



**CHESHIRE WEST AND CHESTER COUNCIL**

**Frodsham Solar DCO - EN010153**

**CWCC D3(A)**

**Cheshire West and Chester Council's further comments submitted at Deadline 3 – 28 January 2026**

**In response to the Applicant's Response to the Local Planning Authority Relevant representations contained in [PD2-027]**

**"8.5 Response to Local Planning Authority and Statutory Environmental Body Relevant Representations"**

## INTRODUCTION

CCWC’s original comments have been omitted from the tables below to reduce the size of the document. Therefore, the tables below need to be read in conjunction with CWCC’s relevant representations **(RR) [RR-037]** and the Applicant’s response contained in **[PD2-027]**.

CWCC’s responses to the ExA’s first written questions **(ExQ1) [REP2-005]** submitted at Deadline 2 (19 January 2026) provide CWCC’s response to various comments and these are cross referenced where relevant. **ExQ1 comments are in purple**. Some relatively minor text changes and references in the comments have been updated to reflect the Applicant’s later document submissions.

### **CWCC comments on Applicant’s responses to CWCC’s Relevant Representations [PD2-027]**

#### 2 Planning Policies and local context

Ref	Para number	Applicant’s Response (PD2-027)	CWCC comments	Status
<b>RR-037 Section 2: Planning Policies and local context</b>				
CWACC2.1	2.9 – 2.12	<p>The Applicant recognises that Policy DM52 provides an important part of the local planning context for solar development and that, while the National Policy Statements (NPS EN-1 and EN-3) are the primary decision-making framework for a DCO, local policy remains a material consideration.</p> <p>Policy DM52 advises that proposals should be located where landscape sensitivity is identified as low to moderate and acknowledges that development in areas of high sensitivity will not generally be considered appropriate. The Applicant’s assessment accepts that parts of the site fall within an area identified as having higher landscape sensitivity in the Council’s 2016 study;</p>	<p><b>ExQ1 Q7.0.1</b></p> <p>In the Applicant’s response to paragraph 2.9 of RR-037 it states, “<i>The Applicant’s assessment accepts that parts of the site fall within an area identified as having higher landscape sensitivity in the Council’s 2016 study</i>”.</p> <p>The Applicant refers to parts of the site being within an area of higher landscape sensitivity. The whole of the SADA falls with an area of high landscape sensitivity to very large solar farms as shown by Figure 10 in the study (<b>Appendix 5</b> – page 132 of original study). Table 5: Summary of Sensitivity of Landscape Character areas to Solar Photovoltaic Development shows that of the four LCT4: Drained Marsh areas within the borough, the LCA 4a Frodsham Helsby</p>	

		<p>however, the policy does not operate as an absolute restriction and requires that proposals demonstrate that impacts on key landscape characteristics are acceptable.</p> <p>In this case <b>Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039)</b> confirms (paragraph 6.12.12) that: “...<i>the Proposed Development would [occupy] ...a series of structures that are low in height and which can therefore benefit from the screening provided by existing vegetation cover. It would be introduced into a large-scale landscape context where long range expansive views across and along the Mersey Estuary are characteristic of the landscape that is experienced from public rights of way, road, rail and canal routes, and from nearby settlements. Large scale industrial and infrastructure development is a well-established presence and indeed is often very prominent. In this context, the degree to which the change resulting from the Proposed Development would change the nature of the landscape would be limited. Likely significant and adverse landscape and visual effects would occur but would be experienced by a small number of receptors and would be localised in their extent.</i>”</p> <p>To conclude, while there will be localised landscape and visual effects, particularly in close proximity to the development, the overall structure and key characteristics of the marshland landscape would remain legible, and the site does not form part of a nationally designated or valued landscape. The design has been shaped to limit perceived scale and visual exposure, with the use of low panel heights, set back from rights of way, and embedded planting to reduce massing and integrate the scheme into the flat, open landscape pattern. Whilst there may be limited conflict with Policy DM52, on balance it is consistent with the underlying intent of the policy.</p>	<p>and Lordship Marshes area have the highest overall assessment of sensitivity (‘Moderate to High’) i.e. before considering the scale of proposed solar scheme. (<b>Appendix 1</b> – pages 67-68 of original study). The extracts from the landscape sensitivity study (<b>Appendix 5</b>), include LCT 15 River Valley and LCT 16 Mudflats &amp; Saltmarsh, as well as LCT 4 Drainage Marsh as these are character types adjacent to the LCA 4a area. Appendix B General Design Guidance Principles is also included for reference.</p> <p>Paragraph 6.6.40 of the Applicant’s LVA [APP-039] acknowledges that even a small scale development would be contrary to the management strategy identified in “A Landscape Strategy for Cheshire West and Chester Borough” (2016) which is to conserve the open, undeveloped character of the drained marshland. CWCC disagrees with the Applicant’s conclusion [PD2-027] responding to 2.9-2.12 of [RR-037] that “<i>the overall structure and key characteristics of the marshland landscape would remain legible</i>”. CWCC’s position is that the magnitude of change associated with the proposed development is significant. This view is supported by some of the key characterises of LCT4 sensitivity to solar PV development (<b>Appendix 5</b> - pages 79-80 of original study):</p> <ul style="list-style-type: none"> <li>• <i>The open, exposed landscape of the drained marsh is highly sensitive to solar PV development in principle;</i></li> <li>• <i>However, the simple uniformity of landform and land cover, and its medium to large scale pattern with only occasional landscape features means there is some potential for solar PV development.</i></li> <li>• <i>The influence of built development within adjacent landscapes reduces the perception of naturalness and reduces sensitivity;</i></li> <li>• <i>The mostly small scale, low density, dispersed settlement pattern is highly sensitive to solar PV development that would be out of scale and further increase the perception of human influence.</i></li> </ul>	
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			<ul style="list-style-type: none"> <li>• <i>Skylines are not prominent, with generally only locally significant views, limited intervisibility and visual receptors reducing sensitivity. However there are sensitive views down to LCA 4a: Frodsham, Helsby and Lordship Marshes from important viewpoints on the sandstone ridge.</i></li> <li>• <i>Low to medium scenic quality with some distinctiveness reduces sensitivity, but the drained marsh is a less common landscape in CWaC the character of which could be adversely affected by solar PV development.</i></li> </ul> <p>The Applicant states that the design has been shaped to limit perceived scale and visual exposure, with the use of low panel heights. However, the panel heights are no lower than any other typical solar scheme, and due to the need to mitigate impacts of flooding due to the location within EA flood zone 3, the panels are raised higher than the norm on the eastern side of the SADA.</p> <p>It is agreed that there is conflict with Policy DM52. There is disagreement as to the extent of conflict with Policy DM52</p>	
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### 3.Principle submissions

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 3: Principle Submissions</b>				
CWACC3.1	3.5	The Applicant acknowledges that CWACC were not in receipt of the full Biodiversity Net Gain (BNG) calculations at the PEIR stage. However, the PEIR did provide a summary of the BNG calculation results and a comprehensive assessment of preliminary	As in response to Q4.5.7 of the ExA questions, it is CWCC's position that the metric must be provided in Excel (xls) format, with supporting information, to enable assessment, due to the complexity of the site and volume of information contained within it. The updated metric at Procedural	

	<p>environmental impacts, including those on biodiversity. The approach to the Skylark mitigation area was discussed with CWACC at the point of the consultation on the PEIR. It was made clear that the land illustrated within the PEIR was under investigation for potential use as a Skylark mitigation area. This area has been refined as part of the application process.</p> <p>The Application includes a Biodiversity Net Gain Report (APP143) and the metric spreadsheet has been provided to CWACC and submitted to Examination (AS-036). The responses to Section 7.0 (Ecology and Habitat) of RR-037 provide additional information in relation to BNG. A Skylark Mitigation Area is included in the proposals, as described in Section 6.8 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission). The responses to Section 7.0 (Ecology and Habitat) of RR-037 provide additional information in relation to the Skylark Mitigation Area.</p> <p>The Proposed Development is co-located with other functions related to energy generation, storage, and transmission, as it is on land that forms part of the Frodsham Wind Farm and contains a number of high-voltage overhead power cables and associated pylons. The Proposed Development also proposes the co-location of battery storage with a solar PV array. This aligns with the aim outlined in paragraph 2.10.10 of NPS EN-3.</p> <p>The BESS facility does not directly connect to the Frodsham Wind Farm due to commercial and technical limitations that prevent this. However, the proposed BESS can store electricity from the grid (including from Frodsham SPEN substation) during periods when generation exceeds demand, which, in relation to wind energy, may be at night when the solar farm is not operational. Therefore, although there is no direct connection, the proposed BESS would provide grid</p>	<p>Deadline B has not been submitted in xls. Form. Paragraph 4.6.7 of NPS EN-1 states that the calculation data should be presented in full as part of an application and directs the reader to Note 96, which is a hyperlink to the statutory metric Excel spreadsheet. This has not been provided and so the policy is not satisfied.</p> <p>See responses to Section 7.0 regarding Skylark Mitigation.</p>	
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		balancing services and could ultimately help store electricity generated from Frodsham Wind Farm.		
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4. Need, climate change and public benefit

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
RR-037 Section 4. Need, climate change and public benefit				
CWACC4.1	4.3	<p>The Proposed Development is co-located with other functions related to energy generation, storage, and transmission, as it is on land that forms part of the Frodsham Wind Farm and contains a number of high-voltage overhead power cables and associated pylons. The Proposed Development also proposes the co-location of battery storage with a solar PV array. This aligns with the aim outlined in paragraph 2.10.10 of NPS EN-3.</p> <p>The BESS facility does not directly connect to the Frodsham Wind Farm due to commercial and technical limitations that prevent this. However, the proposed BESS can store electricity from the grid (including from Frodsham SPEN substation) during periods when generation exceeds demand, which, in relation to wind energy, may be at night when the solar farm is not operational. Therefore, although there is no direct connection, the proposed BESS would provide grid</p>	<p>CWCC's Relevant Representation [RR-037] response stands. The Applicant refers to commercial and technical limitations that prevent the BESS linking to Frodsham Wind Farm (<b>FWF</b>), although these limitations are not detailed.</p>	

		balancing services and could ultimately help store electricity generated from Frodsham Wind Farm.	
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5. Green Belt Policy appraisal / Response to Planning Statement

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 5. Green Belt Policy appraisal / Response to Planning Statement</b>			
CWACC5.1	5.2 – 5.4 & 5.51	<p>It is agreed that the Proposed Development is critical national priority (CNP) and therefore, in accordance with paragraph 4.2.17 of NPS EN-1, very special circumstances exist to justify development within the Green Belt.</p> <p>Should the ExA determine that the Site is not in grey belt and the Proposed Development is 'inappropriate' the Applicant has considered the harm to the Green Belt in section 1.7 of Appendix A to the Planning Statement (APP-128). The assessment concludes that there would be some harm in terms of spatial / physical and perceived openness of the Green Belt and safeguarding the countryside from encroachment.</p> <p>In accordance with paragraph 5.11.37 of NPS EN-1 and paragraph 153 of the NPPF the Applicant recognises that substantial weight must be given to any harm to the Green Belt. The Summary Table 1 at Paragraph 1.10.5 of Appendix A to the Planning Statement (APP-128) sets out that the Applicant has given substantial weight</p>	<p>ExQ1 Q9.2.1</p> <p>For the Green Belt section</p> <p>Please cross refer to comments in Section 11 and Appendix 4 of CWCC's Local Impact Report [REP1-046] and Section 20 and Section 6 of its Written Representation [REP1-048].</p>

		<p>to these factors in the Green Belt balancing exercise.</p> <p>However, the Applicant disagrees with CWACC that the harm to the Green Belt and openness is 'fundamental'. Section 1.7 of the of Appendix A to the Planning Statement (APP-128) examines the level of harm that would arise in relation to openness and to the five purposes of Green Belt. It concludes that the Proposed Development would not cause any material harm in relation to purposes a), b), d) and e), and that there would be moderate harm to purpose c).</p> <p>In relation to openness, considered in paragraphs 1.7.10 to 1.7.22 of Appendix A to the Planning Statement (APP-128), it is judged that the Proposed Development would cause limited harm to the openness of the Green Belt for its 40-year operational lifetime, thereafter, it would be decommissioned, and the openness would be restored.</p> <p>Consideration of whether the site is grey belt and whether or not the development is inappropriate in this location is set out in CWACC5.4</p>		
	5.5-5.8	<p>The Applicant agrees with the site context description and the summary of relevant Green Belt history. The Applicant notes the reference made to the PEIR assessment, and that CWCC considered the effects of the Proposed Development on the Green Belt were underplayed. The Applicant has addressed the Council's comments through the production of a Green Belt Assessment</p>	<p><b>ExQ1 Q9.2.1</b>  Paragraph 5.8 of CWCC's Relevant Representation [RR-037] deals with the history to the Green Belt; see also 11.3 to 11.7 of the Local Impact Report [REP1-046].</p>	

		provided at Appendix A to the Planning Statement (APP-128). The Green Belt Assessment fully assesses the effects of the Proposed Development on the Green Belt		
	5.9-5.11.	<p>The Applicant does not rely on elements of the site being PDL (the NPPF definition of PDL is land which has been lawfully developed and is or was occupied by a permanent structure). The Applicant does not contend that the Proposed Development benefits from any of the exceptions to inappropriate development set out at Paragraph 154.</p> <p>The Applicant disagrees that the Proposed Development would cause substantial harm to the openness of the Green Belt. As set out in Appendix A to the Planning Statement (APP-128), the Applicant concludes that the Proposed Development would cause limited harm to both the spatial and physical openness of the Green Belt, and that if the Secretary of State was to conclude that the Proposed Development is not located on grey belt, then substantial weight should be given to the limited harm in accordance with Paragraph 153 of the NPPF. However, the Applicant concludes that the Green Belt occupied by the Proposed Development does comprise grey belt and would not represent inappropriate development when considered against the tests at paragraph 155 of the NPPF. As such it can be excluded from the policy requirement to give substantial weight to any harm to the</p>	<p><b>ExQ1 Q9.2.1</b></p> <p>CWCC’s comments on paragraph 5.10 and 5.11 of CWCC’s Relevant Representation [RR-037] relating to PDL have been dealt with/agreed with the Applicant. There remains disagreement about the extent of the proposed development’s impact in terms of spatial and physical openness of the Green Belt. The Applicant considers there to be limited harm, and CWCC considers that there would be substantial harm to openness for reason set out in paragraphs 5.60 to 5.67 of CWCC’s Relevant Representation [RR-037]; as well as the Local Impact Report paragraphs referred to above, and LV.002 in the Local Impact Report:</p> <p><i>“The project will add substantial additional built infrastructure over a wide expanse of the currently open green and naturally regenerated former deposit cells, and other fields that provide openness to the landscape. The Frodsham, Helsby and Lordship marshes area currently retain an open green character, notwithstanding the wind turbines of FWF. The scale of solar development covering such an extensive ground area is markedly different to the form of the FWF where openness is retained between the high structures”.</i></p> <p>In relation to the assessment of grey belt, the Applicant refers to CWCC having not undertaken a similar assessment to the Applicant’s structures approach, and that as a result CWCC’s conclusion is not justified in the same way. CWCC’s reasoning takes on board the Applicant’s assessment and provides a reasoned critique of that assessment to justify why it comes to a different conclusion.</p> <p>Regarding Purpose A - to check the unrestricted sprawl of large built-up areas; the Applicant refers to the following in support of the view that the Green Belt north of the M56 does not contribute strongly to Purpose A:</p> <p>i) <i>the existence of large man-made structures (Frodsham Wind Farm, Overhead Pylons, elevated M56);</i></p> <p>These structures are evident, as are the man-made elements of the landscape (e.g dredging deposit grounds), but the overwhelming attribute of this area is its openness an expanse. The engineered landscape has</p>	

		<p>Green Belt including its openness (as per NPPF Footnote 55).</p>	<p>largely been assimilated to green open expanse, albeit with the former deposit ground landform forming an elevated plateau.</p> <p>i) <i>the fact that there would continue to be open space between the extent of the Order limits and the existing built up area;</i></p> <p>Whilst the proposed development would not be physically adjacent to Runcorn or Frodsham, and there would be separating features such as the River Weaver/Weaver Navigation, the resulting sprawl of the solar farm does not have to be a continuous linking element to result in effectively the same perception that the currently largely undeveloped landscape has been replaced by an engineered development covering the majority of the currently open area between these towns.</p> <p>ii) <i>the fact that it would not appear an incongruous pattern of development,</i></p> <p>There is disagreement over whether the development pattern would be incongruous. By effectively spreading across such an open area of the marshes, containing pasture and agricultural land, the development would by its nature be an incongruous addition, despite the surrounding area being influenced by built development, and there being some significant structures (turbines) already embedded within the otherwise open landscape, the contrast between the marshes area and the urban/industrial landscape adjacent provides the essence of the importance of retaining the open landscape character, and the spread of the solar arrays across this landscape would be incongruous. The landscape sensitivity study provides backing for this conclusion. The Applicant refers to the PPG (paragraph 005) list of illustrative features to assess whether the contribution if an area is 'strong', 'moderate' or 'weak'. Regarding assessing sprawl, freedom from existing development is one attribute, and the Applicant's LVA has already described development within this part of the Green Belt as sparse (see para 5.23 of [RR-037]). Whilst the River Weaver and M56 provide features that may be seen as restricting/containing development, in practice the proposed solar development would be the overwhelming feature spreading over the landscape. The strong role of this area in checking unrestricted sprawl is amplified by being adjacent/near to two large built-up areas, and its very position between Frodsham and Runcorn.</p> <p>There is disagreement over the relevance of features that the Applicant purports to restrict and contain development. The Applicant refers to the</p>	
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			<p>River Weaver, M56 and the railway as features in this context. However, the development in effect leapfrogs these features, and rather than containing development, the solar development fills much of the intervening open landscape, leaving isolated pockets of openness (former INEOS deposit lagoon) and relatively narrow strips either side of the M56. Regarding Purpose B - to prevent neighbouring towns merging into one another; the Applicant refers to Viewpoint 9 [APP-113] to illustrate the elevated view between Frodsham and Runcorn. The Applicant refers to retaining a 'feeling of visual separation', but taking a direct line of view between Frodsham and Runcorn it is clear to see the extent that the solar array closes the existing gap.</p>  <p><small>EN010153 Doc: EN010153/DR/6.1 Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</small></p> <p><small>Environmental Statement: Volume 3 FRODSHA Figure 6-397ii Viewpoint 9: Frodsham Hill Wa</small></p> <p>Again, for Purpose B areas performing strongly are likely to be free of existing development (which has been dealt with above for Purpose A) and forming a substantial part of a gap between towns, which clearly is the case here, with development, resulting in the loss of visual separation.</p>	
	5.12-5.41	Paragraph 155 of the NPPF lists other development, in addition to that listed at Paragraph 154) in the Green Belt, that should not be regarded as inappropriate. This includes, where relevant, all [our emphasis] of the following: "(a). the	<p>See comments above under CWCC's Relevant Representation [RR-037] paragraphs 5.9 to 511.</p> <p>There is disagreement with the Applicant over the assessment of the purposes of the Green Belt and the conclusions of the assessment on grey belt for the reasons already set out.</p>	

		<p>development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the areas of the plan. (b) there is a demonstrable unmet need for the type of development proposed. (c) the development would be in a sustainable location, with reference to paragraphs 110 and 115 of this Framework.” Sub-paragraph (d) relates to housing development and is not relevant in this case.</p> <p>Grey belt is defined within the NPPF Glossary as: “...land in the Green Belt comprising previously developed land and/or other land that in either case, does not strongly [our emphasis] contribute to any of the purposes (a), (b) or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason [our emphasis] for refusing or restricting development.”</p> <p>Purpose (a) is: “To check the unrestricted sprawl of large builtup areas”</p> <p>The Government Planning Practice Guidance (PPG) provides advice on the role of the Green Belt in the planning system and how the contribution that land makes to the relevance Green Belt purposes should be assessed [Paragraph 005 Reference ID:64-005-20250225]. The PPG provides a list of illustrative features that would apply where the Green Belt contributes ‘Strongly’, ‘Moderately’ or ‘Weakly / None’ features that would</p>		
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		<p>contribute to the purpose for including land within the Green Belt.</p> <p>The Applicant has followed this guidance, and applied the illustrative features set out in the PPG, as relevant to the area covered by the Proposed Development in Paragraphs 1.3.1 to 1.3.5 and 1.3.7 to 1.3.15 of Appendix A to the Planning Statement (APP-128) (Green Belt Assessment). This has enabled the Applicant to arrive at a justifiable conclusion that the land that comprises the Proposed Development does not contribute strongly in respect of purpose (a), (b) or (d). The Council has not undertaken a similar assessment to arrive at their conclusion to the contrary, and consequently their conclusion that the area of Green Belt covering the Proposed Development is not justified in the same way.</p> <p>With regard to Purpose A – to check the unrestricted sprawl of large built-up areas; the PPG states that: “Assessment areas that contribute <u>strongly</u> [our emphasis] are likely to be free of existing development, and likely to include all of the following: be adjacent or near to large built up area; if developed, result in an incongruous pattern of development (such as an extended ‘finger’ of development into the Green Belt).” CWACC concludes (at paragraph 5.38) that the area is ‘largely’ free of existing development and consequently argue that it contributes strongly to Purpose A. The landscape is not a natural landscape. It is largely engineered by man, be that the Mersey flood alleviation bunding, the formation of canal deposit</p>		
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		<p>grounds, the existence of the former INEOS lagoons, or more recent and substantial development in the form of Frodsham Wind Farm, overhead pylons, the elevated M56, electricity sub-station infrastructure and farm holdings. Located relatively close to Frodsham to the south and Runcorn to the north, it is adjacent to neither; separated from Frodsham by the M56 corridor and adjoining fields; and Runcorn by the River Weaver, Weaver Navigation and former INEOS deposit lagoons. To result in an 'incongruous pattern of development' it would need to be out of keeping with the surrounding landscape and features. Hence, a 'finger' of development protruding into an otherwise undeveloped Green Belt would appear incongruous. CWACC acknowledge at paragraph 5.19 that the Proposed Development would not represent a 'finger' of development, but do not confirm why they believe that the Green Belt in this location benefits from the illustrative features that the PPG states strongly contribute to Purpose A. The existence of large man-made structures (Frodsham Wind Farm, Overhead Pylons, elevated M56); the fact that there would continue to be open space between the extent of the Order limits and the existing built up area; and the fact that it would not appear an incongruous pattern of development, renders the area of Green Belt north of the M56 as not contributing strongly to Purpose A.</p> <p>The area contributes moderately, at best, to Purpose A. CWACC recognise at paragraph 5.20 Runcorn's industrial</p>		
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		<p>backdrop to the east, Frodsham rising to the south, physical features of the River Weaver, M56 and Helsby / Runcorn railway, all of which are reasonably proximate, and which restrict and contain development.</p> <p>Regarding Purpose B – to prevent neighbouring towns merging into one another: the PPG states that: “Assessment areas that contribute strongly are likely to be free of existing development, and include all of the following features: forming a substantial part of a gap between towns; the development of which would be likely to result in the loss of visual separation of towns.” As noted above the area is not free from existing development. Critically, for the Green Belt in this area to strongly contribute to the purpose of preventing towns from merging, development would likely need to result in the loss of visual separation between such towns. Figure 6-39i Viewpoint 9 Environmental Statement: Volume 3 Chapter 6 Figures Part 5 of 13 (APP113) provides the clearest elevated view of the proposed solar array. The panels are visible, but it remains that case that so are the undeveloped fields adjacent to the M56 and north of Frodsham, and consequently it retains a feeling of visual separation. The River Weaver, former INEOS deposit lagoons and the raised landform between the river front and urban areas of Runcorn, all act to retain separation of Runcorn from Frodsham. Viewed from a lower elevation Figure 6-48ii Viewpoint 28 Environmental Statement: Volume 3 Chapter 6 Figures Part 12 of 13</p>		
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		<p>(APP-121) panels are visible above roof tops north of St Lawrence Church, but to the intervening vegetation, the River Weaver and elevated topography retain an essence of visual separation between Frodsham and Runcorn's industrial frontage to the north of the Order limits. The development is restricted, lacks the volume, mass and density of most physical development and consequently the design can retain open views across the Green Belt.</p> <p>The Applicant disagrees with CWACC that the Proposed Development would be perceived as extending development from the edge of Runcorn to the edge of Frodsham. Clear and defined gaps between the Proposed Development and both towns would be retained, and the development would not result in the loss of visual separation between them. The PPG identifies Green Belt as providing a moderate contribution to Purpose B when it is "...able to be developed without the loss of visual separation between towns. This could be (but is not limited to) due to the presence or the close proximity of structures, natural landscape elements or topography that preserve visual separation." The Visualisations referred to above demonstrate that the existence of the Solar Array would not result in a landscape that appears continuously urban, and that Runcorn and Frodsham would continue to be visually separated, and accordingly would only contribute moderately at best to Purpose B.</p>		
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		<p>The Applicant disagrees that over reliance has been placed on the distance between residential areas and consequently underplayed the visual merging as neighbouring but separate settlements. The Applicant recognises that it is the physical barriers of the River Weaver and M56 that have restricted growth of Runcorn and Frodsham respectively. The separation between the two towns would remain irrespective of the introduction of the Proposed Development.</p> <p>CWACC conclude that the area of Green Belt strongly contributes to both Purposes A and B because they believe that the land is largely free of existing development. Irrespective of the Frodsham Wind Farm, overhead pylons and elevated M56 corridor that dominate the local landscape, the wider landscape is not a natural one free from development. The Applicant does not profess that the Site is previously developed land, but nonetheless it is the case that the landscape, whilst green, has largely been formed by man with engineered bunded features i.e. flood alleviation bunding, former industrial lagoons, and drainage deposit grounds across much of the local landscape.</p> <p>CWACC conclude that the thrust of PPG advice on Green Belt and assessing grey belt in relation to Purpose B is whether the land in question forms a substantial part of a gap between towns (which they believe it does), and the loss of visual separation (which they believe there would be). The Applicant contends that CWACC has ignored the critical requirement that to</p>		
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		<p>strongly contribute the area must likely be free of existing development (which it is not), and form both a substantial part of a gap between towns, and which would likely result in the loss of visual separation of towns (which it does not).</p> <p>Regarding Purpose D – both Applicant and CWACC agree that the Site does not make a strong contribution to preserving the setting and special character of historic towns.</p>		
5.42-5.46	<p>The NPPF definition of grey belt confirms that it excludes land where the application of policies relating to areas or assets in Footnote 7 provides a <u>strong</u> [our emphasis] reason for refusing or restricting development. This includes areas relating to SSSIs SPAs and SACs, and areas at risk of flooding. The site is partly within flood zone 3a (approximately 29% of the Site area) and a small part is within a SSSI (approximately 4.5% of the Site area). The Site is adjacent to the Mersey Estuary SPA and Ramsar site. Just because part of the development includes one or more of those assets, or is located adjacent to it, does not mean that there is inevitably a <u>strong</u> reason to refuse development, if that were the case then policy would simply exclude areas where such assets existed.</p> <p>With respect to flood risk, having undertaken the sequential test and exception test (Environmental Statement: Volume 2 Appendix 3-1 Alternative Site Assessment (APP-053)) and having designed the facility so that flood risk is appropriately mitigated, the fact that part of</p>	<p>The relevant considerations in relation to Footnote 7 of the NPPF in this case relate to the location of a large part of the SADA being within Flood Zone 3; the location (of a small part of the development) within the Mersey Estuary SSSI, and consideration of peat as an irreplaceable habitat.</p> <p><b>Flood Risk:</b> The issue of flood risk providing a strong reason for refusal, depends to an extent on the conclusions to the Sequential Test and Exception Test.</p> <p>CWCC accepts that the Applicant has carried out a reasonable Sequential Test. See paragraph 9.3 of CWCC’s Local Impact Report (<b>LIR</b>) [REP1-046] and Q8.2.7 of CWCC’s response to ExQ1 [REP2-005]. Subject to any concerns that the Environment Agency may have in relation to the second limb of the Exception Test</p> <ul style="list-style-type: none"> <li>the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.</li> </ul> <p>CWCC do not raise issue with their being wider sustainability benefits to the community that are capable of weighing flood risk.</p> <p><b>Mersey Estuary SSSI.</b> With regard to the SSSI, NE have outstanding concerns that need to be addressed, noting that there are coinciding impacts on non-breeding bird features of the SSSI, and issues in relation to the works that will take place within part of the Mersey Estuary SSSI. [Q4.4.6 of REP2-009].</p>		

		<p>the Order limits lies within flood zone 3 does not give a reason to refuse consent, and certainly not a 'strong' reason.</p> <p>The Mersey Estuary SSSI overlaps with the NBBMA and a small section of the Solar Array Development Area. Paragraph 7.8.4 of Environmental Statement Volume 1 Chapter 7: Terrestrial Ecology (APP-040) confirms that, within the NBBMA works would be undertaken for the sole purpose of providing mitigation for wetland birds associated with the Mersey Estuary SPA, Ramsar and SSSI and for other beneficial ecological / conservation purposes. Permanent land take within the Mersey Estuary SSSI would potentially impact upon ponds and other neutral grassland, to be replaced with a water storage area, raised bank with grassland and wet grassland areas. The assessment concludes that, with the works to create the NBBMA taken into account, the Proposed Development would result in a moderate beneficial (significant) effect on International / National Statutory Designated Sites for Nature Conservation (SPA, Ramsar and SSSI) (Table 14-2 Operational Phase Residual Effects in Environmental Statement Volume 1 Main Report Chapter 14: Summary of Environmental Effects (APP-047)).</p> <p>The Applicant is working with Natural England to confirm their agreement to this position.</p> <p>Accordingly, there are no policies relating to areas or assets in Footnote 7 that provide a</p>	<p>As such, until the Applicant is in a position to satisfactorily address these concerns, impact on the SSSI is capable of forming a strong reason for refusal.</p> <p>It is queried why the Applicant refers to "Permanent land take within the Mersey Estuary SSSI <b>would potentially</b> impact upon ponds and other neutral grassland, to be replaced with a water storage area" (our emphasis), when filling in of the canal pools is part of the commitment towards management of the NBBMA (e.g. to remove New Zealand pygmyweed). See</p> <p>i) Paragraph 6.9.3 of the oLEMP [REP1028]:</p> <p style="padding-left: 40px;"><i>vii) Removal of the Canal Pools and associated recreational fishing will lead to a cessation of public access to the NBBMA and therefore reduced disturbance.</i></p> <p>And</p> <p>ii) Paragraph 4.2.6 in the Non-breeding Bird Mitigation Strategy of Appendix B to the oLEMP [REP1-028]</p> <p style="padding-left: 40px;"><i>"The Canal Pools will be removed and partially reinstated, to eradicate and assist with future management of NZPW"</i></p> <p>It is noted in paragraph 4.3 following that removal is a preferred option, but the thrust of the documentation suggests removal is a key part of the strategy (and it is not clear how management of NZPW would be achieved in the absence of removal, given that this has been an ongoing management issue for several years.</p> <p><b>Peat.</b> Given Natural England (<b>NE</b>) has confirmed [Q3.2.1 of REP2-009] no concerns in relation to peat deposits.</p>	
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		strong reason for refusing or restricting development.		
5.47-5.51	<p>The Applicant agrees that, in order to determine whether the Proposed Development should not be regarded as inappropriate, an assessment must be made as to whether it "...would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; whether there is a demonstrable unmet need for the type of development proposed; [and] the development would be in a sustainable location..." (Paragraph 155 of the NPPF).</p> <p>The contribution that the Site makes to Green Belt purposes (a), (b) and (d) is set out above. In terms of purpose (c) – Assisting in safeguarding the countryside from encroachment, CWACC conclude that whilst there has been encroachment already, the integrity of the open countryside character of the Site remains, and that the Proposed Development would transform the area from open pasture to solar development. The Applicant contends that the introduction of the solar array would increase the developed nature of the Green Belt, but it would not alter the wider character of the area from one that is broadly open but dominated by man-made infrastructure. Whilst attributes of open countryside remain, the current experience of a user is not that of an undeveloped open countryside setting. Given the existing context, the Green Belt in this area is</p>	<p>There is disagreement with the Applicant over the assessment of Purpose c) of paragraph 155 of NPPF 'Assisting in safeguarding the countryside from encroachment', and the purposes of the Green Belt and the conclusions of the assessment on grey belt for the reasons already set out.</p> <p>CWCC considers that "the integrity of the open countryside character of the Site remains". The Applicant accepts that the wider character of the area is broadly open but dominated by man-made infrastructure. The Applicant's response below to 5.52-5.67 appears to accept the openness as an attribute of the landscape character of the site.</p> <p>The key characteristics of the LCA4a Landscape Character (see table 2 in the ES Appendix 6-5 Landscape Character Base [APP-068] includes (inter alia) the following descriptions, which reinforce the point about its open character remaining:</p> <ul style="list-style-type: none"> <li>• A flat, low lying landscape (up to 13m AOD) of former mudflats and saltmarsh alongside the Mersey Estuary, contrasting with surrounding built development</li> <li>• Land to the north of Lordship Lane is used as a deposit ground for dredgings from the Manchester Ship Canal and supports a range of wetland habitats (<i>CWCC comment - noting that the man-made features are now part of the wider habitat</i>)</li> <li>• An isolated, bleak and open landscape – settlement is limited to isolated farms linked by rough tracks between ditches</li> <li>• The flat, open landscape provides clear views to and from the adjacent Frodsham Sandstone Ridge and Helsby Hill</li> <li>• Permitted windfarm will become dominant creating a 'windfarm landscape' when constructed (<i>CWCC comment – whilst now built, the windfarm landscape retains an open character</i>)</li> </ul> <p>There is clear encroachment resulting from the Solar development.</p>		

		<p>contributing moderately at best to the purpose.</p> <p>CWACC conclude that developing the area of Green Belt proposed would potentially undermine the remaining Green Belt. The Applicant has set out at paragraph 1.4.4 of Appendix A to the Planning Statement (APP-128) that, taken together the Green Belt is extensive, from the Mersey Estuary in the north to the Cheshire Sandstone Ridge in the south, and from the Wirral peninsular, and the boundary of Wales in the west, to the Peak District National Park and Yorkshire towns of Barnsley and Sheffield in the east.</p> <p>So far as Cheshire West and Chester is concerned, around 38,499 hectares or 42% of the borough is Green Belt (paragraph 1.3 Cheshire West and Chester Local Plan (Part One) Strategic Policies DPD). The section of Green Belt affected by the Proposed Development is a small, isolated tongue of Green Belt protruding north of the M56, sandwiched between the Mersey Estuary and the M56. The Green Belt within Cheshire West and Chester would continue to check the unrestricted sprawl of large built-up areas (Chester, Ellesmere Port, Northwich, and Winsford); it would continue to prevent neighbouring towns from merging into one another; it would continue to assist in safeguarding the countryside from encroachment; and it would continue to help preserve the setting and special character of historic towns. The identification of the area of the Solar Array Development Area as grey belt would not undermine the purposes (taken together) of</p>	<p>Such extensive development within the gap between Runcorn and Frodsham in particular would undermine the wider Green Belt function in this part of the borough.</p> <p>The Applicant's reference to the overall extent of the Green Belt (some 42% of the borough) and that the proposed development being only a small part of this, is noted, but the development of this area would potentially fundamentally undermine the wider area of Green Belt between Ellesmere Port, Runcorn and Frodsham. For example, the Green Belt role of separation of these three settlement areas would be compromised, and the purposes of the remaining Green Belt in this area would be potentially less evident (although as encroachment into the Green Belt extends, it might be argued that the role of the remaining areas in preventing merging for instance becomes more important. It is accepted that this is an arguable point in terms of the extent of impact on the remaining Green Belt.</p>	
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		the remaining Green Belt across the area of the plan, or indeed the entirety of the Liverpool, Manchester and West Yorkshire Green Belt.		
	5.52 & 5.67	<p>It is agreed that paragraph 5.11.37 of EN-1 requires that the Examining Authority ensure substantial weight is given to any harm to the Green Belt. It is also agreed that paragraph 153 of the NPPF provides that the requirement to ensure that substantial weight is given to the harm to the Green Belt, including to its openness does not apply in the case of grey belt land, where development is not inappropriate.</p> <p>The Applicant considers that impacts on landscape character and visual amenity are legitimate matters to be taken into account when understanding the impact of the Proposed Development, and openness is an attribute of the landscape character in which the Proposed Development sits that should be considered. Impacts on landscape character are dealt with comprehensively within Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039). The assessment concludes that the degree to which the change resulting from the Proposed Development would change the nature of the landscape character would be limited. Likely significant and adverse landscape and visual effects would occur but would be experienced by a small number of receptors and would be localised in their extent.</p> <p>The open character of the landscape in parts of the Site has been recognised and</p>	<p>The Applicant's response refers to the open character of the landscape in parts of the Site having been recognised in the Design Principles of the Design Approach Document ([APP-130]. Whilst the principles referred to are important, adherence to these principles does not address the overall adverse impact of the development on the openness of the landscape character</p> <p>There is disagreement with the Applicant that the development would not materially change the experience of the Green Belt to a degree that it would no longer be perceived as visually open.</p>	

		<p>is specifically identified in two of the limbs to Design Principle 2: Landscape and Views set out within Appendix A of the Design Approach Document (APP-130) and secured via DCO Requirement: a. Retain and enhance the open character of Frodsham Marshes, where feasible; and g. Retain open vistas looking across Frodsham Marshes and the wider estuary, where feasible.</p> <p>The design response to this included identifying areas where open views should be maintained in recognition of the prevailing open landscape character of the Mersey Estuary, and ensuring that planting should seek to screen or partially screen infrastructure but it should be intentionally less dense in some sections to maintain an open character and include gaps at strategic points to preserve specific long-range views.</p> <p>Whilst it is recognised that there will be effects on landscape character, and to some degree openness from some locations, this effect is not considered to be substantial as suggested by CWACC. As set out in paragraph 6.8.140 of Environmental Statement Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039), the Site would continue to be experienced as an area that is very flat and low-lying, with more elevated landscapes to the south in particular, where long views in and out are available, and where industrial and infrastructure development is a prominent influence. The introduction of the Proposed Development would not materially change the experience of the</p>		
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		Green Belt to a degree that it would no longer be perceived as visually open.		
5.53-5.66	PPG Green Belt Paragraph 13 Reference ID 64-013-20250225 confirms those factors should be considered when determining the potential impact of development on openness (spatial and visual aspects; perceived openness; duration and reversibility; and activity generated). Openness has spatial and visual aspect (i.e. visual impact and volume). Spatial openness is the physical absence of buildings and structures. It is an objective measurement of how 'unbuilt' land is. The bulk and massing of buildings reduce spatial openness. The development is not spatially significant, it does not have the mass or density of buildings or tall structures, unlike other development within the Green Belt. It is typically lower in height than other forms of build development and continues to allow views over and through it. Consequently, the extent of perceived feeling of space that exists currently would not be lost to the extent that other development may. Visual openness is the impact that development has on visible features and views. Just because development can be seen from some viewpoints does not mean that it results in a significant loss of visual openness. Likely significant and adverse landscape and visual effects would occur but would be experienced by a small number of receptors, and would be localised in their extent. The Solar Development Area has	<p>The Applicant makes the point that the development is not spatially significant, by reference to it not having the mass or density of buildings or tall structures, unlike other development within the Green Belt. Even if accepted, this ignores the obvious, that the Solar arrays are extensive in terms of spatial coverage (even taking into account the gaps between the rows of panels). The comparison with other forms of build development in terms of mass or density does not lessen the fact that there is considerable spatial impact.</p> <p>There is disagreement that the lower height of the proposed arrays when compared with other build development, and views over and through the arrays results in the current feeling of space being retained. The array height is sufficiently high for the panel arrays to be significant features detracting from the current open expanses.</p> <p>The point about the adverse landscape and visual effects being experienced by a small number of receptors is misplaced in terms of assessing the impact on the openness of the green belt.</p> <p>The Applicant refers to the visual effects being localised. but given the effects will be evident across a wide area within the site, and from significant vantage points such as Frodsham Hill, this does not diminish impacts remaining important.</p> <p>CWCC note the Applicant's point about previously developed land (<b>PDL</b>), and accepts that the NPPF definition of PDL excludes (<i>inter alia</i>) land where provision for restoration has been made through development management procedures.</p> <p>The point about Frodsham Wind Farm (<b>FWF</b>) is that as a 'time-limited' development, its use as a baseline should take this into account. The Applicant states that the FWF is not relied upon to justify the location, but that is not wholly correct, as the benefits of co-location have (rightly) been advanced in support of the location.</p>		

		<p>been designed to ensure that views across and out of the facility remain open (views would remain dominated by the M56, overhead pylons and the Frodsham Wind Farm). The visual experience would remain broadly as currently exists. CWACC suggest that there is inconsistency between the Planning Statement's assessment of perceived openness and that of the LVA. This is not the case. Both the Planning Statement and LVA accept that there would inevitably be some loss of perceived openness, but that given the location and design of the facility, this would be limited and would not have a significant impact on the on the feeling of openness that may be attributed to other parts of the Green Belt (Paragraph 6.8.140 of Environment Statement Volume 1 Chapter 6 Landscape and Visual Amenity (APP-039) and Paragraph 1.7.18 of the Planning Statement (APP-128)). Both recognise that the development occupies a relatively large footprint but that individual structures are low in height and do not have the mass and density of buildings (Paragraph 6.8.139 of Environment Statement Volume 1 Chapter 6 Landscape and Visual Amenity (APP-039) and Paragraph 1.7.18 of the Planning Statement (APP-128)). Both appreciate that within the Green Belt development is sparse but locally there are very large prominent and abnormally tall structures. Whilst long term (40 years), the duration of the development is temporary and is easily reversable, and the DCO requires that the scheme is decommissioned after that period, meaning that it would become greenfield land again – not PDL. Any life</p>		
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		<p>extension of the Proposed Development would be the subject of a new planning consent, and that cannot be assumed to suggest that the Site would become 'PDL'. EN-1 (as with any policy) is drafted for the purpose of the current point in time. Policy changes over time to reflect changes in technology, infrastructure, innovation, understanding and political position and ideology. What may be best practice at one point in time, may not at another. Based on current policy, it may be acceptable to presume that an application to renew or repower would be granted due to the urgent need for renewable energy. However, a decision would be taken at that point in time based on the policy in place at that time.</p> <p>During its operation phase (following construction) the development is static, and activity is low (it is not active / busy).</p> <p>The Applicant does not agree that the Proposed Development would become wholly PDL. The NPPF definition of PDL includes land that has been lawfully developed and is or was occupied by a permanent structure. The Proposed Development is temporary and reversable. Furthermore, it would not (as claimed) therefore be, by definition, grey belt – it would still require demonstration that it does not strongly contribute to any of the purposes (a), (b) or (d) in paragraph 143 of the NPPF.</p> <p>The Frodsham Wind Farm forms part of the current landscape (and the current state of the environment for baseline assessment purposes). It is reasonable that, given the</p>		
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		<p>urgent need for renewable power, an application may be made to repower it in the future. It is not relied upon to justify the location as appropriate for the development of a solar array, rather it represents one of many elements which collectively need to be taken into consideration in determining the suitability of the site, and its current ability to meet the Green Belt purposes.</p> <p>It is the Applicant's position that the Site / Proposed Development meets the test of the NPPF paragraph 155, and therefore the Proposed Development is not inappropriate, and is excluded from the policy requirement to give substantial weight to any harm to the Green Belt including its openness; and is not required to demonstrate very special circumstances. Should the Secretary of State disagree, and conclude that it is inappropriate development, the development is CNP and so very special circumstances can be said to be met, and in any event the Proposed Development meets the tests of very special circumstances even if the CNP status did not apply, as set out in the Planning Statement (APP-128).</p>		
	5.68	<p>Policy STRAT 9 seeks to protect the character and beauty of the open countryside by restricting development to that which requires a countryside location. It states that within the countryside, development will be permitted that has an operational need for a countryside location. The need for new nationally significant energy infrastructure projects is set out within Section 3 of the EN-1, and</p>	<p>CWCC refers to comments above in relation to whether the development harms the character of the countryside. There is disagreement with the Applicant over the harm for the reasons already given.</p>	

