Bourne Valley Associates Ltd

PRE-INQUIRY STATEMENT OF CASE

SECTION 78 APPEAL

For STL Energy Ltd

Against the Refusal by Herefordshire Council of a Planning Application (Reference 222728) for the erection of and the construction of an anaerobic digestion (AD) plant with associated facilities, including feedstock storage clamps; tanks; lagoons and wetland filtration system; and connection to the national gas grid, together with the installation of photovoltaic panels on buildings, a grain store and dryer and the construction of a new vehicular access to the A417

At Whitwick Manor, Lower Eggleton, Ledbury, Herefordshire, HR8 2UE

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1. INTRODUCTION

1.1. This Statement of Case has been prepared on behalf of STL Energy (the Appellant). It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of land at Whitwick Manor, Lower Eggleton, Ledbury, Herefordshire (the appeal site).

1.2. The appeal is against the refusal of application 222728 by Herefordshire Council. The application was submitted on 12th August 2022 and validated on 9th September 2022 application was refused under delegated powers on 5th December 2025. The appeal is submitted by Bourne Valley Associates, acting as agent on behalf of STL Energy Ltd, which owns the appeal site, and which requests that the appeal is determined through a Public Inquiry.

1.3. The development sought by the planning application was:

the erection of and the construction of an anaerobic digestion (AD) plant with associated facilities, including feedstock storage clamps; tanks; lagoons and wetland filtration system; and connection to the national gas grid, together with the installation of photovoltaic panels on buildings, a grain store and dryer and the construction of a new vehicular access to the A417.

1.4. In its decision letter, the local planning authority (LPA) set out four reasons for refusal:

''1. By virtue of it scale, throughput and function, the development falls within the definition of a large treatment facility as described in Policy W5 of the Herefordshire Minerals and Waste Local Plan. Policy W5 establishes a clear spatial strategy for the distribution of waste management facilities within the County of Herefordshire, requiring large scale facilities to be located within the designated strategic employment areas. The application site is neither allocated nor identified as such and instead occupies an undeveloped agricultural field in the open countryside with no functional relationship to an established employment location. The proposal therefore fail to comply with the locational requirements of Policy W5 of the Herefordshire Minerals and Waste Local Plan (2024).

2. The proposed large scale anaerobic digestion facility and associated commercial grain store are not considered to accord with Policies RA6 and E1, which direct larger-scale employment-related development to appropriate strategic employment sites and require rural development to be commensurate in scale with the rural location and setting. The scheme represents a stand-alone industrial-scale facility with only limited connection to the surrounding rural economy and does not constitute a diversification of an existing agricultural enterprise. Accordingly, the proposal is contrary to Policy W5 of the Herefordshire Minerals and Waste Local Plan 2024, Policies RA6, SD2 and E1 of the Herefordshire Local Plan – Core Strategy Policy Y4 of the Yarkhill Neighbourhood Development Plan (2018) and the plan-led approach required by paragraph 15 of the National Planning Policy Framework.

3. The proposed development, by virtue of its scale, massing and industrial form, together with the associated operational activity, would result in a contrasting and visually intrusive complex in an area that is currently characterised by a rural agricultural landscape. The digesters, tanks, grain store and associated infrastructure, together with the engineered wetland areas and extensive soil bunding, would introduce large-scale built features wholly uncharacteristic of the prevailing landscape character.

Furthermore the proposed mitigation measures, including woodland planting and the constructed bund, are not considered to successfully integrate the development into the landscape; the bund in particular would read as an artificial and incongruous form that does not reflect the natural topography or field structure of the locality.

The scale and nature of the proposal represents an inappropriate form of development that would cause demonstrable harm to the character, appearance and perceptual qualities of the landscape, including views from nearby public rights of way and rural lanes. The proposal therefore conflicts with Policies SS6, LD1, RA6 and SD2 of the Herefordshire Local Plan Core Strategy, Policies Y11 and Y12 of the Yarkhill Neighbourhood Development Plan and Section 15 of the National Planning Policy Framework which together require development to conserve and enhance landscape character, integrate sensitively with its surroundings, maintain local distinctiveness and be of a scale appropriate to its rural setting.

4. The Local Planning Authority is unable to conclude, beyond reasonable scientific doubt, that the proposed development would not result in an adverse effect on the integrity of the River Wye Special Area of Conservation (SAC), either alone or in combination with other plans and projects, as required by the Conservation of Habitats and Species Regulations 2017. The Council's Appropriate Assessment (dated 24 September 2025) identifies that there remains uncertainties and lack of completeness on the aerial in combination effect test which prevent a legally robust conclusion that impacts relating to water quality, aerial emissions (including ammonia), and the deposition of nitrogen and acidifying pollutants would be avoided or fully mitigated.

In the absence of certainty that no adverse effect on the integrity of the River Wye SAC can be secured, the proposal conflicts with Policies SS6, LD2 and SD4 of the Herefordshire Local Plan – Core Strategy, which require the protection of international ecological designations and the prevention of development that would undermine water quality objectives. The proposal also fails to comply with paragraph 185 and Section 15 of the National Planning Policy Framework, which require that significant harm to biodiversity is avoided, mitigated or, as a last resort, compensated for, and that planning permission must be refused where such harm cannot be ruled out."

