



# **Frodsham Solar**

## **Environmental Statement: Volume 2**

### **Appendix 8-2: Consultation and Engagement**

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**May 2025**



PINS Ref: EN010153

Document Ref: EN010153/DR/6.2

**Planning Act 2008; and Infrastructure Planning (Applications:  
Prescribed Forms and Procedure) Regulations Regulation 5(2)(a)**

**Revision P01**

# Document Control

Revision	Date	Prepared By	Reviewed / Approved By
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Table 1- Scoping Responses .....	1
Table 2 - Other Engagement Activities .....	9
Table 3 – PEIR Consultation Response.....	14

**Table 1- Scoping Responses**

Consultee	Comment	Response
PINS Scoping Opinion 10 <sup>th</sup> July 2023	Human disturbance during operation on priority habitats or otherwise of biodiversity importance/value; the Inspectorate agrees that due to the limited number of staff required during operation, human disturbance is unlikely to be sufficiently greater than currently experienced and subsequently, unlikely to result in likely significant effects, therefore this matter can be scoped out.	Human disturbance in relation to effects on ornithological features are scoped out of detailed assessment, which is acknowledged in 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ). It is considered that although the Proposed Development proposals will result in increased public access to some parts of the Site, access would only be permitted to designated routes. Furthermore, bird screening is part of the Indicative Environmental Masterplan ( <b>ES Vol 3 Figure 2-3: (a-e) Illustrative Environmental Masterplan [EN010153/DR/6.3]</b> ) which will allow better public accessible to the Site while avoiding disturbance to birds in key ornithological areas (the NBBMA and along the River Weaver, located to the east of the Site). Significant maintenance campaigns will be periodic throughout the operational phase. These activities will be scheduled to avoid the peak sensitive period (November to February) or will require noise mitigation measures to be employed to avoid significant effects on the bird populations within the NBBMA. Full details of these measures will be provided in the <b>Outline Operational Environmental Management Plan [EN010153/DR/7.6]</b> .
PINS Scoping Opinion 10 <sup>th</sup> July 2023	Impacts to existing common and widespread habitats of low sensitivity and/ or conservation interest during all phases of the Proposed Development; the Inspectorate acknowledges that although there may be common and widespread habitats of low sensitivity/conservation value, we would query whether e.g. Cells 2 and 5 are of low conservation value given that they form managed habitat for Special Protection Area (SPA) species. The ES should clearly assess impacts on habitats supporting important ecological features, where likely significant effects could occur (although recognising the potential for overlapping assessments, for example, the assessment for wintering birds). The Inspectorate therefore does not agree to scope this matter out altogether, noting the query above.	The effects of the Proposed Development on qualifying SPA species are considered in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).  Impacts on ecological features (like habitats), are discussed within <b>ES Vol 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b> . It is clarified that Cells 2 and 5 are managed pasture and of low conservation value, apart from their value to foraging wader species and for which the cells provide mitigation for the operational wind farm. The impacts on foraging wader species using these areas are assessed within Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).
PINS Scoping Opinion 10 <sup>th</sup> July 2023	Lighting effects on biodiversity during all phases of the Proposed Development; the Inspectorate agrees, noting the information provided in the Scoping Report relating to the presence of bats and other species on the site, that lighting is unlikely to result in	The delivery of a sensitive lighting strategy during construction, operation and decommissioning, as detailed under Section 8, is secured will be secured through embedded mitigation set out in the <b>outline Construction Environmental Management Plan [EN010153/DR/7.5]</b> , <b>oOEMP [EN010153/DR/7.6]</b> and <b>oDEMP</b>

Consultee	Comment	Response
	significant effects. However, it is also noted in paragraph 7.5.3 of the Scoping Report that under certain circumstances additional lighting will be required. The ES should be clear how this additional lighting has been assessed. Providing that this additional lighting is not assessed as giving rise to significant effects and embedded mitigation be secured through a lighting strategy or similar document to ensure delivery, the Inspectorate agrees to this matter being scoped out.	<b>[EN010153/DR/7.7]</b> . This is considered appropriate to minimise any potential effects on ornithological features as detailed in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ). With regards to bats and other species within the Site, lighting is further addressed in <b>ES Vol 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b>
PINS Scoping Opinion 10 <sup>th</sup> July 2023	Lighting: paragraph 7.5.3 of the Scoping Report states that under certain circumstances additional lighting will be required. The ES should be clear as to how this additional lighting will be assessed and should clearly describe the full extent and characteristics of any proposed lighting. Furthermore, in relation to human disturbance, the ES should be clear as to whether this lighting has been considered separately or as part of the assessment for human disturbance.	A sensitive lighting strategy during construction and operation, as detailed under Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ), will be secured through embedded mitigation set out in the <b>Outline Construction Environmental Management Plan [EN010153/DR/7.5]</b> , <b>oOEMP [EN010153/DR/7.6]</b> and <b>oDEMP [EN010153/DR/7.7]</b> .  This is considered appropriate to minimise any potential effects on ornithological features as detailed in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).  Lighting is considered separately to other human disturbance, as detailed in Sections 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) and 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).
PINS Scoping Opinion 10 <sup>th</sup> July 2023	Confidential Annexes; public bodies have a responsibility to avoid releasing environmental information that could bring about harm to sensitive or vulnerable ecological features. Specific survey and assessment data relating to the presence and locations of species such as badgers, rare birds and plants that could be subject to disturbance, damage, persecution, or commercial exploitation resulting from publication of the information, should be provided in the ES as a confidential annex. All other assessment information should be included in an ES chapter, as normal, with a placeholder explaining that a confidential annex has been submitted to the Inspectorate and may be made available subject to request.	Information included in <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> is not considered sensitive, and all desk study records are summarised and no specific locations, such as grid references are included (which may for Schedule 1 species, at least, be considered as sensitive by the data source).



Consultee	Comment	Response
PINS Scoping Opinion 10 <sup>th</sup> July 2023	Dust and potential impacts on human and ecological receptors during all phases; the Inspectorate agrees that with the implementation of standard construction management processes, significant effects on air quality during construction operation and decommissioning are unlikely. The Inspectorate however notes that 'a narrow strip of the Mersey Estuary SPA, Ramsar and SSSI falls within the screening distance' and as such the ES should consider the potential for significant effects on this area. Providing that this information is included in the ES, the Inspectorate agrees that this matter can be scoped out.	<p>The potential effects of dust upon the ornithological features of the Mersey Estuary SPA, Ramsar and SSSI are considered in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>). As detailed in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) appropriate mitigation measures to avoid, minimise or reduce any adverse significant effects upon the SPA, Ramsar and SSSI, including pollution (including construction dust) prevention measures, are secured via the oCEMP [EN010153/DR/7.5], oOEMP [EN010153/DR/7.6] and oDEMP [EN010153/DR/7.7].</p> <p>Potential effects of dust on the ecological features of the Mersey Estuary SSSI are addressed in <b>ES Volume 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b>. A construction dust assessment is included as part of the oCEMP [EN010153/DR/7.5].</p>
Canal & River Trust Scoping Opinion 27 <sup>th</sup> July 2023	Any work/cable connection that would cross the corridor (over or under) would need to consider any potential impacts on habitats along the Weaver Navigation e.g. vibration, excavation, habitat loss, or sediment mobilisation. It is important that this green corridor is protected and set severed by the works. The value of the Weaver Navigation as an ecological corridor, and its water quality, should be assessed as a receptor. Its ecological habitat and connectivity, and water quality, along its corridor must be protected during and post construction works, with consideration being given to protecting wildlife from water and light pollution during construction and operation of the development, providing mitigation/enhancement where appropriate. Measures to safeguard the ecological value of the Weaver Navigation should be included in the Outline Construction Environmental Management Plan (oCEMP).	Measures to safeguard ecological values surrounding the Site, which include the Weaver Navigation, during construction and to avoid any indirect impacts, such as Environmental Incident Management and Pollution Prevention Plan (EIMP), noise and a sensitive lighting strategy, as detailed under Section 8, are secured via the oCEMP [EN010153/DR/7.5]. There is an overhead connection which crosses the River Weaver to the SPEN/National Grid Substation. Usage of the River Weaver and surrounding habitat by target species at the locality of the overhead connection was very limited in the breeding and non-breeding seasons (shown in Figure 6a to 86h ( <b>ES Vol 2 Appendix 8-1 [EN010153/DR/6.2]</b> ) for Year 1, Figure 8a to 8g for Year 2, and Figure 14a to 14f for Year 3. In-flight only records are provided in the accompanying Figures 7a to 7h and 10a to 10d for Year 1, Figure 9a to 9g for Year 2 (see <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> ). ), including flight activity. This is because, at this location, there is only permanent water and therefore no features used by most SPA species. Effects on the River Weaver (and any limited birds which use the river) are not anticipated given the localised nature of the works, typical lack of activity of target species, and through the implementation of Environmental Incident Management and Pollution Prevention Plan (EIMP), noise and sensitive lighting strategy, as detailed under Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).

Consultee	Comment	Response
		<p>A sensitive lighting strategy during operation, as detailed under Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>), is secured via the <b>Outline Operational Environmental Management Plan [EN010153/DR/7.6]</b>.</p> <p>No impacts on any ornithological species which may use the Weaver Navigation are anticipated as a result of the Proposed Development, as such, the Weaver Navigation is not assessed as a receptor.</p>
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	The Zone of Influence list is selective and does not appear to be comprehensive. Further justification/explanation of the Zone of influence for the Site should be included in the ES.	The Zone of Influence list has been compiled based on informed by the consultation and scoping process, CIEEM (2018) and relevant industry standard guidance, as applicable and as available, as detailed under Section 8.2 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ), and Section 8.5 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	It is stated that additional detailed surveys covering the connections, and the access road are not proposed given the very limited nature of works and extensive existing data sets. It is not clear why these areas have not been surveyed as the rest of the Site and this should be clarified.	The Site has been surveyed as detailed in <b>ES Vol 2 Appendix 8-1: Ornithology Survey Report [EN010153/DR/6.2]</b> . Survey areas have been adjusted as the design of the Proposed Development, in particular ancillary features such as grid connection and access routes, has evolved over the survey programme. The Access Roads would only require minimal intervention e.g. repair of potholes; no requirement to widen the roads or encroach on areas not currently developed. Works within the SPEN/National Grid Substation would also be minimal ( <b>see ES Vol 1 Chapter 2: The Proposed Development [EN010153/DR/6.1]</b> ). As such, pre-construction surveys (nesting bird checks), Reasonable Avoidance Measures (RAMS), watching brief by an appropriately qualified Ecological Clerk of Works (ECoW) and Environmental Incident Management and Pollution Prevention Plan (EIMP), as detailed under Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ), are secured via the oCEMP [ <b>EN010153/DR/7.5</b> ], would protect any ornithological species (such as nesting birds) that may be present adjacent to the existing roads/tracks.
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	The ES should include relevant information from the windfarm including the Post Construction Ecological Monitoring Report Year Five 2021 (Frodsham Windfarm Ltd) (Oct 2022) (Atmos Consulting). Note: This is more recent than the report referred to in Natural England's letter of 24 March 2023 (DAS/412803) in response to Q4	Relevant information from the windfarm including the Post Construction Ecological Monitoring Report Year Five 2021 (Frodsham Windfarm Ltd) (Oct 2022) (Atmos Consulting Ltd) has been considered in the <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> and in Section 8.6 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).

