Minor from the local road network in the immediate vicinity of the site. In my view, given the limited nature of the visual impact, taken together with the significant benefits in relation to biodiversity enhancements, it is clear that the appeal proposal complies with CS17.
- 5.2.11. In relation to reason for refusal 3 (skylarks), I rely on the evidence of Mr Fearn. The Appellant has identified appropriate mitigation land immediately to the north of the site, to be secured via condition and s106 agreement. Furthermore, the proposal will result in a significant net gain in biodiversity, which will support numerous species, including 'red-listed' and 'amber-listed' bird species of conservation concern.
- 5.2.12. In their Addendum SoC, Flour not Power also alleged conflict with Policy CS6 and CS17 in relation to heritage. This is addressed in the Heritage Note submitted to this appeal, which confirms there will be no impact on any designated or non-designated heritage assets. It

is also noted that the Council's Conservation Advisor responded to the application and raised no objection, and the Council is not alleging any heritage harm in its own SoC. It is clear to me that there is no conflict with either Policy CS6 or Policy CS17 in relation to heritage.

5.2.13. The Council and Flour not Power also cited the following as relevant policies in their SoC. However, no conflict was alleged either in their SoC or in the reasons for refusal:

- Policy CS1 Strategic Approach
- Policy CS5 Countryside and Green Belt
- Policy CS13 Economic Development, Enterprise and Employment
- Policy CS18 Sustainable Water Management

### 5.3. Site Allocations and Management of Development ("SAMDev") Plan

5.3.1. In the reasons for refusal, the Council only alleged conflict with one policy in the SAMDev Plan – Policy MD12 'Natural Environment'. Policy MD12 is cited in the Council's second and third reasons for refusal (visual impact and skylarks respectively).

5.3.2. Policy MD12 sets out that where proposals which are likely to have a significant adverse effect, directly, indirectly, or cumulatively, on priority species, ecological networks, visual amenity or landscape character and local distinctiveness, they will only be permitted where 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 and economic benefits of the proposal outweigh the harm to the asset.

5.3.3. In their Addendum SoC, Flour not Power also alleged conflict with Policy MD13 'Historic Environment' in relation to heritage. As set out above, at para 4.2.11, I do not consider there to be any impact on any designated or non-designated heritage assets, and therefore no conflict with Policy MD13 in this regard.

5.3.4. The Council and Flour not Power also cited the following as relevant policies in their SoC. However, no conflict was alleged either in their SoC or in the reasons for refusal:

- Policy MD1 Scale and Distribution of Development
- Policy MD2 Sustainable Design
- Policy MD7b General Management of Development in the Countryside
- Policy MD8 Infrastructure Provision

### 5.4. Conclusions – Development Plan

5.4.1. In this section, I have undertaken a further review of the policies cited in the Council's reasons for refusal, and additionally the policies cited by Flour not Power as being in conflict, in their SoC and SoC Addendum. I have found there to be no conflict with these policies, and furthermore, I have found that the proposal is aligned clearly with the development plan when viewed as a whole, including notably policy CS8, which states that the council will positively support infrastructure where this has no significant adverse impact on recognised environmental assets.

## 5.5. Emerging Local Plan Review (2016–2038)

- 5.5.1. The emerging Local Plan Review (CD 5.6) is still in draft form, and therefore in accordance with paragraph 49 of the NPPF (December 2024) (CD 6.23), I consider that it only carries limited weight. It is nonetheless a material consideration.
- 5.5.2. This is the first Local Plan that has been produced since the Council declared a Climate Emergency in May 2019. The need to respond to climate change is a key theme that runs through the entire Draft Local Plan Review, it is emphasised in several key policies including Draft Policy SP1 ‘The Shropshire Test’, Draft Policy SP2 ‘Strategic Approach’ and there is a new policy directly addressing the challenge of climate change – Policy SP3 ‘Climate Change’.
- 5.5.3. In their SoC, the Council and Flour not Power only alleged conflict with one policy in the Draft Local Plan Review – Draft Policy DP26 ‘Infrastructure Provision’, and specifically only part 2(k) of this policy. Subsequently, Flour not Power alleged in their Addendum SoC an additional conflict with Draft Policy DP23 ‘Conserving and Enhancing the Historic Environment’.
- 5.5.4. Draft Policy DP26 concerns the delivery of strategic, renewable and low carbon infrastructure. Part 2 of this policy concerns non-wind renewable and low carbon development, and is positively worded, stating the Council will support such development where its impact is, or can be made, acceptable. The Council and Flour not Power alleged that the appeal proposal conflicts with only part 2(k) of this policy, which states in relation to BMV land:
- “Large scale ground mounted solar photovoltaic solar farm proposals should show how they have made effective use of previously developed and non-agricultural land. Where a proposal 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.”
- 5.5.5. The Appellant has undertaken a comprehensive site selection process. This confirms that there are no suitable alternative sites available on previously developed land, or on lower grade agricultural land within a wide search area. The search area is dominated by high grade agricultural land, with an over 60% chance of agricultural land within the search area being Grade 3a or above, therefore although the Appellant’s preference is to use lower grade land, this is demonstrably not possible. The site will, however, continue to be used for some agricultural activity including sheep grazing, and will deliver significant 132% net gains for biodiversity, principally around the arrays and the field boundaries.
- 5.5.6. An updated Soil Management Plan (SMP) (CD 4.6) has been submitted to this appeal, which will ensure the protection and conservation of soil resources on the site. In her evidence, 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 solar farm. Mrs Metcalfe assesses that

subject to adherence to the SMP, the land should be physically capable of reverting to agricultural production. In my view, these measures will ensure that the BMV land on the site is safeguarded.

- 5.5.7. Overall, in my view it is clear that the Appellant has demonstrated there are no suitable alternative sites for this proposal on lower grade agricultural land or on previously development land. Furthermore, the proposal will include measures as set out in the Soil Management Plan, that will ensure the soil qualities are maintained throughout the operational phase of the solar farm, and the proposal will deliver significant net gains for biodiversity. Together, this represents clear compliance with the requirements of Draft Policy DP26 (Part 2.k).
- 5.5.8. In their Addendum SoC, Flour not Power also alleged conflict with Draft Policy DP23 'Conserving and Enhancing the Historic Environment. As set out above, at para 4.2.11, I do not consider there to be any impact on any designated or non-designated heritage assets, and therefore no conflict with Draft Policy DP23 in this regard.
- 5.5.9. The Council's Supplementary Statement of Case on ecology (CD 4.12) also alleged conflict with Draft Policy DP12 and Part 3 of Draft Policy DP26.
- 5.5.10. The Council and Flour not Power also cited the following as relevant draft policies in their SoC. However, no conflict was alleged either in their SoC or in the reasons for refusal:
- Draft Policy SP1 The Shropshire Test
  - Draft Policy SP2 The Strategic Approach
  - Draft Policy SP4 Sustainable Development
  - Draft Policy SP10 Managing Development in the Countryside
  - Draft Policy DP11 Minimising Carbon Emissions
  - Draft Policy DP12 The Natural Environment
  - Draft Policy DP16 Landscaping of New Development
  - Draft Policy DP17 Landscaping and Visual Amenity
  - Draft Policy DP18 Pollution and Public Amenity

