



Cheshire
Wildlife Trust

Frodsham Solar DCO - EN010153

Summary of Oral Representations at Issue Specific Hearing 2
+ Additional Representations

Cheshire Wildlife Trust (CWT)

5th March 2026

Issue Specific Hearing 2 – part 6

Introductions - Initial position

00:06:01:08. We were asked to summarize our position and we said that our main concerns centre around the lack of adequate mitigation for the loss of functionally linked land to the Mersey Estuary, as well as the damage to the Local Wildlife Site, which is likely to not be very functional as a Local Wildlife Site anymore after this proposed development. We also take issue with the methodology used to calculate the mitigation required.

Agenda Item 3f(i) – NBBMA

00:12:18:00. The applicants were asked whether the NBBMA should be considered mitigation or compensation. They claimed that the loss to Cell 3 would be temporary and seasonally appropriate, to which CWACC responded that the entire loss of Cell 3 makes it compensation not mitigation. We agreed and further commented that the Mitigation area should compensate for the loss of the Local Wildlife Site as a whole as well as the Functionally Linked Land, and therefore the season, in terms of timing of the works, is not particularly relevant.

00:17:30:04. The applicants said they disagreed, and it was then made clear that the mitigation proposed for the development only applies to SPA bird species, to which we pointed out that if the mammals, habitats, and non-qualifying birds are not being compensated for through the mitigation area, they are not being compensated for at all.

00:31:35:10. The applicants explained their ‘quality over quantity’ approach, which we disagree with. We explained our belief that increase in quality does not compensate for loss of quantity. Much of the value of Frodsham Marshes, both as functionally linked land and a local wildlife site, comes from its size and openness for wildlife, including birds. This is not being considered in this ‘quality over quantity’ approach, which itself is not ecologically sound. Nature recovery rests on the idea of increasing size, quality, and connectedness, so making one of these better at the expense of another does not provide much overall benefit. It squeezes wildlife into one area, which makes them more vulnerable to external pressures and threats.

We also refuted the idea that the flight lines will not be impacted. We explained that they will not necessarily be disrupted in terms of the birds being able to fly, but that the birds

will not register this land as being available to them and it disrupts the connectivity between the different parcels.

We also refuted the applicant's dismissal of the loss of mitigation area as temporary, stating that a temporary loss is still a loss that must be accounted for¹.

00:41:53:16. The applicants were asked about the adequacy of their calculations for mitigation, particularly with regards to the Cleeve Hill approach. They explained that no approach will capture the complexities of such a project, and that they supplemented the calculations with qualitative assumptions. We explained our view that not having enough research available is not a valid excuse to exclude any bird species in the calculations; if no current strategy has been devised for this kind of project, we expect the applicants to undertake that work in order to account for all the species that require mitigation².

00:45:33:18. The applicants replied by explaining that the other SPA qualifying birds were taken into account in other ways, and we asked if the applicants could explain specifically how they have done this.

01:02:36:07. We then summarised our position about this by stating that the qualitative approach to this mitigation is concerning to us, because it provides us with no evidence and assurance that it would be enough mitigation. This is exactly where a precautionary approach should be taken; if evidence cannot be provided to ensure mitigation, we have to assume it is not mitigated for.

01:08:32:01 The Examiner asked about how whether the birds would prefer having open space or being confined to a smaller space. We responded that being squeezed into one area makes them a lot more vulnerable to disease, additional pressures of recreation further development, and competition. We elaborated on to say that one of the biggest threats to wild species is habitat loss and fragmentation; ideally, they want complete openness, and that is why we are seeing massive declines in biodiversity in the UK and around the world. We keep building on and encroaching on their habitats, which is why we are losing all our biodiversity³.

¹ See Appendix 1, Mitigation vs compensation

² See Appendix 1, Methodology

³ See Appendix 1, Shifting baseline

Issue Specific Hearing 2 – part 7

Agenda Item 3f(ii) - Skylark Mitigation Area (SMA)

00:40:46:16. At the end of the Skylark Mitigation discussion, we made a few points.

First, we reiterated the idea that if a qualitative approach is taken to mitigation, then a precautionary approach should be taken, applying this idea both to SPA birds mitigation, and to the Skylark Mitigation. We cannot assume that the skylark will use the rest of the solar farm, even if they have been known to elsewhere.

We explained our position on the ‘mitigation vs. compensation’ question, stating that if the skylark plot is appended to the red line boundary and would not have been part of the boundary otherwise, surely that would be considered compensation. Especially if we do not actually know whether the skylarks are already there or not (further to CWACC’s previous comment).

We also commented on the applicants claims that the birds would not be bothered by the location of the Skylark Mitigation Area. Even if they are able to deal with the pylons and the motorway, as stated by applicant, it is obviously not ideal for them, and that location just ends up being fragmented from the other areas that they will be using, notably the NBBMA.

