



**This letter is sent by email only to**

[FrodshamSolar@planninginspectorate.gov.uk](mailto:FrodshamSolar@planninginspectorate.gov.uk)

██████████  
Lead member of the panel of Examining Inspectors  
National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

04/03/2025

Dear ██████████

Please accept this letter as our response to the **Examining Authority's Request for further information, EN010153**, dated 9 February 2026, to meet **deadline 4 (5 March 2026)**.

## **The RSPB**

We work locally in the UK and around the world protecting habitats, saving species and addressing the nature and climate emergency. We do this through five main work areas: **science, species, places, people** and **policy**, taking 2 of these.

With respect to science, our world-leading research allows us to take a 'bird's-eye view' of the overarching problems facing nature and the planet and then identify the solutions that make a real difference. We establish the conservation interventions that will have the most impact, and then we monitor and test these actions to measure success.

In terms of places, Nature needs other nature to survive. That's why we work to create more, bigger, better and well-connected protected areas for nature on

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**RSPB England Headquarters**  
First Floor  
One Cornwall Street  
Birmingham  
B3 2DX

**Tel:** ██████████  
@RSPBEngland  
@RSPBEngland  
**rspb.org.uk**



The RSPB is part of BirdLife International, a network of passionate organisations, working together to save nature across the world.

**Patron:** His Majesty The King **President:** Dr Amir Khan **Director, RSPB England:** Michael Copleston.

The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654. Registered address: The Lodge, Pottton Road, Sandy, Bedfordshire, SG19 2DL

land and at sea. We manage more than 200 nature reserves in the UK from the Fetlar Island in the Shetlands to the Marazion Marsh in Cornwall.

## Our response

Within EN010153 the ExA acknowledges – *“The applicant has provided a Letter of Intent relating to the Frodsham Solar NBBMA from Royal Society for the Protection of Birds (RSPB) into the examination [REP2-027, appendix D]”*.

Further that – *“The Examining Authority (ExA) recognises that the RSPB is not registered as an Interested Party to the examination”*.

Your letter then states – *“Nonetheless, the ExA requests:*

- a) Clarity on the letter of intent from the RSPB.*
- b) Clarity on the progress of any negotiations to formally and legally establish the RSPB as the conservation body that would be responsible for upkeep and management of the NBBMA.*
- c) Whether or not the RSPB endorses and agrees to the proposed NBBMA and the accompanying Outline Non-Breeding Bird Mitigation Strategy [REP3-032], its formation methodology and that the NBBMA would represent an enhancement to the current situation and fulfil any conservation objectives.*
- d) Whether the RSPB and Natural England are satisfied, in the exercise of its expertise and knowledge, that the proposed NBBMA would support the applicant’s case for ‘no’ Adverse Effect on the Integrity of the adjacent Special Protection Area.*
- e) If the RSPB can provide the examination with any evidence of its own as to the suitability of these proposals”*.

To take these in turn -

- a) RSPB submitted the original letter to confirm our willingness to work constructively with Frodsham Solar Limited in developing a mitigation package that is both effective and deliverable. Our position is that mitigation must extend beyond the creation of suitable habitat; it must also include a robust, long-term aftercare and management regime. This regime should be adequately resourced and delivered by a competent conservation organisation

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**RSPB NW England**  
Myers Farm  
Storrs Lane  
Silverdale  
Carnforth  
LA5 0SW

Tel: [REDACTED]  
f @RSPBEngland  
[rspb.org.uk](http://rspb.org.uk)



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with a proven track record in establishing and maintaining high-quality habitats. In our opinion, this approach will ensure that the mitigation area remains fit for purpose throughout the operational lifetime of the solar farm.

Our position is informed by our experience of the adjacent wind farm mitigation area, which has not performed as we originally envisaged despite RSPB's extensive involvement at the planning stage. In our assessment, this underperformance reflects the absence of a clear, flexible, and adaptive management framework, supported by appropriate resources and delivered by a specialist conservation body in line with appropriate and enforceable planning conditions.