1.5. In view of the above, this Statement of Case seeks to address the main issues that the Appellant anticipates is in dispute between the principal parties, and related to the reasons for refusal.

1.6. However, the Appellant reserves the right to add to and/or amend their case upon studying the response from the LPA. The Appellant is seeking to engage with the LPA and other interested parties to narrow down the issues to be addressed at appeal through a mutually agreed Statement of Common Ground (SoCG).

2. APPEAL PROCEDURE AND PRESENTATION OF EVIDENCE

2.1. The Appellant considers that a Public Inquiry would be the most appropriate appeal procedure in this case.

2.2. It is hoped that the issues in dispute can be narrowed down through Statements of Common Ground (SoCG). However, there are complex issues that will, no doubt, remain in dispute.

2.3. These issues can only be properly tested through formal questioning of expert witnesses, particularly in matters of scientific certainty relating to the impacts on the Rive Wye SAC, by an advocate, which would not be permissible under the Informal Hearing procedure. It is also anticipated that there may be a need to make legal submissions, which are again best dealt with through the Inquiry procedure.

2.4. This is a significant scheme, of strategic importance in planning, waste management and energy terms. The parties are some way apart on issues of impact on the environment, accordance with relevant planning policies and on the planning balance between these and the benefits to be derived from the scheme. There is likely to be considerable public interest in the scheme, with potential third parties wishing to give evidence.

2.5. It is necessary for other material considerations, including those relating to the need for the development, to be properly examined, tested and understood through the examination of oral evidence.

2.6. It is likely that this appeal will take about six days to be heard (which exceeds normal practice for an Informal Hearing). The length of time required may well depend upon what can be agreed with the LPA in the SoCG. As there is considerable public interest in the appeal, there may be additional requests by third parties, including parish councils, to present evidence, which could alter the length of the inquiry.

2.7. At this stage, it is anticipated that evidence will need to be presented to cover the following topics:

- Description of the anaerobic digestion process and of the products, and how energy would be generated and utilised;
- Planning, including the benefits of the proposal;
- Landscape and visual impact;
- Environmental Impact Assessment procedures followed; and the in-combination assessment and air quality assessment we have undertaken, though - as is set out below – we contend that such assessments should not have been necessary;
- Ecological impacts, including the potential impact on internationally designated sites, and the Habitat Regulations Assessment

2.8. Evidence on behalf of the appellant will be given by experienced professionals in the above topics, who are familiar with the area, and who have been closely involved with the planning application. Details of the witnesses will be provided at the Pre-Inquiry Conference.

2.9. The Appellant reserves the right to introduce additional witnesses as necessary to address any other issues that may be raised by the Local Planning Authority and/or any other parties.

3. SITE LOCATION AND DESCRIPTION

3.1. The appeal site is in a rural area some 10km to the North-East of Hereford. It lies adjacent and to the South-West of the A417, positioned between Newtown Crossroads, located approximately 1.4 kilometres (km) to the south-east, and Burley Gate roundabout, about 1.8 km to the north-west. Access to the site is gained directly from the A417 via an existing agricultural entrance, which is framed by a narrow strip of woodland. The area is characterised by its arable farming and scattered development within a rolling landscape with considerable woodland. Both the wooded character and the undulating landform are important factors in considering the significance of the impact of the development upon the landscape, and its ability to absorb the level of development and to accommodate change.

3.2. A detailed description of the area's landscape is provided in the Landscape and Visual Impact Assessment (LVIA). It should be noted that the LVIA has been modified as the scheme has evolved. The document before the Inquiry takes account of the updated Herefordshire County Landscape Character Assessment Herefordshire Council, Final report[1]. Its publication post-dated the application submission, made in September 2022, and which included an LVIA based on the previous Landscape Character Assessment, published in 2003.

4. DEVELOPMENT PROPOSALS

4.1. This section summarises the proposals, based upon the description given in the Non-Technical Summary dated 22nd May 2026, and which is the description relevant to the consideration of the appeal.

4.2. As way of introduction to the proposals, it should be noted that pre-application advice was sought, prior to submission, and account taken of the advice received on the preliminary proposals. After that process and a round of public consultation, the proposals were modified before submission of the planning application. Prior to submission, opinion was sought and given via a screening and scoping request in respect of whether Environmental Impact Assessment (EIA) would be necessary (screening) and, subsequently, on the range of topics to be addressed within the EIA (scoping). It is agreed by both parties that proper procedure under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been followed during the submission and determination of the application. All changes in the description of the development, no matter how incremental, have been duly notified to the LPA.

4.3. Some further information is provided with this appeal submission. This includes a noise assessment of scrubbers that were included in the last set of submission documents to achieve

[1] Prepared by LUC, April 2023

greater Ammonia removal. The scrubbers were introduced internally within the manure storage building and thus would not impact on the appearance of proposals. As there could be a potential impact on noise emissions from the scrubbers, a further noise assessment has been undertaken.

4.4. The introduction of the scrubbers has meant a minor internal reorganisation of the manure storage building, and also a minor charge externally, to allow for access for maintenance of the equipment. The local planning authority has been advised of these changes prior to the submission of the appeal, and all site plans have been amended to reflect the limited change.

