



## **Frodsham Solar**

# **Applicant's Response to Interested Parties' Deadline 3 and 3A Submissions**

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## 1.0 INTRODUCTION

### 1.1 Purpose of this Document

1.1.1 This document provides the Applicant's responses to the submission made by Interested Parties at Deadline 3 and 3A, as part of the examination of the application for development consent for the proposed Frodsham Solar project (the 'Proposed Development').

1.1.2 This response is issued at Deadline 4 in accordance with the ExA's Rule 8 Letter (**PD-008**) issued on the 16<sup>th</sup> December 2025.

### 1.2 Approach

1.2.1 Responses at Deadline 3 and 3A were received from the following Interested Parties:

- i) Cheshire West and Chester Council (CWCC or 'the Council'):
  - a. Deadline 3 Covering Letter (**REP3-045**)
  - b. Council's Responses to the Applicant's Response to the Local Planning Authority Relevant representations contained in [PD2-027] - CWCC D3(A) (**REP3-046**)
  - c. Council's Procedural Deadline B documents, Deadline 1 and Deadline 2 submissions - CWCC D3(B) (**REP3-047**)
  - d. Deadline 3a submission (**REP3A-001**)
- ii) National Grid Electricity Transmission PLC
- iii) National Highways
- iv) Cheshire Wildlife Trust (**REP3A-002**)
- v) SP Energy (**REP3A-003**)

1.2.2 The documents submitted with the application and at previous examination deadlines are referenced using the reference number assigned by the Planning Inspectorate (PINS) i.e. [APP-XXX].

1.2.3 The Applicant has not submitted a response in respect of National Grid Electricity Transmission PLC, National Highways and SP Energy, as the subject matter of their representations was dealt with at CAH1 and ISH2 and, in respect of National Highways, the updates to the DCO submitted at Deadline 4.

1.2.4 In respect of CWCC's Deadline 3 Cover Letter and Deadline 3A submission, and Cheshire Wildlife Trust's Deadline 3A submission, the thrust of these submission relate to ecology, and the matters either dealt with in the Applicant's response to REP03-046, were dealt with at ISH2 and its associated Action Points or will be dealt with in Natural England's forthcoming submissions. In summary, the Applicant's position is that:

- there can be no doubt that the NBBMA should be considered as mitigation not compensation;
- in-combination impacts have been considered, and ultimately CWCC has the ability to control the contribution of the other development to those impacts;
- the outline NMMBS provides for an adaptive approach to ensure that impacts are mitigated through the lifetime of the Proposed Development;
- Natural England have expressed no concerns in respect of the Applicant's access proposals in the context of ornithological receptors; and
- it is understood that Natural England will be able to report that it is content that there are no AEoI from the Proposed Development and that the NBBMA is sufficient to mitigate its impacts taking account of all of the factors that have informed its development, of which the Cleve Hill approach is just one aspect.

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## 2.0 APPLICANT'S COMMENTS ON COUNCIL'S RESPONSES TO THE APPLICANT'S RESPONSE TO THE LOCAL PLANNING AUTHORITY RELEVANT REPRESENTATIONS CONTAINED IN [PD2-027] - CWCC D3(A) (REP3-046)

### 2.1 Introduction

2.1.1 The Council has provided responses to the **Applicant's Response To The Local Planning Authority Relevant Representations [PD2-027]**. The Council has presented these responses in a tabular format to directly address the responses made by the Applicant.

2.1.2 Since the Applicant's submission of **[PD2-07]** the following activities and submissions have been made:

- i) Issue Specific Hearing 1
- ii) the Council have issued its Written Representations **[REP1-048]** and Local Impact Report (LIR) **[REP1-046]**
- iii) the Applicant has responded to the Council's Written Representations **[REP3-041]** and LIR **[REP3-042]**
- iv) The Applicant **[REP2-003]** and the Council **[REP2-005]** has responded to the ExA First Written Questions
- v) The Applicant has responded to the Council's responses to the ExA First Written Questions **[REP3-043]**

2.1.3 Accordingly, and taking into account that the Council has sought to supplement its position with information subsequently exchanged between the Applicant and the Council in its responses at **[REP3-046]**, a number of distinct themes have now emerged in the ongoing dialogue between the Applicant and the Council.

2.1.4 To avoid unnecessary repetition, reduce document length, and clearly summarise the Applicant's position on areas of disagreement or where further information is requested, the Applicant has responded to **[REP3-046]** on a

thematic basis rather than providing a line-by-line reply. In doing so, the Applicant has sought to capture the key issues raised and its position on each. The section headings below mirror those adopted by the Council in [REP3-046].

- 2.1.5 The below responses are focused on the position set out by the Council in [REP3-046], which itself is a document relating to the exchanges made on the Council's original Relevant Representation.
- 2.1.6 Section 4.0 of this report separately addresses the comments provided by the Council on other Procedural Deadline B documents, Deadline 1 and Deadline 2 submissions.

## 2.2 Planning Policies and Local Context

- 2.2.1 The only point raised in this section relates to the degree of conflict with Local Plan Policy DM52. CWCC maintains that the Applicant has understated the degree of conflict with the landscape element of this policy. The Applicant accepts that there is some conflict with this element of Policy DM52, but the Council disagrees with the Applicant's conclusion that such conflict is limited.
- 2.2.2 The Applicant considers the landscape limb of Policy DM52 essentially requires an assessment of whether impacts on key landscape characteristics are acceptable. The Applicant relies on the Environmental Statement, in particular **Chapter 6: Landscape and Visual Amenity [APP-039]**, which concludes that although there would be localised significant effects, these would be experienced by a small number of receptors and would not fundamentally change the nature of the wider landscape.
- 2.2.3 When interpreting the landscape element of DM52 which is formed in reference to the 'Landscape Sensitivity Study and Guidance on Wind and Solar Photovoltaic Developments' document (March 2016), it is worth noting that paragraph 1.16 states *"It is important to note that this sensitivity study does not define the precise limit of wind energy or ground mounted solar PV*

*development that can be accommodated within CWaC, but gives an indication of the relative sensitivity of the different landscape types to these types of development, as defined in the study. It should not be interpreted as a definitive statement that a particular landscape is suitable or not suitable for a particular type of development – this report is not a substitute for detailed landscape and visual impact assessment of local development proposals or as part of wider environmental impact assessment”.*

2.2.4 This emphasises the importance of adopting a site-specific approach when assessing the acceptability of impacts on landscape character, rather than relying too heavily on the broad-scale conclusions presented in the report.

2.2.5 Consideration of paragraph 1.16 and 1.17 of the Landscape Sensitivity Study and Guidance on Wind and Solar Photovoltaic Developments is included within **Chapter 6: Landscape and Visual Amenity [APP-039]** where is also noted at paragraph 6.6.41:

*“..that the Sensitivity Study identifies that every LCA within the CWaCC area has a high sensitivity to a ‘very large solar farm’. The majority of the LCAs are also identified as having a high sensitivity to a ‘large solar farm’ (area 15-25 hectares). LCA 4a is one of the few LCAs that are identified as being less sensitive to a ‘large solar farm’. Similarly, for smaller development typologies (‘medium’, ‘small’, and ‘very small’), LCA 4a is identified as one the least sensitive LCAs. This implies quite strongly that that LCA 4a is in relative terms less sensitive to solar energy development than other parts of the CWaCC area.”.*

## 2.3 Principle Submissions

2.3.1 The Applicant has addressed matters relating to the provision of the BNG Metric Excel files and GIS mapping within the Applicant Response to Written Representations [REP3-041], setting out that an updated BNG metric provided as [PD2-032] was supplied as an excel spreadsheet to the Council on the 12th January 2026. The Applicant provided GIS shapefiles identifying

habitat parcel locations and containing condition assessment information to the Council via email on 28th January 2026.

- 2.3.2 An updated BNG Report, associated metric and relevant mapping has been provided alongside this submission.

## **2.4 Need, climate change and public benefit**

- 2.4.1 The Applicant has made clear that the BESS facility does not directly connect to the Frodsham Wind Farm due to commercial and technical limitations. Commercially, the two developments would be operated by separate companies, which creates challenges in relation to metering the supply into the BESS, including determining which development would take precedence in the event of over-supply from both projects. Furthermore, Frodsham Wind Farm will be contracted under different terms from Frodsham Solar, leading to contractual conflicts. The technical challenges mainly relate to the issues mentioned above, such as metering the electricity supply from both developments, as well as the need to modify the existing connection arrangements and the requirement for additional infrastructure.

- 2.4.2 The Applicant emphasises that the proposed BESS can store electricity from the local grid during periods when generation exceeds demand. Although there is no direct connection, the BESS would provide grid balancing services and could ultimately help store electricity generated by Frodsham Wind Farm, which is supplied to the network during times of low demand.

## **2.5 Green Belt**

### ***CNP status and very special circumstances***

- 2.5.1 The Applicant and the Council agree that the Proposed Development is CNP infrastructure. Similarly, the Applicant and the Council agree that, if the ExA were to conclude that the Site is not grey belt and that the Proposed Development is inappropriate development, very special circumstances exist in accordance with paragraph 4.2.17 of NPS EN-1. This position is set out in

Section 1.7 and Summary Table 1 of Appendix A to the Planning Statement (APP-128).

### ***Openness and Green Belt harm***

2.5.2 The Applicant accepts that there would be harm to the Green Belt, including to openness, but has consistently set out that this harm would be limited, not substantial, as argued by the Council. The Applicant distinguishes between spatial, physical and perceived openness and emphasises that the solar arrays are low in height, lack the mass and density of conventional built development, allow views through and across the Site, and are temporary and reversible after a 40-year operational period.

2.5.3 The Council's position is that the Proposed Development would introduce extensive built infrastructure across a wide expanse of currently open marshland and that this would amount to substantial harm to spatial, physical and perceived openness. The Applicant considers that the Council has not given sufficient weight to the existing character of the receiving environment, including the extent to which the openness of the Green Belt in this location is already influenced by existing development. Nor has proper regard been had to the context of the Proposed Development in terms of its scale, form and massing when assessing its effect on openness.

### ***Grey Belt Assessment and Green Belt Purposes***

2.5.4 The Applicant has undertaken its assessment of the Site against the Green Belt purposes having regard to the Planning Practice Guidance ("PPG") and, in particular, the illustrative features for determining whether land contributes strongly, moderately or weakly to Green Belt purposes. This provides a structured basis for evaluating whether land is capable of being identified as "grey belt".