Consultee	Comment	Response
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	Frodsham Helsby Ince Local Wildlife Site (LWS): The ES should include a LWS Assessment to assess the site against current criteria, to determine its quality in relation to its current qualifying features and to identify any further unlisted LWS features present. A mitigation and compensation plan should be formulated from this information.	<p>An assessment of Frodsham Helsby Ince LWS against current criteria will be included within the ES, with respect to ecological features this is considered in <b>ES Vol 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b>.</p> <p>Quality of ornithological features of the LWS is considered to have been determined from the suite of ornithological surveys (and records gathered from other data sources), and effects on ornithological features (including those of the LWS) are considered in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p> <p>A mitigation and compensation plan will be included as part of ES.</p>
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	The ES should address operational noise impacts associated with the Proposed Development, especially the battery energy storage system (BESS). Under 13.4.7 of the Scoping Report, the LWS should be included as sensitive ecological receptor. Consideration of the noise impacts on bats should also be addressed.	Potential impacts relating to how operation noise may affect ornithological features are addressed under construction and operational phases, see Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	Decommissioning: it is not stated that this is being scoped in or out. The ES should clarify as to whether it will be addressed as per construction.	Potential impacts relating to decommissioning are scoped in and addressed in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	Commitment to long term-management of the land for the duration of the project is stated. Consideration should be given to commitment post the duration of the project, to cover a minimum period post decommissioning.	Details of habitat management and ornithological monitoring post-decommissioning will be included within the ES. Details of monitoring are set out in the oLEMP.
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	The management of thistle growth on Cell 3 of the Frodsham windfarm site has been well documented by the Frodsham Windfarm Habitat Creation and Management Group (HCMG), and measures to control thistle on Cells 2 and 5 ought to be considered in any proposed regime. Less intensive farming practices, may not result in improved habitat conditions without appropriate measures.	The ES includes an Indicative Environmental Masterplan ( <b>ES Vol 3 Figure 2-3: (a-e) Illustrative Environmental Masterplan [EN010153/DR/6.3]</b> ), including details of habitat creation/enhancements within Cells 2 and 5. The <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> , provided with the DCO application, will detail the management and monitoring of thistle growth within Cells 2, 3 and 5. As detailed under Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ), the <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> will be secured via the provisions of the DCO



Consultee	Comment	Response
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	Impacts during construction, operational and decommissioning phases; Clarification is sought as to whether some impacts during construction, operational and decommissioning phases are being scoped out.	Full details of receptors and impacts scoped in/out during the construction, operational and decommissioning phases are included in Table 8-6.
CWaCC Scoping Opinion 28 <sup>th</sup> June 2023	Scoping out of common habitats (such as improved grazing pasture); the impact on Cell 2 and Cell 5 should not be scoped out as these form part of a habitat management plan for the Frodsham windfarm. Whilst the habitat may be identified as having a low value, the species they support are of high value and should not be scoped out.	The effects on habitats within Cells 2 and 5 from the Proposed Development are considered in isolation of their role within the habitat management plan for the wind farm. The protected and/or notable species that habitats within Cells 2 and 5 support are considered separately, as detailed in Table 8-6, with impacts on ornithological features (including those that use Cells 2 and 5) considered in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).  Impacts on habitats are discussed within <b>ES Vol 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b>
CWaCC Scoping Opinion - Natural Environment Officer 28 <sup>th</sup> June 2023	ENV4 is not listed and should be included	Reference to and consideration of ENV4 has been made, as detailed in Section 8.2 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).
Natural England Scoping Opinion 28 <sup>th</sup> June 2023	Plans or projects that Natural England are aware of that might need to be considered for cumulative and in-combination effects include: <ul style="list-style-type: none"> <li>Frodsham Wind Farm.</li> <li>HyNet North West Hydrogen pipeline; and,</li> <li>Protos energy developments.</li> </ul>	<b>ES Vol 1 Chapter 4: Environmental Impact Assessment Methodology [EN010153/DR/6.1]</b> describes the approach adopted to the cumulative and in-combination assessment, which includes the projects listed, with the exception of Frodsham Wind Farm which forms part of the baseline. This chapter provides an assessment of cumulative effects (see Section 8.11), and the HRA considers in-combination effects on the Mersey Estuary SPA and Ramsar site (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b> ).
Natural England Scoping Opinion 28 <sup>th</sup> June 2023	The development site may impact on the following European/internationally designated nature conservation site(s): <ul style="list-style-type: none"> <li>Mersey Estuary SPA; and,</li> <li>Mersey Estuary Ramsar</li> </ul>	Impacts on the ornithological features of these sites are addressed in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) and are considered in the HRA (see <b>ES Volume 2 Appendix 8-3</b> ).
Natural England Scoping Opinion 28 <sup>th</sup> June 2023	The ES should thoroughly assess the potential for the proposal to affect internationally designated sites of nature conservation importance/European sites, including marine sites where	The Zone of Influence for statutory designated sites for nature conservation (excluding geological sites) with cited ornithological interests is 2 km, extending to 10 km for internationally protected sites (comprising Special SPA and Ramsar sites). Candidate/ proposed SPAs have also been considered (where applicable).

Consultee	Comment	Response
	relevant. This includes SPA, Special Areas of Conservation (SAC), listed Ramsar sites, candidate SAC and proposed SPA.	Impacts on the ornithological features of these relevant SPA and Ramsar sites are addressed in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) and are considered in the HRA (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b> ).
Natural England Scoping Opinion 28 <sup>th</sup> June 2023	Due to the proximity of the site to the Mersey Estuary SPA/Ramsar we advise that potential water quality impacts need to be assessed, including potential for increased nutrient and other pollutant inputs.	Impacts (including potential for runoff and pollution) on the Mersey Estuary SPA/Ramsar are considered in Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) and Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ). These impacts are considered in the HRA (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b> ).
Natural England Scoping Opinion 28 <sup>th</sup> June 2023	Due to the proximity of the site to the Mersey Estuary SPA/Ramsar we advise further consideration of the potential for any dust during construction and any appropriate measures to limit dust from the development.	Impacts (including potential for dust pollution) on the Mersey Estuary SPA/Ramsar are considered in Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) and Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ). These impacts are also considered in the HRA (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b> ).
Natural England Scoping Opinion 28 <sup>th</sup> June 2023	Due to the proximity of the site to the Mersey Estuary SPA/Ramsar, and surrounding functionally linked land, we advise that further consideration of the potential for noise and vibration impacts during all phases of the development is required, together with any appropriate mitigation.  We note that a Noise Impact Assessment accompanies the scoping report but that it assesses construction noise impacts to residential receptors and the River Weaver only. All ecological receptors should be assessed, including the Mersey Estuary SPA/Ramsar.	Impacts (including potential for noise and vibration) on the Mersey Estuary SPA/Ramsar are considered in Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) and Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ). These impacts are also considered in the HRA (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b> ).
Natural England Scoping Opinion 28 <sup>th</sup> June 2023	The development site may impact on the following Site of Special Scientific Interest (SSSI): <ul style="list-style-type: none"> <li>Mersey Estuary.</li> </ul> <p>The Environmental Statement should include a full assessment of the direct and indirect effects of the development on the features of special interest within the SSSI and identify</p>	An assessment of direct and indirect effects on the features of special interest within the Mersey Estuary SSSI is detailed in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ). Impacts on ecological features of the SSSI are addressed in <b>ES Vol 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b> .  Appropriate mitigation measures to avoid, minimise or reduce any adverse significant effects upon the SSSI, including Environmental Incident Management and Pollution Prevention Plan (EIMP), as detailed under Section 8.7 ( <b>ES Vol 1</b>

Consultee	Comment	Response
	appropriate mitigation measures to avoid, minimise or reduce any adverse significant effects.	<b>Chapter 8: Ornithology [EN010153/DR/6.1])</b> , would be secured by the provisions of the DCO via the <b>Outline Construction Environmental Management Plan [EN010153/DR/7.5]</b> .
Cheshire Wildlife Trust Scoping Opinion 17 <sup>th</sup> July 2023	The public statement: 'we will not be developing on land designated for wildlife protection' is misleading. The proposal is on an LWS, which is a non-statutory designation for sites of county importance and above. This statement needs rewording or retracting	Impacts upon LWS is included in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1])</b> .
Cheshire Wildlife Trust Scoping Opinion 17 <sup>th</sup> July 2023	There is a need to ensure surveying best practice is followed (beyond just BNG/habitat assessments).	Ornithological surveys undertaken have followed best practice guidance, as detailed within <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> .

**Table 2 - Other Engagement Activities**

Consultee	Comment	Response
Natural England Discretionary Advice Service DAS 24554/412803 24 <sup>th</sup> March 2023	<p>A DAS consultation was sent on 16<sup>th</sup> November 2022 from Avian Ecology (on behalf of the Applicant) regarding non-breeding ornithology. Advice provided by Natural England is based on a review of the request for Discretionary Advice from November 2022, Frodsham Solar Wintering Bird Report by RSK Biocensus dated March 2022 and the Frodsham Wind Farm Post-Construction Ecological Monitoring Report for Year three 2019, dated June 2020.</p> <p>The Proposed Development has potential to impact the Mersey Estuary SPA, Mersey Estuary Ramsar and the Mersey Estuary SSSI. On the basis of the proximity of internationally designated sites to the Proposed Development a HRA will be required. In considering the European site interest, Natural England advises that regard should be given to any potential impacts that a plan/project may have. The Conservation Objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan/project may have.</p> <p>Natural England's main concern is potential impacts on SPA birds, particularly possible displacement of species using the Site for overwintering and passage periods. The HRA will need to address these impacts, and Natural England can provide further advice on a draft HRA in due course.</p> <p>An in-combination assessment needs to assess whether there are any other plans/projects in the vicinity which have the same effect at this Proposed Development. This could include plans from neighbouring Local Planning Authorities. Plans to consider are those incomplete parts projects or those projects already commenced, consented projects not yet started, projects currently subject to an application for consent, projects are being appealed, ongoing projects that are the subject of a regular review, any draft plans being prepared by any public body and</p>	<p>Potential impacts on the Mersey Estuary SPA and Ramsar site are considered in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>), and are also considered in the HRA (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b>).</p> <p>The cumulative assessment considers other relevant schemes, see Section 8.11, and are considered in the HRA as in-combination effects (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b>).</p> <p>Effects on ornithological features of the Mersey SPA, Ramsar site and SSSI are accordingly considered together in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>), given the SPA qualifying species covers those species listed in the SSSI citation.</p> <p>Other data sources including survey results from the operational Frodsham Wind Farm monitoring, for the HyNet North West hydrogen pipeline route are considered in this chapter, in Section 8:6.</p> <p>Information from the VP flight activity surveys is considered supplementary to the data gathered from the two years of non-breeding bird walk-over surveys, and data collected from other sources (as detailed in Section 8:6).</p> <p>The potential for displacement effects of Mersey Estuary SPA qualifying species as a result of the Proposed Development are considered in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>), which provides information on the mitigation proposed to provide alternative better-quality habitat for SPA qualifying species. Impacts on the Mersey Estuary SPA and Ramsar site are considered in the HRA (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b>).</p>