4.5. The present details of the development are as follows:

Construction Phase

4.6. The construction phase will be short term and temporary, lasting for up to 18 months and will include site preparation works and construction of all the structures and services required to support the operation, as shown on the layout plan.

4.7. Up to 5,368 Heavy Goods Vehicle movements will be generated during the course of the construction works, which when averaged, works out at 14.71 movements per day. In addition, 20 car movements and 4 van movements per day are anticipated, associated with construction staff and contractors.

4.8. The following provides a breakdown of employment generation associated with the construction phase:

- Ground works and site preparation - 10 people;
- Grain store construction works - 5 people; and,
- AD Plant construction works - 15 people

Operational Phase

4.9. The following sections provides a description of the proposed operations.

Anaerobic Digestion Process

4.10. Anaerobic Digestion is a biological process, which breaks down organic matter within agricultural feedstocks/products in the absence of oxygen, through the actions of a variety of microorganisms. This produces usable products, including biogas, which can be upgraded and exported to the grid and digestate, which after treatment can be used as a more sustainable substitute for traditional fertilisers. The process design has been specifically engineered to ensure all outputs from the process are either captured and re-used. Specifically, the following feedstocks will be used as inputs to the process:

- 100,000 tonnes/annum of poultry manure from local farming operations;
- 35,000 tonnes/annum digestate from Hampton Bishop in Herefordshire;
- 25,000 tonnes/annum of liquid feedstocks from agricultural and drinks industry processes; and,

- 16,000 tonnes/annum of apple pomace.

Feedstocks and Reception

4.11. All feedstocks will be received over a weighbridge. The poultry manure will be stored within an enclosed building maintained under negative pressure to minimise air emissions and eliminate leachate from rain. Exhaust air from the building will be directed through a scrubber system with additional carbon filters for abatement of ammonia and odour, with residual, abated air to be used for cooling of the Combined Heat and Power Units. Solid feedstocks other than poultry manure will be stored within a designated storage clamp. The storage clamp will have the capacity to store approximately 2 months' worth of material when running at full capacity. Any liquid residues and/or recirculation water from the end of the process will be stored in one of the large tanks ready for feeding hourly into the pre-treatment process.

Feeders

4.12. There will be 4 external walking floor feeders. These will be filled twice a day, morning and evening, introducing apple pomace material to the process.

4.13. There will be 2 internal walking floor feeders located within the manure storage building. These will be filled twice a day, morning and evening, introducing poultry manure material to the process. Locating them in the building allows for the containment of aerial emissions that can be abated through the scrubbers.

Pre-Treatment

4.14. There will be three hydrolysis/pasteurisation tanks, to allow for the feedstocks to be pre-processed by hydrolysis, pasteurisation and de-ammonification. A significant proportion of ammonia will be removed before the digestion process to prevent the Nitrogen from inhibiting the digestion process and to extract Nitrogen into a concentrated Ammonium Sulphate solution which can be sold as a fertiliser. An Ammonium Sulphate storage tank will be included.

Anaerobic Digestion

4.15. The pre-treated material will be pumped into 4 primary digesters and then into two secondary digesters, which will be used to digest the material, evolving biogas. The resultant biogas will be around 55% methane and 45% carbon dioxide and will be piped via desulphurisation units for use in the Combined Heat and Power units and biomethane plant. A digestate product will also be produced, which will be subject to subsequent processes for separation and nutrient recovery.

Nutrient Recovery

4.16. The digestate overflow from the tanks will be treated to extract nutrients in a multi-stage process where the majority of the remaining Nitrogen, Phosphates and Potassium are removed. These processes collect the nutrients in a concentrated form including Ammonium Sulphate and Calcium Phosphate, which can be easily transported and then applied as available fertilisers where and when required. (Note that the appellant has stated repeatedly that there is no good reason for these products to be applied in the catchments of Lugg/Wye, unless an agronomic need is proven, thereby avoiding the import of artificial fertiliser into the region. Where such a

need arises, the fertiliser will be targeted and would be taken up by plants and would not readily be leached into watercourses.)

Digestate Separation

4.17. The low nutrient digestate will then be separated with screw presses and/or decanter centrifuges into a solid soil improver and a liquid stream. The liquid stream will still be around 1% solids at that point, so will require further processing through a reverse osmosis membrane/ion exchange plant to create a liquid stream suitable for re-circulation or final cleaning using a natural filtration process in a reed bed before discharge.

Reed Bed and Buffer Lagoons

4.18. A digestate storage lagoon has been provided for to allow for maintenance and process control. A reed bed system will be included which further cleans the water. The final stage of cleaning the water involves passing the water though a clay media, which absorbs any remaining phosphate. A second lagoon has also been provided to capture the clean process water and rain from the site which can be used in the anaerobic digestion process or discharged to the local ditch network.

Biomethane Plant

4.19. Carbon dioxide and methane within the biogas will be separated and methane then subject to cleaning and upgrading prior to being exported to the gas grid.

Dry Ice Production

4.20. The carbon dioxide gas stream will be converted to dry ice which can be used as a sustainable alternative in the food and drinks manufacturing industry.