		<p>specifically paragraph 3.2.6 which confirms that: “The Secretary of State should assess all applications for development consent for the type of infrastructure covered by this NPS on the basis that the government has demonstrated that there is a need for those types of infrastructure which is urgent...” As set out in the Alternative Site Assessment (APP-053), the Proposed Development cannot be located within the settlements and consequently meets the fundamental provision of STRAT 9 to be development that has an operational need for a countryside location.</p> <p>STRAT 9 also requires development to be of an appropriate scale and design so as not to harm the character of the countryside. The countryside in this location is one that is inherently man-made with engineered bunding (flood alleviation, lagoon structures, Manchester Ship Canal Dredging Deposit Grounds etc), and more dominant structures (Frodsham Wind Farm, overhead powerlines, elevated M56 corridor etc). The character of the countryside would not change or be harmed by the introduction of the Proposed Development. It would remain a largely flat open landscape dominated by prominent tall structures ensure development in the countryside should not harm the character of it. The ‘additional’ Green Belt requirements under Policy STRAT 9 are those set out within the NPPF, and which are considered elsewhere</p>		
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## 6. Landscape and Visual

### Impacts on Landscape Character

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 6. Landscape and Visual - Impacts on Landscape Character</b>			
CWACC6.1	6.4	<p>The Applicant respectfully disagrees with CWACC's position. While it is acknowledged that the Planning Statement presents its assessment of local plan policies thematically rather than policy-by-policy, the requirements and objectives of Policy STRAT9 are fully addressed through the combined findings of the Planning Statement (Section 7.5 – APP-128) and the Environmental Statement (ES) Volume 1, Chapter 6: Landscape and Visual Amenity (APP-039).</p> <p>Table 6-2 of the ES expressly identifies STRAT9 as a relevant local policy and identifies where in the chapter the Proposed Development is assessed against it. The LVIA provides a detailed evaluation of landscape character and visual receptors, including from key viewpoints such as Frodsham Hill, and outlines the embedded design and mitigation measures that minimise</p>	<p><b>ExQ1 Q7.0.1</b></p> <p>[RR-037] paragraph 6.4 deals with compliance with objectives of STRAT 9. CWCC's position on STRAT 9 is that there is Policy conflict, due largely to the scale of the development and the resulting magnitude of change in terms of the character of the countryside. CWCC accept that this Local Plan policy conflict will be considered in relation to the NPS guidance (e.g. EN-01 5.10.12, 5.10.35-36), but it would not be appropriate to conclude that application of design mitigation measures is sufficient to achieve policy compliance in terms of STRAT9.</p>

		<p>adverse visual effects and integrate the scheme within its landscape setting.</p> <p>The Planning Statement (APP-128) and the Design Approach Document (APP-130) further demonstrates that the Proposed Development has been designed to respect the existing landscape character through careful siting, retention and enhancement of existing hedgerows, and the introduction of new planting to filter and soften views. The scheme is co-located with existing large-scale infrastructure including the Frodsham Wind Farm, Protos Energy Park, and the M56 corridor, which together form a transitional landscape with a semi-industrial context. Within this setting, the scale and design of the Proposed Development are considered appropriate and proportionate.</p> <p>It is also relevant that the Proposed Development constitutes temporary and reversible infrastructure with a limited operational lifespan (40 years), after which the land will be restored. This temporality and the embedded landscape mitigation ensure that the proposal does not result in permanent harm to the countryside's character or long-term loss of openness.</p> <p>Accordingly, while the Applicant recognises that there will be a degree of visual and character change arising from the Proposed Development, this has been minimised through design evolution and mitigation, and is not considered to equate to a breach of</p>		
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		<p>STRAT9. The Proposed Development accords with the policy's objectives insofar as it:</p> <ul style="list-style-type: none"> <li>• is of an appropriate scale and design relative to its landscape context;</li> <li>• integrates effective landscape mitigation to reduce visual and character impacts; and</li> <li>• represents a form of development that necessarily requires a countryside location to deliver nationally significant renewable energy infrastructure.</li> </ul> <p>The residual difference between the Applicant and CWACC therefore relates to the degree of acceptable landscape change rather than the absence of policy consideration. The Applicant maintains that, when considered in the context of the comprehensive LVIA and embedded design measures, the proposal accords with Policy STRAT9 and the wider policy framework for renewable energy and landscape protection.</p>		
CWACC6.2	6.5-6.9	<p>Policy GBC2 of the Local Plan (Part Two) seeks to protect and, where possible, enhance landscape character and distinctiveness, ensure development integrates into the landscape, and is informed by the Council's Landscape Strategy (2016). While the Site is not within an Area of Special County Value (ASCV), CWACC</p>	<p><b>ExQ1 Q7.0.1</b></p> <p>In relation to paragraphs 6.5 to 6.9 of [RR-037], and considering the Applicant's response to the three strands of Policy GBC2:</p> <ol style="list-style-type: none"> <li>1. protect and, wherever possible, enhance landscape character and distinctiveness;</li> <li>2. integrate into the landscape character of the area; and</li> <li>3. be designed to take account of guidance in the Landscape Strategy;</li> </ol> <p>CWCC considers there is a failure on point 1. to protect the landscape character due largely to the overall scale of proposed development. There is</p>	

	<p>has noted that the Frodsham Marshes are valued locally.</p> <p>In making a reference to Frodsham Marshes being valued locally it is assumed that CWACC is not suggesting that the Frodsham Marshes are a 'valued landscape' in the context of NPPF paragraph 187. No local or national landscape designations apply to the site. It is not within an Area of Special County Value identified in the Cheshire West and Chester Local Plan, and while the 2016 Landscape Sensitivity Study and Guidance on Wind and Solar Photovoltaic Developments provides general background information, it does not confer any designation or establish the land as "valued" in policy terms. The definition of "valued landscape" under paragraph 180(b) of the National Planning Policy Framework, as clarified by Lord Justice Ouseley in <i>Stroud DC v Secretary of State &amp; Gladman Developments Ltd</i> [2015] EWHC 488 (Admin), requires demonstrable physical attributes that take a landscape out of the ordinary. Those characteristics are not present here.</p> <p>This point aside, the Applicant recognises the local value the area has to the community and has sought to respect it through the design and mitigation embedded in the Proposed Development. The layout follows existing field patterns and drainage lines, maintaining the broad open character of the marshland landscape</p>	<p>disagreement with the Applicant over the impact of the proposed development which the Applicant describes as "inherently low in height and horizontal in form". The spread of development across the current open grazing areas of the dredging deposit cells in particular is transformative in terms of its urbanising influence.</p> <p>CWCC notes that the Overall Landscape Management Strategy for LCA 4a is "<i>to enhance and restore the condition of habitats and features of the marshes whilst <b>safeguarding its open character</b></i>" (our emphasis); and that one of the management guidelines is to "<i>Conserve the 'remote' character of the marshes away from the main transport corridor of the M56</i>". Please cross refer to Table 2 (page 16) of [APP-068] (Landscape Character Baseline).</p> <p>CWCC acknowledges the Applicant's efforts to comply with points 2 and 3 (GBC2) by maintaining field patterns (which reveal the planned 19th century enclosure of the marsh) and reinforcing landscaping etc.</p> <p>The Landscape Strategy management guidelines for LCA4a encourage recreational development (and the Applicant's proposals for permissive paths is consistent with this), ought to be done whilst safeguarding the nature conservation interest of the area, particularly its importance for birds. The adoption of less-intensive agricultural practices would also be consistent with the guidelines.</p> <p>The final landscape management guideline for LCA4a is to: "<i>Retain the open character of the marsh by restricting planting to low growing scrubby species typically found in the local landscape, taking into account the importance of the area for ground nesting birds and wintering/passage birds. Woodland planting /screening using tall or ornamental species is not appropriate in the open marsh</i>".</p> <p>This is relevant in terms of the details of proposed planting and the longer-term landscape management of existing and enhanced new planting. It is also relevant in considering other representations relating to screening of the solar arrays.</p>	
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		<p>while introducing new native planting, grassland creation, and hedgerow enhancement to strengthen local landscape structure. These measures will also deliver biodiversity and visual benefits consistent with the objectives of Policies GBC2, STRAT9 and ENV2.</p> <p>The Design Approach Document (DAD) (APP-130) provides a detailed description of the way in which local landscape character has been accounted for in the design process and how the Applicant has sought to protect and, wherever possible, enhance landscape character and distinctiveness, as well as integrate the development into the landscape character of the area. Table B of the DAD lists out the guidelines for landscape management and for built development identified in CWACC's Landscape Strategy (2016) relating to the landscape character area that the Site lies in, LCA4a. The table describes how the Applicant has performed against these guidelines.</p> <p>The Proposed Development employs a solar typology which is inherently low in height and horizontal in form, meaning that the array sits relatively unobtrusively within the flat topography of the Marshes. While not designed specifically to integrate with other large-scale infrastructure, features such as the Frodsham Wind Farm, Protos Energy Park and the M56 corridor are established influences on local landscape character. Within this existing context, the presence of energy-related</p>		
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		<p>infrastructure is an accepted part of the visual environment.</p> <p>It should also be noted that, while locally valued, the Frodsham Marshes are currently under-utilised as a recreational and accessible landscape resource. The Proposed Development offers opportunities for enhancement through improved access, new permissive routes and habitat restoration, helping to strengthen public engagement with the area in line with the Landscape Strategy (2016) objective to reinforce the relationship between people and landscape.</p> <p>Accordingly, the Applicant considers that the Proposed Development respects the locally valued character of Frodsham Marshes, reflects the established landscape influences in its setting, and provides opportunities for landscape and recreational enhancement consistent with Policies GBC2, STRAT9 and ENV2.</p>		
CWACC6.3	6.10 – 6.14	<p>The Applicant acknowledges the relevance of CWACC’s Landscape Sensitivity Study and Guidance on Wind and Solar Photovoltaic Developments (2016), which provides a boroughwide baseline for assessing the sensitivity of different Landscape Character Areas (LCAs) to solar energy development. The Proposed Development is located within LCA 4a: Frodsham, Helsby and Lordship Marshes, which the study identifies as having high sensitivity to very large-scale solar development (&gt;25ha), primarily due to its open, flat</p>	<p><a href="#">See comments under ExQ1 Q7.01 (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC’s Relevant Representations)</a></p>	

		<p>character and the prominence of long views from the elevated Frodsham Sandstone Ridge and Helsby Hill.</p> <p>The Applicant recognises these sensitivities and has taken them fully into account in the Landscape and Visual Impact Assessment (LVIA) (ES Chapter 6 (APP-039)) and Design Approach Document (APP-126). While the study provides an important strategic reference, it does not preclude development within high-sensitivity areas, but rather highlights the need for careful design, mitigation, and assessment at project level — all of which have been applied here.</p> <p>In the case of Frodsham Solar, the Proposed Development sits within a transitional and modified estuarine landscape, characterised by reclaimed marshland with a strong presence of engineered and industrial features, including the Frodsham Wind Farm, Protos Energy Park, the M56 corridor, and other infrastructure along the Mersey Estuary. These existing influences mean that the landscape already accommodates large-scale energy development and associated structures. The LVIA concludes that, within this context, the addition of solar infrastructure would not represent a fundamentally new or discordant element, but rather an evolution of the existing heavily modified landscape character.</p>		
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		<p>The Proposed Development is also consistent with the management strategies identified for Character Area 4a: Frodsham, Helsby and Lordship Marshes within CWACC's Landscape Strategy (2016). The strategy seeks to conserve the open, low-lying marshland character while managing change through restoration of wet grassland and field boundaries, enhancement of ecological diversity, and maintenance of the strong linear drainage pattern. The design of the Proposed Development directly responds to these aims: the layout follows existing drainage alignments and field geometry; existing ditches and hedgerows are retained and strengthened with native planting; and large areas of grassland and habitat creation are incorporated to reinforce the wetland character and ecological function of the marshes. Through these measures, the scheme supports the long-term management objectives of LCA 4a by promoting habitat restoration and the re-establishment of landscape structure, consistent with the Landscape Strategy's guidance. Table B of the DAD lists out the guidelines for landscape management and for built development identified in CWACC's Landscape Strategy (2016) relating to the landscape character area that the Site lies in, LCA4a. The table describes how the Applicant has performed against these guidelines.</p> <p>Although the site area (c.246ha) is extensive, the solar array's low-lying</p>		
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	<p>typology and the extensive retention and reinforcement of field boundaries, hedgerows, and drainage ditches substantially limit its visual prominence. The key elevated viewpoints from the Frodsham Ridge and Helsby Hill were assessed in the LVIA Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039), which found that while the solar development will be visible, it would read within an already heavily modified foreground and middledistance landscape, and would not significantly alter the appreciation of the wider Mersey Estuary panorama.</p> <p>The design incorporates a robust mitigation strategy, including extensive native planting, habitat creation, and long-term landscape management under the Outline Landscape and Ecology Management Plan (as updated alongside this submission), delivering environmental and biodiversity enhancement consistent with the Landscape Strategy (2016).</p> <p>Accordingly, while the Applicant acknowledges that LCA 4a is identified as highly sensitive to large-scale solar development, it considers that the context, typology, and mitigation of the Proposed Development mean that the scheme can be successfully accommodated within this landscape. The project therefore accords with the intent of Policy DM52 and responds</p>		
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		appropriately to the findings of the 2016 Landscape Sensitivity Study.		
CWACC6.4	6.15-6.20	<p>The Applicant agrees that the overall management strategy for the Frodsham, Helsby and Lordship Marshes (LCA 4a) should seek to enhance and restore the condition of habitats and features of the marshes while safeguarding their open character, as identified in CWCC's Landscape Strategy (2016). This principle has informed the design and mitigation of the Proposed Development from the outset.</p> <p>Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039) confirms that existing landscape features—including trees, hedgerows, ditches and ponds—will be largely retained, enhanced, and supplemented with new native planting and habitat creation. These measures are secured through the Outline Landscape and Ecology Management Plan (as updated alongside this submission), and will, over time, reinforce landscape structure and ecological function across the Site.</p> <p>The Applicant acknowledges, as set out in paragraph 6.8.10 and Table 6-8 of Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039), that the Proposed Development will give rise to moderate to major adverse effects on the landscape character of LCA 4a during</p>	See comments under ExQ1 Q7.01 (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC's Relevant Representations)	

		<p>construction and early operation. These effects are significant in EIA terms, reflecting the scale and extent of activity that will be apparent within the open marshland landscape. However, the ES also concludes that the effects will reduce over time as construction ceases, planting is installed and establishes and as the managed grassland and wetland habitats mature, helping to integrate the development into the surrounding landscape. Key characteristics such as the pattern of drainage ditches and field boundaries will remain and be reinforced.</p> <p>It is recognised that from elevated viewpoints—particularly Frodsham Hill and St Lawrence’s Church— visibility of the solar array cannot be mitigated and will persist. However, as set out in the LVIA these views are already influenced by the large-scale energy, transport and industrial infrastructure of the Mersey Estuary corridor. Within this context, the Proposed Development would represent a further evolution of the area’s established land-use mix rather than a fundamentally new or discordant feature.</p> <p>While localised adverse effects on landscape character are acknowledged, the scheme accords with the management strategy for LCA 4a by enhancing habitats, restoring drainage features, and conserving the overall openness of the marshes. In line with NPS EN-1 paragraph 5.10.12, the existence of a locally valued landscape</p>		
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		(noting the Applicants point in relation to 'valued landscapes' at CWACC6.2) does not preclude development, and the identified impacts should therefore be weighed in the overall planning balance against the significant national and local benefits of renewable energy generation and habitat enhancement delivered by the scheme.	
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### Visual Impacts

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 6. Landscape and Visual – Visual impacts</b>			
CWACC6.5	6.21	<p>The Applicant acknowledges CWACC's point that the experience of visual change extends beyond individual viewpoints. Users of Public Rights of Way (PRoW) and other routes will experience the Proposed Development not as a series of individual snapshot views but more generally as a continuum of experience when travelling through the landscape.</p> <p>The approach adopted within Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (LVIA) (APP-039) accords with the Guidelines for Landscape and Visual Impact Assessment (GLVIA3, Landscape Institute and IEMA, 2013). This methodology is standard practice for major infrastructure assessment and involves selecting representative viewpoints that illustrate the range of likely effects from different receptor types — including PRoW users — across the study area. The representative viewpoints were chosen specifically to typify the types of circumstance experienced along key routes, including those crossing and skirting the Site. Viewpoint selection was</p>	<p><b>See comments under ExQ1 Q7.01</b> (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC's Relevant Representations)</p>

		<p>verified in consultation with CWACC and other stakeholders at the scoping and PEIR stages.</p> <p>While the LVIA reports effects at discrete viewpoint locations, the assessment also explicitly considers the continuity of views and the duration of exposure along these routes. Section 6.8 of the LVIA describes how effects were appraised on users moving through the landscape, with the magnitude of change reflecting both the extent and frequency of visibility along footpaths. The effects experienced from routes within the Site and remote to the Site (including long-distance paths) are documented in some detail within paragraphs 6.8.87 to 6.8.99. The reporting in the LVIA is thus not limited to representative viewpoints. It provides a much broader understanding of how the development will be experienced when travelling through the landscape. It does not underestimate the overall impact.</p> <p>The experience of open landscape character varies along the different sections of the existing PRow network, with more open views typically experienced from more elevated sections of footpaths (e.g. along flood embankments and on deposit ground structures) and with enclosure experienced elsewhere due to the presence of mature vegetation and / or topography. There is a gradation of experience in between, with more filtered views and intermittent openness. As set out in the Outline Landscape and Ecology Management Plan (as updated alongside this submission) and as recognised in two of the limbs to Design Principle 2: Landscape and Views set out within Appendix A the Design Approach Document (APP-130) and secured via DCO Requirement: a. Retain and enhance the open character of Frodsham Marshes, where feasible; and g. Retain open vistas looking across Frodsham Marshes and the wider estuary, where feasible; the need to maintain qualities of open character are recognised and will be addressed appropriately in the detailed design and in the setting of management regimes for mitigation planting.</p> <p>The Applicant considers that the magnitude and significance of effects reported in the ES are robust and proportionate,</p>		
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		providing an appropriate basis for the Examining Authority's holistic consideration of landscape and visual impact.		
CWACC6.6	6.22 and 6.28	The Applicant agrees that, as reported in Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (LVIA) (APP-039), moderate to major adverse effects are predicted during the construction phase, particularly at viewpoints located within or immediately adjacent to the Order Limits. Table 6-6 of the LVIA identifies that Viewpoints 17, 18, 20, 21, 23 and 25 will experience significant adverse effects during construction, reflecting the introduction of plant, equipment, and temporary disturbance prior to the establishment of mitigation planting. These effects are consistent with those typically associated with large-scale renewable energy construction projects of this nature.	<a href="#">See comments under ExQ1 Q7.01 (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC's Relevant Representations)</a>	
CWACC6.7	6.23 – 6.27 and 6.31	<p>The Applicant acknowledges CWACC's comments regarding the assessment of Viewpoint 9 (Frodsham Hill War Memorial), which represents a valued and elevated viewpoint overlooking Frodsham Marshes and the Mersey Estuary. The Applicant recognises the War Memorial's cultural, historic and visual importance and accepts that this location provides one of the most prominent public vantage points within the study area, where visitors come specifically to appreciate open panoramic views across the estuary.</p> <p>The assessment of this viewpoint in the Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (LVIA) (APP-039) was undertaken in full accordance with the Guidelines for Landscape and Visual Impact Assessment (GLVIA3, Landscape Institute and IEMA, 2013) and the Landscape Institute's Technical Guidance Note 06/19: Visual Representation of Development Proposals. These documents provide the nationally recognised framework for identifying receptor sensitivity, determining magnitude of visual change, and deriving significance of</p>	<a href="#">See comments under ExQ1 Q7.01 (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC's Relevant Representations)</a>	

		<p>effect. The methodology was applied consistently across all viewpoints, including Viewpoint 9, ensuring a transparent and replicable assessment process.</p> <p><u>Methodological Context</u></p> <p>The baseline photography, verified photomontages (Figures 6- 39i–iii, APP-113), and Zone of Theoretical Visibility (ZTV) mapping were prepared in line with LI TGN 06/19 standards, using digital terrain modelling and field verification. The ZTV mapping provides a generalised representation of theoretical visibility and is not intended to depict every localised area of potential visibility. The minor difference highlighted by CWACC at the War Memorial likely reflects the model resolution and topographic smoothing inherent in ZTV outputs, rather than any inconsistency in the visibility assessment or underlying data. There is no dispute that the whole Mersey estuary is visible from this location.</p> <p><u>Sensitivity and Magnitude of Change</u></p> <p>The Applicant’s assessment already recognises the high sensitivity of this viewpoint, reflecting both its commemorative importance and the fact that appreciation of the panoramic view is a primary reason for visiting.</p> <p>Determination of magnitude of effect is set out in the LVIA methodology on page 10 of Environmental Statement: Volume 2 Appendix 6-1: LVIA Methodology (APP-064). This explains that four separate factors are considered:</p> <ul style="list-style-type: none"> <li>• Size/scale • Geographical extent</li> <li>• Duration</li> <li>• Reversibility</li> </ul> <p>In relation to size/scale the methodology sets out that the considerations include:</p> <p>i) The extent of existing landscape elements that would be lost, the proportion of the total extent that this represents and the</p>		
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	<p>contribution of that element to the wider character;  ii) The degree to which aesthetic or perceptual aspects of the landscapes are altered by the removal, or introduction of new landscape components;  iii) Whether change affects the key characteristics of a landscape.</p> <p>Geographical extent relates to the area from which the effect would be experienced – in this case a small area at the edge of the Frodsham Hill summit</p> <p>The duration relates to expected length of time – in this case 40 years, which is categorised as Long Term</p> <p>The reversibility relates to the prospects of the effect being wholly or partially reversed following decommissioning.</p> <p>The magnitude of change was assessed as low to medium, taking all of these factors into account:</p> <p><u>Professional Judgement of Significance</u></p> <p>Combining a high-sensitivity receptor with a low-to-medium magnitude of change results, in accordance with the provided methodology, in a moderate adverse effect.</p> <p>The Applicant’s judgment is that this represents a noticeable but not determining visual change—one that does not fundamentally alter the character or quality of the view. The fundamental nature of the view and visitor experience—characterised by its expansive, open panorama over the Mersey Estuary and the marshes—would remain unchanged. Visitors would continue to</p>		
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		<p>experience the same breadth and sense of scale that currently define this important local vantage point. The Council’s differing conclusion that the effect should be considered “significant” reflects a difference in professional judgement, rather than any deficiency in methodology. Whilst the Applicant disagrees with the CWACC position and cannot see that a strong underpinning argument in its favour has been advanced, both the Applicant’s and CWACC’s assessments fall within the normal range of professional interpretation regarding the threshold between “moderate” and “major” significance for complex panoramic views of this nature.</p> <p>Two landscape professionals have reached differing professional judgements as to whether the visual effect should be regarded as significant. This is not unusual in the context of LVIA, where professional assessment necessarily involves the exercise of subjective judgement. The Examining Authority may choose to give greater weight to one view or may reasonably consider that the difference itself indicates that the effect lies close to the threshold of significance. It is accepted that Viewpoint 9 represents an important and sensitive location, and the detailed reasoning set out by both parties provides valuable evidence to assist the decision-maker in reaching an informed and balanced conclusion. Consensus on significance is not essential for that purpose</p> <p><u>Acknowledgement and Clarification</u></p> <p>The Applicant notes CWACC’s observation that the Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (LVIA) (APP-039) conclusion section (paragraph 6.12) does not specifically restate the findings for the War Memorial viewpoint. The outcome for Viewpoint 9 is clearly set out in Table 6-9 and paragraph 6.8.74 of the LVIA, which record a moderate adverse (not significant) effect. The Applicant is certainly not seeking to diminish the importance of the viewpoint – it simply chose to summarise the</p>		
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		<p>significant effects – and the effect at this viewpoint was not judged to be significant.</p> <p><u>Summary</u></p> <p>The Applicant’s treatment of the Frodsham Hill War Memorial viewpoint is methodologically robust, transparent, and fully consistent with best practice. The assessment is supported by verified photomontages, structured evaluation criteria, and clear professional reasoning. The LVIA’s conclusion—that while the Proposed Development will be visible within the broader panorama, it will not fundamentally alter the character, openness, or quality of the view—is sound.</p> <p>The difference between the Applicant’s and CWACC’s conclusions reflects nothing more than variance in professional judgment. It is not reflective of any deficit in the Applicants approach.</p> <p>The Applicant maintains that the assessment of Viewpoint 9, concluding a moderate adverse (not significant) effect, is appropriate, evidence-based, and reliable for the purpose of the Examination.</p>		
CWACC6.8	6.30	<p>The Applicant notes CWACC’s comments regarding Viewpoints 6 and 26, located near St Lawrence’s Church, and their view that the assessment of a moderate (not significant) effect underplays the level of visual change. These viewpoints were included within the Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (LVIA) (APP-039) to represent publicly accessible views from the church and adjacent parkland, which overlook the marshes and estuary to the north.</p> <p>The LVIA assessment followed the methodology set out in the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) and the Landscape Institute’s Technical Guidance Note 06/19, applying consistent and transparent criteria for receptor sensitivity, magnitude of change, and significance of effect. The receptor was assessed as having high sensitivity,</p>	<p><b>See comments under ExQ1 Q7.01</b> (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC’s Relevant Representations)</p>	

		<p>reflecting the elevated public location and the value attached to views over the Mersey Estuary.</p> <p>The magnitude of visual change from these viewpoints was assessed as low to medium, based on the separation distance of around 1.5–2 km and the low, horizontal form of the solar arrays.</p> <p>It is acknowledged that these views are less elevated than the War Memorial, and therefore more focused on a narrower segment of the estuary. As a result, the solar arrays would occupy a somewhat greater proportion of the visible mid-ground and appear more continuous across the marshes. On that basis, the Council’s view that the change could be perceived as more substantial than from the higher War Memorial vantage point is understood.</p> <p>Nevertheless, the context of the existing view remains heavily influenced by man-made infrastructure and industry, notably including the Frodsham Wind Farm and the industrial complex east of the River Weaver. These features dominate the middledistance and strongly condition the character of the panorama.</p> <p>Within this already modified visual environment, the Proposed Development would represent a further element of the established energy landscape rather than an incongruous or transformative addition.</p> <p>Accordingly, while the Applicant recognises that the degree of visual change from St Lawrence’s Church may be somewhat greater than from the War Memorial, the underlying conclusion of a moderate adverse effect remains appropriate. The effect would be clearly perceptible but not determining in overall visual terms, and the fundamental appreciation of the view — as a broad, open outlook over the Mersey Estuary within a mixed rural-industrial setting — would remain intact. The Applicant therefore maintains that the assessment is methodologically sound, balanced, and defensible.</p>		
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Design Objectives

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
RR-037 Section 6. Landscape and Visual – Design objectives			
CWACC6.9	6.29 and 6.33 – 6.36	<p>CWACC's concern regarding the effect of year-10 mitigation planting on views from within the SADA, such as those illustrated around Viewpoint 25, is acknowledged. The Applicant agrees that mitigation should not itself create new adverse landscape or visual effects by enclosing paths or obscuring long-distance views across the marshes toward the Sandstone Ridge and estuary.</p> <p>If the planting were simply left to grow unchecked, it could over time become continuous and overly tall, producing a tunnel-like effect that would block open views and erode the open character of the marsh.</p> <p>To prevent this, the Outline Landscape and Ecology Management Plan (as updated alongside the submission) and indicative landscape masterplan already set clear design intentions to balance screening of the solar panels with the need to retain openness and visual permeability.</p> <p>These documents identify measures such as maintaining lower hedgerow heights, including gaps and view corridors, and using open, low-growing species adjacent to public rights of way and permissive paths.</p> <p>Importantly, these principles will be translated—through detailed design and management prescriptions into the final LEMP and landscape design. The approval of this document will allow CWACC to have ongoing influence over the precise form and management of planting to ensure that mitigation continues to screen the infrastructure effectively without enclosing or diminishing the wider landscape experience.</p> <p>The detailed design is controlled through Requirement 6 of Schedule 2 of the draft DCO (as updated alongside this</p>	<p>See comments under <b>ExQ1 Q7.01</b> (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC's Relevant Representations)</p>

		<p>submission). Requirement 6(3) specifies that the development must be designed and constructed in accordance with the design principles, and in this context, the Applicant notes that Design Principle 2: Landscape and Views (APP-130) includes the following a. Retain and enhance the open character of Frodsham Marshes, where feasible; and g. Retain open vistas looking across Frodsham Marshes and the wider estuary, where feasible.</p> <p>In this way, the Proposed Development will avoid deterioration of character, by retaining long-distance views and the sense of openness that defines the marshland, in line with NPS EN-3 and CWACC's design objectives.</p>		
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Skylark Mitigation Area – Landscape Management

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 6. Landscape and Visual – Skylark Mitigation Area – Landscape Management</b>				
CWACC6.10	6.37	<p>The Applicant can confirm that the Skylark Mitigation Area forms Work 6B of the Works Plans (AS-007). Paragraph 6.10.1 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission) confirms that "The Skylark Mitigation Area would be managed as 'other neutral grassland' for the operational life of the Proposed Development. This will provide invertebrate habitat, thus acting as a foraging resource, and will also be suitable for use by nesting skylark."</p> <p>As outlined in the Applicant's response CWACC3.1, the PEIR consultation identified potential land for skylark mitigation. At this point in the application process, it was envisaged that the land may stay in intensive arable use and therefore 'skylark plots' would be created within the fields.</p> <p>Following the PEIR consultation, an agreement was reached with the landowner of the plot now subject to</p>	<p>There is still no robust evidence to demonstrate that the new area allocated for Skylark Mitigation is sufficient to accommodate the amount of breeding territories lost, however, the explanation of the differences between the original and updated strategy is acknowledged.</p>	

		Work 6B allowing this land to be used for mitigation purposes. The landowner was amenable for this land to be taken out of intensive arable use and managed as other neutral grassland, which benefits skylarks and other biodiversity.		
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Decommissioning

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 6. Landscape and Visual – Decommissioning</b>				
CWACC6.11	6.38	CWACC's observation that the landscape effects of the Proposed Development, while technically reversible, would in practice persist for a significant period is acknowledged. The Applicant accepts that a 40-year operational period represents a long-term change to the landscape character and that, as with Frodsham Wind Farm, there is potential for such infrastructure to become a familiar and recognisable feature within the local landscape during its lifetime. However, the key distinction remains that the Proposed Development is designed as a temporary use of the land, secured by Requirement 20 of the draft DCO (as updated alongside this submission), which mandates full decommissioning and restoration no later than 40 years after final commissioning. Unlike the fixed, vertical form of wind turbines, the solar arrays are low-lying, visually recessive, and largely screened by vegetation and topography, allowing the underlying landscape framework to remain intact. The majority of the installed components are lightweight and inherently demountable—such as panel frames, cabling, and modular units—meaning they can be removed with minimal ground disturbance or damage to underlying soils and drainage. This adds to the ease with which the undeveloped and open character of the marshland can be restored at the end of the operational period. While acknowledging that national policy recognises	See comments under <b>ExQ1 Q7.01</b> (copied to CWACC2.1 in relation to paragraph 2.9 of CWCC's Relevant Representations)	

		low-carbon infrastructure as critical national priority and that operational lifetimes may evolve, the current proposal remains secured as time-limited and fully reversible through enforceable DCO provisions, which ensure that the land can return to its original undeveloped condition.		
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Trees and hedgerows

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 6. Landscape and Visual – Trees and hedgerows (APP-146)</b>				
CWACC6.12	6.39	Matters relating to the stability of flood defences are being dealt with through the responses to the Relevant Representations made by the Environment Agency.	Noted	
CWACC6.13	6.40-43	<p>As set out at paragraph 4.3.3 of the Arboricultural Assessment (APP-146), removal of High Value 'A' category group G034 is required to facilitate the creation of a bird mitigation area required to enhance the value of the land for use by birds of the Mersey Estuary SPA and SSSI. Paragraph 3.3.2 of the Non Breeding Bird Mitigation Strategy, Appendix B to the Outline Landscape and Ecology Management Plan (as updated alongside this submission) sets out that the removal of a small stand of semi-mature trees adjacent to the Canal Pools will increase the attractiveness of surrounding habitats to grassland waders (SPA species) and breeding waders through increasing open aspects adjacent to the SPA, and reducing predator opportunities. On this basis the loss of the trees is considered to be outweighed by the broader ecological benefits associated with their removal.</p> <p>Some of the trees were recorded under an 'Area' category to reflect the fact that there are large areas of the Site where trees are present but they fall outside areas that would be impacted by the Proposed Development. As such this approach provides a proportionate methodology where</p>	<p>The Applicant's response is noted, and the justification for tree removal of the A category group referred to appears to be reasonable and justified.</p> <p>However, particularly for the wider tree issues. the Applicant has not followed BS5837:2012 recommendations. CWCC suggested a pragmatic approach of recording tree losses by canopy area to assist with assessing the actual loss, and that tree canopy area information be provided as a useful metric.</p>	

		<p>retention of trees and hedgerows was a key design principle. Whilst it is not possible to protect all trees for a project of this scale it is evident from the survey that tree losses are minimal.</p> <p>Paragraph 4.6.1 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission) sets out that the landscaping scheme would provide for 2.2 ha of new native woodland, 0.87 ha of new native mixed scrub, 2.5km of new native hedgerow, and approximately 5km of new belts of native trees and shrubs. On this basis it is considered that the loss of trees is adequately compensated for by the planting proposals for the Proposed Development.</p>		
CWACC6.14	6.44-6.46	<p>It is acknowledged that avoidance of hedgerow loss is preferable. However, as noted in CWACC6.13 the design has sought to minimise losses and provide adequate buffers to protect retained hedgerows.</p> <p>The protection of trees and hedgerows is secured through the Outline Landscape and Ecology Management Plan (as updated alongside this submission). Table 5-3 of the Outline Construction Environmental Management Plan (oCEMP) (as updated alongside this submission) sets out that the Applicant will 'protect and retain existing trees and vegetation (in accordance with British Standard (BS) 5837:2012 and the Arboricultural Assessment [EN010153/DR/7.15], and prepare an Arboricultural Method Statement to be agreed with CWaCC.'</p> <p>Table 5-3 of the oCEMP also set out that 'Hedgerows or areas of substantial vegetation to include a minimum 6m buffer, excluding new crossing points, in which no works (other than landscaping and access) are to occur'.</p> <p>In relation to decommissioning, paragraph 2.4.3 and 2.4.4 of the Outline Decommissioning Environmental Management Plan (as updated alongside this submission) sets out that on decommissioning the landscaping works undertaken across</p>	<p>Following on from the point above about the current Arboricultural assessment not following BS5837:2012 recommendations. Confirmation that the Applicant will 'protect and retain existing trees and vegetation (in accordance with British Standard (BS) 5837:2012 and the Arboricultural Assessment [EN010153/DR/7.15], and prepare an Arboricultural Method Statement to be agreed with CWaCC.' is welcomed.</p> <p>Clarification on the use of minimum 6m buffer for hedgerows within the oCEMP is also helpful.</p> <p>It appears from the Applicant's response that longer term retention of landscaping beyond the decommissioning stage of the development is not going to be secured by further negotiation with the landowners.</p>	

		the Site would remain in place, While it is considered likely that the tree and scrub planting would be retained as the land would be handed back to the landowners on completion of decommissioning the long-term retention of the landscaping improvement works by those landowners cannot be guaranteed.		
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## 7 Ecology and habitat

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7: Ecology and habitat</b>				
CWACC7.01	7.5	<p>The Applicant acknowledges in paragraph 7.3 of CWACC's response that the Council will defer to Natural England's assessment regarding impacts on non-breeding bird species linked to the Mersey Estuary designated site.</p> <p>It is agreed that works to the NBBMA will enhance habitat and increase carrying capacity for qualifying non-breeding bird species. Importantly, the bird-day calculations used in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission) were based on the current, unenhanced baseline condition of the entire Order Limits (including the SADA and the NBBMA), meaning that the assessment is precautionary.</p> <p>The assessment established a foundation capacity of the current Order Limits without assuming an uplift from the works to the NBBMA. Therefore, the predicted enhancement of habitat quality and consequently the carrying capacity within the NBBMA is additional to the baseline.</p> <p>The Applicant wishes to clarify that the NBBMA forms part of a comprehensive package of mitigation and enhancement for the Order Limits</p>	<p>This is not the case; as in response to Q4.6.4 of the ExA Questions, CWCC stated in para 7.3 of the CWCC Relevant Representation (RR-037) that "at this stage, CWCC has raised broad concerns and will defer to Natural England's assessment. CWCC will provide further comments on its representations at a later stage". This did not mean a full deferral to Natural England on non-breeding bird species linked to the Mersey Estuary designated site, as the applicant infers, and was a holding response until such time as CWCC could assess the information provided.</p> <p>CWCC disagrees that the assessment is precautionary, or indeed appropriate, to calculate the amount of area required to compensate for the loss of existing mitigation land and that all species have been considered. In not accounting for quality of habitat provision, the methodology is flawed, in that it cannot account for the loss of existing habitat quality and mitigation provision. See CWCC's response to ExA Questions Q4.4.2, Q4.4.3, Q4.4.6, Q4.6.4., in which the methodology and NBBMA area is not accepted as adequate mitigation and compensation.</p>	

CWACC7.01	7.6	<p>BNG calculations have been provided within the Biodiversity Net Gain Report (APP-143), and the Metric was provided to CWACC following submission of the DCO application and submitted to Examination (AS-036).</p> <p>See further comments under the 'Biodiversity Net Gain' section below (CWACC7.92 onwards).</p> <p>Skylark mitigation is further discussed in comments under the 'Skylark Mitigation Area' section below (CWACC7.70 onwards).</p>	<p>CWCC was provided with Excel metric calculation spreadsheets outside of the Examination process, prior to the PEIR stage. CWCC has requested these, and subsequent updates be accepted into the Examination Library, but this has not been the case. As in response to Q4.5.7 of the ExA questions, it is CWCC's position that the metric must be provided in Excel (xls) format, with supporting information, to enable assessment, due to the complexity of the site and volume of information contained within it. The updated metric at Procedural Deadline B has not been submitted in xls. Form. Paragraph 4.6.7 of NPS EN-1 states that the calculation data should be presented in full as part of an application and directs the reader to Note 96, which is a hyperlink to the statutory metric Excel spreadsheet. This has not been provided and so the policy is not satisfied.</p> <p>See responses to Section 7.0 regarding Skylark Mitigation</p>	

HRA General

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Habitat Regulations Assessment (as outlined in Section 8 of the Planning Statement) (APP-128) and Information to Inform Habitats Regulations Assessment (EN010153/DR/5.3) (APP-125) General</b>				
CWACC7.03	7.7	The Applicant acknowledges the findings of Natural England's NECR361 report and associated mapping, which identify broad areas of land in the Northwest of England as potentially suitable to serve as FLL SPA/Ramsar waterbirds – see paragraphs 4.2.4 onwards of the Information to Inform	CWCC agrees that the entire Order Limits is (or has the potential to be) FLL.	

