



**Cheshire West
and Chester**

Frodsham Solar DCO – EN010153

**Written summary of oral representations made at Examination Hearings held
on 2 and 3 December 2025 - Issue Specific Hearing 1**

Cheshire West and Chester Council

Submitted at Deadline 1 – 22 December 2025

INTRODUCTION

This document summarises the representations made orally by Cheshire West and Chester Council (**CWCC**) being the host authority for Frodsham Solar Farm DCO (**the Project**) promoted by Frodsham Solar Ltd (**the Applicant**) at Issue Specific Hearing 1(**ISH1**) held on 2 and 3 December 2025.

Michelle Spark (**MS**), Partner at Clarke Willmott LLP represented CWCC.

MS was joined by the following CWCC officers who made contributions and representations at ISH1:

- Paul Friston, Principal Planning Officer (**PF**);
- Laura Hughes, Principal Natural Environment Officer (**LH**); and
- Mark Leah, Development Management Archaeologist and Team Leader Cheshire Archaeology Planning Advisory Service (**ML**).

ISSUE SPECIFIC HEARING 1 – 2 December 2025

Agenda Item 4.a) – Part 1 – Preliminary

In discussion between the Examining Authority (**ExA**) regarding the level of functionality of the non-breeding bird mitigation area, the Applicant confirmed that it had agreed this with CWCC. LH confirmed to the ExA that this had not been agreed (although it may have been with Natural England) and the Applicant accepted that this had not been agreed.

Additionally, LH agreed with the ExA's queries in relation to the definition of permitted preliminary works as the phasing plan would not kick in for the permitted preliminary works and they would include site clearance which requires mitigation and requires the non-breeding bird mitigation area to be in place. LH confirmed that she would appreciate a more detailed programme being available that either includes the permitted preliminary works or takes those specific elements out of the permitted preliminary works definition.

Agenda Item 4.b) - Part 3 – Streets

The ExA asked CWCC to comment on the very broad powers contained in the DCO in relation to street works and those outside of the Order Limits and the consent needed from the street authority. MS advised that the highways officer was no longer present at the hearing and that a response would be provided at Deadline 1 with reasons for that position.

Agenda Item 4.f) – Schedule 1 – Authorised Development

The ExA asked CWCC if they had any comments on the discussion regarding the Works Numbers. LH commented that there was a repetition of the creation of skylark habitat in Work No. 6a and then separated out at Work No. 6b and she wasn't sure why that had been separated out but it was her preference.

In addition, in relation to the newer mitigation areas, the area by the Lum and reedbed area, and the publicly accessible reed bed area by the non-breeding bird mitigation areas – it is

unclear and not explicit which work package they are included in, however, LH assumes the Applicant will state Work No. 6(a) under the green infrastructure. If this is the case, the works plan is not labelled and therefore a small update to the works plans may be required or a clarification.

Agenda Item 4.g) – Schedule 2 – Requirements

The ExA discussed its concerns regarding the omission of construction hours as a specific requirement and the Applicant explained that it has included construction hours in the CEMP which is then secured by a requirement. There was further clarification sought by the ExA with regards to the construction hours permitted by the Permitted Preliminary Works and the Applicant confirmed that it was not clear and would look into it.

The ExA then asked the CWCC for its position on working hours and how they are controlled and PF confirmed that he had been looking at drafting which would come through at Deadline 1 and that his preference would be to have the construction hours controlled explicitly through the requirements establishing core hours and then give some flexibility to working outside of those hours through an approval under CEMP although this has not yet been discussed with the Applicant but he wanted to give CWCC's initial thoughts on the issue.

Agenda Item 4.h) – Procedure for the discharge of requirements

The ExA and the Applicant had a discussion regarding the disparity of the turnaround times for CWCC to request further information within 20 working days, yet the Applicant has 6 months to appeal and the ExA considered this an imbalance. The Applicant advised that they change 6 months to 42 days (following Advice Note 15).

MS advised CWCC had picked up the issue of a 6-month appeal period and CWCC would make representations at Deadline 1.

In addition, there was a discussion regarding the fees prescribed and whether or not they were adequate. MS advised that CWCC was intending to discuss a potential PPA for discharging requirements with the Applicant in light of discussions regarding resource for CWCC (this was at the Preliminary Hearing held on 2 December 2025). MS then explained what a planning performance agreement (**PPA**) was for the benefit of the public and she confirmed that she has a precedent draft to share with the Applicant.