Combined Heat and Power (CHP) Units

4.21. Some of the biogas is to be used directly in two combined heat and power units which will be provided to supply power to the plant as well as the farm and grain store. In addition to the green electricity generated, the units will generate heat which will be used to heat the digestion tanks, pre-treatment and nutrient recovery processes and also to dry grain within the grain store.

Backup Boilers

4.22. Two backup boilers which can run on biogas will be provided when a combined heat and power unit is taken off-line for servicing to allow the plant to maintain its operating temperature.

Flare

4.23. A dual stream flare is to be installed to allow either excess biogas or reject biomethane to be burned at a high temperature so as to prevent any methane emissions. In practice, it is anticipated that this will be used rarely, such as during maintenance of equipment or for a few

minutes when the biomethane is adjusted prior to injection into the grid. Moreover, the flare will be enclosed and, when in use, will emit a glow and not appear as a flame.

Grain Store

4.24. A grain store will be constructed, which will be used to store and dry grain from local farming operations in a sustainable manner, using heat from the combined heat and power units to dry the grain.

Solar Panels

4.25. Where possible, solar panels have been installed on building roofs to generate additional renewable ("green") electricity which will be used on site to run the AD plant, farm and grain store. Any excess electricity will be exported to the grid.

Vehicle Movements

4.26. Full details of annual vehicle movements were provided with the application and were included in the transport statement. Movements were classified by vehicle type and by their purpose, to ensure transparency[2].

Employment

4.27. The proposals will generate four full time jobs.

"Soft" process measures and landscape mitigation

4.28. All components of the scheme have been integrated into the site in a landscape-led manner. In addition to the harder, built development proposals, there are "softer" measures that are integral to the AD process and which have been designed to be readily assimilated into the landscape. These are shown most visibly on the Indicative Landscape Masterplan. These measures include a storm water lagoon, which receives rain water from the hard parts of the site during rain events and allows it to be introduced into the AD system, thereby minimizing water requirements. There will also be five areas of reedbeds in the north-east part of the site.

4.29. The above measures are essential components of the development / process albeit they also provide associated landscape and ecological benefits.

4.30. The landscape masterplan sets out full details of landscape mitigation. It should be noted that the final version of the plan has been modified, since initial submission, to take account of:

- The comments of the LPA landscape officer;
- Changes in landscape impact brought about by the requirements for the junction with A417 required by the highway authority;
- Comments from third parties. Principal among those comments were those of CPRE Herefordshire. These changes included the consideration of the visual impacts experienced at a further viewpoint, not considered necessary by the LPA, but recognised as relevant by the

[2] These numbers have not been questioned by the highway authority, which was content with the detail provided.

appellants. Mitigation of these impacts includes the introduction of a bund, constructed of material derived from the site and which would be moulded into the existing landscape and planted so that both it and the development itself would have a negligible visual impact upon maturity.

4.31. The landscape and mitigation measures would amount to 17.68 ha.

5. PLANNING HISTORY

5.1. The planning history that is of most relevance to this appeal has been identified in the Statement of Common Ground.

6. APPLICATION PLANS AND DOCUMENTS

6.1. The application plans and supporting documents that comprised the planning application at the time that it was determined (and as listed on the Decision Notice) are set out in full in the accompanying "List of Submitted Documents" version 1 dated 21st May 2026.

6.2. Copies of these documents have been provided to the Inspectorate with the Appeal.

6.3. Documents addressing specific points have been submitted with the appeal which were not considered by the Council at the time of making its decision, including:

- An updated noise assessment, to take account of the introduction of scrubbers in the manure storage building, as described earlier;
- An updated Emissions Modelling Assessment, to take account of the poultry manure feeders being located within the poultry manure storage building. Also further testing by Exeon to demonstrate the scrubber system efficiency.
- A review of "downstream effects" of the development to illustrate that full consideration has been taken of the wider and indirect impacts of the development, in accordance with the *Caffyn* judgement;
- A sustainability credentials statement to consider the full spectrum of environmental advantages of the scheme.
- Environmental Statement Non-Technical Summary
- Updated site and storage building plans
- Letters of interest for Grain Storage

7. PLANNING POLICY

7.0.1. The planning policies and guidance that are of most relevance to this appeal are set out in the draft Statement of Common Ground. It is anticipated that the relevant planning policies will be agreed with the LPA prior to the start of the Public Inquiry.

7.1. Development Plan (Adopted and Emerging) and Supplementary Planning Guidance

Herefordshire Core Strategy

Policy SS1 – Presumption in favour of sustainable development

Policy SS4 - Movement and transportation

Policy SS6 - Environmental quality and local distinctiveness

Policy SS7- Addressing climate change

Policy RA6 – Rural Economy

Policy MT1 – Traffic management, highway safety and promoting active travel

Policy LD1 – Landscape and townscape

Policy LD2 – Biodiversity and geodiversity

Policy LD3 – Green infrastructure

Policy LD4 – Historic environment and heritage assets

Policy SD1 – Sustainable design and energy efficiency

Policy SD2 – Renewable and low carbon energy generation

Policy SD3 – Sustainable water management and water resources

Policy SD4 – Wastewater treatment and river water quality

Herefordshire Minerals and Waste Local Plan

Policy W1 – Waste Strategy

Policy W2 - Solid waste management requirements

Policy W3 - Agricultural Waste

Policy W5 - Preferred locations for solid waste treatment facilities

Policy W7 - Waste management operations

Yarkhill Neighbourhood Plan

Policy Y4 Protecting Existing Areas of Employment and Encouraging Investment in Business Opportunities

