

STATEMENT OF COMMON GROUND

Between Anglo ES Levedale Ltd (the Appellant) and South Staffordshire District Council (the Council).

Refusal of planning application: 23/00145/FUL

“Proposed battery energy storage facility and substation with new access and associated fencing and landscaping”.

Land at South West Side Of Levedale Road, Levedale, Penkridge

Appeal references: APP3430/W/24/3344658

August 2024

Signed: J. Stone	Signed: <i>C.Blair</i>
Name: Mr James Stone	Name: Chantel Blair
On behalf of: Anglo ES Levedale Ltd.	On behalf of: South Staffordshire District Council
Date: 8 th May 2024	Date: 8 th August 2024

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1.0 INTRODUCTION

- 1.1 This Statement of Common Ground has been prepared as the basis of an agreement between DLP Planning Ltd ('the Agent') on behalf of Anglo ES Levedale Ltd ("the Appellant") and South Staffordshire District Council (the "Council") relating to an appeal against the refusal of Full Planning Permission for the:

"Proposed battery energy storage facility and substation with new access and associated fencing and landscaping".

- 1.2 The application was submitted on 20th February 2023, validated on 21st March 2023 and subsequently recommended for approval at planning committee. The application was then refused at planning committee on 21st November 2023 for the following sole reason:

The proposed development, by way of its scale and location in the open countryside would create a discordant feature causing a detrimental effect on the immediate environment and the appearance and intrinsic rural character of the wider area contrary to South Staffordshire Core Strategy Policies OC1 (Development in the Open Countryside Beyond the West Midlands Green Belt) and EQ4 (Protecting and Enhancing the Character and Appearance of the Landscape).

- 1.3 The purpose of this document is to set out the matters of agreement between the LPA and Appellant which need therefore not to be subject to dispute as part of the Appeal.

2.0 THE SITE AND ITS CONTEXT

- 2.1 The Appeal Site occupies a countryside location and comprises an area of approximately 4.19 ha. It is a part of a wider land ownership including the adjacent field network.
- 2.2 The two nearest habitable dwellings are both approximately 250m north of the northern edge of the Appeal Site, located on the north side of Levedale Road. Both may have limited upper floor views to the Appeal Site but no direct views at ground floor level.
- 2.3 The area of the Appeal Site proposed for the development comprises approximately 10,300m² (1.03 ha). It has a central OS grid reference of X: 390096, Y: 315653 and the nearest post code is ST18 9AH.
- 2.4 The operational area of the Appeal Site is approximately triangular in shape and is accessed by a track proposed to be constructed to Levedale Road. The nearest part of the Appeal Site to Levedale Road is approximately 250m.
- 2.5 The Appeal Site is situated approximately 0.5 km south of Levedale Village and approximately 4.0 km north-west of Penkrige.
- 2.6 The Appeal Site and surrounding environment is rural in nature, characterised by large open fields currently in agricultural use along with several residential properties sporadically located along Levedale Road.
- 2.7 The Appeal Site is part of a larger agricultural holding, which is currently being used for arable cultivation. The Appeal Site is within a field bounded by mature landscaping comprising hedgerows and trees on two out of its three boundaries.
- 2.8 There is an existing track located along the western boundary of the Appeal Site that runs from Levedale Road into the open countryside. The track is not a right of way and is screened from the Appeal Site and its access by a substantial mature hedgerow. It does not fall in common ownership with the Appeal Site and does not provide access to it and so is not included in the proposal.
- 2.9 The Environment Agency's online mapping records show that the Appeal Site and the wider area are located within Flood Zone 1. This area is defined as having less than 1 in 1000-year probability of fluvial or tidal flooding and are therefore considered to be at a low risk of flooding from these sources.
- 2.10 A Historic Environment Desk-Based Assessment was submitted in support of the

refused planning application. This identified that there are three Grade II Listed Buildings located within 600 m of the Appeal Site, comprising;

- Field House Farmhouse (List Entry 1039224) situated c. 365 m northwest,
- Levedale Farmhouse (List Entry 1295025) which lies approximately 510 m to the north, and
- Longridge House (List Entry 1294998) which lies c. 500 m to the east.

2.11 It is agreed that the settings of these heritage assets are not impacted by the proposed battery storage facility and that no other built historic assets are affected.

3.0 THE PROPOSED SCHEME

- 3.1 The Appeal Proposal seeks permission to establish a battery energy storage system (BESS) which would provide energy storage capacity to the national grid network with a capacity of 49.9MW.
- 3.2 The Appellant has a secured offer of a grid connection of 49.9MW.
- 3.3 The development will be connected via a Distribution Network Operator (DNO) substation to the existing 132kV powerlines that broadly run in a north-west to south-east axis, approximately 275 m east of the Appeal Site. The connection from the Appeal Site to the point of connection will to be made by an underground cable.
- 3.4 The fixed infrastructure to facilitate the development comprises the following:
- Battery Cabinets;
 - Inverters and Transformers;
 - 1 DNO Substation;
 - 1 Aux Transformer;
 - 1 Control Room/Storage Room;
 - Paladin fencing; and
 - CCTV poles.
- 3.5 The battery cabinets would each have an approximate footprint of 30 m² and would not exceed a height of 3.1 m.
- 3.6 The proposed equipment could emit a low level of noise whilst operating, mainly due to the cooling system that is required to maintain the temperature during both charging and discharge phases. The Environment Health Protection Officer considered that there would be no adverse impact on the amenity of neighbouring properties in term of noise generation provided the development is carried out in accordance with the recommended mitigation measures detailed within the submitted Noise Impact Assessment (V2, 7th February 2023).
- 3.7 The BESS would operate automatically with no permeant human presence. All systems would be monitored remotely, however there is a small control room and a facility for the storage of maintenance equipment. The scheme also includes an integral non-water based fire suppression system.
- 3.8 It is agreed that no additional measures are required to meet concerns about battery safety and fire risk.