2.5.5 The Applicant does not consider that the Council has engaged correctly with the PPG-led methodology. For example, in relation to Purpose A the Council

- has stated that the Frodsham Wind Farm, Overhead Pylons, elevated M56 are evident in the Green Belt, as are the man-made elements of the landscape (e.g dredging deposit grounds). This appears to indicate agreement that the area is not free from existing development. However, the Council then seems to imply that, because it considers openness and expanse to be the area's overriding attributes, the presence of existing development can be discounted. That approach is not consistent with the PPG.
- 2.5.6 Furthermore, the Council does not engage in the consideration of whether the area lacks physical features in reasonable proximity that could restrict or contain development. Yet as set out above it recognises the presence of the M56 and it also states "there would be separating features such as the River Weaver/Weaver Navigation".
- 2.5.7 The Applicant's case regarding the extent to which the Site contributes to Green Belt purposes a, b, and d is set out within Appendix A of the **Planning Statement [APP-128]** and reference CWACC5.7 of the **Applicant's Response to Local Planning Authority and Statutory Environmental Body Relevant Representations [PD2-027]**.
- 2.5.8 The Applicant contends that there are no Footnote 7 constraints that provide a strong reason for refusal. The Applicant's position is stated clearly within the **Applicant's Response to Local Planning Authority and Statutory Environmental Body Relevant Representations [PD2-027]**. The Applicant has reached agreement on the majority of points regarding flood risk and impacts on designated conservation sites with the Environment Agency and Natural England, as set out in the **Statements of Common Ground** with these organisations **[as submitted alongside this submission]**.
- 2.5.9 It is also noted that in considering the tests in NPPF paragraph 155, the Council has not addressed whether development of the Site would fundamentally undermine the purposes of the remaining Green Belt across the plan area (our emphasis). Rather, it has focused on the local context of

Frodsham, Helsby and Ellesmere Port, with the result that its approach does not reflect the correct application of paragraph 155.

## 2.6 Landscape and Visual

- 2.6.1 The vast majority of responses provided within this section of **REP3-046** refer the ExA back to the Council's **responses to the ExA's first written questions [REP2-005]**. The Applicant has provided its responses to ExQ1 within **Applicant Responses to ExA First Written Questions [REP2-003]** and has responded to the Council's responses within **Applicant Response to IP ExAQ1 Submissions [REP3-043]**.
- 2.6.2 Regarding responses that do not refer back to the Council's response to ExQ1, the Council raises points on skylark mitigation, and tree survey methodology and replacement.
- 2.6.3 In relation to the size of the skylark mitigation area, the Applicant has addressed this in its response to Q4.4.5 within **Applicant Responses to ExA First Written Questions [REP2-003]**.
- 2.6.4 The Applicant has previously responded with regard to the approach to tree survey and the scale of proposed tree planting at Refs. CWACC6.12, CWACC6.13 and CWACC6.14 of the **Applicant's Response to Local Planning Authority and Statutory Environmental Body Relevant Representations [PD2-027]**. The Applicant has also provided a response at reference WR\_CWACC3.10 of **Applicant Response to Written Representations [REP3-041]** which sets out how the LEMP, secured via Requirement 9 of the draft DCO, will deliver tree planting that will achieve well in excess of the ratios suggested by CWaCC.

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## 2.7 Ecology and Habitats

- 2.7.1 The Council has highlighted several key issues in its response. The Applicant has addressed most of the matters raised in previous submissions to the ExA and therefore considers it unnecessary to provide detailed responses to every point again in the tabular form used to date in submissions to the ExA.
- 2.7.2 Within this section, the Applicant aims to assist the ExA by identifying and summarising the main issues and concerns raised by the Council in a clear and proportionate manner, along with a summary of the Applicant's position on these points. It should be noted that the Applicant has not included every detail of each point raised by the Council; this should not be seen as overlooking or dismissing those points, but rather as an effort to focus on the key issues.
- 2.7.3 It is noted that at Deadline 3 the Council had not provided its responses to the Applicant's ExQ1 submission, had not responded on the SoCG and had not completed its review of the HRA submitted at Procedural Deadline B. As such, and following consideration of the additional submissions at Deadline 3, several of the concerns raised by the Council may actually be resolved. The Applicant will be working closely with the Council to seek to reflect the final position on these matters in the SoCG to be submitted at Deadline 5.
- 2.7.4 The Applicant has identified the following overarching matters and has provided sub-sections below relating to each of these:
- i) HRA / Ornithological Impacts
  - ii) Changes to Layout
  - iii) Skylark Mitigation Area
  - iv) Protected Species
  - v) Local Wildlife Site
  - vi) Biodiversity Net Gain

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## ***HRA / Ornithological Impacts***

### *The Council's key points*

- 2.7.5 **Loss of Functionally Linked Land (FLL):** Concern that the loss of FLL across the Site will have detrimental impacts on the bird populations of the Mersey Estuary SSSI, SPA, and Ramsar site. Furthermore, that the Applicant has not demonstrated that the mitigation proposed is adequate to mitigate the impact of the Proposed Development.
- 2.7.6 **Survey data and coverage:** Concerns that the bird survey data used in the assessment is not robust, particularly because slightly different areas were surveyed in different years, and the survey period was not consistent across all surveys.
- 2.7.7 **Reliance on land outside Order Limits:** The Council consider that references to birds using land outside the Order limits to justify the magnitude of impact from the Proposed Development, particularly during construction and decommissioning, are not appropriate.
- 2.7.8 **Disturbance to overflying birds and access to other habitats (scale, glint and glare, openness):** The Council considers that the Applicant has not sufficiently assessed impacts on bird behaviour how this may impact access to habitats, particularly regarding potential glint and glare effects, the narrowing of development-free areas along routes to habitats south of the Site, such as Cell 6, and the overall scale of the solar development's impact on bird movements.
- 2.7.9 **Footpaths and access:** The Council remains concerned that the expanded network of paths across the Site, especially new routes near sensitive areas (including close to the NBBMA and River Weaver margins), could cause unacceptable disturbance and does not believe that the mitigation proposed by the Applicant is sufficient to adequately address these impacts.

- 2.7.10 **Construction phasing and when the NBBMA becomes functional:** The Council welcomes that no construction will be undertaken across the SADA until the works to create the NBBMA have been completed, but it considers the NBBMA is not 'functional' until the grassland habitats have been established.
- 2.7.11 **Use of Cleve Hill bird-day calculations:** The Council do not consider the approach adopted at the Cleve Hill site to estimate mitigation land requirements is appropriate, in particular as it does not account for habitat quality and all of the SPA species that currently use the Site.
- 2.7.12 **NBBMS and monitoring:** The Council require bird surveys to form part of the monitoring undertaken to understand the success of the NBBMA.

*Applicant position*

- 2.7.13 The Applicant's position is that bird-day calculations are used to help inform the approach to determining the required scale of the NBBMA. However, it is emphasised by the Applicant that these calculations are not relied upon as the sole basis for assessing the adequacy of mitigation **[E.002 of REP3-042 & WR\_CWACC4.27 REP3-041]**. The Applicant explains that bird-day calculations are applied only to the grassland-wader guild, which includes lapwing, golden plover, and curlew, because this approach is not deemed suitable for other SPA feature species. Instead, these species are addressed through broader habitat design, enhancement, and management proposals within the mitigation package, see Table 8-2 of the **Information to Inform Habitats Regulations Assessment [as updated alongside this submission]**. The Applicant also considers that the NBBMA will result in a significant improvement in habitat quality through physical re-engineering and conservation-focused adaptive management, noting that Natural England's view is that, if managed by a nature conservation body such as the RSPB, the NBBMA would provide an acceptable solution, reference paragraph 1.3.6 of the **Natural England Written Representation [REP1-056]**, and that the

area would support the population of birds using the entirety of the Site, including the birds currently using Cell 3. Importantly, the mitigation has been developed specifically to exceed what is required under the Frodsham Wind Farm consent, reference 4.2.2 of the **Applicant Response to IP ExAQ1 Submission [REP2-043]**.

- 2.7.14 The Applicant has explained why the survey effort and bird data supporting the assessments are robust and suitable for the HRA. It is acknowledged that not every part of the Site was surveyed each year, partly due to the evolution of the scheme. However, coverage was adjusted between years so that all relevant areas of the Site were surveyed within the overall programme. The Applicant also confirms that the core non-breeding period was consistently surveyed across three consecutive winters, exceeding Natural England's minimum expectation of two winters and capturing inter-annual variation. Additionally, the assessment is supported by extensive desk study information, including records from the British Trust for Ornithology and the Cheshire and Wirral Ornithological Society, providing further confidence in the baseline, reference Q5.0.1 Applicant Responses to ExA First Written Questions [REP2-030]
- 2.7.15 Additional analysis of the bird data, including obtaining the most recent WeBS count data, was undertaken following Natural England's representations, including analysis covering the autumn passage season. This is presented in the revised **Information to Inform the Habitats Regulations Assessment [as updated alongside this submission]**.
- 2.7.16 The Applicant maintains that it does not rely on habitats outside the Order Limits for mitigation. When reference is made to land outside the Site, it serves to make a broader point that the birds of SPA will utilise habitat within the wider estuary and the improved habitats within the NBBMA. To ignore how the birds utilise habitats in the wider estuary and surrounding habitats that may be accessible to them, particularly during the short-term construction

and decommissioning phases, would be wrong when trying to understand the impact of the Mersey Estuary population.

- 2.7.17 As set out in the Applicant's response at WR\_CWACC4.4 and WR\_CWACC4.8 [REP3-041] there is no evidence, to the Applicant's knowledge, that solar panels disrupt flight lines and it is considered that the birds will continue to be able to access habitats to the south of the Proposed Development.
- 2.7.18 In relation to recreational disturbance and access the Applicant maintains that disturbance from new and upgraded paths has been assessed, and that screens are a precautionary/best practice measure and do not imply significant effects, they are a prudent and appropriate measure to reduce the potential of disturbance to acceptable levels and also provide the access benefits for the local community and other user groups that have requested improved access across the Site. The Applicant also points to Natural England having raised no concerns on this matter reference **NE27 and NE28 [RR-012]**.
- 2.7.19 The point at which the NBBMA becomes functional has been discussed and agreed with Natural England, reference Q5.1.4 of Natural England's response to the ExA's first written questions [REP2-009]. The Applicant remains of the position that the NBBMA will be utilised by birds as soon as the sources of disturbance are removed from this area of the Site.
- 2.7.20 The **NBBMS [as updated alongside this submission]** also now provides for regular monitoring of bird use, including counts of SPA species, within Section 5.0.

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## ***Changes to Layout***

### *The Council's key points*

2.7.21 The Council has reiterated suggested changes to the design of the Proposed Development described in paragraphs 5.2 to 5.13 of their Written Representation.

