



Town and Country Planning Act 1990

Rebuttal on behalf of Shropshire Council

**APPEAL ON BEHALF OF ECONERGY INTERNATIONAL LTD  
AGAINST THE REFUSAL OF SHROPSHIRE COUNTY COUNCIL OF  
AN APPLICATION FOR erection of an up to 30 MW Solar PV Array,  
comprising ground mounted solar PV panels, vehicular access,  
internal access tracks, landscaping and associated infrastructure,  
including security fencing, CCTV, client storage containers and  
grid connection infrastructure, including substation buildings and  
off-site cabling.**

**Land To the West Of Berrington, Shrewsbury, Shropshire SY5 6HA.**

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

LPA Ref: 22/04355/FUL and 23/03207/REF

## INTRODUCTION

This rebuttal is in response to matters raised by the appellants in relation to BMV Land and the Planning Balance but is not exhaustive.

## REBUTTAL MATTERS

### Ruth Metcalfe Proof

1.3.2 The Local Planning Authority have previously made its position clear that it does not consider a 40-year occupation of the site for a solar farm to be a temporary use. The development will fundamentally impact the site for a generation or more and this view is reinforced in the appeal decision APP/A1910/W/23/3317818 (CD 7.34).

4.2.5 As stated above the LPA do not accept that occupying this site for 40 years is a temporary use. It will impact the site for more than at least two if not three generations.

4.2.10 Guidance in the NPPG is explicit in stating that 'poorer quality land' should be 'used in preference to higher quality land.' (CD 6.2)

### Anthony Heslehurst Proof

3.4.4 The appellant acknowledges that the entire search area they considered in the site selection process was BMV land. This is clearly contrary to advice in the NPPF and NPPG as well as WMS on the matter which "clearly advises that poorer quality land has been used in preference to higher quality land"

4.1.3 The Council is of the opinion that policies in the emerging Draft Shropshire Local Plan should be afforded 'moderate' weight given the advanced stage in the plan making process which has been reached.

5.2.1 The suggestion by the appellant that Policy CS8 of the Core Strategy is supportive of 'renewable energy development' is misleading. The policy clearly states 'where this has no significant adverse impact on recognised environmental assets'. It is the Council's contention that in the planning balance there are significant adverse impacts on recognised environmental assets arising from these proposals and as such they are considered contrary to Policy CS8.

5.2.3 Policy CS6 promotes sustainable design and development principles. The policy includes the following wording 'Makes the most

effective use of land and safeguards natural resources including high quality agricultural land'. BMV land relates to Grade 1, 2 and 3a land which is defined as the best agricultural land and therefore the development of this land for this project would be contrary to the aims of this policy. Taking BMV land out of agricultural use for a 40-year period will not assist in safeguarding high quality agricultural land or making the most effective use of high quality agricultural land.

5.2.5 The appellant states that their preference is to avoid BMV land entirely yet has chosen to pursue these proposals in an area dominated by such land.

5.2.8 The visual impact and landscape issues will be addressed by Mr Hurlstone in his evidence. However, it is clear that the appellant has sought to downplay these impacts in their evidence which the Council consider to be significantly more adverse than is suggested.

5.2.10 The Council does not accept that proposals are compliant with the requirements of Policy CS17 as suggested by the appellant.

5.2.11 The impact on Skylark habitat and the proposed mitigation strategy will be dealt with in the evidence provided by Diane Corfe. The Council is clear that it does not accept the proposed mitigation is acceptable and as such an obligation should be a Unilateral Undertaking on the part of the applicant and those with an interest in the land. It is also concerned that there are shortcomings in the approach advocated by the appellant to this matter.

5.3.1 The NPPF Para 47 is explicit that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Council considered the proposals conflict with the objectives of Policy MD12 and material considerations when taken together did not outweigh this.

5.4.1 The conclusion presented by the appellant is not shared by the local planning authority who consider there are several conflicts with development plan policies which led it to its decision to refuse planning permission.

5.5.1 As previously stated the LPA consider that given the advanced stage of the emerging local plan it can be afforded 'moderate' weight as a material consideration.

5.5.4 There is a clear and demonstrable conflict with Policy DP26 part 2(k) of the emerging local plan.

5.5.5 The appellant has already admitted that they have only considered BMV land in their site selection assessment which was limited to a 3km corridor either side of a high voltage power line.

6.2.3 The Council does not accept the appellants assertion that the proposals satisfy footnote 62 of the NPPF.

6.2.11 As previously stated the LPA are of the view that the visual impacts have been understated by the appellant in their evidence and that they are more adverse than stated.

6.6.4 The Council view is that impact of these proposals is unacceptable and therefore in its opinion there is conflict with Policy DP26.

7.2.1 Attention is drawn to the recent case Mead Realisations Ltd v SoS and North Somerset Council. This judgement essentially gives the same policy status to the NPPG as the NPPF which is important when considering BMV land. Clearly this judgement elevates the status of the NPPG as a material consideration.