Policy Y5 Supporting Rural Diversification

Policy Y9 Reducing Flood Risk and Supporting Sustainability

Policy Y11 Protecting Landscape Character

Policy Y12 Large Agricultural Buildings

Policy Y13 Local Energy Schemes

7.2. National Policy and Other Guidance

National Planning Policy Framework (NPPF) is part of the development plan. Material sections include:

Chapter 2 Achieving sustainable development

Chapter 4 Decision-making

Chapter 6 Building a strong, competitive economy

Chapter 8 Promoting healthy and safe communities

Chapter 9 Promoting sustainable transport

Chapter 11 Making effective use of land

Chapter 12 Achieving well-designed and beautiful places

Chapter 14 Meeting the challenge of climate change, flooding and coastal change

Chapter 15 Conserving and enhancing the natural environment

Chapter 16 Conserving and enhancing the historic environment

Other guidance

National Planning Policy Waste 2014

Planning Practice Guidance

- Environmental Impact Assessment – 13 May 2020
- Renewable and low carbon energy
- Waste – 15 October 2015

7.3. Policies or other documents not referred to by the local planning authority in its decision

7.3.1. Herefordshire Landscape Assessment 2023, as referred to earlier in this statement.

7.3.2. Guidelines for Landscape and Visual Impact Assessment (GLVIA3) – Chartered Landscape Institute, including clarifications, issued August 2024.

7.4. Other material considerations, including any suggested mitigating factors

7.4.1. The relevant UK policy on waste remains "The National Policy for Waste", which was published in 2014. At Section 4, the Policy states: *"Waste planning authorities should…..consider a broad range of locations including industrial sites, looking for opportunities to co-locate waste management facilities together and with complementary activities. Where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customers."*

7.4.2. The above statement recognises that different types of sites should be considered for the location of waste facilities, especially if benefits of dual use can be derived. The appeal proposals includes proposals for the heat produced to be utilised by the grain dryer, in an integrated fashion.

7.4.3. Section 5 sets out criteria for waste planning authorities in determining waste applications, and we contend that the proposals have taken due account of them in design evolution.

8. CLIMATE CHANGE AND CARBON REDUCTION

8.1. It is the appellant's contention that the proposals will make a significant contribution, through the provision of renewable energy, to reducing carbon use and to minimising the effects of climate change. The Appellant will refer to the relevant climate change legislation and policy in evidence of part of its case.

8.2. This will include:

i. Climate Change Act 2008.

ii. Climate Change Act (2050 target amendment) Order 2019.

iii. Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017.

iv. UK Parliament's declaration of an Environmental and Climate Change Emergency in May 2019.

v. Reference to Herefordshire Council's declaration of a climate emergency in March 2019.

vi. Energy White Paper: Powering our Net Zero Future published in December 2020.

vii. UK Government's press release on its Clean Energy and Climate Plan, issued 29th October 2025

viii. 'Net Zero Strategy: Build Back Greener' published by the UK Government in October 2021

8.3. If relevant, reference will be made to any further announcements by the Government between the submission of the Appeal and the opening of the Public Inquiry.

8.4. Reference will also be made to progress made to meeting these carbon reduction targets, including:

i. The latest version of the 'Digest of United Kingdom Energy Statistics', currently the July 2025 version;

ii. Clean Power 2030 Action Plan; and

iii. Performance of Herefordshire Council in becoming net-zero by 2030, which it has committed to do, as set out in its Pathway to Carbon Neutral Carbon Management Plan 2020/21-2025/26.

9. CASE FOR THE APPELLANT

Introduction

9.1. The Appellant will present evidence to demonstrate that the LPA's Reasons for Refusal cannot be sustained, that the scheme accords with the statutory Development Plan and/or the Development Plan does not adequately address the issues generated by the proposals, and is further supported by other material considerations, including national policy.

9.2. However, before addressing the four reasons for refusal, the Appellant sets out an overview of its case for, and the rationale behind, the Proposed Development, which it considers accords with the development plan as a whole taking into account other material considerations, including the very significant benefits it offers. The reasons for refusal sit in that context, and they are addressed in the next sections of this Statement of Case.

9.3. Policy at local and national level seeks sustainable development, which has three strands (economic, social and environmental). In the waste context specifically, the principle of sustainable development is reflected in the waste hierarchy which, in addition to policy, is enshrined in law by the Waste (England and Wales) Regulations 2011. This includes support for energy recovery through the production of renewable energy from waste.

9.4. The Sustainability Document submitted with this appeal sets out clearly the potential production of the different forms of renewable energy from the proposals. Government policy extols the advantages of low carbon energy, such as biomethane, electricity from solar panels, and heat from the anaerobic process, all of which will be generated under this scheme. The war in Iran has emphasised the need for energy security at a national level, already set in train by the implications of the war in Ukraine, and made clear the benefits of UK-generated energy, especially renewable energy.

9.5. These energy generation measures contribute to the drive to mitigate climate change and move to a low carbon/net-zero future (which is also enshrined in legislation and policy). The Proposed Development would represent sustainable development and, as advised earlier, a document setting out the sustainability credentials of the development has been submitted in support of this appeal.

