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## Appeal Decision

Hearing held on 18 February 2025

Site visits made on 19 February 2025

by Richard Clegg BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2<sup>nd</sup> May 2025

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Appeal Ref: APP/L3245/W/23/3332543

Land to the west of Berrington, Shrewsbury, SY5 6HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Eenergy International Ltd against the decision of Shropshire Council.
  - The application Ref 22/04355/FUL, dated 26 August 2022, was refused by notice dated 16 May 2023.
  - The development proposed is **described as** 'erection of an up to 30MW 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'.
  - This decision supersedes that issued on 26 March 2024. That decision on the appeal was quashed by order of the High Court.
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### Decision

1. The appeal is allowed and planning permission is granted for a solar farm involving the erection of an up to 30MW 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, on land to the west of Berrington, Shrewsbury, SY5 6HA, in accordance with the terms of the application, Ref 22/04355/FUL, dated 26 August 2022, subject to the conditions in the attached schedule.

### Procedural matters

2. A case management conference was held on 18 December 2024 to consider the ongoing management of the appeal. There was no discussion of the merits of any of the **parties' cases at the** conference. A note of the meeting (core document 4.25 (CD 4.25)) is included in the core document library, which can be accessed via the following link: [Land west of Berrington, Shrewsbury, Shropshire, SY5 6HA - related documents | Shropshire Council](#).
3. On the application form (CD 1.1), the location of the site is given as land south of Berrington. At the case management conference, it was agreed<sup>1</sup> that the site is more accurately referred to as land to the west of Berrington, and I have identified it accordingly in the case details above. It was also agreed that the

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<sup>1</sup> The Local Planning Authority was not represented at the case management conference. However, it did not subsequently dispute the agreed position on identification of the site and the description of development.

term solar farm be included in the description of development, and I have considered the appeal on the basis of a proposal for *a solar farm involving the erection of an up to 30MW solar PV array, comprising ground mounted solar PV panels, vehicular access, internal access tracks, landscaping and associated infrastructure, including security fencing, CCTV, client storage containers and grid connection infrastructure, including substation buildings and off-site cabling.*

4. Following the quashing of the original appeal decision, the Local Planning Authority reviewed its position in the light of various changes since the 2024 inquiry, including the then proposed revisions to the National Planning Policy Framework (NPPF), recent appeal decisions and the High Court case, and financial considerations, and decided not to continue to defend the refusal of planning permission (CD 17.4).
5. Flour not Power (a group of local residents) had previously submitted a statement of case in accordance with Rule 6(6) of the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, in which they had set out their objections to the proposed development. As a Rule 6(6) party, Flour not Power participated in the 2024 inquiry and submitted written representations. Subsequently, having concluded a legal agreement with the Appellant<sup>2</sup>, which provides amongst other matters for an enhanced landscaping plan and an updated traffic management plan, Flour not Power withdrew from the appeal process as a Rule 6(6) party, and also withdrew its objections to the proposal (CD 17.5).
6. Several local residents have also withdrawn their objections to the proposed development since the quashing of the original appeal decision.
7. Having regard to the change in circumstance concerning objections, I decided, in accordance with section 319A(4) of the Town and Country Planning Act 1990, that the procedure for redetermining the appeal should be varied to a hearing.
8. In the previous appeal decision, reference was made to a minor drafting error whereby a small strip of land had been incorrectly included within the site along the northern boundary of the western parcel. No development or landscaping is proposed on that strip, and revised location and site plans were submitted before the 2024 inquiry which show the correct position of the boundary (CDs 15.1 & 15.2).
9. Prior to the hearing, the Appellant submitted a revised landscape masterplan and a revised construction traffic management plan (CDs 17.7 & 17.8). The landscape masterplan includes some areas of additional hedgerow, woodland and shrub planting. The construction traffic management plan provides for signage to prevent construction traffic entering the roads known as Sandy Bank and Cliff Hollow, and it includes details of the access to the construction compound. The amendments are relatively minor, and at the case management conference representatives of Flour not Power advised that interested parties were aware of them: indeed they are referred to in the agreement between the Appellant and Flour not Power. No objections have been received.

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<sup>2</sup> CD 17.6 sets out the key terms of the Residents' Compensation Agreement.

10. I am satisfied that no prejudice would be caused to any party by taking the revised plans and construction traffic management plan into account in considering the appeal, and I have proceeded accordingly.
11. The Appellant has submitted a unilateral undertaking (CD 4.24). It contains obligations concerning mitigation measures for skylarks.

#### Main Issues

12. Having regard to the submitted documentation and the representations received, I consider that the main issues in this appeal are:
  - i) The implications of the proposed development for meeting the challenge of climate change.
  - ii) The effect of the proposed development on the character and appearance of the area.
  - iii) The implications of the proposed development for best and most versatile agricultural land.
  - iv) The effect of the proposed development on skylarks.
  - v) The effect of other considerations on the overall planning balance.

#### Reasons

##### *The challenge of climate change*

13. The Development Plan includes the Shropshire Core Strategy (CD 5.1, adopted 2011) and the Shropshire Site Allocations and Management of Development (SAMDev) Plan (CD 1.2, adopted 2015). Policy CS8 of the Core Strategy positively encourages infrastructure which mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, where there would be no significant adverse impact on recognised environmental assets, a matter which I consider below (paras 81 & 82).
14. Infrastructure provision is the subject of Policy MD8 of the SAMDev Plan. Although this policy does not make specific mention of solar development, it supports proposals for new strategic energy infrastructure where the contribution to agreed objectives would outweigh the potential for adverse impacts. The development of a solar farm on the appeal site would make an important contribution to national and local objectives to increase the production of renewable energy (below, paras 21 & 22). I consider the balance with other matters in my overall conclusions.
15. In the emerging Local Plan Review (CD 5.6), Policy DP26 provides support for non-wind renewable and low carbon strategic infrastructure where its impact is, or can be made, acceptable. However I agree with the main parties that, at this stage in its preparation, the emerging Plan carries limited weight, since hearings have been suspended, with the Inspector referring to significant concerns about its soundness<sup>3</sup>.
16. At the national level, the amended NPPF emphasises the importance of renewable energy development, making it clear, at paragraph 168(a), that significant weight should be given to the benefits associated with such proposals and their contribution to a net zero future.

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<sup>3</sup> CD 4.22, paragraphs 5.6 & 5.7.