Consultee	Comment	Response
	<p>any proposed projects published for consultation prior to the application.</p> <p>Natural England confirmed satisfaction with the ornithology non-breeding survey effort and methodology followed, as well as the scope of baseline data to be considered (noting to ensure up to date baseline data is considered for the EIA and HRA).</p> <p>Natural England agreed that given the protected bird features of the Mersey Estuary SSSI are all covered by the SPA/Ramsar designations it is reasonable to conclude that there is no requirement for additional survey data or further assessments to determine any impacts to the Mersey Estuary SSSI with regards to non-breeding birds.</p> <p>Consideration should be made of the results detailed in the most recent Post-Construction Ecological Monitoring Report (Atmos Consulting Ltd., 2021). Consideration should also be made to supporting data which was included for the nearby HyNet North West hydrogen pipeline route.</p> <p>Natural England agree that bird usage of the Site is the primary consideration for the assessment and detailed information should be provided within a HRA to ensure a robust assessment of potential impacts to protected birds to be undertaken.</p> <p>Information from VP surveys are useful indicators of which bird species are present, their numbers and use of the Site, but advised that VP surveys are only used to supplement further bird survey evidence and WeBS data.</p> <p>Natural England advised that it would need to be clear in the assessment that the Proposed Development does not add to any displacement effects and the alternative habitat provided under the wind farm commitments is adequate for all the displaced birds, thereby maintaining nearby SPA population.</p>	
Natural England Discretionary Advice Service DAS/412803	<p>Site visit with representatives from Natural England and the Applicant team (Axis Cubico and Avian Ecology) in attendance. Discussion was focussed on wetland birds and the Mersey Estuary SPA. Natural England stated that, based on the</p>	<p>The assessment of the Proposed Development has assumed that parts of the Site (the Cells at least) constitute functionally linked land and is therefore precautionary. The proposed NBBMS (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS)</b> [EN010153/DR/7.13] within <b>Outline</b></p>

Consultee	Comment	Response
7 <sup>th</sup> September 2023	information they have, parts of the Site should be considered as functionally linked to the Mersey Estuary SPA as this has been established in the previous wind farm application. Natural England accepted that mitigation using Cell 3 might be possible but would depend on clarification of current Cell 3 requirements and levels of SPA bird use across the Site. Natural England agreed to continue to liaise with the Applicant on the oNBBMS.	<b>Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> is design to provide additive mitigation, i.e. in addition to that already in place. Post this correspondence, the Applicant has continued to develop the oNBBMS and consulted with Natural England on the matter using the DAS in preparation for the submission of the Application.
Natural England Discretionary Advice Service DAS/412803 7 <sup>th</sup> August 2024	A DAS consultation was sent on 23 <sup>rd</sup> May 2024 from Avian Ecology (on behalf of the Applicant) regarding the Applicant's Outline Non-Breeding Bird Mitigation Strategy (oNBBMS). Natural England welcomed the overall approach to the use of Cell 3 for mitigation but remain concerned over the methods used to determine if the proposed mitigation in Cell 3 is sufficient to support all the displaced birds from the Proposed Development. Natural England advised that consideration should be given to the potential for Cell 3 to support SPA qualifying species (i.e. what was the intention of the wind farm habitat management in terms of numbers of SPA qualifying species) Cell 3 could support. Advised that peaks from CAWOS data should be considered in bird-day calculations to work out the required amount of mitigation area needed. Natural England stated that it is not possible to quantify any increase in carrying capacity by habitat betterment of Cell 3. Advised that ongoing management (and monitoring) will be crucial for the success of the NBBMS.	A response from Avian Ecology (on behalf of the Applicant) was issued to Natural England dated 26 <sup>th</sup> September 2024. This provided specific responses to questions posed by Natural England's letter, and also re-calculated bird-day calculations to help determine the extent of mitigation area needed, including peak counts from other data sources (e.g., CAWOS), as requested by Natural England. The response letter also included discussion into the likely betterment achieved from enhancement measures through quality habitat provision, and the commitment for ongoing management and monitoring.  Discussions with Natural England into the requirement for mitigation area (and suitability of Cell 3 to provide appropriate alternative better-quality habitat for SPA qualifying species that may be displaced by the Proposed Development) are ongoing, and advice from Natural England has been considered in the NBBMS, which supports this ES. The NBBMS is provided as <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13] within Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]2.</b>
CWaCC Virtual meeting on 13 <sup>th</sup> July 2023	Attended by representatives of CWaCC, Avian Ecology, Axis and Cubico; aimed to discuss key points identified in the CWaCC Scoping Response. It was noted that the CWaCC scoping response was based solely on the information contained within the Scoping Report, which did not include a layout or areas where development would/would not be undertaken. It was noted that the access roads would only require minimal intervention e.g. repair of potholes; no requirement to widen the road or encroach on areas not currently developed. Best practice	Follow up conversation on the 11 <sup>th</sup> of March, as detailed in <b>ES Volume 1 Chapter 7 [EN010153/DR/6.1]</b> .  Best practice measures, including pollution (including dust) prevention measures, as detailed under Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ), would be secured by the provisions of the DCO via the <b>oCEMP [EN010153/DR/7.5]</b> .



Consultee	Comment	Response
	measures to be followed, secured via the CEMP. Agreed that no need for a detailed species survey based on the above principles as no identified pathway for effect. Note, much of the topics were related to ecology which are considered in <b>PEIR Volume 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b> .	The Zones of Influence are based on the SADA, the NBBMA and the SPEN/National Grid Substation (i.e. do not include the Main Site Access with and without private Wire Connection and the SMA, as there is no identified pathway for effect for these areas).
CWaCC Email correspondence 4 <sup>th</sup> Sept 2024	Site Visit attended by representatives from Avian Ecology, Axis and CWaCC; aimed at demonstrating to CWaCC the potential for significant habitat enhancement across with Site. Included discussion on potential for impacts on protected species and NBBMS.	Information discussed with regards to habitat enhancement is considered in Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) in this chapter.
Meeting at Avian Ecology's Head Office on 3 <sup>rd</sup> October 2024.	Attended by representatives of Natural England, CWaCC, RSPB, Avian Ecology, Axis, and the Applicant. The meeting was arranged specifically to discuss key points regarding the oNBBMS. These mainly concerned the required area required for enhancement to provide alternative habitat for displaced SPA-qualifying species as a result of the Proposed Development.	All parties were agreed that, in principle, the oNBBMS see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> would provide acceptable mitigation and also provide enhancement. It was agreed that additive mitigation was possible but identified a clear requirement to establish and agree baseline conditions in Cell 3. All parties accepted there are limitations to what can be achieved in Cell 3 under the current (wind farm) mitigation. The meeting included lengthy discussion of the use of bird-day calculations to establish mitigation requirements, and it was generally accepted that these calculations make no consideration of habitat quality. The Applicant also provided additional clarifications regarding bird record locations ('heat maps') within the Order Limits, along with tabulated data showing peak counts and a narrative on the habitat use by SPA qualifying species, all as requested by NE. As such the baseline is comprehensively established against which assessment can be made and a differentiation of the proposed management measures between FWF and the Proposed Development can be demonstrated and therefore the specific objectives of the oNBBMS <b>[EN010153/DR/7.13]</b> met. RSPB were explicit in that the oNBBMS <b>[EN010153/DR/7.13]</b> , if delivered and managed fully, would provide improvement over current conditions or any which could be achieved under the wind farm HMMP. Natural England wished to see detailed bird-day calculations and baseline information before commenting further. CWaCC suggested that the parties should agree which measures can and should be delivered under the wind farm HMMP,

Consultee	Comment	Response
		so as to enable these to be distinguished from those provided under the oNBBMS [EN010153/DR/7.13]. Some levels of uncertainty over the opportunities to improve existing. Discussions between the parties in attendance are ongoing on this matter, and the Applicant is committed to providing the information requested as outlined and continued engagement so a clear and deliverable mitigation strategy can be delivered.