### *Applicant position*

2.7.22 The Applicant provided a detailed response to this in reference WR\_CWACC5.1 [REP3-041]. The Applicant has sought to deliver as much renewable energy from the Site as possible, whilst avoiding significant effects on ecological receptors and where possible providing enhancements. NPS EN-1 does not expect that all impacts of an NSIP development will avoid every impact, and it recognises that residual effects will occur. The Applicant considers that it has taken a proportionate and balanced approach to applying the mitigation hierarchy, ensuring that significant effects are avoided where possible, and residual effects are reduced to an acceptable level, reference 4.6.3 of Applicant Comments on Interested Party ExAQ1 Submissions [Applicant Response to IP ExAQ1 Submissions].

## ***Skylark Mitigation Area***

### *The Council's key points*

2.7.23 The Council questions both the location and likely effectiveness of the Skylark Mitigation Area (SMA), noting that it has not been demonstrated that the SMA is appropriately sited or that it will be successful in practice. The Council require that the SMA is in place prior to the creation of the NBBMA.

### *Applicant position*

2.7.24 It is the Applicant's position that its proposed mitigation is adequate and proportionate for skylark, that the conservation status of skylarks will be maintained at a County and likely District level, and that the SMA forms only

part of the habitat within the Order Limits which will be available for nesting and foraging skylarks. The Applicant has responded to Q4.4.5 of **ExQ1 [REP2-003]** which addresses a number of points raised in relation to the adequacy of the SMA. The SMA will be in place prior to the creation of the NBBMA and this is committed within Table 5-3 of the **oCEMP [as updated alongside this submission]**.

### ***Protected Species***

#### *The Council's key points*

- 2.7.25 The Council has raised several points regarding protected species, including the sufficiency of bat surveys related to bat roosts and the lack of reptile survey on Cell 3. The Council has identified concerns about the loss of connectivity and access to habitats for otters and badgers, and whether the potential disturbance to badger sets have been properly assessed and mitigated.

#### *Applicant position*

- 2.7.26 The Applicant has conducted surveys for all relevant protected species likely to be present on the Site, sufficient to assess potential significant effects and mitigation measures to ensure compliance with wildlife legislation. While the Applicant has recognised limitations in these surveys, they have utilised the survey data gathered specifically for the Proposed Development, alongside other sources such as the HyNet Hydrogen Pipeline, the CO2 Runcorn Spur pipeline, and biological record data, to enable a comprehensive assessment of the likely effects on protected species. .
- 2.7.27 Regarding the Council's point on the lack of reptile surveys on Cell 3, the Applicant has utilised the reptile survey that covered the majority of the Site, as well as data from other surveys both on the Site and in the surrounding area, to assess the likelihood of impacts on reptiles within Cell 3 related to the works to create the NBBMA. The presence of ponds and scrapes in and

adjacent to Cell 3 does not distinguish this area from other surveyed parts of the Site, which also contain wet habitats attractive to reptiles, such as reedbeds and ditches without flow. Therefore, it is considered reasonable to extrapolate the findings from a significant dataset that exists across much of the Site to inform the assessment of effects on reptiles within Cell 3.

- 2.7.28 A range of mitigation measures are outlined in the **oCEMP**, **oOEMP**, and **oDEMP** regarding protected species, including the need for additional surveys before construction begins in locations where disturbance or damage may occur and the use of reasonable avoidance measures (RAMS). The management plans also provide for adjustments to the design at the detailed design stage to avoid disturbance of active badger setts where possible and in accordance with the requirements of the Wildlife and Countryside Act and Protection of Badgers Act 1992.
- 2.7.29 The Applicant notes the concerns raised by the Council about connectivity, but the measures implemented, such as retaining and enhancing linear habitats within the Site and installing mammal gates in fencing, are considered appropriate and proportionate to the impacts identified from the assessment. It is noted that paragraph 6.5.3 of the **oLEMP [as updated alongside this submission]** requires the positioning of mammal gates based on the findings of pre-commencement badger surveys. The **oLEMP** has also been updated to require the detailed landscape drawings to show the positions of mammal gates, and for the final LEMP to justify the positioning and number of mammal gates to be provided, which will ultimately need to be approved by the Council.
- 2.7.30 The Applicant has also explained why the use of predator fencing around the NBBMA is considered suitable for ensuring the success of the NBBMA without causing impacts that are likely to have a material effect on the populations of badgers and otters in the area. While the likely presence of otters within Cell 3 was noted from the surveys, their presence indicates use of the wider network of ditches and watercourses across the Site and in the

surrounding area; it is entirely unfeasible that they would only be using the fishing ponds as a food resource as otters naturally have very large home ranges. The ditches would be retained, and habitats along the ditch network would be enhanced. New pools and reedbeds adjacent to Marsh Farm (immediately east of the NBBMA, within Cell 1) will create additional foraging for otters, as will the creation of additional scrapes in 'the Lum' area adjacent to the River Weaver. As such the Proposed Development incorporates areas which would likely provide foraging habitat creation for otters. Furthermore, reducing agricultural operations and related use of pesticides and herbicides would improve water quality within the existing ditch network. Therefore, given the abundance of suitable ditches and watercourses that could support otters, the reduction in habitat area resulting from the predator fencing proposed around the NBBMA is not considered to have a material effect on otter populations at the site level.

### ***Local Wildlife Site***

#### *The Council's key points*

- 2.7.31 The Council disagrees with the conclusion that the Proposed Development would result in significant long-term positive effects on Frodsham, Helsby and Ince Marshes Local Wildlife Site (LWS). The Council considers that the Applicant has not adequately assessed which LWS selection criteria are affected or the extent of those impacts, instead focusing only on whether the site would continue to meet designation criteria. The Council maintains that the impacts on qualifying criteria, and on the LWS as a whole, should be fully assessed and clearly presented.
- 2.7.32 The Council also states that the Applicant's assessment omits key qualifying features, including reedbeds, wildlife corridors/buffers, birds and mammals. Concerns regarding wildlife corridors/buffers and ecological connectivity are also raised.

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*Applicant position*

- 2.7.33 The Applicant maintains that, with the incorporated mitigation measures and long-term management proposals, the Proposed Development provides benefits to habitats across the LWS designation through increased and enhanced habitats, along with secured management over a 40-year period.
- 2.7.34 The Applicant disagrees that the Proposed Development would negatively impact wildlife corridors or buffers. Linear habitats such as hedgerows, ditches, and woodland would be retained and, in many cases, improved. Significant areas of trees, hedgerows, and species-diverse grassland would be created and managed for wildlife, and the removal of arable farming and intensive grazing across most of the Order Limits is considered beneficial. The Applicant has submitted a revised **Environmental Statement: Volume 2 Appendix 7-5: Assessment of Frodsham Helsby Ince Local Wildlife Site [as updated alongside this submission]**, which addresses points raised by the Council.

*Biodiversity Net Gain*

*The Council's key points*

- 2.7.35 The Council maintains that the Applicant has not demonstrated that the Proposed Development will achieve no net loss and believes that a measurable net gain in biodiversity units has not been demonstrated. A key point involves the classification of reedbed habitats, and the loss of reedbed without equivalent replacement, and therefore non-compliance with trading rules. The Council argues that secondary codes have been wrongly relied upon to define reedbed habitat and does not agree with the declassification of certain reedbed areas identified by the Applicant.
- 2.7.36 The Council highlights several outstanding information requirements needed before a comprehensive assessment can proceed. These include the submission of complete biodiversity metric Excel spreadsheets and

supporting calculations, an updated Biodiversity Net Gain Report, baseline habitat type and condition assessments, detailed reasons for watercourse classifications, and baseline and proposed UK Habs plans with clear cross-references.

- 2.7.37 The Council accepts the Applicant's clarification concerning the "5% rule" regarding solar panels and hard surfacing.

*Applicant position*

- 2.7.38 The Applicant does not agree that no net loss or a measurable uplift has not been evidenced. The Applicant relies on the updated biodiversity metric outputs (submitted at Deadline 3, and submitted again at Deadline 4 as part of the updated BNG Report) which report an increase of +28.42% in habitat units, +88.92% in hedgerow units and +11.21% in watercourse units to be delivered over a 40-year period, which the Applicant considers represents a significant gain for biodiversity, reference WR\_CWACC4.46 of Applicant Response to Written Representations [REP3-041].
- 2.7.39 The Applicant has also been clear that it has not claimed biodiversity net gain (as different from a net gain in biodiversity) in strict accordance with the Statutory Biodiversity Metric where trading rules are not satisfied. In particular, the Applicant acknowledges that reedbed trading rules remain unmet and therefore the scheme is described as achieving a net increase in units but not net gain in strict accordance with the metric user guide.
- 2.7.40 In relation to reedbed classification, the Applicant's position is that many areas of reedbed within the Site do not strictly accord with the priority habitat description and therefore is not considered to offer ecological value at that level, reference Appendix C of the **Response to Local Planning Authority and Statutory Environmental Body Relevant Representations [PD2-027]**.
- 2.7.41 More generally on the mitigation hierarchy, the Applicant notes that high distinctiveness habitats have been avoided as far as possible and that

reedbed losses have been restricted principally to reedbed considered of lower ecological value, with impacts addressed through habitat retention, enhancement and creation proposals.

- 2.7.42 The Applicant notes that Rule 4 in the Statutory Biodiversity Metric User Guide allows departures from standard metric requirements (including trading rules) where justified. The Applicant refers to Natural England precedent for disapplying like-for-like replacement of high distinctiveness habitat in favour of more ecologically appropriate delivery at a landscape scale, and therefore considers it is possible in principle to secure a metric-compliant 'BNG' outcome notwithstanding a justified deviation from trading rules, reference WR\_CWACC4.46 of Applicant Response to Written Representations [REP3-041].
- 2.7.43 The metric Excel files have been provided to CWACC, and GIS files have also been provided such that the necessary mapping and condition assessment information is available to the Council.
- 2.7.44 Notwithstanding the above points, the Applicant has prepared an updated **BNG report [as updated alongside this submission]** that clarifies the Applicant's position and integrates previous submissions regarding reedbeds and the Rule 4 submission.

## 2.8 Peat

- 2.8.1 All of the responses provided within this section of **REP3-046** refer the ExA back to the Council's **responses to the ExA's first written questions [REP2-005]**. The Applicant has provided its responses to ExQ1 within **Applicant Responses to ExA First Written Questions [REP2-003]** and has responded to the Council's responses within **Applicant Response to IP ExAQ1 Submissions [REP3-043]**.
- 2.8.2 It is understood that based on the findings reported in **Technical Note on Peat Resources [REP1-043]**, there is agreement that there is limited

potential for peat to be disturbed as a result of the Proposed Development. However, in order to provide reassurance and appropriate level of control the **outline Soil Management Plan [as updated alongside this submission]** and **outline Construction Environmental Management Plan [as updated alongside this submission]** describe that should the detailed pre-construction ground investigations identify the presence of peat within the Site that may be impacted by the Proposed Development, a Peat Management Plan will be prepared for approval by CWaCC prior to commencing the relevant phase of the Proposed Development.