17. The Climate Change Act 2008 (as amended, CD 6.6) imposes a statutory requirement for the level of greenhouse gas emissions in the UK to be reduced to net zero by 2050, and the Net Zero Strategy of 2021 (CD 6.11) made a commitment to fully decarbonising the power system by 2035, subject to security of supply.
18. A number of other strategies and plans published by the Government reinforce the importance of action to address the challenge of climate change, and emphasise the role of renewable energy in this regard. The British Energy Security Strategy, refers to the 2035 target to decarbonise the electricity system, and anticipates a five-fold increase solar in capacity from 14 gigawatts (GW) by that date<sup>4</sup>. Powering our Net Zero Future, the Energy White Paper published in 2020, refers to the compelling case for tackling climate change, and to solar (power) as a key building block of the future generation mix<sup>5</sup>. Since the original appeal decision, the Clean Power 2030 Action Plan has been published. The plan sets out a pathway to generating sufficient clean power to **meet the country's total annual electricity demand by 2030**, with a considerable increase in the capacity of solar developments required as part of the energy mix<sup>6</sup>.
19. I have read that there is also a particular local need for solar development. The **Council's Climate Change Taskforce** referred in its comments on the planning application to modelling work that suggests that to achieve the objective of the Marches Local Enterprise Partnership Energy Strategy of 50% self-sufficiency in the Marches area would require at least an additional 50 solar farms of 40 megawatts (MW) output, together with other smaller developments<sup>7</sup>.
20. Emphasis on solar power is also highlighted in the national policy statements EN-1 and EN-3 (CDs 6.3 & 6.4), although given that they are intended primarily to apply to nationally significant energy proposals and that there are policies in the Development Plan which refer to renewable energy schemes (Policy CS8 of the Core Strategy and Policy MD8 of the SAMDev Plan), I give their provisions limited weight.
21. The proposed solar farm would generate up to 30MW of electricity. That output is calculated by the Appellant to be sufficient to power approximately 7,000 homes, saving about 6,000 tonnes of CO<sub>2</sub> annually<sup>8</sup>, figures which are not disputed by other parties. Of particular importance, given the urgency of the need to increase the production of electricity from renewable sources, is the availability of a grid connection for the development. The capacity of the local grid network to accept the output from a proposal can be a significant constraint on bringing forward schemes for solar energy. In this case, there would be no such problem, and the solar farm could be developed without delay should planning permission be granted<sup>9</sup>.
22. There is broad support, at national and local level, for the development of renewable energy projects, including a significant uplift in the capacity of solar schemes. Moreover the ambitious targets to reduce greenhouse gas emissions point to the need for electricity from renewable sources to come on stream

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<sup>4</sup> CD 6.12, page 9.

<sup>5</sup> CD 6.9, page 45.

<sup>6</sup> CD 6.24, pages 25, 28 and table 1.

<sup>7</sup> CD 2.4, page 4.

<sup>8</sup> CD 16.3, paragraph 10.3.4.

<sup>9</sup> CD 16.1, paragraph 1.6.1.

quickly. The contribution which the proposed solar farm could make in the near future to generating clean electricity carries significant weight in support of the development.

### *Character and appearance*

23. The Shropshire Landscape Typology includes the appeal site and the greater part of the 3km study area **defined for the Appellant's** Landscape and Visual Appraisal (CD 1.18) within the estate farmlands landscape character type<sup>10</sup>. This character type is described as gently rolling lowland and valley floor landscapes, with an ordered pattern of fields and woods. The appeal site and its surroundings reflect this description: the site falls towards Cound Brook to the west and south, and the rise and fall of the landform continues beyond the boundary. There are no blocks of woodland within the site, but there are trees within the hedgerows which mark the field boundaries, and areas of tree cover nearby which assist in framing views.
24. It is intended that the solar farm would generate electricity for 40 years, and the development would encroach onto the two large parcels of open land which comprise the majority of the appeal site for a considerable period of time. However hedgerow and tree cover along the boundaries of the two large fields would be strengthened. A post and wire fence towards the northern end of the eastern parcel would be removed, but the nearby hedgerow would be reinforced and, from where the boundary turns to the north, a short stretch of hedgerow would be planted close to the position of the fence across to the road to Eaton Mascott. Notwithstanding this detailed change, the proposal would essentially respect the existing field pattern. Moreover this area of estate farmlands is extensive, and I do not consider that the proposed development would have more than a minor adverse effect on this landscape as a whole.
25. The Appellant has assessed the site as not having sufficient qualities to elevate it above other surrounding undesignated landscapes. Whilst it forms part of a pleasant expanse of open land extending to the west of Berrington, there is no detailed evidence of factors which could indicate that it merited consideration as a valued landscape<sup>11</sup>, as referred to in paragraph 187(a) of the NPPF. It is common ground between the Appellant and the LPA that the site is not a valued landscape: I have no reason to take a different view, and I share the **view of the Appellant's landscape witness that the site is of community value.**
26. I also agree that, given the undeveloped nature of the site on rising land above Cound Brook, it has a high susceptibility to development which would extend across most of the two parcels. There is no disagreement about the appropriateness of the methodology used in the assessment of landscape effects, and the combination of high susceptibility and community value indicate medium sensitivity to the proposed development<sup>12</sup>.
27. Since the 2024 inquiry, proposals for additional boundary planting have been put forward, and the arrays would be set back from field edges. Notwithstanding the accommodation of the development within the structure of the landscape, the existing open fields would be replaced by rows of solar panels. That would represent a fundamental and adverse change in the

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<sup>10</sup> CD 18.1, appendix 1, figure 2.

<sup>11</sup> Factors that can help in the identification of valued landscapes are set out in box 5.1 of Guidelines for Landscape and Visual Impact Assessment (C 8.3).

<sup>12</sup> CD 12.4, appendix 1.

- character of the site. The influence of that change would extend beyond the site, since the construction of a solar farm in the rural landscape to the west of Berrington would disrupt the ordered pattern of fields and woods in this part of the estate farmlands
28. During construction, traffic movement and activity on the site would emphasise the disruptive influence of the proposal on the local landscape. Given that construction work is only expected to last for a relatively short period of about six months<sup>13</sup>, I do not consider that it would materially increase the harm to the landscape arising from the impact of the development.
29. I turn now to consider the visual impact of the proposed development. Rural roads run to the west, north and east of the two parcels of agricultural land which make up the greater part of the appeal site. Along much of the field boundaries, views of the appeal site are filtered by hedgerow planting. Thinner sections of hedgerow would be strengthened and gaps would be planted up. The revised landscape masterplan (above, para 9) makes specific reference to additional planting around the north-eastern corner of the western parcel to screen views from Cliff Hollow Road. During construction and the early years of the development, the presence of the arrays across the site would be apparent through weaker parts of the site boundary, but thereafter the proposed planting would provide substantial screening. Views into the site would be available at the access points, but there would only be three of these, and the two which would enable movement between the western and eastern parcels are on the road to Cantlop Mill which is a lightly-used route, only allowing vehicular traffic as far as the house at the Mill. Moreover several sections of the adjoining roads, for example the western end of Cliff Hollow Road, the southern part of the road to Cantlop Mill (as shown in the existing view and photomontage at viewpoint 4<sup>14</sup>), and part of the road to Eaton Mascott run below the level of the adjacent fields, increasing the screening effect of hedgerows. Whilst there would be a perception of development from the adjacent roads, particularly in the early years, the rolling landform and hedgerow reinforcement would minimise this effect. As the development would not be unduly prominent from the northern side of the site, it would not materially detract from views towards the Shropshire Hills to the south and east.
30. Two footpaths run across the farmland to the east of the site. From both footpaths views of the eastern parcel are available, and, because of the rising land on the site, the expanse of the arrays would be visible even when additional planting had reached maturity in about 15 years, as shown in the photomontage from viewpoint 11<sup>15</sup>. However although the arrays would appear intrusive from certain positions along both footpaths, including viewpoints 11 & 12 from where they would be seen in the foreground of the distant hills to the west, only part of the development would be seen. I also note that views of the site are only available over about 200m of footpath 0407/1/1, which is further from the appeal site<sup>16</sup>.
31. The extent of the development would be most apparent from Cantlop, which is to the south of the site and above the intervening Cound Brook. From several

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<sup>13</sup> CD 16.4, paragraph 6.3.2.

<sup>14</sup> CD 4.3.

<sup>15</sup> CD 4.3.

<sup>16</sup> CD 1.18, paragraph 8.6.

positions here, including viewpoints 14 & 15<sup>17</sup>, there would be views of the development beyond the lower ground on either side of Cound Brook. The solar farm though would be one component of extensive views across the countryside. From viewpoint 15, it is possible to make out the existing solar farm at Boreton to the north-west, but this is not a significant feature in the landscape and there is a clear separation between it and the appeal site. Consequently I do not consider that the construction of the appeal proposal would result in an adverse cumulative effect. Because of the nature of the rolling landform, the proposed solar farm would not be a noticeable feature in more distant views towards the site.