**Table 3 – PEIR Consultation Response**

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
Natural England	Due to the proximity of the site to the Mersey Estuary SPA/Ramsar we advise further consideration of the potential for any dust during construction and any appropriate measures to limit dust from the development.	No	<p>The Mersey Estuary SPA and Ramsar site are cited for the presence of ornithological interest; as such, impacts to these sites are addressed in this chapter.</p> <p>Appropriate mitigation measures to avoid, minimise or reduce any adverse significant effects upon the SPA/Ramsar, including pollution (including dust) prevention measures, as detailed in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p> <p>ES Vol 2 Appendix 4-2: Construction Dust Assessment <b>[EN010153/DR/6.2]</b> assesses the potential for dust arisings on ecological receptors and recommends mitigation measures. These findings are included in the assessment within <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>.</p> <p>Incorporated Mitigation is included within the oCEMP <b>[EN010153/DR/7.5]</b>.</p>
Cheshire Wildlife Trust	<p>Must account for/mitigate for impacts on important birds at the county level, not just birds of the SPA.</p> <p>These include Grey Partridge, Golden Plover, Lapwing, Common Redshank, Black tailed Godwit, Curlew, Whimbrel, Woodcock, Common Snipe, Ruff, Turtle Dove, Short-eared Owl, Cuckoo, Skylark, Common Starling, Tree Sparrow, Linnet, Reed Bunting, Yellowhammer.</p> <p>(July 2023) - We expect mitigation and monitoring of all ornithological species on this site, even those that are not 'qualifying species for the SPA' but are still important at a county level.</p> <p>Populations fluctuate, and those that are of concern today might not be the same that are of concern in a decade.</p> <p>The estuary is important for its assemblage of</p>	No	<p>Potential effects on non-SPA species are considered in the ES chapter, and this includes breeding ground-nesting species, such as skylark and lapwing, and non-SPA wintering birds (see Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)). Effects on species like skylark are considered at the county level (see Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)). As such the assemblage is fully considered.</p> <p>Through the adoption of incorporated mitigation and enhancement measures effects on most breeding species (including non-ground nesting) can be negated as detailed in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p> <p>The incorporated mitigation and enhancement (including the NBBMA, skylark mitigation proposals and hedgerow and tree planting) will benefit a suite of species including non-SPA species.</p> <p>The future baseline (see Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) considers any variation in the ornithological assemblage over the course of the operation of the Proposed Development.</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	<p>species, and monitoring only certain species is limited and short-sighted.</p> <p>If the NBBMA is only designed for SPA species, how might this impact other species?</p> <p>o 8.7 .28 "Monitoring of key ornithological species (those qualifying species of the Mersey Estuary SPA) within the Main Development Area (including within the NBBMA)" - There is a need to ensure surveying best practice is followed (beyond just BNG/habitat assessments) – especially for all relevant bird surveys.</p> <p>(July 2023) - It also is essential that the construction timetable maintain open space for birds as they are being displaced.</p>		<p>Monitoring as part of the NBBMA (<b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>) will be principally focused on SPA species (curlew, lapwing and golden plover), but all wetland species present will be recorded and included in the monitoring programme.</p> <p>Breeding bird monitoring will also be undertaken over the operation of the Proposed Development as summarised in Section 8.9 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p> <p>The principal focal species for the NBBMA (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>) are lapwing, golden plover and curlew (to mirror the target species of the mitigation measures for the operational Frodsham Wind Farm); however these measures will also provide mitigation and benefits for all SPA species, including all species treated as 'target species' during the ornithology surveys, and which were recorded during surveys (full details in the <b>ES Volume 2 Appendix 8-1[EN010153/DR/6.2]</b>).</p> <p>The construction phase will be phased to ensure the availability of suitable habitat for target species. The phased approach to be adopted is detailed in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and includes the NBBMA being constructed prior to any works on Cells 1, 2 or 5.</p>
Cheshire Wildlife Trust	<p>Cell 3: Additionality must be provided to compensate for birds of the SPA and the loss of functionally linked land.</p> <p>Using land that is currently compensation for the wind farm in cell 3 is not additional (even if habitats are not functioning well due to drying issues /succession - this is a compliance issue).</p> <p>If scrapes created as mitigation for the wind</p>	No	<p>The habitat enhancement of Cell 3, as detailed in the NBBMA (<b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>) would represent 'additive mitigation' over the current baseline conditions, including the measures in place as part of the wind farm.</p> <p>Such additive measures are not a requirement under the wind farm consent, and it is therefore not a compliance issue. It is further relevant that there is no</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	<p>farm in cell 3 are not functioning well, it is questionable that there is feasibility to create more scrapes in the same area (which would likely not function well too) as mitigation for the solar farm.</p> <p>(July 2023) - It is proposed that Cell 3 would be used as the ecological/bird mitigation site for the scheme.</p> <p>The primary issue with this approach is that Cell 3 is already being used as a mitigation area for the Frodsham Wind Farm project, therefore there is no additionality for this Solar Farm project.</p> <p>We understand the reasoning that the habitat itself will be improved through the engineering works to create additional ponds and scrapes and create better habitat for birds; while this is commendable, it cannot be the only mitigation done by the Solar Farm as it does not compensate for the loss of all other habitat in the footprint of the scheme.</p>		<p>mechanism to deliver these additional benefits under the wind farm planning conditions.</p> <p>The NBBMA will provide substantial additive mitigation through the creation of substantially improved wetland habitats (and protection of breeding birds), which will involve extensive earthworks to lower ground levels and line these with clay, so that Cell 3 will hold more water and for a greater period of time (including during the spring and autumn passage periods). The total area of mitigation required (in ha) for both the wind farm and the solar development has been calculated based on a recognised methodology and using extensive baseline data. This area (ha) takes no account of the considerable betterment of the Cell 3 habitats, and it is therefore possible to be confident that robust mitigation will be provided. Further details on the NBBMA are provided in <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]2</b>.</p> <p>The enhancement works to Cell 3 are to increase the carrying capacity of the area to support higher numbers of birds including SPA-qualifying species. The works to Cell 3 as detailed in the NBBMA are not the only mitigation (or enhancement) measures to be adopted with other measures including the management of the off-site SMA, planting of hedgerows, creation of woodland and tree planting and enhancement of grassland habitat (as summarised in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p>
Cheshire Wildlife Trust	<p>Cell 2 + 5 Loss of cells 2 and 5 will require additional mitigation as these were managed to compensate for losses from the wind farm. Additionality is required.</p> <p>- Cells 2 &amp; 5 are proposed to be lost as open space as they are included in the development area, which is a large loss of open space for birds.</p> <p>These areas were specifically set aside for birds in the planning conditions of the Wind Farm application approval: "maintenance of</p>	No	<p>Usage of Cells 2 and 5 by target species has been considered in the appropriate mitigation proposed, principally through the works in the NBBMA (Cell 3; as detailed in the <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>).</p> <p>Usage of Cells 2 and 5 by target species was relatively modest based on the baseline gathering and surveys (see <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> and also Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)). This is likely at least in part due to the Cells being dry grassland (not wet) and thus of limited benefit to wading species. Accordingly,</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	<p>fields over Cells 2 and 5, for the duration of the lifetime of the development, in a condition that is favourable for wintering wader species, including golden plover, lapwing, curlew" (para. 33c of Planning Conditions). If planning permission is granted to amend the conditions of the Wind Farm application, these areas must also be compensated for in the form of open space adjacent to the development, ideally near Cell 3, and certainly in strategic locations for birds.</p> <ul style="list-style-type: none"> <li>- The improvement of habitat does not make up for loss of open space.</li> </ul> <p>When populations are constrained to fragmented and reduced areas, they are more vulnerable to disease, competition for resources, and overcrowding, and are more likely to leave the area.</p> <p>The Mersey Estuary is nationally and internationally designated for its important bird populations, and the encroachment on their land is contrary to the spirit of these protections, particularly because: o 8.8 .39 It is relevant that there are no wetland reserves managed for SPA birds along the entire Mersey Estuary (which is highly developed).</p> <ul style="list-style-type: none"> <li>- The Wind Farm took up much of the vertical space available for flying birds, and this Solar Farm will take up much of the ground space available for breeding and foraging birds. In combination, what will be left for them?</li> </ul>		<p>the mitigation and enhancement measures proposed for the Proposed Development will provide alternative, more optimal, habitat for target species that used Cells 2 and 5, such as relatively modest numbers of lapwing, golden plover, golden plover, teal and black-tailed godwit. Noting that Cells 2 and 5 are close to the NBBMA (Cell 3; where the main mitigation works would be adopted).</p> <p>Usage of the SADA outside Cells 1, 2 and 5 were very limited (as detailed in <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> and also in Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)), with the habitats largely suboptimal (comprising of relatively small, enclosed fields). So, although there are considerable areas of 'ground space' potentially available for target species, bird usage is very limited, likely as a consequence of the typical poor-quality habitat at present.</p> <p>The mitigation measures are not solely confined to the NBBMA with other enhancement to be adopted for example off-site in the SMA and the creation of grasslands around the solar arrays (see Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p> <p>Overcrowding of Cell 3 is not anticipated with the mitigation measures that would be adopted benefiting a variety of species through the creation of different habitats, including areas of open water and wet grassland. As such, the carrying capacity of the NBBMA (Cell 3) would be increased through the betterment of the habitats present over current conditions, providing better quality habitat, a greater variety of habitats, and sustaining a higher number of birds.</p> <p>The SADA does not encroach into the Mersey Estuary. The NBBMA adjoins the Mersey Estuary SSSI and lies in close proximity to the Mersey Estuary SPA and Ramsar. It is acknowledged that the NBBMA adjoins the River Mersey SSSI, with the canal pools north of the NBBMA (Cell 3) at least partly within the SSSI boundary and although these canal pools are offsite they may, as an option, be used for providing a water resource into the NBBMA (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan</b></p>



Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
			<b>[EN010153/DR/7.13]</b> ). It is anticipated that if Cell 3 were to be enhanced as set out in the NBBMA, then Cell 3 would function similarly to a wetland reserve.
CPRE Cheshire	<p>The site is immediately adjacent to the Mersey Estuary Ramsar site and the main body of the Mersey Estuary Site of Special Scientific Interest (SSSI). The SSSI also contains a narrow strip extending slightly into the application site itself<sup>2</sup>.</p> <p>The Ramsar site is described as “a large, sheltered estuary comprising large areas of saltmarsh and intertidal sand and mudflats. The site includes brackish marsh, rocky shoreline, and cliffs set in a rural and industrial environment.</p> <p>Internationally important numbers of various species of waterbirds feed and roost at the site in winter, or stage at the site in spring and fall” (source of data: Ramsar sites information service – <a href="https://rsis.ramsar.org/ris/715">https://rsis.ramsar.org/ris/715</a>).</p> <p>Ramsar sites are of international significance and should therefore be given the highest level of protection against harmful development. CPRE Cheshire is concerned that the proposed solar farm, by reason of its scale and nature, could have a harmful impact on the biodiversity of the Ramsar/SSSI site and its supporting habitats.</p> <p>With this in mind, it is crucially important that: 1 See paragraph 1.3.9 of the Frodsham Solar Preliminary Environmental Information Report. 2 Source of information - <a href="https://magic.defra.gov.uk/MagicMap.aspx">https://magic.defra.gov.uk/MagicMap.aspx</a> • All necessary site surveys must have been undertaken before any decision is made.</p>	No	<p>Noted that the Mersey Estuary Ramsar site is adjacent to the Proposed Development Site. The Mersey Estuary SSSI adjoins the NBBMA, and the canal pools (which are at least partially within the SSSI) may form part of the NBBMA proposals (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS)</b> <b>[EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b></p> <p>Effects on the integrity of the River Mersey Ramsar/SSSI/SPA are considered in this ES chapter (see Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) and within a HRA provided as the <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b>.</p> <p>The assessment within this ES chapter and the HRA has considered key sources of information, including a suite of field surveys and existing desk study information, with results of these detailed in <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b>, and within Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) of this ES chapter.</p> <p>RSPB, Cheshire Wildlife Trust, as well as Natural England and CWAC have been consulted on the approach to baseline information gathering, field surveys and the approach to the assessment (see Section 8.4 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p> <p>The Proposed Development would comply with the harm mitigation hierarchy of the NPPF. Given the Site is established as FLL to the Mersey Estuary SPA and Ramsar (see Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) proportionate mitigation is proposed (see Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS)</b> <b>[EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>), which is considered appropriate for providing alternative better-quality habitat for any displaced SPA and Ramsar qualifying species.</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	<p>The views of bodies such as the RSPB and Wildlife Trusts will be crucial in establishing any shortcomings in the survey work undertaken to date, including for plant life as well as birds and mammals.</p> <ul style="list-style-type: none"> <li>The development must be required to comply with the harm mitigation hierarchy set out in paragraph 193 a) of the National Planning Policy Framework (NPPF – December 2024). This means that “if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for...” then consent should be refused.</li> </ul> <p>CPRE Cheshire is concerned for example that the area under the proposed solar panels could suffer harm to bio-diversity due to loss of sunlight to vegetation, changes in soil structure, acidification of the soil, disruption of bird and bat flight paths, and loss of foraging areas for food<sup>3</sup>.</p> <p>It is essential that agreement is obtained from specialist groups such as the RSPB and Cheshire Wildlife Trust on the extent and nature of mitigation that is proposed.</p> <ul style="list-style-type: none"> <li>Policy ENV4 of the Cheshire West and Chester Local Plan (Part 1) Strategic Policies refers to the need to avoid any net loss of natural assets, and to seek to provide net gains.</li> </ul> <p>The bird survey included in the consultation material refers to a wide variety of important species found in the area.</p>		<p>The assessment within this ES chapter (Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) considers effects on the ornithological assemblage, focussing on target species (with target species defined in Section 8.5 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p> <p>The <b>ES Volume 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b> addresses potential effects of the Proposed Development on habitats and bats. An <b>Outline Soils Management Plan [EN010153/DR/7.10]</b> is provided with the application to safeguard soil conditions.</p> <p>Both the RSPB and the Cheshire Wildlife Trust have been consulted on the proposed mitigation proposals.</p> <p>The <b>ES Volume 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b> addresses biodiversity net gains associated with the Proposed Development, which is acknowledged as a key part of Policy ENV 4.</p> <p>The suite of bird species considered as ‘target species for surveys was considerable and extended beyond SPA-qualifying species of the Mersey Estuary.</p> <p>Potential effects on ornithology features are considered in this ES chapter (Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) with such effects on ecology features addressed in <b>ES Volume 1 Chapter 7: Terrestrial Ecology [EN010153/DR/6.1]</b>.</p> <p>Robust mitigation is set out in this ES chapter (Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) and within the oNBBMS (<b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>), which is acknowledged as in line with Policy ENV 4.</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	CPRE Cheshire is concerned that biodiversity harm could arise due to the proposed layout of the development and the construction process. This emphasises the need for robust mitigation and net gain measures in line with Policy ENV 4.		
Natural England	<p>We note that Cell 3 was not surveyed during Year 1 of the non-breeding bird surveys.</p> <p>However, in Year 2 high numbers of birds were recorded in Cell 3 including SPA/Ramsar qualifying species such as teal, golden plover and black tailed godwit.</p> <p>Year 2 surveys generally recorded higher numbers across the rest of site, although Year 1 has much fewer birds recorded (outside of Cell 6) there are still some high numbers of dunlin, curlew and black-tailed godwit towards the Northern edge of the site between September and December 2022.</p> <p>Year 2 sees much larger scale bird usage between Cells 3 and 6, notably teal, mallard, lapwing, curlew, snipe, golden plover and black tailed godwit.</p> <p>No discussion has been provided regarding the increased numbers of SPA/Ramsar birds recorded in Year 2 and the high numbers for Cell 3 during the survey.</p> <p>Although as an observation we consider this could possibly be due to the site being much wetter over Winter 2023/24, this has not been demonstrated however.</p> <p>Discussion regarding the higher baseline figures for Cell 3 is required, as is consideration of the confidence that one year of data for this area provides.</p>	No	<p>Discussion is provided in Section 8-6 into fluctuations in annual numbers of birds within the NBBMA (Cell 3) most notably. Potential reasons for these differences are considered, and annual changes are not uncommon. An additional year of surveys ('Year 3' in the non-breeding season of 2024/25) was undertaken to help determine an appropriate baseline for Cell 3 as recommended.</p> <p>The desk study from the HyNet Carbon Dioxide and Hydrogen pipelines are considered (see <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> and also Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)). Cumulative effects of the Proposed Development with the HyNet pipelines are considered in Section 8.11.</p> <p>Additional evidence is provided as requested including heat tables showing those parts of the SADA and NBBMA which supported greatest numbers of target species (Heat tables presented within <b>ES Vol 2 Appendix 8-1 [EN010153/DR/6.2]</b>). Further discussion is also provided within Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) with regards to usage of the Site by target species. Information and details into the bird-day calculations used to determine the required amount of habitat to mitigate the loss of most of the open habitat the SADA is provided and justified in <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>.</p> <p>Although specifics into bird behaviour were not recorded during surveys, based on the habitat's present discussion into likely behaviour/activity of target species is provided in Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p>