We therefore provided the letter not only to outline these concerns but also to indicate that RSPB would be willing to undertake the conservation delivery role, subject to an appropriate agreement and financial package that ensures the long-term success of the mitigation measures.

- b) RSPB remains in active discussions with Frodsham Solar Ltd regarding the potential structure of a conservation delivery partnership, including the scope of responsibilities and the form of any legal agreement. However, it is not possible to progress to a formal agreement until the precise nature and specification of the proposed mitigation area have been finalised through the planning process. For RSPB to take any proposal through our internal approval procedures, we require a clear and detailed understanding of the mitigation design, management expectations, and long-term obligations. This level of detail is essential to ensure that any legal and financial arrangements fully cover RSPB's costs, responsibilities, and liabilities, and that the organisation can deliver the required outcomes to an appropriate standard.
- c) The RSPB broadly supports the applicant's view that the proposed NBBMA (Cell 3) represents a significant enhancement over the existing provision. Our support is, however, subject to the additional requirements set out below, which extend beyond the applicant's current proposals.

With these additions and modifications in place, we would be prepared to accept a revised Outline Non-Breeding Bird Mitigation Strategy (ONBBMS) that delivers enhanced habitat for SPA species using the site between October and March, and that provides a meaningful benefit to breeding waders under effective long-term management.

Our endorsement is contingent upon the development of a deliverable and adaptive management plan for the NBBMA. We understand that the applicant

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Myers Farm  
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Silverdale  
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LA5 0SW

Tel: [REDACTED]  
@RSPBEngland

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is in ongoing discussions with Natural England regarding an Adaptive Management Plan (AMP). This AMP must be agreed with the RSPB as a prerequisite for us to assume management responsibilities. It must also be adequately funded and enforceable through planning conditions. The AMP should set out clear habitat objectives, water-level management requirements, disturbance-reduction measures, and other operational parameters for the lifetime of the proposed solar farm (as referenced in Section 4.4 of the oLEMP).

We have advised the applicant that [REDACTED] must be enclosed by a permanent predator-exclusion fence, installed within a wet ditch and designed in accordance with current RSPB best practice (see Image 9). Such fencing is essential to deter foxes, badgers, and other large mammalian predators, and to reduce disturbance from human activity. The RSPB has more than 20 years' experience deploying predator-exclusion fencing on reserves and around wader nesting areas.

We have also recommended that the extent of wet features (pools, scrapes, and linear foot-drains) be increased in line with current RSPB best practice, and that the applicant provide assurance of sufficient on-site freshwater to maintain both the ditch and the wet features as part of the adaptive management regime.

An indicative layout is provided in Annex 2. We are aware of ongoing discussions between the applicant and Natural England regarding the retention of canal pools within the SSSI, which are not shown in this draft. The draft also includes grassland at two elevations: higher, drier grassland approximately 30–40 cm above the remainder of the area, and lower ground incorporating the pools, this lower grassland may be subject to shallow seasonal flooding of approximately 10 cm.

It is essential that the scheme allows for periodic drying of wet features (pools, scrapes, and foot drains) to enable their rotational refresh through ground disturbance and vegetation removal, in accordance with the approved management plan. While the precise location of these features may be adjusted as required, the overall proportion of wet habitat relative to grassland must be maintained or increased and must not fall below the level agreed in the final plan.

In addition to the proposals for [REDACTED] we strongly recommend that the entirety of Cell 2 (which is contiguous with [REDACTED] be incorporated into an expanded NBBMA and retained as grassland, managed to a higher standard than at present. This area should also be enclosed by predator-exclusion

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Myers Farm  
Storrs Lane  
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Tel: [REDACTED]  
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fencing (see Image 10). This would allow the area to fulfil the original intention of the wind farm mitigation as grassland habitat for wintering waders. The current - Wind Farm Habitat Creation and Management Plan states the following in relation to Cell 2 -

*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.*

*Provision of a short sward grassland (between 5cm and 8cm) throughout the fields during the period between the beginning of October (i.e. at the end of the growing season) and the end of the following March. Hay meadow or grazed grassland will both produce this outcome.*

Management should be achieved through hay cutting or summer grazing with livestock removed during the winter period. Management should remain adaptive to ensure optimal roosting and foraging conditions for wintering waders.