9.6. The UK Government has expressed its desire to enhance food security, especially in the light of global political instability and its impact on markets, and the effects of climate change. The need for storage of UK-produced foods, including grain, is becoming more apparent. In particular, storage in ambient temperatures against the ravages of flood and drought, is increasingly necessary. Individual farm enterprises recognise this need, but cannot necessarily provide the capital outlay for their own stores, so that financial contributions to a cooperative store are more affordable. These international and local drivers for a large grain store are very real and we will submit evidence to demonstrate demand for 16,000 tonnes proposed capacity at the appeal site.

9.7. Food security is also dependent on adequate provision of fertilisers to encourage heathy, productive growth of crops. The advantages of UK-derived fertilisers have been made evident during the current closure of the Straits of Hormuz to traffic, and the inability of ships carrying urea from Gulf states to reach a global market. The high quality fertiliser from the AD plant will

be cost-effectively transported to farm businesses elsewhere in the UK where soils are nutrient-poor, and will contribute to the UK becoming less dependent on the vicissitudes of global economics and strife. The full details are set out in the "Downstream Effects" document submitted with this appeal.

9.8. In respect of the specific issues arising from the reasons for refusal, the following text summarises the appellant's position.

Issue 1 – Accordance with Minerals and Waste Local Plan and Herefordshire Core Strategy

9.9. While it is accepted by both main parties that the anaerobic digestor part of the proposal is a large waste operation, the appellant considers that Policy W5 does not properly address the locational requirements of such integrated facilities. Moreover, the wording of Policy W5:

"Sustainable waste treatment will be delivered through a combination of small and large-scale facilities ***focussed*** *(at sites specified)"*

9.10. It is evident, from the inclusion of the word "focussed" in the policy, that the list of sites should not be exclusionary, and that other sites could be promoted for management of "solid" waste, such as manure, provided they accord with other relevant planning policies. Therefore, refusing the application on principle against this policy does not reflect good planning practice or Government policy. As the policy allows for possible development of waste facilities at other sites, the development proposals align with Policy W5, and do not conflict with it.

9.11. In any event W5 only takes account of waste management development and does not anticipate proposals for integrated facilities such as this. Which also includes energy generation, fertiliser production and a grain store.

9.12. Moreover, the appellant does not consider that the strategic employment sites allocated in the Herefordshire Core Strategy would be practicable in terms of availability, size or impact on the environment or on amenity. Moreover, the use of employment sites for large waste proposals such as this would jeopardise the provision of employment facilities and restrict job generation.

9.13. Moreover, although the Minerals and Waste Local Plan allocates sites, not all of them are served by a trunk road and have a custom-made junction with such a road, as is the case with this proposal.

Issue 2 – Relationship with the local agricultural economy

9.14. The LPA does not appear to properly understand or recognise the interdependence between the proposals and local agricultural economy. The need for drying and storing grain in good condition for some months is essential, given the impact of climate change on weather patterns, the impact of wars on the global market, and the advantages of scale. The appellant is a major arable farmer, with farm enterprises throughout Herefordshire. He intends to dry and store all the grain from the different farms at this one site. In addition, he has received written requests, submitted with this appeal, from local businesses to store their grain at Whitwick. Bringing their grain to Whitwick would be more economic and sustainable than transporting grain out of the

area. The LPA has not appreciated the importance of national food security and the contribution that good quality grain makes.

9.15. Moreover, agricultural enterprises cannot be "stand-alone" in nature. Not only are there cooperatives and collaborations between farmers, as stated above, there are also advantages to be drawn between integration of different activities within a farm unit, and across enterprises operated by one company. It is prudent for farmers to consider other income streams, and frequently these include energy generation. In 2023/2024, generation of some form of renewable energy was present in 32% of all farm businesses[3]. That proportion continues to increase. A figure of 40% of farms generated renewable energy at March 2025[4]. Solar power is the most common generation type, and solar farms are readily visible in Herefordshire. However, other forms of renewable energy are encouraged by the Government. The use of heat from the AD plant and electricity from solar panels to operate the grain store at an efficient rate is surely an example of integrated sustainable development.

9.16. Poultry production is a major contributor to the county's economy. Safe, cost-effective and environmentally prudent management of poultry manure is essential to maintaining a thriving local economy, which is significant at the national level. The proposal would provide a readily available means of managing manure levels, to the advantage of both farmers and the environment.

9.17. Therefore, despite its large scale, it is appropriate to locate the development proposals in a readily-accessible location in the countryside, convenient to local agricultural producers.

9.18. Reason for Refusal 2 states that the development is contrary to Policy RA6 of the Herefordshire Core Strategy. That policy states:

"Employment generating proposals which help diversify the rural economy….will be supported". It then makes clear that a wide range of economic activities will be supported. The policy is subject to a series of environmental criteria. These are, in turn, that development should:

- *ensure that the development is of a scale which would be commensurate with its location and setting;* We argue that the development would be commensurate, and further support for that argument is provided in landscape evidence.

- *do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell;* There are few nearby residents, and there have been no objections from consultees responsible for controlling or regulating such factors.