## 2.9 Archaeology and Cultural Heritage

2.9.1 The Council has confirmed it is satisfied that matters relating to archaeology and cultural heritage are dealt with adequately within the **Outline Written Scheme of Investigation [AS-029]**.

## 2.10 Flood Risk and Drainage

2.10.1 All of the responses provided within this section of **REP3-046** refer the ExA back to the Council's **responses to the ExA's first written questions [REP2-005]**. The Applicant has provided its responses to ExQ1 within **Applicant Responses to ExA First Written Questions [REP2-003]** and has responded to the Council's responses within **Applicant Response to IP ExAQ1 Submissions [REP3-043]**.

2.10.2 The Council have set out that 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. As such, it is considered that the Applicant and Council agree that the sequential test in relation to flooding from tidal and fluvial sources is satisfied.

2.10.3 The Council have continued to take a position that the sequential test should be applied in relation to surface water, but this position does not reflect the up to date Planning Practice Guidance. Planning Practice Guidance paragraph

175 is clear that *“Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would 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.”* **ES Vol 2 Appendix 9-1 Flood Risk Assessment and Drainage Strategy [AS-017 to AS-028]** demonstrates that the tests in paragraph 175 have been met and therefore the Proposed Development does not need to be subject to a sequential test in relation to surface water flooding.

## **2.11 Tourism and recreation (including Footpaths / Public Rights of Way)**

2.11.1 All of the responses provided within this section of **REP3-046** refer the ExA back to the Council’s **responses to the ExA’s first written questions [REP2-005]**. The Applicant has provided its responses to ExQ1 within **Applicant Responses to ExA First Written Questions [REP2-003]** and has responded to the Council’s responses within **Applicant Response to IP ExAQ1 Submissions [REP3-043]**.

2.11.2 The Applicant has amended the **Outline Public Rights of Way Management Plan [as updated alongside this submission]** to respond to many of the points raised by the Council including:

- i) publishing an overarching programme of works and a figure clearly illustrating those public rights of way affected and any management measures being proposed;
- ii) confirming that damage to the surfacing of PROW resulting from construction activities shall be repaired prior to the commissioning of the Proposed Development;
- iii) notices would be erected to inform users of when the use of the RB40 would be unrestricted during working hours;

- iv) any damage to the surfacing of PROW or permissive routes resulting from maintenance activities shall be repaired on cessation of the maintenance works; and
  - v) the PROWMP shall include contact details, provision for reporting and dealing with complaints during the operational phase.
- 2.11.3 The Council has suggested amendments or removal of sections of permissive paths to avoid or reduce impacts on birds. The Applicant has responded to this matter within the aforementioned documents and within the **Applicant Response to Written Representations [REP3-041]**. Furthermore, Natural England has confirmed it is satisfied with the measures proposed by the Applicant to mitigate potential disturbance effects on bird habitats near the proposed permitted paths, **NE27 and NE28 [RR-012]**.
- 2.11.4 The points raised in relation to landscape impacts and user experience have been responded to in the reference **LIR\_CWACC24.3** of the **Applicants' Response to Local Impact Report [EN010153/DR/8.29]**.
- ## 2.12 Health and Community
- 2.12.1 All of the responses provided within this section of **REP3-046** refer the ExA back to the Council's **responses to the ExA's first written questions [REP2-005]**. The Applicant has provided its responses to ExQ1 within **Applicant Responses to ExA First Written Questions [REP2-003]** and has responded to the Council's responses within **Applicant Response to IP ExAQ1 Submissions [REP3-043]**.
- 2.12.2 The comments regarding tranquillity are noted, and the Applicant understands the varying noise environments across the site, primarily due to its proximity to the M56. The Applicant and the Council acknowledge the short-term impact of construction phase noise, and during operation, it is accepted that the nature of the development is one which generates very little noise. .

2.12.3 The Council acknowledge the meeting between the Applicant and the Joint Cheshire Emergency Planning Team and Cheshire Fire and Rescue Service and notes that neither has raised objections in relation to health or community safety issues.

## 2.13 Land Contamination

2.13.1 The Council has responded, suggesting a preference for a separate DCO requirement in relation to unexpected contamination, but does accept that unexpected contamination can be dealt with via an Unexpected Contamination Protocol in the oCEMP, oOEMP and oDEMP as provided by the Applicant.

2.13.2 The Council requests that the details of the expected approach to the Unexpected Contamination Protocol should be set out in the oOEMP and oDEMP. The Deadline 3 revisions to these documents now contains the same detail as provided within the oCEMP, and requires that any remediation scheme is approved by the relevant planning authority following consultation with the Environment Agency.

## 2.14 Accessibility – Transport and highways

2.14.1 The vast majority of responses provided within this section of **REP3-046** refer the ExA back to the Council's **responses to the ExA's first written questions [REP2-005]**. The Applicant has provided its responses to ExQ1 within **Applicant Responses to ExA First Written Questions [REP2-003]** and has responded to the Council's responses within **Applicant Response to IP ExAQ1 Submissions [REP3-043]**. As such no further response is considered necessary on these points.

2.14.2 The Council raises a separate point regarding the Outline Construction Traffic Management Plan (oCTMP), noting that the travel plan to be developed should include demand management and monitoring, as well as measures to improve access by active, public, and shared transport. The Applicant

considers that these aspects have been addressed within the oCTMP in Section 4.4 Construction Staff Sustainable Travel Considerations and Section 8.0 Monitoring and Compliance. The framework outlined in the oCTMP will be expanded upon within the full plan that will be developed by the contractor at the construction stage. It is believed that this approach aligns with the policies of NPS EN-1 and provides adequate control to ensure the effective implementation of sustainable transport measures.

## **2.15 Decommissioning**

2.15.1 The Council have requested justification of the proposed 36-month period without energy generation before decommissioning works are commenced. The Applicant considers that 36 month period is an appropriate 'long stop' date to apply in order to provide sufficient time for:

- i) the Applicant to firstly seek to resolve the issue resulting in the cessation of electricity generation (6 months)
- ii) preparation of a Decommissioning Environmental Management Plan, which is likely to involve the requirement for protected species surveys that would be subject to seasonal constraints (12 months)
- iii) adequate time for the Council to consider and respond to the submitted plan; (eight weeks (in line with the current DCO drafting))
- iv) Adequate time for the Applicant to respond to any amendments requested by the Council; (3 months)
- v) Period for final determination (eight weeks); and
- vi) If necessary time for the Applicant to appeal should the Council refuse the application and the Planning Inspectorate to hear an appeal and issue a decision (10 months).

## 2.16 Cumulative and In-Combination Effects

- 2.16.1 The Applicant has set out its position in relation to the assessment of cumulative effects in relation to the Runcorn CO2 spur pipeline within **Technical Note on Pipeline Interactions [REP1-041]**. This includes an assessment of the pipeline being constructed in advance of the Proposed Development (Scenario 1) and at the same time as the Proposed Development (Scenario 2). However, the Council have maintained their position that the pipeline being constructed after the Proposed Development (Scenario 3) should be assessed.
- 2.16.2 For the reasons set out in [REP1-041] the Applicant continues to consider this to be an incorrect approach. This was also further discussed at ISH2, where the Applicant's submissions are now recorded in its Written Summary of Oral Submission at ISH2 also submitted at Deadline 4. Notwithstanding and without prejudice to the above, the Applicant has prepared an assessment of the potential 'cumulative' effects of Scenario 3 [as submitted alongside this submission]. This assessment concludes that it would be possible to construct the pipeline after the Proposed Development without likely significant cumulative effects if appropriate mitigation measures are required of the developer of the pipeline.
- 2.16.3 The Council have raised a point in relation to Cell 6, stating that the wind farm operator was not able to deliver any control over Cell 6. The Applicant is unclear on the point being made by the Council and why this is relevant to the Proposed Development.
- 2.16.4 The Council have set out that it expects the habitat and reporting requirements for Frodsham Solar will need to be additive to those already required for Frodsham Wind Farm. The Applicant agrees. Habitat and reporting requirements would be controlled via the implementation of Requirement 9 of the draft DCO, the Landscape and Ecological Management

Plan, which integrates specific monitoring and reporting requirements for the NBBMA.

## **2.17 Agricultural Land and Soil Management**

2.17.1 The Council acknowledges the submissions made by the Applicant and does not raise any further points that need to be addressed.

## **2.18 Comment on the control documents**

2.18.1 The vast majority of responses provided within this section of **REP3-046** refer the ExA back to the Council's **responses to the ExA's first written questions [REP2-005]**. The Applicant has provided its responses to ExQ1 within **Applicant Responses to ExA First Written Questions [REP2-003]** and has responded to the Council's responses within **Applicant Response to IP ExAQ1 Submissions [REP3-043]**.

2.18.2 The Council has provided additional comments regarding major replacement campaigns. The Applicant believes that this issue has been fully addressed within the **Technical Note on Major Replacement Works [REP1-034]** and the subsequent amendments made to the **oOEMP [REP1-022]**. The Applicant considers that the effects of major replacement campaigns have been adequately assessed, and the controls outlined in the oOEMP, secured by Requirement 13, are sufficient to ensure that the impacts of major replacement campaigns are properly managed.

### **3.0 APPLICANT'S COMMENTS ON COUNCIL'S PROCEDURAL DEADLINE B DOCUMENTS, DEADLINE 1 AND DEADLINE 2 SUBMISSIONS - CWCC D3(B) (REP3-047)**

**3.1.1** The Applicant has provided comments to REP3-047 within Appendix A, which replicates the Council's submission but includes an additional final column setting out the Applicant's response.

## **Appendix A**

# **APPLICANT'S COMMENTS ON COUNCIL'S PROCEDURAL DEADLINE B DOCUMENTS, DEADLINE 1 AND DEADLINE 2 SUBMISSIONS - CWCC D3(B) (REP3-047)**

**Table 1: Extant Procedural Deadline B documents**

**1.1. PD2-009 Information to Inform Habitat Regulations (P03)**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
PD2-009 Information to Inform Habitat Regulations (P03)					
D3B1.01.01		General	A full review, co-ordinating with the later submissions, has not been practical for Deadline 3. Therefore, comments will be provided in conjunction with comments on any without prejudice derogation submission at Deadline 3a.		Awaiting comments noting that the current version of the document is P04 submitted at Deadline 3 reference [REP3-006].