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	<p>If evidence is presented to suggest that the numbers recorded for Cell 3 in Year 2 could be an anomaly, then we advise that additional data is brought into the assessment to help determine an appropriate baseline for Cell 3. We note that additional desk study information is going to be gathered with information requested on both the HyNet Carbon Dioxide and Hydrogen pipelines that are both proposed to run through the development site. We are aware of surveys completed for the Hydrogen pipeline during a recent statutory consultation and noted that surveys did include Cell 3 during Winter 21/22 and during 2024. We consider that additional evidence will strengthen any justification to support the measures set out within the Non-Breeding Bird Mitigation Strategy (NBBMS). Natural England advises that evidence is also required regarding how birds are using the site e.g. for roosting, feeding, loafing. This will help inform the assessment and determine the type of supporting habitat the birds rely upon and therefore what habitat type is required in terms of mitigation</p>		<p>The mitigation proposals within the NBBMA will provide suitable habitat for roosting, feeding and loafing birds. The habitats (as well as the establishment of predator fencing around the periphery of the NBBMA) will also mean the area is improved for nesting birds, especially species like lapwing.</p>
Natural England	<p>Impacts to SPA/Ramsar features Natural England does not agree with the statement made in paragraph 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).6 that 'the numbers and regularity that SPA qualifying species used the Main Development Area as determined during field surveys is not representative of the habitat being Functionally Linked Land ('FLL') to the Mersey Estuary</p>	No	<p>Using the 1 % threshold of the Mersey Estuary population (and consideration of the frequency of use in numbers that surpass the 1 % threshold), FLL based on the survey results is not determined. However, as noted in Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) based on discussions with Natural England and with reference to the Natural England NECR483 Edition 1 report (2023), the SADA and the NBBMA is considered as FLL, and therefore appropriate mitigation measures would be adopted to ensure the Site integrity of the Mersey Estuary SPA and Ramsar site are not negatively impacted.</p>

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	<p>SPA, with the counts of recorded species substantially below the 1 % threshold of the Mersey Estuary population'.</p> <p>We note that although survey results are summarised within Tables 8-12 and 8-13 that the percentage figures for the SPA population have not been displayed, we advise these figures form an important part of the assessment as they will indicate which SPA species are present in significant numbers and so which birds need to be mitigated for. The HRA should consider any significant numbers of qualifying SPA/Ramsar bird species and the waterbird assemblage, based on the peak counts recorded across the entire site.</p> <p>We highlight that all 'waterbirds' form part of the waterbird assemblage and it is the assemblage as a whole that is the feature to be assessed within a HRA, with reference to the Conservation Objectives.</p> <p>The integrity of the assemblage (non-breeding) is generally recognised as a product of both abundance and diversity as set out within our Supplementary Advice on Conservation Objectives.</p>		<p>Tables 8-14 to 8-18 provide counts of target species using the SADA, the NBBMA and offsite locations. Table 8-19 has been added and provides the monthly peak number of target species over the three survey years for the SADA, with the % of the Mersey Estuary SPA that the peak count represents to provide an indication of those target SPA/Ramsar species which were reported in the most significant numbers (and to aid mitigation requirements). Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) considers the usage of the SADA and the NBBMA by target species and discusses whether these are considered significant numbers or not.</p> <p>The HRA (see <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b>) assesses whether there are likely significant effects (LSEs) on the SPA and Ramsar site. The HRA has used peak counts across the entire Site in order to assess LSEs on a worst-case scenario basis. The HRA considers LSEs on all recorded SPA/Ramsar species, and with reference to the Conservation Objectives.</p> <p>Bird number (abundance) is the measure that is mainly used in the assessment, but consideration is also given to effects on particular target species and mitigation that is required (Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) discusses effects on target species, with the HRA addressing specifically LSEs on i integrity of the Mersey Estuary SPA and Ramsar, and its qualifying species).</p>
Natural England	<p>As it is impractical to list all the waterbird species and assess each one individually, and as some constituent species contribute more towards the integrity of the overall assemblage than others we advise the assessment should therefore focus on the 'main component species'.</p> <p>The 'main component species' should include those species that are: • Present in nationally</p>	No	<p>Effects on all target species are considered, although some species (such SPA qualifying species like lapwing, golden plover and curlew) are given the highest regard given these were the species which were targeted for the mitigation area in Cell 3 for the operational Frodsham Wind Farm. These were also three target species that were recorded in typically the highest numbers within the SADA and the NBBMA, although it is noted that teal and black-tailed godwit were also recorded sporadically in relatively high numbers in the NBBMA.</p>

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	important numbers • Migratory species present in internationally important numbers (where qualifying features are assessed individually, there is no requirement to repeat for the assemblage assessment) • In numbers >2000 individuals • A named component species otherwise listed on SPA citation		
Natural England	<p>Natural England disagrees with the conclusions regarding noise disturbance and the statement made in paragraph 8.8.7 'Noise Impact Assessment (PEIR Volume 2 Appendix 4- 1) reveals that all anticipated activities that have potential to cause higher levels of noise associated with the Proposed Development (including CFA piling and movement and activity of HGVs associated with the BESS, works within the NBBMA such as activity of dump trucks, excavators and dozer, and plant installing the solar arrays) would result in predicted noise levels which are consistently within the acceptable range in relation to potential disturbance to waterbirds according to the (TIDE) assessment criteria'.</p> <p>The Noise Impact Assessment relies upon the thresholds taken from the Waterbird Disturbance Mitigation/ TIDE Toolkit to rule out significant noise impacts on SPA birds.</p> <p>However Natural England advise that the thresholds set out within the Toolkit are not applicable in individual developments as each development site is different with different background levels and existing patterns of disturbance.</p> <p>As any disturbance is likely to be site and species specific the use of thresholds is not</p>	No	<p>Background noise monitoring (see <b>ES Volume 2 Appendix 4-1</b> for full details) and a noise assessment has been undertaken which predicts that construction and operational noise levels are consistently within the acceptable range in relation to potential disturbance, including that specified in the Natural England guidance. The noise assessment has considered different works and activities (including piling and movement of plant and the installation of solar arrays) within the Site, so it is considered that this is captured the Site-specific activity and disturbance that is predicted.</p> <p>Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and the HRA (<b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b>) considers the baseline noise levels and the fact that target species will already be habituated to a level of disturbance (noise and visual) due to the industrialised nature of the locality and considers this in relation to potential effects on birds of increased noise levels during the construction works.</p> <p>Noise management measures would be secured via the oCEMP <b>[EN010153/DR/7.5]</b>, and no further mitigation is deemed necessary.</p> <p>Effects of noise and increase use of the access routes are considered in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p> <p>The noise monitoring also discusses L<sub>Amax</sub> levels with no predicted significant effects on birds on those areas considered potentially most sensitive (see <b>ES Volume 2 Appendix 4-1</b> for full details).</p> <p>Goodship and Furness (2022) is considered as the standard guidance for disturbance limits for target species. However, within the assessment (see</p>



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	<p>appropriate.</p> <p>We advise the ES and HRA considers the baseline noise levels at bird and a comparison is made with the expected peak noise levels (L<sub>Amax</sub>) during each stage of the construction works (including the use of multiple types of machinery at the same time).</p> <p>Where there is an increase of 3dB or above then further assessment is required and appropriate mitigation provided.</p> <p>Consideration of the effects of noise and the increased use of the access routes to the development site should also be included in any assessment.</p> <p>We note that construction noise maps for the expected L<sub>Aeq</sub> levels have been included within the Noise Impact Assessment (Appendix 3) which is welcomed however we advise maps are also produced for the L<sub>Amax</sub> levels, and that further detail on the works being assessed for each map would also be useful.</p> <p>We similarly advise caution when considering distance thresholds (paragraph 8.8.5), and the application of the buffer distances set out within the Goodship and Furness (2022) Disturbance Distances Review report.</p> <p>Although these distances can be used as guidelines when considering disturbance from human activity, they may not be appropriate for construction activities.</p> <p>We acknowledge that whilst there may be habituation to existing levels and types of disturbance by birds using both the designated site and development site the construction</p>		<p>Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) the reported disturbance distances are not only considered in terms of determining effects, but other factors are also regarded, such as topography/ presence of bunds buffering noise/visual intrusion and current activity at the locality.</p> <p>This chapter (Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) and the HRA (in <b>Information to Inform Habitats Regulations [EN010153/DR/5.3]</b>) considers effects of plant and machinery during the construction phase, and it is acknowledged that some of the machinery that would be used is novel to the locality. Accordingly, effects of all possible activities and machinery/plant expected within the Site is considered on SPA/Ramsar birds is considered.</p>

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	period however will involve the use of machinery that is not typically in use within the development area and so further consideration will be needed within the ES and HRA regarding disturbance levels and impacts for SPA/Ramsar birds.		
Natural England	<p>Natural England has already provided initial advice on the NBBMS and continues to support the development of a robust NBBMS. We welcome sight of the Illustrative Environmental Masterplan (Figure 2-3b) which provides further detail on the planned habitat creation and extent of the mitigation area. The proposed habitat creation within the Non-Breeding Bird Mitigation Area (NBBMA) is expected to provide a continued connection between the Mersey Estuary SPA/Ramsar and the area of high bird usage known as Cell 6, and as such represents a key location within the development site.</p> <p>We acknowledge that the proposals within the NBBMS represent strategic mitigation as it provides mitigation for both the Frodsham Wind Farm and the Frodsham Solar developments.</p> <p>We note that specific management details for the NBBMA will be set out within the outline Landscape and Ecological Management Plan (oLEMP) (paragraph 8.7.26) and that future monitoring of the development area is to be undertaken as part of the oLEMP is stated to take place in years 1,2 and 5, then every 5 years (paragraph 8.7.29).</p> <p>We advise the frequency of any monitoring specifically for the NBBMA is increased above</p>	No	<p>Acknowledged that given Cell 6's location it is a key location within the Site.</p> <p>The <b>oLEMP [EN010153/DR/7.13]</b> sets out the specific management details for the NBBMA, and that future monitoring of the Site is undertaken as part of the oLEMP in years 1, 2 and 5, then every 5 years (see also Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p> <p>The monitoring for the NBBMA would be more frequent as recommended and as set out in <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>.</p>