- *do not generate traffic movements that cannot safely be accommodated within the local road network;* The highway authority supports the proposals, subject to the construction of a revised access onto the A417 trunk road, in accordance with submitted plans.

- *do not undermine the achievement of water quality targets in accordance with Policies SD3 and SD4.* Policy SD3 is associated with sustainable water management. The development

[3] HM Government Official Statistics Energy use on farms in England 2023/24
[4] Solar Energy UK Farming Sustainably Report March 2025

proposals will not impact on flood risk, will separate surface water and foul water; will not draw upon mains water supplies, or jeopardise water supplies or resources; and will reduce the risk of water pollution. Policy SD4 relates to impacts on river water quality. The fact that an environmental permit has been issued by the Environment Agency for emissions from the plant suggests that it, as the appropriate, responsible, body is content that water resources will not be negatively impacted. Therefore, the development accords with Policy SD4.

9.19. Thus, as all the criteria are met, the development aligns with Policy RA6.

9.20. In addition, it should be noted that Policy Y4 of the Yarkhill Neighbourhood Plan, referred to in Reason for Refusal 2, does not exclude new employment development from sites other than those set out in the policy. The final sentence states: *"All new employment development in these and other areas…",* which certainly suggests that development elsewhere might be possible.

9.21. In addition, the proposal accords with Rural Area Objective 2 of the Neighbourhood Plan, which seeks:

"To support renewable energy schemes that minimise any adverse impacts on the landscape and ecosystems." While the objective makes particular reference to small-scale hydro schemes, that support is not exclusionary, and we argue that the impact on the landscape and on ecosystems is not significant in the long term.

Issue 3 – Size of development and its effect on landscape character and on visual amenity

9.22. The scale of the development is dictated by a combination of demand and operational requirements, and the proposals have been both located carefully within the landscape and also prudently designed to minimise their perceived size and scale. Much of the land within the development is taken up by mitigation measures, such as reedbeds, that would enhance the visual interest of the area as well as increasing biodiversity.

9.23. The landscape management plan has evolved from close cooperation between process designers, ecologists and landscape architects to ensure limited and acceptable impact upon construction, and leading to minor positive landscape benefits upon maturity of proposed planting. The final design has taken full account of impact on views from public rights of way and private properties and includes consideration of a landscape bund that would become integrated with the undulating and wooded form of the landscape.

Issue 4 - Effect on the integrity of the River Wye Special Area of Conservation (SAC)

9.24. Our primary position is that Reason for Refusal 4 should be deleted and the issue not considered at the Inquiry. Reason 4 is at odds with Natural England's Standing Advice on Air Quality. The Standing Advice was issued on 16th October 2025, and so after our last submission, but substantially before the application was refused. The Standing Advice states the following:

"This is Natural England's 'standing advice' on the impacts of air pollution on protected sites. It is general advice that Natural England, as a statutory consultee, gives to local planning authorities. It

avoids the need for you to consult Natural England on every application. In England, this advice is a 'material consideration' when making decisions on planning applications. This means you must take this advice into account."

9.25. Review of the Standing Advice, specifically Step 1 of the Standing Advice, confirms that the site is located beyond the relevant screening distance from the River Wye SAC, such that no likely significant effect can be concluded with no requirement for further Air Quality Assessment, in accordance with the Standing Advice. Based on the criteria within Tables 1 and 2 of the Standing Advice, Air Quality Assessment should only have been required for European Sites and SSSIs within 5km of the site. The River Wye SAC is located approximately 7.1km away from the proposed site and there are no SSSIs within 5km of the proposed site.

9.26. The council consulted with Natural England (NE) in relation to the shadow HRA and their own HRA. In response, Natural England advised Herefordshire Council that they should consult the Standing Advice. However, there is no evidence that Herefordshire Council did so, though the NE response was copied into the Officer's Report. The Officer's Report does not consider the implications of that Advice for the determination of the application, which would have been expected, since the reason for refusal is at odds with the Standing Advice. It is unclear whether Herefordshire Council consulted the Standing Advice. However, it is clear that the Standing Advice has not been followed in this instance. For clarity, we set out the relevant extracts from the Natural England Consultation response dated 19th October 2025 below:

"In our letter dated 16th October 2025 we informed local authorities and the Planning Inspectorate (PINS) that Natural England is changing how it responds to consultations that might affect air quality. This advice will be based on our best scientific understanding of how to assess development impacts on air quality. Natural England has previously provided bespoke air quality advice on the above consultation (222728 Proposed anaerobic digestion plant). We have reviewed this case and after careful consideration have concluded that the air quality related aspects arising from this ongoing case can be addressed using our new standardised advice. Therefore, we advise you to refer to our new air quality standing advice and will no longer be providing any further bespoke advice on this ongoing case.

Our Standing Advice 'Air pollution and development: advice for local authorities. How to assess sector-specific planning applications that could affect air quality on a protected site' is intended to provide advice for consultations with the potential for air pollution impacts in the following development sectors: agriculture; industry; and transport. This standing advice is Natural England's formal statutory advice and is a material consideration. It provides decision makers with the information needed to fulfil their statutory duties when making decisions on planning applications with potential air pollution impacts."