**1.2. PD2-021 Outline Public Rights of Way Management Plan (P02)**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
PD2-021 Outline Public Rights of Way Management Plan (P02)					
D3B1.02.01		General	In response to CWCC's Relevant Representations (11.27 RR)[RR-037] it would assist if the oPRoWMP were updated to include reference to the details of 11.27 e.g. "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".  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 arrangements.		The proposed wording was added to Outline Public Rights of Way Management Plan [REP3-028].  The Applicant acknowledges the recommendation that contact details and standards/resolution processes be made available online, and that CWCC / Frodsham Town Council be consulted on the detailed arrangements. This will form part of the approval process of the final management plan.
D3B1.02.02		5.1.4	CWCC welcomes including reference to the programme of implementation at 5.1.4 of [PD2-021] oPRoWMP) in response to CWCC's Relevant Representations (11.26-11.27 RR)[RR-037].		Noted

**1.3. PD2-028 Outline Flood Warning and Evacuation Plan**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
PD2-028 Outline Flood Warning and Evacuation Plan					
D3B1.03.01		General	No comments		Noted

**1.4. PD2-030 Hydraulic Modelling Report Addendum**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
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PD2-030 Hydraulic Modelling Report Addendum			
D3B1.04.01		General	No comments (defer to Environment Agency)

**1.5. PD2-032 Updated BNG Metric Spreadsheets**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
PD2-032 Updated BNG Metric Spreadsheets					
D3B1.05.01		General	<p><b>Please refer to CWCC's response to ExQ1 Q4.5.7 (REP2-005)</b></p> <p>In summary, the metric must be provided in Excel (xls) format, to enable assessment, due to the complexity of the site and volume of information contained within it. At the time of writing these are not yet available in the Examination Library.</p> <p>CWCC request the following:</p> <ul style="list-style-type: none"> <li>• Metric calculation in original Microsoft Excel format (.xls)</li> <li>• UK habs plans pre and post development</li> <li>• baseline and proposed habitat condition assessments (in original Microsoft Excel format (.xls)</li> </ul> <p>in order to properly assess the BNG submission.</p> <p>CWCC has looked at the main summary tables only (Headline Results and Trading summaries) of the updated metric [PD2-032], as these are accessible and used the information as set out in the Applicant's Response to CWCC's Relevant Representation [PD2-027].</p> <p>CWCC do not agree that the BNG metric follows best practice/guidance. In particular, with reference to the trading rule deficit.</p> <p>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.</p> <p>In addition, the trading rule deficit of reedbed has significantly decreased from 65.61 units to 12.59 units, with no updated supporting information or plans to explain this significant reduction.</p> <p>Other detailed comments are made in CWCC's response to ExQ1 - <b>Q4.5.7</b>.</p> <p><b>The following information is still outstanding:</b></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</li> </ul>		<p>The excel metric spreadsheet in xls format was provided directly to the Council and Cheshire Wildlife Trust. It was the Applicants understanding that at the time it was not possible to upload xls spreadsheets to the PINS online document library, hence the Applicant provided pdf versions. GIS shapefiles have also been provided to the Council and Cheshire Wildlife Trust containing details of the condition assessment.</p> <p>xls formats have now been uploaded on the PINS online document library.</p> <p>The Applicant has set out its position on the BNG Trading Rules within its response to Q4.2.1 of Applicant Responses to ExA First Written Questions [REP2-003] and WR_CWACC4.46 Applicant Response to Written Representations [REP3-041].</p> <p>The Applicant has prepared an updated BNG Report [as updated alongside this submission] to reflect the results of the current BNG Metric [PD2-032 and REP3-038 to REP3-040].</p>

			<p>correctly according to UK Habs and the correct condition has been assigned.</p> <ul style="list-style-type: none"> <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> <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 an explanation of the new metric information submitted.</p> <p>CWCC notes 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 rules, a significant overvaluing of the habitat provision and undervaluing of habitat loss will occur.</p>		
D3B1.05.01		General	<p>In providing updated BNG metric spreadsheets, these should take account of any relevant changes to the development, e.g. as a result of National Grid Electricity Transmission Plc's response to ExQ1 [REP2-018] requesting the removal of infrastructure works within the substation boundary (as shown on the Works Plans [APP-009] <i>currently</i> [AS-007]).</p>		<p>The BNG calculations assumes that these areas will be retained with no uplift in BNG value.</p>

**3.0 DEADLINE 1 DOCUMENTS**

3.1. This section summarises CWCC's responses to the Deadline 1 documents. The Applicant has not responded to the rows of CWCC's table which point to its Written Representation, as the Applicant has responded to those points in its Deadline 3 submissions.

**Table 2: Deadline 1 submissions**

**REP1-004 3.1 Draft Development Consent Order - P04**

Ref	Document Para number	Document summary point	CWCC comments	Applicant's comments
<b>REP1-004 3.1 Draft Development Consent Order - P04</b>				
D3B2.01.02	Part 1 Preliminary	Interpretation	<p><b>“permitted preliminary works” (PPW)</b></p> <p>CWCC seeks the removal of site clearance and remedial works from the definition of PPW due to concerns regarding control and these works falling outside of the construction phasing plan. There is the potential for significant impact on habitats which hasn't been accounted for (paragraph 3.4 of WR [REP1-048]. See also CWCC's comments in Appendix A of its Written Representations relating to ISH1 agenda item 4 a); notably:</p> <p><i>“CWCC consider that if site clearance and remedial works are included in permitted preliminary works, these fall outside of the definition of commencement and so are not controlled by the construction phasing plan. There could be a situation where the site is cleared of vegetation, with no mitigation area available for non-breeding birds, leading to significant negative impacts on the non-breeding bird population.</i></p> <p><i>There could be significant impacts on the habitat on site and further detail in the construction phasing plan should be provided to take account of remedial works.</i></p> <p><i>It is CWCC's position that site clearance and remedial works should be removed from the permitted preliminary works definition, as it requires control and are outside of the proposed construction phasing plan. In addition, the construction phasing plan should be updated to provide further detail on remedial works and site clearance should take place in accordance with the construction phasing plan.”</i></p> <p>The current wording for PPW includes:</p> <p><i>(c) intrusive archaeological surveys to be carried out pursuant to the written scheme of archaeological investigation (or multiple written schemes of archaeological investigation) approved under requirement 18;</i></p> <p>as well as;</p> <p><i>(k) site clearance (comprising vegetation removal and demolition of existing buildings and structures); or</i></p> <p>See above for concerns regarding the inclusion of vegetation removal in the definition of preliminary works. As currently drafted (k) would allow demolition of existing buildings and structures, which includes the brick shafts / ventilation shafts as referred to in the oWSI [AS-029].</p>	<p>The Applicant notes that its approach is well precedented, and that the PPWs are subject to a large number of controls as set out in Appendix 2-3.</p> <p>Requirement 12(4) of Schedule 2 to the Draft DCO states that for the purposes of that requirement only “commence” includes “any permitted preliminary works comprising... site clearance (including vegetation removal and demolition of existing buildings and structures)... and remedial work in respect of any contamination or other adverse ground conditions where this relates to Work No. 6C”. There is therefore no need for these types of works to be included in a “construction phasing plan” because they will be covered by a Construction Environmental Management Plan (CEMP) and that CEMP will need to be approved by CWCC, and be substantially in accordance with the outline CEMP which sets out the appropriate mitigation measures for ecological receptors.</p> <p>In response to CWCC concerns about sub-paragraph (k) of the PPW definition in the Draft DCO relating to demolition of buildings and structures allowing for the demolition of the brick shafts / ventilation shafts referred to in the Outline Written Scheme of Investigation [AS-029], the Applicant's position is that these cannot be demolished until an Archaeological Mitigation Strategy for that relevant phase has been approved by the relevant planning authority pursuant to Requirement 18 of Schedule 2 to the Draft DCO, as that Requirement states that the definition of commence includes ‘the demolition of buildings and structures’. In the context that the Outline Written Scheme of Investigation, at section 2.4, sets out the approach to be taken in respect of the ventilation shafts, it is the case that the mitigation measures for those shafts will be deployed before any works can be undertaken to them and once again.</p> <p>In response to CWCC's concerns about the amendment to sub-paragraph (l) of the PPW definition, the Applicant would clarify that the text change made in REP1-004 was not an addition but an amendment to provide greater clarity. The text in the previous version of the Draft DCO [PD2-005] referred to PPW meaning “all or any of... (j) Work No. 8”. The Applicant has made the change to resolve any future ambiguity as to whether the reference to Work No. 8 could be considered to include all of the Ancillary Works listed in Schedule 1, given the way Schedule 1 is drafted.</p> <p>The revised text therefore sets out the works that are already in the description of Work No. 8 (and so were already caught by the PPWs definition as it previously was) but ensures the PPW power applies only to those works, and cannot be considered to incorporate the Ancillary Works. As such, the revision reduces the flexibility that may have</p>