We are satisfied that the NBBMA, as described above, would make a significant contribution to the Conservation Objectives for the Mersey Estuary SPA (Natural England, version 5, 21 February 2019).

Finally, our endorsement is conditional upon the ONBBMS/NBBMA being managed by a suitably experienced and properly resourced conservation body. We do not support delivery through informal arrangements with local farm tenants, as such agreements have proven largely unenforceable across the North West of England

- d) Following consultation with our in-house Casework Team, and subject to the matters outlined in section (c), we are satisfied that the proposed enlarged NBBMA is capable of supporting the applicant's conclusion of no Adverse Effect on the Integrity of the Mersey Estuary SPA. This view is based on the scale and quality of the enhanced habitats proposed, which will provide functionally linked roosting and foraging areas for SPA species.

In our assessment, the overall reduction in land area is outweighed by the substantial improvement in habitat quality, particularly through the implementation and long-term maintenance of predator-exclusion fencing. This measure will, as far as is reasonably achievable, protect the area from mammalian predation and unauthorised access, thereby creating what we would describe as a secure high-tide roost. Such conditions are expected to

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increase the attractiveness of the site to wader species and strengthen its functional role in supporting the SPA.

- e) In response to the final question, Annex 1 provides three examples from RSPB-created or RSPB-managed sites adjacent to estuaries. All three comprise wet grassland with integrated wet features enclosed within predator-exclusion fencing on the landward side of estuary flood defences and are therefore directly comparable to the habitat proposed for the NBBMA.

To maximise the ecological potential of the site and to ensure resilience to the effects of climate change, robust hydrological control is essential. This includes the capacity to store sufficient water during wetter periods (typically winter) to enable the topping-up of ditches, pools, and scrapes during drier conditions. These hydrological principles have been successfully implemented across the three example reserves, and we consider them fully achievable within the proposed NBBMA.

Monitoring from our reserves generally, and these 3 in particular demonstrates that habitats of this type function effectively as both roosting and foraging areas for substantial numbers of SPA bird species. They also support breeding waders, including lapwing and avocet, confirming the suitability of this habitat type for multiple species of conservation interest.

While species assemblages vary slightly between SPAs, the examples provided illustrate that the proposed habitat structure and the scale of the enlarged NBBMA are entirely appropriate for the Cell 3/2 location at Frodsham. In our view, the NBBMA will be well-suited to its intended purpose and capable of delivering the required ecological outcomes.

## Assessment of HPAI Risk to Birds Using the NBBMA

### No significant increase in exposure

Although the proposed NBBMA is smaller than the total area of suitable wader and wildfowl habitat within the Proposed Order Limits, its creation does not introduce a significant additional risk of HPAI transmission. The species expected to use the NBBMA already roost and forage in close proximity during the wintering period, meaning that:

- The density and mixing of birds will not materially exceed existing patterns in the wider landscape.

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- The baseline risk of HPAI exposure is already determined by regional wildfowl concentrations, not by the NBBMA itself.

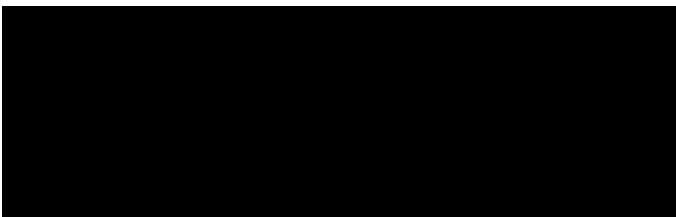
## Potential benefits to bird health

The proposed enhancements within the NBBMA are expected to improve overall habitat quality, which may support better health outcomes for the species that use it. Key benefits include:

- Reduced disturbance, allowing birds to conserve energy and maintain better condition during winter.
- Improved foraging opportunities, increasing food availability and supporting resilience.
- More predictable roosting conditions, which can reduce stress and improve overwinter survival.