9.27. We believe that, had the LPA fully interpreted the Standing Advice, it would have concluded no likely significant effect on the River Wye SAC would be caused by aerial emissions and also that no further air quality assessment should be required for SSSIs or European Sites.

9.28. The fact that we provided an Air Quality Assessment in relation to the River Wye SAC does not change the material guidance that was in place prior to the decision being made, and which the council was advised to consult. It is disappointing that this reason to refuse seems to fly in the

face of the Standing Advice, and appears to have been based heavily on the comments of Dr Bull (commissioned by CPRE), which were made before the Standing Advice was issued.

9.29. Notwithstanding our firm belief that the Standing Advice should apply, we nonetheless contend that, if one were to consider the results of the aerial in-combination assessment as well as the Shadow HRA, one could be content that the relevant screening distances set out in the Standing Advice are robust, and that there would be no negative effect on the integrity of the River Wye SAC.

9.30. Therefore, we do not agree with the LPA, which considers that the appellants have not demonstrated that there would be no negative effect on the SAC. We will demonstrate that we have provided all appropriate information necessary, undertaken in a robust manner, to reach a safe decision in that respect.

9.31. It should be noted that the Environment Agency, which is the competent body for addressing emissions, has granted an Environmental Permit for the operation of the development, subject to conditions with which the appellant is content to accord. Therefore, the appellants do not agree with the Local Planning Authority's statement that it is legally prohibited from granting planning permission. Moreover, Natural England, which has been consulted regularly throughout the determination process, has not objected to the development and is now content with the procedures followed by the shadow Habitats Regulations Assessment undertaken for the appellant.

9.32. The appellant will provide an additional document to show that full account has been taken of the "downstream impacts" of the development, in line with the judgement under *Caffyn*. This document sets out information on the products of the AD plant and their subsequent use.

9.33. As set out in the Statement of Common Ground, in its Habitats Regulations Assessment (HRA) undertaken in September 2025, the LPA concurs with the appellant in that the development would not have the potential to have an adverse impact upon the integrity of Habitats Sites including the River Wye SAC or other Habitats Sites nationally via this effect pathway in respect of the following topics:

- phosphate rich products produced by the development, as the use of these is controlled and limited through existing regulations;
- surface water management;
- aerial emissions, inasmuch as the methodology of the assessment, if not its scope;
- surface water discharge of phosphates

9.34. These are significant areas of agreement. The only substantive disagreement set out in the authority's HRA is over the scope of the in-combination assessment. We will set out a clear argument that the LPA's concerns are unjustified, and that the appellant's shadow HRA (sHRA) methodology was sound. We therefore consider that the LPA had no fact-based justification for not adopting the submitted sHRA. Indeed, it is notable that Natural England has not objected to the final version of the sHRA.

9.35. The LPA has not applied appropriate weight to the environmental benefits to the environment of the catchments of Rivers Wye and Lugg that would ensure from the reduction of spreading of manure on farmland in those catchments.

9.36. We therefore contend that Reason for Refusal 4 is not valid, and should not be considered at the Inquiry.

Issue 5 – The Planning Balance

9.37. Undertaking a review of the advantages and disadvantages of planning proposals is key to good decision-making. The balancing exercise is the means by which "material considerations", as set out in para 48 of the NPPF, can be set out, in order to allow whether there are justifiable reasons to depart from the development plan. In any event, we contend that the proposals accord with policy.

9.38. Although reference is made, in the officer's report, of the need to undertake a balance of the advantages and disbenefits of the scheme, in reality, the LPA has skewed its balancing exercise towards the latter. The environmental benefits have been mentioned, in summary, above, but the significant benefits associated with energy production from the scheme have not been fully addressed nor appreciated, especially in the light of the nationally and locally declared climate emergency, and the need for energy security.

9.39. The appellant has previously included information setting out such advantages. However, an additional document to update those benefits is now submitted to the Inquiry to ensure a fair balancing exercise is undertaken.

Summary of Case

9.40. For the reasons set out above, we argue that:

- The proposals align with policy at national, local and neighbourhood level;
- The proposals evolved in a landscape-led fashion, and that also significant mitigation measures proposed will ensure that the long-term impacts on landscape and ecology will be beneficial;
- The LPA has not followed due procedure in respect of Natural England's Standing Advice on Air Quality and that, in any event, aerial emissions would not impact negatively on the integrity of the River Wye SAC; and
- Any decision on the proposals should consider the planning balance in an holistic fashion, taking due account of the benefits of the scheme.

9.41. We therefore contend that the appeal should be upheld, subject to appropriate and relevant conditions.

Documentation

9.42. A set of Core Documents will be agreed with the Local Planning Authority in advance of the Public Inquiry. A list to be agreed has been included in the Statement of Common Ground. The main documents are those which were set out in the officer's report. However, in addition to these documents, a full list of submission documents has been prepared as a standalone document. The "List of Submission Documents" includes all submission documents including extant and superseded documents, and the additional documents submitted in support of this appeal.

10. PLANNING CONDITIONS AND OBLIGATIONS

Planning Conditions

10.1. A draft set of Conditions is included in the Statement of Common Ground and will be agreed and provided to the Inspector before the start of the Public Inquiry.

Planning Obligations

10.2. No planning obligations are currently thought to be necessary to implement any planning permission to the mutual satisfaction of both main parties.