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Date 30<sup>th</sup> January 2025

TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING AND COMPULSORY PURCHASE ACT 2004

**HEARING APPEAL STATEMENT  
BY THE LOCAL PLANNING AUTHORITY REGARDING POLICY, SUGGESTED  
CONDITIONS AND OTHER RELATED MATTERS**

Planning Inspectorate Reference: **APP/L3245/W/23/3332543**

Shropshire Council Reference: **22/04355/FUL**



## 1.0 Introduction

This statement outlines an updated planning policy position since the previous public inquiry, suggested conditions and other matters relevant to the appeal hearing.

The LPA are not defending this appeal in consideration of the revisions made to the NPPF, recent appeal and high court decisions alongside the Council financial position. The expense of undertaking a public inquiry in a changing policy environment, was not considered to be in the public interest or best use of council funds.

## 2.0 Local Policy

Shropshires Emerging Local Plan still retains no material weight in planning decision making. Consequently, the relevant local policy to assess the development is the current Local Plan consisting of the Core Strategy (2011) and the Site Allocations and Management of Development Plan (SAMDev, 2015). The Local Plan remains in date and full weight should be attributed to it.

Subsequently, the assessment of the development against local policy is consistent with the preceding application determination and public inquiry.

## 3.0 National Policy

### 3.1 NPPF

A revised NPPF was issued on 12<sup>th</sup> December 2024 by Central Government, which has altered the national policy position in relation to solar farm development. This has occurred through one new policy inclusion and one existing policy amendment.

The revisions include the addition at Paragraph 168 of text outlining that when determining renewable energy schemes, local 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'*

Additionally footnote 62 has been amended from;

*'Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.'*



To read;

*'Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.'*

These policy revisions have changed the planning balance assessment to provide a greater weight to the benefits of renewable schemes. They have also reduced the material weight attributed to the consideration of Best and Most Versatile Land/Food production. These amendments are concluded to have a material impact on the assessment of the appeal scheme.

The LPA have considered these revisions, amongst the wider NPPF policies, in the decision not to defend this appeal. It is concluded that the revised NPPF provides greater weighting and support for the principal acceptability of the development, subject to assessment of other material considerations and harms in the planning balance. This represents a greater national policy support for the scheme, than when assessed in the preceding application or public inquiry.

These changes, however, are not considered to render any of the Local Plan policies 'out of date' and full weight should still be attributed to the development plan in any decision.

### **3.2 NSIP**

It is also noted that there have been recent changes to the Nationally Significant Infrastructure Project thresholds for solar farms, raising the threshold for local determination from under 50MW to under 100MW. Due to the scale of the proposed development and the policy change not being implemented until the end of 2025, this would not change the determination process for this solar farm, remaining locally determined. Consequently, this policy change is irrelevant to this hearing.

### **4.0 Conditions**

The LPA has, with engagement with the appellant, agreed that the following list of suggested conditions would be acceptable and appropriate in the circumstances of a grant of permission for this scheme.

1. The development hereby permitted shall begin not later than three years from the date of this decision. Such date shall be referred to hereinafter as 'the Commencement Date'.

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990, as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.



2. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

- 1) Site Location Plan (V05) (Drawing No: 1051487-ADAS-XX-XX-DR-P-8006)
- 2) Proposed Site Access Arrangements (Transport Assessment Drawing Ref. 111182-10-01) as supplemented by the Traffic Management Plan (ref: 111182-TMP-REV01)
- 3) Technical Details: Customer-substation (Drawing No. PL.006)
- 4) Technical Details: MV Power Station (Drawing No. PL.005)
- 5) Technical Details: Storage Container (Drawing No. PL.010)
- 6) Technical Details: Mounting Structure (Tracker) (Drawing No. PL.001)
- 7) Technical Details: 1\_Gate-Fence-Construction Road, Camera, Satellite Dish (Drawing No. PL.007)
- 8) Kazubaloo 1 (Drawing No. Drg.No.KL1)
- 9) Site Layout Plan (V13) (Ref. 1051487-ADAS-XX-XX-DR-PL-8000)
- 10) Landscape Masterplan (V20) (Ref. 1051487-ADAS-XX-XX-DR-L-8001)

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date when electricity is first exported from the solar panels to the electricity network (the First Export Date). Written notification of the First Export Date shall be given to the local planning authority within 14 days of the event.