32. The proposed development would have a minor adverse effect on this area of the estate farmlands, harm which merits limited weight. There would be a major adverse change in the character of the site and its immediate surroundings, and bearing in mind the medium sensitivity of the landscape of the site and its surroundings, I consider that this harm carries moderate weight. I also reach a different view on weight to visual harm from the previous Inspector. Whilst I agree that the solar farm would appear intrusive from footpaths to the east and from Cantlop to the south, the extent of visibility of the development would be restricted from the footpaths, and the development would be seen in the context of a wider countryside view from Cantlop. For these reasons I attribute moderate weight to the harm I have identified. Nevertheless, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. Overall, therefore, the development would not protect and enhance the natural environment taking account of the local context and character, leading to conflict with provisions of Policies CS6 and CS17 of the Core Strategy. There would also be conflict with that part of paragraph 187(b) of the NPPF, which explains that planning decisions should recognise the intrinsic character and beauty of the countryside.

### *Agricultural land*

33. The greater part of the site comprises over 40ha of agricultural land in two large parcels<sup>18</sup>. An agricultural land classification report, prepared to accompany the planning application, records the quality of the land based on a survey of the majority of the two parcels. The report identified 22.4ha (54.1%) of grade 2 land, 12.4ha (29.9%) of grade 3a land, and 4.9ha (11.8%) of grade 3b land<sup>19</sup>. I note that the survey undertaken for the Appellant found profiles of grade 1 soil within the wider area of grade 2 land. These are not shown as separate mapping units, the Appellant arguing that the land does not meet the definition of grade 1 land in the Agricultural Land Classification Guidelines of land with no or very minor limitations to agricultural use<sup>20</sup>. I agree with the previous Inspector that the surveyor undertaking the agricultural land classification was entitled, as a matter of professional judgement, to take a

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<sup>17</sup> CD 4.3. The photomontages from viewpoint 15 in Cantlop are incorrectly labelled as viewpoint 14.

<sup>18</sup> Excluding the route of the cable run to the grid connection point, the updated statement of common ground gives the size of the site as 44.09ha (CD 4.22, para 3.1), whereas the agricultural land classification report refers to a size of 41.4ha (CD 1.3, table 4.3).

<sup>19</sup> Using the figures from the agricultural land classification report, (and the percentages are agreed in the updated statement of common ground) gives a maximum amount of known BMV land on the site, having regard to the larger site size stated in the statement of common ground.

<sup>20</sup> **The Appellant's soils proof of evidence** for the 2024 inquiry, CD 12.6, paragraph 2.1.14. Agricultural Land Classification of England and Wales, revised guidelines, Ministry of Agriculture, Fisheries and Food, CD 9.1, page 9.

- rounded view of land quality within the site<sup>21</sup>. The NPPF defines the best and most versatile (BMV) agricultural land as that within grades 1, 2 & 3a of the agricultural land classification. Irrespective, therefore, of the grading of those areas where a grade 1 profile was found, it is clear that a large proportion of the appeal site is BMV land, and most of the site is in arable use.
34. Policy CS6 of the Core Strategy requires all development proposals to make the most effective use of land and to safeguard natural resources, including high quality agricultural land. Similarly at national level, paragraph 187(b) of the NPPF explains that planning decisions should contribute to and enhance the natural and local environment by, amongst other measures, recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the BMV agricultural land.
  35. The Written Ministerial Statement of 2015 on solar energy and other matters addresses the effect of proposals on agricultural land. Where a proposal involves agricultural land, it should be clear that this is necessary, and poorer quality land is expected to be used in preference to land of a higher quality. In similar vein, EN-3 advises that where the proposed use of any agricultural land has been shown to be necessary for solar development, poorer quality land should be preferred to that of a higher quality, and the use of the BMV land should be avoided where possible.
  36. In the emerging Local Plan, Policy DP26(2k) says that where a proposal for a large-scale solar farm requires the use of agricultural land, poorer quality land should be used in preference to that of a higher quality, and Policy DP18(4) seeks to avoid the use of the BMV agricultural land, unless this is justified by the need for, and benefit of, the development. I have already found that the emerging Local Plan carries limited weight (above, para 15), but these provisions reflect the approach to higher quality agricultural land in the Core Strategy and national policy.
  37. As part of the site selection exercise, a search of brownfield sites within 100 miles of Berrington was undertaken. Each of the six sites identified was being marketed for commercial purposes, and they were not considered to be available for the proposed solar farm<sup>22</sup>.
  38. A key consideration in bringing forward a solar energy scheme is the availability of a grid connection. The Appellant has the offer of a grid connection at a point on the overhead line about 0.8km to the north of the main part of the appeal site, and between the substations at Bayston Hill and Cross Houses. Given that thermal power loss increases with distance, together with the expense of a greater length of trenching, a corridor of 6km along the overhead line was used in the site selection exercise<sup>23</sup>. This resulted in a search area encompassing an extensive area to the south of Shrewsbury and including the southern part of the town.
  39. The site lies within an area where there is a high likelihood that most of the land (more than 60%) would be classified as being of BMV quality<sup>24</sup>. Ten other potential development sites were identified within the search area, but all were largely or entirely grade 3, based on Natural England mapping. This mapping

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<sup>21</sup> CD 17.1, paragraph 77.

<sup>22</sup> CD 1.13, paragraphs 4.4.2-4.4.7.

<sup>23</sup> CD 16.3, paragraph 3.5.3.

<sup>24</sup> CD 16.3, paragraph 3.4.2.

also indicates that the appeal site is potential grade 3 land<sup>25</sup>. Whilst there is a larger proportion of grade 2 land on the appeal site, that is identified in the detailed agricultural land classification report, prepared for the planning application. I acknowledge that it was not feasible for similar site-specific surveys to be undertaken of the other potential development sites. Considered on an equivalent basis at the site-finding stage, other land within the search area is potentially of similar quality to the appeal site.

40. The landowner's agent has advised that, notwithstanding the grading of the land forming the appeal site, there is a significant variation in soil quality from very light sand to solid clay due to the removal of top-soil to fill undulations (CD 4.9). The undulations and inconsistency of the soil have made the parcels difficult to farm, which contributed to the decision to put them forward for the proposed development.
41. Whilst there is a clear thread of policy at local and national level which seeks to safeguard BMV agricultural land, this does not extend to an embargo on the use of such land for the development of solar energy proposals. The information before me does not indicate that it is possible to avoid the use of the BMV land to take up the grid connection offer west of Berrington, nor that poorer quality land is available for this purpose.
42. It is intended that, during the lifetime of the development, the land would be used for the grazing of sheep. Whilst the Appellant acknowledges that the proposal would not make the most effective use of the BMV land, agricultural use would continue in tandem with the operation of the solar farm. The retention of agricultural use would appropriately be the subject of a condition requiring implementation of a scheme for sustainable sheep grazing.
43. The Appellant has submitted an outline soil management plan (CD 4.6), the objectives of which include the protection of soil resources on the site and identifying best practice to maintain the physical properties of the soil. The plan makes reference to soil handling, moisture assessment, soil stripping, storage, and the management of on-site traffic movements. Moreover there is evidence that continuous arable cropping results in a reduction of organic matter, structural stability, and earthworm and microbial activity in soil<sup>26</sup>. Consequently the change in farming activity during the presence of the solar farm would be beneficial to soil health. Subject to a condition requiring implementation of a soil management plan, the proposal should not erode the status of the BMV land on the appeal site.
44. Figures for a cereal crop indicate that the appeal site contributes about 0.002-0.003% to the national yield and about 0.06% to the county yield<sup>27</sup>. This is a modest amount, and that small reduction would only extend for a temporary period. Given the small scale of the contribution of the site to arable crop production, and the ability of the farm to alter the agricultural use to which the land is put, I consider that the loss of the land to arable use for 40 years would not have a materially adverse effect on food security.
45. I conclude that there is no alternative to the use of the BMV land for the proposed development, and that in any event, with the safeguard of a

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<sup>25</sup> CD 4.5, section 3, and paragraph 4.1.8.