		<p>Habitats Regulations Assessment (as updated alongside this submission). However, these datasets represent a strategic-level identification of potential suitability and do not in themselves confirm site-specific usage. For this reason, the Applicant has undertaken detailed desk-based review and site-specific surveys, the results of which directly inform the assessment.</p> <p>The assessment therefore reflects the actual and present use of the entire Order Limits by qualifying species, rather than relying solely on regional-scale mapping outputs which were published in 2023 based on historical data. As Natural England<sup>3</sup> and the Chartered Institute of Ecology and Environmental Management (CIEEM, 20194 ) highlights, data has a shelf-life and validation and updates by Natural England to the 2023 report (habitat data from 2021) would be required. Land use change means that FLL is constantly changing as well; a good example would be the area referred to as 'the Innovyn Cell', located immediately adjacent to the Limits. NECR361 illustrates this as having 'High Potential' for FLL, whereas the Cell has long since scrubbed over and it is now entirely unsuitable for SPA birds (see Plate 1, Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission) ).</p> <p>Irrespective of the definition of FLL, the Applicant can confirm that impact assessment was undertaken based upon, and the Proposed Development mitigation is provided on, the assumption that the entire Order Limits is (or has the potential to be) FLL.</p>		
CWACC7.04	7.8	<p>Paragraph 8.8.68 of Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041) notes that the Site is already subject to a level of recreational disturbance, and that no greater such effects would be likely to occur based on the mitigation that has been included within the design. To ensure recreational disturbance is minimised, the Proposed Development includes visual screening around the SADA and NBBMA, restriction of cyclists and horse</p>	<p>Within the updated Information to Inform Habitats Regulations Assessment, Section 8.3.14, some reference is made to recreational pressure. However, this is generalised information, without reference to current use and underrepresents the likely significant impacts of extended the network over the whole area of the Order Limits, some of which are adjacent to sensitive areas, upgrading the footpaths to be</p>	

	<p>riders from sensitive areas and other precautionary measures such as signage (paragraphs 5.3.32, 5.5.10, 5.6.8 of the Design Approach Document (APP-130), and paragraphs 6.5.29 and Section 6.11 of the Outline Landscape and Ecology Management Plan (oLEMP) (as updated alongside this submission). Consequently, the avoidance of disturbance has been a guiding principle of the design process. The Applicant therefore disagrees with CWACC on this point.</p> <p>Disturbance effects arising from increased use of the footpath/PRoW network have been considered within Information to Inform Habitats Regulations Assessment (as updated alongside this submission). Specifically:</p> <p>Section 5.6 (Identification of Potential Impacts), paragraph 5.6.3 identifies recreational activities as a potential source of disturbance, with further discussion provided in paragraph 5.6.19.</p> <p>Table 5-2 screens in “Disturbance/Displacement during the operational phase” on the basis that “increased access to the land is anticipated through the development design”.</p> <p>Within the Information to Inform Habitats Regulations Assessment (as updated alongside this submission) (Section 6.4), a dedicated subsection on Recreational Pressure and Access Management considers potential effects associated with increased use of permissive paths and informal routes, including dog walking (paragraphs 6.4.7–6.4.9).</p> <p>On this basis, the Applicant considers that disturbance from increased access has been fully recognised and addressed within the assessment.</p> <p>It is also important to highlight that Natural England are satisfied that disturbance is unlikely to be an issue for Cell 6 as detailed in their RR response NE21 (RR-012).</p>	<p>accessible to a wider range of people and also increasing the type of uses. See response to paragraphs 7.17 to 7.28 regarding public rights of way and CWACC’s suggestions for re-routing. The proposed changes to the Public Rights of Way network should be assessed in detail, within an updated Habitat Regulations Assessment, to ensure evidenced conclusions are made. Visual screening will have limited benefit and will not mitigate against noise and other impacts, such as impact of dogs, littering etc.</p>	
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CWACC7.05	7.9	<p>The Applicant is not relying on habitats outside the Applicant's control for mitigation. The Planning Statement (APP-128) is summarising the baseline in relation to SPA birds.</p> <p>The details associated with mitigation proposals for the Proposed Development is described in detail within Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission).</p> <p>The core area of the mitigation strategy is the delivery of the Non-Breeding Bird Mitigation Area (NBBMA), which lies within the Order Limits. This is designed to deliver mitigation for all SPA wetland bird use of the entire Order Limits. The Applicant does not rely on habitats outside the Order Limits for mitigation.</p> <p>The Planning Statement (APP-128) is making an overarching point that the birds of SPA will have adequate habitat within the wider estuary and the enhanced habitats within the NBBMA.</p>	<p>In the updated Information to Inform Habitats Regulations Assessment (PD2-00), it states:</p> <p>8.2.6 During construction of the NBBMA, alternative habitats for SPA birds will be available through:</p> <ul style="list-style-type: none"> <li>i) All habitats within the SADA, including grasslands managed for golden plover, lapwing and curlew (as a requirement of FWF mitigation) and the Lum area.</li> <li>ii) Adjacent wetland habitats, including Cell 6 (and which is ensured for continued use as wetland until 2042 under FWF planning conditions) and the River Weaver.</li> </ul> <p>8.2.7 As such, impacts on SPA species though the construction of the NBBMA are largely avoided through timing, or will take place over the very short term (part of spring and/or autumn passage) and therefore de minimis.</p> <p>8.2.9 It is further relevant that other habitats within and outside the Order Limits will continue to be available for SPA birds during construction, most notably The Lum, Cell 6 and the River Weaver (but not limited to).</p> <p>This again, uses areas outside the Order Limits as mitigating factors, and this should not be the case.</p>	
CWACC7.06	7.10	<p>The Applicant acknowledges that paragraph 1.2.8 of the Information to Inform Habitats Regulations Assessment (as updated alongside this submission) may have been open to misinterpretation. To clarify, the NBBMA is not treated as separate from the Proposed Development. Rather, it is assessed as a distinct element within the HRA document to account for the anticipated staggering of the construction programme.</p> <p>This approach ensures that the potential environmental impacts, mitigation measures, and compliance with conservation objectives associated with the NBBMA are evaluated explicitly and transparently, in addition to the</p>	<p>The explanation is acknowledged.</p>	

		assessment of the wider solar development and across all phases of the development.  For the avoidance of doubt, the NBBMA lies within the Order Limits and forms an integral part of the Proposed Development. Its delivery, management, and role in mitigation are fully embedded in the assessment, such that the HRA covers the Proposed Development as a whole.		
CWACC7.07	7.11	The Applicant notes this – see its responses in these sections below.		

#### Construction Impacts

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Construction Impacts</b>				
CWACC7.08	7.12	<p>The topography discussed in the Appendix 5.3 Information to Inform Habitats Regulations Assessment (as updated alongside this submission) is in relation to the degree of visual and noise screening with the significant height differences between cells 3, 2 and 6.</p> <p>Paragraph 8.8.9 of Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041) notes that Cell 6 is substantially (6 – 10m) below Cell 3 (the NBBMA) and below a steep embankment, and which is topped by vegetation. No birds using Cell 6 would be able to see or likely hear any activity on Cell 3.</p> <p>The topography discussed in Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission) (paragraph 2.4.5) relates to a separate pathway with regards to line of sight and this potential disturbance vector. The canal pools sit marginally below</p>	<p><b>ExQ1 Q4.5.6</b></p> <p>As per paragraph 7.12-7.14 of CWCC's Relevant Representation [RR-037], there were concerns regarding consistency of the assessment of the effect of cell elevations on noise abatement on other parts of the site.</p> <p>As per CWCC's response to the ExA questions Q4.5.6:</p> <p>The response details that visual disturbance was being considered in terms of the higher elevation of fishing pools, causing disturbance to Cell 3 and that noise disturbance was being considered in terms of construction disturbances from Cells 2 and 5 on to the lower Cells 3 and 6, so there were different pathways being considered. However, the response also states "No birds using Cell 6 would be able to see or likely hear any activity on Cell 3." This again confuses the two pathways and also does not</p>	

		<p>Cell 3 and are almost entirely unvegetated. The elevated points overlooking the canal pools interacts with the skyline, meaning any person utilising these pools is highly visible and therefore likely to be very disturbing to bird on Cell 3. As such, the circumstances in this location are entirely different to those of Cell 6.</p> <p>The noise impacts from construction are assessed separately in Environmental Statement: Volume 2 Appendix 4-1: Noise Impact Assessment (APP-054). While the HRA does not repeat some of the topographic description above, the modelling does incorporate relevant source-receptor relationships, including distances.</p> <p>Figure 3 of Environmental Statement: Volume 2 Appendix 4- 1: Noise Impact Assessment (APP-054) presents the Ecological Sensitive Receptor points/areas, ecological noise receptor points (E1–E5) have been identified across the Order Limits, including Cells 2, 3, 5, and 6. This demonstrates that relative elevation, receptor sensitivity, and location within the Order Limits have been factored into the noise and disturbance assessments.</p> <p>The Applicant therefore considers that elevation has been appropriately considered across the HRA, oNBBMS, and Noise Impact Assessment.</p>	<p>consider birds flying to and from Cell 6, so this is not accepted.</p>	
CWACC7.09	7.13	<p>Appendix 5.3 Information to Inform Habitats Regulations Assessment (APP 125) and Environmental Statement: Volume 2 Appendix 4-1: Noise Impact Assessment (APP054) assess disturbance effects on birds using Cells 3 and 6, which are the key functional areas of concern.</p> <p>Flight activity represents a transient and short-duration exposure, in contrast to sustained foraging or roosting behaviour. On this basis, potential impacts to birds in flight are not predicted to alter the overall conclusions of the assessment. For the avoidance of doubt, aside from construction of the NBBMA, there is no development of Cell 3 and so an entirely open route continues to be</p>	<p><b>ExQ1 Q4.5.6</b></p> <p>The response states that flight activity represents a transient and short-duration exposure, in contrast to sustained foraging or roosting behaviour. No evidence is provided to support this principle as such.</p> <p>This does not address the scale of impact of such a large area of solar panels across the landscape. If exposure is accepted to be intermittent and brief, this does not mean it is not significant, due to the scale of the development.</p> <p>However, the response references Seaforth Docks in Liverpool as an example of birds overflying areas of</p>	

		<p>available to flying birds between the estuary, Cell 3 and Cell 6. It is further clarified that there is no evidence of bird flight lines being altered by solar developments which the Applicant is aware of. However, there is considerable evidence that SPA birds regularly overfly industrial facilities, including areas around the Mersey Estuary. A clear example would be Seaforth Docks in Liverpool, which supports large aggregations of roosting waders (the same and similar species to those found within the Order Limits). To get to their dockland roost pools, the birds must fly around operational wind turbines and across a large expanse of hard standing. It is therefore not accepted that flightline disruption would occur.</p> <p>The Applicant has incorporated mitigation into the Proposed Development, including phased construction, careful siting of compounds/plant, and delivery of the NBBMA to ensure that functional habitat resources remain available without adverse effect on site integrity.</p> <p>On this basis, the Applicant considers that disturbance to birds in flight between Cells has been implicitly assessed within the broader treatment of noise and visual disturbance, and that no additional pathway of significant effect arises beyond those already addressed.</p>	<p>development to access roosting areas. Further detail of this should be presented, to assess whether this example is comparable to the proposed development.</p> <p>In the updated Appendix B – Outline Non-Breeding Bird Mitigation Strategy in the updated Outline Landscape and Ecology Environmental Management Plan [PD2-023], it is stated in paragraph 3.1.12 and 4.2.18, that the removal of fences will increase the open aspect of the site, as an enhancement for SPA species. It is therefore the question, that, if a measure such as this can be considered to enhance the area for qualifying SPA bird species, then the impact of the solar farm on the open aspect and therefore the surrounding area for qualifying bird species, is negative.</p>	
CWACC7.10	7.14	<p>Environmental Statement: Volume 2 Appendix 4-1: Noise Impact Assessment (APP-054) modelled potential unmitigated scenarios and as stated in Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041), which identified that noise levels from certain construction activities could exceed disturbance thresholds within 180 m of Cell 3's eastern boundary.</p> <p>Reference to Saturday works reflects that background noise levels are typically lower at weekends and therefore considers all scenarios. The Applicant has sought to provide a detailed assessment.</p>	<p>The explanation regarding Saturday working and that the maximum extent of noise impact would be within 180m of the NBBMA and that mitigation measures will reduce noise impacts to below thresholds is accepted, however, the question of why the SADA was not designed to avoid the impact in the first place, in line with mitigation hierarchy, has not been given.</p>	

		The SADA was not reduced because the assessment is intended to identify the maximum potential extent of activity. Instead, mitigation is secured through the Outline Construction Environmental Management Plan (as updated alongside this submission), which requires noise management measures i.e. restricting the timings of workings, low noise plant, screening where appropriate and monitoring of thresholds. The proposed mitigation involves the use of standard best practice measures, and with these in place, thresholds would not be exceeded as presented in the Environmental Statement: Volume 2 Appendix 4-1: Noise Impact Assessment (APP-054).		
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Operational Impacts

Ref	Para number	Applicant's Response (PD2-027)	CWACC comments	
RR-037 Section 7. Ecology and habitat - Operational Impacts				
CWACC7.11	7.15	<p>Natural England has confirmed that it is satisfied with the information provided in relation to glint and glare, as outlined in its Relevant Representation (RR-012). As CWACC has indicated that it will defer to</p> <p>Natural England on all ornithological matters, the Applicant considers the issue to be resolved. For the avoidance of doubt, the Applicant's position is that there will be no significant impacts arising from glint and glare, and that there is no evidence or indication that such impacts affect birds in any way.</p>	<p>CWCC has not deferred to Natural England on all ornithological matters. CWCC stated in para 7.3 of the CWCC Relevant Representation [RR-037] that <i>"at this stage, CWCC has raised broad concerns and will defer to Natural England's assessment. CWCC will provide further comments on its representations at a later stage"</i>. This did not mean a full deferral to Natural England on all ornithological matters, as the applicant infers, and was a holding response until such time as CWACC could assess the information provided.</p> <p><b>ExQ1 Q4.6.4</b></p> <p>The original comment referred to glint and glare assessments and also referred to the wider operational impacts of having solar panels render land in-between favoured areas unavailable for birds. As per CWCC's response to ExQ1 Q4.6.4 <i>this response does not address the scale of impact of such a large area of solar panels across the landscape. If exposure is accepted to be intermittent and brief, this does not mean it is not significant, due to the scale.</i></p>	

			<p>If birds are disturbed to the extent that they do not reach their foraging or roosting grounds, the consequences for the population could be significant.</p> <p>In addition, the solar farm will reduce the unobstructed gap for bird flight between the two FWF turbine arrays, which were left for wildlife access, from 1.8km to 1.2km, further reducing the area accessible for qualifying bird species, especially considering birds can be impacted up to 600m from wind turbines</p>	
CWACC7.12	7.16	<p>See response to CWACC7.11, however for clarity, the Applicant notes the following:</p> <p>Disturbance and displacement of qualifying bird species from Cells 2, 3, 5 and 6 were explicitly considered within the Information to Inform Habitats Regulations Assessment (as updated alongside this submission), with particular attention to visual, noise and glint/glare pathways.</p> <p>Bird usage of multiple Cells, including flight movements to and from Cell 6, was recorded in baseline surveys (Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082)) and taken into account in the assessment. These data informed conclusions on the potential for displacement and connectivity effects.</p>	<p>CWCC's 7.16 RR relates to the disruption of connectivity of Cell 6 from Cells 2 and 5 and from the Mersey Estuary and also raises concerns regarding the fragmentation of the area of FLL. Please see response to paragraph 7.74.</p> <p><b>ExQ1 Q4.6.4</b></p> <p>The following details why undeveloped areas were left between the Mersey Estuary and Cell 6 as an embedded mitigation measure. Published literature on disturbance distances for non-breeding birds is referenced at paragraph 6.3.4 of the information to Inform Habitat Regulations Assessment [AS-017] (<i>although the reference is taken out of the later iteration [PD2-009] reflecting the change to the construction phasing of the Eastern Array and the need for separation from the NBBMA during construction</i>).</p> <p>Extracts from the Environmental Statement accompanying the FWF application (10/00597/DECC) are provided in <b>Appendix 3</b>. The FWF design evolution is dealt with in paragraphs 2.76 to 2.110 (<b>Appendix 3a</b>).</p> <p>It can be seen from Fig 2.3 (Design 2) in the appendix that the early design iteration for FWF encompassed turbines across the whole frontage of the deposit grounds adjacent to the Mersey Estuary. The design was amended to take account of the ornithological impacts:</p> <p><i>"2.86 During 2008/2009 ornithological surveys it became evident that significant numbers of birds were feeding, roosting and moving through the area. The majority of birds present were associated with the main lagoon (indicated by the orange dot in Figure 2.4). In light of bird movements over the proposed development site the turbines were re-configured to provide a layout less likely to result in significant ornithological impacts".</i></p>	

			<p>Designs 4 and 5 were subject to further amendment to account for bird movements:</p> <p><i>“2.91 Minor siting amendments were made to Design 4 seeking to establish a more balanced and visually permeable arrangement as judged from a range of potential viewpoints. In addition concerns were raised from an ornithological perspective that one of the new turbines was encroaching onto the preferred bird free corridor.” And</i></p> <p><i>“2.92 Following further landscape impact assessments and a detailed ornithological impact assessment a consensus was reached that 4 turbines needed to be removed to minimise the potential collision risk on birds, based on the current habitats onsite. A 20 turbine development was deemed to be more acceptable from both a visual and ornithological perspective (Figure 2.6).”</i></p> <p>Figure 13.2 to Chapter 13, the Ornithological chapter, of the Environmental Statement (<b>Appendix 3C</b>) illustrated the direction and frequency of bird movements at that time, indicating why Cell 3 and to a lesser extend Cells 5 and Cell 2 provide an important gap for birds accessing Cell 6.</p> <p>Chapter 13 of the Environmental Statement (<b>Appendix 3B</b>) provides more detail, including on bird movements (paragraphs 13.74 to 13.80).</p> <p><i>“13.74. The main movements of birds over the proposed Frodsham Wind Farm area were between the Mersey Estuary and Weaver Bend to and from the lagoon at Cell 6. The most frequent direction of flights from the Mersey Estuary, were south over Cell 3 to Cell 6 and the grazed fields at Cell 5. There were also regular movements of birds returning to the Mersey Estuary flying north over Cell 3. Birds were also recorded moving regularly north and south between Cells 5 and 6 to feed and roost and also to avoid predators.” And</i></p> <p><i>“13.76. Regular movements of birds were noted flying south-west over the site from the Weaver Bend to Cells 5 and 6. The majority of these movements were within a 500m buffer around the proposed Frodsham Wind Farm but were not actually within the area swept by the blades of the proposed turbines.” And</i></p>	
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			<p><i>“13.78. Disturbance of birds feeding and roosting on and around the lagoon at Cell 6 was mainly caused by raptors such as Peregrine Falcon and Merlin passing through the area and low flying light aircraft or helicopters. This often resulted in large flocks of birds taking flight. These flocks generally flew up high and circled within the confines of the lagoon. The large feeding and roosting flocks of European Golden Plover and Northern Lapwing together with smaller numbers of Dunlin, Eurasian Curlew and Common Redshank that fed and roosted in the north-west corner of Cell 5 suffered similar disturbance events. These flocks would circle around the north-west corner of Cell 5, within Cell 2 as well as moving over the bund to Cell 6 with smaller movements observed within the proposed eastern cluster of turbines in Cell 5 and over Cell 1 by Frodsham Marsh Farm.”</i></p> <p>The Environmental Statement details further the assessment of impacts.</p> <p><i>“13.136. The assessment of impacts as a result of construction (noise, disturbance and habitat loss) and operation (reduction in habitat quality caused by noise, displacement and barrier effect) are presented in Table 13.9. In this table the impacts and mitigation are detailed and the residual impact is presented. Ecological mitigation is detailed in Section 12; however the specific mitigation for ornithological receptors is dealt with in greater detail in Paragraphs 13.175 to 13.179. Table 13.9 does not include the collision risk impacts which are detailed in Paragraphs 13.49 to 13.57. The impacts on the SPA and SPA qualifying species are considered in Paragraphs 13.164 to 13.174”</i></p> <p>And Table 13.10 B in Appendix 3 b) summarises the impact assessment during the operational phase of the FWF, noting under mitigation:</p> <p><i>“Iterations in project have resulted in large areas of suitable breeding habitat in Cell 5 remaining turbine free Creation of habitat complex in Cell 3 includes large areas of wet and dry grassland and a wader scrape (with sparsely vegetated island) will provide ideal breeding opportunities for this species</i></p> <p><i>At all stages the project design and turbine layout have been influenced by the results of the combined bird surveys. This has resulted in iterations to the turbine layout to avoid major flight lines and areas of highest bird activity. All major flight lines are in turbine free areas including the mitigation area in Cell 3. A proposed turbine to the north of Cell 6 was also removed from the</i></p>	
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			<p><i>scheme to reduce any potential barrier effect to birds flying in to roost and feed in Cell 6 from the Mersey Estuary”</i></p> <p>As stated in E.001 of CWCC’s Local Impact Report submitted at Deadline 1 [REP1-046], there is approx. 200 hectares of High potential Functionally Linked Land (as shown on Page 18 of the <i>“Identification of Functionally Linked Land supporting SPA waterbirds in the North West of England, Identification of Functionally Linked Land supporting SPA waterbirds in the North-West of England – Phase 2 Appendix 5 – Functionally Linked Land Maps for the Dee Estuary, Mersey Estuary and North Wirral Foreshore BOWLAND ECOLOGY. 2022. December 2022”</i>), within the Order Limits (of a total area of 460 hectares of FLL across the whole of the Marsh), of which, Cells 1, the majority of Cell 2 and Cell 5 is proposed for development, rendering approx. 130 hectares of the High potential FLL no longer functional. Further, the applicant considers the whole of the SADA (253ha) to constitute FLL, due to the birds recorded.</p> <p>The development will reduce the area of functionally linked land, without adequate compensation, rendering a significant area of it inaccessible for migratory bird species, and change the way the birds currently access their favoured areas of land within and outside of the Order Limits.</p> <p>Also, there are concerns regarding the movement of Badger and Otter across the development.</p>	
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Operational Impacts: Paths

Ref	Para number	Applicant’s Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Operational Impacts: Paths</b>				
CWACC7.13	7.17	<p>The Applicant disagrees with this comment and refer back to comment CWACC7.04.</p> <p>The additional points raised regarding cycling and equestrian use, increased intensity of access due to improved path quality, and potential disturbance from elevated paths fall within the same broad category of</p>	<p>Please refer to comment regarding paragraph 7.8 and the following paragraphs.</p> <p>There is no detail regarding comparisons of the existing use levels, types of use and extent compared to existing bird locations, compared with future extent, type and level of use and future bird locations (determined by the</p>	

		<p>recreational disturbance already screened in and assessed. The design and management of the access network specifically aim to control and direct recreational activity, with mitigation including route alignment, planting/screening, and management measures to reduce disturbance to sensitive bird habitats.</p> <p>On this basis, the Applicant considers that disturbance from increased access has been fully recognised, assessed, and mitigated within the HRA and ES</p>	<p>limited areas in which birds are proposed to be able to use across the Order Limits). It is CWACC's opinion that the NBBMS is already in doubt and that introducing further non-essential disturbing activities in certain locations, is inappropriate. The proposed changes to the Public Rights of Way network should be assessed in detail, within an updated Habitat Regulations Assessment, to ensure evidenced conclusions are made.</p> <p>CWCC disagrees that disturbance from increased access has been fully recognised, assessed, and mitigated within the HRA and ES</p>	
CWACC7.14	7.18	<p>The Applicant acknowledges the survey data presented in the Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082), which confirms bird usage along the eastern and northern boundaries of Cell 1 and in adjacent areas of the Mersey Estuary.</p> <p>Section 5.6 of the Information to Inform Habitats Regulations Assessment (as updated in this submission) (as highlighted in comment response CWACC7.04) identifies recreational activities as a potential source of disturbance, with detailed discussion in paragraph 5.6.19. However, one of the core values of the development is about sensibly connecting people and nature.</p> <p>In recognition of the sensitivity of the eastern area of the Cell 1 boundary and section of the River Weaver, the Proposed Development incorporates mitigation measures within the Applicant's control, including (but not limited to):</p> <p>careful alignment of Footpaths A and B to avoid the most sensitive habitat margins (i.e. where aggregations of bird species are present; - project team to consider</p> <ul style="list-style-type: none"> <li>• use of screening/planting and fencing to limit line-of-sight disturbance into key bird areas;</li> </ul>	<p>Within the updated Information to Inform Habitats Regulations Assessment, Section 8.3.14, some reference is made to recreational pressure. However, this is generalised information, without reference to current use and underrepresents the likely significant impacts of extending the network over the whole area of the Order Limits, some of which are adjacent to sensitive areas, upgrading the footpaths to be accessible to a wider range of people and also increasing the type of uses. The Information to Inform Habitats Regulations Assessment and ES should be updated with this information and proposed public rights of way network amended.</p> <p>The public rights of way are enhanced around the Eastern SADA and in other non-sensitive areas on site, thereby still connecting people to nature. CWCC is requesting that two of the proposed new footpaths A and B, are removed, or re-routed, as they are adjacent to sensitive areas (part of the NBBMA and a significant proportion of the eastern and western side of Cell 1, adjacent to the Estuary) and so the request would not conflict with the core value of the development to sensibly connect people and nature in any way.</p>	

		<ul style="list-style-type: none"> <li>• management of path surfacing and signage to discourage loitering or off-route access.</li> </ul> <p>It is noted that many important bird reserves, some of which form part of designated sites, are actively managed to allow and encourage public access. In these cases, the potential for recreational impact has been recognised and mitigated using similar measures to those proposed for Frodsham Solar. While the Mersey Estuary currently lacks a comparable managed reserve, this highlights that with appropriate management and instruction in place, similar principles would be able to be applied here. Please also see comments in response to CWACC7.16.</p>	<p>The careful alignment of footpaths A and B is unlikely to have any mitigating impact, due to the already limited space in which to have a footpaths route and people naturally widening these routes as they get used over time.</p> <p>It is agreed that many important bird reserves, some of which form part of designated sites, are actively managed to allow and encourage public access, with some mitigation measures for recreational impacts. However, they are not mitigation areas for existing and proposed developments, present during operation of these public rights of way, so are not comparable. Again, reducing and/or re-routing the proposed network at appropriate points, still enables public access without adding further risk to the NBBMS.</p> <p>The wholesale extension of the public rights of way network across the majority of the Order Limits, rather than a more measured approach, is inappropriate and introduces further non-essential disturbing activities in certain locations.</p> <p>See comments in response to 7.20.</p>	
CWACC7.15	7.19	<p>The Applicant acknowledges Goodship &amp; Furness (20225 ) as a recognised reference on generic disturbance distances for nonbreeding waterbirds; however, these values represent precautionary buffers applied at a strategic level, it is not a one size fits all and is generally based on the maximum distance. The assessment for the Proposed Development has instead been based on site-specific survey data (Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082)) and features (e.g. topography), which records how qualifying species actually use the Order Limits and adjacent estuary, and already reflects existing unregulated disturbance pressures at the Site.</p>	<p>The NBBMA is cited as being approx..800m in length and provides a substantial and secure functional resource for non-breeding birds, ensuring that habitat is retained and available should the unlikely event of displacement occur. However, if disturbance occurs that causes displacement within the NBBMA, as Footpath B is likely to do, due to the significant reduction in area of the land available to birds, both as a result of the development removing existing mitigation areas and the rest of the development removing areas currently used by birds, there would be nowhere for birds to go within the Order Limits. As a high concentration of birds will be using the NBBMA, any disturbance will impact a higher number of birds and inter-bird disturbance may also</p>	

		<p>Further, this should not be taken as an unmitigated scenario. In line with the main findings of Goodship &amp; Furness, greatest consideration has been given to species with higher sensitivity to disturbance, and appropriate mitigation has been applied where these species are likely to be present. The Proposed Development therefore combines site-specific evidence with precautionary principles to ensure mitigation is both targeted and effective.</p> <p>The NBBMA sits at approximately 800m in length and provides a substantial and secure functional resource for non-breeding birds, ensuring that habitat is retained and available should the unlikely event of displacement occur.</p>	<p>occur once some birds are disturbed, increasing the likelihood of displacement.</p> <p>It should also be noted that the proposed development reduces the length in area available to qualifying SPA species by approx. 600m, when taking into account the reduced gap between wind turbine arrays that the development will cause.</p> <p>An assessment of the proposed development and use, using the Goodship &amp; Furness (2025) distance standards, would be a useful aid in identifying impacted areas on site.</p>	
CWACC7.16	7.20	<p>As set out in the Applicant's responses to CWACC7.13, CWACC7.14 and CWACC7.15, disturbance risks will be effectively managed through measures within the Applicant's control, including alignment of routes to avoid the most sensitive margins, screening and planting to reduce line-of-sight effects, and management of public access to discourage off-route activity (but not limited to).</p> <p>In this context, Footpath A, will be located along the boundary of Cell 5, which will be screened from Cell 3, avoiding potential for disturbance in this section of the path. Footpath A will join to the eastern section of the NBBMA. It is important to note that there is already existing PRoW RB102 (Figure 1-5 PRoW as shown in Environmental Statement: Volume 3 Chapter 1 Figures (APP-105)), which is located along the eastern boundary of Cell 3 where there is already a clear line of site into the area. It is considered that birds are accustomed to this PRoW based on the historic and present cell use captured during the field surveys and therefore the implementation of this pathway is considered negligible.</p> <p>Footpath B will be set back from the embankment and screened, preventing the public from approaching the edge</p>	<p>CWCC disagrees that Footpath A will not have an impact in its current form, even with mitigation and does not understand why the route cannot be re-routed, as suggested by CWCC in paragraph 7.20.</p> <p>Footpath B introduces a completely new route to an area which has regular use by qualifying bird species. It is not certain what "set back from the embankment" refers to, as there is limited space in which to place a footpath. Again, CWCC has suggested an alternative route and it is not clear why the applicant is not engaging with these suggestions.</p> <p>The impact of screening has not been assessed in the round, in terms of reducing the open aspect for birds across the Order Limits. In the updated Appendix B – Outline Non-Breeding Bird Mitigation Strategy in the updated Outline Landscape and Ecology Environmental Management Plan [PD2-023], it is stated in paragraph 3.1.12 and 4.2.18, that the removal of fences will increase the open aspect of the site, as an enhancement for SPA species, Screening could therefore reduce the open aspect across the site in a negative way.</p>	

		or having a direct line of sight to birds using the banks below.		
CWACC7.17	7.21	<p>It is important to clarify that bird screens are not relied upon in isolation, but form part of a suite of embedded mitigation measures designed to minimise disturbance at particular pinch points. Their purpose is to reduce line-of-sight disturbance to birds using sensitive areas adjacent to proposed access routes, rather than to act as a single solution across the Site. Indicative locations are shown on the Illustrative Environmental Masterplan, and it is possible in some areas that topography and existing / proposed vegetation will form an effective barrier to disturbance. CWACC will be able to consider this at detailed design stage also, pursuant to approving the final LEMP.</p> <p>With respect to birds in flight, the Applicant acknowledges that screens do not influence movement across the Site. However, as set out in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission), flight activity represents short-term, transient exposure to potential disturbance, in contrast to the sustained sensitivity of foraging or roosting birds. The assessment therefore focused on settled usage, which is more ornithologically relevant to the conservation objectives of the SPA and Ramsar site.</p>	<p>It is not clear what the applicant refers to in terms of “embedded mitigation measures”; these are usually described to mean measures that are embedded into a project without consideration of European Site features. In that case, bird screens cannot be considered to form embedded mitigation in terms of Habitat Regulations Assessment (see <a href="#">People Over Wind, Peter Sweetman v Coillte Teoranta</a> (C-323/17)).</p> <p>CWAC does not understand the second paragraph of this response; it could be taken to mean that the Applicant is stating that even though screens do not mitigate for flight disturbance within the site, this does not matter, as flight activity represents short-term, transient exposure to potential disturbance. As previously stated, even if flight is short-term transient in nature, this does not mean that impacts are insignificant, if they are over a large scale development, such as the SADA.</p>	
CWACC7.18	7.22	The wording of 4.6.19 of the Planning Statement (APP-128) refers to the design approach adopted for the access network, whereby new and upgraded permissive paths have been aligned to avoid the most ornithologically sensitive margins of the Site. During consultation members of the public requested that access was given along the Manchester Ship Canal and within the NBBMA. This was not pursued to avoid impacts on the NBBMA. Access to the	The explanation regarding the request from members of the public regarding a route along the Manchester Ship Canal is acknowledged. However, it is hoped that such requests would not override potentially significant impacts to SPA qualifying bird species. Footpaths A and	

		<p>southwestern corner of the NBBMA, behind screens, was provided, as without this, there was deemed to be an increased risk of uncontrolled access. In locations where paths are routed closer to areas used by qualifying bird species, additional measures such as screening, planting, route setbacks and access management are incorporated (the detail of which CWACC will be able to consider, pursuant to approving the final LEMP and the details of the final permissive paths) to reduce potential disturbance. The principle therefore reflects the embedded mitigation strategy set out in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission), which recognises potential disturbance effects from increased access and addresses these within the Information to Inform Habitats Regulations Assessment (Section 6.4). The Applicant considers that this design-led approach, supported by targeted mitigation, ensures that new permissive paths are directed away from the most sensitive areas, thereby avoiding adverse effects on the integrity of the Mersey Estuary SPA and Ramsar site.</p>	<p>B are directly adjacent to sensitive bird areas, with Footpath B following a substantial length of the edge of the Estuary and Footpath A following along part of the NBBMA, requiring bird screens and planting as mitigation. Therefore, the statement “New permissive paths through the Site will be guided to less sensitive areas” is not correct. CWCC has made suggestions to re-route the footpaths that are likely to have impacts on areas recognised for non-breeding bird value.</p> <p>Further detail as to why there would be increased risk of uncontrolled public access, higher than the level of the current NBBMA (Cells 2, 3 and 5), is required. It is possible that this is due to the Applicant’s proposals to expand and upgrade network proposed, is the source of the risk, by introducing more people on to the site. This would therefore suggest that the proposed network should be significantly reduced down to the eastern SADA only, which has the most benefits for the largest amount of people, with shorter routes connecting Frodsham town centre to the marsh, not expanding to the more sensitive Western array, Mersey Estuary and NBBMA.</p>	
CWACC7.19	7.23	<p>Disturbance arising from the introduction of new and upgraded permissive paths was explicitly screened in (Table 5-2 in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission)) and assessed within the HRA (Section 6.4 in Information to Inform Habitats Regulations Assessment (as updated alongside this submission)), including consideration of increased walking, dog walking, and other recreational activities. The access network has been deliberately designed and managed to direct use away from the most sensitive areas, with embedded mitigation including screening/planting, path surfacing, and the ability to apply management controls where required. In practice, this managed network is expected to reduce the risk of uncontrolled and unregulated activity (such as ad-hoc</p>	<p>CWCC asserts that within the updated Information to Inform Habitats Regulations Assessment, Section 8.3.14, some reference is made to recreational pressure. However, this is generalised information, without reference to current use and underrepresents the likely significant impacts of extended the network over the whole area of the Order Limits, (some of which are adjacent to sensitive areas), upgrading the footpaths to be accessible to a wider range of people and also increasing the type of uses. See response to paragraphs 7.17 to 7.28 regarding public rights of way and CWCC’s suggestions for re-routing. The proposed changes to the Public Rights of Way network should be assessed in detail, within an updated Habitat Regulations Assessment, to ensure evidenced</p>	

		<p>fishing within the NBBMA), by providing clear routes and defined access. On this basis, the Applicant considers that disturbance effects from operational access have been appropriately assessed.</p>	<p>conclusions are made. Visual screening will have limited benefit and will not mitigate against noise and other impacts, such as impact of dogs, littering etc.</p> <p>Again, the routes are not directed away from sensitive areas, with other options further away from sensitive areas suggested by CWCC (see response above to 7.22).</p>	
CWACC7.20	7.24	<p>The Applicant wishes to clarify that the principle of removing informal routing has informed the access strategy for the Proposed Development. The key concern identified in the PEA of Environmental Statement: Volume 2 Appendix 7-1: Habitats Baseline Report (APP-075) was unregulated access across informal routes, which presents the greatest risk of uncontrolled disturbance to sensitive habitats and species. The Proposed Development therefore proposes to formalise and manage a defined network of permissive paths, while discouraging or closing off informal routes, thereby directing activity along routes designed to avoid the most sensitive areas as outlined in CWACC7.19.</p>	<p>The applicant should clarify whether the risk of unregulated access is as a result of the applicant's proposal to expand and upgrade the network, and if not, where this risk is from. As no detailed assessment on current level and type of footpath use has been carried out, the existing level of unregulated access and the likely cessation or increase cannot be assessed. There are formal footpaths in the area currently, so it is not clear how further formal footpaths will reduce the issue, especially if further formal paths are introduced into areas not currently accessible.</p>	
CWACC7.21	7.25	<p>The Applicant wishes to emphasise that the Proposed Development differs fundamentally from residential development, in that it does not generate new residents or dog walkers. Rather, the Proposed Development provides a managed and defined access network that replaces the current situation of unregulated informal access, which represents a greater risk to designated sites. Studies show that informal or unregulated trails can significantly reduce bird density and species richness near routes. For example, Bötsch et al. (20186 ) found approximately 13% decline in bird density along heavily used trails, even without habitat change. This highlights the value of formal, managed path networks to dictate access and prevent unnecessary and unregulated disturbance. In line with NE advice, the</p>	<p>The fact that recreational disturbance is an identified pressure on the Mersey Estuary RAMSAR/SPA/SSSI was stated to highlight that this specific disturbance has been highlighted as a particular concern for this site and therefore recreational activity should be limited and impacts designed out, in terms of footpath extent, in the first instance.</p> <p>As no detailed assessment on current level and type of footpath use has been carried out, it cannot be concluded that a more formal network will prevent unregulated informal access across the site. It is more likely the case that the more expanded and upgraded the Network, the more risk of informal and unregulated</p>	

		Applicant has also now included specific monitoring commitments within the Outline Landscape and Ecology Management Plan (as updated alongside this submission) and the Outline Decommissioning Environmental Management Plan (as updated alongside this submission). These will ensure that potential impacts from recreational access are tracked and that management measures can be adapted if monitoring indicates unforeseen disturbance.	access in parts of the site that are currently not disturbed (e.g. around Cell 1 where no footpath exists and Footpath B is proposed), due to the size of the site and opportunities for informal access.  The Applicant should clarify that if Bötsch et al. (2018 ) found approximately 13% decline in bird density along heavily used trails, why is increasing the use of some of the footpaths being proposed near sensitive bird areas.	
CWACC7.22	7.26	This matter relates to the wider issue of disturbance from new and upgraded permissive paths, which has been addressed in the Applicant's response to Comment CWACC7.14. For clarity, the Applicant notes that the Frodsham Neighbourhood Plan (Policy EDVE2) requires biodiversity impacts to be avoided or mitigated. As set out in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission), mitigation including screening, path alignment, and access management ensures compliance with EDVE2, and no adverse effect on the ecological value of Frodsham Marshes will occur. The explanatory text to Policy EDVE2 of the Frodsham Neighbourhood Plan specifically notes that the marshes themselves could bring increased visitor numbers. The Frodsham Neighbourhood Plan does not consider that increased visitor numbers and protection of wildlife are mutually exclusive. It is about ensuring impacts are considered and where necessary mitigated.	CWCC agrees that the Frodsham Neighbourhood Plan does not consider that increased visitor numbers and protection of wildlife are mutually exclusive, however, when there are less impactful options available, that would still provide enhanced recreational access, with less impact on biodiversity, as detailed above, these should be taken.  CWCC does not concur that the recreational impact of the development has been fully assessed and that it will not result in adverse impacts on the ecological value and function of Frodsham Marshes and asserts that the proposed footpath improvements can be amended to ensure less impact on the Mersey Estuary.	
CWACC7.23	7.27	The Applicant acknowledges Policy GSRL4 of the Frodsham Neighbourhood Plan. Indeed, the Development delivers new and enhanced recreational opportunities through a managed access network, while ensuring compliance with the requirement to avoid adverse impacts on the ecological value and function of Frodsham Marshes. Disturbance effects have been fully assessed within the	CWCC does not concur that the recreational impact of the development has been fully assessed and that it will not result in adverse impacts on the ecological value and function of Frodsham Marshes and asserts that the proposed footpath improvements can be amended to	

		Information to Inform Habitats Regulations Assessment (as updated alongside this submission) and mitigated through embedded measures including path alignment, screening, access management, and the creation of the Non-Breeding Bird Mitigation Area and therefore, the applicant considers the Proposed Development to be consistent with Policy GSRL4.	ensure less impact on the Mersey Estuary, whilst still providing enhanced recreational use.	
CWACC7.24	7.28	The Applicant considers that this is addressed as outlined in the preceding points.	Please see points above.	

#### Construction and operational impacts

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Construction and operational impacts</b>				
CWACC7.25	7.29	The proposed engineering modifications will result in a very small change in water level within the Cell 3 area. The expected change in water level by reprofiling the surface, exposing the water table and controlling the outflow level from Cell 3 therefore very unlikely to have any measurable effect on water levels in neighbouring land parcels. Furthermore, it is worth noting that the cells were designed for containment of dredgings and the associated water in their role as dredging deposit grounds.	The applicant should support this statement with evidence.	