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	this level to ensure that sufficient data is available to measure the success of the mitigation package and so any adaptive measures that are required can be implemented within appropriate timescales. We welcome further engagement on both the oLEMP and proposed monitoring schedule for the NBBMA		
Natural England	<p>We note that construction works are to be phased to allow different parts of the main development area to be worked on at different times to minimise effects on birds, including qualifying species of the Mersey Estuary SPA, Ramsar and SSSI (paragraph 8.7.23) and that the timing and phasing of works is to be agreed prior to construction.</p> <p>Works to the NBBMA are stated to be planned prior to the commencement of construction, along with the screening works (which is welcomed).</p> <p>The NBBMA is stated to be created and functional prior to construction works commencing, we advise this is a requirement of the mitigation and that consideration must be given to the time taken for the mitigation area to be fully functional prior to considering how the timing and phasing of works is to be carried out.</p> <p>It is noted in paragraph 8.8.9 that lower numbers of SPA birds use the Eastern part of the site and so consideration should be given to commencing construction works in this area ahead of the Western part of the site as this will allow additional time for the mitigation area and newly created habitats to be both</p>	No	<p>Works to the NBBMA would be timed so that the NBBMA is substantially created and functional in advance of construction of the solar PV array areas on the MSC Dredging Deposit Ground cells (see Sections 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)). This would be a condition of the mitigation, to ensure target species (most notably the River Mersey SPA, Ramsar site and SSSI) have alternative suitable habitat during the works to the NBBMA.</p> <p>The oCEMP <b>[EN010153/DR/7.5]</b> sets out that the construction of the NBBMA must be undertaken in advance of construction of the solar PV array areas on the MSC Dredging Deposit Ground cells. This is secured via a Requirement in Schedule 2 of the draft DCO <b>[EN010153/DR/3.1]</b>.</p>

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	functional and in use by SPA birds. We note that an Indicative Construction Phasing and Resource Schedule has been provided within Appendix 2.2, it is not clear from this document regarding the timing of works, and the details appear to conflict with the statements made in Chapter 8. Once further information is developed regarding the timing and phasing of works, we expect this document will be updated. We advise that the phasing plans are made clear within the ES and HRA, and that they align with text elsewhere in the ES.		
Cheshire West and Chester Council	Work No. 6 – works to create, enhance and maintain green infrastructure including the creation of Skylark Mitigation Plots and a Non Breeding Bird Mitigation Area 2.4.121 c) Provision of improvements to existing public rights of way and the creation of approximately 4.7 km of permissive paths to provide improved access across the Site; d) Development of a car park to enhance access to the Site and the recreational assets delivered as part of the Proposed Development; There are concerns that this will increase disturbance from the public in terms of increased footfall, footfall in different areas than currently and subsequent disturbance to non-breeding and breeding birds and other protected species on site.	No	The new permissive paths have been designed to be sensitive to the key areas where mitigation and enhancement of habitats for birds is to be adopted, most notably the NBBMA. The adoption of bird screening would also minimise visual disturbance on birds using key habitats. It is also noted that the Site is already subject to some recreational activity, and thus the Site is already subject to a level of disturbance (see Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) for further discussion).
Cheshire West and Chester Council	Work No. 6c - Creation and management of a Non-Breeding Bird Mitigation Area 2.2.133 In summary Cell 3 would be re-engineered to deliver the following components: i)Existing	No	It is considered that the extensive enhancement works within the NBBMA would improve the grassland composition for the benefit of target species, especially wading species. The current grassland is not wet grassland (and at least for part of the year has a high coverage of tall ruderals), and thus the enhancement

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	<p>scrapes which have been created as part of the Frodsham Windfarm mitigation works would be temporarily removed and then re-instated as part of a wider network of wetland features.</p> <p>ii) Additional scrapes would be created, substantially increasing the amount of 'muddy edge' to provide foraging habitat for SPA species.</p> <p>iii) Islands would be created to provide safe roosting locations for SPA species and nesting birds.</p> <p>iv) The entire area of Cell 3 would be managed as grassland, with approximately 9.5 ha of managed wet grassland created in the centre of the cell by lowering ground levels so that the necessary conditions to allow wet grassland to establish are created.</p> <p>v) The entire mitigation area would be predator fenced with the aim of assisting breeding wader productivity.</p> <p>Point iv is partially already in place under the existing windfarm mitigation strategy, leaving points ii, iii and v as additional.</p>		<p>measures would create 'wet' grassland. This is considered a considerable improvement over the existing grassland within Cell 3, and as such point iv would also be considered as additive mitigation, as well as points ii, iii and v (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> for further details).</p>
Cheshire West and Chester Council	<p>Appendix 2.2 – Construction programme This requires full reconsideration.</p> <p>NBBMA – This should be fully functional prior to any works on the western solar array. Currently the timetable shows the NBBMA works happening at the same time as the other works and only slight staggering.</p> <p>The Skylark mitigation area is not included within the timetable – this may be because there are no construction works as such, but</p>	No	<p>The construction programme has been fully considered, and reference is made to timing of construction in Sections 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p> <p>The mitigation measures that would be adopted in the NBBMA would be undertaken prior to any works on the western solar array, as confirmed in Sections 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>), and within the <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS)</b></p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	<p>as “creation of skylark plots” are elements referred to in other documents, it is inferred that some works are required.</p> <p>This should be in place prior to any works on area that Skylarks are currently breeding in. Seasonality needs to be factored into the timetable, in terms of impacts on breeding and non-breeding birds, and other protected species.</p>		<p><b>[EN010153/DR/7.13] within Outline Landscape and Ecological Management Plan [EN010153/DR/7.13].</b></p> <p>The updated Indicative Construction Phasing and Resource Schedule (<b>see xx</b>) provides clarity on the indicative timing of works, which accords with the statements with regards to timings within this chapter (particularly Sections 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p> <p>The <b>oCEMP [EN010153/DR/7.5]</b> sets out that the construction of the NBBMA must be undertaken in advance of construction of the solar PV array areas on the MSC Dredging Deposit Ground cells. This is secured via a Requirement in Schedule 2 of the <b>draft DCO [EN010153/DR/3.1]</b>.</p> <p>The SMA plots would be established and / or meadow grassland planted prior to construction works onsite to ensure that any skylarks unable to nest in suitable habitat onsite has alternative nesting habitat adjacent to the Site (see Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p> <p>Seasonality is factored into the construction phase timetable with embedded mitigation and standard good practice guidance to be followed as detailed in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>). This includes carrying out nesting bird checks if works are undertaken during the breeding bird season and works being largely undertaken during daylight hours as standard.</p>
Cheshire West and Chester Council	<p>Table 8-10 Non-Statutory Designated Sites for Nature Conservation Frodsham, Helsby and Ince Marshes LWS; Birds; (considered likely to be wetland species given the listed habitats are specific wetland habitats).</p> <p>30 This indicates that the citation of the LWS has not been assessed, as it is clear in the citation what the ornithological element of the designation is for: “The site is of county,</p>	No	<p>Effects on the Frodsham, Helsby and Ince Marshes LWS are assessed in Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) (Table 8-12).</p>



Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	national and international ornithological importance for breeding, wintering and passage species, many of which are also qualifying features of the Mersey Estuary SPA and Ramsar site. There are comprehensive records which include Schedule 1 and UK red listed species such as skylark, yellow wagtail, song thrush, linnet, yellowhammer, starling, lapwing, black-tailed godwit, dunlin and green sandpiper. The site also attracts a number of raptor species."		
Cheshire West and Chester Council	Indicative Environmental Masterplan including the NBBMA 8.7.2 The design of the Proposed Development includes a range of inherent incorporated elements which avoid or reduce the potential for adverse ornithological impacts, including retaining identified higher value habitat features such as hedgerows, ditches, and woodlands, and focusing the large majority of the built development proposals within lower ecological value agricultural land. This section does not acknowledge the open areas required by some bird species and this is required.	No	The Indicative Environmental Masterplan ( <b>ES Volume 3 Figure 2-3</b> ) sets out measures that would be adopted to minimise the potential for adverse ornithological impacts. These include the creation of botanically diverse grassland outside the solar /infrastructure areas. Furthermore, measures in the NBBMA include enhancement of open areas and creation of wet grassland which will benefit roosting, foraging, loafing, as well as some ground-nesting target species (like lapwing, especially with the adoption of predator fencing around the NBBMA) (see Section 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> )).
Cheshire West and Chester Council	8.7.4 The NBBMA covers an area of 64 ha. It is managed as part of the Habitat Management and Monitoring Plan (HMMP) for the operational Frodsham Wind Farm, but has limited capacity to deliver notable benefits for SPA-qualifying species because it is not 'wet' grassland. There are further limitations in terms of when	No	Section 8.6 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) provides information on the current usage of Cell 3 (the NBBMA) by target species. With the bird usage of the Site determined from up to three years of survey (two years of survey for Cell 3). <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> provides full results.  The mitigation for the operational Frodsham Wind Farm does not report any specific number of curlew, lapwing and golden plover that the area is intending to

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	<p>the scrapes hold water (typically are dry during the passage periods, noting that the Mersey Estuary SPA is also designated for some species during the passage period), and due to a lack of active water management.</p> <p>As such, the optimum condition for waterbirds that Cell 3 could achieve under the existing wind farm management requirements, even when implemented fully, is substantially less than optimal conditions for waterbirds could achieve with the additional actions proposed for the NBBMA.</p> <p>This is dependent on the requirement of birds using it now, as well as mitigation cells 2 and 5 which are to be lost, and the uplift that can be achieved over and above the windfarm mitigation obligations.</p>		<p>support. However, as noted, given the current habitats, there are limits on the number of these species that can be supported. The extent of the NBBMA (64 ha) and the betterment of the habitats within the NBBMA (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS)</b> [EN010153/DR/7.13] within <b>Outline Landscape and Ecological Management Plan</b> [EN010153/DR/7.13]) is considered appropriate, and robust, for supporting the target species that are currently using the SADA (including the typically modest number using Cells 2 and 5).</p> <p>Bird-day calculations have been used to determine an appropriate amount of mitigation land that would be required, but other information has also been considered into determining the parts of the SADA and NBBMA which supported the highest numbers of target species (to ensure that any particular areas which support high numbers of birds are considered with respect to appropriate mitigation and the most suitable areas for enhancement).</p>
Cheshire West and Chester Council	<p>8.7.5 The proposed NBBMA will provide substantial betterment to the existing baseline, through the creation of wetland habitats (and protection of breeding birds).</p> <p>It is predicted that the enhancement habitats in the NBBMA will improve conditions substantially over the baseline conditions, increasing the carrying capacity of the Cell.</p> <p>This is considered to accommodate wetland (SPA-qualifying) species that may be displaced from the Main Development Area as the result of the Proposed Development, in addition to other SPA species not currently or regularly using the Cell.</p> <p>This is dependent on the requirement of birds using it now, as well as mitigation cells 2 and 5 which are to be lost, and the uplift that can be</p>	No	<p>The response above is also considered relevant here, with respect to usage of the NBBMA by target species has been established through a suite of surveys, and the details of the mitigation that would be adopted to ensure that any displaced target species including those using Cells 2 and 5, would have suitable alternative habitat within an ecologically enhance NBBMA (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS)</b> [EN010153/DR/7.13] within <b>Outline Landscape and Ecological Management Plan</b> [EN010153/DR/7.13]).</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	achieved over and above the windfarm mitigation obligations.		
Cheshire West and Chester Council	<p>8.7.23.</p> <p>It is anticipated that NBBMA would be substantially created in advance of construction of the solar PV array areas on the former MSC Dredging Deposit Ground cells, as these are the areas of the SADA more commonly used by wetland birds, compared to the eastern part of the Main Development Area.</p> <p>This is not currently the case with the construction timetable presented in Appendix 2.2.</p> <p>Further, completion of the NBBMA before works commence on the western array should be the case, to ensure the wind farm mitigation is replaced and that the displacement from cells 2 and 5 is compensated for; the birds have no alternative land within the DCO limits in terms of mitigation during construction of the NBBMA, due to the mitigation strategy proposed of using existing mitigation cells for mitigation and for development.</p>	No	<p>The updated Indicative Construction Phasing and Resource Schedule (<b>see xx</b>) provides clarity on the indicative timing of works, which accords with the statements with regards to timings within this chapter and particularly with regards to the NBBMA being substantially created and functional in advance of construction works in the western Cells (see Sections 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)).</p> <p>The <b>oCEMP [EN010153/DR/7.5]</b> sets out that the construction of the NBBMA must be undertaken in advance of construction of the solar PV array areas on the MSC Dredging Deposit Ground cells. This is secured via a Requirement in Schedule 2 of the draft DCO <b>[EN010153/DR/3.1]</b>.</p> <p>The measures within the NBBMA have provided mitigation for any target species (albeit typically modest numbers were recorded) that would be displaced from Cells 2 and 5 (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>).</p>
Cheshire West and Chester Council	<p>8.8.5 The baseline data gathering including non-breeding field surveys revealed the NBBMA (Cell 3) supported the highest (albeit relatively modest) numbers of SPA qualifying species, with other parts of the Main Development Area supporting far fewer numbers of these SPA qualifying species (and less frequently).</p> <p>It is predicted that disturbance to SPA</p>	No	<p>The assessment of disturbance from construction on target species in terms of visual disturbance and noise is provided in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>), with embedded mitigation and good practice measures including noise management measures during construction considered in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>). A noise monitoring assessment has also been undertaken on potential effects on birds using key areas (including the NBBMA) at the locality (<b>ES Volume 2 Appendix 4-1</b>).</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	<p>qualifying species within the SPA/ Ramsar site boundary itself from the Proposed Development is unlikely given the spatial separation between the Main Development Area and the SPA and Ramsar site (at least 115 m).</p> <p>The SPA qualifying birds will also be habituated to a level of baseline potentially disturbing activities including boat traffic using the adjacent Manchester Ship Canal, and vehicles using the road which passes north of the NBBMA and runs parallel to the Manchester Ship Canal, as well as member of the public being present, using the pools within the Mersey Estuary SSSI to fish.</p> <p>Accordingly, no additional disturbance to SPA qualifying species within the SPA/Ramsar site itself are predicted.</p> <p>Further analysis on disturbance from construction of the solar farm in terms of visual disturbance and noise is required (can machinery be seen by birds in the RAMSAR, does the topography give some visual protection for birds etc.).</p>		
Cheshire West and Chester Council	<p>8.8.10 Eastern area of the site won't result in any displacement of SPA species.</p> <p>As such, construction of the Proposed Development is anticipated to result in temporary minor adverse effects upon international/ national statutory designated sites for nature conservation (Mersey Estuary SPA, Ramsar and SSSI), which are of high sensitivity, which is not significant.</p> <p>Detail is needed here to support this</p>	No	<p>Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) provides information on usage of the SADA by target species with very limited numbers using the eastern part of the SADA. Within this chapter (see Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) the effects of the Proposed Development by displacing SPA species from the SADA (including the eastern part) are assessed.</p>

Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
	conclusion.		
Cheshire West and Chester Council	8.8.14 Ground-nesting species of open habitats like skylark (peak of 21 pairs from during field surveys, see Table 8-15) and lapwing (peak of nine pairs) that use the LWS may be displaced permanently from the SADA. Effects on these species is considered separately below, particularly given the LWS does not specifically listed these species. The citation of the LWS does refer to skylark and lapwing, so the approach here is incorrect.	No	Clarification is provided in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) in this regard, and justification is provided into assessing effects on skylark and lapwing alone as ground-nesting species. As opposed to specifically in the context of the LWS, where they are listed as records, and rather than being qualifying species, are a component part of a large ornithological assemblage that the LWS supports.
Cheshire West and Chester Council	8.8.16 There is considered to be sufficient land within, and adjacent to, the Site which would provide alternative habitat for any birds displaced during construction. This infers that the impacts cannot be mitigated for within the DCO limits and should not be the approach used.	No	Within Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) it is clarified that there would be sufficient land within the Site to support any displaced birds using the Frodsham, Helsby and Ince Marshes LWS, particularly given the construction phase would be phased, and the LWS is extensive. Furthermore, mitigation and enhancement measures including within the NBBMA would benefit birds that the LWS supports.
Cheshire West and Chester Council	8.8.17 The construction of the Proposed Development is therefore anticipated to result in temporary minor adverse effects on non-statutory designated sites for nature conservation (Helsby and Ince Marshes LWS, Upper Mersey Estuary LWS and Clifton Lagoon LWS), which are of medium sensitivity, which is not significant. Due to the reasons previously mentioned, this conclusion is not concurred with.	No	Clarification has been provided above, which is considered to justify the conclusions drawn.
Cheshire West and Chester Council	8.8.22 Areas of suitable nesting habitat will however remain available in the wider agricultural landscape . . .	No	This statement regarding suitable nesting habitat in the wider landscape has been clarified in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).

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	This infers that the impacts cannot be mitigated for within the DCO limits and should not be the approach used. 'skylark plots' will also be created within two areas of combined 28 ha (accounting for 50 m offset from hedgerows and a pylon). Does this account for the area of wires across the proposed Skylark area? A plan should be provided.		
Cheshire West and Chester Council	8.8.30 The construction of the Proposed Development is therefore anticipated to result in minor adverse effects on non-breeding birds, which are of up to high sensitivity, which is not significant. Due to the reasons previously mentioned, including construction timings, baselines and uplift, this conclusion is not concurred with.	No	As stated above clarity is provided into construction timings, baseline usage by target species, uplift as a result of betterment and improvements on habitats within the NBBMA (see Sections 8.7 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) and 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ) for further details). With the clarify provided the conclusions drawn are considered robust.
Cheshire West and Chester Council	8.8.32 ii) behavioural changes/disturbance of ornithological species associated with the presence of panels and other infrastructure associated with the Proposed Development; It should be clarified that Increased public use due to ne and improved footpaths is considered under the above point.	No	This has been clarified in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ), with effects on target species as a result of potential increased public use of new paths considered.
Cheshire West and Chester Council	8.8.52 The potential for the operation phase of the Proposed Development to result in the displacement of some of the breeding skylark (peak of 21 pairs) and lapwing (peak of nine pairs) recorded during field surveys within the Main Development Area cannot be entirely discounted. This is particularly as both species nest in open fields and will nest away from edge habitats (in the case of lapwing, like other	No	Potential displacement of up to nine pairs of lapwing is considered in the assessment in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ). However, it is considered that mitigation measures, particularly those that would be adopted in the NBBMA would benefit nesting lapwing and would be expected to increase the breeding success of the species, through the betterment of habitat above baseline levels (creation of wet grassland) and deployment of predator-proof fencing around the NBBMA (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within Outline Landscape and Ecological Management

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	<p>ground-nesting waders, potentially out to 500 m; see Defra, 2024) xxiv, which are likely to include solar arrays.</p> <p>If the displacement of Lapwing is up to 500m as suggested, this should be taken into account in the proposals.</p> <p>There has been no specific mitigation suggested for lapwing on this basis and this is required.</p>		<p><b>Plan [EN010153/DR/7.13]]</b> for further details into the mitigation measures in NBBMA).</p>
Cheshire West and Chester Council	<p>8.8.54 It is proposed that with the enhancement of the NBBMA (which is 64 ha), the Skylark Mitigation Area (which is 28 ha) and creation of other botanical-rich grassland around the solar arrays, breeding skylark and lapwing displaced by the Proposed Development are likely to be supported by alternative suitable habitats.</p> <p>Breeding lapwing require &gt;2 ha of suitable habitat (Natural England, 2011)xxv and thus the wetland grassland and associated habitat to be created and enhanced in the 64 ha NBBMA will provide optimal nesting habitat for well in excess of nine lapwing pairs in the event that all are displaced from the Main Development Area.</p> <p>See comment above in terms of edge habitats and assessment in terms of the proposals.</p> <p>The Skylark mitigation area was not surveyed for breeding birds and there are no specific works detailed as to how it will be improved, if they are not using the fields 35 currently.</p> <p>If they are not using the fields currently how can it be demonstrated that this area will compensate for the displaced Skylark?</p>	No	<p>The Skylark Mitigation is provided in addition to habitat management measures which will be beneficial for the species within the NBBMA and across the wider SADA; it is not the case that skylark populations will be limited to the Skylark Mitigation Area. It is the Applicants position that the overall approach will represent at least 'no net loss' of habitat for skylarks, especially when habitat quality (in particular prey availability and removal of crop management) is considered.</p> <p>Optimal breeding conditions for lapwing, which are currently absent throughout the Site (Order Limits) comprise short sward vegetation in open land and with wet areas which support invertebrate food species. The NBBMA will provide such habitats, with the considerable additional benefit of predator fencing and so is considered likely to improve breeding conditions and productivity for the species.</p> <p>For both skylarks and lapwings, the management measures proposed will be implemented for a forty-year period which is considered to be a substantial improvement on any other likely future management scenarios.</p>



Respondent	Comment	Has this resulted in a change to the Scheme or the Applicant's evidence?	Applicant response
Cheshire West and Chester Council	<p>8.8.23 The Main Development Area supported a peak of 21 breeding pairs of skylark and nine breeding pairs of lapwing (thus respectively 42 and 18 birds).</p> <p>There is no commentary about how many pairs of Skylark and Lapwing the NBBMA provides currently and if there is further space for some of the pairs displaced from the main development area.</p> <p>8.8.60 Furthermore, although new permissive paths through the Site will be provisioned, it is considered that no greater such effects will be expected from increased usage by the public, given that the Site is already subject to some recreational activity (public right of way), and because bird screening fencing is to be provisioned in those ornithologically sensitive areas (by the NBBMA and along the side of the River Weaver).</p> <p>No evidence has been given to demonstrate this; 4.5km of new permissive paths will cut across areas not currently used for access, or that have different types of uses.</p> <p>Existing PROW will be enhanced for use and a carpark provided.</p>	No	<p>Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) provides a summary of the survey results and the number of breeding pairs of lapwing and skylark, with further details in the <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> and indicative breeding territory locations provided in Figures 8-11 and 8-11b. Note, the NBBMA was surveyed in Year 2 (not Year 1) so increased numbers of both species in Year 2 is, at least likely partly, due to the NBBMA being included in the survey area.</p> <p>Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) discusses the predicted effects on any displaced skylark and lapwing pairs. As detailed in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) new permissive paths have been designed to be sensitive to key areas for birds, particularly NBBMA and also along the River Weaver. It is considered that these measures will ensure that disturbance to birds using these key areas is minimised to a level where no increased disturbance effects to birds are predicted. The expected types of use would be expected to be comparable with current usage of paths (by walkers).</p> <p>The existing PROW will be enhanced (and carpark provisioned) but the route is considered not to conflict with the key areas for birds, in that any increased public usage of the PROW is not predicted to result in increased disturbance in key bird areas.</p>
Cheshire West and Chester Council	<p>1.2.2 The Proposed Development has the potential to impact on 'Functionally Linked Land' (FLL), through: • Displacement of Mersey Estuary SPA wetland bird species due to the presence of solar panels and other infrastructure; and/or, • Increased disturbance to Mersey Estuary SPA wetland bird species, during construction or operation of the Proposed Development.</p>	No	<p>Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) considers effects of disturbance on target species as a result of likely increased public usage by permissive paths during the operation phase of the Proposed Development.</p>