<sup>26</sup> CD 12.6, paragraph 7.2.1.

<sup>27</sup> CD 12.6, paragraphs 4.3.4 & 4.3.6.

condition concerning a soil management plan, the status of the site as BMV agricultural land would be safeguarded. However, the land would not be used to its maximum potential as BMV land for the duration of the development, leading to a conflict with Policy CS6 of the Core Strategy, a circumstance to which I give moderate weight. On the other hand, the prospect of improved soil condition due to the break from arable crop production would be a benefit which merits countervailing moderate weight.

### *Skylarks*

46. Surveys have identified that the appeal site is used by skylarks. The skylark is listed as a species of principal importance under section 41 of the Natural Environment and Rural Communities Act 2006. It is also included on the red list of Birds of Conservation Concern, which identifies those species considered to be of greatest conservation concern<sup>28</sup>. The British Trust for Ornithology records that the number of these birds fell precipitously from the mid-1970s, although more recently there has been a small upturn in the species' fortune<sup>29</sup>.
47. Breeding bird surveys were undertaken in 2022 and 2024. In 2022, eleven skylark territories (each used by a pair of birds) were identified on the site, whereas in 2024 the number was lower, at six<sup>30</sup>. The 2024 survey post-dates the original appeal decision, and this information was not available to the Inspector at the time. It **is the Appellant's evidence that variations in the number of territories are not unexpected, with densities affected by and management, including crop type and the timing of cropping.**
48. Whereas skylarks will continue to forage on land within solar farms, the Appellant acknowledged that nesting would be displaced by the proposed development. By way of mitigation it is proposed to provide alternative habitat for breeding skylarks on land immediately to the north of the site (CD 1.16). **Natural England's standing advice on protected species and development** makes clear that no more habitat should be lost than is replaced<sup>31</sup>, and not that there should be no net loss of breeding pairs (of skylarks), as referred to in the original appeal decision.
49. The mitigation would be secured by means of planning obligations and a condition<sup>32</sup>. The condition would preclude development until a skylark mitigation strategy had been approved, such strategy to follow the principles set out in the Skylark Mitigation and Management Plan prepared on behalf of the Appellant<sup>33</sup>. Planning obligations in the unilateral undertaking require implementation of the strategy prior to development commencing, confirmation of implementation to the LPA, and maintenance of the strategy for the lifetime of the development.
50. The mitigation land has been intensively grazed since 2022. Average densities of skylark territories in different habitat types are set out in an article by Harry Fox in the Bulletin of the Chartered Institute of Ecology and Environmental Management (CD 10.22). Intensive grazed pasture has the lowest density of territories of 0.02 per hectare, and is considered to be poor-quality habitat for

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<sup>28</sup> CD 10.43, page 2.

<sup>29</sup> CD1 10.1, pages 1 & 2.

<sup>30</sup> The 2022 figure is reported in CD 1.23, table 5, and the 2024 figure in CD 16.7, paragraph 3.2.4.

<sup>31</sup> CD 10.11, page 11.

<sup>32</sup> CD 4.24, and suggested condition 26 in CD 18.2.

<sup>33</sup> Schedule 3 in CD 4.24.

skylarks. Applying that density to the 25ha of mitigation land, **the Appellant's** ecology witness calculated that at present that area could be expected to support 0.5 pairs of skylarks. There is no detailed evidence which calls into question that approach. I note that the 2024 survey records six territories, but the number remains low for the size of the land, and variations in numbers are not uncommon (above, para 47).

51. At present it is not certain whether the mitigation land will continue to be used for grazing or whether it will revert to arable. The Mitigation and Management Plan addresses both scenarios. If the land remains as pasture, it would be grazed less intensively, with low stocking densities specified to allow the establishment of a matrix of shorter and tussocky grassland suitable for both nesting and foraging. In addition, livestock should not be on the land between April and June to avoid disturbance and maximise skylark breeding success. If the land is used for arable farming, it is intended that 12 skylark plots, which would be left fallow over autumn and winter and undrilled during spring, would be created. The plots would occupy about 6ha of the 25ha mitigation land, and twelve plots would slightly exceed the maximum number of territories on the appeal site identified in the surveys.
52. Both the appeal site and the mitigation land have been used for pheasant shooting. Pheasant shooting is restricted to the period from 1 October to 1 February, which does not coincide with the breeding season for skylarks. The British Trust for Ornithology has calculated that the median date for first clutches of eggs is 19 May<sup>34</sup>. I note that at the 2024 inquiry it was accepted that the shooting and nesting seasons did not coincide, and I do not consider that there would be undue disturbance to skylarks from shooting on the mitigation land.
53. The proposal would result in the loss of territories on the appeal site and the consequent displacement of breeding pairs of skylarks. However, the nearby mitigation land would be enhanced to accommodate displaced skylarks, and, given the number of plots expected to be created if the land reverts to arable production or the stocking densities if it remains as pasture, I am satisfied that the proposal would not result in a net loss of habitat suitable for the species, nor materially weaken its conservation status.

### *Other considerations*

#### *Heritage assets*

54. There are a number of heritage assets in the vicinity of the appeal site<sup>35</sup>. At the time of the 2024 inquiry, Flour not Power argued that there were four key heritage assets most at risk of a negative impact from the proposed development: Cantlop Bridge, Berrington Farmhouse, Newman Hall Cottages and Cantlop Mill. These structures are all relatively close to the site, they are the heritage assets considered in detail in the original appeal decision, and I consider that they are the assets of most relevance in considering the effect of the proposed development.

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<sup>34</sup> CD 16.5, paragraph 7.1.2.

<sup>35</sup> Figure 3 in appendix 1 of CD 1.18 shows the location of listed buildings, scheduled monuments, conservation areas, and registered parks and gardens in relation to the site.

*i) Cantlop Bridge*

55. Cantlop Bridge, a grade II\* listed building, straddles Cound Brook, adjacent to the present alignment of the Shrewsbury to Acton Burnell road, and about 125m to the south of the appeal site. It has architectural interest as an early example of a cast-iron bridge, and historic interest as it is considered to be the only cast-iron bridge to a design approved by Thomas Telford, remaining in place in Shropshire<sup>36</sup>. The significance of this listed building derives primarily from its architectural and historic interest. However, the setting of the bridge, as an example of transport infrastructure, includes a stretch of the watercourse and of the nearby road, and these aspects of setting also contribute to the significance of the asset.
56. Although the south-west part of the appeal site is relatively close to Cantlop Bridge, there is a belt of trees on the land which rises from Cound Brook, with the fields where the solar arrays would be installed lying beyond. The extent of tree cover would not only restrict views of the development on the appeal site from the listed building, but also from the nearby stretch of the road where it crosses Cound Brook. I conclude that the proposed development would not materially affect the setting of Cantlop Bridge, and, therefore, it would not cause harm to its significance.

