LAND WEST OF BRADMORE ROAD AND NORTH OF WYSALL ROAD

KNOWN AS: OLD WOOD ENERGY PARK

Planning Application Reference: 24/00161/FUL

Planning Inspectorate Reference: APP/P3040/W/25/3375110

OPENING STATEMENT ON BEHALF OF RUSHCLIFFE BOROUGH COUNCIL

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1. This is the Council's opening statement concerning its position at this inquiry.

2. The Council's position is that it no longer intends to offer evidence as to why planning permission should be refused. The purpose of this statement is to explain why the Council have reached this position.

3. On 19th June 2025, the Council refused planning permission in respect to the development proposal, citing 4 reasons for refusal. Those reasons could be summarised as addressing the following issues:

   i. adverse landscape impact;
   ii. harm to designated heritage assets;
   iii. impact upon Skylarks, a protected species; and
   iv. adverse fire safety impacts.

4. During the course of the appeal, the Council abandoned the fourth issue, concerning adverse fire safety impacts, recognising that it could not provide evidence to substantiate this reason.

5. However, the Council were resolved to resist the appeal on the basis of the collective harm of the remaining issues. In particular, the Council considered that the mitigation the Appellant was offering to address the impact upon

Skylarks was woefully deficient and this amounted to a significant reason as to why permission should be refused.

6. However, the Appellant has essentially moved the goalposts during the course of this appeal. It is worth noting that when the Appellant first submitted their appeal, they offered new additional land that had not been previously considered as being available for Skylark mitigation. That was the first movement of the goalposts. However, the Council did not consider that this resolved the issue.

7. But, two weeks ago, the Appellant completely changed its position by offering new land for Skylark mitigation. We will refer to this as the 'mitigation land'.

8. To the Council's knowledge, this mitigation land had never been mentioned until the last two weeks when the Appellant raised this within their rebuttal to the Council's ecology proof of evidence. It is debatable as to whether this could even be considered to be rebuttal evidence. But, it was certainly a further movement of the goalposts.

9. Through this mitigation land, the Appellant introduced an entirely new solution to the Skylark issue. Essentially, the Skylarks currently using the appeal site will be displaced by the development proposal. Those Skylarks need land to be displaced to. What the Appellant had previously offered in this respect was deficient for a number of reasons that the Council explained in its evidence.

10. However, in the view of the Council's appointed ecology expert, this new mitigation land does adequately mitigate the impact upon Skylarks. The Appellant has offered 28 hectares of new land for this purpose. To help people conceptualise this, a standard international football pitch is typically between 0.6 – 0.8 hectares. So this is in excess of 35 football pitches. This land, provided it is managed correctly, would resolve the impact upon Skylarks.

11. Thus, what the Appellant has offered at the last moment is a seismic shift in its approach.

12. The Council are under an ongoing duty to review its case as the appeal progresses. In light of this mitigation land, the Council had to consider what its position was in respect to the appeal.

13. The Council considered that this would remove its objection to the scheme on the grounds of Skylark. That meant that the residual issues were landscape and heritage. For the avoidance of doubt, the Council have not changed its view that there would be adverse impacts in respect to landscape and heritage as expressed within its evidence.

14. But, the Council's appointed planning consultant does not professionally believe that permission should be refused owing to these issues alone. Put another way, with the issue of Skylarks being resolved, the harms associated with landscape and heritage are not sufficient in themselves to outweigh the considerable benefits associated with a renewable scheme – in light of the Government's emphasis on supporting such schemes.

15. Accordingly, the Council cannot maintain the position that permission should be refused in light of the Skylark issue being resolved.

16. For the avoidance of doubt, this is all contingent upon the Appellant entering into a planning obligation that secures the mitigation land as being for Skylark mitigation. If this mitigation land is not secured for this purpose, then the impact upon Skylarks would be unacceptable and the Council's position would revert to being that this harm, combined with the other identified harms, would justify permission being refused.

17. Given how late in the appeal the prospect of this mitigation land has been raised by the Appellant, the Council have been somewhat scrambling trying to deal with this issue. The Council's appeal team have been working furiously

behind the scenes to resolve its position as well as ensure that this mitigation land is secured.

18. The Council have reached this position as it has been assured by the Appellant's team that an acceptable planning obligation will be forthcoming. As stated, the Council's position is entirely contingent on this being the case.

19. A draft planning obligation has been passed backwards and forwards between the Council and Appellant. I would characterise the situation as being that there are advanced discussions on this, albeit it is not entirely resolved. However, the Appellant has assured the Council that this will be forthcoming.

20. As we understand it, the Appellant's ecologist and the Council's ecologist are in agreement as to what the mitigation land should be used for. We are just resolving the formalities and drafting of the obligation. But, a final draft should be forthcoming imminently, with a view that a signed obligation will be provided by the Appellant after the inquiry closes, as is commonplace.

21. Thus, on the basis that the Appellant will provide this mitigation land prior to the commencement of development and it will be appropriately managed for the lifetime of the development, the Council do not resist the appeal.

22. It is disappointing (to put it lightly), that the Appellant has only offered this mitigation land at the last minute. But in light of this, the Council have resolved to no longer resist the appeal.

23. The Council will contribute to the discussion concerning planning conditions and the planning obligation. But it does not propose calling any witnesses.

24. It is recognised that members of the public may be frustrated by the Council's change in position. The Council share that frustration, given it has had to deal with moving goalposts from the Appellant. But it should be remembered that where a local planning authority continue to resist an appeal, absent proper

evidence for doing so, they are typically penalised by a costs award towards the Appellant – meaning that significant sums of taxpayers money is paid out. It would obviously be undesirable that the Council persist with an objection to a scheme in light of this.

25. Accordingly, in summary, the Council no longer intend to resist the appeal. This in no way prevents members of the public from voicing their own objections to the scheme today. Indeed, this is a public inquiry, wherein members of the public can voice their own position.

Killian Garvey

Kings Chambers

10 March 2026