## 6. Material Considerations

### 6.1. Introduction

6.1.1. I consider the following documents to be important material considerations in relation to the appeal proposal:

- National Planning Policy Framework (NPPF) (December 2024)
- Planning Practice Guidance (PPG)
- Overarching National Policy Statement of energy (EN-1) (January 2024)
- National Policy Statement for renewable energy infrastructure (EN-3) (January 2024)
- Climate Change Act 2008 (2050 Target Amendment) Order 2019
- 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
- British Energy Security Strategy, published in April 2022 by the UK Government
- Written Ministerial Statement on Solar Energy: Protecting the local and global environment, made on 25<sup>th</sup> March 2015
- Shropshire Climate Emergency, declared on 16<sup>th</sup> May 2019
- Shropshire Climate Strategy and Action Plan, adopted on 17<sup>th</sup> December 2020
- Marches LEP Energy Strategy
- The Zero Carbon Shropshire Plan
- Shropshire Council Climate Change Task Force consultation response
- Clean Energy 2030 Action Plan
- Recent Judgements and Appeal decisions

### 6.2. National Planning Policy Framework (NPPF) December 2024

6.2.1. The most recent version of the NPPF (CD 6.23) was published on 12<sup>th</sup> December 2024.

6.2.2. In their SoC, the Council alleged conflict with only paragraph 8 and 174b in relation to reason for refusal 1 (BMV), and Section 15 in relation to reasons for refusal 1 and 2 (BMV and visual impact respectively). The paragraph numbering changes in the December 2024 NPPF (CD 6.23) mean that paragraph 174b is now paragraph 187. The text of neither paragraph 8 or 174b has been materially changed in relation to this appeal. Section 15 has not been updated in a way that is pertinent to this appeal.

6.2.3. Paragraph 8 advises 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.

6.2.4. It is my view that the proposal aligns strongly with the objectives of sustainable development set out in paragraph 8. In relation to the environmental objective, the proposal is a clean, renewable energy development capable of supplying enough electricity to power 7,000 homes, therefore directly responding to the stated environmental objective to mitigate and adapt to climate change and move to a low carbon



economy. The proposal will also deliver 132% net gains in biodiversity through implementation of a carefully designed landscape framework. In relation to the social objective, the proposal will bolster energy security and resilience, enabling present and future generations to confidently meet their own energy needs. In relation to the economic objective, the proposal is a large-scale infrastructure project that will create new job opportunities both during the construction and operational phases and will also aid in reducing energy bills. Overall, it is my view that the appeal proposal is strongly aligned with the objectives of sustainable set out in Paragraph 8 and the NPPF as a whole.

- 6.2.5. Paragraph 187 (previously 174b) has been cited in relation to the first reason for refusal (BMV). Paragraph 187 states that planning policies and decisions should contribute to and enhance the natural and local environment by *“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 best and most versatile agricultural land, and of trees and woodland”*.
- 6.2.6. An important observation to make here is that paragraph 187 does not prohibit development on BMV land, whether solar farms or otherwise. It does, however, highlight that decisions should recognise the wider benefits from natural capital and ecosystem services, including the economic and other benefits of best and most versatile agricultural land. The wider benefits of BMV land are considered in detail in Mrs Metcalfe’s evidence.
- 6.2.7. The Appellant has been very careful to consider the implications for BMV land from the outset. First, the Appellant undertook a comprehensive site selection process, to consider whether there were alternative suitable sites on lower grade agricultural land that could accommodate the proposal. This has been confirmed not to be the case, the details of which have been set out in section 3 of this proof. Second, when it became clear that BMV land would need to be utilised to deliver this proposal, the Appellant instructed ADAS to produce a detailed Soil Management Plan, to ensure the soil qualities are maintained throughout the operational phase of the solar farm, and ultimately return the site to its pre-construction condition following decommissioning. There would, therefore, be no permanent sterilisation of BMV on the site. In my view, the Appellant has had careful regard to the use of BMV and sought to mitigate this.
- 6.2.8. Paragraph 187 also refers to the need to recognise the intrinsic character and beauty of the countryside. Daniel Leaver’s proof of evidence provides a robust assessment of the appeal proposals in terms of landscape and visual impacts. Of particular relevance here, Mr Leaver notes that the proposed siting of the solar farm within a gently undulating landform, combined with existing woodland and field boundary vegetation, has ensured that the visual envelope of the scheme would be limited to the immediate environs of the site and predominantly to 0.5km to the south and east. Mr Leaver assesses that permanent adverse landscape effects would be at most Moderate/Minor to within the local landscape area, reducing to Negligible within the wider Estate Farmlands LCT, and the assessed permanent visual effects would be at most Moderate from the footpath at Cantlop, and Minor from the local road network in the vicinity of the site. My Leaver concludes

furthermore that the proposed landscape enhancements would help to incorporate the proposals into their local setting and the levels of landscape effects would reduce from their initially moderate levels to medium in the long term. In my view this together clearly meets the requirements of paragraph 187.

- 6.2.9. Section 15 is also broadly cited in relation to the first and second reasons for refusal (BMV and visual impact respectively). The matters in dispute in this appeal largely focus on paragraph 187 (within section 15), however, I have reviewed the proposal against Section 15 as a whole and consider that it is fully in compliance with the relevant policies. In particular, the delivery of significant biodiversity net gains is strongly supported.
- 6.2.10. Paragraph 88 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. This proposal will support the diversification of the existing farm business and will also allow the farmer landowners to better utilise other parts of their landholding for agricultural purposes. Further detail on this is provided in the Agricultural Production Statement submitted with the application (CD 1.20).
- 6.2.11. Paragraph 161 states that the planning system should support the transition to net zero by 2050. 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.
- 6.2.12. Paragraph 168 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 give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.
- 6.2.13. This represents a strengthening of the policy support for renewable energy, with the requirement to give significant weight to the benefits associated with renewable energy.
- 6.2.14. In my assessment, I consider that the appeal proposal does not conflict with any of the paragraphs and sections of the NPPF cited by the Council and Flour not Power in their SoC, or in the reasons for refusal (namely paragraphs 8, 187 and Section 15). The proposal would deliver clear net gains against the economic, social, and environmental dimensions of sustainable development and support the overall objectives of the NPPF when viewed as a whole.