			<p>If site clearance is to be retained within PPW, CWCC recommends that the drafting be amended to exclude the demolition of the brick shafts / ventilation shafts from (k).</p> <p>CWCC has experience of situations where various types of preliminary works have been seen to affect identified archaeological features requiring mitigation. If necessary, this can be dealt with via separate WSIs being submitted before works commence.</p> <p>It is noted the Requirement 12 (4) includes elements of PPW as being commencement of development for the NBBMA, which is welcomed and this should be extended to The Lum.</p> <p>There remain concerns over the potential impacts of PPW, particularly in relation to habitat/ecology impact (e.g. in relation to the LUM where habitat mitigation groundworks are proposed), and further consideration / discussion with the Applicant is needed. CWCC will confirm if it has any further comments following discussion with the Applicant.</p> <p>The definition of PPW in ERP1-004 has been amended to include the following: <i>(l)access and highway improvements and use, comprising works to create, improve, repair or maintain streets, roads, haul roads and access points within the limits of deviation for Work No. 8 shown on the Works Plans.</i></p> <p>There are concerns over this addition (mainly in relation to adding potential ecology/habitat impacts); and further consideration / discussion with the Applicant is needed. CWCC will confirm if it has any further comments.</p>	<p>been considered to previously apply. There are therefore no 'additional' impacts arising from this textual change.</p>
D3B2.01.05	Part 6	Miscellaneous & General Article 36 – Felling or lopping of trees and removal of hedgerows	<p>For the additional wording to 36(3)(c) suggest adding text in bold/red: “(c) the transferee or lessee is a holding company or subsidiary an entity (whether that entity is a group company of the undertaker or any other entity) that is responsible for the on-going management of any part of Work No. 6, the identity of which has been agreed by the local planning authority <b>in consultation with Natural England</b> following approvals given under Requirement 9;”</p>	<p>Agreed. The Applicant will include this additional wording in the next Draft Development Consent Order to be submitted to the Examination.</p>
D3B2.01.06	Part 6	Miscellaneous & General Article 39 – Felling or lopping of trees and removal of hedgerows	<p>See paragraph 3.4 of CWCC's WR (REP1-048) and Appendix A of WR. CWCC considers more clarity is needed with approval given to tree and hedge retention and removal plans. Article 39 should apply to approved removal and not retained features. See also CWCC's response to ExQ1 (Q.7.0.4) [REP2-005].</p>	<p>As set out in response to WR_CWACC3.4 in Table 2-1 of the Applicant Response to Written Representations [REP3-041], Requirement 9(2)(b) (Landscape and ecology management plan) in Schedule 2 to the Draft DCO [REP3-002] requires the undertaker to specify in the LEMP details of “any hedgerows proposed for removal” and these details will be submitted to the relevant planning authority for approval prior to construction works (and in the case of vegetation removal – Permitted Preliminary Works) commencing.</p> <p>Requirements 9(2)(a) and 9(2)(d) also require the LEMP to include details of proposed tree and hedgerow planting and existing trees to be retained.</p> <p>As the provision of these details to the relevant planning authority via the LEMP is secured by requirement, there is no need to amend article 39 to duplicate this. Article 39 is the statutory power to deal with trees/hedgerows – it is for the Requirements to impose controls on the details of this, which they do as described above.</p> <p>The Applicant provides further explanation about the drafting of article 39 in Item 4e of the Written Summary of Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1) [REP1-033].</p>

D3B2.01.07	Schedule 1	Authorised development	<p>See paragraph 3.4 of CWCC's WR (REP1-048] and Appendix A (ISH1 Agenda item 4 f).</p> <p>CWCC recommends the addition of Work No 6D to include creation and maintenance of habitat works (new scrapes) by the LUM (Fig 2.2. Indicative Operational Layout) of APP-109 and new wetland area adjacent to the NBBMA (between fields A01 and A02)).</p> <p>CWCC considers the drafting should be made clearer; and it is helpful to have the mitigation works listed separately from other works. A breakdown of the various mitigation areas in Work No. 6 would help achieve this.</p>	<p>As stated previously in response to WR_CWACC3.6 in Table 2-1 of the Applicant Response to Written Representations [REP3-041], a new Work No. 6D is not required for Schedule 1 to the Draft DCO because the creation and maintenance of habitat works (new scrapes) by the LUM and the new wetland area adjacent to the Non-Breeding Bird Mitigation Area is already covered by Work No. 6A (ii) which is for "green infrastructure works including... open water habitats and reedbeds". There is no need to duplicate this with a new Work No.</p> <p>Breaking down the various mitigation areas in Work No. 6 within Schedule 1 to the Draft DCO will not achieve any clarity in regard to mitigation as Schedule 1 only authorises the type of activity and its location by reference to the Works Plans. The detail of and the specificity of the mitigation works for the different habitats and areas will be set out in the Landscape and Ecology Management Plan (LEMP) which is the appropriate document to contain this detail.</p>
D3B2.01.08	Schedule 1	Ancillary Works (h)	<p>The definition of Ancillary Works (h) in Schedule 1 of the draft DCO, includes construction and decommissioning compounds which appears to be an unnecessary duplication of Work No 7</p>	<p>The definition of Ancillary Works in sub-paragraph (h) of Schedule 1 to the Draft DCO includes construction and decommissioning compounds to enable flexibility as once the detailed construction methodology is developed by the appointed contractor it is possible that ancillary compounds outside of the Work No. 7 areas might be required to ensure that construction can be completed as efficiently as possible and to account for any constraints that may be identified during the pre-construction and construction process.</p> <p>The Applicant has updated the Outline Construction Environmental Management Plan (oCEMP) alongside this submission to make it clear that where compounds are to be located in other locations outside of Work No. 7, that this must be approved by CWCC following the Applicant demonstrating that this would not change the conclusions of the ES or HRA.</p>
D3B2.01.09	Schedule 2	Requirement 1 Interpretation	<p>As stated in CWCC's response to ExQ1 (Q.3.2.12) [REP2-005], it would be beneficial/preferable to reference inclusion of dealing with unexpected contamination as part of the remediation strategies and verification reports in Requirement 1(c)</p> <p>CWCC welcomes the addition 1(h) peat investigations.</p>	<p>The Applicant's position is that it would not be appropriate to amend Requirement 1(c) to include unexpected contamination protocols as Requirement 17 (to which the definitions relates) is dealing with getting approval for a detailed planned process for dealing with known contamination issues, allowing for a matrix of documents to be prepared in line with industry practice.</p> <p>By contrast, unexpected contamination protocols are about dealing with unexpected contamination matters that occur during construction, maintenance or decommissioning activities – they are by their nature unknown and require a different response as part of environmental management plans that deal with the various environmental risks that can occur during these activities. As such, the need for such protocols has been adequately secured via their inclusion in the OCEMP, OOEMP and ODEMP and their associated DCO Requirements.</p>
D3B2.01.14	Schedule 2	Requirement 6 Detailed design approval	<p>See CWCC;s response to ExQ1 Q.9.9.1. [REP2-005]</p> <p>In summary, it is noted in reference to CWCC's earlier comments, that landscape implementation is included in Requirement 9, fencing is covered by Requirement 10 and surface water drainage is covered by Requirement 11.</p> <p>The use of anti-reflective coating has been confirmed via the Design Parameters Statement (REP1-014].</p> <p>Therefore, it is not necessary to include these items in Requirement 6.</p> <p>The Applicant's response to CWCC's WR in terms of power cables is awaited, and at present it is considered these details should be included in Requirement 6.</p>	<p><b>Power cables:</b> As set out in response to WR_CWACC3.9 in Table 2-1 of the Applicant Response to Written Representations [REP3-041], the Applicant does not agree that power cables should be included in Requirement 6(1) of Schedule 2 to the Draft DCO. This is because the cables will be located below the ground and so it is not clear what design points relating to them would need to be approved by this requirement.</p> <p><b>Landscape phasing and implementation:</b> The Applicant will insert additional text into Requirement 9(1)(e) of Schedule 2 to the Draft DCO so that it reads: "an implementation timetable, including details of the phasing of delivery of landscaping measures;"</p>

			CWCC considers it important to establish an agreed programme for landscape phasing and implementation and note that provision for an implementation timetable is included in Requirement 9.	
D3B2.01.15	Schedule 2	Requirement 7 Battery safety	Recommend also including consultation with CWCC's Emergency Planning team as well as Cheshire Fire and Rescue Service and the Environment Agency	The Applicant will add "Cheshire West and Chester Council Emergency Planning Team" as a consultee for this Requirement in the next Draft DCO to be submitted to the Examination.
D3B2.01.16	Schedule 2	Requirement 8 Permitted preliminary works (PPW)	<p>CWCC recommended adding to the requirement that the local planning authority be given 14 days notice of the commencement of PPW in any phase.</p> <p>CWCC considers that further control over the carrying out of PPW during specified months requires further consideration / discussion with the Applicant. CWCC will confirm any if it has any further comments.</p> <p>Suggest adding wording in bold/red:</p> <p>"8. The permitted preliminary works must be carried out in accordance with the measures set out in appendix 2-3 of the environmental statement <b>relating to Permitted Preliminary Works</b>"</p>	<p>In response to CWCC's suggestion that 14 days' notice should be provided prior to the start of Permitted Preliminary Works (PPW) for any phase, the Applicant does not think this is necessary and that it would add an additional administrative burden on both the Applicant to serve the notice and CWCC in receiving the notice. It is also not clear why this should be required. This is because for the PPW that CWCC are most concerned about which relate to site clearance, CWCC will already need to sign off on the various requirements that are related to them prior to the PPW starting and so will already effectively be on notice about the programme of PPW for those elements.</p> <p>In response to the drafting suggestion, the Applicant's position is the text in bold and red is not required because all the measures set out in Appendix 2-3 relate to the PPW. The insertion of the additional drafting incorrectly implies that Appendix 2-3 has measures for other types of works which would potentially be a hindrance for interpretation of the DCO.</p>
D3B2.01.24	Schedule 2	Additional requirement	<p>CWCC consider that an additional requirement relating to permissive paths would be appropriate; The Oaklands Farm Solar Park Order 2025 contains a requirement which could be adapted.</p> <p>The phasing of completion and the minimum number of days that the paths be accessible should be tailored to the Frodsham Solar scheme, and preferably less than 12 months and more than 264 days in the wording below.</p> <p><b>"Permissive path</b></p> <p><i>61.—(1) Where a phase of the authorised development includes the provision of a permissive path, the permissive path must be provided and open to the public within [12] months of the date of final commissioning in respect of that phase.</i></p> <p><i>(2) No phase of the authorised development which includes a permissive path may commence until written details of the route and maintenance provisions have been submitted to and approved by the local planning authority as part of the detailed design approval required by requirement 5(1).</i></p> <p><i>(3) The permissive path must be maintained and access by the public permitted for [264 days] a year (subject to closures for maintenance or emergencies) until commencement of decommissioning of the authorised development pursuant to requirement 22 (decommissioning and restoration)."</i></p>	<p>The Applicant's position is that an additional requirement relating to permissive paths is not required because the mechanism for this is already set out in the Draft DCO [REP3-002] and there is no need to duplicate this mechanism by including another separate requirement in the Draft DCO.</p> <p>The Outline LEMP [REP3-014] sets out principles relating to the proposed permissive paths with paragraph 6.5.23 stating that the "full details of the permissive paths will be set out in the final LEMP and will be agreed with CWaCC, along with the maintenance regime for the PRoW and permissive paths across the Site". This in turn is secured by Requirement 9(2)(h) of Schedule 2 to the Draft DCO which states that the "final routing, specification and maintenance regime for each permissive path" has to be included in the detailed Landscape and Ecology Management Plan (LEMP) being submitted to and approved by the relevant planning authority.</p> <p>As such, CWCC already has control over the elements set out in their suggested drafting as part of the process of reviewing and approving the LEMP and there is no need to include this additional drafting in the DCO itself. This includes the time periods each year that the paths will be open, as that will form part of the maintenance regime.</p>
D3B2.01.25	Schedule 2	Requirement 16 Soil Management Plan (SMP)	Consider adding that no PPW may commence (as well as no phase of the authorised development) until the SMP is approved. See wording on Requirement 17. This may depend on what are works included in final PPW definition.	Table 1 of Appendix 2-3 of the Environmental Statement [REP3-010] for the Ground Conditions topic states that soils will be managed in accordance with the Construction Code of Practice for the Sustainable Use of Soils on Construction Sites for all relevant PPWs where soils may be disturbed. The Applicant's position is that this is sufficient and there is no need for a Soil Management Plan (SMP) in addition to these measures given the small scale soils impacts for these PPWs.