- 3.9 Once operational, only irregular maintenance visits would be required. It is agreed that this would result in a limited impact on the existing traffic network.
- 3.10 It is agreed that access to the Appeal Site would be via a track to be constructed at the western boundary of the field that lies between the Appeal Site and Levedale Road. This would serve both for the construction and operation of the development. The track would comprise bound gravel once the development is completed and be used only on occasion by light maintenance vehicles.
- 3.11 It is agreed that the use of permeable surfacing within the operational area of the Appeal Site will limit any impact on the drainage of surface water. It is agreed that the Staffordshire County Council Flood Risk Management Team considered that the submitted Drainage Strategy was acceptable, subject to conditions.

4.0 DOCUMENTS SUBMITTED

- 4.1 The plans and documents to be considered by the Inspector are those recorded on the Officer's Committee Report (paragraph 1.3.6), in addition to the documentation that has been submitted by the Appellant in support of this Appeal.
- 4.2 The updated Landscape Visual Impact Assessment (LVIA) and an updated Biodiversity Net Gain (BNG) Assessment and an updated metric have been prepared by the Appellant pursuant to the sole reason for refusal.
- 4.3 The amendments relate to:
- Further infill of the existing hedgerow of along the southern boundary of the Appeal Site.
 - Provision of an acoustic barrier on the General Arrangement Plan.
- 4.4 Consequential on the above amendments and the assessment of BNG using the National Metric introduced following the submission of the Application it is agreed that the Appeal Site would deliver the following net gain:
- BNG – 13.1%
 - Hedgerow – 36.11%
- 4.5 It is agreed that the provision of the above BNG is a material consideration.
- 4.6 For clarity, the following documents have been submitted in support of the Appeal.
- 05-1095-P02 Land at Levedale Road Penkridge ST19 Landscape and Visual Impact Assessment Appeal
 - 05-1095-301_P17 General Arrangement
 - Updated Biodiversity Metric 4.0
 - 22-466 50MW BESS at Levedale Road - Noise Assessment Report v3 ISSUE
- 4.7 The parties agreed that it is for the appointed Inspector to decide whether the amended documents should be accepted having regard to the Wheatcroft Principle..

5.0 RELEVANT PLANNING POLICY DOCUMENTS

5.1 The adopted Development Plan relevant to the Appeal Site comprises the following documents.

- South Staffordshire Core Strategy (2012)

5.2 It is agreed that other material considerations may include:

- National Planning Policy Framework (2023) (“NPPF”)
- National Planning Practice Guidance (“NPPG”)
- National Policy Statement for Energy (EN-1) (January 2024)
- Supplementary Planning Guidance –
 - (i) Green Belt and Open Countryside SPD (2014)
 - (ii) South Staffordshire Design Guide SPD (2018)
 - (iii) Sustainable Development SPD (2018)
- Climate Change Act (2008)
- Overarching National Policy Statement for Energy EN-1 (November 2023)
- National Policy Statement for Renewable Energy Infrastructure EN-3 (November 2023)
- National Policy Statement for Electricity Networks Infrastructure EN-5 (November 2023)
- Powering Our Net-Zero Future – The Energy White Paper (December 2020)

5.3 The parties agree that the pre-application advice received from the Council also refers to the following:

- 2020 Staffordshire Climate Study

5.4 The parties agree that the 2020 Staffordshire Climate Study is relevant to the Appeal Proposals.

5.5 In relation to landscape impact, the parties agree that the relevant policies are:

- Policy OC1 - Development in the Open Countryside Beyond the West Midlands Green Belt
- Policy EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape
- Policy EQ12 - Landscaping

6.0 AREAS OF AGREEMENT

6.1 The factual background above is agreed between the two parties. In addition, the following matters of common ground are agreed.

- The adoption of a new local plan, as indicated in the Publication Plan (April 2024), is estimated to be February 2026.
- The Appeal Proposals would be a departure from the Development Plan.
- A strong starting presumption should be accorded to the benefits of battery energy storage as part of the wider national strategy for decarbonising the country's energy system and battery storage schemes are confirmed to be a Critical National Priority as set in National Policy Statements for Energy EN-1 & EN-3.
- Staffordshire County Council's Historic Environment Team raise no objections to the Appeal Proposal on heritage grounds.
- Staffordshire County Highways raise no objection to the Appeal Proposals subject to appropriate conditions.
- The Council's Environmental Health Officer raises no objection to the Appeal Proposals subject to appropriate conditions.
- The Council's Ecology Officer raises no objections to the Appeal Proposals subject to appropriate conditions.
- The Lead Local Flood Authority (LLFA) raise no objections to the Appeal Proposals subject to appropriate conditions.
- Should the Appeal be allowed, there would be a requirement for planning conditions. A schedule of proposed conditions, with comments from both main parties, will follow as a separate document.

7.0 AREAS OF DISAGREEMENT

7.1 The following matters are disputed by the respective parties.

- Disagreement regarding Policy OC1 (Development in the Open Countryside Beyond the West Midlands Green Belt) is out of date
- Disagreement over the level of harm caused to the local landscape character of the site and its surroundings.
- Whether as a consequence, the development would be in conflict with Policy EQ4 of the Development Plan.
- The weight to be afforded to the benefits and harms associated with the development.
- The amendments proposed are not capable of being considered under the Wheatcroft Principle and would prejudice parties pursuant to this Appeal