

IN THE HIGH COURT OF JUSTICE

Claim Ref: AC-2024-LON-001472

KING'S BENCH DIVISION

ADMINISTRATIVE COURT (PLANNING COURT)

B E T W E E N:

ECONERGY INTERNATIONAL LIMITED

Claimant

v

(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND
COMMUNITIES;

(2) SHROPSHIRE COUNCIL

(3) FLOUR NOT POWER

Defendants

DRAFT ORDER

UPON the Claimant bringing a claim for statutory review issued on 30 April 2024

AND UPON the Second and Third Defendants taking no part in these proceedings

BY CONSENT IT IS ORDERED THAT:

1. The Claim is allowed for the reasons outlined in the Schedule to this Order.

2. The decision of the First Defendant's Planning Inspector dated 26 March 2024, which is the subject of the present challenge, is quashed.
3. The Claimant's appeal to the First Defendant pursuant to s. 78 of the Town and Country Planning Act 1990 is to be remitted to the First Defendant for re-determination.
4. The First Defendant shall pay the Claimant's reasonable costs of the present claim, subject to detailed assessment, if not agreed.

Dated 12 June 2024

CMS Cameron McKenna Nabarro Olswang LLP	Government Legal Department	Shropshire Council	Flour Not Power
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For the Claimants	For the First Defendant	For the Second Defendant	For the Third Defendant
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Signed <i>CMS Cameron LLP</i>	<i>For the Treasury Solicitor</i> Signed	<i>T W Colvard</i> Signed	Signed <i>Paul Old</i>
Date 7 June 2024	Date 12 June 2024	Date 11/06/24	Date 11/06/24

SCHEDULE

1. The Claimant and First Defendant agree that Inspector erred in his application of the Natural England guidance when considering the adequacy of the compensation land at DL/136-137. In finding that the proposed development failed to avoid significant adverse impacts, he incorrectly focused on whether there would be a net loss of breeding pairs of Skylarks. That is not an approach which is consistent with the guidance which he was purporting to apply which seeks to achieve “no net loss” of habitat, and not numbers of a species. As a result, Ground 1 of the challenge is made out.
2. The Claimant and First Defendant further agree that the Inspector’s approach to the proposed *Grampian* condition was not a lawful one nor has he provided any sufficient reasoning for his conclusions at DL/183-184 to reject the proposed condition. As a result, Grounds 3 and 4 of the challenge is made out.
3. As a result of Paragraphs 1 and 2 above, Grounds 2 and 5-7 need not be determined.