*ii) Berrington Farmhouse*

57. The farmhouse, a grade II listed building, is a substantial property standing on the road through Berrington, and positioned on the south-west side of the village, about 275m from the appeal site. It dates from the 17<sup>th</sup> century, and has additions from the 18<sup>th</sup> and 19<sup>th</sup> centuries, with historic interest as an extended farmhouse from these periods<sup>37</sup>. At one time, the appeal site formed part of the landholding associated with the farmhouse<sup>38</sup>, and, although this link no longer exists, the listed building still appears as an historic farmhouse in a rural setting. The agricultural aspect of the landscape serves as a reminder of the purpose for which Berrington Farmhouse was built, and this setting makes an important contribution to the significance of the listed building.
58. The development on the appeal site would occupy part of the setting of the listed building. However, the solar farm would be set back from the edge of Berrington, with woodland and strengthened hedgerow cover proposed on the nearest part of the appeal site. Berrington Farmhouse would continue to be seen as a prominent building in the wider rural landscape, and the ability to appreciate the historic association with a predominantly agricultural landscape would not be diminished. I conclude that the proposed development would not materially affect the setting of Berrington Farmhouse, and, that it would not cause harm to the significance of this listed building.

*iii) Newman Hall Cottages*

59. Newman Hall Cottages are a grade II listed building<sup>39</sup>. The cottages date from the 17<sup>th</sup> century, but they have been remodelled and now form a single dwelling. There is architectural interest in the styles evident in the building, and historic interest as an example of traditional rural dwellings. Built as

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<sup>36</sup> The list entry is at appendix 3 of CD 12.8.

<sup>37</sup> The list entry is at appendix 3 of CD 12.8.

<sup>38</sup> CD 12.8, paragraph 6.11.

<sup>39</sup> The list entry is at appendix 3 of CD 12.8.

isolated rural dwellings, the setting of the surrounding countryside contributes to the significance of this heritage asset.

60. However, although the listed building is not far from the south-east boundary of the appeal site, there is no identified historical, functional or economic relationship with this land<sup>40</sup>. The dwelling does not have a principal elevation facing towards the appeal site, and woodland planting is proposed to strengthen tree cover on the site boundary. Within the site, the solar arrays would be set back from this point, and the listed building would continue to appear as an isolated dwelling in an open countryside location. I conclude that the proposed development would not materially affect the setting of Newman Hall Cottages, and that it would not cause harm to the significance of this listed building.

*iv) Cantlop Mill*

61. Cantlop Mill is locally listed. Now in residential use, it is thought to have been a corn mill and was powered by Cound Brook<sup>41</sup>. There is evidence that during the 19<sup>th</sup> century, the tenant of the mill held several fields within the appeal site<sup>42</sup>. The Mill is a short distance to the south of the appeal site, but is at a lower level close to the watercourse. The narrow road between the west and east parcels of the appeal site leads down to Cantlop Mill: this route with public access continues across Cound Brook and up the southern valley side to Cantlop in the form of a footpath, providing a link between Berrington and Cantlop. Cantlop Mill has historic interest as a site where industrial activity formerly occurred and provided a service to the surrounding rural area. Given its functional link with Cound Brook and its position on an historic route between Berrington and Cantlop, these aspects of its setting are of particular importance to the significance of the mill.
62. Notwithstanding the proximity of the appeal site to the mill, the landform, with a pronounced change in level between the intended position of the arrays and the mill building on the valley floor, together with the extent of intervening tree cover, would greatly restrict any intervisibility between the asset and the proposed development. The appeal site does not make an important contribution to the setting of Cantlop Mill, and development on the site would not lessen the ability to appreciate the asset as a former industrial structure with a functional relationship with Cound Brook. Accordingly, I conclude that the proposed development would not materially affect the setting of this heritage asset, and so it would not harm its significance.

*v) Conclusions on heritage assets*

63. The proposed development would not materially affect the setting of any of the four heritage assets of most relevance, and would not harm their significance. In consequence, it would comply with Policy MD13 of the SAMDev Plan, which seeks to ensure that, wherever possible, proposals avoid loss of significance to designated or non-designated heritage assets. Nor would the proposal conflict with paragraph 212 of the NPPF, which requires that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the **asset's conservation**.

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<sup>40</sup> CD 12.8, paragraph 6.16.

<sup>41</sup> CD 1.6, paragraphs 5.97 & 5.91.

<sup>42</sup> CD 1.6, paragraphs 5.95 & 5.96.

*Nature conservation interests*

*i) Berrington Pool*

64. About 0.4km to the north of the appeal site is Berrington Pool. The Pool is a small and deep mere, which is designated as a site of special scientific interest (SSSI), and which is also part of the Midlands Meres and Mosses Phase 1 Ramsar site<sup>43</sup>. The SSSI citation refers to eutrophic and mesotrophic lakes, floodplain fen and wet woodland. The site has a rich flora of emergent species, including some which are uncommon, notably slender sedge. The citation for the Ramsar site refers to a diverse range of habitats from open water to raised bog, and mentions that the site supports a number of rare species of plants associated with wetlands. It should be borne in mind that this Ramsar site covers several SSSIs and the range of qualifying features relates to the designated site as a whole, and not to each component part.
65. The Appellant's **ecology witness has explained that there is not considered to be any potential pathway by which the SSSI and Ramsar features would be affected by the proposed development<sup>44</sup>**, and I agree that ceasing to use agricultural chemicals whilst the solar farm is in place is likely to be beneficial to the local environment. There is no detailed evidence to substantiate a contrary view.

*ii) Species other than skylark*

66. The breeding bird surveys (above, para 47) identified use of the appeal site by dunnock and yellowhammer, bird species which are red and amber-listed respectively. I heard that these species feed on field margins, and yellowhammers also nest close to the ground at the base of hedgerows. The strengthening of hedgerows and the enhancement of field margins with more diverse grassland should benefit both species. This measure and other ecological enhancements could be included in a soft landscape scheme and/ or a landscape and ecological management plan, both of which are suggested to be the subject of conditions.
67. To minimise disturbance to bats, a condition is suggested which would require approval of any external lighting, and bat and bird boxes are proposed to ensure the provision of nesting opportunities in accordance with Core Strategy Policy CS17 and SAMDev Policy MD12.

*iii) Biodiversity net gain*

68. It is **the Appellant's evidence that the proposed development would provide biodiversity net gain of 65.67% in habitat units and of 61.34% in hedgerow units**. No alternative assessment is before me<sup>45</sup>. That would be an important benefit of the development. The proposed landscape and ecological management plan would be instrumental in securing biodiversity net gain.

*iv) Conclusions on nature conservation interests*

69. With the safeguard of the conditions referred to above (paras 66-68), together with the requirement in a construction environment management plan for

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<sup>43</sup> The location of Berrington Pool is shown on CD 18.3. CD 18.4 identifies the citation features for both the SSSI and the Ramsar site.

<sup>44</sup> CD 16.5, paragraph 8.1.3.

<sup>45</sup> CD 16.6, headline results.

mitigation measures for ecological receptors, I am satisfied that the proposal would not have a material adverse effect on nature conservation interests. The planting proposals would give rise to a marked increase in biodiversity, and I give significant weight to the biodiversity net gain. That enhancement in biodiversity would accord with Policy CS17 of the Core Strategy and Policy MD12 (part 3) of the SAMDev. I am satisfied that the proposal would also be consistent with paragraph 193(d) of the NPPF, which makes clear that opportunities to improve biodiversity should be integrated into the design of developments.