#### Ecology and habitat Decommissioning

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
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RR-037 Section 7. Ecology and habitat - Decommissioning			
CWACC7.26	7.30	<p>The Applicant is not entirely clear on the point being made by CWACC. The NBBMA will be retained for the entirety of the decommissioning works. On completion of the decommissioning works the SADA will be returned to its current condition. Whilst the ongoing management of the NBBMA cannot be guaranteed post-decommissioning, it is likely the earthworks and general condition of Cell 3 would not be altered and thus would remain in an improved habitat condition for non-breeding birds than it is at present. Accordingly, once the SADA is removed, the area/Site would remain in an improved condition than it is for non-breeding birds/qualifying features compared with its current baseline perspective. Decommissioning works will be phased, with activities closest to the NBBMA and Mersey Estuary scheduled, as far as practicable, to avoid key bird seasons to avoid impacts. It is noted in respect of handback also that: if the landowners wished to make any changes to the NBBMA, to do so would likely require planning permission (as it would involve engineering operations) which would engage EIA and HRA considerations being applied at that time; post decommissioning those parts of the NBBMA within the SSSI boundary would be subject to the consenting requirements of the Wildlife and Countryside Act 1981; the Applicant has</p>	<p>To further explain the point made, CWCC is stating that Decommissioning would have different effects than construction. This is due to the qualifying bird species being present in much smaller, defined areas, than more distributed across the site as is currently the case. Therefore, impacts in certain areas, will be of a higher magnitude on the bird population than they would have been at the construction stage. Please also see response to Q1.0.7 of the ExA Questions Deadline 1 and Appendix A (WR) [REP1-048] CWCC Response to ISH1 Agenda Items at 5d) Decommissioning end state and 5e) Decommissioning timing.</p>

		updated the draft DCO to provide that the management of the NBBMA, to the extent it falls within the SSSI boundary, shall be considered to form part of the management scheme for that SSSI for the purposes of the Wildlife and Countryside Act 1981; ensuring that the NBBMA management prescriptions will apply in the long term, unless agreed to be varied by Natural England.		
CWACC7.27	7.31	The Applicant confirms that part-decommissioning and replacement works were anticipated in the assessment. Table 2- 13 of Environmental Statement: Volume 1 Chapter 2: The Proposed Development (APP-035) sets out the operational lifespan of components, and the Information to Inform Habitats Regulations Assessment (as updated alongside this submission) treats these activities as short construction phases. Disturbance and displacement effects near the NBBMA were therefore included. As concluded in Information to Inform Habitats Regulations Assessment (as updated alongside this submission) Section 6.4, with embedded mitigation, including out-of-season timings, defined traffic routes, and measures secured through the Outline Construction Environmental Management Plan (as updated alongside this submission) as stated in paragraphs 6.4.4-6.4.6. If works are done through seasonal timings, then the qualifying bird species will not be	<p>Please see Appendix A (WR)[REP1-048] CWCC Response to ISH1 Agenda Items 5 a) Major replacements during the operational phase.</p> <p>It should be clarified whether these timings account for the full non-breeding bird season, or for the middle of the season only.</p> <p>It is noted that extensive representations and discussions regarding major replacement and decommissioning have taken place as a result of discussions during ISH1. These should be assessed and updated within the Information to Inform Habitats Regulations Assessment, due to the different impacts identified during the discussions. CWCC does not agree with the current assessment and conclusion drawn on these points in the Information to Inform Habitats Regulations Assessment.</p>	

		impacted and therefore are not considered vulnerable.		
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In-combination effects

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 7. Ecology and habitat - In-combination effects</b>			
CWACC7.28	7.32	<p>The Applicant has committed to working with other developers. However, the timing of the construction phases is controlled via Requirement 3 of Schedule 2 of the draft DCO (as updated alongside this submission). As such CWACC will be aware of the timings of works associated with the construction phase of the Proposed Development. It is anticipated similar controls would be applied to the planning permission for the Eni Runcorn Spur Carbon Dioxide Pipeline and the DCO for the Cadent Hydrogen Pipeline should these be consented. The final CEMP will be prepared cognisant of the programme of other phases of the Proposed Development and other construction works that may be undertaken in the area that could give rise to cumulative construction phase effects.</p> <p>The Outline Construction Environmental Management Plan (as updated alongside this submission) has been revised to provide additional control in relation to the formation of a joint working group to demonstrate the Applicant's commitment to working with the other developers. Further detail is provided in the Applicant's response to CWACC16.1. On this basis, that the similar conditions / requirements are placed on the other developments, CWACC should be satisfied that there are adequate controls in place to ensure that there will be no in-combination effects, which could be significant.</p>	<p><b>ExQ1 Q5.1.5</b></p> <p>CWCC disagrees with the Applicant's approach. Since the ExA questions were published, CWCC has submitted Written Representations (REP1-048), which includes Appendix A Response to ISH Agenda items, which discuss in-combination effects (see Item 5 k) pages 39-40 of Appendix A).</p> <p>The formation of a working group and reliance on unconfirmed planning conditions for the pipeline projects that cannot be linked with the DCO project, are not appropriate ways to control the situation. CWCC advises the current cumulative impact assessment is not robust. In 4.1.64 of the updated Outline Construction Environmental Management Plan the Applicant's proposal is to avoid simultaneous construction and recommends phasing; however, phasing construction could have more of an impact.</p> <p>In the Environmental Statement and HRA, as opposed to any other documents, CWCC advised the following scenarios should be assessed, as well as the impacts on different areas within these scenarios, including impacts on Cells 1, 2, 5 and the NBBMA, and if works are simultaneous or not. CWCC also advised that these</p>

			<p>should be robustly updated in the Environmental Statement. This has not been done, and instead a Technical Note on Pipeline Interactions has been provided</p> <ul style="list-style-type: none"> <li>- Solar farm built after pipeline</li> <li>- Solar farm built the same time as pipeline</li> <li>- Solar farm built before pipeline</li> </ul> <p>In the Applicant's Response to Relevant Rep [PD2-027] 16.1-16.6, further information is given, with references to works in Cells 1, 2 and 3 being constructed between April 2027 and October 2027.</p> <p>However, this would still lead to disturbance in passage seasons and passage bird species. It is not clear how this corresponds with details of the oLEMP given further down in the response which states: Reference RU-BD-051: High-disturbance activities within land functionally linked to the Mersey Estuary SPA, Ramsar and SSSI will be completed outside of the winter months (November – March, inclusive).</p> <p>A trenchless crossing is proposed at the western extent of Cell 3 into Cell 4, whilst the construction in Cells, 1, 2 and eastern extent of Cell 3 would be open trenched. This does not reduce concerns.</p> <p>It is stated that construction of the NBBMA would also be timed to be undertaken outside of the core non-breeding bird period, November to February inclusive. However, again, this still impacts the passage seasons, so could still have an impact on qualifying non-breeding bird species.</p> <p>It is noted that the scenario where the pipeline is built after the solar farm has not been assessed by the applicant, and CWCC is deferred to, in terms of imposing planning conditions. This is not acceptable, as all scenarios, which could have significant impacts, have not been assessed.</p> <p>In addition, impacts on any habitats, species and the LWS in the same area should be addressed, as well as impacts on Biodiversity Net Gain.</p>	
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			<p>It is CWCC's position that the issues are so crucial and complex, with so little flexibility in timescales in terms of non-sensitive seasons (a maximum of only 3 months of the year), that a working party would not provide enough control or oversight and that the mitigation measures should be secured by way of a suitably worded legal agreement to restrict the proposed development appropriately. A full timeline of both projects with all intra and inter project scenarios, should be assessed and detailed in an updated ES and HRA, with any inter-project measures secured within a legal agreement. CWCC note from the draft Statement of Common Ground with LBCSS [REP1-039] that</p> <p><i>“LBCC’s position is that the Runcorn Spur Pipeline will be installed through Cell 3 prior to the creation of the NBBMA. This execution scenario has informed the planning application submitted for the Runcorn Spur Pipeline application. Other alternative execution scenarios have not been considered as part of this application.”</i></p> <p>Further, the draft statement of common ground confirms Frodsham Solar Ltd <i>“already holds an Option over the relevant land meaning that LBCCS’s project will only be able to proceed if the Applicant grants consent to an additional option being granted to LBCCS over the same land, even if that is agreed by Peel NRE.”</i> This suggests that Frodsham Solar Ltd can exercise control over the land and that effective control could be achieved via a legal agreement between the relevant parties (noting that the parties are already working towards and agreement on other matters.</p> <p>In the absence of an appropriately worded legal agreement the ExA is requested to consider appropriate provision in the Requirements to ensure appropriate controls which CWCC can enforce.</p>	
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CWACC7.29	7.33	<p>The Applicant has considered these cumulative/in-combination effects within Environmental Statement: Volume 1 Chapter 13: Cumulative and In-Combination Effects (APP-046), the Information to Inform Habitats Regulations Assessment (as updated alongside this submission) and the Outline Construction Environmental Management Plan (as updated alongside this submission). A key principle to avoid significant environmental effects occurring relates to the timing of the construction of the developments. The Information to Inform Habitats Regulations Assessment (as updated alongside this submission) sets out the following, which is also reflected in the Outline Construction Environmental Management Plan (as updated alongside this submission): Construction works from neither project would be undertaken in Cells 1, 2 and 5 at the same time as the works being undertaken to create the NBBMA.</p> <p>Pipeline construction works would not be undertaken within the NBBMA at the same time as construction works are undertaken within Cell 1, 2 and 5 (from either project). Where construction works within Cells 1, 2, and 5 are undertaken simultaneously, these would be phased in order to avoid any potentially significant cumulative impacts, for example, by avoiding noisy activities from both projects being undertaken close to the boundary of the NBBMA at the same time. Further detail is provided in the Applicant's response to CWACC16.1 regarding the consideration of the sequence of construction works and how this can be managed to prevent significant adverse cumulative effects.</p>	<p><b>ExQ1 Q5.1.5</b> (see above)</p> <p>It is noted that extensive representations and discussions regarding cumulative impacts pipeline interactions have taken place as a result of discussions during ISH1. These should be assessed and updated within the Information to Inform Habitats Regulations Assessment, due to the different impacts identified during the discussions. CWCC does not agree with the current assessment and conclusion drawn on these points in the Information to Inform Habitats Regulations Assessment.</p>	
CWACC7.30	7.34	<p>The FWF is operational and is therefore part of the baseline. It is common and accepted practice for existing developments to form part of the baseline, and not the cumulative assessment which is for consented projects that are not yet operational. However, the Applicant does acknowledge the complexities of the Proposed Development and the interaction with the FWF mitigation</p>	<p><b>ExQ1 Q5.1.5</b></p> <p>The Applicant's Response states that further detail will be provided in the updated HRA on the approach to not include FWF as an in-combination project, and that the fact that the mitigation proposed is additive to the</p>	

		<p>which is currently in place. The Applicant has been very clear from the outset that Frodsham Solar must deliver additive mitigation sufficient to ensure that the Proposed Development does not have an adverse effect on the integrity of the SPA by undermining current FWF mitigation. In this regard, the Applicant has considered the cumulative/in-combination effects of the two projects. The Applicant will reinforce this approach within the HRA, and we will also include commentary within the In-Combination effects section in particular with consideration of how the two mitigation areas interact and provide complementary capacity for SPA species. It should be noted that the Applicant believes that this will not change the outcome of the assessment. The concept of additive mitigation, along with a corresponding explanation of the interaction between the FWF mitigation and that for the Proposed Development, is fully detailed in Sections 1.4 and 1.7 of the Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission)</p>	<p>baseline is enough to evidence an in-combination effects assessment. On this basis, there should not be an issue with including the FWF as an in-combination project and this should be done, assessing the full mitigation strategy for the FWF, including embedded mitigation (wind turbine layout) and how the other mitigation measures (e.g. keeping Cell 6 an active deposit ground) interact with the Solar Farm project and how that impacts on the existing mitigation within the Order Limits.</p> <p>Please note that no updated HRA has been submitted as at Deadline 3.</p>	
CWACC7.31	7.35	<p>It is the Applicant’s position that the submitted ecology and ornithology chapters consider increased recreation pressures, and that such impacts have been a design consideration throughout the evolution of the Proposed Development. Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041) paragraphs 8.8.68 – 8.8.72 and Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP040), discuss the effects of increased recreational press</p>	<p><b>ExQ1 Q5.1.5</b></p> <p>The Applicant’s Response states that Tourism and Recreation have already been considered in the documents in terms of intra-project cumulative effects, however CWCC asserts this is not to the level of detail required, for example, assessing the level of likely pedestrian increase in volume and also in extent across the site, as well as the type of access (cyclists, walkers etc), should be carried out. No assessment has been made on the current levels, types and locations of uses and this should be done, to enable a robust assessment on the impacts on introducing an upgraded and extended public rights of way network across the whole of the Order Limits.</p>	

Survey Data

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Survey Data</b>				
CWACC7.32	7.36	<p>Survey effort was designed to ensure that, taken together with the extensive availability of desk-study data, the assessment was made using a comprehensive dataset across the Site and across all key breeding periods. While not every area was covered in every year due to the evolution of the project, coverage was adjusted between years to ensure that all relevant parts of the Site, including Cell 3, the NBBMA, the eastern/western solar array areas, the River Weaver habitats, and the Skylark Mitigation Area, were surveyed within the overall programme. The core non-breeding period of October–March was consistently surveyed across all three years, which represents the key season for qualifying SPA species. Current Natural England guidance recommends a minimum of two winters of survey effort for non-breeding birds, and this requirement has been exceeded by completing three consecutive winters, which ensures inter-annual variation is captured and this has been done. In addition to the three years of targeted survey work, the assessment was informed by desk-based records from local data sources and statutory consultees, including the British Trust for Ornithology and the Cheshire and Wirral Ornithological Society. The site is very well surveyed and understood, with extensive data provided and reviewed and which enables a high degree of confidence in the baseline used for assessment. The Applicant therefore considers that the combined evidence base is robust, proportionate, and sufficient to assess the impacts of the Proposed Development and inform Habitats Regulations Assessment.</p>	<p><b>ExQ1 Q5.1.7</b></p> <p>In para 7.36 and 7.37 of CWCC's Relevant Representation [RR-037], concerns are raised that the survey data each year either missed out areas of the site and/or some of the relevant seasons, with specific concerns that only one set of surveys covered both full spring and autumn seasons (Year 1 2022/23). The Applicant's Response states that the core non-breeding period of October to March was covered, however, CWCC would point out that early autumn and late spring seasons were not covered in each survey; Year 2 (2023-2024) included surveys in September but not April, and Year 3 (2024-2025) did not include either September or April. Therefore, the full passages seasons were not surveyed at these times.</p>	

CWACC7.33	7.37	<p>The Applicant disagrees with this comment. It is incorrect to state that the application asserts Cell 3 is not holding water based on ad-hoc evidence. A site investigation was undertaken on Cell 3, this is presented in Appendix G of Environmental Statement: Volume 2 Appendix 10-1: Stage 1 GeoEnvironmental Assessment Part 1 of 2 (APP-096). The ground conditions are summarised in Appendix C Table C.1 of the same document and state that there was fast water ingress at depths of between at 0.5m to 2.0m during groundwater testing, and this sometimes coincides with pockets of sand. These ground conditions prevent Cell 3 from holding water in the surface deposits.</p>	<p>See preceding response regarding bird survey data and para 7.37 of CWCC Relevant Representation [RR-037], which still apply.</p> <p>Further explanation of the geoenvironmental testing of Cell 3 is acknowledged.</p>	
CWACC7.34	7.38	<p>The Applicant considers that this does not undermine the conclusions presented. Across the three-year survey programme, data were obtained during both early and late parts of the non-breeding season, supplemented by extensive deskbased records including records from the British trust for Ornithology, Cheshire and Wirral Ornithological Society and those presented for the Hynet application. Taken together, this provides a robust and comprehensive dataset to demonstrate that peak numbers of lapwing, curlew, black-tailed godwit, golden plover and teal occurred in the mid-winter period. See also CWACC7.32.</p>	<p>CWCC disagrees, see response to 7.36.</p>	
CWACC7.35	7.39	<p>The Applicant acknowledges the inconsistency in Table 8-13 (Year 3 SADA results). The Peak Count figures in the first column will be re-assessed and corrected as necessary to ensure they accurately reflect combined totals for Cells 1, 2 and 5. Subsequent to the submission of the ES and following discussions with Natural England, baseline data has been fully reviewed and re-presented in Section 4.2 of the revised Information to Inform Habitats Regulations Assessment (as updated alongside this submission). The Applicant's review indicates that this correction will not alter the overall assessment or the HRA conclusions. Additional analysis of bird use data (field surveys and multiple desk</p>	<p>The explanation is acknowledged.</p>	

		study sources, including recently obtained WeBS data), including the autumn passage season, has been undertaken in response to queries raised by Natural England. The additional analysis is presented in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission) and provides further analysis of bird usage on the Site.		
CWACC7.36	7.40	Additional analysis of bird use data (field surveys and multiple desk study sources, including recently obtained WeBS data), including the autumn passage season, has been undertaken in response to queries raised by Natural England. The additional analysis is presented in the revised Information to Inform Habitats Regulations Assessment (as updated alongside this submission) and provides further analysis of bird usage on the Site, examining use of different species in the western and eastern SADA, as well as the NBBMA and the Canal Pools.	The additional analysis is welcomed, even though this is not in line with the request.	
CWACC7.37	7.41	The Applicant acknowledges that the survey data and deskbased records confirm the presence of SPA-qualifying species and waterbird assemblages across the Order Limits, with some species recorded at levels of national and international importance. This is consistent with paragraph 8.6.16 of Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041). The Applicant considers that, although survey coverage varied between years (as does most with similar sized and evolving developments), the overall dataset is robust. See also CWACC7.32. Additional analysis of the data has been undertaken, supplemented with more recent WeBS data, in response to queries raised by Natural England. This is presented in the revised Information to Inform Habitats Regulations Assessment (as updated alongside this submission) and provides further evidence of the variable distribution and use of the birds across the Site.	The original comment was made to demonstrate that there is extensive use of Cells 1, 2, 3, 6 and part of Cell 5, even with some missing survey data.	

Work packages

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 7. Ecology and habitat - Work packages</b>			
CWACC7.38	7.42	Figure 2.1 (as shown in Environmental Statement: Volume 3 Chapter 2 Figures (APP-106)) illustrates the indicative locations of construction compounds for the construction of the SADA. Paragraph 2.4.153 incorrectly sets out that the compound for the NBBMA is that as labelled as West Compound 3 in Figure 2.1. West Compound 3 is for the construction of the SADA. Paragraph 2.4.153 is correct in stating that there would be a temporary compound located on the south western section of Cell 3 to facilitate the construction of the NBBMA.	The clarification is acknowledged. The applicant should demonstrate where the cell 3 compound is taken into consideration in terms of construction impacts on birds within Cell 3, across the rest of the site and the Mersey Estuary SSSI, SPA RAMSAR itself.

Phasing

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 7. Ecology and habitat - Phasing</b>			
CWACC7.39	7.43	Paragraph 8.7.28 of Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041) states that the NBBMA will provide attractive conditions for qualifying bird species on completion of earthworks. This reflects that some habitat features, particularly areas of bare wet ground and early inundation, will be suitable for SPA species immediately, with wet grassland structure and invertebrate food source populations developing progressively thereafter. Construction of the NBBMA is scheduled in advance of the Western array, ensuring that functional habitat is available before works commence in Cells 2 and 5. This will be supplemented by ongoing monitoring and management secured through the oLEMP and oCEMP to	<p>CWCC does not dispute that there will be some suitability of the NBBMA on completion of earthworks, in terms of scrapes. It is not known if the invertebrate population for foraging will be present immediately after construction. This level of functionality will not replace the However, it will not meet the habitat requirement stipulated by the windfarm:</p> <ul style="list-style-type: none"> <li>i) creation and maintenance, across the whole area within Cell 3, of a low sward grassland with shallow wader scrapes and areas of seasonally open water;</li> <li>ii) maintenance of the fields over Cells 2 and 5, for the duration of the lifetime of the Development, in a condition</li> </ul>

		ensure the NBBMA continues to develop into high-quality wet grassland habitat over time.	that is favourable for wintering wader species, including golden plover, lapwing and curlew;  It is CWCC's view that the NBBMA should provide the requirements as above, prior to any works starting on the SADA.	
CWACC7.40	7.44	It is agreed by the Applicant to complete the construction of the NBBMA prior to work commencing on the western and eastern SADA. Paragraph 2.4.4 of the Outline Construction Environmental Management Plan (as updated alongside this submission) has been updated to reflect this commitment. A consequence of this is that there would be a change in the construction traffic and consultation worker profile. However, the change would be relatively minor with the change in programme resulting in an additional 7 HGV trips (14 two-way movements) per day during the peak month. On average across the busiest 12-month period there would only be an additional 3 HGV trips per day (6 two-way movement). The change in the programme would reduce the overall period of disturbance associated with construction traffic. At these levels there would be a negligible impact in terms of noise or visual disturbance. The mitigation measures proposed to control fugitive dust from vehicles would remain effective. In relation to the point at which the NBBMA is deemed to be functional it is agreed between NE and Applicant that the NBBMA is considered functional for the purposes of commencing construction in this context as follows: • All physical works within the NBBMA are completed. • The entire NBBMA area is available to support SPA bird species for which it is designed, and • The entire NBBMA is free from construction-related disturbance. Paragraph 2.4.5 of the Outline Construction Environmental Management Plan (as updated alongside this submission) has been updated to reflect this commitment. The Information to Inform Habitats Regulations Assessment (as updated alongside this submission) has been updated to reflect this position.	This is acknowledged as an improvement on the phasing programme but still should be amended in line with the above, in terms of functionality and the Western Array (Cells 2 and 5 compensatory habitat).  It is noted that the definition of functionality has been agreed with Natural England. CWACC would like to add to the definition, that the obligations of the FWF mitigation should be also taken into consideration. FWF obligations are: for Cells 2 and 5 "To maintain the fields, for the duration of the lifetime of the wind farm, in a condition that is favourable for wintering wader species, including golden plover, lapwing and curlew" and for Cell 3 "To create and maintain, across the whole area of Cell 3, a low sward grassland with shallow wader scrapes and areas of seasonally open water". Therefore, this grassland should be present before the NBBMA can be considered to be functional.  The definition of "The entire NBBMA area is available to support SPA bird species for which it is designed," should be altered to include the habitats required by the FWF mitigation, so that it can be considered that Cells 2, 3 and 5 are compensated for prior to their development.  The above should also apply to Paragraph 2.4.5 of the Outline Construction Environmental Management Plan	

CWACC7.41	7.45	The Applicant confirms that the Skylark Mitigation Area will be in place and functional prior to development of the SADA. Table 5-3 of the Outline Construction Environmental Management Plan (as updated alongside this submission) has been updated to reflect this commitment.	There are nine pairs of Skylark breeding within the NBBMA, (Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082), so the Skylark Mitigation Area should be in place prior to NBBMA works, especially as these are timed to occur with the least impact on wintering birds, i.e. in the summer months.	
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Future Baseline

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
RR-037 Section 7. Ecology and habitat - Future Baseline				
CWACC7.42	7.46	<p>The future baseline did not explicitly include on-going measures, which are limited to improved ruderal vegetation management, that could be implemented by the Frodsham Wind Farm (FWF). These have been discussed extensively with CWACC and Natural England prior to submission and are not considered to materially affect the habitats or conditions relevant to the assessment of the Proposed Development and the overall outcome of the HRA. The Applicant is not aware of any clear plan or measures to be put in place by FWF that are not already on-going. Para 2.3.12 of the Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission) is relevant here: 'Cell 3 is reported to be meeting standards required in the Year 5 HCMG report, which states:</p> <p><i>"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. Continued monitoring will be carried out in years 6-9 to ensure compliance with planning conditions. It is understood that there has been continued</i></p>	CWCC has no further comment.	

		<p><i>liaison between the operator of the wind farm and CWACC, and that ruderal vegetation management is on-going.”</i></p> <p><i>Visits to Site in summer 2024 by Avian Ecology again confirmed the extensive presence of ruderal vegetation, albeit with some evidence of a reduction on previous years’.</i></p> <p>As such the Applicant has taken into account the ongoing management and there is no other information available to the Applicant to suggest that alternative management measures will be put in place or are required under the planning conditions for Frodsham Wind Farm.</p>		
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Long-term management

Ref	Para number	Applicant’s Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat – Long-term management</b>				
CWACC7.43	7.47	<p>Section 4.0 of the oNBBMS (Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission)) describes the aims and objectives of the NBBMS, including a series of outline habitat management prescriptions and outcomes. This section also identifies (para 4.3.8) that “Measurable Targets on which to determine the success of the NBBMS and on-going management will be set and agreed with key consultees in the final NBBMS document.”, noting that the full NBBMS is secured by Requirement 9 Schedule 2 of the draft DCO (as updated alongside this submission), and must be approved by CWACC in consultation with Natural England. Section 5 of the ONBBMS describes the monitoring and review of the strategy and sets out: “Monitoring of the effectiveness of the implementation of the NBBMS would commence at a time as agreed as part of a steering group which will comprise key stakeholders including, but not limited to, Natural England, CWACC, RSPB and the Applicant, and will be undertaken for the 40-year duration of the operational period of the Proposed Development.” As such the long-term delivery and success of the</p>	<p>CWCC acknowledges the applicant’s response, however, the long-term management of the NBBMA is still not secured in terms of a responsible body that would be able to implement the management and monitoring measures required.</p> <p>As per CWCC response to ExA Qu5.2.1, Para 1.1.3 of the updated OLEMP [PD2-023]) states that there is an intention that the NBBMA will be managed by a reputable nature conservation organisation and if not, suitably qualified and experienced person will be employed. CWCC consider that this is not enough; if the mitigation strategy depends on the long-term success of the area and therefore agreement with a nature conservation organisation is required to be evidenced at this stage.</p> <p>In terms of measurable targets, it is noted in the information to Inform Habitat Regulations</p>	

		<p>NBBMS is secured by the draft DCO. Positive conversations are currently underway with RSPB regards to the management of the NBBMA for the operational lifetime of the Proposed Development. The Applicant remains committed to securing a conservationbased organisation to undertake the long-term management of the NBBMA, however it is noted that the key point is that management in some form is secured, and the DCO provides for this, whichever organisation ultimately undertakes that management. Paragraph 2.75 and 2.76 of Chapter 2.0 of Environmental Statement: Volume 1 Chapter 2: The Proposed Development (APP-035) set out how land would be managed at the point of decommissioning.</p>	<p>Assessment para 8.2.28 it is stated that in relation to measures to assess if the NBBMA is functioning “. As bird populations fluctuate and are subject to numerous environmental factors which are not able to be controlled, it is envisaged that measurable targets will be based on extent of habitat area and hydrological function.”</p> <p>CWCC fundamentally disagrees with this approach. Monitoring bird surveys, which are comparable to the baseline survey information, should form the basis of the assessment of functionality and also long-term success of the NBBMA.</p> <p>Further on in the document, in paragraph 8.3.14, in relation to measuring impacts of recreational disturbance, it is stated that “Management of recreational pressure on the NBBMA will be overseen by the appointed conservation professionals, whom will undertake regular bird counts and behavioural monitoring to identify any disturbance responses associated with public access”.</p> <p>CWCC question that if bird counts and behavioural monitoring can be used to monitor one aspect of the development, why it is not appropriate for another aspect, which is fundamental to the whole project.</p>	
CWACC7.44	7.48	<p>Requirement 9(2)(j) of Schedule 2 of the draft DCO (as updated alongside this submission) DCO Requirement 12920(j) includes a requirement for the Applicant to provide ‘details of the establishment, maintenance and monitoring regime for Work No.6C (which must be substantially in accordance with the non-breeding bird mitigation strategy)’. Consequently, full details of monitoring can be agreed in full as part of the approval of the detailed NBBMS.</p>	<p>CWCC’s original comment still applies and does not see any reason as to why this would or could not be committed to at this stage.</p>	

Appendix B - Outline Non-Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13] (APP-144) Frodsham Windfarm Mitigation

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<p>RR-037 Section 7. Ecology and habitat - Appendix B - Outline Non-Breeding Bird Mitigation Strategy (oNBBMS) [EN010153/DR/7.13] (APP-144) Frodsham Windfarm Mitigation</p>				
CWACC7.45	7.49	<p>The NBBMA is centred on Cell 3, with a small section of Cell 2, and will be both enhanced to provide a substantially greater carrying capacity than under the current baseline conditions. Importantly, the bird-day calculations that underpin the HRA and ES were based on current, unenhanced habitat, meaning that the uplift from enhancement represents additional capacity. The Applicant also notes that qualifying bird species recorded in Cell 1. All areas of the SADA have been captured in the threeyear survey dataset (in Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082)) and accounted for within the assessment. This includes birds surveyed within the eastern half of the SADA, and also the birds using Cell 3. The mitigation package, including the NBBMA and wider access/habitat management measures, has therefore been designed to ensure that both the FWF overlap and usage of the wider Site are appropriately mitigated.</p>	<p>The original CWCC comment was descriptive and did not require a response. The issues referred to by the Applicant are dealt with in other responses.</p>	

CWACC7.46	7.50	<p>The measures proposed in the ONBBMS, along with the opening of pools close to Marsh Farm, will mitigate any impacts and are considered beneficial to all of the listed species. The Information to Inform Habitats Regulations Assessment (as updated alongside this submission) has been updated to include full consideration of all SPA features (qualifying and assemblage species). The inclusion of waterbodies, wet features and varied sward structure provides a diverse habitat mosaic that functions as an umbrella, supporting a broader range of qualifying SPA species. This includes dabbling ducks such as Teal and Shelduck, and waders such as Dunlin, Redshank and Black-tailed godwit, which utilise both wet grassland and open water/muddy margins. The three-year survey dataset (in Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082)) confirms that these species are present within the Order Limits, and their requirements were considered in the HRA and ES assessments. For instance:</p> <ul style="list-style-type: none"> <li>• Teal and shelduck – forage in shallow flooded grassland and muddy edges.</li> <li>• Redshank and dunlin – feed along wet margins and short sward.</li> <li>• Black-tailed godwit – exploit both shallow wetlands and damp grassland.</li> </ul>	<p>The habitat needs of the qualifying species below include grassland, and give further reasons as to why the NBBMA should not be considered to be functional, until these habitats are present. See response to paragraph 7.43.</p> <p>It should be confirmed by the applicant if the biodiversity enhancement zone by Marsh Farm, is enhancement (as the title infers) or whether it is in fact mitigation, as is alluded to in the Applicant's response. If so, it should be explicitly included as part of the NBBMS and within the DCO Work packages.</p> <p>It is accepted that the HRA has been corrected to include all the species required, however, these have not been taken into account in the calculations based on the Cleeve Hill methodology used to calculate the amount of area required for all SPA species to be properly compensated for.</p>	
CWACC7.47	7.51	<p>It is important to emphasise that the qualifying bird populations of the Mersey Estuary SPA and Ramsar site operate at the estuary scale, routinely moving</p>	<p>This information is acknowledged, however, the response does not address the impact of the risks of a smaller area of mitigation land on which the qualifying bird populations depend.</p>	

		<p>between a network of suitable reserves, intertidal habitats, bye-lands and smaller inland fields. Species that utilise these habitats have evolved to form dense flocks outside the breeding season and consequently overcrowding is not considered a realistic potential impact; it is commonplace for nature reserves to create comparable habitats, and which support very large numbers of such species. Field survey data (in Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082)) confirm this pattern, showing both large flocks and smaller groups using different parcels across and beyond the Site. The NBBMA will therefore function as one part of this wider mosaic at a regional level, rather than an isolated refuge. This interconnectedness of the estuaries of the northwest of England by associated species is highlighted in Natural England report 'Identification of Functionally Linked Land supporting Special Protection Areas (SPAs) waterbirds in the North West of England (NECR361)', which is referenced in the Application.</p>		
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Cleave Hil Mitigation

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
RR-037 Section 7. Ecology and habitat – Cleave Hill Solar Park Mitigation				

CWACC7.48	7.52	The Applicant notes the reference to differing figures of 47.8 ha and 63 ha. For the avoidance of doubt the correct figure is 63 ha and this has been updated in the relevant documents (Information to Inform Habitats Regulations Assessment, (as updated alongside this submission) and the Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission).	CWCC acknowledges the correction.	
CWACC7.49	7.53	The Applicant notes the observation regarding the apparent inconsistency between Outline Landscape and Ecology Management Plan, Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission) and Information to Inform Habitats Regulations Assessment, (as updated alongside this submission). Section 4.2 of the updated HRA includes consideration of all data, using the approach requested by Natural England. This includes peak counts, secondary data sources and all field surveys undertaken by the Applicant.	This is acknowledged.	
CWACC7.50	7.54	This is considered to be a misunderstanding by CWACC. The entirety of the SADA and Cell 3 (to become the NBBMA) has been surveyed, and the total number of birds using these areas of the Site is factored into the mitigation requirements i.e. it does account for the fact that the majority of the proposed NBBMA is currently identified as a mitigation area for the	<p>The following is taken from CWCC’s response to <b>ExQ 1 - Q.4.42</b></p> <p>In the response, it is asserted that the lack of ability of the calculations to take into account habitat quality does not matter, due to the birds using the site, including on the NBBMA, being taken into account. The Applicant’s NMMBS is based on these calculations, as well as reportedly providing a “step-change in quality” to the existing NBBMA. It therefore is queried, that if the calculation cannot take into account habitat quality, how can the level of required quality of habitat provision, or in fact, area, be known, and how can the principle of adequately re-mitigating for birds on existing mitigation</p>	

		<p>wind farm. The Applicant has acknowledged this from the outset in preapplication consultation with CWACC. The design of the NBBMA will deliver a step-change in quality and capacity beyond this baseline through hydrological improvements, creation of waterbodies and scrapes, and active grassland management. This betterment represents additional carrying capacity above what Cell 3 currently provides. See Outline Landscape and Ecology Management Plan Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission) paragraphs 2.3.11- 2.3.12</p>	<p>areas, as well as mitigation for loss of mitigation areas, as well as loss of other land used by birds, be proven.</p> <p>In addition, this relies solely on the number of birds using the land, as the only measure of value of the land. The field survey data did not capture all seasons or areas of the site in any one year, especially the late spring and early autumn seasons. Surveys are a snapshot in time and although desk based data has been used as well, the value of the land is also due to its habitat quality, size, connectivity to other important non-breeding bird areas and relative lack of disturbance.</p> <p>As noted by the applicant, in the updated Outline Landscape and Ecology Management Plan, Appendix B - Outline Non-Breeding Bird Mitigation Strategy, Annex 1, it is stated that the Cleeve Hill approach is based on mean utilisation of predominantly dry agricultural land/dry grassland. This therefore, significantly undervalues the existing habitat provision on site, which includes wetland areas, scrapes and wet grassland, some of which specifically designed for non-breeding birds. The principle of the mitigation proposal is that one of the existing mitigation areas is being uplifted in habitat quality, to account for loss of existing mitigation areas and mitigation for loss of other areas used by birds. This cannot be measured by this approach.</p> <p>In addition, the approach only assesses three bird species associated with the Mersey Estuary (Lapwing, Curlew and Golden plover). It is assumed this is because these are the species that the FWF mitigation documents specifically mention, but this means that the calculation does not account for the other qualifying bird species recorded on site, and their mitigation requirements, such as Black-tailed godwit, Dunlin, Redshank and Teal. The updated further information in the updated NBBMS (contained within the OLEMP [PD2-023] in Annex 1, states that the area of functional land considered in the calculations, due to the fact that the majority of bird-days were generated from there, are based on the actual functional area (predominantly Cell 3), so as not to overvalue the rest of the SADA. This grossly underestimates the area required by birds who were recorded over the remaining site, such as Cells, 1, 2 and 5, as well the area by The Lum. This also does not account for the replacement of Frodsham Windfarm mitigation areas.</p>	
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			<p>CWCC understand what is meant by the applicant when it is stated that that there is no agreed metric that exists to calculate what the non-linear habitat enhancements and additive mitigation being implemented as part of the NBBMA design. However, CWCC would extrapolate that principle to the fact that the loss of existing mitigation areas and existing habitat quality cannot therefore be taken into account and properly compensated for.</p> <p>Therefore, the issue is not resolved and CWCC is not satisfied that the Cleeve Hill approach is suitable for the proposed development. In the absence of a robust method of calculation, and significant impact on existing mitigation areas proposed, as well as areas to be developed being used by birds outside the defined mitigation areas, the approach is rejected. To progress the issue, the Applicant should amend the proposed layout to release back the existing mitigation areas to enable a less risky approach.</p>	
CWACC7.51	7.55	<p>The Cleeve Hill method produced a requirement of 63 ha on a like-for-like basis, without considering uplift in habitat quality. By contrast, the Frodsham proposals deliver 9.5 ha of actively managed wet grassland, supported by additional grassland and scrape mosaics across up to 16.2 ha of Cell 3, within a total of c. 53 ha NBBMA. This design provides a diverse and functionally rich habitat resource targeted at the needs of qualifying species and it is not agreed that the Application provides inadequate habitat quality improvements. It should be noted that the ultimate design will be informed through input from the appointed managing conservation body or professionals in order to maximise the ecological benefit of the NBBMA (see Section 4.2 of the Outline Landscape and Ecology Management Plan Appendix B – Outline Non-Breeding Bird Mitigation Strategy (as updated alongside this submission)). It is also relevant that the</p>	<p>Please see response above in terms of the flawed calculation method and lack of ability to incorporate habitat quality into calculations. Again, there is no conservation body secured to manage the NBBMA.</p>	

		NBBMA will be managed for the operational lifetime of the solar farm, which will deliver clear benefits for at least 25 years beyond those currently enacted under the wind farm. Higher quality habitats will be available for longer during the calendar year, including the passage periods, and with dynamic management. It is the Applicant's position that the NBBMA delivers a clear benefit overall, which should not be considered solely on the basis of illustrative bird-day calculations.		
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Breeding Birds

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat – Breeding birds</b>				
CWACC7.52	7.57	This error is noted. For the avoidance of doubt, the assessment of impacts on all birds, including skylarks, is based on the correct 5.88 ha of Skylark Mitigation Area.	CWCC acknowledges the correction.	
CWACC7.53	7.58	The breeding bird surveys confirmed that aggregations occur in these habitats, and the Proposed Development has been designed to retain and buffer the majority of hedgerows, wet grassland and boundary features, maintaining their function and connectivity across the Site. While some new permissive paths are proposed within green buffers, these will not remove breeding bird habitat. Potential disturbance effects will be managed through measures set out in the Outline Construction Environmental Management Plan (as updated alongside this submission), including precommencement checks, seasonal working restrictions where necessary, and an ecological watching brief (but not limited to). It is also important to note that farmland and boundary nesting/thriving species (e.g. whitethroat, sedge warbler, willow warbler and	Further detail on this, in terms of breeding birds found on site and how proposed footpaths will not have any impact, would be welcomed, updated in the appropriate documents.	

		Cetti's warbler) are known to breed successfully alongside existing PRowS, farm tracks, and similar features across the wider landscape. Such species are commonly found nesting in close proximity to footpaths on nature reserved and rural areas. The Applicant therefore does not accept there is any requirement to assess disturbance of such species in the absence of any evidence such effects occur.		
CWACC7.54	7.60	Addressed under CWACC7.70 – CWACC7.74.		
CWACC7.55	7.61	Addressed under CWACC7.70 – CWACC7.74.		
CWACC7.56	7.62	See comment under CWACC7.41.	See comments on paragraph 7.45 of the CWCC Relevant Representation (RR-037).	
CWACC7.56	7.63	As set out in paragraph 8.7.38 of the Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041), the Applicant will implement measures to ensure that any potential impacts on breeding Schedule 1 species are avoided. To clarify there is no evidence of, or records of, marsh harriers breeding within the Order Limits. It is understood that the species breeds nearby, in areas of suitable habitat. An Ecological Clerk of Works (ECoW) will be appointed during the construction phase to oversee works, carry out pre-commencement checks, and enforce appropriate exclusion buffers should breeding activity be identified.	The response is useful and further information on the assessment of impacts on Marsh harrier should be included in the ES.	
CWACC7.58	7.64	The Applicant considers that this comment is incorrect. Merlin breed exclusively in upland moorland and heathland habitats which do not occur in this part of the County. No breeding evidence was recorded during three years of targeted surveys within the Order Limits, as would be expected, and the habitats present are not suitable for breeding Merlin. The	CWCC accepts this explanation.	

		records collected during the field surveys are consistent with the species' use of lowland farmland and coastal hinterland as wintering and foraging habitat, which is well documented in the Mersey Estuary area.		
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Comments on proposed layout - Eastern Array

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Comments on proposed layout - Eastern Array</b>				
CWACC7.59	7.66	The Applicant agrees that the Eastern array is located in less suitable field parcels and includes a substantial stand-off from the estuary, which reduces potential impacts on qualifying species.	Although this is not quite what CWCC stated, there is no further comment.	
CWACC7.60	7.67	The Applicant agrees that the Invoyn Cell is no longer suitable for non-breeding bird use and therefore does not form part of the current functional resource. The Lum is recognised as an area of higher usage by qualifying bird species. The Proposed Development has been designed to retain this area, and embedded measures, including substantial stand-offs and the creation of new scape areas which will be beneficial for wetland birds (see Figure A1.3 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission)). It should be noted that The Lum area sits immediately adjacent to a well-used footpath along the River Weaver embankment and is therefore already subject to disturbance. The Lum area will be retained and enhanced for SPA birds. It is also relevant that habitats created within the NBBMA and also the opening of pools adjacent to Alder Lane and Marsh Farm will create new habitat for the same species as recorded using the Lum. As such, the Applicant does not agree that it	It is not clear what is meant by "substantial stand-offs" as there are not substantial stand-offs from The Lum area where higher usage of non-breeding birds was recorded. The qualifying non-breeding bird presence extends in this area into the full area of field 12 (for example, see Appendix 8.1 Ornithology Figure 14b-14f Non-breeding Bird Survey Results) where there are two relatively smaller areas of panels proposed. These should be removed and the remaining area of Field 12 returned to use by qualifying non-breeding bird species as the area is demonstrated as being important to the bird population and this would provide a cohesive area with the adjacent Estuary mudflats. With the increased disturbance factor due to footpaths and some operational disturbance, this would mitigate some of these impacts.	

		is necessary to increase the buffer around the retained Lum pool.	Ad-hoc information regarding current usage of the footpath is welcomed, however, there is no evidence of this.	
CWACC7.61	7.68	Additional analysis of the ornithology field survey data has been undertaken, supplemented with more recent WeBS data, in response to queries raised by Natural England. The additional analysis is presented in the revised Information to Inform Habitats Regulations Assessment (as updated alongside this submission) and provides further evidence of the variable distribution and use of the birds across the Site. It is the Applicant's position that full mitigation is provided for all SPA and other bird use across the Order Limits, through both the creation of the NBBMA and habitat measures detailed in the Biodiversity Net Gain Report (APP-143). Further Information On The Classification Of Reedbeds is provided as Appendix C.	CWCC's suggestion remains to retain the entirety of Field 11 for non-breeding bird and habitat mitigation purposes, to provide a cohesive managed area for birds adjacent to the Estuary, to retain mapped priority habitat and to assist with biodiversity net gain results, in terms of loss of wetland habitats.	