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	<p>1.2.3 The likely requirement for mitigation of both of these possible effects is acknowledged; however, this report considers only displacement, as this is most relevant to the proposed use of Cell 3 for mitigation purposes.</p> <p>It is accepted that the potential for disturbance will require detailed assessment and this will be included in the detailed ecological assessment presented in due course.</p> <p>This is not accepted, as disturbance during operation due to improvement and addition to the footpath network in and around the site, is a likely factor.</p>		
Cheshire West and Chester Council	<p>2.1.3 For the purposes of the Cell 3 NBBMS, mitigation is considered in relation to grassland wader species only, namely golden plover, curlew and lapwing.</p> <p>Other SPA species are only very rarely found on arable farmland (i.e., areas affected by the Proposed Development) and therefore a demonstrable effect is not anticipated.</p> <p>This view is borne out by survey data, which will be fully presented in the application PEIR and subsequent Environmental Statement (ES) for review.</p> <p>It is anticipated that such species will benefit from the proposed Cell 3 NBBMS and therefore the proposed mitigation strategy represents an enhancement.</p> <p>In section 3.2.2 of Appendix 8.1 it states that the highest number of Target Species recorded in Cell 3 were 1,411 black-tailed godwit, 800 lapwing, 433 golden plover and</p>	No	<p>Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) considers effects on all target species (including SPA species such as curlew, golden plover, lapwing, black-tailed godwit and teal).</p> <p>The mitigation measures that would be adopted in the NBBMA would benefit all target species that were recorded in the NBBMA, and elsewhere in the SADA. Outside the NBBMA, the SADA supported limited numbers of SPA qualifying species, especially species other than lapwing, golden plover and curlew (as detailed in Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)). It is therefore considered that an enhanced NBBMA would support the birds it already supports, plus any displaced from the SADA.</p> <p>The NBBMA after works would provide areas of wet grassland for the benefit of species like curlew, golden plover and lapwing, 'muddy' edge/margins for species like black-tailed godwit and redshank, and open water for waterfowl like teal. The islands to be created would also benefit all of these species and provide additive roosting sites (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> for further details).</p>

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	<p>291 teal, so further SPA species than considered above.</p> <p>These species will be affected by the NBBMA enhancement works.</p> <p>Furthermore, survey data shows that Black tailed godwit were present on Cell 2 in Jan 2024, Redshank and Teal on Cell 5 in Feb 2024 and Teal on Cell 5 March 2024.</p> <p>Therefore, the NBBMS should be expanded to account for all SPA/RAMSAR species, rather than the limited range above.</p> <p>All impacts have not been considered otherwise.</p>		
Cheshire West and Chester Council	<p>2.3.8 Peak and mean counts of pertinent SPA bird species are presented in Table 2.1, derived from bird surveys as summarised in Section 1.3.</p> <p>Table 2.1: SPA Bird Species Recorded on the Cell 3 Wind Farm Management Area 2023/24.</p> <p>This is not the case, as only some SPA species have been considered, so the full impacts have not been considered.</p>	No	<p>Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) provides the counts of all target species (including all SPA qualifying species) derived from bird surveys, with further details provided in <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b>.</p> <p>As noted above usage of the SADA and the NBBMA by all SPA qualifying species is considered in the assessment (see Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>)) and effects on all SPA qualifying species (which were recorded in notable numbers) has been considered, with appropriate mitigation measures to be adopted.</p>
Cheshire West and Chester Council	<p>2.3.10 Whilst Cell 3 attracts waterbirds in the winter months (when thistles / ruderal vegetation dies-off), it is evidently not used by passage birds (which are also a SPA feature), particularly in the autumn months as scrapes dry-up and ruderal vegetation is at maximum height.</p> <p>This is not quantifiable, there look to still be reasonable numbers of birds in Feb/March/Oct.</p>	No	<p>The <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> provides the raw survey data for all the surveys and months. It is apparent that usage of the NBBMA during the passage periods are typically sporadic for most target species, and this is likely a reflection on rainwater levels experienced, given the current NBBMA is dependent on rainwater inundation. As detailed in the <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> water management of the NBBMA is a fundamental aspect of the enhancement measures keeping the area wetter for longer periods including over the passage periods when the NBBMA is considered likely to be an important habitat for at least some SPA qualifying species.</p>

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Cheshire West and Chester Council	<p>2.3.11 Visits to Site in summer 2024 by Avian Ecology again confirmed the extensive presence of ruderal vegetation.</p> <p>A site visit was made in September 2024 by Avian Ecology and CWAC, where it was noted that vegetation management has been carried out.</p> <p>With the continued cutting of vegetation in the cells, the planning condition is met however, it has been agreed with the HCMG that management needs to be reviewed, including grazing levels.</p> <p>Continued monitoring will be carried out in years 6-9 to ensure compliance with planning conditions.</p> <p>Note that HCMG have agreed to review management and so further improvements may be able to be made.</p> <p>Note that the Cell 3 mitigation is only in year 5 and issues with the scrapes have been met, so it is early on in the mitigation strategy implementation to fully assess the level of success.</p> <p>As this development depends on this baseline, it is uncertain where the level of additionality begins and how much can be achieved, fi the cells are not yet at optimal levels possible under the Windfarm mitigation scheme</p>	No	<p>As detailed in the <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>, the current mitigation programme for Cell 3 for the operational Frodsham Wind Farm has a 'ceiling' in terms of what benefits to target species it provides given the area is not wet grassland, and the scrapes are entirely dependent on rainwater inundation, so during periods of dry weather (which are considered more likely due to a warming climate). It is considered that the current baseline condition in terms of usage by target species is indicative of a best-case scenario given the management measures agreed by the HCMG. Accordingly, additive mitigation would be considered based on the current usage of the NBBMA by target species, and with the carrying capacity increased above current levels through the betterment of habitats therein.</p>
Cheshire West and Chester Council	<p>2.4.1 Cell 2 and Cell 5 comprise grazed pasture, with patches of extensive arable weed cover at times.</p> <p>They are managed specifically for species associated with grassland, namely golden plover, lapwing and curlew in accordance with the HCMP.</p>	No	<p>Target species (including golden plover, lapwing and curlew) using Cells 2 and 5 are considered with respect to determining the appropriate level of mitigation required.</p> <p>The <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b> details the aim of Cell 3 (the NBBMA), with a</p>

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	<p>Note that the species present on these cells also need to be taken into account, as well as the species that the Cell 2 and 5 mitigation was originally targeted at.</p> <p>The aim of Cell 3 should also be discussed here.</p> <p>Table 2.3: SPA Bird Species Recorded on the Cells 2 and 5 in 2022/2023 and 2023/24 combined.</p> <p>This table should include all SPA birds recorded on the cells to get the full picture, even though that is all that Cell 2/5 are managed for.</p> <p>Birds on cell 3 should also be included in the table.</p>		<p>summary also provided in Section 8.7 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>).</p> <p>Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) provides the peak and average numbers of all SPA qualifying species that used Cells 2, 3 and 5, as well as frequency of usage. The <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b> provides a further breakdown of the survey results and bird usage across the SADA (including Cells 2 and 5), and Cell 3 (the NBBMA).</p>
Cheshire West and Chester Council	2.5 Wider site Wider Site: Current Management and Use by SPA Birds This should include all SPA birds recorded on site, not just those targeted by the Windfarm mitigation.	No	As discussed in Section 8.8 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ), usage by the Site by all SPA qualifying species is considered and not just those targeted by the operational Frodsham Wind Farm mitigation. The mitigation that would be adopted provides appropriate levels of enhancement for those SPA qualifying species which were recorded onsite in the most notable numbers. It is noted that the number of other SPA qualifying species (excluding lapwing, golden plover and curlew) using the SADA was limited (and sporadic), as detailed in Section 8.6 ( <b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b> ).
Cheshire West and Chester Council	<p>2.6.7 Following the Cleeve Hill approach the amount of mitigation area that would be required to provide sufficient grassland habitat for golden plover, lapwing and curlew is calculated to be 47.8ha.</p> <p>A hectareage has not been calculated for any other SPA species recorded on Site e.g., Black tailed godwit on Cell 2 in Jan 2024, Redshank and Teal, Cell 5 Feb 2024, Teal Cell 5 March</p>	No	The approach focuses on those three species (curlew, golden plover and lapwing) for which were the target for the operational Frodsham Wind Farm mitigation. Given this is the area that would be subject to betterment it is considered robust that these are three key species for consideration in terms of determining appropriate levels of mitigation. Other SPA qualifying species which were recorded in relatively high numbers (at least sporadically) within the NBBMA was black-tailed godwit and teal. The NBBMA after enhancement would support the godwits and teal it currently supports and more, with the carrying capacity of the NBBMA increased, also for these two species. This would therefore provide alternative (optimal) habitat for those small numbers of godwits

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	2024.		<p>and teal displaced from the SADA (see Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) which confirms very low usage of the SADA for these two species).</p> <p>The creation of different habitats within the NBBMA which would be created (see <b>Appendix B - Outline Non Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13]</b> within <b>Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]</b>) would enhance the habitat for species like black-tailed godwit and teal, with these two species respectively benefiting from the creation of more areas of exposed 'muddy' edge/margins and open water. Curlew, golden plover and lapwing would also benefit from the increase in 'muddy' edge/ margins and open water, but these species would be most benefitted by the creation of wet grassland. As such through the creation of a more varied wetland habitat in the NBBMA the carrying capacity of the area for supporting all SPA qualifying species that were recorded in notable numbers, and that have the potential to be displaced by the Proposed Development will be markedly increased.</p>
Cheshire West and Chester Council	<p>3.1.13 Bird-day calculations demonstrate that at least 47.8 ha of grassland would be required to support existing levels of use (Appendix 1); however, this does not account for higher quality wet grassland (i.e. improved habitats7).</p> <p>The NBBMS provides for a total of 44.64 ha of grassland, of which 9.5 ha will be actively managed as wet grassland.</p> <p>It should also be factored in that the approach does not account for increased risk due to a smaller area which can be sued by the SPA species, e.g. in terms of predator vulnerability and inability to move to other fields if disturbed, disease if a large amount of birds are concentrated in one area etc.</p>	No	<p>Baseline gathering (see Section 8.6 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) and <b>ES Volume 2 Appendix 8-1 [EN010153/DR/6.2]</b>) revealed that usage of the Site by SPA qualifying species was principally concentrated in Cell 3 (the NBBMA), with typically very low, and sporadic numbers across the SADA. Baseline gathering revealed that Cell 6 (offsite) regularly supports high numbers of SPA qualifying species, principally as a consequence of the large extent of open water in the east of Cell 6. Note, Cell 6 would not be affected by the Proposed Development. As such, the two areas identified as supporting the highest concentrations of SPA qualifying species (Cell 3 and Cell 6) would be either retained (Cell 6) or enhanced (Cell 3). It is thus considered that large numbers of birds would not only be concentrated in one area but instead would also continue to use other habitats, like Cell 6. An enhanced NBBMA would also represent a key habitat between Cell 6 and the River Mersey Estuary and promoting the safe passage of SPA qualifying species between the two distinct turbine clusters of the operational Frodsham Wind Farm, as well as an important foraging, loafing and roosting site.</p>

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Cheshire West and Chester Council	<p>12.8.35 Measures to mitigate and enhance the user experience on-site are proposed including improved surfacing, landscape screening, educational displays, improved bird viewing opportunities, and better maintenance of existing footpaths.</p> <p>The Proposed Development also includes the provision of 4.7km of additional permissive paths and a new car park on Moorditch Lane which would help improve access to the Site, increasing user levels.</p> <p>This should be assessed in detail in terms of impacts on the protected species on site and the mitigation proposed.</p>	No	<p>As detailed in Section 8.8 (<b>ES Vol 1 Chapter 8: Ornithology [EN010153/DR/6.1]</b>) new permissive paths have been designed to be sensitive to key areas for birds, particularly NBBMA and also along the River Weaver. It is considered that these measures will ensure that disturbance to birds using these key areas is minimised to a level where no increased disturbance effects to birds are predicted.</p> <p>The existing PRoW will be enhanced (and carpark provisioned) but the route is considered not to conflict with the key areas for birds, in that any increased public usage of the PRoW is not predicted to result in increased disturbance in key bird areas.</p>