Reason: For the avoidance of doubt and in the interests of proper planning

4. In the event the site ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export, a scheme of early decommissioning works (“the Early Decommissioning Scheme”) and ecological assessment report detailing site requirements in respect of retaining ecological features (“the Early Ecological Assessment Report”) shall be submitted, including timescales, no later than 3 months after the end of the 12 month non-electricity generating period to the local planning authority for its approval in writing. The Early Decommissioning Scheme and the Early Ecological Assessment Report shall be implemented in full thereafter.

Reason: To accord with Policies CS17 and MD12



5. Within a period of 39 years and 6 months following the First Export Date, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to the local planning authority for its written approval. The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales.

Reason: For the avoidance of doubt and in the interests of proper planning.

6. Prior to their erection final details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and be retained as such for the lifetime of the development hereby permitted.

Reason: In the interests of visual amenity in accordance with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev Plan.

7. Before the access is brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land within the visibility splays illustrated on the Proposed Site Access Arrangements Drawing (Transport Statement Drawing Ref. 111182-10-01). Thereafter, the visibility splays shall be kept free of obstructions exceeding 0.6 metres in height.

Reason: So that drivers intending entering the highway at the access may have sufficient visibility of approaching traffic to judge if it is safe to complete the manoeuvre.

8. Prior to any development the first 15m of the proposed access shall be surfaced with a permeable bound material and shall be retained for the lifetime of the development. The surfacing shall be removed on completion of decommissioning works under the terms of this permission.

Reason: In order to prevent mud and detritus being deposited on the public highway.



9. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Protection Plan drawing no 1051610 ECOENERGY TPP SHEETS 1-3 (Appendix 5) and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fencing shall be installed prior to commencing any approved development related activities such as site preparation or construction. The fences shall be retained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development in accordance with Policies CS6 and CS17 of the Core Strategy and MD2 of the SAMDev Plan.

10. No development shall take place until a suitably qualified consulting arboriculturist has been appointed to undertake supervision and monitoring of the tree protection fencing and other measures at pre-commencement stage and throughout the construction period as outlined at Appendix 10 of the ADAS Tree Report: Key Sequence of Events after Planning Approval. Thereafter, the consulting arboriculturist shall submit a completion statement to the Local Planning Authority to demonstrate compliance with the approved tree protection measures at each stage listed.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development in accordance with Policies CS6 and CS17 of the Core Strategy and MD2 of the SAMDev Plan.

11. All services shall be routed outside the root protection areas indicated on the Tree Protection Plan (Arboricultural Planning Statement Drawing Refs. 1051610\_ECONERGY\_TPP\_SHEET1, 1051610\_ECONERGY\_TPP\_SHEET2 and 1051610\_ECONERGY\_TPP\_SHEET3) or, where this is not possible, a detailed method statement and task specific tree protection plan shall be submitted and approved in writing by the Local Planning Authority prior to any work commencing and implemented in full prior to commencement and remain in place until the completion of construction

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.



12. No development shall take place until a Construction Environment Management Plan (CEMP), including timescales and based on the submitted Transport Statement and outline CEMP, dated August 2023, has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall make provision for the following measures:

- i. The construction routing shall be as per Figure 1 in Appendix 4 of the Transport Statement;
- ii. Construction vehicles shall access the site via the proposed new site access only;
- iii. The site access shall be provided as per drawing 111182-10-01 of the Transport Statement;
- iv. Traffic marshalls shall be employed to manage access and egress during the construction phase
- v. Provision of mitigation measures for non motorised users of the public right of way as outlined in section 4.3 of the Transport Statement;
- vi. Provision of Traffic Management Measures to include parking facilities for all vehicles visiting the site and as outlined in Traffic Management Plan (Appendix 4 of the Transport Statement);
- vii. Pre/Post Construction Condition Surveys between the points indicated on the plan with reference 111182-CTAR
- viii. Provision of Signage as outlined in the Traffic Management Plan;
- ix. Maintenance of the Highway as outlined in the Traffic Management Plan;
- x. that no construction traffic will be permitted to travel along the unclassified road leading from the highway known as Cliff Hollow to Cantlop Mill;
- xi. that no construction traffic will be permitted to use the highway known as Cliff Hollow;
- xii. that no construction traffic accesses the site via Berrington;
- xiii. A method of monitoring for vehicles entering and leaving the site;
- xiv. a construction routing plan containing details of the education, signage and enforcement that will be used to ensure compliance;
- xv. Details of waste management including a prohibition on burning anything on the site;
- xvi. Details of mitigation measures for local residents and ecological receptors / sensitive features in relation to construction lighting;
- xvii. that compound, storage and other construction facilities are located no less than 200m from any dwelling;
- xviii. proposals for the closure of the highway known as Sandy Bank road during the construction of the Development.

The works shall be implemented in accordance with the approved details.

Reason: In the interests of Residential Amenity and Highway Safety.



13. No development shall take place until a Landscape and Ecological Management Plan (“the LEMP”) shall have been submitted to and be approved in writing by the local planning authority. The content of the LEMP shall ensure the delivery of the agreed number of habitat units identified in the approved NE biodiversity metric as a minimum (53.69 habitat units) to achieve a Biodiversity Net Gain. The LEMP shall include the following:

- (1) Description and evaluation of features to be managed
- (2) Ecological trends and constraints on site that might influence management
- (3) Aims and objectives of management
- (4) Appropriate management options for achieving aims and objectives
- (5) Prescriptions for management actions
- (6) Preparation of a work schedule (including an annual work plan capable of being rolled forward over five-year periods to a minimum period of 30 years from the date of first export)
- (7) Details of the body or organisation responsible for implementation of the plan
- (8) Ongoing monitoring and remedial measures
- (9) Details of species selected to achieve target habitat conditions as identified in approved metric, definitively stated and marked on plans
- (10) Details of minimum heights of trees and hedgerows
- (11) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery
- (12) How contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme



14. a. No development shall take place until a detailed soft landscape scheme for the whole site has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The details shall include:
- i. Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate,
  - ii. Method of cultivation and planting,
  - iii. Means of protection
  - iv. Creation of wildlife habitats, features, and ecological enhancements
  - v. Written specifications for establishment of planting and habitat creation;
  - vi. Programme for implementation This is for all grassed areas, tree, shrub, and hedgerow planting.
  - vii. Details for stopping up existing gaps in hedgerow with planting
- b. Planting and seeding shall be undertaken within the first available planting season following the completion of construction works and in accordance with a scheme which shall be submitted for the approval in writing of the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. The developer shall notify the Local Planning Authority in writing of the date when planting and seeding under the terms of condition 14a above has been completed.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design in accordance with Policies CS6, CS17 and MD12.

15. No development shall take place until details of the makes, models, locations and heights of bat and bird boxes have been submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site: A minimum of 4 external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species. A minimum of 4 artificial nests, suitable for Starlings (42mm hole, starling specific), Sparrows (32mm hole, terrace design), House Martins (House Martin nesting cups) and/or small birds (32mm hole, standard design) shall be erected on the site prior to the date of first export in accordance with the approved details. The boxes shall thereafter be retained and replaced where necessary for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds in accordance with CS17 and MD12.

16. All works to the site shall occur strictly in accordance with the mitigation measures set out in the Preliminary Ecological Appraisal (RSK Adas Ltd, 24/01/2023).

Reason: To comply with Policy CS17 and MD12 of the development plan.



17. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall take account of the advice on lighting set out in the Institution of Lighting Professionals and Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK (available at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>). All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances shall any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To minimise disturbance to bats, a European Protected Species in accordance with Policies CS17 and MD12.

18. No development approved by this permission shall commence until a scheme has been secured for the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works. The works shall be carried out in accordance with the approved scheme.

Reason: The site is known to hold potential archaeological interest and to comply with Policy MD13 of the SAMDev Plan.