Comments on proposed layout - Western Array

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Comments on proposed layout - Western Array</b>				
CWACC7.62	7.69	<p>The Applicant considers that connectivity is maintained between the NBBMA, the adjacent estuary, and other supporting parcels, such as Cell 6. Qualifying species within the Mersey Estuary SPA/Ramsar operate at the estuary scale and are not confined to a single site, routinely moving between multiple supporting areas. This provides resilience against localised disturbance events. The risk of over-reliance on a single parcel is therefore low, and the design incorporates buffers, planting, and access management to ensure that solar infrastructure does not result in unacceptable disturbance to adjacent sensitive areas.</p> <p>It is clarified that the Application includes mitigation for all loss of SPA species habitat across the entire Order Limits. It</p>	<p>CWCC accepts that qualifying species can be viewed as operating at the Estuary scale, however, in the absence of any information about other areas adjacent to the Estuary such as this, and noting that the only other area of High potential Functionally linked-land mapped adjacent to the Mersey Estuary of a similar scale is in Runcorn, outside of the Borough the importance of this area should not be underestimated. Reliance on other areas outside of the Order Limits to justify reducing functionality on site, is not accepted.</p> <p>Again, RSBP reserves cannot be compared to situations such as this, which include stacked areas of development mitigation and operational development,</p>	

		<p>is not accepted that connectivity is lost for highly mobile bird species associated with the River Mersey. There is no evidence or suggestion that birds do not fly over solar arrays. Points on vulnerability are not agreed. There is no evidence that such impacts would occur in locations that are already managed for such species (e.g. RSPB reserves) and for species which have evolved to exist in high densities (large flocks). The creation of habitat within the NBBMA is considered to represent an expansion of habitat for most SPA species (i.e. mitigation is considered only necessary for a small number of SPA bird species, whereas most SPA species will benefit from the scheme). The ES considers ecological receptors and addresses sensitivities for all features through the scoping process.</p>	<p>with loss of functionally linked land, the temporary nature of the solar farm NBBMA benefits and lack of secured long-term management.</p> <p>CWCC disagrees that mitigation is considered only necessary for a small number of SPA bird species.</p> <p>Please see response to Q4.6.4 and Q4.5.6 and response to paragraph 7.13 and 7.15.</p> <p>The original comments are still applicable.</p>	
CWACC7.63	7.70	<p>The Applicant notes that survey data (in Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082)) confirm Cell 3 as the main hub of utilisation by qualifying non-breeding bird species within the Order Limits, with additional use of Cell 2 and the eastern/northern margins of Cell 1. This was recognised from the outset, and the Proposed Development has been designed to retain, enhance and guarantee the longevity of Cell 3 as the NBBMA, delivering at least 53 ha of high-quality habitat with wet grassland, scrapes, and waterbodies. It is also important to note that the delivery of this, also comes with experienced and dynamic management. In relation to boundaries, the scheme incorporates standoffs, planting, and screening measures along the eastern edge of Cell 3 and the northern/eastern boundaries of Cell 1 to minimise visual and noise disturbance as illustrated on the Indicative Environmental Masterplan, Figure 2-3 as shown in Environmental Statement: Volume 3 Chapter 2 Figures (APP-106) and ultimately secured via the LEMP approval under the DCO. These embedded measures ensure that the NBBMA functions effectively and that qualifying species can continue to use adjacent habitats.</p>	<p>The Applicant's response does not address the initial statement as to why solar panels are proposed so close to sensitive areas and avoidance design is not embedded into the proposed layout. Please see the response to the applicant's response to paragraph of 7.13 CWCC Relevant Representation [RR-037].</p>	

CWACC7.64	7.71	<p>The Applicant notes the reference to Goodship &amp; Furness disturbance distances. These broad guidance values relate to active disturbance sources such as human presence, dog walking, and vehicle movement, rather than to static infrastructure. Solar panels are not in themselves a source of disturbance once installed; rather, disturbance risks arise during the construction phase and have been fully assessed and mitigated in the Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041) and Information to Inform Habitats Regulations Assessment (as updated alongside this submission). During operation, the Proposed Development will be largely passive, and disturbance from public access is addressed separately through footpath design, standoffs, and screening as described in above responses. For these reasons, the application of a 100m buffer to static solar infrastructure is not considered appropriate or proportionate.</p>	<p>There has been no detailed evidence to suggest that solar panels are not a disturbing factor to non-breeding bird species.</p> <p>It should be accepted that birds not being able to land on areas surrounding the favourable areas, will have a detrimental effect on the non-breeding bird population using the area, as well as reducing the open aspect of the site. It is not just the more favourable areas themselves that should be taken into account, it is the ability to use and disperse to the surrounding open areas when required; the general benefit of a larger, more cohesive area of habitat.</p>	
CWACC7.65	7.72	<p>The study referenced provides generic precautionary guidance on disturbance distances, but they are not intended to be applied mechanistically without regard to local context. In this case, Cell 1 is raised above the River Weaver with a steep embankment drop-off along the river margin. This topography creates a natural visual barrier such that, in practice, a person would need to approach the very edge of the embankment to create a line-of-sight disturbance event. Survey data (in Environmental Statement: Volume 2 Appendix 8-1: Ornithological Survey Report (APP-082)) confirm that qualifying SPA species already use the river corridor adjacent to Cell 1 despite existing activity in the area, indicating that the risk of disturbance is low. With a 20–50 m separation distance, combined with topographic screening and additional planting proposed along sensitive boundaries, the Applicant considers that disturbance risks are minimal and proportionate. A 100 m stand-off as suggested by Goodship &amp; Furness is not considered necessary in this location.</p>	<p>This is not understood; if people are using the area on the river-side of the embankment, they could disturb birds using the Estuary mudflats and if the people are on the field-side area of the embankment, they will be disturbing the birds in what would remain of the Cell 1 area. This also only address visual disturbance issues, and not noise and dog-walking issues.</p>	

CWACC7.66	7.73	<p>The Applicant notes the reference to Marsh Farm in Figures 4 of Information to Inform Habitats Regulations Assessment (as updated alongside this submission). Marsh Farm itself is not intended to function as a core component of the Non-Breeding Bird Mitigation Area, which is focussed on Cell 3 and adjacent parcels. The 53 ha of habitat area created for the NBBMA does not include the Farm buildings area. However, use of Marsh Farm has been allowed for to enable conservation management for e.g., storage of equipment or housing of livestock. As such it is the Applicant's position that Marsh Farm should be retained in the NBBMA even though it does not provide wetland bird habitat.</p>	<p>On that basis, the land-holding should be taken out of any calculations of the NBBMA area and the applicant should confirm this is the case.</p>	
CWACC7.67	7.74	<p>The Applicant notes the concern regarding potential disruption of bird movements between the Estuary and Cell 6. Solar panels are low in profile and do not constitute a barrier to flight. Furthermore, the adjacent FWF was specifically designed to maintain connectivity between the Estuary and Cell 6, and no disruption of flight paths has been identified there, a conclusion supported by three years of survey data for the current application Site and WeBS. It is also important to note that the concept of "fragmentation" does not apply in this context. The implementation of solar panels does not result in isolated patches of development interspersed with desirable habitat but rather represents a continuous and uniform land use change. As such, there are no intervening "gaps" of attractive habitat that would otherwise draw birds into potentially hazardous flight lines. Natural England has also confirmed in its Relevant Representation that glint and glare effects are not a concern and that they are satisfied with the conclusions of the HRA. Accordingly, disruption of flight paths or visual disturbance between areas are not considered likely to result in significant effects. Further buffering is therefore not required, consistent with the response already provided under comment CWACC7.11.</p>	<p>There is no evidence to suggest that solar panels will not disrupt flight paths; of course there is no physical obstruction to flight, however, as birds cannot land on the areas for general use, in conjunction with the more favourable foraging and roosting habitats, and the open aspect of the site is reduced, this could have a detrimental effect on the bird population. The functionality of the functionally linked-land is lost. The general, recognised benefit of a larger, more cohesive area of habitat, is lost.</p> <p>It is agreed that the adjacent FWF was specifically designed to maintain connectivity between the Estuary and Cell 6, and no disruption of flight paths has been identified there; however this cannot be used to support the Applicant's case, as there is currently open grassland along that pathway, which contributes to the open aspect, as well as the gap also enabling birds to avoid the direct collision risk with the wind turbines. This will be no longer be the case if the solar farm is built as proposed in terms of open grassland.</p> <p>In terms of fragmentation, it is understood that the Applicant means as the solar farm removes favourable</p>	

			habitat as a whole and there are no favoured habitats left within the development, that this cannot be considered to be fragmentation. This cannot be construed as a positive factor. In addition, the point is misunderstood; the development will disrupt cohesive open habitats within and outside of the functionally-linked land and FWF mitigation areas (including Cell 6).	
CWACC7.68	7.75	The design of the Proposed Development already ensures that this wetland is retained, buffered, and managed to provide longterm habitat for qualifying species. While its location means it functions as a stand-alone enhancement rather than a contiguous extension of the NBBMA, its value lies in providing distributed habitat resources within the wider Site, supporting resilience and choice for bird species. In terms of predator management, the Applicant confirms that measures such as predator fencing will be implemented where necessary, as set out in section 6.9 of the Outline Landscape and Ecology Management Plan, Appendix B – Outline NonBreeding Bird Mitigation Strategy (as updated alongside this submission). These measures will ensure that the wetland area and the NBBMA function effectively for non-breeding birds.	<p>CWCC consider that the proposed layout could easily be amended to provide a meaningful continuous habitat link from the Lum area around to the NBBMA and in doing this could alleviate some of CWCC’s concerns in terms of impacts on Cell 1 and the Mersey Estuary. This would contribute to making the NBBMS robust and less dependent on one single area (the NBBMA).</p> <p>See response to paragraph 7.67 where The Lum and suggested layout amendments are detailed.</p> <p>The provision of predator fencing is noted.</p>	
CWACC7.69	7.76	The Applicant notes the comment regarding the wetland area adjacent to Cell 2. This feature has been included as part of the Proposed Development to ensure a habitat feature is retained, and to provide additional wetland habitat of value to SPA species, complementing the core NBBMA in Cell 3, in particular dabbling ducks, such as teal, mallard and wigeon. This area is not included in the mitigation proposals as it is not considered necessary to do so given the extensive and undisturbed habitat to be created in the NBBMA which will benefit dabbling ducks. The Applicant therefore disagrees that the habitat management measures proposed in this area are mitigation or compensation and also points out that the area is already located adjacent to a PRoW.	<p>The two paragraphs conflict with each other in terms of whether the Biodiversity Enhancement Zone is mitigation or enhancement.</p> <p>The design of the area has not yet been confirmed, but looks to include reedbed and pools. It is noted in terms of the Applicant’s response to paragraph 7.132, it is stated that “qualifying bird species of the Mersey Estuary SPA and Ramsar are not those which are reliant upon reedbed habitats”, so the benefit to these species is unconfirmed, unless for example, there are pools available for use on the edges of the area, adjacent to open habitats.</p>	

		Further to this, such species as the above are known to forage at night time, which consequently reduces the risk of disturbance and will allow them to use the newly created pools. <sup>7</sup> The Applicant recognises that areas such as the Cell 2 wetland serve both to mitigate potential effects and to enhance the ecological value of the Site overall. While described as “enhancement” in the Environmental Statement, the area’s role in supporting SPA species has been fully integrated into the mitigation strategy and capacity calculations.		
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Skylark Mitigation Area (SMA)

Ref	Para number	Applicant’s Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Skylark Mitigation Area (SMA)</b>				
CWACC7.70	7.77	The Site skylark population is valued as of ‘local level’ value (see paragraph 8.8.39 of Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041)). It is the Applicant’s position that the mitigation is adequate and proportionate for skylarks, that the conservation status of skylarks will be maintained, and that the SMA forms only part of the habitat within the Order Limits which will be available for nesting and foraging skylarks during the operational period. This is detailed in paragraph 8.8.45 of Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041). Measures proposed in the SMA and parts of the SADA are the provision of botanically diverse grassland which is beneficial not only to skylarks but other breeding birds. It is not accepted that other birds could be negatively affected by the creation of meadow from arable land, which is subject to farming practices currently. The NBBMA will also continue to provide habitat for skylarks.	The response does not address the original comment, which was the appropriateness of the location and therefore success of the SMA.	

CWACC7.71	7.78	<p>The PEIR included consideration of areas potentially for inclusion as skylark mitigation, not a commitment to utilise the full area shown. Use of the entire area illustrated at PEIR stage would be disproportionate to the impacts on skylarks. For the avoidance of doubt, it is not claimed that the SMA will support the number of skylark pairs (21) recorded across the entire order limits. The SMA provides valuable habitat which will be managed to meadow which will support higher breeding productivity than arable land. The SMA will also be used by skylark pairs in fields in neighbouring fields, as the average distance of foraging adults from a nest location is 200m<sup>8</sup>. The SMA is provided in addition to other areas across the SADA which will provide suitable resources for skylarks, as will the NBBMA. The SMA is 5.58 ha in total, which is in accordance with guidance on the minimum size field (5ha) considered suitable for use by the species under UK government guidance<sup>9</sup>. Further the SMA will be managed specifically for skylarks for the lifetime of the Proposed Development, whereas current farming practices could change at any time and render the area unsuitable for skylarks. The managed meadow grassland will also deliver other ecological benefits substantially above the current arable land use). It is the Applicant's position that the mitigation is adequate for skylarks and that the conservation status of skylarks will be maintained.</p>	<p>The response does not address the number of breeding Skylark pairs on site and the replacement habitat to provide the territories that they require, to demonstrate that the Skylark mitigation is adequate.</p> <p>The response states that the SMA will also be used by skylark pairs in fields in neighbouring fields, however, the breeding bird surveys do not show any presence of Skylark in the neighbouring fields.</p> <p>The applicant states that the minimum field size considered suitable for use by the species under UK government guidance is 5ha (ref note 9). In looking at this guidance, it states that locations for Skylarks should be chosen as follows:</p> <ul style="list-style-type: none"> <li>• in large, open winter cereal fields – this will usually be around at least 5ha (or at least around 10ha where fields are bordered by mature scrub, tall hedgerows, trees and woodland)</li> </ul> <p>This does not apply in the location chosen, and there is no indication of how many pairs this will support.</p> <ul style="list-style-type: none"> <li>• in field where skylarks are present or have nested in the past</li> </ul> <p>Breeding bird surveys do not show any presence of Skylark in the SMA location.</p> <ul style="list-style-type: none"> <li>• on land with little or no spring cropping, where possible</li> <li>• between tramlines, away from telegraph poles and pylons (and at least around 80 metres from field edges)</li> </ul>	
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			<p>This specifically states that Skylark plots should be located away from pylons, which the location chosen, is not.</p> <ul style="list-style-type: none"> <li>close to complementary wildlife habitats that are insect and seed rich – such as, cultivated areas for arable plants, flower-rich margins, enhanced overwintered stubble and winter bird food</li> </ul>	
CWACC7.72	7.79	<p>The CWACC statement is incorrect, as there is published evidence of skylarks using marginal areas around solar farms. Papers by Fox (202210) and Solar Energy UK (202311) clearly point out that Skylarks have been recorded many times foraging within solar arrays, and even feeding recently fledged young. The 2024 annual ecological trends report by Solar Energy UK12 again identified the regular presence of skylarks within solar farms; the species was noted at 71% of the 87 sites monitored. During 2023 monitoring visits, a skylark was observed regularly collecting food from within the solar farm then flying to an adjacent arable field, indicating that the solar farm offered a preferred resource for foraging.</p>	<p>The Applicant misunderstands the point; although there may be evidence that Skylark will co-exist with solar panels, the survey data for the site shows only two/three locations in the proposed eastern array where Skylark were recorded in the breeding bird surveys, with the majority of use in the open Cell areas, favouring the northern areas of the Site (Cells, 1 2 and 3). This shows that they favour the open areas of the site, some of which will be lost, or significantly disturbed.</p>	
CWACC7.73	7.80	<p>The Applicant disagrees that the success of the area is doubtful and that CWACC, particularly when considering all measures proposed as part of the Proposed Development.</p>	<p>CWCC have no further comment to make.</p>	
CWACC7.74	7.81	<p>Specifically relating to skylarks, it is important to note two key points: Skylark breeding habitat is entirely dependent on farming practices (i.e. crop types planted), and which are rotated annually on arable land. As such, numbers fluctuate and relocate on an annual basis. Populations can only be meaningfully assessed at a large geographical scale. Skylarks, like most small birds, are very short-lived birds (typically 1-2 years). Mitigation for skylarks is not predicated on encouraging individual birds to relocate, rather to maintain a population based on improved breeding productivity. Accordingly, it is not agreed that the location of the SMA is of concern. It is also relevant that</p>	<p>CWCC's point was that the proposed SMA close to the M56, with resulting disturbance does not appear to offer the same potential as the existing Cells 1, 2 and 5, were the solar arrays to be 'drawn back' to provide habitat nearer to the estuary; and where there would be dual benefit to the Skylark and the other Estuary bird populations. Such a strategy would be more in keeping with Para. 5.4.35 of EN-1.</p>	

		skylarks will continue to use parts of the Order Limits during operation for feeding (around solar panels and margins) and within the NBBMA grassland.		
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Protected Species – Bats / roosting

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Protected Species – Bats/roosting</b>				
CWACC7.75	7.83	<p>Environmental Statement: Volume 1 Chapter 2: The Proposed Development (APP-035) sets out that a 6m buffer between fencing surrounding solar PV modules and hedgerows / areas of substantial vegetation. However, it is also recognised that some areas of vegetation may need to be lost to facilitate the development, for example to provide access.</p> <p>The findings of the arboricultural assessment demonstrate that there would be very minimal losses of trees and the landscape scheme provides for the substantial provision of hedgerow and tree planting. The loss of trees and hedgerows is considered within Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040). As noted in the comment, it is proposed to remove G034 to enhance the function of the area for SPA bird species by reducing perching/nesting opportunities for avian predators. G067 is shown as being removed due to the proposed overhead line corridor. Any tree removal would be minimised and trees protected and retained where possible in accordance with the Outline Construction Environmental Management Plan (as updated alongside this submission). G069 is shown as being removed. This is a small group of elder, surveyed as Category C. These are shown on the alignment the security fence. G099, wild cherry, is proposed to be removed to facilitate an access track. A106 is a group of willow which has established within one of the</p>	<p>This does not address the issue that the trees to be removed have not undergone bat roost surveys, as standard and in line with guidelines and legislation. See below.</p>	

		agricultural fields and is proposed to be removed to facilitate part of the solar array.		
CWACC7.76	7.84	Measures to ensure the protection of roosting bats are set out in Table 5.3 of the Outline Construction Environmental Management Plan (as updated alongside this submission). Notwithstanding this, areas of tree removal were subject to further checks on 1st and 2nd October 2025 to check the Applicant's assumption that the trees were not likely to be suitable for bat roosting. A ground level tree assessment (GLTA) was undertaken by J. Stevens BSc (Hons) and K. Love MSc. This followed the GLTA methodology detailed in 'Bat surveys for professional ecologists: good practice guidelines' (Collins, 2023). Areas of inspection were as follows (following nomenclature as used in the Arboricultural Assessment (APP-146): G034, G069, A090, G099 and A106. Access was limited to G067, and as such this area was not subject to detailed inspection. No trees subject to removal were identified as offering bat roosting potential using the criteria set-out in Collins (2023). Typically, trees were semi-mature and not of an age or stature where bat roosting features have developed.	Details of the bat tree roost assessment carried out should be submitted for approval, in the standard way, with photographs and details of the trees provided. The Examiner, as the competent authority, must have regard to the Conservation of Habitats and Species Regulations 2017 (as amended), and in doing so, must carry out an assessment of The Three Tests, in line with these Regulations. There is currently not enough information to do so	
	7.85-7.88		<p><b>ExQ1 Q4.1.4</b></p> <p>In terms of Bat commuting and foraging, as per paragraph 7.85-7.88 of CWCC's Relevant Representation [RR-037], although the activity surveys were limited, due to the lack of likely significant impacts on foraging and commuting habitats and likely benefits to such habitats from the proposals, there are no significant concerns regarding foraging and commuting bats. Therefore, it is considered that further commuting and foraging surveys would not alter the conclusion of no significant residual impacts on bats.</p>	

Otters

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat – Protected species - Otters</b>				
CWACC7.77	7.90	<p>Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040). The Proposed Development has been designed to avoid ditches aside from unavoidable crossings. A commitment to pre-construction surveys is included and is considered more appropriate given that locations of otter holts would be likely to change between the baseline survey period and construction. Details are provided in Table 5.2 of the Outline Construction Environmental Management Plan (as updated alongside this submission). In the event that preconstruction surveys identify otter holts, or likely otter holts, appropriate methods to ensure legal protections for the species are maintained will be put in place including, if required, licensing from Natural England. Consequently, the Applicant does not agree additional surveys are required and maintains that the baseline is robust and adequate for impact assessment.</p>	<p>Pre-construction surveys are useful to update agreed baseline data, however this is not the case at this stage. The applicant should confirm that the agreed baseline is that Otter are present in the NBBMA, and that they are using it as a resting place and foraging area. Please can the applicant confirm which route the Otters are using to access the NBBMA, to inform the baseline and mitigation measures required.</p>	
CWACC7.78	7.92-7.94	<p>The cessation of access for predators to the NBBMA is a conservation measure which is widely deployed at nature reserves where breeding and wintering wetland birds occur. Enabling access of otters and badgers to the NBBMA would significantly undermine the substantial conservation value of the NBBMA. Whilst otters are highly protected, the species is now in favourable conservation status and indeed is widespread across the county; it is not accepted that the exclusion of otters from the NBBMA would adversely impact the conservation status of the species. The Applicant also points out that additional foraging habitat for otters will be created outside the NBBMA: the opening of pools close to Marsh Farm and Alder Lane will create new resources for this species (this is shown on Figure A1.3 of the Outline Landscape and Ecology Management Plan (as updated</p>	<p><b>ExQ1 – Q4.6.4</b></p> <p>In the Applicant's Response the response is concerned with the justification of the prohibition of access for Otters to the NBBMA.</p> <p>It is accepted that this is a known conservation measure for non-breeding birds, however, this does not mean that this does not require mitigation and compensation for Otter.</p> <p>It is stated that the fishing pools will be replaced with new pools at the Biodiversity Enhancement Area, however, as fishing will be prohibited, it is not certain that this will replace the fish stock in the existing pools to the level that currently exists.</p>	

		<p>alongside this submission). As such, it is the Applicant's position that the availability of food or shelter resources will not be diminished and these will continue to be available on land under the Applicant's control. As such it is not that the Applicant is 'relying' on areas outside the control of the Applicant to justify or mitigate the impacts caused by the Proposed Development, it is simply providing a characterisation of the habitats available in the area in the context of determining whether the conservation status of this species would be adversely affected by the Proposed Development.</p>	<p>Therefore, Otters will have to change their distribution to find a food resource elsewhere and this change to distribution of the local population in its natural range, has not been accounted for.</p>	
CWACC7.79	7.95	<p>It is noted that the CWACC response conflates two different requirements of the Habitats Regulations. The Regulation 9 duty applies to all competent authorities when exercising their functions – to do so as to secure compliance with the Requirements of the Directives. Separately, Regulation 55 sets the questions that Natural England would have to ask itself in order to give a protected species licence – that being (in summary) if there is an overriding public interest to do so, that a favourable conservation status will be maintained and that there is no satisfactory alternative to the action which requires a licence. In the planning sphere, case law has established that Regulation 55 is only of relevance to the Secretary of State in the circumstances where NE have indicated that it unlikely that a licence would be granted (because it is not confident the above tests would be met). Licensing under the Wildlife and Countryside Act 1981 has slightly different tests again, as set out by CWACC, but these again only apply to the question of the grant of licences by Natural England. In this context, it is noted that a significant loss of foraging habitat for otters is not considered likely to occur. It is considered relevant that conservation measures often must balance the needs of different species. It is the Applicant's position that the very substantial benefits for wetland birds proposed under the oNBBMS should be weighed very favourably against any modest loss of otter foraging habitat, which itself is reliant on a fishery (the Canal Pools) which has a substantial problem with New Zealand</p>	<p>CWCC disagrees with the Applicant on this matter. We have not confused the different requirements of the Habitats Regulations. We refer to our Relevant Representation [RR-037] and the legal tests which the ExA (and Secretary of State) need to consider.</p> <p>CWCC disagrees with the Applicant's statement regarding the impact on the otter population associated with the proposed development as this has not been assessed.</p>	

		Pigmy Weed. Even with the loss of the Canal Pools for otters, it is clear that this would have limited effects to otters at a county/ national level considering recent rapid increases in range and numbers. See also CWACC7.78. In this context, it is clear that impacts to otters and water voles would not be a reason that the Secretary of State could not grant consent for the Proposed Development for fear of not being able to show compliance with the Regulation 9 duty. In respect of the Regulation 55 tests and/or Wildlife and Countryside Act tests, currently the Applicant does not envisage a licence being required for otters or water voles (as relevant) and as such the tests are not engaged.		
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#### Water Vole

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat – Protected species – Water voles</b>				
CWACC7.80	7.103	See CWACC7.79. It should be noted that the NBBMA, once operational, will likely provide enhanced habitats for water voles.	Please refer to previous comment and CWCC's Relevant Representation [RR-037]	

#### Badgers

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat – Protected species - Badgers</b>				
CWACC7.81	7.105-7.107	The Applicant will fully comply with the Protection of Badgers Act 1992, which makes it illegal to intentionally harm badgers or interfere with their setts without a specific licence from Natural England. With regards to the specific locations of the Proposed Development fences, it is relevant to note that the [REDACTED] different elevations	As per <b>ExQ1 – Q4.1.2</b> , in the Applicant's Response it is stated that the elevational differences between setts on embankments and ground levels, means that measurements of sett distances from fences are an over-estimation of impacts. The impacts taking into account these elevational differences, have not been detailed and so this cannot be assessed in place of the standard approach.	

		<p>to proposed fencing; whilst plans suggest proximity as they are viewed from above, this does not account for elevations. It should also be noted that there is no mandatory requirement for a 30m buffer around an active badger sett. It is accepted that direct impacts on badger setts must be avoided, either through design or working methods. However, this is in the context that, as evidenced in the baseline survey data between 2022 – 2025, badger are highly mobile, and thus it is anticipated that the on-site badger population may be subject to activity and distribution change between the baseline surveys and construction phase. Pre-construction surveys are therefore considered appropriate to confirm the location of active badger setts prior to construction (and thus the need for any licences) and have been included in the Outline Construction Environmental Management Plan (as updated alongside this submission). Consequently, it is the Applicant's position that badgers have been fully considered in the assessment.</p>	<p>It is stated that it should also be noted that there is no mandatory requirement for a 30m buffer around an active badger sett. It is not CWCC's position that 30m is a mandatory requirement, however, it is a recognised distance in which impacts to Badger setts can occur, as per licence requirements and best practice guidance, due to it being based on the average distance from sett entrances to which a badger tunnel extends (although they can extend longer). This is noted in best practice guidance, such as Section 5.1 of the Badger Protection: Best Practice Guidance for Developers, Ecologists and Planners (England), by the Badger Trust, August 2023, which is referenced in Natural England's standing advice for badgers (<b>Appendix 1</b>). It therefore follows, that to avoid impacts in line with the mitigation hierarchy, that a stand-off of 30m should be integrated into the site layout design. A site of this size should be able to accommodate such standard buffers and comply with the "avoid" step of the mitigation hierarchy.</p> <p>It is also stated in the Applicant's Response that as evidenced in the baseline survey, data between 2022 – 2025, badger are highly mobile and thus it is anticipated that the on-site badger population may be subject to activity and distribution change between the baseline surveys and construction phase. It is true that Badgers are mobile, however, it should be noted that the main sett locations present in 2022 and 2023/24 have not changed and so are favoured locations for Badgers and as a territorial animal, disturbance impacts can be significant.</p>	
CWACC7.82	7.108	<p>Security fencing is a standard solar farm requirement. Fences typically include mammal gates to ensure the access to land under and around the panels for badgers and brown hares. Both species are regularly recorded within solar farms (see Solar Energy UK reports11,12). As such, the large majority of the SADA will remain available for foraging badgers. It is also added that land</p>	<p>As per <b>ExQ1 – Q4.6.4</b>, in terms of Badger movement, details concerns regarding the lack of badger-bait marking surveys to ascertain where the large population of Badgers are moving through the landscape and the different territories between the likely four clans of Badgers present across the Order Limits. The 64ha NBBMA will be no longer accessible to Badgers, due to</p>	



		individual clans due to recreational disturbance. It is the Applicant's view that [REDACTED], particularly as recreational use will be almost exclusive (if not entirely) during daylight hours.		
CWACC7.84	7.110	See responses above which address specific comments and signpost to supporting documents where relevant. Table 5-3 of the Outline Construction Environmental Management Plan (as updated alongside this submission) considers impacts on badgers and describes the necessary measures to safeguard their protection.	See above.	

#### Reptiles

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat – Reptiles</b>				
CWACC7.85	7.113	No evidence of reptiles has been found within the surveyed areas, or from desk study. No reptiles were recorded within either the Sutton Causeway or East Clifton Tip survey areas during WSP UK Limited's baseline surveys for the proposed HyNet North West Hydrogen Pipeline. As such there is no evidence of the presence of reptiles in the Order Limits or immediate wider area. The presence of reptile species which receive enhanced legal protection (sand lizard and smooth snake) can be discounted, therefore impacts relate solely to common species which are protected against killing and injury only, not disturbance or habitat loss. Precautionary measures to ensure the protection of common reptile species have been included in the Outline Construction Environmental Management Plan (as updated alongside this submission). It is therefore the Applicant's position that reptiles have been fully and appropriately considered in the Environmental Statement.	As in CWCC response to <b>ExQ1 – Q4.0.6</b> , the Applicant's Response does not address the specific point made regarding lack of survey of the NBBMA area and concern due to the differences in habitats in the NBBMA area, thereby reducing the ability to extrapolate survey data from other areas on site. The response instead references areas on the eastern side of the site, which do not have habitats such as the NBBMA and are some distance from the NBBMA. Therefore, the Applicant's position in the Applicant's Response to CWCC's Relevant Representation [PD2-027] response is not accepted by CWCC.	

Local Wildlife Site

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Local Wildlife Site</b>				
CWACC7.86	7.119 – 7.120	<p>Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) states that in order to avoid repetition, where a criteria of the LWS is met, and the receptor is scoped in separately (including HPs, other habitats, otter, water vole, fish and invertebrates), these are not assessed under non-statutory designated sites. For clarity, the qualifying features of the LWS, as described in Environmental Statement: Volume 2 Appendix 7-5: Assessment of Frodsham Helsby Ince Local Wildlife Site (APP-081) are listed below and reference to where these features are assessed within the ES are provided. H2: Wet Woodland; The Arboricultural Assessment (APP146) has been reviewed and there will be no loss of wet woodland (tree group G007#). H7: Neutral Grassland; impacts on neutral grassland are discussed within Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) Section 7.8.27. H11: Restorable Grassland; ES Volume 3 Figure 2-3 Illustrative Environmental Masterplan (as shown in Environmental Statement: Volume 3 Chapter 2 Figures (APP-106)) details areas where creation of botanically diverse grassland is proposed.</p> <p>H18: Fens, swamps, nogs and reedbeds; reedbed condition within the Site and loss of reedbed are discussed in the Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) Section 7.7.73. H20: Ponds and ditches; impacts on water vole and European eel are discussed within Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) in Sections 7.8.55 and 7.8.64, respectively. H24: Wildlife corridors and buffers; if accepted the NBBMA will provide buffering habitat to the Mersey Estuary RAMSAR/SPA/SSSI. Impacts on species movement as a result the proposals are detailed within</p>	<p>As per CWCC response to ExQ1 - Q4.5.4, CWCC disagrees with the conclusions of the Environmental Statement that there would be significant positive effects in the long-term on Frodsham, Helsby and Ince Marshes LWS. This is because there are permanent adverse effects on some of its qualifying features, therefore a likely reduction in its extent and there is limited detail provided by the applicant to come to their conclusion, in terms of which criteria of the LWS are impacted and to what extent. This is explained in paragraphs 7.118-7.125 of CWCC's Relevant Representation [RR-037]. The ES Volume 2 Appendix 7-5 Assessment of Frodsham Helsby and Ince LWS [APP-061] only assesses whether the LWS still meets its criteria, not whether, and to what extent these qualifying criteria will be impacted and therefore impact on the LWS as a whole. Some further information on impacts to LWS qualifying criteria is given in the Applicant's Response, however, this should be assessed in the ES and updated as such, to enable full assessment.</p> <p>As per CWCC response to ExQ1 - Q4.5.5, CWCC asserts that the Applicant's significance of effects conclusion omitted birds and mammal qualifying features associated with Frodsham, Helsby and Ince Marshes LWS, including mammals and birds, that there are adverse impacts on qualifying features (Reedbeds, Wildlife corridors/buffers, birds and mammals) and the Applicant did not assess the impacts of the Frodsham, Helsby and Ince Marshes LWS qualifying criteria as a whole. Therefore, qualifying features were omitted from</p>	

		<p>species-specific impact assessment within the Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040). H25: High-value hedges; minor hedgerow removal will be required. The proposals details the enhancement of existing hedgerow, the creation of 3.6 km of new native hedgerows is proposed. H26: Accessible natural greenspace; Accessibility will be maintained and formalised through the upgrade of existing and creation of new PRowS. S1: Butterflies; impacts on invertebrates are assessed within the Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) in Section 7.8.71. S2: Birds; impacts on birds are assessed within the Ornithology Chapter. S3: Mammals; impacts on mammals are assessed within the species-specific section of the Ecology Chapter.</p> <p>S4: Dragonflies and damselflies (Odonata); impacts on invertebrates are assessed within the Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP040) in Section 7.8.71. S7: Fresh water fish; impacts on fish are discussed within the Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) Section 7.8.126. S13: Vascular plants; Environmental Statement: Volume 2 Appendix 7-5: Assessment of Frodsham Helsby Ince Local Wildlife Site (APP-081) states that European spindle (listed on Table 21 of the LWS Selection Criteria) is present within the LWS at SJ503781. This location is not within the Site boundary.</p>	<p>the LWS assessment. This should be assessed in the ES and updated as such, to enable full assessment.</p> <p>In addition, In Table 7-3: Terrestrial Ecology Chapter 7 (Vol 1) [APP-040] it is stated that Scoping of Ecological Features ES Vol 2 Appendix 7.5 Assessment of Frodsham Helsby Ince Local Wildlife Site includes an assessment of Frodsham, Helsby and Ince Marshes LWS against the current LWS selection criteria. This states “In order to avoid repetition, where a criteria of the LWS is met, and the receptor is scoped in separately (including HPs, other habitats, otter, water vole, fish and invertebrates), these are not assessed under non-statutory designated site.” This is not an accepted approach, as it means that the receptors are not assessed as a whole, in terms of impacts on the LWS as a whole receptor and this approach is not supported.</p>	
CWACC7.87	7.121	<p>As stated in the Biodiversity Net Gain Report (APP-143), paragraph 6.1.4, ‘reedbeds’ as classified in the Metric are not strictly according to the priority habitat definition and are instead isolated patches of reed associated with waterlogged areas. The Proposed Development has avoided higher value boundary habitats where reasonably practicable, including areas of reedbed. Reedbed, especially the more ecologically valuable areas, are often associated with ditches which are retained and avoided with the exception of crossing points. Further, an additional area</p>	<p>As per CWCC response to <b>ExQ1 - Q4.5.4</b>, note that in terms of the reedbed qualifying criterion, the CWCC response to misclassification of reedbed habitats on site is discussed at the response to ExA Questions Deadline 1 Q4.5.7. The metric habitat trading rule summary demonstrates that reedbed habitats are not compensated for, even with the proposed habitat creation referred to. The loss is even more than recorded in the updated metric, as CWCC does not agree with the declassification of some of the reedbed</p>	

		<p>of reedbed within the Order Limits, north east of Alder Lane is set to be enhanced as an area of wetland (shown on Figure A1.3 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission)). Retained reedbed totals over 8ha across the scheme, with a further 2 ha of reedbed to be created. Areas of wetland vegetation classified as reedbed being lost are generally those of lower value, showing signs of drying or of encroachment by shrub. As such, these areas are considered unlikely to meet LWS criterion H18. Appendix C to this document is a technical note which considers the status of reedbed identified at the Site and how they should be considered from a BNG perspective. Updated BNG Metric Spreadsheets have been provided alongside this submission [EN010153/DR/8.9]. Further Information On The Classification Of Reedbeds is also provided as Appendix C.</p>	<p>habitat. See response to ExA Questions Deadline 1 Q4.5.7 (i).</p>	
CWACC7.88	7.122	<p>The Applicant disagrees with this position. Linear habitats such as hedgerows, ditches and areas of woodland will be retained. Significant areas of trees, hedgerows, wetland and species diverse grassland will be created and managed for the benefit of wildlife and the removal of arable farmland and intensive grazing across most of the Order Limits will be beneficial to wildlife; extensive use of solar farms by a wide range of mammal, bird and invertebrate species has been published to this effect. It is accepted and acknowledged that FWF mitigation cells 2 and 5, and cell 1 will no longer be available to wetland birds for usage; this forms the basis of the NBBMA mitigation strategy which is presented in the Outline Landscape and Ecology Management Plan (as updated alongside this submission) and, as such, the loss of these cells for wetland birds is fully accommodated for. It is the Applicant's position that the NBBMA will also provide extensive ecological benefits for many species, above existing conditions. As such the Applicant disagrees that the Proposed Development will adversely impact wildlife corridors or buffers. Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) sets out the</p>	<p>As per <b>ExQ1 - Q4.1.3</b>, looking at the "Local Wildlife Site Selection Criteria for the Cheshire region. Covering the districts of Cheshire West and Chester, Cheshire East, Wirral, Halton and Warrington, November 2012, Updated February 2014" by Cheshire Wildlife Trust (<b>Appendix 2</b>) which details selection criteria for LWS. Criterion H24 Wildlife Corridors/buffers are selected as follows: "Areas of land including hedges and ditches may be selected for inclusion within (or extension to) LWS where they fulfil at least one of the following:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Provide a physical link between two or more areas of high wildlife value and has favourable conditions for the movement of species between these habitats.</li> <li><input type="checkbox"/> Provide a buffer zone protecting vulnerable sites from disturbance, pollution or development/recreational pressure.</li> <li><input type="checkbox"/> Provide additional buffering habitat for species associated with existing wildlife sites.</li> <li><input type="checkbox"/> Provide a significant physical extension to an area of high wildlife value and has favourable conditions for the movement of species out into the wider countryside.</li> </ul>	

		benefits that the Proposed Development will have on the habitats of the LWS in the longer term.	<p>An expert from the same document on guidance and justification on this criterion states “The movement of species through the countryside is vital for the sustainability of ecosystems by facilitating the genetic exchange of species and enabling movement in response to climate change. Important wildlife sites should be connected to other wildlife habitats and the wider countryside although it is recognised that some sites may consist of fragments of discontinuous habitat which cannot be linked.”</p> <p>The applicant’s response focuses on the smaller linear habitats left between panels and the fact that some habitat will be created on site. It is agreed that this provides some form of connective corridor, as stated in the original CWCC comment, however, this is significantly limited and the scale at which connectivity through and adjacent to the site will be reduced, is significant and has not been mitigated for. As stated within the LWS Selection Criteria document by CWT, the Wildlife Corridor/Buffer selection criteria does not just consider presence of direct connections, it considers links between areas of high wildlife value and providing buffering effects for existing wildlife sites, habitats and species, all of which will be severely reduced by the development, due to developing the land and fencing the solar array, leaving the SADA (approx. 250ha) inaccessible for non-breeding birds species using the site and the adjacent designated site and restricting access for other species.</p> <p>Note that Badger and Otter movement is also discussed in response to ExA Questions Deadline 1 at Q4.6.4.</p>	
CWACC7.89	7.123	These points have been responded to in the relevant sections above (CWACC7.04, CWACC7.05, CWACC7.08, CWACC7.26, CWACC7.31, CWACC7.47).	Please see relevant paragraphs referred to.	

CWACC7.90	7.124	These points have been responded to in the relevant sections above.	Please see relevant paragraphs referred to.	
CWACC7.91	7.125	Impacts on other qualifying features are addressed in the relevant sections of the ES, as described in CWACC7.86.	Please see relevant paragraphs referred to.	

#### Biodiversity Net Gain

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Biodiversity Net Gain</b>				
CWACC7.92	7.129	Table 6.1 of the Biodiversity Net Gain Report (APP-143) demonstrates that there is no net loss overall for the Proposed Development. There is a net loss of hedgerow units within the NBBMA alone, however the NBBMA alone delivers a net increase in habitat and watercourse units as shown in Table 6.1 of the Biodiversity Net Gain Report (APP-143). Additionally, while not required to adhere to statutory requirements, at least 10% of habitat and hedgerow units come from activities not associated with SPA mitigation (i.e., from outside of the NBBMA) as shown in Table 6.2 of the Biodiversity Net Gain Report (APP-143). Whilst the NBBMA does not achieve net gain in itself, habitat creation and enhancement in this area has been specifically tailored to ensure suitability for target non-breeding birds, therefore whilst the metric may not achieve a numerical net gain the habitat proposals are considered to be the most appropriate to achieve the desired ecological outcomes, and which cannot be measured solely with the application of a metric .	CWCC disagrees that the metric should not achieve no net loss and would suggest that if this is not currently possible, due to tailored mitigation, then the development footprint should be reduced, to enable no net loss to be achieved.	