### *Living conditions*

70. Construction activities and traffic have the potential to cause problems of disturbance to local residents. The construction environment management plan would include measures to minimise any potential adverse effects, including a construction routing plan and a prohibition on construction traffic accessing the site through Berrington. Conditions are also proposed to control the times during which construction works would take place and the direction of close circuit television cameras.
71. A tracker system would be used for the arrays, to enable the solar panels to move to face the sun throughout the day. There are a number of dwellings in the vicinity of the site, including those in Berrington, and concern has been expressed in individual representations about noise from the tracking motors. However the noise assessment accompanying the application explains that these motors run for only 5-10 seconds every few minutes and that test reports show that the sound level would be very low<sup>46</sup>.
72. Operational noise would be generated by the power station and sub-station<sup>47</sup>. Predicted noise rating levels would exceed background noise levels at a number of nearby dwellings, but when account is taken of the effect of the building fabric (with windows open), internal noise levels would be within the World Health Organization guideline of 30dBA for sleeping conditions<sup>48</sup>.
73. I conclude that the proposed development would not unacceptably worsen the living conditions of nearby residents.

### *Highway safety*

74. The highway network in the area around the appeal site includes several narrow roads, and there is a general lack of footways. These roads do not carry high volumes of traffic. Most traffic would be generated during the construction and decommissioning periods, and it is intended that vehicles would use the Shrewsbury to Acton Burnell road, from which there would be a direct access into the western parcel of the appeal site<sup>49</sup>. Construction traffic would be prohibited from the narrow roads of Cliff Hollow (past the northern side of the site) and that from Cliff Hollow to Cantlop Mill, and from travelling through Berrington. During its operational life, the solar farm would only require occasional maintenance visits. Measures to control traffic movement during the construction period would be included in the construction environment

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<sup>46</sup> CD 1.12, paragraph 24.5 and figure 24.1.

<sup>47</sup> CD 1.12, paragraphs 24.1 & 24.4.

<sup>48</sup> CD 1.12, paragraph 28.7.

<sup>49</sup> The route for construction traffic and other intended measures are set out in the traffic management plan, CD 17.8.

management plan which could be secured by means of a condition, and, with this safeguard, I am satisfied that the proposed development would not adversely affect highway safety.

#### *Flood risk*

75. The site lies within flood zone 1 where there is the lowest level of flood risk. A flood risk assessment explains that solar panels are not expected to increase the impermeable area of a site and contribute to an increase in surface water run-off<sup>50</sup>. It is intended that back-filled trenches and swales would be included in the development, and as these would promote infiltration and provide storage capacity across the site, only a negligible increase in surface water run-off is expected<sup>51</sup>. In consequence, I do not anticipate that the proposed development would increase flood risk through run-off into Cound Brook which lies on lower ground to the south of the site. I note **that the Council's drainage** team has not objected to the proposal, and, subject to conditions requiring that a soakaway test be carried out and a sustainable drainage scheme implemented, I find that the proposal would not increase flood risk elsewhere.

#### *Economic considerations*

76. Reference is made by the Appellant to the creation of jobs during the construction and operational phases of the development, both in connection with the solar farm and indirectly in the supply chain. However there is no detailed evidence to indicate the number of jobs likely to be supported, and I note that during the operational phase of the development only occasional visits to the site are expected to be required.
77. The farm business has been involved in the countryside stewardship and higher level stewardship schemes which are being phased out, and with the reduction of subsidies, it is claimed that there would be a significant loss of income. The proposed development would represent diversification, providing a source of income for the business. However there is no detailed evidence to indicate the extent of the benefit which the solar farm would provide. Overall, I consider that the economic benefits of the proposal carry limited weight.

#### *Planning obligations*

78. I have already referred to planning obligations concerning mitigation in respect of skylarks which currently nest on the appeal site (above, para 49). The obligations concern the implementation of a skylark mitigation strategy. They are directly related to the proposed development on the nearby land to the south, necessary to make it acceptable in planning terms by avoiding the net loss of habitat for a species of conservation concern, and, through the provision of 12 skylark plots or the management of grazing land for conservation purposes, fairly and reasonably relate to the development in scale and kind. I find that the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations are met, and that the provisions of the unilateral undertaking are material considerations in this appeal.

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<sup>50</sup> CD 1.9, section 7.4

<sup>51</sup> CD 1.9, section 8.

## Conditions

79. I have considered the suggested conditions in the light of the advice in Planning Practice Guidance and the discussion on conditions at the hearing. In accordance with section 100ZA(5) of the Town & Country Planning Act 1990, the Appellant has agreed to those conditions which would be pre-commencement conditions<sup>52</sup>. Those conditions which I consider would be necessary for the development to proceed are listed in the accompanying schedule, together with the reasons for their imposition.
80. I do not consider that a separate condition is required concerning a complaint procedure scheme. Complaints relating to amenity concerns are most likely to arise during the construction phase, and a complaints procedure scheme could be referred to in a condition concerning a construction environment management plan.

## Conclusions

81. In the Core Strategy, Policy CS8 refers to infrastructure which addresses climate change, and it is, therefore, of particular relevance to the proposed development. This policy encourages proposals such as solar farms which would mitigate climate change, provided that there would be no significant adverse impact on recognised environmental assets. Over 80% of the fields where the solar farm would be situated is BMV agricultural land (above, para 33), a recognised environmental asset. I have found that this land would not be used to its maximum potential during the lifetime of the development, resulting in conflict with Policy CS6, but that shortcoming does not translate into harm to the resource. Indeed, the break from arable crop production should be beneficial to soil health.
82. I have also considered the effect of the development on nearby heritage assets and Berrington Pool, which is a SSSI and part of a Ramsar site. There would be no harm to the significance of the heritage assets, nor to the qualifying features of the designated nature conservation site, and in the latter respect the development would comply with Policy CS17. In the absence of any significant adverse impact on recognised environmental assets, there is clear support for the proposal from Policy CS8.
83. As the development would provide renewable energy whilst safeguarding the agricultural land within the site, it would contribute to sustainable economic growth, and is supported by Policy CS13.
84. Policy CS5 seeks to protect the countryside and refers to strict control over new development. Specific mention is made of opportunities for certain categories of development, including required infrastructure which cannot be accommodated within settlements. The site selection exercise has provided justification for the development to take place on the appeal site, and hence outside a settlement (above, paras 37-39, 41). There is a general requirement in Policy CS5 that development proposals should maintain and enhance countryside vitality and character. The solar farm would have a low level of on-site activity during its operational life-time, but that would not be dissimilar to land used for crop production and, although short on detail, the proposal would provide support for the farm business (above, para 77). However, as the

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<sup>52</sup> CDs 18.5 & 18.6.

proposal would cause some harm to the character and appearance of the area, it would not maintain countryside character. Consequently, I consider that the development would conflict with Policy CS5, and with provisions of Policies CS6 and CS17 which seek to provide protection generally for the natural environment.