Finally, we reiterated the original question posed by the Examiner to ask how the hectareage was determined for the mitigation area. In the pre-application consultations, the applicants told us it would be 30ha, which reduced to 5ha when the application was submitted. The literature commonly used to determine the necessary hectareage for skylarks states that a pair requires 3.3ha per territory. As there are 21 pairs of skylarks at peak count on the site, this would amount to about 70ha.

Agenda Item 3f(iv) – Biodiversity Net Gain

01:23:22:02. The applicants claim that BNG is not mandatory for NSIPs yet, therefore that exempts them from following BNG rules. We explained that the point of the rules for BNG such as trading rules, classification, etc are to take into account the complexities of biodiversity. If the rules have not been met, then certain factors have not been accounted for, and BNG cannot be claimed. The point of BNG is not to pick and choose which numbers are convenient. There is a carefully devised metric that is relatively easy to use and shows clear losses.

01:28:36:16. We asked for clarifications regarding changes to the strategic significance in the new metric.

compensation addresses residual impacts that cannot be avoided. The UK Government (Protected Species guidance)⁵ defines mitigation as “reducing or removing the negative effects of your proposal,” and compensation as “offsetting any unavoidable remaining impacts after avoidance and mitigation,” including “like-for-like habitat replacements next to or near existing species populations.” The Welsh Wildlife Trust⁶ similarly distinguishes mitigation, which minimizes harm through timing, building methods, or protecting wildlife features, from compensation, which offsets unavoidable harm by providing replacement habitat of equal or better quality and ideally in a suitable location, either on-site or off-site. The HS2 Ecological Guidance⁷ clarifies that mitigation reduces negative impacts, while compensation provides replacement areas to offset permanent loss or damage to biological resources, aiming to replicate as many lost features as possible. Finally, the Woodland Trust⁸ states that mitigation guarantees that unavoidable adverse effects are minimized, whereas compensation guarantees that residual adverse effects are offset through measures such as replacement habitats.

We would like to address several points that the applicant may rely upon to characterise the proposed measures as mitigation rather than compensation.

First, relevant guidance shown above makes clear that the distinction between mitigation and compensation does not depend on whether measures are located within or outside the Order Limits. Compensation measures may be delivered either on-site or off-site, whereas mitigation refers to actions taken to avoid or reduce impacts arising from the development itself. Although the NBBMA lies within the Order Limits, its inclusion appears to serve primarily as an ecological offset for impacts caused by the development rather than as land required for the development. Its function is therefore compensatory in nature.

Second, the applicant has suggested that impacts will be limited through measures such as “temporary loss” and undertaking works “out of season”. While such measures may reduce disturbance associated with the loss of the NBBMA itself, they do not address the loss of Functionally Linked Land. It could be argued further that the recreation of the NBBMA only serves to offset its own loss, leaving the Functionally Linked Land without mitigation or compensation. Regardless, the ecological function provided by the Functionally Linked Land cannot be maintained once it is affected by the development, therefore these measures operate as compensation rather than mitigation.

⁵ [Protected species and development: advice for local planning authorities - GOV.UK](#)

⁶ [REDACTED]

⁷ [High Speed Two phase one information paper E28: Mitigation and Compensation](#)

⁸ [Woodland Trust – Compensation and Mitigation Factsheet](#)

BNG (Reedbeds)

The applicants have clarified that the BNG metric and report will be resubmitted, and highlighted certain changes they have made and not made. We reiterate our dispute over the de-classification of reedbed. We believe this is due to a misinterpretation of the UKHab guidance around reedbeds, which we have detailed in our Response to first set of Written Question⁹.

Rule 4

The applicants have invoked Rule 4 to dispense themselves from adhering to the BNG trading rules. They specifically claim to meet the requirement of ‘highly complex landscape-scale habitat changes’ by stating that the “Frodsham Solar Order Limits total approximately 337.5ha”. The applicants seem to claim that the solar farm development is a landscape-scale restoration project, which is beyond reason. The only habitat creation/restoration being proposed in is in the NBBMA, which is 67ha and cannot be reasonably considered a “landscape-scale”. The rest of the order limits will be developed, and any landscaping proposed cannot be considered much more than landscaping. The case study that is cited as justification is a completely different situation, with a mitigation area close to three times the size of the development.

Agreement with conservation organisation for management of NBBMA

Finally, we would like to reiterate the general consensus that the management of the NBBMA should be agreed on with a reputable wildlife conservation organisation as part of the application/examination process, and this agreement should be secured through planning condition. The applicants have made clear that an agreement would not be in place before the end of the examination, despite claims that the RSPB are already in agreement. This is deeply concerning. We have seen the effects of poor planning conditions and undertaking of mitigation areas with the Frodsham Windfarm, and it is imperative that these mistakes not be replicated. The entirety of the applicants’ claims around mitigation/compensation for the impacts of the development rests on the success of the NBBMA. The effects of poor management could be catastrophic, and would likely impact the entire Mersey Estuary, making the development far more damaging than already proposed.

⁹ REP2-011