CWACC7.93	7.130	<p>Trading rules are discussed in Section 6.1.4 of the Biodiversity Net Gain Report (APP-143). Appendix C to the Applicant's response to the CWACC RR has been provided to aid understanding of the characterisation of reedbed across the Site, with a focus on areas that are lost or modified by the Proposed Development.</p>	<p>As stated in CWCC response to ExA Questions Deadline 1 at Q4.5.7 (i), Appendix C is discussed as follows.</p> <p>The secondary codes 504-waterlogged and 505-Inudnated are stated as corresponding with the section of the f2f Reedbed definition that states "water table is above ground or at ground level for most of the year". This is not correct; these secondary codes are used to further define the level 2 primary code of "Wetland", of which the level 3 code is Reedbed and do not apply at the Level 3 stage in terms of definition. They can be used to define discreet areas within the level 3 code when mapping habitats, to provide further information regarding that habitat, but do not contribute to its definition. In addition, the definition of one of the exclusions of the Wetland category, has been incorrectly added to the definition of secondary code 504 "wet defined as water table within 40cm of the surface and soil contains free water for most of the year". Note that secondary code 504- Waterlogged, states that only small patches remain wet during mid-summer, so does account for drying of reedbeds.</p> <p>The only definitive evidence of the classification of reedbed habitats, is the presence of more than 5m width of reedbed. This is the primary factor that should define the classification of the reedbed, in the absence of any other agreed evidence. Inclusions for the f2e reedbed habitat type are areas that meet the Common reed size threshold and that include both reed-filled ditches and reed-dominated vegetation extending on to dry land. Therefore, dry areas of reedbed are accepted into the f2e classification. The only exclusions to f2e are if parcels of common reed are less than 5m in width, and Common reedmace swamp, which note, do not include references to water levels. The size and reed species are the only robust definition factors that can be used to differentiate between the Reedbed habitat type and others and this</p>	
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			<p>should be used to classify whether or not areas of the site are reedbed, as defined by UK Habs,.</p> <p>Four areas of reedbed are singled out for assessment within Appendix C, with no justification as to why the other areas of Reedbed, as mapped in Figures 1a, 1c, 1d and 1e of the Biodiversity Net Gain Report (APP-143). On the basis of the coding of reedbed habitats as discussed above, it is not into concurred that the section of reedbed labelled Frodsham Windfarm East, is not reedbed, as the areas of reed are reported to exceed 5m in width.</p> <p>Although reedbed habitats are not associated with the bird species associated with the Estuary (although Teal have been recorded near to the Lum which has reedbed habitats) per se, in terms of wetland habitats and hydrology, the reedbed habitats will be complementary to the overall wetland network on and adjacent to the site that these species will be using. There are also bird species recorded on site not associated with the Estuary, that utilise the reedbed habitats.</p>	
CWACC7.94	7.131	<p>It has not been claimed in either the Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040) or within the Biodiversity Net Gain Report (APP-143) that a net gain has been achieved in strict accordance with the Biodiversity Metric user guide, only that a net increase in units has been achieved. A discussion of trading rules is provided at section 6.1.4 of the Biodiversity Net Gain Report (APP-143).</p>	<p>As per CWCC response to <b>ExQ1 Q4.5.7</b>, CWCC states that; the trading rules are a basic function of the metric (not a “strict” application) and Natural England user guidance on this point has been clear in all metric versions (including historical non-statutory and statutory versions) to date. The trading rules are set as such, to avoid habitat deficits and work in partnership with the metric’s principle of calculating all habitat types and conditions into the same units. The higher the distinctiveness, the stricter the trading rule, to ensure valuable habitats are retained and replaced satisfactorily. For High distinctiveness habitats, such as Reedbeds, the rule is that the habitat must be replaced with the same habitat. Therefore, the metric does not follow best practice guidance. In addition, between the two metrics submitted, the trading rule deficit of reedbed has significantly decreased from 65.61 units to 12.59 units,</p>	

			with no updated supporting information or plans to explain this significant reduction. There is explanation provided of the de-classification of an area of reedbed, but there is no information about how this translates into units. CWCC disagrees with the declassification, in any case.	
CWACC7.95	7.132	<p>It is not accepted that reedbeds have been misclassified; these have been presented as reedbeds in all relevant documents, including Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP-040), Environmental Statement: Volume 2 Appendix 7-1: Habitats Baseline Report (APP-075) and the Biodiversity Net Gain Report (APP-143). Further information is provided on reedbeds in Appendix C to this report. It is however maintained that the reedbeds do not all meet priority habitat description, and as such in this instance are likely to have been overvalued within the metric which sets this habitat type as 'high distinctiveness' by default. The loss of reedbed is addressed within the Biodiversity Net Gain Report (APP-143). It is added that qualifying bird species of the Mersey Estuary SPA and Ramsar are not those which are reliant upon reedbed habitats. The Ramsar designation does include reedbed habitats within its boundary as a designated feature. Impacts to all qualifying features of the Mersey Estuary Ramsar and SPA, including the Ramsar and underlying SSSI are addressed in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission), which concludes no Likely Significant Effects with appropriate mitigation in place.</p>	<p>As per CWCC response to <b>ExQ1 Q4.5.7</b>, the applicant states that Reedbeds have been classified as such, but do not meet priority habitat descriptions, so have been overvalued. This point is then used to justify the deficit in trading rules when concerning reedbeds, which is not accepted, as trading rules apply within the metric. This will be assessed by CWCC when the full information has been provided. Referring to Priority habitat JNCC definition confuses the applicant's approach. Therefore, there is no precedent or justification for this approach, and the layout should be amended to retain or create further reedbeds to resolve this trading rule error.</p> <p>There is no accompanying updated Biodiversity Net Gain report to include this explanation given in Appendix C, nor explanation of the new metric information submitted that has a reduction in trading rule deficit for Reedbeds.</p> <p>Appendix C is discussed as follows: The secondary codes "504-Waterlogged" and "505-Inundated", are stated as corresponding with the section of the f2f Reedbed definition that states "water table is above ground or at ground level for most of the year". This is not correct; these secondary codes are used to further define the level 2 primary code of "Wetland", of which the Level 3 code is Reedbed and are not referred to at the Level 3 stage in terms of definition. They can be used to define discreet areas within the level 3 code when mapping habitats, to provide further information regarding that habitat, but do not contribute to its definition. In addition, the definition of one of the exclusions of the Wetland category, has been incorrectly</p>	

			<p>added to the definition of secondary code “504- Waterlogged” “wet defined as water table within 40cm of the surface and soil contains free water for most of the year”. Note that secondary code 504- Waterlogged, states that only small patches remain wet during mid-summer, that either the water table is at the surface for 50-7-0% of the year, or the soil is completely saturated, so does account for dry areas reedbeds.</p> <p>The most robust factor of the classification of reedbed habitats, is the presence of more than 5m width of reedbed. This is the primary factor that should define the classification of the reedbed, in the absence of any other agreed evidence, especially ones that are defined by season or percentage of water/saturated soil over a year, which cannot often be demonstrated, due to time constraints. Inclusions for the f2e reedbed habitat type are areas that meet the stands of Common reed size threshold and that include both reed-filled ditches and reed-dominated vegetation extending on to dry land. Therefore, dry areas of reedbed are accepted into the f2e classification. The only exclusions to f2e are if parcels of common reed are less than 5m in width, and Common reedface swamp, which note, does not include references to water levels.</p> <p>Four areas of reedbed are singled out for assessment within Appendix C, with no justification as to why the other areas of Reedbed, as mapped in Figures 1a, 1c, 1d and 1e of the Biodiversity Net Gain Report [APP-143]. On the basis of the coding of reedbed habitats as discussed above, it is not into concurred that the section of reedbed labelled Frodsham Windfarm East, should not be classified as UK Habs reedbed, as the areas of reed are reported to exceed 5m in width.</p> <p>CWCC would note that even if the metric results are agreed, in terms of the habitat classifications and numerical values, if the standard interpretation of those results is not applied as best practice, in terms of trading</p>	
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			<p>rules, a significant overvaluing of the habitat provision and undervaluing of habitat loss will occur.</p> <p>Although reedbed habitats are not directly associated with the bird species associated with the Estuary (although Teal have been recorded near to the Lum which has reedbed habitats) per se, in terms of wetland habitats and hydrology, the reedbed habitats will be complementary to the overall wetland network on and adjacent to the site that these species will be using. There are also bird species recorded on site not associated with the Estuary, that utilise the reedbed habitats.</p>	
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Mitigation Hierarchy

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat - Mitigation Hierarchy</b>				
CWACC7.96	7.133	<p>While reedbed is assigned as high distinctiveness by default within the Statutory Biodiversity Metric Calculator it is not considered to strictly accord with the priority habitat description, and so is not considered to offer ecological value to this level. Regardless, habitats of high distinctiveness have been avoided as far as possible across the Order Limits. The Proposed Development has avoided higher value boundary habitats where reasonably practicable, including areas of reedbed. Reedbed, especially the more ecologically valuable areas, are generally associated with ditches which are retained and avoided (with the exception of crossing points). Further, an additional area of reedbed (north east of Alder Lane, by Marsh Farm) is set to be enhanced as an area of wetland, without which the reed areas here will unquestionably lost to scrub which is already well encroached. This is shown on Figure A1.3 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission). All areas of wetland vegetation classified as reedbed being lost are considered to be of lower</p>	<p>As per CWCC response to <b>ExQ1 Q4.5.7</b>, CWCC asserts that statements such as "habitats of high distinctiveness have been avoided as far as possible across the Order Limits and that the development has avoided higher value habitats where reasonably practicable". are general statements, with no project-specific justification and the metric provided evidences this, with the deficit in trading rules demonstrating that reedbed habitats have not been adequately compensated for, even in the updated metric, which includes the enhancements referred to in the Applicant's response. It is also stated that the loss of wet woodland has been avoided, and this will be assessed when the full metric spreadsheets and supporting information are provided.</p>	

		<p>value, showing signs of drying or of encroachment by shrub and which will very likely be lost within 5 to 10 years in the absence of intervention management.</p> <p>The Arboricultural Assessment (APP-146) has now been reviewed and it is clarified that there will be no loss of wet woodland (tree group G007#). The Biodiversity Net Gain assessment has been updated accordingly.</p>		
CWACC7.97	7.134	<p>As stated in CWACC7.96, higher ecological value reedbed has been avoided where reasonably practicable with losses restricted principally to reedbed of lower ecological value (i.e., that frequently drying, patchy or subject to scrub encroachment). It is clarified that, as part of the Proposed Development, heavily encroached (scrubbed and deteriorating in value) reedbed in the vicinity of Marsh Farm, Alder Lane, will be re-vitalised through the creation of open water areas and the removal of scrub. This reedbed area is not protected and will be entirely lost in the absence of the interventions (and subsequent management) provided by the Proposed Development. The Applicant has applied the mitigation hierarchy to avoid and reduce losses where practicable, in particular, higher value areas of the reedbed. It has then mitigated and compensated the impact through enhancing existing sub-standard areas of reedbed and providing new areas of reedbed.</p>	<p>As per CWCC response to <b>ExQ1 Q4.5.7</b>, the applicant response states that, that the higher value habitats have been avoided “where reasonably practicable”, with no detailed site-specific justification given. References to existing reedbed being lost to succession are made, which is not relevant to the biodiversity gain metric, as already pointed out by CWCC in paragraph 7.132. The Applicant asserts again, that the mitigation hierarchy has been applied “to avoid and reduce losses where possible”, with no detailed project-specific justification.</p>	
CWACC7.98	7.135	<p>The landscape design has been developed to deliver biodiversity benefit. The approach to the biodiversity design is described in the Design Approach Document (APP-130). The Outline Landscape and Ecology Management Plan (as updated alongside this submission) sets out how habitats specified within the BNG Report will achieve their targeted habitat type and conditions within the anticipated timeframe. It also provides monitoring criteria and commits to identifying remedial/contingency measures to be implemented in the event that these targets are not achieved.</p>	<p>As per CWCC response to <b>ExQ1 Q4.5.7</b>, the applicant states that the Design Approach Document [APP-130] gives information on justification for decisions made on habitat retention and loss. However, this document does not give any detailed information on the approach, with only general statements given.</p> <p>In addition, an updated Biodiversity Net Gain report has not been provided to include the explanation provided in Appendix C of the Applicant’s Response to CWCC’s Relevant Representation [PD2-027], nor</p>	

			<p>explanation of the new metric information submitted. The trading rule deficit of reedbed has significantly decreased from 65.61 units to 12.59 units, with no updated supporting information, explanation, or plans provided.</p> <p>There are currently disputes regarding the metric results as outlined above. This will be assessed in full when the full Metric Excel spreadsheets and supporting information as outlined above, are provided.</p>	
CWACC7.99	7.136	This statement is not substantiated or agreed.	As per CWCC response to <b>ExQ1 Q4.5.7</b> , CWCC is not satisfied with the Applicant's assessment that the proposed development will deliver a measurable net gain in biodiversity units, or even no net loss in biodiversity units, due to misclassification of habitats and trading rule deficit, along with lack of supporting information, as detailed above in response to paragraphs 7.129 to 7.135. A full response will be provided when the full metric spreadsheet and supporting documents are provided.	
CWACC7.100	7.137	This Applicant has conducted an update survey in relation to the areas of the watercourses identified and these have been included within the revised BNG Metric Spreadsheets updated alongside this submission [EN010153/DR/8.9]. The UKHab category 'developed land; sealed surface has not been chosen as it not considered to accurately represent the ecological value of the Site. Sealed surface is a category that can be used for buildings, hardstanding and other developed land of negligible biodiversity value, while the land underneath panels would be accessible for biodiversity and be vegetated. It should be noted that when applied strictly the UKHab methodology uses a 'top down' mapping approach, and while biodiversity net gain is based on the UKHab, habitat classifications does not strictly follow the methodology. It is evident that the land within the site will be accessible for biodiversity and so provides some value,	<p>As per CWCC response to <b>ExQ1 Q4.5.7</b></p> <p>the following comments are made, with the following necessary information still outstanding:</p> <ul style="list-style-type: none"> <li>• The missing watercourses are reported to have been included now and this will be assessed when the information is received.</li> <li>• The "5% rule" has been further justified giving examples from other DCO applications and asserting that the panels should not be fully classed as sealed surface, due to accessibility and habitat provision underneath, which CWCC now accepts.</li> </ul> <p>The following missing information previously requested has not been addressed:</p>	

		<p>which would not be accurately reflected by the Developed Land Sealed Surface category. The updated UKHab guidance in relation to solar proposals has been in place since the release of version 2.01 in July 2023. Since this time, a series of solar applications have been approved through both DCO, under the TCPA and locally by CWACC. The approach taken to the Frodsham Solar Farm application is fully consistent with that accepted on these other developments. Examples are provided as follows: CWC 24/01484/FUL Shocklach Hall Farm. DCO Tillbridge – Approved - 5% of PV areas assessed as ‘developed land’. (EN010142/APP/7.14) Stonestreet Green (recommended for approval - awaiting decision). No allowance for panel infrastructure (EN010135/APP/7.1). Oaklands Farm Solar Park – Approved. No allowance for panel infrastructure (EN010122/APP/6.1/Appx 6.12). Byers Gill solar – Approved. No allowance for infrastructure (EN010139/APP/6.6).</p>	<ul style="list-style-type: none"> <li>• Baseline habitat type and condition assessments should be provided, to ensure the most appropriate habitat types have been assigned correctly according to UK Habs and the correct condition has been assigned.</li> <li>• The classification of watercourse types is required to be detailed, to understand why different habitat types have been allocated.</li> <li>• Baseline and proposed UK Habs plans with the habitat references used in the Habitat Reference Number column of the metric, should be provided.</li> </ul>	
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Other habitats

Ref	Para number	Applicant’s Response (PD2-027)	CWCC comments	
<b>RR-037 Section 7. Ecology and habitat – Other habitats</b>				
CWACC7.101	7.138 – 7.141	<p>As set out by CWACC, the site investigations undertaken for the Proposed Development do not identify surface or shallow observations of peat or peat-forming conditions across the Site. Peat deposits are capped by tidal sediments indicating marine transgression. Given the nature of the development, additional loading due to solar farm infrastructure is likely to be minor and minimised further by the use of shallow piles. Vehicles access the Site would be akin to loading experienced from agricultural practices. The peat horizons lie below the envisaged piling depth. This will further limit any hydrological impacts to the relic peat body and any preserved archaeological remains therein. Although no significant peat impacts are envisaged mitigation measures such as the use of low-</p>	<p><b>ExQ1 - Q3.2.15</b></p> <p>CWCC notes in the Applicant’s responses to CWCC’s Relevant Representation at paragraphs 7.138-7.141 and 8.7-8.8 [RR-037] relating to the need for further investigation in relation to compaction and hydrological impacts. CWCC does not have the technical expertise to confirm or contradict the Applicant’s conclusions. CWCC considers it appropriate to secure the mitigation measures referred to, including the use of low-pressure piling machinery (see responses at Q6.0.1 and Q9.4.2).</p>	

		pressure piling machinery will be used should detailed site investigation prior to construction identify any areas of peat at depths of less than 5m. This commitment has now been identified in the Outline Construction Environmental Management Plan (as updated alongside this submission). Given the relic nature of the peat bodies present this will ensure that peatland hydrology and therefore carbon and any archaeological remains are preserved insitu. Table 10-3 erroneously referred to Chapter 7. The assessment of climate change impacts is provided in Environmental Statement: Volume 1 Chapter 5: Climate Change (APP-038), where the impact on peat is specifically addressed.		
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#### 8. Peat

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 8: Peat</b>			
CWACC8.1	8.7 – 8.8	Environmental Statement: Volume 1 Chapter 10: Ground Conditions (APP-043) has assessed the potential for peat to be present across the Site and whether there would be any impact on peat present. The ground investigation data shows that there is no peat present at depths which could be impacted by the Proposed Development. Within the western half of the Solar Array Development Area (SADA), including the NBBMA, there has been extensive site investigation to depth as part of the Frodsham Wind Farm development. This shows typical depths of made ground to 9m below ground level (bgl), with fibrous peat/organic silts at a depth of 10m bgl. (ref Table 10-10 of Environmental Statement: Volume 1 Chapter 10: Ground Conditions (APP043)). Within the eastern half of the SADA, there was less historical site investigation data available, so the Applicant undertook specific investigation, including fourteen windowless sample boreholes and one hand-dug pit, as well as a 1-day soil and peat survey. This is reported in the Peat Reconnaissance	<p>[As above] <b>ExQ1 - Q3.2.15</b></p> <p>CWCC notes in the Applicant's responses to CWCC's Relevant Representation at paragraphs 7.138-7.141 and 8.7-8.8 [RR-037] relating to the need for further investigation in relation to compaction and hydrological impacts. CWCC does not have the technical expertise to confirm or contradict the Applicant's conclusions. CWCC considers it appropriate to secure the mitigation measures referred to, including the use of low-pressure piling machinery (see responses at Q6.0.1 and Q9.4.2).</p> <p>Also <b>ExQ1 – Q6.0.1</b></p> <p>From an archaeological perspective CWCC/CAPAS confirm that the supply of more information on the nature of the peat deposits through a programme of geoarchaeological field investigation can be dealt with</p>

		<p>Survey contained in Appendix I of ES Vol 2 Appendix 10-1 Stage 1 Geo-Environmental Assessment (APP-097). The investigation data provided information to depths of 5m, which is below the maximum depth of the proposed foundations. The investigation did not identify the presence of any peat. Regarding archaeology, the Applicant has responded to matters concerning peat deposits at Ref CWACC9.1. The Applicant has outlined a programme of geoarchaeological investigation in paragraph 11.9.1 of Environmental Statement: Volume 1, Chapter 11: Cultural Heritage and Archaeology (APP-044).</p> <p>This is secured within Table 5-6 of the oCEMP (as updated alongside this submission). CWaCC will also have approval of the archaeological mitigation strategy for the Proposed Development, as secured by Requirement 18 of the draft DCO. Regarding compaction and hydrological impacts a response has been provided at Ref CWACC7.101. This confirms that based on the information gathered to date and the nature of the construction and operation of the Proposed Development, there would not be adverse effects on buried peat. Although no significant peat impacts are envisaged mitigation measures such as the use of low-pressure piling machinery will be used should detailed site investigation prior to construction identify any areas of peat at depths of less than 5m. This commitment has been identified in the Outline Construction Environmental Management Plan (as updated alongside this submission).</p>	<p>at the discharge of Requirements stage (Requirement 18 of draft DCO) [REP1-005] and as indicated in Section 2.2 of the oWSI [AS-025].</p> <p>CWCC maintains that a clearer assessment of the peat depths across the site and assessment of compaction and hydrological impacts is required. Please cross reference to comments in CWCC's Local Impact Report: E.026 [REP1-046] and Written Representations (paragraphs 4.79 to 4.83) [REP1-048]. The Applicant's response to CWCC's Relevant Representation [RR-037] (7.138-141) [PD2-027] deals with additional loading and hydrology. The Applicant's Peat Reconnaissance Survey Appendix I [APP-097] only provides information to a depth of 5m. Further investigation is expected to be carried out under the oWSI [AS-029]. At Deadline 1 following ISH1 the Applicant provided a Technical Note on Peat Resources [REP1-043]. It is noted that Figure 3.3. reveals peat encountered below 2m within the proposed NBBMA; and at paragraph 3.7 <i>"the potential for interaction of drainage or duct excavations and groundworks, in the areas outside the SADA and NBBMA, is limited though potentially may occur to the south west of the NBBMA"</i>. Regarding paragraph 4.1 that: <i>"for a project of this nature it would not be unreasonable for investigation points to be based on a 25m to 50m grid spacing and the method of investigation selected to determine the presence or absence of peat"</i>. CWCC accepts that a 25m grid interval seems appropriate but, clearly, this will need archaeological oversight and monitoring to retain samples from appropriate cores. This needs to be covered in the detailed geoarchaeological WSI. Fig 4.1 makes reference to <i>"potentially up to 6 No. boreholes may be considered within these (black hatched) areas"</i>. CWCC do not raise issue with this.</p>	
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			CWCC welcomes the commitment in the oCEMP (REP1-021) to a Peat Management Plan should further pre-construction ground investigation reveal peat resources that are liable to be impacted. The use of low-pressure piling should also be secured via the draft DCO. (See also response to Q 9.4.2 below).	
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#### 9. Archaeology and Cultural Heritage

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 9. Archaeology and Cultural Heritage</b>				
CWACC9.1	9.13	The Oxford Archaeology: Desk-Based Geo-Archaeological Study for the HyNet CO2 Runcorn Spur Project has been reviewed. The report has been entered into the Cheshire Historic Environment Record (HER) under HER report number R4851. The associated HER Event number is ECH741. It is noted that the transects and modelled deposit depths recorded in HER report number R4851 support the conclusions of Environmental Statement: Volume 1, Chapter 11: Cultural Heritage and Archaeology (APP-044). The modelled peat depths will be used to target the programme of geoarchaeological investigation outlined in 11.9.1 of Environmental Statement: Volume 1, Chapter 11: Cultural Heritage and Archaeology (APP-044) and which are secured within Table 5-6 of the	CWCC is satisfied that the archaeological aspects will be dealt with via the oWSI.[AS029].	

		oCEMP (as updated alongside this submission).		
CWACC9.2	9.14	An outline Archaeological Written Scheme of Investigation (oAWSI) (AS-028) has been produced for the required programme of archaeological works. Where archaeological work is required, a specific full Written Scheme of Investigation (WSI) will be prepared in consultation with Cheshire Archaeology Planning Advisory Service (CAPAS) for Cheshire West and Chester Council (CWACC). As above, the results recorded in HER report number R4851 will be used to target the programme of geoarchaeological investigation. The development of, and compliance with the approved AWSI is secured via Requirement 18 of the Draft DCO (as updated alongside this submission).	Response noted, and compliance with the oWSI is agreed.	

#### 10. Flood Risk and Drainage

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 10. Flood Risk and Drainage</b>				
CWACC10.1	10.5 – 10.8 & 10.12 – 10.18	Paragraph 1.1.1 and 3.1.1 of NPS EN-1 states that there is an urgent need for a significant amount of large-scale energy infrastructure; and that there needs to be a significant number of deliverable locations for CNP infrastructure; and that in each case and for each location development should maximise the available capacity	<b>ExQ1 Q8.2.1</b> PPG advice was updated in Sept 2025 amending paragraphs 23, 27 and 28 and adding 27a. which all relate to the sequential approach to the location of development.	

	<p>(Paragraph 4.2.21). CWACC does not query the scale of development, but does question whether, with a grid capacity of 100MW, and a development of 147MW, there may be scope to avoid or reduce the amount of development in areas of highest flood risk without detriment to the commercial prospects of delivery. Paragraph 2.10.55 of NPS EN-3 states that: “The installed generating capacity of a solar farm will decline over time in correlation with the reduction in panel array efficiency. There is a range of sources of degradation that developers need to consider when deciding on a solar panel technology to be used. Applicants may account for this by overplanting solar panel arrays92.” Footnote 92 explains the logic of ‘overplanting’. It states: “‘Overplanting’ refers to the situation in which the installed generating capacity or nameplate capacity of the facility is larger than the generator’s grid connection. This allows developers to take account of degradation in panel array efficiency over time, thereby enabling the grid connection to be maximised across the lifetime of the site. Such reasonable overplanting should be considered acceptable in a planning context so long as it can be justified and the electricity export does not exceed the relevant NSIP installed capacity threshold throughout the operational lifetime of the site and the proposed development and its impacts are assessed through the planning process on the basis of its full extent, including any overplanting.”</p> <p>The Proposed Development has been assessed on the basis of the capacity applied for, and the overplanting allows for both degradation in panel efficiency and consequential fluctuations in electricity generation. It is for these reasons that the Proposed Development has been ‘sized’ as it has, in order to ensure that the available grid capacity is met, and that this is maximised across the life of the development. The Applicant has explained the scale of the development in the context of the current grid offer in its response to the section 51 advice following the issue of the decision to accept the application for examination (AS-001). The response describes the basis of the capacity in terms of</p>	<p>The guidance confirms that consideration be given to all sources of flooding including areas at risk of surface water flooding.</p> <p>Given that much of the site is already covered by EA mapping Flood Zone 3, (as opposed to surface water), it is unlikely that further work by the Applicant on its sequential approach would result in development being steered to an alternative site with a lower risk of flooding.</p> <p>CWCC made reference in its Relevant Representation [RR-037] (paragraph 10.4) to the surface water flood risk identified on the higher-level dredging deposit grounds (which are EA Flood Zone 1). This was in regards to sequential assessment of the BESS options within the SADA. The Applicant’s response in PD2-027 did not comment directly on paragraph 10.4 in RR-037 but provided response to RR-037 10.5-10.18. The Applicant’s response addresses the latest PPG (referring to para. 27a and some of the background case law). With regards to the specific point about avoiding surface water flooding on the higher dredging deposit cells (and the options for siting the BESS) the Applicant states:</p> <p><i>“CWACC raise a point in relation to modifying the layout in areas identified at risk of surface water flooding (as different from fluvial flooding). This matter is considered within the Flood Risk Assessment (page 29) (AS-019) where it is identified that the easternmost extent of the Option 1 BESS and Frodsham Solar. Substation encroaches into the ‘low’ risk surface water flood extent during the present day and climate change scenarios. EA surface water flood depth mapping shows that during the ‘low’ risk climate change event, flood depths do not reach up to 200mm. It is evident that these areas of surface water flooding are associated with low spots / depressions within this area of the dredging deposit ground. The area of the BESS and Frodsham Solar Substation compound would be re-engineered as part of the development process, which is likely to eliminate</i></p>	
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	<p>using a private wire connection to local businesses and Battery Energy Storage optimisation, as well as the requirement to over-plant the Site to ensure the project is designed in the most efficient way to optimise the solar resource at the Site. It is on this basis that the Applicant considers that the current grid connection capacity is not the correct way to view the optimum installed capacity at the Site, to do so would result in an inefficient scheme which does not achieve the Government's objective of maximising available capacity and meeting the urgent need for more low carbon electricity generation. Paragraph 5.8.6 of NPS EN-1 confirms that the aim of planning policy on development and flood risk is to ensure that flood risk from all sources of flooding is taken into account and to steer development to area with the lowest risk of flooding. Where it is necessary in flood risk areas; "...for example where there are no reasonably available sites in areas at lower risk. The policy aims to make it safe for its lifetime without increasing flood risk elsewhere..." Consequently, prior to developing in higher flood risk areas, a sequential test assessment should determine whether there are any reasonably available [our emphasis] sites in areas at lower risk. PPG Flood Risk Paragraph 28 Reference ID:7-028-20220825 defines what constitutes a 'reasonably available' site. It states that: "Sites should be considered 'reasonably available' for the purpose of the sequential test if their location is suitable for the type of development proposed, they are able to meet the same development needs and they have a reasonable prospect of being developed at the same time as the proposal." In applying the Sequential Test, PPG Flood Risk Paragraph 27a Reference ID: 7-027a-20220825 of states that: "For individual planning applications subject to the area to which the test needs to be applied will be governed by local circumstances relating to the catchment area for the type of development proposed and the need it is proposing to address." PPG Flood Risk Paragraph 27a goes on to state: "The sequential test should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need." These PPG</p>	<p><i>the localised survey water flooding in this area. Furthermore, as can be seen from Figure 2- 5f, the BESS units and Power Conversion Units would be raised above ground level and thus not susceptible to localised shallow surface water flooding. Given the low risk and shallow nature of the surface water flooding, along with the ability to introduce design measures to mitigate any localised flooding it is evident that BESS and substation compound can be designed to ensure the built development components remain operational and that operatives would remain safe."</i></p> <p>Reference is then made to PPG paragraph 27 and the advice in relation to NPPF paragraph 175 to take a proportionate approach and concluding that the sequential test need not be applied.</p> <p>Paragraph 27 of PPG omits referring to the point in paragraph 175 that the exception to carrying out a sequential assessment is in relation to situations where there is no built development etc.. "<i>The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that <b>no built development</b> within the site boundary ..."</i> (our emphasis).</p> <p>Following the Applicant's response in [PD2-027] regarding flood risk, CWCC generally accepts the Applicant's submission in relation to the sequential test relating as it may relates to finding other potential sites/disaggregation of the development etc. However, CWCC considers that the sequential approach ought to be applied to the site layout, and where practical, the project ought to avoid built development in areas of the site where there is a higher level of surface water flood risk (e.g. in considering the BESS options).</p> <p>See Waterco drawing 14740_EA_RoFSW Appendix F 'EA Maps &amp; Correspondence' in Appendix 9-1: Flood Risk Assessment and Drainage Strategy Part 1 of 5 (AS-019).</p>	
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	<p>extracts were updated in September 2025 following the High Court judgment in <i>Mead Realisations Ltd v Secretary of State for Housing Communities and Local Government 2024</i> (at paragraph 94), which is referenced in the Environmental Statement Volume 2 Appendix 3-1: Alternative Site Assessment (APP-053) and set out that when sequentially considering suitable sites there is a need for “flexibility and realism” from all parties, and that (at paragraph 98) a “...broad, non-specific approach by planning authorities to sequential assessment which generally disregards development requirements could lead to inappropriate business decisions being imposed on developers or the market.” Furthermore, it recognised (at paragraph 98) that some development types (such as power stations, transport infrastructure, schools or waste disposal facilities) may be of “...a specialised or highly specific nature with particular or intrinsic requirements as to the site, form, scale of development, access and catchment.” Finally, these considerations should be seen in the context that Paragraph 2.10.24 of NPS EN-3 states that: “...the connection voltage, availability of network capacity, and distance from the solar farm to the existing network can have a significant effect on the commercial feasibility of a development proposal...”</p> <p>Taking these policy and judicial pronouncements together, it is noted that:</p> <ul style="list-style-type: none"> <li>• the ‘catchment’ for the Proposed Development has to relate to the connectability to a grid connection. In this case a 5km search area adopted within the Environmental Statement: Volume 2 Appendix 3-1: Alternative Site Assessment (APP-053) has been justified, and CWACC appear to accept that;</li> <li>• the development ‘need’ that is required to be met is a site that can maximise electricity generation capacity at an available grid connection, in this case the Frodsham SPEN substation, and thus the scheme has been sized and scaled accordingly; and</li> </ul>	<p>Were the sequential test passed or not needed, as Essential Infrastructure consideration of the Exception Test is still needed.</p>	
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		<ul style="list-style-type: none"> <li>• the Applicant has considered a range of factors of relevance to being able to develop a solar farm, including access, the distance to the point of connection (including the cost and programme implications that come with being a greater distance away) and meeting policy requirements to be able to benefit from the presumption of consent which comes from meeting NPS requirements.</li> </ul> <p>CWACC acknowledge the:</p> <ul style="list-style-type: none"> <li>• ‘clear national need for the development of energy infrastructure’, and that this need is urgent (NPS EN-1 paragraph 3.1.1);</li> <li>• that CNP infrastructure should be progressed as quickly as possible (NPS EN-1 paragraph 3.3.63);</li> <li>• that a significant number of deliverable locations for CNP infrastructure is required and for each location to maximise its capacity (NPS EN-1 paragraph 4.2.21); and</li> <li>• that applicants should seek to maximise existing grid infrastructure (NPS EN-3 paragraph 2.10.25).</li> </ul> <p>Reducing or ‘pulling back’ the development would undoubtedly reduce the energy generated, and conflict with the need to maximise the capacity available from the grid.</p> <p>Having identified the available grid capacity at the Frodsham SPEN Substation, and the pressing and urgent need to maximise the capacity of it, then in accordance with the PPG on Flood Risk Paragraph 24 Reference ID: 7-024-20220825, the Applicant has undertaken a Sequential Test Assessment to identify if there are areas at lower risk of flooding that are ‘reasonably available’ and could deliver the same development project and the same time as the Proposed Development. This requires judgement and proportional assessment against a number of site selection criteria. This process is fully set out in the Environmental Statement: Volume 2 Appendix 3-1: Alternative Site Assessment (APP-053).</p>		
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	<p>CWACC suggest that the option of disaggregating the project into two parcels does not appear to have been investigated in depth. The Applicant recognises that PPG Flood Risk Paragraph 27a Reference ID:7-027a-20220825 states: “It may also, in some cases, be relevant to consider whether large scale development could be split across a number of alternative sites at low risk of flooding, but only where those alternative sites would be capable of accommodating the development in a way which would still serve its intended market(s) as effectively.”</p> <p>However, disaggregating the project into two parcels so that the lower flood risk area is fully utilised, and the remaining grid capacity is taken up by developing land elsewhere within a lower flood risk area, would require development south of the M56 corridor. The available land between Helsby and Frodsham strongly serves the purposes of Green Belt, most notably purpose (b) “to prevent neighbouring towns merging into one another”. Furthermore, developing part of the site south of the M56, or further to the south of Frodsham, would require substantial engineering of any grid connection under the M56 and Helsby / Frodsham railway.</p> <p>The Applicant’s assessment of possible alternative sites within the Environmental Statement: Volume 2 Appendix 3-1: Alternative Site Assessment (APP-053) demonstrates that the alternative Option Areas (B and C) are heavily constrained by almost all of the criteria used, such that they would never be considered ‘reasonably available’ in that they would not be suitable for the type of development proposed or have a reasonable prospect of being developed at the same time as the proposal. It was for this reason that disaggregating the Site was not considered further.</p> <p>CWACC has made reference to the Aston Grange Farm (20MW solar and 6MW BESS) planning application (reference 24/03807/FUL), specifically to the Aston Flood Risk Sequential Test Assessment. This appears to be because it includes an assessment of four potential</p>		
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	<p>additional sites. The Aston Grange Flood Risk Assessment has been undertaken because there are areas of the site that are at medium and high risk of surface water flooding. The Aston Grange application site is beyond Option Area C and consequently does not meet the inclusionary criteria (within 5km) applied by the Applicant (Environmental Statement: Volume 2 Appendix 3-1: Alternative Site Assessment (APP-053)). The four alternative sites considered within the Aston Grange Flood Risk Assessment are:</p> <ul style="list-style-type: none"> <li>• Land South of Aston (within Option Area C)</li> <li>• Aston Heath (within Option Area C)</li> <li>• Dutton (beyond the 5km search area)</li> <li>• South Higher Lane (beyond the 5km search area)</li> </ul> <p>All four of the option areas considered include areas of medium to high surface water flooding. Only 'Land South of Aston' and 'Aston Heath' are located within the 5km search area for the Frodsham Solar proposal. The Aston Grange Farm assessment concluded that the alternative sites rated poor to moderate against the assessment criteria used (previously developed land; visual impact; local constraints; and access). This broadly reflects the assessment undertaken in support of the Proposed Development: Environmental Statement: Volume 2 Appendix 3-1: Alternative Site Assessment (APP-053), in which the Option C Area performed more negatively than the Order limit area (Area A) in all criteria (network connection; proximity to dwellings; agricultural land classification; irradiance and topography; accessibility; cultural heritage impact; landscape sensitivity; landowners; Green Belt) save for: proximity to ecological designations and flood risk. Critically, as set out above, to satisfy the sequential test new development should be steered to areas with lower risk of flooding, albeit they must be 'reasonably available' appropriate for the proposed development that can meet the identified need at the same time. The alternative sites identified within the</p>		
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		<p>Aston Grange Farm application could not meet that need in much the same way as the Option Areas B and C could not meet that need.</p> <p>In conclusion in respect of fluvial flooding, the Applicant acknowledges that part of the Proposed Development is located within Flood Zone 3, and the identification of alternative sites as part of the sequential test assessment process identifies areas that are in lower Flood Zone area (albeit still subject to surface water flooding). The Applicant has undertaken an appropriate assessment to determine whether these sequentially preferable areas are 'reasonably available'. That process has demonstrated that, taking into account the multiple factors that influence the suitability of a site for the development of a solar farm, that the alternative options would not be suitable for the type of development proposed, would not be able to meet the same development needs, and / or would not have a reasonable prospect of being developed at the same time as the proposal. In coming to this judgement, factors such as proximity to ecological designations have been factored in (but not considered to be a 'show-stopper' as impacts to proximate ecological receptors can be mitigated), a point specifically raised by CWACC in the relevant representation. For all these reasons the Applicant considers that the sequential test is met. CWACC has questioned why areas (edges of the NBBMA and areas in flood zone 3) have not been avoided in developing the proposals. In designing the Proposed Development, the Applicant has designed the scheme to place the most sensitive equipment, i.e. the BESS compound and the substation, in areas at low risk of flooding, i.e. flood zone 1. In flood zone 3 areas the panels and the power conversion units have been raised above flood levels, with heights being set to the flood return periods agreed with the Environment Agency to ensure that the development is capable of operating even in times of flood and therefore making the most efficient use of the Site. Flood risk modelling has been undertaken to ensure that the development would not increase off-site flood risk as</p>		
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		<p>reported in the Flood Risk Assessment (AS-019, AS-021, AS-023, AS024 and AS-027)-. . Proposed works within the NBBMA would only be undertaken for the sole purpose of providing mitigation for wetland birds associated with the Mersey Estuary SPA, Ramsar and SSSI and for other beneficial ecological / conservation purposes (Paragraph 7.8.4 of Environmental Statement Volume 1 Chapter 7: Terrestrial Ecology (APP040)). CWACC raise a point in relation to modifying the layout in areas identified at risk of surface water flooding (as different from fluvial flooding). This matter is considered within the Flood Risk Assessment (page 29) (AS-019) where it is identified that the easternmost extent of the Option 1 BESS and Frodsham Solar Substation encroaches into the 'low' risk surface water flood extent during the present day and climate change scenarios. EA surface water flood depth mapping shows that during the 'low' risk climate change event, flood depths do not reach up to 200mm. It is evident that these areas of surface water flooding are associated with low spots / depressions within this area of the dredging deposit ground. The area of the BESS and Frodsham Solar Substation compound would be re-engineered as part of the development process, which is likely to eliminate the localised survey water flooding in this area. Furthermore, as can be seen from Figure 2- 5f, the BESS units and Power Conversion Units would be raised above ground level and thus not susceptible to localised shallow surface water flooding. Given the low risk and shallow nature of the surface water flooding, along with the ability to introduce design measures to mitigate any localised flooding it is evident that BESS and substation compound can be designed to ensure the built development components remain operational and that operatives would remain safe. This is in accordance PPG Flood Risk Paragraph 027 Reference ID: 7-027-20220825 which states: "In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would</p>		
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		<p>remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.”</p> <p>On this basis the Applicant does not consider it necessary to revisit the Proposed Development in the areas identified by CWACC.</p>		
CWACC10.2	10.9	<p>The construction compounds are located to best service the construction phase of the development. The Outline Construction Environmental Management Plan (as updated alongside this submission) sets out in Table 5-4 that a Flood Warning and Evacuation Plan would be implemented. The plan will include flood monitoring and warning measures. Should the Site be at risk of flooding measures would be adopted to keep operatives safe and move equipment and materials outside areas of flood risk.</p>	No further comments.	
CWACC10.3	10.10	<p>The Applicant has assessed the flood risk associated with the failure of Frodsham Pumping Station within ES Volume 2 Appendix 9-1 Flood Risk Assessment (AS-019) and demonstrated that the Proposed Development would remain operational in such an event. The pumping station serves a wider flood risk management function than just the Site, and so at present the Applicant does not consider it necessary to provide a commitment to maintaining Frodsham pumping station. This position has now been agreed with the Environment Agency and will be documented within the Statement of Common Ground with them.</p>	<p><b>ExQ1 Q8.2.16</b></p> <p>CWCC defer to the EA on this. However, given the critical nature of the project in terms of electricity generation, and the expectation that the development would remain functional during times of flood, the potential for reliance (or at least benefit to the project) associated with the continuing operation of Frodsham pumping station would appear to warrant potential contribution towards ensuring that the pumping station remains operational should the EA seek such provision.</p>	
CWACC10.4	10.11	<p>The Applicant met with the Lead Emergency Planning Officer of the Joint Cheshire Emergency Planning Team on 19 September 2025. Response reference CWACC12.2 describes the outcome of the meeting.</p>	<p>Please refer to Q9.3.1 of CWCC response to EXQ1 – [REP2-005]</p>	

CWACC10.5	10.19-10.20	<p>CWACC state that Policy DM40 is not contrary to the NPS policy on energy infrastructure on the basis that it allows for criteria to be applied that would potentially quickly narrow down the suitability of sites. Fundamentally Policy DM40 requires that the sequential test be applied through a borough-wide assessment. Critically it is not the extent of the administrative borough that defines whether a site or area represents a sequentially appropriate alternative. It is identifying a location that can meet the same development needs and have a reasonable prospect of being developed at the same time. The extent of the borough boundary is irrelevant and does not represent a search criterion within national policy. It is on this basis that the Applicant has used the point of connection at Frodsham Substation, which has an identified capacity to accept additional low-carbon electricity generation, as the originating factor for the area of search. This is entirely appropriate approach for a sequential assessment of an energygenerating project.</p>	<p><b>Q8.2.2</b>  Please refer to comments above Q8.2.1 and Waterco drawing 14740_EA_RoFSW Appendix F 'EA Maps &amp; Correspondence' in Appendix 9-1: Flood Risk Assessment and Drainage Strategy Part 1 of 5 (AS-019) (page 72 of pdf).  CWCC is satisfied that the Applicant has provided responses to address the points concerning alternative site assessment and / or disaggregating the project. With regard to adopting a sequential approach to siting and layout within the SADA, it is acknowledged that the extent of land covered by Flood Zone 3 would make it difficult to make reasonable adjustments, and the development (giving the location in Flood Zone 3) ought to be considered in relation to the Exception Test in this regard. (EN-1 paragraph 5.8.9).  However, in relation to surface water flood risk, where relatively small adjustments can be made to either select siting in locations of lower surface water flood risk (such as BESS option 2, or by pulling back solar arrays from the areas of highest surface water flood risk), to avoid areas of flood risk remains preferable in relation to adopting a sequential approach (e.g. south east corners of Cells 1 and 5).  (See Figure 4 of Information to Inform HRA – [PD2-009] for Cell identification).  This approach would be consistent with EN-3 (paragraph 2.10.60):  <i>2.10.60 As set out above applicants will consider several factors when considering the design and layout of sites, including proximity to available grid capacity to accommodate the scale of generation, orientation, topography, previous land-use, and ability to mitigate environmental impacts and flood risk.</i></p>	
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11. Tourism and recreation (including Footpaths / Public Rights of Way)