D3B2.01.26	Schedule 2	Requirement 17 Ground conditions	<p>Further to paragraph 3.6 of CWCC's WR (REP1-048] regarding adding provision for the submission of a remediation strategy and verification plan prior to construction; it is accepted that reference in Requirement 1 'interpretation' including 1 c) remediation strategies and verification reports' addressed CWCCs concern.</p> <p>Minor drafting point on current wording: add comma after 'ground conditions only', and consider omitting 'only', as this is more relevant to the definition of PPW.</p> <p>Whilst CWCC would prefer rewording of the requirement to explicitly follow the Land Contamination Risk Management (LCRM) approach for dealing with land contamination, there are no further comments on wording of Requirement 17.</p>	<p>The Applicant agrees to add to the next version of the Draft DCO to be submitted to the DCO Examination, a comma after "ground conditions" and delete the word "only" in Requirement 17/</p>
D3B2.01.27	Schedule 2	Additional requirement	<p><b>Contaminated Land - Unexpected Contamination</b></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-O22 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>	<p>For greater clarity, the Applicant will amend the drafting of point 2 of the wording of the protocol in Table 5-5 of the Outline CEMP, Outline OEMP and Outline DEMP from "Where the Applicant determines that remediation of the contaminated land is necessary..." to <i>"Where the Applicant determines that it wishes to undertake development in the area of the identified contaminated land..."</i>.</p> <p>This reflects that the Applicant accepts that it is for the LPA to determine if remediation is required, but that if unexpected contamination is found, it may decide not to develop in the area in which it was found – this was the intention behind the original wording.</p>
D3B2.01.28	Schedule 2	Requirement 18 Archaeological mitigation strategy	<p>CWCC recommend adding that no PPW shall commence (as well as no phase of the authorised development) until the archaeological mitigation strategy is approved, e.g. similar to wording on Requirement 17. The details of the wording may depend on what are works included in final PPW definition.</p>	<p>The Applicant will amend the Draft DCO and Appendix 2-3 of the Environmental Statement to make it clear that PPW for the diversion and laying of apparatus and for remedial works (being the only other PPWs that could impact the archaeological resource that do not already provide for this) cannot begin until an Archaeological Mitigation Strategy for those PPW has been submitted and approved by the relevant planning authority pursuant to Requirement 18.</p>
D3B2.01.29	Schedule 2	Requirement 19 Skills and supply chain	<p>Please see paragraph 3.4 of CWCC's WR (REP1-048] regarding adding provision for monitoring, reporting and provision for an adaptive skills, supply chain and employment plan.</p> <p>CWCC consider that there is an issue with the timing of submission / approval. To be effective the plan needs to be implemented well before commencement of development. An alternative might be to require submission for approval [6] months prior to intended commencement of PPW or development. Submission needs leave sufficient time for both the approval process, and implementation of the plan prior to commencement.</p>	<p>The Applicant does not agree that there is an issue with the timing of submission and approval of the Skills, Supply Chain and Employment Plan for construction because the drafting of Requirement 19 of the Draft DCO [REP3-002] is set out in a way to drive the undertaker toward having to submit a plan as early as possible in order to discharge this requirement and to make progress to delivering the Proposed Development.</p> <p>Requirement 19(1) states that <i>"no phase of the authorised development may commence until a skills, supply chain and employment plan for construction... in relation to that phase has been submitted to and approved by the relevant planning authority for that phase"</i> while Requirement 19(2) is clear that the plan <i>"must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with the construction of the authorised development, and the means for publicising such opportunities"</i> and Requirement 19(5) states that any plan approved <i>"must be implemented as approved"</i>.</p> <p>In order to discharge this requirement, the undertaker needs to submit the plan for approval as early as possible so that, once approved, it can take steps to capitalise upon and publicise employment and supply chain opportunities identified in the plan to comply with Requirement 19(5). If it does not do so, it would be in breach of the Requirement.</p>

				Requirement 19(1) also means that until a plan has been produced, submitted and approved by the planning authority, then the undertaker cannot proceed with construction of the scheme. Consequently, it is very much in the undertaker's interests to get the plan submitted to the planning authority for approval as early as possible following the grant of DCO consent to enable it to put in place the agreed measure.
D3B2.01.30	Schedule 2	Requirement 20 Decommissioning	<p>The revised wording for 20 (1) (b) is not clear in its intent.</p> <p><b>Decommissioning</b></p> <p><del>20.—(1) Decommissioning works must commence no later than <u>the earlier of—</u></del></p> <p><del>(a) <u>in respect of all of the authorised development,</u> 40 years following the date of the final commissioning of Work No. 1 that is the subject of the last notice given by the undertaker pursuant to requirement 3(4) (phasing of the authorised development and date of final commissioning); or</del></p> <p><del>(b) <u>in respect of all of the authorised development, phase of the authorised development, prior to the end of the timeframes set out in the decommissioning timing provisions where those provisions are engaged in respect of that phase.</u></del></p> <p>Suggest that 20 (1) (b) be reworded to make it clear that this sub-paragraph deals with respect to each and any phase of the development. At present it is confusing to start both a) and b) with 'in respect of all of the authorised development'. Any redraft should also make it clear that decommissioning on all phases is to commence no later than 40 years from final commissioning of Work No. 1.</p>	<p>The text shown in CWCC's submission is taken from the tracked change version of the Draft DCO submitted by the Applicant at Deadline 1 [REP1-005].</p> <p>However, there is a typographical error in Requirement 20(1)(b) of this version of the Draft DCO and the reference to "of all of the authorised development" should not have been included.</p> <p>Instead, it should read "in respect of any phase of the authorised development" to be clear that this applies to any phase of the development. This is already set out correctly in the clean version of the Draft DCO submitted at Deadline 1 [REP1-004] as well as in the subsequent tracked and clean versions of the Draft DCO submitted at Deadline 3 [REP3-002] and [REP3-003].</p> <p>The Applicant's position is that this text does not need further amendment because the purpose of sub-paragraph (1)(a) is to address what happens in respect of decommissioning when the project reaches the end of its 40-year operational period, while sub-paragraph (1)(b) is drafted to deal with decommissioning in the case of other events such as cessation of energy generation which may only affect of parts of the development and/or occur prior to the end of the 40-year operational period.</p> <p>The two parts are drafted differently as a result of the difference in emphasis and scenarios as described and it is important that this difference is retained in the DCO drafting.</p>
D3B2.01.31	Schedule 2	Additional requirements	<p>During ISH1 the ExA requested the Applicant to provide wording for a decommissioning bond/security/ funding on a without prejudice basis.</p> <p>The Applicant's suggestion (if such a provision is considered necessary) is to follow the Helios DCO example with a variation; and if the Secretary of State decides to follow the ExA's proposal for the Oaklands Farm Solar, other amendments are suggested. See Written Summary of Applicant's Oral Submissions at ISH1 [REP1-033].</p> <p>CWCC welcome the provision of some form of security requirement and consider that this is appropriate to give the local planning authority greater certainty over the funding of decommissioning and improved control (either directly in the case of Oaklands Farm Solar, or indirectly in the case of Helios DCO). Provision of a security is considered to be in the public interest, as opposed to reliance on private landowner interest.</p> <p>Whilst CWCC would prefer to see the Oaklands Farm Solar type of requirement for Frodsham Solar, it is accepted that a provision similar to the Helios DCO would be beneficial too.</p> <p>It is considered that the point at which a security is required e.g. whether 15 years of operation is appropriate, depends to an extent on the particular funding circumstances. If reliance on income from the solar generation is needed, then 15 years would not seem appropriate to deal with the risk of an early failure of the project.</p>	<p>The Applicant has set out its opposition against imposing a requirement for a decommissioning fund / security / bond in Item 5f (Decommissioning funding) of the Written Summary of Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1) [REP1-033]. As part of this same item, the Applicant at the Examining Authority's request also provided drafting for a requirement strictly on a without prejudice basis.</p> <p>It is considered that a requirement to provide decommissioning security is not necessary as all of the agreed land options require decommissioning security to be in place with the value of that security being based on two estimates from quantity surveyors with the amount reviewed every ten years. There is also no National Policy Statement requiring such a requirement to be provided, and there is nothing about the circumstances of the Proposed Development which would justify the imposition of a requirement and setting a new precedent for the industry.</p>