### 6.3. Planning Practice Guidance

- 6.3.1. Planning Practice Guidance is regularly updated by the Government and is intended to compliment the NPPF.
- 6.3.2. Climate Change

6.3.3. This PPG (CD 6.2) 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.

6.3.4. Renewable and Low Carbon Energy

6.3.5. This PPG (CD 6.2) states that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable. At paragraph 013, the PPG sets out a list of particular factors that should be considered in relation to large scale solar farms. Of particular relevance to the issues in this appeal, it states the following should be considered in relation to BMV land and visual impact:

- “...where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- the proposal’s visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety...”<sup>3</sup>

6.3.6. As set out in section 3 of this proof of evidence, the Appellant has undertaken a comprehensive site selection process, which demonstrates that in this case, the use of some BMV land is necessary. The proposal also allows for some continued agricultural activities to take place on the site and will deliver significant net gains in biodiversity. As set out within Ms Metcalfe’s evidence, the appeal proposal is supported by a Soil Management Plan, which will ensure the land can be restored to its current condition following the 40-year operational phase and decommissioning of the development, fully aligned to the guidance in the second bullet. In regard to the third bullet, the proposal has carefully considered the landscape and visual impacts and impacts on local amenity, as is set out in detail in Mr Leaver’s proof.

#### 6.4. Overarching National Policy Statement of energy (EN-1) (January 2024)

6.4.1. The current version of EN-1 came into force on 17<sup>th</sup> January 2024. While the proposed development the subject of this appeal is not an NSIP, it is confirmed at paragraph 1.2.1 of

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<sup>3</sup> Reference ID: 5-13-20150327

EN-1 that this document can be a material consideration in the determination of planning applications.

- 6.4.2. 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”.
- 6.4.3. 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.
- 6.4.4. 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.

#### 6.5. National Policy Statement for renewable energy infrastructure (EN-3) (January 2024)

- 6.5.1. The current version of EN-3 also came into force on 17<sup>th</sup> January 2024, and it too is a material consideration for planning applications. This NPS sets out the Government’s current policy for renewable development.
- 6.5.2. 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.
- 6.5.3. 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:
- 6.5.4. 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.”
- 6.5.5. 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.”
- 6.5.6. 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.”

- 6.5.7. 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.
- 6.5.8. I note the clear acknowledgement in EN-3 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.
- 6.5.9. 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.”

- 6.5.10. This is an important clarification and confirms the temporary nature of such proposals as this.

## 6.6. Emerging Local Plan Review

- 6.6.1. The emerging Local Plan Review (CD 5.6) was submitted to the Secretary of State on 3<sup>rd</sup> September 2021. The Local Plan Review sets out the vision and framework for the development of Shropshire for the period 2016-2038.
- 6.6.2. The most relevant emerging policies are as follows:
- Policy SP3 ‘Climate Change’
  - Policy DP26 ‘Strategic, Renewable and Low Carbon Infrastructure’
- 6.6.3. 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.

6.6.4. 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.

6.6.5. 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.

#### 6.7. [Climate Change Act 2008 \(2050 Target Amendment\) Order 2019](#)

6.7.1. 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.

#### 6.8. [Clean Growth Strategy published by the Department Business, Energy and Industrial Strategy \(BEIS\) in October 2017](#)

6.8.1. The Clean Growth Strategy was published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017. It re-affirms that emissions for the power sector need to be close to zero by 2050.

#### 6.9. [UK Parliament's declaration of an Environmental and Climate Change Emergency in May 2019](#)

6.9.1. On 1<sup>st</sup> May 2019, the UK Parliament approved a motion to declare an Environmental and Climate Change Emergency. This underscores the critical importance of addressing the challenge of climate change.

#### 6.10. [Energy White Paper: Powering our Net Zero Future published in December 2020](#)

6.10.1. The Energy White Paper was published in December 2020 and further sets out the ambition for sustained growth in the capacity of onshore wind and solar, which will be the 'key building blocks of the future generation mix'.

#### 6.11. ['Net Zero Strategy: Build Back Greener' published by the UK Government in April 2022](#)

6.11.1. The Net Zero Strategy: Building Back Greener, was published by the UK Government in April 2022, and re-affirms the urgent need to avoid 'catastrophic climate change' through action. Under 'key policies', the strategy confirms the target to fully decarbonise the power system by 2035 with more solar.

#### 6.12. [British Energy Security Strategy April 2022](#)

- 6.12.1. 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.

### 6.13. Clean Power 2030 Action Plan

- 6.13.1. Subsequent to the previous appeal decision, the UK Government published the Clean Power 2030 Action Plan (CD 6.24) on 13th December 2024 which sets out how the UK will achieve a fully decarbonised electricity system by 2030.
- 6.13.2. Clean Power 2030 (CD 6.24) 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.

### 6.14. Written Ministerial Statement (WMS) on Solar Energy: Protecting the local and global environment, made on 25<sup>th</sup> March 2015

- 6.14.1. Written Ministerial Statements are statements of government policy and remain in force unless expressly withdrawn. The WMS from 2015 therefore remains a material consideration for this planning appeal. The WMS states that any proposal for a solar farm involving best and most versatile agricultural land would need to be justified by the *most compelling evidence*.
- 6.14.2. In the case of this appeal, the Appellant has undertaken a comprehensive search for alternative sites at lower grade than the appeal site and found that there are no suitable alternatives within a wide search area. The secured grid connection at Berrington will need to utilise some BMV land to be delivered.
- 6.14.3. The WMS must also be read in the light of significant updates in Government policy since 2015. These include the Climate Change Act 2008 (2050 Target Amendment) Order 2019, committing the UK to achieving net zero by 2050, the UK Parliament's declaration of a climate emergency in 2019, the support in the NPPF, updated in December 2023, the statements in several government policy and strategy documents issued since 2015, and the permissive wording in NPS EN-1 and EN-3, which came into force on 17<sup>th</sup> January 2024. In my view, the site-specific considerations with the appeal site, together with these important material considerations, constitute compelling evidence to support the use of best and most versatile agricultural land for the appeal proposal.

### 6.15. Shropshire Climate Emergency, declared on 16<sup>th</sup> May 2019

- 6.15.1. Shropshire Council declared a Climate Emergency on 16<sup>th</sup> May 2019 and set out its ambition to become carbon neutral by 2030. This is a clear acknowledgement by Shropshire Council of the need to act on the causes and impacts of climate change.