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 11. Tourism and recreation (including Footpaths / Public Rights of Way)</b>			
CWACC11.1	11.1	<p>As set out in the Applicant's response at CWACC7.31, Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041) paragraphs 8.8.68 – 8.8.72 and Environmental Statement: Volume 1 Chapter 7: Terrestrial Ecology (APP040) paragraphs 7.8.97 – 7.8.88, assess the effects of increased recreational pressures. These impacts have been a design consideration throughout the evolution of the Proposed Development as described in paragraph 5.3.32 and 5.6.8 of the Design Approach Document (APP-130). It is noted that Natural England concludes that the proposed screening measures will be sufficient to manage any additional recreational pressure as a result of the development (NE28 RR012). Paragraph 13.2.5 of Environmental Statement: Volume 1 Chapter 13: Cumulative and In-Combination Effects (APP046), sets out that "Consideration of intra project effects is a inherent part of the EIA assessment process for many ES topics.". Paragraph 13.3.3 identified that in-combination effects related to ecological receptors are assessed within Chapters 7 and 8 of the ES.</p> <p>As set out above these potential in-combination effects have been assessed in the ES and as such the Applicant considers relevant in-combination effects from the Tourism and Recreation chapter have been taken into account.</p>	<p><b>ExQ1 Q9.5.4</b></p> <p>Paragraph 11.1 of [RR-037] is directed at concerns over the biodiversity impacts of promoting increased recreational use via the additional permissive paths in environmentally sensitive areas of the site. Local Policy (e.g. FNP Policy EDVE2 tourism policy) recognises the tension between wanting to encourage recreational opportunities and the need to protect environmental interests, by including criterion: <i>"Will not result in adverse impacts on the ecological value and function of Frodsham Marshes"</i> and DM37 Recreational routeways of LP2 also recognises the potential for increased recreational pressure on designated sites. It is acknowledged, that the Applicant has attempted to address some of these concerns and competing interests by proposing a hierarchy of PRow and permissive path enhancement, to encourage recreational use closer to the motorway side of the SADA, but the introduction of additional routes near to the NMMBA and around Cell 1 are regarded as unnecessary and detrimental. CWCC's WR [REP1-048] provides more detail on concerns and suggested amendments to address these matters.</p>
CWACC11.2	11.2	<p>The Applicant has discussed this matter with the Council. It has been agreed that an appropriate approach is to secure a regular review mechanism within the Outline Operational Environmental Management Plan (oOEMP) (as updated alongside this submission). This commitment has been</p>	<p><b>ExQ1 Q9.5.2</b></p> <p>Please cross refer to comments in i) the LIR: [REP1-046]); in particular FNP policy referred to at 6.25 and 6.26, Section 24 of the LIR 'tourism and recreation' and Appendix 10 of LIR; and ii) the WR [REP1-048]; in</p>

		introduced at paragraph 4.1.7 of the oOEMP, and includes a commitment for the provision of the car park to be included as an agenda item on Community Liaison Group meetings during the operational period.	particular in relation to the relationship between footpaths and biodiversity under (paragraphs 4.14 to 4.25) and the proposed layout suggestions in Section 5.	
CWACC11.3	11.11-11.12	<p>The Outline Public Rights of Way Management Plan (oPROWMP) (as updated alongside this submission) describes which PRow would be affected by the construction works with reference to the Street Works, Public Rights of Way, Vehicular Usage and Access Plans (AS-008).</p> <p>Paragraph 3.3.5 of the oPROWMP sets out the hierarchy used for management of the PRow to ensure the safety of the public. The Applicant has sought to keep the vast majority of PRow within the Site would open during the construction phase through management measures which are described in section 4 of the oPROWMP.</p> <p>Paragraphs 3.3.6 to 3.3.9 of the oPROWMP describe the proposed approach to providing signage and information during the construction works. An additional commitment has been included in the Outline Public Rights of Way Management Plan (oPROWMP) (as updated alongside this submission) at paragraph 3.3.10 for the full PROWMP to include details of how temporary closures and diversions of any PROW will be advertised to the local community.</p>	<p><b>ExQ1 Q9.5.2</b></p> <p><b>11.11 – 11.12 RR.</b> Regarding Outline Public Rights of Way Management Plan [PD2-021] (oPROWMP), CWCC welcomes the addition of 3.3.10 relating to advertising closures and diversions to the local community in the Public Rights of Way Management Plan. It would help to include specific reference to publicity of an overarching programme of works as part of that publicity; and that the Community Liaison Group will be consulted on the programme at an early stage in the process; and kept informed of subsequent changes.</p> <p>There is no reference at 3.3.10 of the oPROWMP to suggest inclusion of online advertising of closures; CWCC's PRow section recommend that this be included.</p>	
CWACC11.4	11.13-11.14	As set out above in CWACC11.3 the Applicant has adopted the approach set out in NPS EN-3 paragraph 2.10.41 by keeping open as many PRow across the Site as possible where it is safe to do so. In relation to RB40 the Applicant has proposed an approach which would maintain access along RB40 outside the construction working hours, and within the construction working	<p><b>ExQ1 Q9.5.2</b></p> <p><b>11.13 – 11.14 RR.</b> In principle, CWCC accepts the Applicant's approach, which is similar to the construction of the FWF in relation to keeping RB40 open to cyclists during construction, and for providing others access outside of construction working hours.</p> <p>For information, the FWF scheme approved under 12/00217/DIS is provided at <b>Appendix 8</b> (Frodsham Wind Farm Condition Discharge - Planning Condition 29 – Public Rights of Way (Updated March 2015) (Parsons</p>	

		<p>hours cyclists would still be permitted to use RB40. It should be noted that during the construction of Frodsham Wind Farm the same approach was adopted to the management of the RB40, which was approved by CWACC pursuant to Condition 29 (Public Rights of Way Strategy) of 10/00597/DECC.</p> <p>Whilst the temporary closure of RB103 and RB98 will limit the availability of circular routes for the duration of the construction, alternative PRoW provide suitable alternative routes to ensure that access through the Site is maintained.</p>	<p>Brinckerhoff March 2015). With reference to the comments under 11.15 RR below, the clarity of Figure 1 Master Plan of Site in Appendix 8 aids the reader's understanding, and it is recommended that the Applicant provides clear and legible plans for the Frodsham Solar Public Rights of Way Management Plan (<b>PRoWMP</b>). The commencement of construction of FWF was notified as being 13 April 2015 (discharge of condition 14 under 10/00597/DECC) and the FWF commissioning date was 13 February 2017; i.e. less than 24 months. The closure of RB40 would have been less again.</p> <p>CWCC do not object in principle to the proposed arrangements, but the longer duration of closure/disruption adds to the adverse impact of the development and is a factor to be weighed in the planning balance. A similar point is made in relation to impacts on, and users of, RB98 and RB103.</p> <p>CWCC's PRoW team advise that if the construction hours are modified (e.g. for abnormal loads) as per 2.5.13 and 2.5.14 in ES Volume 1 Chapter 2 The Proposed Development [APP-035] that the change be advertised to notify the public in advance. It is also appropriate to establish a particular channel that the Applicant would notify CWCC Highways/Public Right of Way teams as per 2.5.14 of [APP-035].</p>	
CWACC11.5	11.15	<p>The Applicant notes the comments of CWACC on the presentation of the Street Works, Public Rights of Way, Vehicular Usage and Access Plans (APP-010). However, the Applicant considers these plans contain the necessary information and are illustrated in a manner consistent with other plans of this nature on other schemes. . In relation to phasing / programming, Environmental Statement: Volume 2 Appendix 2-2: Indicative Construction Phasing and Resource Schedule (APP-051) provides a highlevel indicative programme. At this stage in the design and development process, prior to detailed design, it is not</p>	<p><b>ExQ1 Q9.5.2</b></p> <p><b>11.15 RR.</b> As noted previously the Street Works, Public Rights of Way, Vehicular Usage and Access Plans [APP-010] (now [AS-008]) lack clarity and separate/clearer drawings relating to both temporary and permanent arrangements, closures and diversions would assist in the understanding and presentation of the various elements to the works proposed. This would be particularly appropriate to accompany any publicity around temporary diversions and closures.</p>	

		possible to provide a precise programme. However, as set out in CWACC11.3 the Applicant is committed to advertising closures and diversions to the local community. It is also noted that Requirement 3 of Schedule 2 of the draft DCO (as updated alongside this submission) requires phasing plans to be submitted to and approved by the planning authority.		
CWACC11.6	11.16-11.18	Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039) includes an extensive section assessing the effects of the Proposed Development on users of PRow routes within and beyond the boundary of the Site (paragraphs 6.8.84 to 6.8.105). As such the Applicant has not relied solely on the selected representative viewpoints set out in the assessment. The conclusions outlined in APP-045 have been informed by the professional judgement of the assessors, taking into account the assessment presented in Chapter 6, noted above. The multifaceted nature of the landscape within which the Site is situated means that users of the PRow experience a wide range of landscape types and visual, auditory, and historic influences. The introduction of the Proposed Development into the locality does not significantly change the landscape experience for the majority of the PRow network that users will access in the area. It is on this basis that it was concluded the operation of the solar PV facility would have little negative impact on the number of users of the PRow and NCN Furthermore, the various improvements proposed as part of the Proposed Development are intended to increase access opportunities at the Site. Table 12-8 sets out a methodology to provide a semantic scale of importance, common in EIA practice. This reflects the differences in status between routes, for example those which have a national significance are judged to be of the highest importance and local routes with no regional or local status significance are judged to be of the lowest category of importance. With regard to Table 12-11 it should be made clear that the table states "Unknown but potentially in the	<b>ExQ1 Q9.5.2</b> <b>11.16-11.18 RR.</b> There is disagreement with Applicant's statement that: <i>"The introduction of the Proposed Development into the locality does not significantly change the landscape experience for the majority of the PRow network that users will access in the area".</i> The LVA conclusions are based on professional judgment, and no doubt the ExA will draw its own view on the matter. CWCC's view is that the experience of walking or cycling along the PRow network will be significantly changed by the extensive solar array development surrounding the PRow network within the site. There will be a greater sense of enclosure along parts (where views over the panels are not available); and on the more elevated sections of PRow, the vast expanse of the solar arrays will be a dominating feature. The presence of the wind turbines in the landscape added an urbanising influence some 10 years ago now, but these have been assimilated without dominating the openness of the landscape to the same extent that the spread of the proposed solar arrays would. The enhancements to the footpath network (e.g. with permissive paths) are generally welcome (noting the biodiversity concerns with some aspects) and the improvements may encourage use of the footpath network, but at the same time the overall experience of users and enjoyment of the wider landscape is liable to be adversely impacted by the proposed development,	

	<p>order of 15,000 leisure uses per annum.”. CWACCs reference to a visitor attraction is erroneous when referring to a PRow, which is distinguished separately within Table 12-8.</p> <p>The Applicant's analysis of the impact of the Proposed Development on users of PRow, in light of the mitigation and enhancement measures proposed, is set out within Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039) and Environmental Statement: Volume 1 Chapter 12: Tourism and Recreation (APP-045). The Design Approach Document (APP-130) provides further detail on the measures considered to enhance the experience of users at the Site. The rationale set out in the Environmental Statement is therefore considered appropriate to identify likely significant effects on tourism and recreational receptors. The Applicant disagrees that the impact on users of rights of way would result in fewer users. As outlined in Table 12-10 of Environmental Statement: Volume 1 Chapter 12: Tourism and Recreation (APP-045), there is relatively low use of the Site for recreation. It is considered that the range of measures, including the provision of additional linking routes, improved surfacing, signage, and facilities such as seating, bird viewing areas, and information boards, would encourage greater use. The rationale for the sensitivity and magnitude of effects is provided in the assessment. The Applicant considers that the users of the Site would have some capacity to tolerate the impacts that would arise, as a) diversions and closures would be minimised, and b) the setting of the Site means that users are already exposed to a variety of rural, urban, and industrial experiences, and thus would not be categorised as having limited capacity to tolerate impact. In relation to magnitude, the impacts would be site-based and there is not considered to be a reduction in users in the operational phase as set out above. Therefore a negligible magnitude of change is considered appropriate.</p>	<p>and to a greater degree than the mitigation works provide in terms of positive impacts.</p>	
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CWACC11.7	11.19-11.24	<p>The approach the Applicant has taken to the assessment of impacts on ecology from disturbance of users of the existing PRow and the proposed permissive paths across the Site is set out at CWACC11.1. As noted in this response, it is considered that adequate mitigation is proposed to enable these proposed enhanced recreational opportunities to be realised whilst ensuring that the ecology of the area is protected. On this basis the Applicant is not proposing to re-route Permissive Path A and B. It is noted that Natural England concludes that the proposed screening measures will be sufficient to manage any additional recreational pressure as a result of the development (NE28 RR012).</p>	<p><b>ExQ1 Q9.5.2</b></p> <p><b>11.19 – 11.24 RR.</b> It is noted that the Applicant is not proposing to re-route Permissive Path A and B. CWCC considers that this a missed opportunity to reduce the habitat impacts, adding more pressure to the already reduced mitigation area of the NBBMA. In Applicant’s Response to CWCC’s Relevant Representation (PD2-027), in response to point 11.24 of CWCC’s Relevant Representation (RR-037), it is stated that “ it is considered that adequate mitigation is proposed to enable these proposed enhanced recreational opportunities to be realised whilst ensuring that the ecology of the area is protected”. This is not concurred with; CWCC have proposed changes to the proposed extended footpath network and there has not been any justification provided to demonstrate that the footpaths are essential in this location and that their introduction outweighs the risk to non-breeding birds. Due to lack of a detailed assessment of Recreation in terms of public rights of way in the ES, as per 11.1 of CWCC Relevant Representation (RR-037), CWCC consider that 11.24 is still valid.</p> <p><b>11.23 RR.</b> See comment under Q9.5.4.</p>	
CWACC11.8	11..26	<p>The delivery of the permissive paths, including their specification, is controlled through the implementation of the Landscape and Ecological Management Plan pursuant to Requirement 9 of Schedule 2 of the draft DCO (as updated alongside this submission) specifically ((2)(h) which requires the final routing, specification and maintenance regime for each permissive path to be approved by the relevant planning authority.</p>	<p><b>ExQ1 Q9.5.2</b></p> <p><b>11.26 – 11.27 RR.</b> CWCC welcomes including reference to the programme of implementation at 5.1.4 of [PD2-022] oPRowWMP) and the inclusion of a programme as part of Requirement 9 (2)(h) to the draft DCO [REP1-005].</p> <p>Further clarity on the opening of the permissive paths, and agreements with the landowners relating to general arrangements over the permissive paths (e.g. provisions</p>	

			relating to temporary closures of the paths) should be confirmed and made available to CWCC. CWCC seek confirmation over securing a limit / commitment on the maximum timescale the permissive paths may be closed during the operational phase.	
CWACC11.9	11..27	The management and maintenance of the fabric of the permissive paths is secured as per the response to CWACC11.8. Requirement 15 of Schedule 2 of the draft DCO (as updated alongside this submission) requires a Public Right of Way Management Plan to be submitted and approved by the relevant planning authority. This provides the opportunity for the control of measures such as those described in the construction and operational phase of development.	<b>ExQ1 Q9.5.2</b> <b>11.27 RR.</b> The Applicant's response in [PD2-027] refers to Requirement 15 and the Public Rights of Way Management Plan. Requirement 15 should be amended to clarify that this includes permissive paths. It would also assist if the oPRoWMP were updated to include reference to the details of 11.27 e.g. <i>"to include contact details, provision for reporting and dealing with complaints during the operational phase, including standards for resolution of complaints/carrying out remedial action, and ensuring that paths do not remain temporarily closed for longer than necessary"</i> . CWCC recommends that these contact details and standards/resolution processes be made available online, and that CWCC / Frodsham Town Council be consulted on the detailed arrangement.	
CWACC11.10	11..28	As set out in CWACC11.6 the judgements provided in relation to Operational Impact 5 were informed by Environmental Statement: Volume 1 Chapter 6: Landscape and Visual Amenity (APP-039) paragraphs 6.8.84 to 6.8.105. The analysis in paragraph 12.8.73 of the Environmental Statement: Volume 1 Chapter 12: Tourism and Recreation (APP-045), recognises the moderate adverse effects that would occur regarding views from Frodsham Hill War Memorial, but it also considers that the	<b>ExQ1 Q9.5.2</b> <b>11.28 RR.</b> The professional disagreement over the assessment of the view from Frodsham War Memorial has been well documented, and further comment is not considered necessary or helpful to the ExA.	

		fundamental nature of the expansive panoramic view, which is one of the key experiences at this location, would remain. Therefore, it is considered that the qualitative impacts on users' enjoyment and recreational value are taken into account.		
CWACC11.11	11..29	The Applicant is not in control of the mitigation measures that would be adopted by the two cumulative projects described. However, it is noted that Runcorn Carbon Dioxide Spur Pipeline planning application includes an Outline Public Rights of Way Management Plan and it is anticipated that the requirement for a full Public Rights of Way Management Plan will be a condition of planning permission should this be granted by the Council. Similarly, it is anticipated that such control would also be stipulated as a requirement of the HyNet Hydrogen Pipeline.	<b>ExQ1 Q9.5.4</b>	Paragraph 11.29 of [RR-037] is a relatively general point that the impact of the other known projects liable to directly impact the site (Hynet Hydrogen and Runcorn CO2 spur pipeline) do not feature in consideration of potential cumulative impact in relation to impacts on the existing PRoW and/or any new permissive paths proposed as part of this proposed development.
CWACC11.12	11..31 and 11.33	The delivery of the permissive paths is controlled through the implementation of the Landscape and Ecological Management Plan pursuant to Requirement 9 of Schedule 2 of the draft DCO (as updated alongside this submission). As such, the Applicant must retain the permissive path in place for the lifetime of the Proposed Development, which includes the decommissioning period, subject to maintaining the safety of users across the Site during decommissioning activities. For the duration of the development, the Applicant will be liable for maintenance of the permissive paths and PRoW within the Site in accordance with the details to be approved under the Landscape and Ecological Management Plan and the Public Rights of Way Management Plan, pursuant to Requirement 9 and 15 respectively of Schedule 2 of the draft DCO (as updated alongside this submission). Paragraph 2.4.4 of the Outline Decommissioning Environmental Management Plan (as updated alongside this submission) confirms that following decommissioning, the landowner may or may not retain the permissive footpaths created across the Site. After decommissioning,	<b>ExQ1 Q9.5.2</b>	<b>11.31 - 11.33 RR and 19.18 RR.</b> CWCC welcomes confirmation by the Applicant to the points of relating to retention of the permissive paths in place for the lifetime of the Proposed Development, including the decommissioning period, and responsibility for maintenance of the permissive paths and PRoW within the site during this period. It is noted that there is no proposal to secure an extension of the life of the permissive paths beyond the decommissioning period. This is considered a missed opportunity and reduces the values of the mitigation proposed. With regards to the Applicant's response to paragraph 19.18 of RR-037, it is not clear whether the Applicant approached the landowners (as suggested) to confirm their support or objection for longer term retention. If they are willing to enter into a more permanent arrangement, this could be incorporated into the proposals. Clarification on the position regarding retention of the visitor car park longer term is also noted in paragraph 19.18 of RR-037.

		the Applicant will no longer be in control of the land, so there is no mechanism to secure the long-term retention of the permissive paths beyond the life of the DCO.	CWCC would like confirmation as to whether the Landowners have been contacted by the Applicant in relation to the Permissive Paths and negotiations which have been undertaken	
CWACC11.13	11..32	The Applicant has provided a response at reference CWACC6.5 relating to impacts on users of the public rights of way within the Site. This identifies that the experience of open landscape character varies along the different sections of the existing PRow network, with more open views typically experienced from more elevated sections of footpaths (e.g. along flood embankments and on deposit ground structures) and with enclosure experienced elsewhere due to the presence of mature vegetation and / or topography. There is a gradation of experience in between, with more filtered views and intermittent openness. As set out in the Outline Landscape and Ecology Management Plan (as updated alongside this submission) and as recognised in two of the limbs to Design Principle 2: Landscape and Views set out within Appendix A of the Design Approach Document (APP-130) and secured through DCO Requirement: a. Retain and enhance the open character of Frodsham Marshes, where feasible; and g. Retain open vistas looking across Frodsham Marshes and the wider estuary, where feasible; the need to maintain qualities of open character are recognised and will be addressed appropriately in the detailed design and in the setting of management regimes for mitigation planting. The footnote referred to sets out that “screening along public right-of-way networks to minimise the outlook into the Solar Park may, impact on the ability of users to appreciate the surrounding landscapes”. This has been explicitly recognised by the Applicant at paragraph 6.6.51 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission) where the need to keep hedgerows	<p><b>ExQ1 Q9.5.2</b></p> <p><b>11.32RR.</b> CWCC appreciates the Applicant's commentary regarding the Design Approach Document [APP-130] regarding retaining and enhancing the open character; retaining open vistas looking across Frodsham Marshes and the wider estuary, where feasible; and that the need to maintain qualities of the open character are recognised. These comments should be cross referenced with CWCC's comments on Green Belt openness (Q9.2.1) above. However, as indicated at paragraph 11.32 of RR-037 there would still be a significant change resulting from the development, irrespective of the design and other measures to mitigate the impact of such change. CWCC welcome inclusion of reference at 6.6.51 of the oLEMP [REP1-029] to certain hedgerows being maintained at 1.5m height to retain views over the hedgerows from adjacent public rights of way and permissive paths.</p>	

		maintained at heights to retain views in certain locations is recognised as forming part of the annual maintenance regime.		
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## 12. Health and Community

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 12. Health and Community</b>				
CWACC12.1	12..3	<p>The Applicant notes the request for the Examining Authority to consider the relationship between the noise environment and landscape character, including the concept of tranquillity. Tranquillity is understood as a perceptual quality influenced by both sound and visual context, rather than being defined by silence. The existing environment within and around the Site is influenced by notable sources of human activity and infrastructure. The M56 motorway generates constant background noise, and the presence of Frodsham Wind Farm, pylons and industrial operations along the Mersey Estuary all contribute to the sensory baseline. These features inevitably reduce the area's overall sense of tranquillity. Nevertheless, once away from the main transport corridors, parts of the Site can feel open and relatively remote reflecting the flat topography, sparse settlement and wide horizons typical of the estuarine fringe. No local or national landscape designations apply to the Site. It is not within an Area of Special County Value identified in the Cheshire West and Chester Local Plan, and while the 2016 Landscape Sensitivity Study and Guidance on Wind and Solar Photovoltaic Developments provides general background information, it does not confer any designation or establish the land as "valued" in policy terms. The term "valued landscape" under paragraph 187(a) of the National Planning Policy Framework was clarified by Lord</p>	<p><b>ExQ1 Q9.4.1</b></p> <p>Impacts in relation to noise during construction will be additional to the landscape impacts already identified. During the operational phase CWCC make the following comments.</p> <p>The perception of tranquillity in relation to the Frodsham Marshes is arguably heightened (once passing further into the site and away from the M56 motorway) due to the extreme contrast between the noise of the motorway, the activity associated with the urban area of Frodsham and the backdrop of industrial development in Runcorn on the far side of the River Weaver, followed by experiencing the relative quiet and remoteness and associated long range views from the dredging deposit grounds and association with the Mersey Estuary/river environment. There are still urban influences on the deposit grounds, notably the turbines, with their distinctive noise as the blades rotate through the air. The very different nature of the noise sources between the motorway, generating a constant and dominant noise, to the more intermittent/rhythmic and localised turbines, within an otherwise relatively quiet and natural environment, provides an almost unique environment. One only has to experience the residential environment</p>	

		<p>Justice Ouseley in <i>Stroud DC v Secretary of State &amp; Gladman Developments Ltd</i> [2015] EWHC 488 (Admin), as requiring demonstrable physical attributes that take a landscape out of the ordinary. Those characteristics are not present here. The noise and vibration assessment demonstrates that construction effects would be temporary and well-managed through standard mitigation measures, and that operational noise would be low and consistent with existing background levels. Accordingly, the Proposed Development would not materially alter the established acoustic or perceptual environment, nor would it introduce effects likely to change the existing character or perceived tranquillity of the surrounding landscape.</p>	<p>of residential properties along the south side of the M56 and compare this with the benefits of being able to access the Marshes for recreational enjoyment, to appreciate the relative tranquillity and local value of the area.</p> <p>In terms of the proposed development, the construction period will bring temporary noise and general disturbance for a period of time that will detract from the qualities of the Marshes, but it is acknowledged that this will be temporary, and during the operational period it is more the visual aspects that will impact on the experience of the landscape.</p> <p>The issue / point is largely to recognise that the particular noise environment of the site and the surrounding area is complex, and any existing tranquillity found on the more remote parts of the site, take on a greater value than might otherwise be the case because of the particular mix and relationship between various elements.</p> <p>CWCC's concern is mainly to ensure that the nature and local value of the site is recognised, not that the development itself will lead to a different noise climate once operational or an unacceptable noise climate during construction.</p>	
CWACC12.2	12..12	<p>The Applicant met with the Lead Emergency Planning Officer of the Joint Cheshire Emergency Planning Team on 19 September 2025. The Applicant described the approach taken to flood warnings and evacuation of the Site and matters relating to BESS safety and the Outline Battery Safety Management Plan (APP-139). The Applicant has designed the project to include the necessary buffers from the utilities and pipelines which cross the Site. The Applicant has also held a meeting with Cheshire Fire and Rescue Service on the 16th October 2025 in relation to flooding and BESS safety. Both CWACC Emergency Planning Team and Cheshire Fire and Rescue Service were satisfied that the</p>	<p><b>ExQ1 Q9.3.1</b></p> <p>Part of the context to consideration of the issue of safe access and egress in the event of a flood is the overarching National Policy Statement for Energy (EN-1) referring to new energy infrastructure being “designed and constructed to remain operational in times of flood” (Section 5.8.7).</p> <p><i>“5.8.7 Where new energy infrastructure is, exceptionally, necessary in flood risk areas (for example where there are no reasonably available sites in areas at lower risk), policy aims to make it safe for its lifetime without</i></p>	

		<p>Applicant had considered the relevant matters at this stage in the development process. As a result of discussion with Cheshire Fire and Rescue Service, the Outline Operational Environmental Management Plan (as updated alongside this submission) has been revised to include a requirement to review safety procedures and emergency action plans with Cheshire Fire and Rescue Service should the Runcorn Spur CO2 Pipeline be constructed.</p>	<p><i>increasing flood risk elsewhere and, where possible, by reducing flood risk overall. It should also be designed and constructed to remain operational in times of flood".</i> CWCC's Lead Emergency Planning Officer made some key recommendations to the Applicant concerning the Outline Flood Warning and Evacuation Plan (oFWEP) (see meeting notes 19 Sept 2025)) (<b>Appendix 7</b>) and the key suggestions were incorporated in an updated plan [PD2-028]. The Lead Emergency Planning Officer noted the exception of carrying out a debrief after an event to cover lessons learnt and improvements. A debrief template was provided to the Applicant and this has now been incorporated it into the plan. See oFWEP (Rev P02) [PD2-028]. Please note the Environment Agency's Written Representations at Deadline 1 [REP1-050] and [RR-024] (EA009) where the EA defer to CWCC regarding consideration of safe access and egress to the site. CWCC is not in a position (and it is understood nor is Cheshire Fire and Rescue Service (<b>CFRS</b>)) to say whether the Applicant's arrangements provide safe access and egress in the event of a flood, although it is understood (from the Environment Agency's correspondence referring to liaison with CFRS, that CFRS consider the Applicant's emergency plans to be adequate; and as noted above CWCC's Emergency Planning team's recommendations have been taken on board.</p> <p>Given no objection from the emergency team/CFRS, CWCC has no further comment.</p>	
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### 13. Land Contamination

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
RR-037 Section 13. Land Contamination				

CWACC13.1	13..3 – 13.5	<p>The Applicant acknowledges the need for further detailed investigation as part of the detailed design phase as set out in paragraph 10.9.1 i) of Environmental Statement: Volume 1 Chapter 10: Ground Conditions (APP-043). As noted by CWACC Requirement 17 of the draft DCO (as updated alongside this submission) identifies the need for a ‘ground conditions investigations and assessments strategy’ to be submitted and approved by CWACC prior to works commencing on any phase. Provision for a ‘strategy’ will allow agreement of the overall approach to contamination management which takes account of the detailed design of the scheme, without prescribing at this earlier stage a specific approach that may need to change. Requirement 1 of the draft DCO defines ‘ground conditions investigations and assessments strategy’ and lists the following elements which must be included in the strategy:</p> <ul style="list-style-type: none"> <li>(a) unexploded ordnance assessment;</li> <li>(b) ground investigations;</li> <li>(c) remediation strategies and verification reports;</li> <li>(d) materials management;</li> <li>(e) piling risk assessment;</li> <li>(f) approach to be taken for dealing with ground conditions in respect of Work No. 6C; and</li> <li>(g) earthworks specifications.</li> </ul> <p>Paragraphs 4.1.23 to 4.1.25 and Table 5-5 of the Outline Construction Environmental Management Plan (as updated alongside this submission) provides further details of the controls that would be provided in relation to contamination. It is considered that the measures outlined are in accordance with the LCRM approach.</p>	<p>The Applicant’s approach, i.e. dealing with its ‘ground conditions investigations and assessments strategy’ including remediation strategies and verification reports through the oCEMP [REP1-20] is noted.</p> <p>CWCC provides further comment in respect of ground contamination in its response to the Deadline 1 and Deadline 2 submissions (submitted in conjunction with these comments on the Applicant’s response to RR).</p>	
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CWACC13.2	13.6 – 13.9	<p>The need to provide an unexpected contamination protocol is explicitly identified in Requirement 12(2)(c) of the draft DCO (as updated alongside this submission). Paragraph 4.1.24 of the Outline Construction Environmental Management Plan (as updated alongside this submission) sets out that: “If significant unexpected contamination is identified CWaCC, and where necessary, the Environment Agency, shall be notified promptly in writing confirming risk assessment, investigation, and if necessary, the remediation and validation measures to be undertaken. Following the implementation of the approved remediation strategy, a verification report, based on the data collected as part of the remediation strategy and demonstrating the completion of the remediation measures, will be provided to CWaCC and the Environment Agency.”. Requirement 12(2) sets out that the construction environmental management plan submitted for approval must be substantially in accordance with the outline construction environmental management plan. Accordingly, the Applicant considers that the draft DCO includes adequate measures to ensure the necessary protection of controlled waters, property, and ecological systems.</p>	<p>CWCC provides further comment in respect of unexpected contamination in its response to the Deadline 1 and Deadline 2 submissions (submitted in conjunction with these comments on the Applicant’s response to RR). Comments are reproduced below.</p> <p>Regarding the wording quoted from the oCEMP, CWCC have concerns over the use of the terms “significant unexpected contamination” preferring use of a term such as “contamination not previously identified”, as the former is not precise to give certainty over control.</p> <p>From CWCC’s response to Deadline 1 and 2 submissions:</p> <p>As stated in CWCC’s response to ExQ1 (Q.3.2.12) [REP2-005], regarding unexpected contamination the following additional requirement is recommended/preferred:</p> <p><b>Contaminated Land - Unexpected Contamination</b></p> <p>If, during the course of development, any contamination is found which has not been previously identified, proposals for detailed Site Investigation, Risk Assessment, Remediation and Verification shall be submitted and approved in writing by the Local Planning Authority. The remediation shall be implemented as approved. No part of the development site shall be occupied or brought into operational use until a Verification Report (to demonstrate the remediation of the unexpected contamination has taken place) has been submitted to and approved in writing by the Local Planning Authority. The reports required above shall be completed in accordance with the Environment Agency Land Contamination Risk Management Framework.</p>	
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			<p>The provision of the above additional requirement has the advantage of being transparent, and across the construction, operational (including replacement activities) and decommissioning.</p> <p>Whilst unexpected contamination could be dealt with via an unexpected contamination protocol in the CEMP, as stated in CWCC's response to ExQ1 (Q.3.2.12) [ERP2-005], the issues may not end on completion of the construction phase, and may require management for many years. It potentially could generate considerable documentation and a separate workstream.</p> <p>CWCC consider it would be most appropriate to deal with this via a separate specific unexpected contamination requirement. However, CWCC accept that unexpected contamination can be dealt with via an Unexpected Contamination Protocol in the oCEMP, oOEMP and oDEMP.</p> <p>Table 5-5 of the oCEMP [REP1-021] provides additional detail of a protocol, which should also be included in the oOEMP/oDEMP [REP1-022 and REP1-024]. See also the Environment Agency's comments EA004 in their Written Representations [REP1-050].</p> <p>The current drafting of point 2 of the wording for the protocol in Table 5-5 [REP1-021] states:</p> <p><i>"Where the Applicant determines that remediation of the contaminated land is necessary, a written scheme and programme ..."</i></p> <p>CWCC consider this needs rewording to provide the local planning authority (in consultation with the Environment Agency) with control over whether remediation is necessary.</p>	
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14. Accessibility – Transport and highways

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments
<b>RR-037 Section 14. Accessibility – Transport and highways</b>			
CWACC14.1	14..3	The outline measures relating to staff sustainable travel considerations set out in Section 4.4 of the Outline Construction Traffic Management Plan (oCTMP) (as updated alongside this submission) provide the basis of what would be included within a construction staff travel plan, and cover the requirements set out in the bullet points in para 5.14.7 of EN-1. The oCTMP includes a commitment to prepare a full staff travel plan as part of the full CTMP, and this would be prepared once the final composition of the construction workforce is known. Requirement 14 (2) of the draft DCO (as updated alongside this submission) sets out that the construction traffic management plan must include a construction travel plan (which must be substantially in accordance with section 4.4 of the outline construction traffic management plan).	<p>CWCC consider that it would be useful to include reference to the guidance in EN-1 within the oCTMP such as:</p> <p>The travel plan shall include demand management and monitoring measures to mitigate transport impacts.</p> <p>The travel plan should provide details of proposed measures to improve access by active, public and shared transport to:</p> <ul style="list-style-type: none"> <li>• reduce the need for parking associated with the proposal</li> <li>• contribute to decarbonisation of the transport network</li> <li>• improve user travel options by offering genuine modal choice.</li> </ul>
CWACC14.2	14..7	The Transport Assessment (TA) (APP-134) includes a comparison of the forecast trip generation against the Protos cap (paragraphs 7.5.27 to 7.5.32) as a way of demonstrating that the level of traffic impact would be minimal. However, Protos is a separate development, and there is no planning or transport reason to tie the HGV trip generation of the Proposed Development to the Protos cap. During the operational phase for the Proposed Development, the level of HGV trips would be minimal as described in section 5.4 of the TA, or in the case of replacement campaigns, less than construction. The main traffic impact of the development would be only for a limited period during construction, and it is considered that this is adequately managed through the measures set out in the Outline Construction Traffic Management Plan (as	<p><b>ExQ1 Q9.6.4</b></p> <p><b>14.7 RR.</b> On reflection, CWCC accepts that linking Frodsham Solar's HGV construction trip generation to the existing cap on operational HGV movements for Protos is not appropriate or necessary.</p> <p>The cumulative impact of construction traffic associated with multiple projects potentially overlapping is a concern highlighted at paragraph 8.6.1 of the Applicant's Transport Assessment (TA).[APP-134]. Whilst the TA provides an assessment of the construction traffic associated with other projects liable to overlap with Frodsham Solar, it would be useful for the Applicant to provide an update / table to quantify the worst case scenario, noting that in the TA (7.3.8) i) the Hynet Hydrogen pipeline scheme is forecast to peak at 96 two-</p>

		updated alongside this submission) without the need for a tie to the Protos cap.	<p>way HGV movements per day, and that this development (lasting over a year) was expected to occur in early 2028, and it is understood to now be delayed and therefore this needs to be updated; and ii) no construction traffic data was available for the Runcorn Carbon Dioxide Spur pipeline at the time of preparing the TA.</p> <p>The Applicant's Table 7.1 in the Transport Assessment sets out the maximum daily HGV movement associated with the Protos development (under reference 21/04477/NMA). The latest amendment to the condition controlling HGV movement is under 24/01799/NMA granted on 2 September 2025 (<b>Appendix 9</b>). The overall number of 2 daily 2-way HGV movements remains 718. Also, on the 7<sup>th</sup> October 2025, CWCC's Planning Committee resolved to grant planning permission for the most recent amendment to the Ince resource recovery park (<b>RRP</b>) under application ref. 24/01322/S73. This altered the provision for the implementation of the first rail infrastructure prior to the occupation of plots within the Protos site. The extant planning permission for Ince resource recovery park is application ref.14/02277/S73 (as amended by 24/01779/NMA) which altered the phasing of development of the RRP site.</p>	
CWACC14.3	14..8 & 14.16	Section 8.4 of the Transport Assessment (TA) (APP-134) sets out that the access route to the Site is considered to be of an appropriate standard for abnormal load access. As set out in Section 5.5 of the oCTMP (as updated alongside this submission), all abnormal load movements would be planned and agreed in advance with CWACC and National Highways in accordance with the Road Vehicles (Authorisation of Special Types) (General) Order 2003. It would be a responsibility of the proposed Construction Traffic Management Plan Working Group (paragraph 7.1.4 of the oCTMP) to co-ordinate the	<p>ExQ1 Q9.6.2</p> <p>CWCC welcomes the introduction of para 4.1.6 to the oCTMP [PD2-013] regarding provision of an illustrative plan for construction access.</p> <p>CWCC requests that 8.3.1 8.3.2 of the oCTMP be amended to refer to submitting a report to the local planning authority (<b>LPA</b>) with a copy to the local highway authority (<b>LHA</b>) (and that the LPA will consult the LHA at the relevant stages).</p> <p>CWCC have no further concerns in relation to the Applicant's proposed mitigation measures for abnormal</p>	

		planning of abnormal load movements across the identified cumulative developments. This responsibility has been clarified within paragraph 7.1.4 of the oCTMP (as updated alongside this submission). The Applicant (and the DCO) cannot require the other developments to attend the group, but they will be invited to do so, and it is open to CWACC to require it through imposing controls on the consents for those projects.	loads as proposed under the latest oCTMP (Rev P03) [REP1-019]. However, it is recommended that the programme for abnormal loads be part of the agenda/ notification protocols for the Community Liaison Group; and that this be included in the oCTMP.  <b>Please note:</b> the track changes to paragraph 5.4.1 made in [PD2-013] have only partially been carried forward to [REP1-019].	
CWACC14.4	14..10	The only route proposed for construction access is via Pool Lane and Grinsome Road. No HGVs would be routed through the villages of Frodsham, Ince or Elton as stipulated in paragraph 4.1.3, the Outline Construction Traffic Management Plan (oCTMP) (as updated alongside this submission). Compliance with the oCTMP is secured via Requirement 14 of the draft DCO (as updated alongside this submission). In the event of a prolonged closure of the M56, or any closure that would restrict access to Pool Lane and prevent the use of the identified construction access route, the Applicant would coordinate with CWACC and National Highways and would follow any temporary diversion route that might be in place.	<b>ExQ1 Q9.6.4</b> <b>14.10 RR.</b> CWCC notes the Applicant's response, and that any temporary diversion would need to be adhered to.	
CWACC14.5	14..11	Paragraph 6.3.9 of the Information to Inform Habitats Regulations Assessment (as updated alongside this submission) and paragraph 8.8.9 of Environmental Statement: Volume 1 Chapter 8: Ornithology considers the impact of traffic along the road alongside Cell 3. The assessment concludes that noise and visual disturbance would not result in a significant effects on the birds using Cell 3 and the NBBMA.	CWCC will provide further comment in relation to the HRA.	
CWACC14.6	14..12	The Applicant has adopted the approach set out in NPS EN-3 paragraph 2.10.41 by keeping open as many PRow across the Site as possible where it is safe to do so. In relation to RB40 the Applicant has proposed an approach which would maintain access along RB40 outside the	<b>ExQ1 Q9.5.2</b> <b>14.12 RR.</b> Regarding PRow closure and RB40, comments as per Q9.5.2.	

		construction working hours, and within the construction working hours cyclists would still be permitted to use RB40. It should be noted that during the construction of Frodsham Wind Farm the same approach was adopted to the management of the RB40 as approved by CWACC pursuant to Condition 29 (Public Rights of Way Strategy) of 10/00597/DECC. The measures to be taken with regards to PRow users during construction would be able to be approved by CWACC as part of approving the detailed public rights of way management plan pursuant to DCO Requirement 15.		
CWACC14.7	14..13	The proposed construction traffic access strategy is outlined within Section 4.1 of the Outline Construction Traffic Management Plan (oCTMP) (as updated alongside this submission). A plan identifying the specified construction traffic access route, which will clearly identify the specific sections of Marsh Lane that form part of the access route, will be included within the full CTMP. This commitment is included at paragraph 4.1.6 of the oCTMP.	<b>ExQ1 Q9.6.4</b> <b>14.13 RR.</b> CWCC notes the Applicant's response and commitment to clearly identify the construction traffic access route in the CTMP.	
CWACC14.8	14..14	Section 4.3 of the Outline Construction Traffic Management Plan (oCTMP) (as updated alongside this submission) describes the construction staff parking arrangements. Paragraph 4.3.7 sets out "No construction traffic will be parked outside of these compounds, or indeed outside of the site. Parking will be managed and carefully monitored by the site manager to ensure that parking is provided in an efficient and safe manner, with sufficient separable distance from any plant, materials, or construction activity." CWACC will be able to consider the details of this via its approval of the detailed CTMP pursuant to Requirement 14 of the draft DCO (as updated alongside this submission).	<b>ExQ1 Q9.6.4</b> <b>14.14 RR.</b> CWCC notes the Applicant's response and commitment to manage and monitor construction staff parking. Reference is made to no construction traffic parking outside the site, but there is no detail over how this may be monitored/enforced, or indeed if there may be a need for off-site parking and transport to the site. It would be helpful to include further commentary in the oCTMP, including dealing with complaints about employee off-site parking in a similar manner to the construction traffic routing.	

CWACC14.9	14..15	<p>The details of arrangements to ensure forward traffic movements will be finalised at the detailed design stage. Where it is not possible to facilitate a forward turning movement, then suitably designed turning heads will be provided. As set out in paragraph 5.2.5 of the Outline Construction Traffic Management Plan (oCTMP) (as updated alongside this submission) any reversing manoeuvres by construction traffic within the Site will be controlled by a qualified banksman The requirement to confirm the correct peak hours to be included in the full CTMP with the LHA is set out in the oCTMP. The Applicant confirms that the correct PM peak hour is set out in the Transport Assessment (TA) (APP-134), and the hours have been corrected within the oCTMP (as updated alongside this submission).</p>	<p><b>ExQ1 Q9.6.4</b></p> <p><b>14.15 RR.</b> CWCC notes the Applicant's response and commitment to the use of qualified banksmen. It would be beneficial to include reference in the oCTMP that provision for forward traffic movements (and potentially use of one way routes to achieve this) would be included in the detailed design principles to avoid/minimise the need for reversing.</p>	
CWACC14.10	14..17	<p>Paragraph 2.4.127 of the Environmental Statement: Volume 1 Chapter 2: The Proposed Development (APP-035) sets out that the section of NCN5 that runs through the Site, would be improved at the end of the construction period to repair damage and potholes. This commitment has been confirmed within an update to Table 5-7 of the Outline Construction Environmental Management Plan (as updated alongside this submission) which is secured via Requirement 12 of the draft DCO (as updated alongside this submission). Paragraph 5.1.7 of the Outline Public Rights of Way Management Plan (as updated alongside this submission) also sets out a commitment to improve the condition of the PRow network within the Order Limits and that the full PRow Management plan will include the approach taken to monitor the condition of the PRow network and identify areas where improvement works are required. Where there is potential for cumulative impacts on the condition of PRow e.g. with Hynet, paragraph 7.1.4 of the Outline Construction Traffic Management Plan (oCTMP) (as updated alongside this submission) has been revised to confirm that the Construction Traffic Management Working Group agree a mechanism for</p>	<p><b>ExQ1 Q9.6.4</b></p> <p><b>14.17 RR.</b> CWCC welcomes the Applicant's recognition over the potential for cumulative impacts associated with other projects, and that this may be addressed via the Construction Traffic Management Plan. However, any apportionment / shared responsibility needs to rest with the developers, and there needs to be clear responsibility for Frodsham Solar to secure enforcement with other parties, without reliance on CWCC.</p> <p>CWCC will address this with the Applicant and update the ExA at the appropriate time.</p>	

		identifying and apportioning shared responsibilities for maintenance / remedial works for any PRow damaged during the course of construction works.		
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#### 15. Decommissioning

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 15. Decommissioning</b>				
CWACC15.1	15.4	<p>The Applicant will have sufficient funds to undertake the decommissioning of the Proposed Development. As set out in the Funding Statement (APP-019), the costs of decommissioning will be covered by revenue generated by the Proposed Development, through its operations Requirement 20 of the draft DCO (as updated alongside this submission) secures the decommissioning of the Proposed Development no later than 40 years following the date of the final commissioning. It would be a criminal offence under section 161 of the Planning Act 2008 to breach this requirement. Paragraphs 2.10.146 to 2.10.151 of NPS EN-3 set out the Government policy in relation to project lifetime and decommissioning. This requires the applicant to put forward outline plans for decommissioning the generating station and, where the scheme is time limited, a requirement to secure the decommissioning of the generating station after the expiration of its permitted operation. The Applicant has provided an Outline Decommissioning Environmental Management Plan (as updated alongside this submission) and as set out above Requirement 20 secures the decommissioning of the Proposed Development at the expiration of its permitted operation. NPS-EN3 does not require funding to have been secured to carry out decommissioning.</p>	<p>Please refer to CWCC's previous comments on decommissioning and those in CWCC D3(B) submitted at Deadline 3. In particular D3B2.01.30 to D3B2.01.31:</p>	

		This approach is consistent with recent Secretary of State's (SoS) decisions such as the Oaklands DCO (paragraph 4.41 to 4.45 of the SoS decision letter) and Stonestreet Solar (paragraph 7.3.10 to 7.3.15 of the ExA report).		
CWACC15.2	15.5	The Proposed Development has been designated as one of critical national priority. Once constructed, it should be permitted to be able to generate the urgently needed low carbon energy for the entirety of its 40-year operational lifespan. To safeguard the condition of the Site throughout the operational period, the Applicant has included a commitment in the Operational Environmental Management Plan (as updated alongside this submission) that the authorised development is maintained in good operational condition throughout the duration of the consented period. Imposing early decommissioning before this period would be unjustified given the urgent national demand for renewable energy generation. As such, the Applicant considers that the Proposed Development should be allowed to remain in place and operational for its full duration. Requirement 20 necessitates the decommissioning works to commence immediately after 40 year operational period in line with the approved DEMP. The Outline DEMP has been updated alongside this submission to provide that the DEMP submitted for approval must include a programme for the decommissioning works. Once approved, the Applicant would be required to stick to that programme. This gives CWaCC further reassurance that once the DEMP is approved, the decommissioning works will be carried out.	Further discussion with the Applicant is needed in relation to the proposals for decommissioning. The oDEMP suggests a period of 36 months without energy generation before triggering decommissioning. The justification for this period is queried, and other details of the oDEMP require further discussion.	