85. Policy MD8 of the SAMDev Plan supports proposals for new strategic energy infrastructure where its contribution to agreed objectives would outweigh the potential for adverse impacts. The development of a solar farm on the appeal site would make an important contribution to national and local objectives to increase the production of renewable energy. There would be adverse impacts in respect of the effect on the character and appearance of the area and the use of BMV agricultural land, and I consider the balance of these matters below (para 89).
86. Policy MD12 encourages development which appropriately enhances natural assets. The accompanying explanation makes clear that natural assets include trees and hedges, and the proposal provides for the strengthening of hedgerows and tree cover on the site boundary, in accordance with part 3 of the policy. Proposals which would be likely to have a significant adverse effect on visual amenity should only be permitted if there is no satisfactory alternative means of avoiding such impacts and the social or economic benefits outweigh the harm. Whilst the development would cause harm to visual amenity, this would be limited in extent and merits no more than moderate weight. Accordingly the proposal would not conflict with part 2 of Policy MD12.
87. As the proposal would not harm the significance of nearby heritage assets, there would be no conflict with Policy MD13. The western edge of the site lies within a mineral safeguarding area, to which Policy MD16 applies. Proposals for non-mineral development within a safeguarding area should only be permitted in certain circumstances, which include applications for temporary planning permission<sup>53</sup>. The appeal proposal is temporary in nature, and would not prejudice the ability to retrieve minerals from the western edge of the site. There is no conflict with Policy MD16.
88. There is support in both the Core Strategy and the SAMDev Plan for renewable energy proposals. The development would be consistent with policy provisions concerning nature conservation, economic growth, heritage assets and minerals safeguarding, but adverse effects in respect of the effect on the character and appearance of the area and the use of BMV land bring it into conflict with parts of Policies CS6 and CS17, and with Policy CS5.
89. There is an urgent need for energy from renewable sources in order to achieve carbon reduction targets, and a major contribution is expected from solar developments. The proposal would provide sufficient electricity for a significant number of homes, about 7,000, and importantly, the grid connection offer would enable the site to contribute at an early date to renewable generation. The contribution which the appeal proposal could make at an early stage to providing electricity from a renewable source is a factor which carries significant weight in support of the proposal. That important benefit outweighs the harm to landscape character and visual amenity, and the failure to make the most effective use of BMV agricultural land, factors which carry moderate

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<sup>53</sup> CD 5.2, paragraph 3.150(ix).

weight. The outcome of that balancing exercise is a finding that the proposal complies with SAMDev Plan Policy MD8.

90. Whilst there is conflict with certain provisions, the proposal is consistent with important policies which support infrastructure development, and complies with policy provisions concerning nature conservation, economic growth, heritage assets and minerals safeguarding. I conclude that the proposed development would comply with the Development Plan considered as a whole.
91. In addition to the benefit from the generation of electricity from a renewable source, the proposal would also provide a high level of biodiversity net gain to which I give significant weight, and provide an opportunity to improve soil condition on the site, which merits moderate weight. The benefits of the proposed development clearly outweigh the harm which I have already identified. Because of the harm to the character and appearance of the area, the proposal would conflict with part of paragraph 187(b) of the NPPF, but it is consistent with paragraphs 168, 193(d) and 212 and 186(d) concerning renewable energy, biodiversity and heritage assets respectively. Those matters have already been considered in assessing the balance of considerations in respect of the proposed solar farm. There are no material considerations which support a decision being taken other than in accordance with the Development Plan considered as a whole, with which the appeal proposal would comply.
92. For the reasons given above, and having regard to all matters raised, including the suggested conditions, I conclude that the appeal should be allowed.

*Richard Clegg*

INSPECTOR

## Schedule – Conditions

- 1) The development hereby permitted shall commence not later than three years from the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby permitted shall be carried out in accordance with the following plans:
  - i) Site location plan (05), ref 1051487-ADAS-XX-XX-DR-P-8006.
  - ii) Site layout plan (13), ref 1051487-ADAS-XX-XX-DR-PL-8000.
  - iii) Illustrative landscape masterplan (V20), ref 1051487-ADAS-XX-XX-DR-L-8001.
  - iv) Site access arrangements, ref 111182-10-01; as supplemented by the traffic management plan, ref 111182-TMP-REVO.
  - v) Technical details: customer-substation, ref PL.006.
  - vi) Technical details: MV power station, ref PL.005.
  - vii) Technical details: storage container, ref PL.010.
  - viii) Technical details: mounting structure (tracker), ref PL.001.
  - ix) Technical Details 1: gate, fence, construction road, camera, satellite dish, ref PL.007.
  - x) Waterless toilets (Kazubaloo 1), ref KL1.

Reason - To provide certainty.

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

Reason - To provide certainty, and in accordance with the scale of the development for which permission is sought.

- 4) 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 occurring.

Reason - In accordance with the time limited nature of the application.

- 5) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the *First Export Date*, a scheme of early decommissioning works (the *Early Decommissioning Scheme*) and an 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

months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved *Early Decommissioning Scheme* and the approved *Early Ecological Assessment Report* shall be implemented in full thereafter.

Reason - The development would cause some harm to the character and appearance of the area and in respect of the use of best and most versatile agricultural land. The use and associated structures should therefore be removed as soon as possible if the solar farm is no longer required

- 6) 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 restoration of the land, and including a programme for the decommissioning and restoration works (the *Decommissioning Scheme*), shall be submitted for the written approval of the Local Planning Authority. Written notification shall be given to the Local Planning Authority not less than 7 days before the commencement of the decommissioning works. The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved *Decommissioning Scheme*.

Reason - To safeguard the character and appearance of the area

- 7) Prior to their erection final details of the proposed materials and finish, including the colour of all solar panels, frames, ancillary structures, equipment, and enclosures shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details, and it shall be retained as such for its lifetime.

Reason - To safeguard the character and appearance of the area.

- 8) 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 ref 111182-10-01. Thereafter, the visibility splays shall be kept free of obstructions exceeding 0.6 metres in height.

Reason - In the interest of highway safety.

- 9) Prior to any other development taking place, the first 15 metres of the access shall be surfaced with a permeable bound material which shall be retained for the lifetime of the development.

Reason - To prevent mud and detritus being deposited on the public highway in the interest of highway safety.

- 10) All trees and hedgerows which are to be retained in accordance with the approved landscape masterplan shall be protected in accordance with the tree protection plan, ref 1051610 Econergy TPP sheets 1-3 (Appendix 5 of the RSK ADAS Ltd Report ref 1051610 - *Arboricultural Planning Statement – Solar Farm on Land South of Berrington*, dated March 2022) and in accordance with *BS 5837: 2012 Trees in relation to Design, Demolition and Construction, recommendations for tree protection*. Protective fencing shall be erected prior to the commencement of any

permitted development activities. The fencing shall be retained throughout the construction period and shall only be moved with the prior approval of the Local Planning Authority.

Reason - To protect features of the natural environment in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy and MD12 of the Shropshire Council Site Allocation and Management of Development Plan.

- 11) No development shall take place until a qualified 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 - Key Sequence of Events after Planning Approval, of the RSK ADAS Ltd Report ref 1051610 – *Arboricultural Planning Statement – Solar Farm on Land South of Berrington*, dated March 2022. Thereafter, the appointed arboriculturist shall submit a completion statement to the Local Planning Authority to demonstrate compliance with the approved tree protection measures at each stage listed in Appendix 10.

Reason – To protect features of the natural environment in accordance with Policy CS6 and CS17 of the Shropshire Core Strategy and MD2 of the Shropshire Council Site Allocation and Management of Development Plan.

- 12) All services shall be routed outside the root protection areas indicated on the Tree Protection Plan, ref 1051610 Econergy TPP sheets 1-3 (Appendix 5 of the RSK ADAS Ltd Report ref 1051610 - *Arboricultural Planning Statement – Solar Farm on Land South of Berrington*, dated March 2022).

Reason: To protect features of the natural environment in accordance with Policy CS6 and CS17 of the Shropshire Core Strategy and MD2 of the Shropshire Council Site Allocation and Management of Development Plan.

- 13) No development shall take place until a construction environment management plan (CEMP), including timescales and based on the Transport Statement (with the exception of appendix 4), the Traffic Management Plan ref 111182-TMP-Rev 01 by RSK Environment Ltd, and the 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) Construction routing as in Figure 1 of the Traffic Management Plan, with:
    - no construction traffic permitted to travel along the unclassified road leading from the highway known as Cliff Hollow to Cantlop Mill.
    - no construction traffic permitted to use the highway known as Cliff Hollow.
    - no construction traffic permitted to travel to or from the site via Berrington.
  - ii) Construction vehicles shall only access the site via the proposed new site access.