## 6.16. Shropshire Climate Strategy and Action Plan, adopted on 17<sup>th</sup> December 2020

- 6.16.1. Subsequent to its declaration of a climate emergency, Shropshire Council adopted a Climate Strategy and Acton Plan on 17<sup>th</sup> December 2020, which sets out a range of principles and sets out a vision for Shropshire Council and the whole of Shropshire to become carbon neutral by 2030.

## 6.17. Shropshire Council Climate Change Task Force consultation response

- 6.17.1. Shropshire Council's Climate Change Task Force responded to the planning application, describing the serious threat posed by climate change and the need for action. The response confirms that the task force 'strongly supports in principle the delivery of additional renewable energy generation infrastructure and capacity in the county as a positive contribution to policy objections.
- 6.17.2. Of particular note, the response discusses under the heading 'Marches LEP Energy Strategy' recent modelling work undertaken and the need for large-scale solar farms in Shropshire:

"Recent modelling work undertaken by the Marches Energy Agency (2022) suggests that achieving 50% self-sufficiency in renewable power in the Marches would require, as a minimum, an additional 50 large solar farms (40 MW each), together with 625 small scale commercial roof PV (200 kWp) systems, 12 large commercial roof PV (3.811 MWp Lyreco type) systems and 75,000 domestic homes with solar PV by 2030. However, if alternative sources of renewable power such as wind turbines cannot be delivered as envisaged, then achievement of this objective would require at least an additional 120 large solar farms of 40 MW each."

- 6.17.3. This response from the Council's Climate Change Task Force underscores the scale of the challenge posed by climate change, and scale of the need locally for renewable energy. The appeal proposal will make a significant contribution towards self-sufficiency locally and achieving net zero nationally by 2050.



## 7. Recent Judgements and Appeal Decisions

### 7.1. Introduction

- 7.1.1. There have been a number of recent decisions on solar farms. These are material and demonstrate the Secretary of State's approach to decision-taking. The most relevant decisions are summarised below.

### 7.2. On the need to consider alternatives in respect of solar farms on BMV land

- 7.2.1. *Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing and Communities & Ors* [2023] EWHC (Admin) (15<sup>th</sup> November 2023) (CD 7.1) – In relation to the matter of BMV land, Justice Lang confirmed there was no requirement to consider alternative sites or undertake a sequential test:

“I agree with the Secretary of State and BSL that the PPG does not mandate the consideration of alternatives. Still less does it require a sequential test be adopted. Where national policy requires a sequential test be applied (e.g. sequential tests for town centre uses or flooding in the Framework) it expressly provides as much” (para. 179)

- 7.2.2. Furthermore, Justice Lang confirms at paragraph 185 that the Inspector did not have to address evidence on alternative sites.

### 7.3. On the need for a grid connection and the appropriate search area

- 7.3.1. *Scruton, Hambleton* (APP/G2713/W/23/3315877) (27<sup>th</sup> June 2023) (CD 7.19) – The inspector confirmed that there was no local or national policy requirement to carry out an assessment of alternative sites (para. 27) and that “bearing in mind the limited opportunities that currently exist for grid connections nationally, I consider it is, in this case, justified to only consider sites within an area that could also make use of this capacity” (para. 28).

- 7.3.2. *Canon Barns Road, Chelmsford* (APP/W1525/W/22/3300222) (CD 7.25) – The Inspector noted the locational restrictions for solar development and considered the Appellant's approach to site selection to be ‘rational’:

“A solar farm requires grid capacity and a viable connection to operate. As such, this requirement places a locational restriction on site selection that limits the number of appropriate sites for such a facility” (para. 92)

### 7.4. On the weight to the benefits of renewable energy and BNG improvements

- 7.4.1. *Thaxted, Uttlesford* (APP/C1570/W/23/3319421) (18<sup>th</sup> December 2023) (CD 7.8) – The inspector gave ‘substantial weight’ to the benefits of renewable energy generation and significant weight to BNG improvements (para. 168). The Inspector also found there to be compelling evidence to justify a solar farm on BMV land:

“I recognise that the 2015 WMS requires the most compelling evidence for the development of solar farms on BMV. However, this must be read in light of more up to date events. This includes Parliament’s declaration in 2019 that the UK is facing a climate change emergency; the support in the NPPF, most recently amended in 2023, for renewable development; the statements in several policy documents on energy and climate change issued since 2015, as set out above; and the draft NPS EN-1 and EN-3. It must also be viewed against the increasing imperative to tackle climate change, and to meet the legally binding Net Zero targets. Together with the specific considerations in this case, I conclude that these factors provide the most compelling evidence to justify the use of BMV in this instance.” (para. 166)

- 7.4.2. Canon Barns Road, Chelmsford (APP/W1525/W/22/3300222) (6<sup>th</sup> February 2023) (CD 7.25) – The Inspector found that the public benefits were of sufficient magnitude to outweigh the substantial harm found the Green Belt, and that very special circumstances existed:

The benefits of renewable energy raise substantial benefits in favour of the proposal. These benefits are recognised in the Council’s local policies and guidance and national policy in accordance with the Climate Change Act of 2008. It is also clearly identified, in Section 14 of the Framework, where it seeks to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects is fundamental to facilitate the country’s transition to a low carbon future in a changing climate...

... Accordingly, the public benefits of the proposal are of sufficient magnitude to outweigh the substantial harm found to the Green Belt and all other harm identified above. These benefits identified attract very substantial weight in favour of the scheme. In this context, the harm to the Green Belt would be clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development exist.” (para 91, 93)

- 7.4.3. Walpole St Andrew, Kings Lynn and West Norfolk (APP/V2635/W/22/3295141) (29<sup>th</sup> September 2023) (CD 7.10) – significant benefits in respect of energy security and the environment, as well as biodiversity and landscape enhancements, outweighed the moderate weight to the conflict with the development plans in respect of the loss of BMV land (para. 38)

- 7.4.4. Halloughton, Newark and Sherwood (APP/B3030/W/21/3279533) (18<sup>th</sup> February 2022) (CD 7.12) – The Inspector acknowledged the national imperative to cut CO2 emissions and increase production of power from renewable sources. The Inspector noted that a grid connection had already been secured, and there were no restrictions to an early build out. The Inspector gave significant weight to the benefit of renewable energy:

“In these circumstances, whilst there would be some localised harm to landscape character and some visual harm in conflict with the relevant development plan

policies, the imperative to tackle climate change, as recognised in legislation and energy policy, and the very significant benefits of the scheme clearly and decisively outweigh the limited harm.” (para 74)

- 7.4.5. Notably, the inspector in Halloughton gave ‘significant weight’ to the BNG benefits of the proposal (92% habitat units and 32% hedgerow units). The figures for the Berrington appeal proposals are 123.5% and 76.4% respectively.