While these enhancements cannot eliminate the background risk of HPAI, they will in our opinion mitigate transmission risk, through minimising stress and providing resilience and help increase the general robustness of wintering birds, which is in our opinion a positive ecological outcome.

Yours sincerely



[Redacted], Area Manager Northwest England

[Redacted]

[Redacted]

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### RSPB NW England

Myers Farm  
Storrs Lane  
Silverdale  
Carnforth  
LA5 0SW

Tel: [Redacted]  
@RSPBEngland

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## **Annex 1: Suitability of the proposals, examples**

### **1. Inner Marsh Farm 2 – RSPB Burton Mere, Cheshire/Flintshire.**

Burton Mere Wetlands is an 80ha site that sits within RSPB's suite of Dee Estuary reserves (that total 6,300ha). A mosaic of wetland habitats, with 70ha of wet grassland forming most of the reserve, and managed predominantly for breeding waders, along with wintering waders and wildfowl. This wet grassland is split into 2 areas – Inner Marsh Farm 1 and Inner Marsh Farm 2 (IMF2) – with both protected by electrified predator exclusion fencing totalling 5.2km.

As illustrated in Image 2, IMF2 comprises an extensive area of wet grassland (60.8 ha) incorporating pools (8.6 ha) and approximately 4.1 km of shallow linear foot-drains.

The IMF2 fence (3.2km), originally installed in 2012, was replaced in 2023 using a new design following latest RSPB Ecology specifications for dry barriers.

IMF2 and Burton Mere function as part of the wider ecological network supporting the Dee Estuary SPA, providing high quality conditions for both high tide roosting and foraging. Their importance varies across tide heights and seasons, demonstrating the value of such habitat mosaics in maintaining SPA bird populations.

Monitoring data highlight the site's significance for wintering birds, with five-year mean counts including: Black-tailed Godwit (803; peak 1006), Teal (1380; peak 1819), Wigeon (225; recent peak 876), and Shoveler (147; recent peak 120).

202 pairs of waders successfully nested within IMF2 alone in 2025 that included Avocet (84 pairs), Lapwing (78 pairs) and Redshank (38 pairs). All of which recorded high chick productivity with 84 Avocet young fledged and 62 Lapwing young, fledged thanks in large part to the fencing.



Image 1: Inner Marsh Farm 2, RSPB Burton Mere Wetlands



*Image 2: IMF2, RSPB Burton Mere Wetlands, Cheshire ©Sam Turley 2023 (rspb-images.com)*



*Image 3: Golden plover, black-tailed godwit and lapwing roosting on IMF 2, ©Paul Jubb/RSPB*

## **2. Marshside & Crossens Inner Marshes RSPB Marshside, Southport, Merseyside.**

This reserve is partly owned and partly leased by the RSPB; we have created 158 hectares of wet grassland habitat enclosed within a predator-exclusion fence. The site lies within the Ribble and Alt Estuaries SPA. Since assuming management, the RSPB has undertaken extensive wet-feature creation and installed a comprehensive predator-exclusion system.

Marshside forms part of the Ribble Estuary National Nature Reserve, an internationally important site for wintering and breeding waders and waterfowl. Within the most recently acquired section, Crossens Inner Marsh, the RSPB purchased 38 hectares of coastal grazing marsh, linking it to existing protected habitats. Subsequent works included the installation of sluices, a weir and culverts; excavation of new pools and a perimeter ditch; de-silting of existing ditches; and the introduction of low-intensity cattle grazing—an approach directly analogous to that proposed for the NBBMA.

Two predator-exclusion fences now surround the marshes on either side of Marshside Road, with a combined length of more than 8 km. The first section, protecting Suttons Marsh, was installed in 2015. Fencing around Crossens Inner Marsh and Rimmer's Marsh—both comprising wet grassland with wet features—was completed between 2019 and 2022.