- iii) The site access shall be provided as shown in drawing 111182-10-01 of the Transport Statement.
- iv) Traffic marshals shall be appointed to manage access and egress during the construction phase.
- v) Mitigation measures for non-motorised users of public rights of way as outlined in section 4.3 of the Transport Statement.
- vi) Traffic management measures to include parking facilities for all vehicles visiting the site and as outlined in the Traffic Management Plan.
- vii) Pre and post construction highway condition surveys between the points indicated on the plan reference 111182-CTAR.
- viii) Signage as outlined in the Traffic Management Plan.
- ix) Maintenance of the highway as outlined in the Traffic Management Plan.
- x) A method of monitoring of vehicles entering and leaving the site.
- xi) A construction routing plan containing details of the education, signage and enforcement that will be used to ensure compliance.
- xii) Details of waste management including a prohibition on burning anything on the site.
- xiii) Details of mitigation measures for local residents and ecological receptors in relation to construction lighting.
- xiv) Compound, storage and other construction facilities to be located at least 200m from any dwelling.
- xv) Proposals for the closure of the highway known as Sandy Bank Road during the construction of the development.
- xvi) A complaints procedure scheme for dealing with noise and other amenity related matters occurring during the construction period, including provisions for complaint investigation, reporting, and implementation of remedial actions within an approved timescale.

The development shall be implemented in accordance with the approved CEMP.

Reason – To safeguard the living conditions of local residents and to maintain highway safety.

- 14) Construction operations shall only take place within the following hours: 07.30 to 17.30 from Monday to Friday, and 08.00 to 12.00 on Saturday. No operations, including the maintenance of machinery and plant shall

take place outside of these hours, nor at any time on bank and public holidays.

Reason – To safeguard the living conditions of local residents.

- 15) Any close circuit television cameras located upon the site must not provide a view into any residential site.

Reason – To safeguard the living conditions of local residents.

- 16) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to, and 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 Natural England biodiversity metric as a minimum (53.69 habitat units) to achieve biodiversity net gain. The LEMP shall include the following:

- i) Description and evaluation of features to be managed.
- ii) Ecological trends and constraints on site that might influence management.
- iii) The aims and objectives of management.
- iv) Options for achieving management aims and objectives.
- v) Prescriptions for management actions.
- vi) 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 of electricity from the site).
- vii) Details of the organisation responsible for implementation of the plan.
- viii) Ongoing monitoring and remedial measures.
- ix) Details of species selected to achieve target habitat conditions.
- x) Details of minimum heights of trees and hedgerows to be planted.
- xi) Creation of wildlife habitats, features, and ecological enhancements.
- xii) Details of the legal and funding mechanisms by which the implementation of the LEMP will be secured.
- xiii) Details of how contingencies and/or remedial action will be identified, agreed and implemented, so that the development delivers the biodiversity objectives of the approved scheme.

Reason – To protect the character and appearance of the area, and to ensure the delivery of biodiversity net gain.

- 17) No development shall take place until a detailed soft landscape scheme in accordance with the approved landscape masterplan 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, including planting sizes and proposed numbers/densities.
- ii) The method of cultivation and planting.
- iii) Means of protection for plants.
- iv) Written specifications for establishment of planting and habitat creation.
- v) Details for stopping up existing gaps in hedgerows with planting.

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 has been submitted to, and approved in writing by, 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 has been completed.

Reason - To protect the character and appearance of the area, and to enhance biodiversity.

- 18) 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 in writing by, by the Local Planning Authority. The landscape maintenance plan shall be implemented as approved.

Reason –To protect the character and appearance of the area, and to enhance biodiversity.

- 19) All works on the site shall be carried out fully in accordance with the mitigation measures set out in the Ecological Impact Assessment by RSK ADAS Ltd, dated 24 January 2023.

Reason: To comply with Policy CS17 of the Shropshire Core Strategy and Policy MD12 of the Shropshire Council Site Allocation and Management of Development Plan.

- 20) No development shall take place until details of bat and bird boxes, including their locations and heights, have been submitted to, and approved in writing by, the Local Planning Authority. A minimum of 4 external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species, and 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 other small birds (32mm hole, standard design) shall be erected on the site prior to the date of the first export of electricity, in accordance with the approved details. The bat and bird boxes shall thereafter be retained and replaced where necessary during the lifetime of the development.

Reason –To provide nesting opportunities for bats and birds.

- 21) 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, in accordance with Policy CS17 of the Shropshire Core Strategy and Policy MD12 of the Shropshire Council Site Allocation and Management of Development Plan.

- 22) No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing by, the Local Planning Authority. The skylark mitigation strategy shall follow the principles set out in the *Skylark Mitigation and Management Plan – Land south of Berrington, Shrewsbury* by RSK ADAS Ltd dated 1 May 2023, and shall include:
- i) Identification of the areas for the implementation of mitigation.
  - ii) Details of how the areas will be managed.
  - iii) Arrangements to secure the delivery of proposed measures, including a timetable of delivery.
  - iv) Monitoring for periods of not less than 5 years.
  - v) The inclusion of a feedback mechanism to the Local Planning Authority before the end of the first 5 years period, allowing for the alteration of working methods and management prescriptions, in accordance with the results of the monitoring process.
  - vi) Identification of persons responsible for implementing the strategy.

Reason – To provide alternative foraging and nesting opportunities for skylarks displaced by the development.

- 23) No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation, has been submitted to, and approved in writing by, the Local Planning Authority. The works shall be carried out in accordance with the approved scheme.

Reason – To safeguard, and to ensure the investigation and recording of, archaeological assets within the site

- 24) No development shall take place until a soakaway test has been carried out in accordance with BRE Digest 365, or such other guidance as has been agreed in writing by the Local Planning Authority. The results of the test shall be reported to the Local Planning Authority, and the approved recommendations shall be implemented in full prior to the date of the first export of electricity from the site.

Reason – To ensure that the site is satisfactorily drained, in accordance with Policy CS18 of the Shropshire Core Strategy.

- 25) No development shall take place until a sustainable drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The 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 implementation.
  - iii) Provide a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme.

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

Reason - To ensure that the site is satisfactorily drained, in accordance with Policy CS18 of the Shropshire Core Strategy.

- 26) 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 ensure that the site continues to be used for agriculture.

- 27) No development shall take place until a soil management plan, which includes 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 safeguard the quality of agricultural land.

## APPEARANCES

### FOR THE APPELLANT:

Mr D Hardy	Partner, CMS
Mr A Heslehurst MPlan MRTPI	Director, RSK ADAS Ltd
Mr D Leaver BSc(Hons) BLD CMLI	Associate Director of Landscape Planning, Stephenson Halliday
Mr H Fearn MSc MCIEEM	Director, Avian Ecology Ltd
Mr J Ward	Associate, CMS

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Collett	Planning Officer, Shropshire Council
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### INTERESTED PERSONS:

Mr J Dryburgh	Flour not Power and local resident
Mrs C Wild	Flour not Power and local resident

## HEARING DOCUMENTS

- CD 18.1 **Mr Hardy's opening statement on behalf of the Appellant.**
- CD 18.2 Lists of revised suggested conditions, agreed by the Appellant and the LPA.
- CD 18.3 Plan of Berrington Pool SSSI (also part of Midlands Meres and Mosses Phase 1 Ramsar (Wetland).
- CD 18.4 Email dated 20 February 2025 from Mr Ward to the Planning Inspectorate concerning Berrington Pool.
- CD 18.5 Regulation 2(4) notice concerning pre-commencement conditions.
- CD 18.6 **The Appellant's response to CD 18.5.**