The ExA is seeking confidence in CWCC's ability to discharge its obligations under the DCO and asked to be updated on discussions on a PPA. MS confirmed that CWCC was in the midst of discharging requirements on the HyNet Carbon Dioxide Pipeline DCO and that sufficient resources were available to that project and it is a matter of re-adjusting CWCC's internal resources where needed.

ISSUE SPECIFIC HEARING 1 – 3 December 2025

Agenda Item 4.j) – Brief statement from Cheshire West and Chester Council on principle matters of disagreement with the applicant on its DCO

MS on behalf of CWCC confirmed that CWCC is making good progress with the Applicant generally and in frequent dialogue and discussions with them. However, the principal areas of disagreement relate to the items specifically on Agenda Item 5 of the ISH agenda in relation to major replacement during the operational phase, decommissioning, landscape impact and the impact of the HyNet Hydrogen Pipeline and HyNet CO2 spur.

Agenda Item 5.a) – Major replacements during the operational phase

Following the presentation by the Applicant on matters relating to major replacements the ExA invited CWCC to provide comment.

In summary, LH commented on the following:

- Major replacement worst case scenario and CWCC's position that the impacts would be different to the construction impacts, particularly in relation to the non-breeding birds (and the inability to use non-developed fields) and LH confirmed that she has been working with the Applicant on a phasing programme which is welcomed;
- During operational development the mitigation areas are defined and smaller and therefore impacts near these areas will be of a higher magnitude than they would be during construction and near the river boundary at cell 1 (wind farm mitigation area);
- Frodsham Wind Farm is due to be decommissioned in 2042 which could clash with any major replacement activities and therefore cumulative impacts need to be assessed (in the worst-case scenario);
- It is useful to know that the 50% replacement would be over a 6-month period but that would mean at least some works would occur in a non-breeding bird season – either winter, spring or autumn with the less sensitive season taking place over the 3-month summer period;
- Therefore, could the 50% be reduced to 25% and could there be an upper limit. LH considered 25% may be a consideration but some other controls could be locational e.g. any major replacement activities within so many metres of the non-breeding bird and skylark mitigation areas and the river edge could be controlled in more detail;
- In terms of the replacement of habitats impacted by below ground works, this may affect the target condition of the grassland. It takes 7 years to get to target condition, and this may affect the biodiversity net gain calculation; and

- In notifying the CWCC, what does this entail as CWCC would rather have a discussion and comment on/approve mitigation strategies and have controls over frequency and location of the replacement activities e.g. there could be a scenario where 49% of the panels are replaced in 1 month and then 49% in the next month and CWCC would need to consider the impact of this.

The ExA asked CWCC to set out the above in writing for Deadline 1 and CWCC confirmed it would do so.

In addition, LH commented that major replacement was not mentioned in the outline operational environment management plan, and it only mentions periodic replacements and therefore could the Applicant look into that for consistency and confirm the controls available.

Agenda Item 5.c) – Underground cable removal

In relation to comments on this part of the agenda, PF made two points following discussion between the ExA, the Applicant and the Environment Agency as follows:

- Will the cables if left in situ, be alive or dead as there may be an issue for post-development land use; and
- The importance of having information upfront at this stage for example the design approach and design approval at requirement 6 and having information available/ clarity of design in relation to these structures.

Agenda Item 5.d) – Decommissioning end state

CWCC confirmed the ExA's understanding that the Council considers that the outline decommissioning environmental management plan should provide more detail of the end state of the site after decommissioning.

Throughout the discussion between the ExA and the Applicant, updates to the decommissioning environmental management plan was discussed at certain intervals to take into account legislative and regulatory changes throughout the lifetime of the proposed development.

LH confirmed that CWCC would be supportive of having an update of the decommission end state throughout the operation of the solar farm. LH wanted to raise a point regarding the land being returned to the state it is in now at the end of the solar operational period, Frodsham Wind Farm would have finished and the obligation to maintain cells 2, 5 and 3 would have finished so end state won't be the same as the current baseline, as the Applicant asserted. The obligation to maintain the pools in cell 3 and the maintenance of cells 3 and 5 would have ended and it would be very useful if the decommissioning end state could be discussed well in advance of the end date.

LH confirmed to the ExA that she would cover these points off in writing at Deadline 1.