19. No development shall take place until a soakaway test has been carried out in accordance with BRE Digest 365, or such other guidance as may be agreed in writing by the Local Planning Authority and the agreed recommendations shall be implemented in full prior to the date of first export of the development.

Reason: To comply with Policy CS18 of the Core Strategy.



20. No electricity shall be exported from the development hereby permitted until a Complaint Procedure Scheme for dealing with noise and other amenity related matters has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall set out a system of response to verifiable complaints received by the Local Planning Authority. This shall include:

- i. Investigation of the complaint
- ii. Reporting the results of the investigation to the local planning authority
- iii. Implementation of any remedial actions approved by the local planning authority within an approved timescale. The approved scheme shall be adhered to for the lifetime of the development hereby permitted.

Reason: In the interests of residential amenity.

21. No development shall take place until a scheme setting out the measures which shall be undertaken to facilitate sustainable sheep-grazing between the solar arrays, including grass sward specification and potential stocking type and density and including timescales for monitoring and reporting for the duration of the operational life of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and confirmation that the approved measures are being implemented shall be provided to the local planning authority upon prior written request.

Reason: To facilitate sheep grazing use in association with the permitted solar farm scheme in accordance with the approved details.

22. No development shall take place until a sustainable drainage scheme (SuDS) has been submitted to and approved in writing by the local planning authority. The SuDS scheme shall:

- i. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. Include a timetable for its implementation; and,
- iii. Provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The sustainable drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

Reason; To ensure an appropriate drainage scheme is implemented in accordance with Policy CS18 of the Core Strategy.



23. All photovoltaic panels and other structures constructed and/or erected in connection with the approved development and any associated infrastructure shall be decommissioned in accordance with the approved Scheme for decommissioning following the development hereby permitted ceasing. The Local Planning Authority shall be provided with not less than one week's notice in writing of the intended date for commencement of decommissioning works under the terms of this permission.

Reason: To allow the site to be reinstated to an agricultural field capable of full productivity at the end of the planned design life of the development and to afford the Local Planning Authority the opportunity to record and monitor decommissioning.

24. Any CCTV located upon the site must not provide a view into any residential site.

Reason: In the interests of Residential Amenity

25. No development shall commence until such time as a soil management plan which provides measures to improve soil quality and ensure that there will be no material loss of soil quality within the operational lifetime of the site and provides details of any movement of soils within the site, has been submitted to, and approved in writing by, the Local Planning Authority. The soil management plan shall be implemented as approved.

Reason: To ensure that soil resource is conserved during the operational phase of development, allowing the site to be restored to agricultural use.

26. Construction operations shall only take place within the following hours:

07.30 to 17.30 Monday to Friday

08.00 to 12.00 Saturday

No operations including the maintenance of machinery and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency for health and safety reasons. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

Reason: In the interests of Residential Amenity



27. The approved development, once operational shall have an export capacity of not more than 30MW (AC).

Reason: For the avoidance of doubt and in the interests of proper planning.

28. No development shall take place until a Skylark Mitigation Strategy (“the Skylark Mitigation Strategy”) has been submitted to and approved by the Local Planning Authority. The Skylark Mitigation Strategy shall follow the principles set out in the Skylark Mitigation and Management Plan produced by ADAS and dated 1st May 2023 and shall include:

- (1) Identification of the areas for the implementation of mitigation
- (2) Details of how the area will be managed
- (3) The provision of evidence of arrangements to secure the delivery of proposed measures, including a timetable of delivery
- (4) Long term monitoring for a period not less than 5 years
  
- (5) The inclusion of a feedback mechanism to the Council before the end of the first 5 year period allowing for the alteration of working methods/management prescriptions, should the monitoring deem it necessary
- (6) Identification of persons responsible for implementing the works

Reason: To protect and enhance the site for biodiversity.

29. No development shall take place until a Landscape Maintenance Plan requiring the maintenance and replacement of planting for a period of at least 10 years from completion of the development has been submitted to and approved by the Local Planning Authority. Such Landscape Maintenance Plan shall then be implemented as approved.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design in accordance with Policies CS6, CS17 and MD12.

## 5.0 Other Matters

The LPA has no other relevant matters to raise and will attend the hearing.