## 7.5. On the approach to BMV where the surrounding area is also predominantly BMV

- 7.5.1. Ledwyche, Shropshire (APP/L3245/W/23/3314982) (7<sup>th</sup> July 2023) (CD 7.9) – This recent decision was also in Shropshire and is particularly relevant to the appeal proposal. The Inspector observed that the main soil types outside the AONB were Grade 2 and 3a and the Appellants site selection process was reasonable (para. 34).

“I am satisfied that the appellant’s site selection process reasonably takes into account relevant grid connection, environmental and heritage constraints, along with agricultural land quality considerations. The main soil types within the search area for the proposed development, with the exception of land within the AONB, are predominantly grades 2 and 3a. The scheme proposes that the appeal site would remain in agricultural use, insofar as sheep would graze between the solar arrays.” (para. 47)

- 7.5.2. Burstall Hill, Mid Suffolk (APP/W3520/W/23/3319970) (29<sup>th</sup> August 2023) (CD 7.11) – The Inspector noted the predominance of high-grade agricultural land in the district, and the relatively insignificant role of the 33.4ha site:

“The Appellant has demonstrated that within the district, there are large areas of Grade 2 and Grade 3 land...

...Whilst appreciating that this is imperfect, it nonetheless is evident that around 97.2% of the land in the district falls within Grades 2 and 3 of the ALC. In this respect, the proposal, comprising around 33.4ha of agricultural land, would represent a considerably less significant development of agricultural land when considered against the quantum in the district as a whole. Furthermore, even taking into account the part of the nearby site approved by BDC, the overall relative quantum would not increase so as to alter this assessment.” (para. 22-23)

## 8. Interested Party Representations

- 8.1.1. In preparing my proof of evidence, I have carefully considered the comments submitted to the appeal by interested parties, including those submitted during the planning application stage and summarised in the Officer Report (CD 3.1) and the Appellant's Statement of Case (CD 4.2).
- 8.1.2. It should be noted that several of these interested parties have now withdrawn their previous objections following negotiation of landscape enhancements to the proposed development.
- 8.1.3. Several comments were submitted in relation to concerns about the impact on skylarks and the suitability of the skylark mitigation land. On this matter, I rely on Howard Fearn's evidence, which will address the various concerns that have been raised.
- 8.1.4. In relation to ecology more generally, several interested parties re-raised concerns that had previously been made to the planning application in relation to the ecology surveys. It is important to note that a full Ecological Impact Appraisal was submitted to planning. This has been rigorously reviewed by the Council's ecologist, who confirmed they had no objections to the planning application.
- 8.1.5. Several interested parties have raised concerns over the use of best and most versatile agricultural land, in particular concerns relating to food security. On matters relating to any impacts on agricultural land, including food security, I rely on Mrs Metcalfe's evidence, which confirms that domestic food production is stable.
- 8.1.6. Several interested party comments have been received that raise concerns about landscape and visual impacts, and the methodology for assessing those impacts. On landscape and visual impacts, I rely on the evidence of Daniel Leaver. It is important to note that a full LVA was submitted as part of the planning application and reviewed by the Council's external landscape consultants, who confirmed the methodology to be appropriate and proportionate.
- 8.1.7. In relation to the flooding concerns that have been raised, it is important to note that that a full Flood Risk Assessment and Drainage Strategy (CD 1.9) has been submitted with the planning application, and the Council's drainage team did not object to the planning application.
- 8.1.8. Glint and Glare – Concerns were raised about the Glint and Glare study being a desk-based report. This is standard practice, and the Glint and Glare report adopted a precautionary approach. These comments were raised during the planning application process and have already been considered by all parties, including the Case Officer in writing up their report.
- 8.1.9. Several comments raised concerns about the public consultation process, alleging insufficient opportunities to engage. As detailed in Section 2.7 of this proof, and in the Statement of Community Involvement (SCI), there was an extensive public consultation

undertaken for this planning application in Spring 2022, including a public exhibition at the village hall, and an accompanied site visit with residents.

- 8.1.10. A number of interested parties have suggested that the many letters of support that were submitted to this application should be disregarded, as they emanate from the community of Cross Houses. Cross Houses is within the same Parish as Berrington but is around 1.4km from the appeal site. The letters of support raise valid planning points and come from residents within the Parish, so I disagree that they are irrelevant.

## 9. Case for the Appellant

### 9.1. Introduction

- 9.1.1. I now set out my consideration of the main issues in the appeal, and draw my conclusions in respect of each, before moving on to undertake the planning balance for the appeal proposals.
- 9.1.2. The Council's three reasons for refusal are provided in full in section 2 of my proof.
- 9.1.3. The Council alleged breaches with three policies in the development plan – Policies CS6 and CS17 of the Core Strategy, and SAMDev Policy MD12.
- 9.1.4. In an Addendum to their SoC, the former Rule 6 Party, Flour not Power, also additionally alleged conflict with SAMDev Policy MD13.

### 9.2. Main Issues

- 9.2.1. The Inspector's post CMC note dated 24<sup>th</sup> December 2024 identifies the main issues as follows:
1. The implications of the proposed development for meeting the challenge of climate change.
  2. The effect of the proposed development on the character and appearance of the area.
  3. The implications of the proposed development for best and most versatile agricultural land.
  4. The effect of the proposed development on skylarks.
  5. The effect of other considerations on the overall planning balance.
- 9.2.2. It was agreed at the Case Management Conference that the effect on the setting of heritage assets should be addressed, but that this need not be a main issue and could be covered by consideration of the written material submitted. It is common ground between the Appellant and the Council that the proposed development would have a neutral effect on the setting and significance of heritage assets.

### 9.3. Issue 1 – The implications of the proposed development for meeting the challenge of climate change

- 9.3.1. The renewable energy benefits are set out below in section 10.3 of this Proof of Evidence. Once operational, the proposed development could generate enough clean renewable energy to power approximately 7,000 homes, saving approximately 6,000 tonnes of CO<sub>2</sub> per annum.
- 9.3.2. Furthermore, as I have noted in section 10.3 below, there is a specific identified local need at the District level for renewable energy schemes such as this. The Council's Climate Change Taskforce responded to the planning application, setting out that recent modelling

work suggests that achieving 50% self-sufficiency in the Marches would require as a minimum, an additional 50 large solar farms (40MW each) together with 625 small scale commercial roof PV (200 kWp) systems, 12 large commercial roof PV (3.811 MWp Lyreco type) systems and 75,000 domestic homes with solar PV by 2030. The need both locally and nationally therefore, is significant.