LH reiterated one more point on this subject. On the non-breeding bird mitigation area, she understands that there are ongoing discussions with the RSPB to hand over the mitigation areas and again these may be more developed than anticipated and therefore it would be

helpful to be updated throughout the operational life of the wind farm as to what the decommissioning end state is likely to be.

Agenda Item 5.e) – Decommissioning timing

The ExA discussed the content of requirement 20 and that decommissioning works must commence no later than 40 years following the date of final commissioning of the solar photovoltaic generating station. The outline decommissioning environmental management plan includes that decommissioning will be expected to take between 12 and 24 months and will be undertaken in phases. CWCC in its relevant representation requested that appropriate provision is made for both decommissioning and restoration not just after the 40 year lifespan of the development but in the event that a relevant part of it has stopped generating or storing electricity, or is otherwise redundant for a period of 24 months that the decommissioning would be completed within 2 years of energy generation ceasing or within 40 years whichever is the sooner. CWCC confirmed that this is a correct characterisation of CWCC's position.

CWCC was asked if it had any further comments on decommissioning timing and updates to the outline decommissioning environmental management plan. PF confirmed that CWCC supports the position in the agenda whereby the approach taken in the Oaklands DCO but that it would await proposals from the Applicant as an alternative to including specific wording in the DCO. In relation to the decommissioning environmental management plans, CWCC would expect to see updated habitats surveys.

Agenda Item 5.f) – Decommissioning funding

The ExA set out CWCC's concerns relating to changes in operators and a decommissioning fund being available to avoid the need for enforcement of decommissioning. The ExA referred to wording put forward in the Oaklands DCO set out in the agenda and asked the Council for comment. PF confirmed that the suggested wording for the Oaklands DCO was welcomed as a starting point and would be wording that CWCC would be looking for. PF confirmed that the Frodsham Wind Farm operators have changed 3 times since construction and CWCC as local authority isn't aware of the arrangements between those parties in relation to safeguarding the decommissioning fund and in large projects, with the likelihood of the site being sold on, it is important that appropriate provision is secured for the decommissioning. PF referred to s278 Agreements (Highways Act 1980) and securing bonds so that the works can still be carried out.

MS also confirmed that (with no reflection on the Applicant) the experience within the CWCC team was that from its perspective companies that operate solar farms can often be shell companies/ special purpose vehicles which are easy to wind up and that they have limited assets. Therefore, if there are no assets or limited assets behind the current Applicant or future operators, this would leave CWCC as local planning authority in an untenable position. MS confirmed to the ExA that lack of covenanting strength was the correct terminology.

MS confirmed that CWCC would revert on the suggested wording put forward in the agenda.

Agenda Item 5.g) – Peat Deposits

There was significant and lengthy discussion on this topic in ISH1 between the ExA, the Applicant and ML on behalf of CWCC. To assist the ExA and to avoid unnecessary duplication,

CWCC's full response is contained in CWCC's Appendix A to its Written Representations submitted at Deadline 1.

Agenda Item 5.h) – Ground conditions

There was significant discussion between the ExA, the Applicant and the Environment Agency on this agenda item.

CWCC was specifically asked its opinion on whether the ground conditions have been adequately characterised and if it was content with the Applicant's assessment that there would be no residual significant effects. PF confirmed that the Council's contaminated land specialist was not at the hearing and therefore CWCC would respond at Deadline 1.

Agenda Item 5.k) – HyNet Hydrogen Pipeline and Runcorn Carbon Dioxide Spur Pipeline

The ExA summarised CWCC's position as set out in the agenda regarding significant cumulative impact and lack of assessments and controls. CWCC confirmed this summary/position was correct.

In response to the Applicant's explanation re controls and cumulative impact (or otherwise) and the scenarios they have considered, LH thanked the Applicant for setting this out and reiterated that all scenarios of the Project and in particular the CO2 Pipeline coming forward at different stages (rather than together) needs to be assessed and that this assessment would need to form part of a cumulative impact chapter in the Environmental Statement. In CWCC's opinion, this assessment is crucial to avoiding and assessing cumulative impacts for both of the projects.

LH also raised a point about seasonality raised by the Applicant. She pointed out that Mersey Estuary, RAMSAR and Special Protection Areas designations include spring and autumn passage qualifying species, as well as wintering species, so it is not just the wintering birds that are important. The sensitive periods therefore amount to 9 months of the year and that is why she is concerned in terms of timing for those species and there are concerns regarding sufficient controls to co-ordinate these two projects.