Although habitat structure is broadly similar across the reserve, to that at Burton Mere, usage by individual species varies. Wintering highlights (five-year means, 2021/22–2024/25) include: Black-tailed Godwit (1518; with peak counts regularly exceeding 5000), Curlew (39), Dunlin (118), Golden Plover (1414; peaks regularly over 4000), Lapwing (1535; peaks recently over 5000), Pink-footed Goose (522), Pintail (136), Redshank (121), Shoveler (161), Teal (972), and Wigeon (2488).

Breeding highlights (five-year means, 2021–2025) include: Avocet (84 pairs), Black-headed Gull (570 apparently occupied nests), Lapwing (59 pairs), Little Ringed Plover (4 pairs), Mediterranean Gull (2 pairs), Oystercatcher (14 pairs), and Redshank (59 pairs)



Image 4: RSPB Marshside, Crossen's Inner and Rimmers Marshes



*Image 5: Lapwing in flight over Rimmers Marsh RSPB Marshside, Merseyside ©Our Media 2023 (rspb-images.com)*

### **3. RSPB Freiston Shore, Lincolnshire.**

Freiston, which lies contiguous with The Wash SPA, is owned and managed by the RSPB. The reserve has benefited from the creation of 50 hectares of wet grassland (coastal grazing marsh), incorporating pools, shallow foot-drains, and a water-storage reservoir equipped with transfer pumps to provide supplementary water for breeding waders in spring. Fifteen hectares of this grassland are now enclosed within a newly installed predator-exclusion fence (completed in 2025). Additional habitats on the reserve include two saline lagoons—both now protected by new predator-exclusion fencing—and one of the largest managed realignment saltmarsh creation areas in the UK, covering 66 hectares.

Wintering bird use of the wet grassland has been substantial, with birds drawn from the adjacent Wash due to the high quality of feeding opportunities. Many species have occurred in nationally or internationally important numbers. Black-tailed Godwit is a key species, with a peak count of 10,505 in November 2019—the highest ever recorded at any site in the UK. Other notable peak counts include 8,000 Golden Plover, 5,000 Lapwing, 4,000 Wigeon, and 3,500 Dark-bellied Brent Goose.



Image 6: RSPB Freiston Shore



*Image 7: RSPB Freiston Shore, Lincolnshire ©Richard Wardle (rspb-images.com)*



*Image 8: RSPB Freiston Shore, Lincolnshire ©Ben Andrew (rspb-images.com)*

## **In-ditch Predator Exclusion Fencing the Freiston example**

Predator-exclusion fencing was recently installed at Freiston as part of a wider reserve enhancement programme. The system uses plastic-coated V-mesh panels, a design that has been deployed successfully on other RSPB reserves and has demonstrated long-term durability in wet conditions.

To maintain operational access, at least one gated section must be located on dry land. This land-based section incorporates an angled “floppy” mesh overhang of approximately 40–50 cm and must be no less than 1.8 metres in height to prevent foxes from jumping over.

The in-ditch section of the fence is constructed on a level berm approximately 1 metre wide, positioned within a 3-metre-wide ditch. The berm is located on the inside of the fence line, facilitating both installation and ongoing maintenance. The mesh in the ditch section only needs to extend 30–40 cm above the water surface, provided that water levels can be controlled to allow safe access for maintenance.

Maintaining consistently high ditch-water levels throughout the year is the most critical requirement. Water must remain deep enough to prevent foxes or badgers from gaining purchase on the ditch bed, which would otherwise allow them to push themselves up onto the mesh or swim beneath it if levels drop. Effective hydrological control is therefore essential to ensure the long-term integrity of the predator-exclusion system.



*Image 9: In-ditch predator exclusion fence, ©Gavin Thomas/RSPB*



*Image 10: On-land predator exclusion fence, ©Gavin Thomas/RSPB*

Image 11: Recycled plastic posts, ©Gavin Thomas/RSPB



## Annex 2: Illustrative indicative first draft plan of a potential wetland layout in Cell 3.