#### 9.4. Issue 2 – The effect of the proposed development on the character and appearance of the area.

- 9.4.1. In regard to the landscape and visual effects of the proposal, I refer to the Landscape Proof of Evidence prepared by Mr Daniel Leaver. In his evidence, Mr Leaver notes the proposed siting of the solar farm within a gently undulating landform, combined with the existing woodland and field boundary vegetation, ensures that the visual envelope of the scheme would be limited to the immediate environs of the site and predominantly to 0.5km to the south and east. Mr Leaver assesses that permanent adverse landscape effects would be at most Moderate/Minor within the local landscape area, reducing to Negligible within the wider Estate Farmlands LCT, and the assessed permanent visual effects would be at most Moderate from the footpath at Cantlop, and Minor from the local road network in the vicinity of the site.
- 9.4.2. Mr Leaver assesses that whilst some adverse landscape impacts would remain, the mature vegetated character of the proposed landscape enhancements would help to incorporate the appeal proposals into their local setting and the level of effect would reduce from initially Moderate levels, to Moderate/Minor in the long term.
- 9.4.3. In regard to the alleged 'oppressive' impact for users of the road to Cantlop Mill, Mr Leaver assesses that this would be at most Moderate/Minor adverse on completion of the development, reducing to Minor as the mitigation measures mature. In his professional opinion, neither could be described as oppressive for users of the road.
- 9.4.4. Subsequent to the previous appeal decision, the landscape strategy for the proposed development has been updated following a site visit by the Appellant team and through discussions with the former Rule 6 Party. Whilst still retaining the vast majority of established green infrastructure, the updated scheme now includes additional hedgerow and woodland elements that will help to strengthen landscape structure and screen views from some of the nearest sensitive visual receptors. The updated Landscape Masterplan includes a specification with regards to native trees and shrub species selection and sizes that would be included in various planting mixes. These enhanced mitigation measures form part of the landscape design and overall proposed development, and represent a meaningful improvement on the previous proposals, developed in consultation with the former Rule 6 Party.
- 9.4.5. As a result of these updates, the former Rule 6 Party has confirmed it no longer wishes to contest the appeal, as have a number of local residents.

- 9.4.6. It is now common ground between the Appellant and the Council that while there would be some localised effects on landscape character and visual amenity, 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.

**9.5. Issue 3 – The implications of the proposed development for best and most versatile agricultural land.**

- 9.5.1. The site is comprised over 88% best and most versatile agricultural land. The methodology is explained in detail in Mrs Metcalfe's proof of evidence.

Preferring lower grade land to best and most versatile agricultural land

- 9.5.2. The NPPF is clear that where significant development on agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of high quality. At paragraph 187, the NPPF is also clear that planning decisions should recognise the wider benefits from natural capital and ecosystem services – including the economic and other benefits of best and most versatile agricultural land. The PPG on Renewable and Low Carbon Energy also states that consideration should be given to whether the proposed use of any agricultural land has been shown to be necessary and poorer quality has been used in preference to higher quality land. Although there should be a preference for lower over higher-grade agricultural land, there is no policy or guidance that prohibits solar development on best and most versatile agricultural land.
- 9.5.3. The newly designated NPS E-3 is the most up-to-date statement of government policy on solar energy. It sets out that access to a suitable grid connection is critical to the feasibility of solar development. In addition, NPS E-3 also states that to maximise existing grid infrastructure and minimise disruption, applicants may choose a site based on nearby grid export capacity.
- 9.5.4. The Appellant secured a Distribution Network Operator (DNO) Grid Offer with Western Power Distribution in 2021. 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.
- 9.5.5. The Appellant has undertaken a comprehensive process of site selection which is summarised in section 3 of this proof, which demonstrates that there are no suitable alternative sites of lower grade agricultural land available within the search area that could accommodate this solar development. From reviewing Natural England's published Likelihood of Best and Most Versatile Land Map for the West Midlands, it is also evident that the site is within a wider area of high likelihood of best and most versatile agricultural land, where more than 60% of the land is likely to be classified as grade 3a or above. Given the prevalence of best and most versatile land in the search area and the findings of the



Appellant's Site Sequential Selection Report, it is evident that some BMV will be required to deliver a solar development in this area.

The implications of the loss of best and most versatile agricultural land

- 9.5.6. Regarding the implications for best and most versatile land, I refer to the evidence of Mrs Metcalfe, which sets out in detail how soil resources will be managed on the site. Mrs Metcalfe explains that the Updated Soil Management Plan (SMP)(CD 4.6) 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 solar farm. Mrs Metcalfe assesses that subject to adherence to the SMP, the land should be physically capable of reverting to agricultural production. In my view, these measures will ensure that the BMV land on the site is safeguarded.
- 9.5.7. In regard to food security, which has been raised by Interested Parties, Mrs Metcalfe notes in her evidence the UK Food Security Report 2021 (Updated 5<sup>th</sup> October 2023) which confirms that domestic food production is stable and agricultural production has become increasingly efficient. Mrs Metcalfe notes additionally that there was a large surplus of domestic grain at the end of 2023.
- 9.5.8. Mrs Metcalfe's evidence estimates that the contribution made by wheat crop covering 44 ha on the appeal site is approximately 352 tonnes per annum, or 0.002% of the national yield. In the context of Shropshire, the appeal site contributes just 0.06% to the County's cereal yield.
- 9.5.9. Mrs Metcalfe also notes in her evidence that the conversion of intensive arable land to grassland is known to bring benefits to land and soil structure through an increase in the soil organic matter content.
- 9.5.10. Overall, on the basis of the evidence of Mrs Metcalfe, it is clear that the implications of the loss of 44ha of BMV land on the site are limited, in some regards beneficial, and ultimately reversible.

Weight to be given to the loss of best and most versatile agricultural land

- 9.5.11. In regard to the weight to be given to the loss of best and most versatile agricultural, I consider the following factors to be relevant:
- The appeal proposal is for a time-limited consent for a period of 40-years, after which the project would cease to have consent and must either be extended or decommissioned and removed. As detailed within Mrs Metcalfe's evidence, the proposal is supported by a detailed Soil Management Plan, which will 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 solar farm.
  - The site can continue to be used for some agricultural purposes during the operational phase of the solar farm, with grazing areas for livestock beneath the panels. As such the proposal would not result in a total loss of agricultural land.

This has been noted by numerous Inspectors, including in the recent Ledwyche decision, also in Shropshire<sup>4</sup>.