#### 16. Cumulative and In-Combination Effects

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
RR-037 Section 16. Cumulative and In-Combination Effects				

CWACC16.1	16.1 – 16.6	<p>Paragraphs 16.1 and 16.2 of the CWACC Relevant Representation (RR-037) relate to the HyNet Hydrogen pipeline. CWACC questions the effects that would arise from a 'worst-case scenario' of the construction of the HyNet Hydrogen pipeline not being aligned with the construction of the Proposed Development. The route of the HyNet Hydrogen pipeline (illustrated on Figure 4.3, Environmental Statement: Volume 3 Chapter 4 Figures (APP-108)) runs along the southern boundary of the Site, parallel to the M56, within agricultural fields approximately 1.8km to the south of the Mersey Estuary. The bird surveys for the Proposed Development and for the Hynet Hydrogen pipeline (contained within the Preliminary Environmental Information Report for that project) confirm that there is very little use of this area by SPA birds. As set out in paragraph 13.4.3 of Environmental Statement: Volume 1 Chapter 13: Cumulative and In-Combination Effects (APP-046) the pipeline works would proceed at a rate which would mean that the pipeline would be laid in approximately one month, meaning effects would be short-term and temporary. The Applicant considers that differences in the construction sequencing of the HyNet Hydrogen pipeline and the Proposed Development i.e. whether they are undertaken at the same time or in sequence, would result in materially different environmental effects, as the mitigation proposed for both projects, principally through the respective Construction Environmental Management Plans, would prevent significant effects arising during construction. Paragraphs 16.3 to 16.6 of the CWACC Relevant Representation (RR-037) relate to the cumulative effects from the Runcorn Spur CO<sub>2</sub> Pipeline ('the pipeline') and the Proposed Development. Again CWACC raise a question relating to the nature of cumulative effects if the construction of the projects are not aligned. At the time of the submission of the Frodsham Solar DCO application, details of the pipeline were limited to pre-application consultation materials and the EIA Scoping Report for the project. The planning application has now been submitted by Liverpool Bay CCS Limited, the applicant</p>	<p>See 7.32 above</p> <p><b>ExQ1 Q9.8.1</b></p> <p>Please cross refer to CWCC's Written Representations [REP1-048]: (Section 10):</p> <ol style="list-style-type: none"> <li>i. paragraphs 10.2 to 10.12 for Hynet Runcorn CO<sub>2</sub> spur pipeline (and Appendix A (CWCCs response to ISH1 agenda and item 5k)</li> <li>ii. paragraphs 10.13 for HyNet North West Hydrogen Pipeline.</li> </ol> <p>Please also cross refer to the Local Impact Report [REP1-046] Section 25.</p> <p>Paragraphs 16.1 and 16.2 [RR-037] refer to the <b>HyNet North West Hydrogen pipeline project</b>. In terms of HyNet Hydrogen pipeline the Applicant's response refers to the route of the HyNet Hydrogen pipeline (illustrated on Figure 4.3, Environmental Statement: Volume 3 Chapter 4 Figures [APP-108]) running along the southern boundary of the site, and that there is very little use of this area by SPA birds. However, the route does go through the easternmost area of the site and the Skylark Mitigation Area and so assessment should further consider impacts. Paragraphs 16.3 and 16.6 [RR-037] refer to the Runcorn Carbon Dioxide Spur Pipeline Project, and the above Written Representations and Local Impact Report outline further the outstanding concerns. The Applicant refers in CWACC16.1 [PD2-027] to the use of trenched construction techniques being proposed through Cell 1, 2 and 3, with a trenchless crossing proposed at the western extent of Cell 3 into Cell 4. The Applicant has outlined its position regarding the three possible scenarios concerning the sequence of the pipeline construction and the works to establish the NBBMA in [PD2-027].</p>	
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	<p>for the pipeline. The application was validated on 15 August 2025, the planning reference is 25/02108/FUL. The application boundary for the pipeline covers the same area as illustrated on Figure 4.3, Environmental Statement: Volume 3 Chapter 4 Figures (APP-108). In relation to development within the Site the pipeline would cross Cell 1, Cell 2 and Cell 3 of the Manchester Ship Canal Dredging Deposit Ground. Construction access to these areas is shown on Figure 3.3 of the pipeline ES. Access for the construction of the pipeline would be provided along Brook Furlong from the south and Grinsome Road and the Frodsham Wind Farm access tracks from the west. The pipeline would require an easement corridor through the proposed solar array in Cell 1 and 2. The Applicant has discussed this requirement with Liverpool Bay CCS Limited and this easement can be accommodated. Within Cell 3 the pipeline would cross east-west along the northern boundary of the cell, immediately to the south of the canal ponds. Trenched construction techniques are proposed through Cell 1, 2 and 3 by Liverpool Bay CCS Limited, with a trenchless crossing proposed at the western extent of Cell 3 into Cell 4. Relevant timings associated with the construction works are set out in the pipeline ES as follows:</p> <ul style="list-style-type: none"> <li>• Construction is anticipated to commence in 2027 (Paragraph 3.7.87 ).</li> <li>• The underground pipeline through Cells 1, 2 and 3 would be constructed between April 2027 and October 2027 (Table 3-3)</li> <li>• Estimated progress of trenched installation is expected to be around 75 meters per day, with a maximum of 200 m open at any one time (Paragraph 3.7.45).</li> </ul> <p>The application is supported by a comprehensive Outline Environmental Management Plan (OEMP) . Commitments set out in the OEMP which are of particular relevance are:</p> <ul style="list-style-type: none"> <li>• Reference RU-BD-026: Vegetation and site clearance works will be undertaken in September and/or October of the</li> </ul>	<p>Scenario 1: Pipeline constructed prior to the NBBMA  Scenario 2: Concurrent Construction of the Pipeline and the NBBMA  Scenario 3: Pipeline constructed following establishment of the NBBMA</p> <p>As noted in CWCC’s response under Q5.5.1, the Applicant refers to works in Cells 1, 2 and 3 being constructed between April 2027 and October 2027. However, this would still lead to disturbance in passage seasons and passage bird species. It is not clear how this corresponds with details of the oLEMP given further down in the response which states: Reference RU-BD-051: High-disturbance activities within land functionally linked to the Mersey Estuary SPA, Ramsar and SSSI will be completed outside of the winter months (November – March, inclusive).</p> <p>A trenchless crossing is proposed at the western extent of Cell 3 into Cell 4, whilst the construction in Cells, 1, 2 and eastern extent of Cell 3 would be open trenched. This does not reduce concerns.</p> <p>It is stated that construction of the NBBMA would also be timed to be undertaken outside of the core non-breeding bird period, November to February inclusive. However, again, this still impacts the passage seasons, so could still have an impact on qualifying non-breeding bird species.</p> <p>It is noted that the scenario where the pipeline is built after the solar farm has not been assessed by the Applicant, and CWCC is deferred to, in terms of imposing planning conditions. This is not acceptable, as all scenarios, which could have significant impacts, have not been assessed.</p> <p>The Applicant has provided an update of the draft SoCG with Liverpool Bay CCS Ltd [REP1-039], and CWCC will comment further for Deadline 3 in response to Deadline 1 documentation provided by the Applicant.</p>	
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	<p>season prior to construction commencing, outside of the bird nesting period (March – August, inclusive) and outside of the wintering bird period (November – March).</p> <ul style="list-style-type: none"> <li>• Reference RU-BD-051: High-disturbance activities within land functionally linked to the Mersey Estuary SPA, Ramsar and SSSI will be completed outside of the winter months (November – March, inclusive). These seasonally-restricted works will include: <ul style="list-style-type: none"> <li>• Soil stabilisation within Cells 1-4;</li> <li>• Open-cut trenching through Cells 1-4 and Frodsham Marshes;</li> <li>• Construction of the launch/drive shaft for the River Weaver trenchless crossing, within Cell 1;</li> <li>• The trenchless crossings between Cells 3 and 4 (TRS-02), and across Lordship Lane (TRS-03); and</li> <li>• Percussive piling activities associated with the trenchless crossings.</li> </ul> </li> <li>• Reference RU-LV-008: Land disturbed to make way for Construction that isn't then utilised as part of the Runcorn Spur Pipeline Proposed Development during operation will be reinstated and returned to original land uses following completion of the Construction Stage, including consideration of effects to existing land drainage and reinstatement of any existing drainage features.</li> </ul> <p>The OEMP contains various other best practice commitments relating to matters such as pollution incident control, contaminated land, noise, air quality etc.</p> <p>Relevant timings associated with the construction works in relation to the Proposed Development are set out in Environmental Statement: Volume 1 Chapter 2: The Proposed Development (APP-035) as follows:</p> <ul style="list-style-type: none"> <li>• It is anticipated that works would start on Site in January 2028 and be completed in mid 2030 (paragraph 2.5.1)</li> </ul>	<p>The principal concern is that the Applicant has not fully assessed the cumulative impact of the Runcorn Carbon Dioxide Spur Pipeline Project, particularly in the scenario of the CO2 pipeline being implemented post the establishment of the NBBMA, as well as sequencing within project timelines. Reliance is put on the CWCC imposing a planning condition on the CO2 pipeline project, or alternatively, that Liverpool Bay CCS Limited (LBCCS) as applicant to the CO2 pipeline would need to propose adequate mitigation measures to ensure there will be no likely significant effects on the integrity of the Mersey Estuary SPA as a result of the temporary impacts from construction of the pipeline through the NBBMA. LBCCS have not assessed the scenario of installing the CO2 spur pipeline post construction of the NBBMA for their application and no means of control for this has been presented by LBCCS. At this stage CWCC do not consider that a planning condition would be appropriate or provide the necessary control.</p> <p>CWCC does not consider that this is a sufficiently robust cumulative assessment from the Frodsham Solar Applicant.</p>	
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	<ul style="list-style-type: none"> <li>• The construction of the NBBMA would be undertaken at the beginning of the development programme and it is anticipated to take 6 months to complete the works (paragraph 2.5.4 – 2.5.5)</li> <li>• Construction of the NBBMA would also be timed to be undertaken outside of the core non-breeding bird period, November to February inclusive. i.e. construction would be undertaken between March to October (paragraph 2.4.142). This is also secured in the Outline CEMP.</li> </ul> <p>Paragraph 2.4.142 of Environmental Statement: Volume 1 Chapter 2: The Proposed Development (APP-035) also states that the construction of the NBBMA will be completed before works begin in the western Solar PV Array Areas on the former MSC Dredging Deposit Ground cells, while works in other locations, such as the eastern Solar PV Array Area, may occur simultaneously with the creation of the NBBMA.</p> <p>During the pre-examination period the Applicant has been liaising with Natural England and has agreed to complete the construction of the NBBMA in advance of construction across the entirety of the SADA. In order to control the phasing of works in this way, the Outline Construction Environmental Management Plan (oCEMP) (as updated alongside this submission) has been revised. Specifically, paragraph 2.4.4 and Table 5-3 of the oCEMP have been amended. The oCEMP is secured via Requirement 12 of the draft DCO (as updated alongside this submission).</p> <p>The Applicant has outlined below its position regarding the three possible scenarios concerning the sequence of the pipeline construction and the works to establish the NBBMA.</p> <p>Scenario 1: Pipeline constructed prior to the NBBMA This scenario is considered in the pipeline planning application, which assumes the pipeline is constructed and in place prior to the commencement of the Proposed Development.</p> <p>If the pipeline is constructed before the NBBMA is established, the works would be undertaken between April and October, outside the main wintering bird season as</p>		
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	<p>stipulated in the OEMP which accompanies the planning application (set out above). This is the primary mitigation measure that Liverpool Bay CCS Limited is implementing to prevent impacts on the wintering bird population for which the Mersey Estuary SPA is designated. The pipeline corridor runs along the northern edge of Cell 3, so the construction activities would not affect the existing scrapes, which are the habitats of greatest value to the wintering bird population. Once the pipeline works are completed, the land would be reinstated and available for subsequent establishment of the NBBMA, with no long-term constraints on its function or effectiveness.</p> <p>If the work to create the NBBMA were to start the following March, as secured via the oCEMP (as updated alongside this submission), the birds using Cell 3 would have been undisturbed during the preceding wintering bird season. The work to create the NBBMA would be completed by October, and the area would become available for use again by wintering birds prior to the main wintering bird season.</p> <p>For both construction projects all remaining cells within the Site, as well as the land in the eastern half of the SADA, would remain accessible for wintering birds.</p> <p>It is recognised that the birds for which the Mersey Estuary SPA is designated utilise the estuary and the associated Functionally Linked Land (FLL) during migratory periods on either side of the main wintering bird period. Cell 3 will not be accessible for two consecutive years during these times. However, as previously mentioned, the other cells and the eastern half of the SADA will remain undisturbed during the construction of the pipeline and the creation of the NBBMA and this habitat would remain available for birds present in the migratory periods.</p> <p>In this scenario, the environmental control measures which are secured by each consent, primarily via the mechanisms set out in the respective project's Environmental Management Plans for the construction period, would be</p>		
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	<p>sufficient to avoid significant effects arising from the sequential approach to construction.</p> <p>The residual cumulative effect under this scenario is therefore assessed as not significant.</p> <p>Scenario 2: Concurrent Construction of the Pipeline and the NBBMA</p> <p>If both projects are being built simultaneously, the constraints stipulated by the respective environmental management plans, would ensure that construction activities within Cell 3 are undertaken outside the main wintering bird season.</p> <p>In particular, as set out at paragraph 2.4.3 of the oCEMP (as updated alongside this submission), all work would need to be completed, and the area vacated by personnel and machinery, before the start of the next wintering bird season, at which point the area could be used by over-wintering birds.</p> <p>Furthermore, as set out in paragraph 4.1.58 of the oCEMP (as updated alongside this submission), construction works would not be undertaken in Cells 1, 2 and 5 at the same time as the works being undertaken to create the NBBMA. Given the ecological reasoning that has led to the Applicant imposing that restriction on itself, it is considered reasonable to expect that construction of the pipeline in Cell 1 and 2 would be also be prevented from being undertaken whilst the NBBMA is being created. This would need to be secured via a condition of the planning permission for the pipeline if it is granted.</p> <p>Should both projects undertake construction in Cells 1 or 2 concurrently, these works would be phased to avoid any potentially significant cumulative effects arising, for example, through avoiding noisy activities from both projects being undertaken close to the boundary of the NBBMA at the same time. The Applicant's commitment to this is set out in paragraph 4.1.58 of the outline CEMP (as updated alongside</p>		
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	<p>this submission) meaning that this outcome is secured. The details of the specific phasing accounting for the pipeline (where that is necessary) would be set out in the detailed CEMP for CWACC's approval.</p> <p>In order to seek to coordinate programmes and implement the necessary environmental mitigation measures to avoid significant effects the Applicant proposes to establish a joint working group, which would also extend to the developer of the proposed Hynet hydrogen pipeline. The oCEMP (as updated alongside this submission) has been revised to include this commitment.</p> <p>In this scenario, the coordination between projects, which would be secured via the respective CEMPs, would ensure that measures such as timing of works, noise and dust controls, and ecological supervision are appropriately integrated. The potential for significant cumulative effects would therefore be avoided through agreed management measures.</p> <p>The residual cumulative effect under this scenario is therefore assessed as not significant.</p> <p>Scenario 3: Pipeline constructed following establishment of the NBBMA This is not a scenario that has been assessed by Liverpool Bay CCS Limited. The Habitat Regulation Assessment for the pipeline states that the programme for the pipeline has been developed so that all works within Cells 1-3 will be completed prior to works for the Frodsham Solar Project commencing, and prior to creation of the NBBMA i.e. Scenario 1 above.</p> <p>The Applicant is not in control of the delivery of the pipeline and therefore cannot comment on the likelihood of it being constructed in advance of the Proposed Development. Similarly, the Applicant is not in a position to speculate on the possible mitigation measures that Liverpool Bay CCS Limited may put in place to mitigate impacts on the NBBMA should</p>		
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		<p>the pipeline be constructed after the NBBMA and the solar array has been constructed.</p> <p>Ultimately, based on the current application and the associated assessments, it will be necessary for CWACC to impose controls on the planning permission of the pipeline that requires it to be constructed in advance of, or at the same time, as the construction of the NBBMA i.e. Scenario 1 or 2. Alternatively, Liverpool Bay CCS Limited would need to propose adequate mitigation measures to ensure there will be no likely significant effects on the integrity of the Mersey Estuary SPA as a result of the temporary impacts from construction of the pipeline through the NBBMA. These measures would need to be secured through the planning permission for the pipeline. Either of these options are considered reasonable and would avoid cumulative inter-project effects arising.</p> <p>Accordingly, the Applicant considers that the assessment provided in Table 13-4 of Environmental Statement: Volume 1 Chapter 13: Cumulative and In-Combination Effects (APP058), and the controls which are secured through the oCEMP (as updated alongside this submission) provide sufficient information to determine that there would not be a likely significant cumulative effect on the environment as a result of inter-project effects from the Proposed Development and the pipeline.</p>		
CWACC16.2	16.7 – 16.12	<p>The Applicant has, by virtue of recognising Frodsham Wind Farm as part of the baseline and recognising that any mitigation provided for the Proposed Development must be additive to that already provided for Frodsham Wind Farm, accounted for the cumulation of effects with the Frodsham Wind Farm. In relation to Cell 6 this cell does not form part of the Site and is not under the control of the Applicant. The mitigation proposed for Frodsham Wind Farm, in relation to effects on the Mersey Estuary SPA, is predominantly focused on creating improved wetland habitat within Cell 3. This</p>	<p>ExQ1 Q4.4.3 response to Cheshire Wildlife Trust's Relevant Representation [RR-19]</p> <p>In terms of the specific issue of re-allocating FWF Mitigation, it is CWCC's position that with two of the mitigation Cells being proposed to be lost for development, there is no robust way of demonstrating that the windfarm mitigation areas can be compensated for. The Applicant has not robustly evidenced that the mitigation can be fully re-allocated. CWCC does not</p>	

		<p>includes creating additional scrapes and associated muddy edge habitats. The mitigation for the Proposed Development is not reliant on Cell 6. The Applicant has recognised the usage of SPA birds in Cell 6, paragraph 8.6.13 of Environmental Statement: Volume 1 Chapter 8: Ornithology (APP-041) "These high counts were primarily recorded at the Frodsham Sludge Lagoons BTO sector, although discreet locations within the sector are not provided and therefore cannot be definitively attributed to be from within the Site. It is considered likely that a large number of these records provided come from Cell 6, which is located outside (but adjacent to) the Site. This is because habitats within Cell 6 are considered suitable for wetland species as it contains habitats such as a large, permanent, shallow waterbody, with muddy edges". Should Cell 6 cease to be used as a deposit ground, noting that the Applicant does not know if this is the case, then the scrapes and muddy edge habitats proposed as part of the Proposed Development would become even more valuable assets in this part of the Mersey Estuary. Such habitats are not found anywhere else within the Site of the Proposed Development. Indirect effects from construction on the SPA and the Cell 6 FLL have been considered in the Information to Inform Habitats Regulations Assessment (as updated alongside this submission). In relation to Cell 6, it is concluded that there are no direct sight lines or acoustic pathways between construction areas and the habitats within Cell 6, and therefore no likely significant effects in this regard.</p>	<p>doubt that the existing Cell 3 mitigation area can be enhanced for qualifying birds species, however, the question of whether it is enough to compensate for the loss of mitigation areas in Cells 5 and part of Cell 2, as well as loss of land used by qualifying birds outside of defined mitigation areas, has not been satisfactorily demonstrated and therefore should be the approach taken. The Applicant should retain further existing areas of mitigation, for a more robust and less uncertain strategy.</p> <p>In para 16.7-16.12 of the CWCC's Relevant Representation [RR-037], it is highlighted that the mitigation strategies for the FWF are wider than just the defined mitigation Cells 1, 2 and 3. For example, it obliges Cell 6 to be kept as an active deposit ground (which will cease halfway through the lifetime of the proposed development). This is in conjunction with grassland management, scrape creation and designed-in mitigation providing a gap between the two turbine arrays (see detail in response to Q.4.6.4).</p> <p>The mitigation was also designed to compensate for displacement at height, due to the turbine blades. Although the FWF mitigation takes into account that birds would be displaced to some extent, the ground below and around turbines is still accessible for birds should they choose to use it. The proposed development renders all land within the 253ha SADA as completely inaccessible for non-breeding birds. Cells 2, 3 and 5 were the only cells purposed for grassland mitigation, with Cell 4 providing reedbed and Cell 6 providing lagoon and muddy edge habitats. The proposal means that grassland habitats on Cells 2 and 5 will be completely lost and grassland provision reduced on Cell 3. There is also embedded mitigation within the FWF, such as distances from the Estuary, and the gap between the two turbine arrays (see further comment on the FWF design in the response to Q4.6.4</p>	
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			below). Therefore, the two mitigation strategies are not comparable, due to the different impacts of the projects and therefore, the mitigation should not be as integrated as it is currently proposed. Further areas of existing mitigation should be left undeveloped.	
CWACC16.3	16.13	The Applicant confirms that the reference at paragraph 146 of the oNBBMS (Appendix B to the Outline Landscape and Ecology Management Plan) (as updated alongside this submission) is in relation to the continued mitigation on Cell 3, not Cell 6 which lies on land outside the Applicant's control. This has been clarified in the oNBBMS updated alongside this submission.	The Applicant's confirmation that Cell 6 is outside the Applicant's control is brought to the attention of the ExA, given that the provisions for Cell 6 was an important element of the FWF consent conditions, but in practice the windfarm operator was unable to deliver any control over Cell 6.	
CWACC16.4	16.14	Article 38 of the draft DCO (as updated alongside this submission) provides the statutory powers which ensures that the overlapping consents of the Frodsham Solar DCO and the Frodsham Wind Farm Section 36 Consent under the Electricity Act 1989 are both capable of being implemented and operated without being rendered undeliverable or subject to enforcement action. The proposed NBBMA is specifically designed to complement and enhance the mitigation proposed as part of Frodsham Wind Farm. As such, compliance with Requirement 9 of the draft DCO, which secures the establishment, maintenance, management and monitoring regime for the NBBMA, will ensure that the obligations of Frodsham Wind Farm in relation to habitat management continue to be complied with.	CWCC expect that the habitat and reporting requirements for Frodsham Solar will need to be additive to those already required for FWF.	
CWACC16.5	16.15-16.17	The Applicant notes the philosophical point raised and does not contend that the continuously evolving nature of development within the UK has an impact on the baseline environment, which is subject to environmental assessment for new development. Frodsham Wind Farm is an implemented, operational development with an extant planning consent and, as such, forms an integral part of the current environment. It is therefore appropriate and	Points noted, CWCC recognise that the ExA will consider the time-limited nature of the FWF.	

		necessary to treat the wind farm as part of the environmental baseline for all relevant assessment topics. While it is noted that the FWF is subject to a time-limited consent, the potential decommissioning at the end of its consented period would itself be a separate and regulated process. Given the recognised need for ongoing and increased low carbon electricity the likely scenario is that it would be subject to a repowering proposal (as noted by CWACC at paragraph 16.9), the form of which is unknown. There are so many uncertainties as to what would happen at the end of the FWF, it would be speculation and conjecture to try and assess it from an EIA perspective, something specifically discouraged by the recent Finch case. The Applicant notes that CWACC is not expecting a change to the assessment of the impacts to arise from these comments. The Applicant maintains that the ES provides the environmental information to enable the likely significant effects of the development on the environment to be established.		
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#### 18. Agricultural Land and Soil Management

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 18. Agricultural Land and Soil Management</b>				
CWACC18.1	18.10-18.12	CWACCs comments are noted in relation to the potential for badger sets to be formed within stockpiled areas. Table 5-3 of the Outline Construction Environmental Management Plan (as updated alongside this submission) has been updated to include specific requirement to monitor stockpiles for use by badgers prior to their disturbance. The measures outlined in the Outline Soil Management Plan (APP-141) commits to avoiding placement of large soil stockpiles within the flood zones is considered sufficient to manage this matter. Requirement 16 of the draft DCO (as updated alongside this submission) secures the production	<p>CWCC welcomes the oCEMP being updated to require monitoring of stockpiles for use by badgers.</p> <p>Reference to the oSMP avoiding large soil stockpiles within flood zones is also noted. The parameters of 'large' stockpiles ought to be considered.</p> <p>Any further comments from the Environment Agency should be taken on board with regard to this.</p>	

		of a soil management plan that must be substantially in accordance with the outline soil management plan.		
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19. Comment on the control documents

Ref	Para number	Applicant's Response (PD2-027)	CWCC comments	
<b>RR-037 Section 19. Comment on the control documents</b>				
CWACC19.1	19.3	The Applicant has updated the Outline Flood Warning & Evacuation Plan following comments from CWACC and the Environment Agency. This has been provided as a separate document with this submission and replaces the version included as Appendix M of ES Vol 2 Appendix 9-1 Flood Risk Assessment and Drainage Strategy 5 of 5 (AS-028). The Outline Flood Warning & Evacuation Plan is now identified as a separate document within Schedule 10 in the draft DCO updated alongside this submission.	CWCC welcomes the Applicant's response on this.	
CWACC19.2	19.8	Replacement activities refers to the replacement of plant, machinery, parts or components (for example, replacement of modules, panels, inverters, substation equipment) so long as those works fall within the scope of the "authorised development" as defined in Schedule 1 of the draft DCO (as updated alongside this submission) and don't give rise to materially new or different environmental effects beyond those assessed.	The clarification is noted. Please also refer to CWCCs comments on major replacements in CWCC D3(B) submitted at Deadline 3 and the expectation that a definition of major replacements would be provided for the draft DCO with some controls in relation to the activities during relevant seasons.	
CWACC19.3	19.9	Paragraph 2.4.6 - 2.4.7 of the Outline Operational Environmental Management Plan (as updated alongside this submission) takes into account the need for specific management measures to be submitted to CWACC prior to any replacement activities which involve the replacement of more than 50% of the solar panels within	Please refer to CWCC's previous comments on the scale of major replacement activities; and issues with allowing up to 50% replacements before specific management measures are deployed. Please refer in	

		the Proposed Development. It confirms that these measures should be consistent with the principles of the CEMP, PROWMP, CTMP and OEMP. The Applicant considers this to provide the necessary controls requested by CWACC.	particular to CWCC Appendix A (ISH1 Agenda 5a) in CWCC's WR [REP01-48].	
CWACC19.4	19.12	The Applicant confirms that it considers the documents listed at paragraph 1.3.1 of the Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) will be required. Requirement 20(3) of the draft DCO (as updated alongside this submission) secures that the full DEMP must be substantially in accordance with the relevant part of the outline decommissioning environmental management plan and lists out the specific matters that must be addressed, which reflect those documents listed at paragraph 1.3.1 of the oDEMP. Paragraph 1.3.3 of the oDEMP has been revised to read 'prior to decommissioning'.	<b>ExQ1 – Q1.0.7</b> <b>19.12 and 19,14.</b> Points 19.12 and 19.14 of CWCC's relevant representation [RR-037] have been satisfactorily dealt with by the Applicant.	
CWACC19.5	19.13	The Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) has been revised to include the proposed amendments.	<b>ExQ1 – Q9.6.3</b> CWCC consider that prior to the commencement of the decommissioning stage an assessment of the local environment and the changes that have taken place during the operational phase will need to be submitted along with suitable mitigation and control measures. The assessment criteria, mitigation measures and methodology of the decommissioning phase must be approved by the relevant planning authority prior to its commencement.	
CWACC19.6	19.14	The Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) has been revised to include the requirement for the DEMP for any one phase of decommissioning to be accompanied by a programme for the works proposed.	<b>ExQ1 – Q1.0.7</b> <b>19.12 and 19,14.</b> Points 19.12 and 19.14 of CWCC's relevant representation [RR-037] have been satisfactorily dealt with by the Applicant.	

CWACC19.7	19.15	<p>The precise circumstances on whether cables would be removed or left in place depends on various factors at the time of decommissioning. The environmental advantages of recovering and recycling cables suggest that, if disturbance from cable recovery does not cause unacceptable environmental impacts, they should be recovered. Such impacts might include habitat loss that would take more than five years to recover or the need to exclude or translocate protected species. In such instances the alternative of leaving the cable in situ would be the preferred option. The Outline Decommissioning Management Plan (as updated alongside this submission) has been revised to include a commitment for the detailed DEMP to include a benefits/impacts analysis of the impacts of the preferred approach to the removal or retention of cables.</p>	<p><b>ExQ1 – Q1.0.7</b></p> <p><i>Please note that this question Q1.0.7 responds to the updated oDEMP [PD2-019] only and that further concerns have been set out in Appendix A (Written Representation) and CWCC’s Response to ISH1 Agenda Items at 5d) Decommissioning end state and 5e) Decommissioning timing [REP1-048 Appendix A - page 16 of Appendix]. This comment applies to other Q1.0.7 responses below too.</i></p> <p><b>19.15 RR.</b> Although the examples given in the Applicant’s Response to CWCC’s Relevant Representation [PD2-027] are more extreme that would be considered not to be significant, (e.g. habitat loss that would take more than five years to recover), it is accepted that the benefits/impacts analysis will assess this and enable a judgment to be made so that CWCC can assess and approve. Any habitats or species impacts should be considered temporally i.e. there should be enough time for habitat restoration and species translocation/licencing before the end of the decommissioning period.</p>	
CWACC19.8	19.16	<p>The Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) has been revised (Table 5-3) to confirm that should mitigation areas be lost as part of the decommissioning works a programme setting out when these areas would be lost shall be agreed with CWACC. The table has also been revised to secure the retention and management of the NBBMA until all decommissioning works on the SADA have been completed. The draft DCO has also been updated to provide that, to the extent that the mitigation areas fall within the SSSI, they shall be considered to form part of the statutory management scheme for the SSSI, meaning</p>	<p><b>ExQ1 – Q1.0.7</b></p> <p><b>19.16 RR.</b> The Applicant’s Response to CWCC’s Relevant Representation [PD2-027] states that the oDEMP [PD2-019] has been revised (Table 5-3) to confirm that should mitigation areas be lost as part of the decommissioning works, a programme setting out when these areas would be lost shall be agreed with CWCC. This is welcomed and discussion on how this will be secured should take place. The response also points out that any mitigation areas within the SSSI will fall within the SSSI statutory management scheme</p>	

		the measures would need to be retained by landowners post decommissioning (subject to any variation agreed by Natural England under the Wildlife and Countryside Act 1981).	and so will be retained, however, this is not considered to be anything other than the minimum required. CWCC would also refer the ExA to point “5e Decommissioning timing” of CWCC’s written response to ISH1 Agenda items at Deadline 1 [ <b>REP1-048 Appendix A</b> page 16 of Appendix], where CWCC requested that that phasing is secured into the decommissioning timing over the 18-24 month period, to ensure least impacts on qualifying bird species as possible. This should be the reverse of the construction phasing, i.e. the Western array should be removed first, then Eastern array, to ensure that non-breeding birds can re-populate these areas at the earliest opportunity and so impacts are reduced.	
CWACC19.9	19.17	The Applicant has discussed this with CWACC. The Applicant will retain control of the land for the period of the Proposed Development, i.e. until the decommissioning phase has been completed. Following this the land will be managed by the landowner. Paragraphs 2.7.5 – 2.7.6 of Environmental Statement: Volume 1 Chapter 2: The Proposed Development (APP-035) described the anticipated outcome of the landscaping and mitigation areas following completion of the decommissioning works, i.e. that they will be left in situ by the Applicant, but it is then up to the landowner to determine how they want to deal with those areas.	<b>ExQ1 – Q1.0.7</b> <b>19.17 RR.</b> CWCC welcomes the Applicant’s commitment to retain the habitat mitigation areas until completion of the decommissioning phase and that the habitat mitigation areas will be left in situ until the land is returned to the landowner. The lack of any commitment beyond decommissioning is a significant limitation to the benefits of the habitat mitigation areas proposed. Please refer to paragraph 4.27 of CWCC’s Written Representations [REP1-048] CWCC recommends that as a minimum, the Applicant clarifies the extent of a minimum period for landscape restoration of the wider site (SADA) following removal of infrastructure, along with confirmation that the habitat mitigation areas would be retained and managed until at least the end of this restoration period. The habitat mitigation areas are in part being provided as mitigation for the loss of functionally linked land ( <b>FLL</b> ) on the wider site, and it is important that the full area of FLL is returned to at least its current state, and	

			is functioning as FLL, before the habitat mitigation areas are released from requirements under the DCO.	
CWACC19.10	19.18	The Applicant has discussed this with CWACC. The Applicant will retain control of the land for the period of the Proposed Development, i.e. until the decommissioning phase has been completed. Following this the land will be managed by the landowner and it will be up to them if they would be willing to retain the paths.	Noted	
CWACC19.11	19.19	Paragraph 3.2.2 of the Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) has been revised to include CWACC.	<p><b>ExQ1 – Q1.0.7</b></p> <p><b>19.19 RR.</b> To address this point CWCC suggest re-wording of para. 3.2.1 of the oDEMP [APP-138] as follows:  “A Community Liaison Group (<b>CLG</b>) will be formed / <b>re-formed</b> prior to <b>decommissioning</b>) (per the Outline Construction Environmental Management Plan [EN010153/DR/7.5]) and will continue through its operations until decommissioning of the Proposed Development <b>is complete (including any restoration provisions)</b>”.</p> <p>It should also be confirmed that the undertaker is responsible for funding the administration of the CLG (during construction, operation and decommissioning) (e.g. in terms of hosting meetings/administrative support). This needs to be secured, and this may be achieved by incorporating into the oCEMP. CWCC recommended in paragraph 3.6 of its Written Representations [REP1-048] that Requirement 12 of the draft DCO be amended to include (<i>inter alia</i>) provision for a community liaison plan.</p>	

CWACC19.12	19.20	Paragraph 3.2.2 of the Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) has been revised to include CWACC.	The addition of reference to the permissive paths in the oDEMP is welcome.	
CWACC19.13	19.21	The Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) has been revised to include the need for lighting, where required, is to be directed away from sensitive habitats.	<b>ExQ1 – Q1.0.7</b> <b>19.21 RR.</b> It is noted that in the Applicant's Response to CWCC's Relevant Representation [PD2-027], it is stated that Table 5.3 of the updated oDEMP [PD2-019] and paragraph 4.1.26 have been amended to secure a sensitive lighting strategy to manage temporary lighting and lighting will only be used where required. This is accepted, however, it is not clear how this will be secured and this detail should be provided.	
CWACC19.14	19.22	Table 5-3 of the Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) has been revised to include reference to the core non-breeding bird period (Nov-Feb).	<b>ExQ1 – Q1.0.7</b> <b>19.22 RR.</b> It is noted that in the Applicant's Response to CWCC's Relevant Representation [PD2-027], it is stated that Table 5.3 of the updated oDEMP [PD2-019]), has been amended to specify "key bird seasons" as November to February. This does not include spring and passage seasons, which are also "core non-breeding periods" for the Mersey Estuary and this should be amended.  Table 5-6 of oDEMP [APP-138] 'Impact to non-designated heritage assets'. The fencing referred to should be regularly monitored and repaired/reinstated if damaged or removed.	
CWACC19.15	19.23	Section 2.4 of the Outline Decommissioning Environmental Management Plan (oDEMP) (as updated alongside this submission) describes the measures that would be adopted in relation to decommissioning. All infrastructure would be removed and the Site would be returned to a condition suitable for its current use, albeit	<b>ExQ1 – Q1.0.7</b> <b>19.23 RR.</b> With regard to point 19.23 [RR-037] and the end-state (restoration) of the site: There remains little detail on the restoration of the site, e.g. landscape	

		noting that the areas of landscaping would be retained with the only exceptions being the potential requirement by the landowner to revert the grassland created on the eastern half of the Site (to the east of Brook Furlong) and the Skylark Mitigation Areas back to land suitable for arable farming.	<p>cultivation and establishment of grassland on site of removed solar array / BESS.</p> <p>Clarification should be provided that the pre-decommissioning ecological survey will be provided in conjunction with the final Decommissioning Environmental Management Plan (<b>DEMP</b>).</p> <p>In terms of the decommissioning end state, the Applicant's Response to CWCC's Relevant Representation [PD2-027] refers to "current use" and "areas of landscaping" which are not defined terms and therefore require clarification, as the current use of Frodsham Wind Farm (<b>FWF</b>) mitigation Cells 2, 3 and 5 are for non-breeding bird mitigation, other parts of the site are for wildfowling and some are for agriculture.</p> <p>There does not look to be anything in the updated oDEMP that address this issue. CWCC would also refer the ExA to point "5d Decommissioning End State" of CWCC's written response to ISH1 Agenda items at Deadline 1 [<b>REP1-048 Appendix A</b> – pages 13 to 15 of Appendix] where CWCC would request that an End State is defined, periodic reviews of this should take place through the lifetime of the solar farm, provision for seasonal biodiversity surveys prior to the final DEMP should be factored in and the state of the mitigation areas on handover should be clarified.</p> <p><b>Comments on the rest of the paragraphs in CWCC's Relevant Representation (RR-037) section on Decommissioning Submitted at Deadline 1:</b></p>	
CWACC19.16	19.27	The Applicant confirms that the powers under Article 13(7) of the draft DCO (as updated alongside this submission) are sought to provide use of motor vehicles for the purposes of the authorised development and not for the opening up to the public as a byway. Paragraphs 3.2.4 and 3.3.9 of the Outline Public Rights of Way Management Plan (as updated alongside this	<p><b>ExQ1 Q9.5.2</b></p> <p><b>19.27 RR.</b> CWCC welcomes the Applicant's clarification that the powers under Article 13(7) of the draft DCO are sought to provide use of motor vehicles for the purposes of the authorised development and not for the opening up to the public.</p>	

		submission) have been revised to refer to Article 13(7) of the draft DCO.	The Applicant should provide confirmation as to the means of monitoring/identifying use by authorised / unauthorised vehicles (e.g. with windscreen markers or similar to identify authorised vehicles?).	
CWACC19.18	19.30	Paragraph 5.1.4 of the Outline Public Rights of Way Management Plan (as updated alongside this submission) has been updated to require the full Public Rights of Way Management Plan to include a programme of implementation of the permissive paths. Requirement 15 of the draft DCO (as updated alongside this submission) secures the submission and approval of the full Public Rights of Way Management Plan.	Response noted.	
CWACC19.19	19.31	In order to facilitate the passage of cyclists it will be necessary to hold traffic accessing the Site at either end of the restricted section of Ellesmere Port and Neston RB40 / Frodsham RB106 / NCN5. It is considered that this has the potential to startle horses and so passage of equestrian users is not deemed appropriate in the same way as cyclists. It is noted that during the construction of Frodsham Wind Farm the same approach was adopted to the management this section of the PROW network, which was approved by CWACC pursuant to Condition 29 (Public Rights of Way Strategy) of 10/00597/DECC.	Response noted.	
CWACC19.20	19.32	The Applicant agrees with this point. Should it be necessary to remove any of the permissive paths this would require approval under an amendment to the approved landscape and ecological management plan pursuant to Requirements 5 and 9 of the draft DCO (as updated alongside this submission). Requirement 9(2)(h) specifically requires the final routing, specification and maintenance regime for each permissive path to be approved by CWACC and implemented in accordance with the approved plan.	Response noted.	

CWACC19.21	19.33	Paragraph 5.1.7 of the Outline Public Rights of Way Management Plan (as updated alongside this submission) confirms that the “full PRoW Management Plan will set out the approach to be adopted to monitor and review the status of PRoW within the Order Limits and the maintenance schedule for improvements or upgrades.”. This is secured under Requirement 9 of the draft DCO (as updated alongside this submission) and therefore provides the opportunity for the approach to identifying these improvements to be agreed with CWACC at the detailed design stage.	Response noted.	
CWACC19.22	19.34	Paragraphs 6.5.18 – 6.5.21 of the Outline Landscape and Ecology Management Plan (as updated alongside this submission) describe the intended surfacing, paragraph 6.5.22 of the oLEMP confirms that the full detail of the permissive paths will be set out in the LEMP. This paragraph has been amended to confirm that the LEMP will also set out the maintenance regime for the permissive paths and PROW on the Site. Requirement 9(2)(h) of the draft DCO (as updated alongside this submission) secures the final routing, specification and maintenance regime for each permissive path.	CWCC welcomes the addition of reference to maintenance of the footpaths in the oLEMP.	
CWACC19.23	19.37	The Outline Landscape and Ecology Management Plan (as updated alongside this submission) describes the implementation and management of the landscaping. Implementation of trees, shrubs and proposed planting is set out in paragraphs 6.6.16 to 6.6.23, grassland in paragraphs 6.7.7 to 6.7.8, and wetlands in paragraphs 6.8.7 to 6.8.10. The proposed timing of the landscape works is set out in Table 3, 4 and 5. Requirement 9(2)(e) of the draft DCO (as updated alongside this submission) secures the provision of an implementation timetable.	The clarification is welcome, and further comments on the details of the oLEMP will be provided.	

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