- The contribution made by wheat crop covering the site is approximately 352 tonnes per annum, or 0.002% of the national yield, and only 0.06% of the yield for Shropshire. The contribution of the site is therefore less significant, when viewed in the context of both the local and national yield, and in the context of the predominance of BMV land in the district.
- According to the United Kingdom Food Security Report 2021 (Updated 2023) (CD 9.5), climate change and biodiversity loss are two of the biggest threats to food security. This proposal is for clean renewable energy and will deliver significant net gains in biodiversity, which will help to address threats to food security.
- The conversion of intensive arable land to grassland is known to bring benefits to land and soil structure through an increase in the soil organic matter content, as noted by Mrs Metcalfe in her evidence.

9.5.12. For the reasons set out above, in particular the limited contribution of the site to yields at the county and national level, I afford moderate weight to the loss of best and most versatile agricultural land on the site for the 40-year operational period.

9.5.13. The previous 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.

#### 9.6. Issue 4 – The effect of the proposed development on skylarks.

9.6.1. Regarding the suitability of the proposed off-site skylark mitigation land, I refer to the evidence of Mr Howard Fearn.

9.6.2. Additional survey information was been submitted by the Appellant that was not available to the previous Inspector. As set out within Mr Fearn's proof, the proposed Skylark compensation area had not been surveyed for breeding birds prior to the planning submission, however updated surveys covering both the site and compensation land were undertaken in spring 2024. These surveys detected fewer Skylarks within the Site (6 pairs rather than 11), which is within inter-annual variations for this series and demonstrates how the species' numbers fluctuate, and that the appeal site is unexceptional for the species. Importantly, Mr Fearn notes that 'no not less' should be applied to habitats rather than numbers of skylarks.

9.6.3. The Appellant has secured land adjacent to the Appeal Site, which is of sufficient scale to accommodate at least the displaced skylarks anticipated. A skylark mitigation strategy has been provided, which was developed in response to emerging research on the effects of solar developments on skylarks, published after the planning submission was made. In Mr Fearn's view, the flexible approach proposed will enable adequate mitigation for both

<sup>4</sup> Ledwyche, Shropshire (APP/L3245/W/23/3314982) (7<sup>th</sup> July 2023)

alternative land uses of the mitigation area (i.e. pasture or arable use), and that the proposed development is unlikely to lead to a reduction to Skylark populations at even the local level.

- 9.6.4. It is now common ground between the Appellant and the Council 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.

**9.7. Issue 5 – The effect of other considerations on the overall planning balance.**

- 9.7.1. Section 9 overleaf considers the nature and extent of the benefits, and whether these outweigh any harm.

## 10. Planning Balance

10.1.1. In this section I will consider the benefits and harm of the proposal and undertake the overall planning balance.

### 10.2. Grid Connection

10.2.1. As set out in the newly NPS EN-3, 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 proposed solar development. The capacity of the local grid network is arguably the most significant constraint facing solar developers today.

10.2.2. The appellant has secured a Distribution Network Operator (DNO) Grid Offer with Western Power Distribution. Therefore, subject to the outcome of this Appeal, the construction works can begin without delay and energy generated and fed into the grid immediately.

10.2.3. It is important to view the appeal proposal within this context. Opportunities for solar development are limited by grid constraints, and there is specifically a local need for solar development, as is clearly articulated in the Shropshire Climate Change Task Force response to the planning application (CD 2.4).

### 10.3. Renewable energy benefits

10.3.1. The local and national imperative to increase production of energy from renewable sources and the achievement of net zero has been set out in Section 6 of this proof. These include the Climate Change Act 2008 (2050 Target Amendment) Order 2019, committing the UK to achieving net zero by 2050, the UK Parliament's declaration of a climate emergency in 2019, and the newly published NPS EN-1 and EN-3, which came into force on 17<sup>th</sup> January 2024. EN-3 re-affirms the commitment in the British Energy Security Strategy (2022) to increase solar capacity five-fold by 2035. To increase solar capacity five-fold by 2035 is a challenge, in the context of significant grid delays nationally. EN-1 now recognises solar as critical national priority (CNP) infrastructure, and states substantial weight should be given to the urgent need.

10.3.2. Since the previous appeal decision, the new Government has further increased the emphasis on renewable energy. The NPPF (December 2024) (CD 6.23) includes new policy requirement for significant weight to the benefits associated with renewable energy and the contribution towards net zero. The Clean Power 2030 Action Plan (CD 6.24) was also published in December 2024 and emphasises the need for rapid deployment of renewable energy infrastructure, including solar.

10.3.3. At the local level, Shropshire Council has declared a Climate Emergency, and it's Climate Change Taskforce responded to the planning application, setting out that recent modelling work suggests that achieving 50% self-sufficiency in the Marches would require as a minimum, an additional 50 large solar farms (40MW each) together with 625 small scale commercial roof PV (200 kWp) systems, 12 large commercial roof PV (3.811 MWp Lyreco

type) systems and 75,000 domestic homes with solar PV by 2030. The need both locally and nationally therefore, is significant.

- 10.3.4. Once operational, the appeal proposal could generate enough clean renewable energy to power approximately 7,000 homes, saving approximately 6,000 tonnes of CO2 per annum. In my view, the renewable energy benefits of the proposal should therefore be given substantial weight.

#### 10.4. Biodiversity enhancement

- 10.4.1. The proposal will deliver significant biodiversity enhancements, including 66.67% net gain in habitat units, and 61.34% net gain in hedgerow units. This level of biodiversity net gain is significant and goes well beyond the 10% requirement in the Environment Act 2021 and the emerging Local Plan Review (CD 5.6).
- 10.4.2. Furthermore, as Mr Fearn will sets out in his evidence, the proposed biodiversity features bring additional benefit. Skylarks are one of several Species of Principal Importance with territories on the site, including Dunnock (3 territories) and Yellowhammer (3 territories). Dunnock and Yellowhammer have the same status as Skylarks and are likely to benefit from the appeal proposals, from the additional hedgerow planting and the replacement of arable with grassland. Overall, it is Mr Fearn's view that the proposed biodiversity features will benefit a range of farmland birds and other wildlife.
- 10.4.3. In my view, these significant biodiversity net gains and biodiversity enhancements are a material planning benefit that should be given significant weight.

#### 10.5. Farm diversification benefits

- 10.5.1. Due to the phasing out the HLS and Countryside Stewardship schemes, and the reduction in subsidies, the farm business will lose a significant portion of its income in the coming years. The delivery of a solar farm on the appeal site will generate income for the wider farm business, with opportunities to improve productivity on some of the land that has now come out of stewardship.

#### 10.6. Economic benefits

- 10.6.1. Construction would take 6 months to complete, and the proposal would have an operational lifespan of 40-years. Jobs would be created both during the construction and operational phases, both directly and via the supply chain.

#### 10.7. Best and Most Versatile (BMV) agricultural land

- 10.7.1. I have discussed in detail at section 9.4.11 of this proof, the weight to be given to the use of best and most versatile agricultural land. As set out within Mrs Metcalfe's proof, the contribution made by wheat crop covering the site is equivalent to 0.06% of the yield for Shropshire, and only 0.002% of the national yield. Furthermore, the appeal proposal is for a time-limited consent for a period of 40-years, after which the land will be restored to its

pre-construction condition. Mrs Metcalfe sets out in detail in her evidence how the Soil Management Plan (SMP) will maintain the physical properties of the soil throughout the operational phase. Furthermore, the site can also be used for continuing agricultural activity, with grazing areas for livestock beneath the panels.

- 10.7.2. The previous 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.
- 10.7.3. For the reasons set out above, in particular the limited contribution of the site to yields at the county and national level, I afford moderate weight to the use of best and most versatile agricultural land on the site for the 40-year operational period.

#### 10.8. Landscape and visual impact

- 10.8.1. I have discussed the landscape and visual impacts in section 9 of this proof, and in regard to the assessment of these impacts, I refer to the Landscape Proof of Evidence prepared by Mr Daniel Leaver.
- 10.8.2. In his evidence, Mr Leaver notes the proposed siting of the solar farm within a gently undulating landform, combined with the existing woodland and field boundary vegetation, ensures that the visual envelope of the scheme would be limited to the immediate environs of the site and predominantly to 0.5km to the south and east. Mr Leaver assesses that permanent adverse landscape effects would be at most Moderate/Minor within the local landscape area, reducing to Negligible within the wider Estate Farmlands LCT, and the assessed permanent visual effects would be at most Moderate from the footpath at Cantlop, and Minor from the local road network in the vicinity of the site.
- 10.8.3. Mr Leaver assesses that whilst some adverse landscape impacts would remain, the mature vegetated character of the proposed landscape enhancements would help to incorporate the appeal proposals into their local setting and the level of effect would reduce from initially moderate levels, to medium in the long term.
- 10.8.4. Subsequent to the previous appeal decision, the landscape strategy for the proposed development has been updated following a site visit by the Appellant team and through discussions with the former Rule 6 Party. Whilst still retaining the vast majority of established green infrastructure, the updated scheme now includes additional hedgerow and woodland elements that will help to strengthen landscape structure and screen views from some of the nearest sensitive visual receptors. The updated Landscape Masterplan includes a specification with regards to native trees and shrub species selection and sizes that would be included in various planting mixes. These enhanced mitigation measures form part of the landscape design and overall proposed development, and represent a

meaningful improvement on the previous proposals, developed in consultation with the former Rule 6 Party.

- 10.8.5. As a result of these updates, the former Rule 6 Party has confirmed it no longer wishes to contest the appeal, as have a number of local residents.
- 10.8.6. It is now common ground between the Appellant and the Council that while there would be some localised effects on landscape character and visual amenity, 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.
- 10.8.7. In my view, based on the evidence of Mr Leaver, I consider that the landscape and visual impacts of the proposal would be limited and localised, and therefore I attach limited weight to this harm. Furthermore, the proposed landscape enhancements will endure well beyond the operational phase of the solar farm, which in my view is a material planning benefit.

### 10.9. The Planning Balance

- 10.9.1. In my professional judgement, the following material planning considerations weigh in favour of the grant of planning permission:
- Renewable energy generation – The generation of enough clean, renewable energy to power approximately 7,000 homes, saving 6,000 tonnes of CO2 per annum. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 sets a target for the UK to reach net zero by 2050 and to achieve this, National Policy Statement EN-3 re-affirms the commitment in the British Energy Security Strategy (2022) to increase solar capacity five-fold by 2035. At the local level, the Council declared a Climate Emergency in 2019, and its own Climate Change Taskforce responded to the application, advising that to achieve 50% self-sufficiency, the Marches will require an additional 50 large solar farms, in addition to other measures including commercial rooftops. Overall, there is a clear and pressing need at the local and national level to deliver clean renewable energy and transition from fossil fuels. For these reasons, I attached substantial weight to this benefit.
  - Biodiversity benefits – The appeal proposal will deliver a 132% biodiversity net gain in habitat units, and 76% net gain in hedgerow units. This is a significant net gain and far in excess of the policy requirement. Furthermore, the biodiversity enhancements will benefit several Species of Principal Importance including Dunnock and Yellowhammer, through the delivery of new hedgerow planting. Overall, given the scale of biodiversity net gains on the site, I attached significant weight to this benefit.
  - Economic benefits from jobs created during the construction and operational phase and supporting a prosperous rural economy – limited weight.
  - Landscape enhancements including additional hedgerow and tree planting, some of which will endure well beyond the operation phase of the development – limited weight.

10.9.2. In my professional judgement, the following material planning considerations are neutral in the overall planning balance:

- Effects in relation to Heritage Assets
- Effects in relation to flood risk and drainage
- Effects in relation to highways and transportation
- Effects in relation to glint and glare
- Effects in relation to noise
- Effects in relation to residential amenity

10.9.3. I consider the following to weigh against the proposals in the overall planning balance:

- Loss of full agricultural productivity of BMV agricultural land. The appeal proposal is for a time-limited consent for a period of 40-years, after which it will be reverted to its existing condition. During the operational phase of the solar farm, the site can continue to be used for some agricultural activity, with grazing areas for livestock beneath the panels. Furthermore, at 44 hectares the site is relatively small – the contribution made by wheat crop on the site is approximately 0.06% of the yield for Shropshire, and 0.002% of the national yield. The conversion of intensive arable land to grassland is also known to bring benefits to land and soil structure through an increase in the soil organic matter content, as noted by Mrs Metcalfe in her evidence. For these reasons, in particular the limited contribution of the site to yields at the county and national level, I attached moderate weight to the loss of BMV agricultural land.
- Landscape and visual – I attached limited weight to the landscape and visual impacts, as these would be limited and localised. Furthermore, the enhanced landscape masterplan negotiated with the former Rule 6 Party, represents material improvements to the scheme that was considered by the previous Inspector and is sufficient to overcome the concerns raised by him and those of the local people who would be most affected.

10.9.4. Having weighed up the above material considerations, it is my professional view that the substantial and wide-ranging benefits of the appeal proposal clearly outweigh the harm. The enhanced landscape masterplan, developed in consultation with the former Rule 6 Party, represents a material improvement to the scheme that was considered by the previous inspector and is sufficient to overcome the concerns raised by him and those of the local people who would be most affected, many of whom have now withdrawn their previous objections.

10.9.5. I consider the proposal is in full accordance with the development plan and there are no material considerations that indicate planning permission should be refused.