			<p>In addition to the above, at present limited information has been provided by the Applicant on the arrangement with the landowners. The options require a decommissioning bond to be in place, but there is little more in terms of detail.</p> <p>Further comments can be made once a draft Requirement is provided.</p> <p>Considerations may relate to matters such as agreement over the sum for the security (e.g. is this derived from an average of 2 or 3 estimates; what provision is made for a dispute clause; the appropriate period for review, noting five years in the Oaklands Farm Solar; who holds the security; what happens if the site is transferred etc).</p>	
D3B2.01.32	Schedule 2	Additional requirements	<p>As per Appendix A to CWCC's Written Representations [REP1-048] (ISH1 Agenda Item 4g) an Hours of Working (construction, replacement activities &amp; decommissioning) requirement is recommended:</p> <p><i>"No construction or other operations/works associated with the construction and or decommissioning of the authorised development shall take place outside the hours of 08:00 to 18:00 Mondays to Fridays, and 08:00 to 13:00 on Saturdays or at any time on Sundays or Bank Holidays, except in accordance with a protocol for working outside the permitted hours as approved under the construction environment management plan and/or decommissioning environmental management plan. The replacement activities referred to in the outline operational environmental management plan shall be subject to the same restrictions."</i></p> <p>There is also a need to incorporate control over the hours of Permitted Preliminary Works in a similar way and CWCC's position is that the control of hours of construction for those works should also be included in the requirements.</p>	<p>The Applicant has already set out its position about why it is not necessary to include construction hours on the face of the DCO in its response to CWCC's representation WR_CWACC3.18 in Table 2-1 of the Applicant's Response to Written Representations [REP3-041].</p> <p>In response to CWCC's comments that working hours relating to the Permitted Preliminary Works (PPW) should also be set out on the face of the DCO, the Applicant's position is that this is also not necessary. This is because these working hours are set out in detail in paragraphs 1.1.1 to 1.1.4 of the Appendix 2-3 of the Environmental Statement [ad updated alongside this submission] and these are secured by the Requirement 8 in Schedule 2 to the Draft DCO which states that the PPW "must be carried out in accordance with the measures set out in appendix 2-3". Consequently, there is no need to duplicate this control by creating an additional requirement for PPW working hours in the Draft DCO.</p>
D3B2.01.35	Schedule 2	Additional requirements	<p>As referred to in CWCC's response to ExQ1 (Q.9.5.1) [REP2-005] unless addressed elsewhere (e.g. amending an existing requirement or in a relevant control document, an additional requirement is needed to ensure that the Applicant is responsible for the costs associated with the Visitors car park (including the costs of construction, ongoing management and maintenance costs and decommissioning).</p>	<p>Outline details about the provision of a potential car park on Moorditch Lane is set out in paragraph 6.5.25 of the Outline Landscape and Ecology Management Plan (oLEMP) [REP3-014]. This section has been amended to confirm, for the avoidance of doubt, that the Applicant shall be responsible for the costs of designing, constructing and maintaining any car park that is provided.</p>
D3B2.01.39	Schedule 12	Procedure for discharge of requirements	<p>CWCC welcomes the change to 42 days for appeals as agreed at ISH1. In 12 4. (3) CWCC also welcome the additional wording:</p> <p><i>"specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted"</i>.</p> <p>However, the drafting still refers to the appointed person having only 5 working days to notify appeal parties. This should be longer / more flexible.</p> <p>CWCC considers the timescale of 10 working days to submit representations pursuant to an appeal in paragraph 4(4) to be too short and recommend this time period be extended to 20 working days; or such longer period that the appointed person notifies.</p>	<p>The Applicant would flag that the five working day period in paragraph 4(3) of Schedule 12 of the Draft DCO [REP3-002] is in the event that if the appointed person requires further information to enable them to consider the appeal, they have five working days from the appointed person's appointment to notify appeal parties about the further information required.</p> <p>As set out in Item 4h of the Written Summary of Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1) [REP1-033], this timeframe is well-precedent in the following recent as made DCOs: Tillbridge Solar Order 2025, The East Yorkshire Solar Farm Order 2025, The West Burton Solar Project Order 2025, The Cottam Solar Project Order 2024, The Gate Burton Energy Park Order 2024 and The Longfield Solar Farm Order 2023. It is also the timeframe given in The Fenwick Solar Farm Order 2026 which was granted consent on 18 February 2026.</p> <p>The Applicant's position is that it is much more preferable for both the planning authority and the Applicant to have certainty in timescales about when they may expect a request for information (for the purposes of resourcing such a request and programme deliverability) and so it has chosen to retain the five working day period but insert additional text about what the notification should include about who needs to provide the information and the deadline by which it is required.</p>

				<p>In response to the comment that the timescale of 10 working days in paragraph 4(4) of Schedule 12 is too short, the Applicant has responded to this point in response to WR_CWACC3.23 in Table 2 in Applicant's Response to Written Representations [REP3-041]. The Applicant's position is that the 10 working day time period is standard and has been approved by the Secretary of State in recent as made solar DCOs including The Fenwick Solar Farm Order 2026, The Byers Gill Solar Order 2025, The Oaklands Farm Solar Order 2025, The Stonestreet Green Solar Order 2025, The Tillbridge Solar Order 2025 and The East Yorkshire Solar Farm Order 2025.</p> <p>While the Applicant acknowledges that the example schedule in Advice Note 15 provides for a period of "20 business days" for representations to be submitted in the event of an appeal in the equivalent to paragraph 4(2)(d) of the Draft DCO, the Applicant would note that of the most recent as made DCOs, only The Byers Gill Solar Order 2025 has a 20-working day period, while The Helios Renewable Energy Project Order 2025 has a 14-day period but as pointed out above the latest consented DCO, The Fenwick Solar Farm Order 2026 has a 10 working day period. As such the Applicant will keep the current drafting to be in line with the majority DCO drafting as made by the Secretary of State.</p>
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**REP1-012 6.2 Env Statement: Vol 2 Appendix 2-3: Permitted Preliminary Works - P02**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-012 6.2 Env Statement: Vol 2 Appendix 2-3: Permitted Preliminary Works - P02					
D3B2.02.01		General	Further consideration / discussion with the Applicant is needed. CWCC will confirm any further comments.		Noted
D3B2.02.02		General	<p>CWCC is considering whether the updated document addresses concerns raised at ISH 1 as summarised in Appendix A (ISH agenda 4 a) of CWCC's Written Representations a [REP1-048].</p> <p>CWCC considered that the definition of permitted preliminary works was drawn too widely, especially with inclusion for provision of (i) site clearance (including vegetation removal), and (e) remedial work in respect of contamination etc. and also (f) diversion and laying of apparatus; and much of Work No. 8.</p> <p>CWCC considered that if site clearance and remedial works were included in permitted preliminary works, these fall outside of the definition of commencement and so are not controlled by the construction phasing plan.</p> <p>It is noted that some PPWs would constitute commencement of development if carried out in the NBBMA as provided for by Requirement 12 (4), but further consideration needs to be given to PPW's being carried out on the SADA, and the other PPW's not covered by Requirement 12 (4) that would not trigger commencement.</p> <p>CWCC will confirm any further comments.</p> <p>Initial consideration is that there could be a situation where the site is cleared of vegetation, with no mitigation area available for non-breeding birds, leading to significant negative impacts on the non-breeding bird population. There could be significant impacts on the habitat on site and further detail in the construction phasing plan should be provided to take account of remedial works.</p>		<p>The Applicant has considered carefully the nature of works included within the PPW prescribed at Appendix 2-3 of the Environmental Statement, and updated following ISH1 and at Deadline 3, the latest version being [REP3-010].</p> <p>REP3-010 contains a various controls and limitations for each PPW, specific to the various environmental topics listed in the first column of the table. Section 1.2 also identifies those PPWs that require a CEMP to be submitted and approved prior to the PPWs commencing. This includes (i) site clearance, and as such, by virtue of providing a CEMP the nature of the works and a timetable for those works would be described within the CEMP.</p> <p>In relation to (e) remedial work in respect of contamination, Requirement 17 Ground Conditions Investigation and Assessment Strategy must be approved prior to any works being undertaken. This strategy would describe the works being undertaken and would include a programme for those works.</p> <p>The Applicant awaits further comments from the Council but it considers that the controls provided by virtue of [REP3-010] strikes an appropriate balance between providing the necessary environmental protections to enable limited preliminary works to begin while working through the process of discharging pre-commencement requirements.</p> <p>The comment provided in relation to vegetation clearance and mitigation available for non-breeding birds would be controlled by virtue of the need to discharge Requirement 9 – LEMP.</p>

			<p>Site clearance and remedial works should be removed from the permitted preliminary works definition, as these require control and are outside of the proposed construction phasing plan.</p> <p>The construction phasing plan should be updated to provide further detail on remedial works and site clearance should take place in accordance with the construction phasing plan.</p> <p>Para. 2.1.1 of the updated Construction Resources Schedule [REP1-042] states: "However, to provide a conservative assessment a nominal allowance for HGVs and personnel movements has been allowed for Document Ref: EN010153/DR/8.15 Frodsham Solar December 2025 Note on updated Appendix 2-2: Resource Schedule Revision P01 2 in Month 1 and 2 <b>should PPW be required in advance of starting the NBBMA</b>. This retains a 30-month programme. (<i>Our emphasis</i>)</p> <p>Appendix A - ES Vol 2 Appendix 2-2: Indicative Construction Phasing and Resource Schedule Rev P02 in REP1-042 confirms that PPW would be carried out during construction of the NBBMA and some two months prior to commencement of the construction of the NBBMA.</p> <p>The potential adverse impacts of PPW taking place during and before need to be assessed</p>		<p>In relation to final comment on ES Vol 2 Appendix 2-2: Indicative Construction Phasing and Resource Schedule, REP3-010 contains a number of controls for the various PPWs that have the potential to impact non-breeding birds, including as set out above, vegetation clearance.</p>
D3B2.02.03		General	<p>CWCC will provide further comments on the phasing schedule when it has considered the document provided.</p>		Noted
D3B2.02.04	1.1.4	<p>The only exception to the above is where emergency works are required, where such works occur CWaCC must be notified of those works within 72 hours of their commencement.</p>	<p>Notification of emergency work to CWCC should be as soon as practical, and no longer than 12 hours from their commencement.</p>		<p>Appendix 2-3 of the Environmental Statement has been updated to require notification of emergency works within 24 hours on the basis that emergency works occurring after 0500 hours and before 0900 may not be notified to the Council within the proposed 12 hour period. Notification within 24 hours of an emergency incident is considered a reasonable period, noting that it is likely in most instances that notifications would be made well within this period, reflecting the normal working hours of the Council.</p>
D3B2.02.05	Table 1	<p>No intrusive works or works requiring plant and machinery during between November to March inclusive within 200m of the NBBMA without prior approval of the Council.</p>	<p>This additional wording only applies in relation to 'Environmental surveys, geotechnical surveys, intrusive archaeological surveys'. Comments on this to follow.</p> <p>The seasonal restriction should be across other sensitive areas, and the season for excluding works should be the whole non-breeding bird period. The reasoning behind the 200m distance should be provided, as well as a definition of intrusive works.</p>		<p>The proposed 200m distance reflects the limitations proposed within oCEMP in relation to noise disturbance from construction works. Within the oCEMP general construction activities within 180 m of Cell 3's eastern boundary during the core non-breeding bird period (Nov-Feb) must be subject to noise mitigation measures. In order to provide a conservative approach for PPWs a 200m exclusion zone has been included around the entire perimeter of the NBBMA.</p>

**REP1-014 7.1 Design Parameters Statement - P02**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-014 7.1 Design Parameters Statement - P02					

D3B2.03.01		General	Any further comments to follow		Noted
D3B2.03.02	1.2.9	"...and a potential small car parking area to facilitate public access to the enhanced habitat areas...."	Suggest re-wording of this, as the visitor car park is for public access, but not to the enhanced habitat areas, as this would be counterproductive to the habitat areas.		The Design Parameters Statement [as updated alongside this submission] has been reworded as requested.
D3B2.03.03	1.2.9	"Because Work No. 6 is controlled through the oLEMP and related requirements (ensuring these enhancements are delivered as specified), the detailed elements of the green infrastructure and habitat creation are not included in Table 6 of this Design Parameters Statement".	<p>Whilst acknowledging that the oLEMP deals with habitat details, it is considered that the Design Parameters Statement should provide a degree of details consistent with other work packages. The oLEMP is primarily a management tool, and details of the initial development should be included with the design parameters for transparency.</p> <p>Work Package 6 should also include The Lum and Biodiversity Enhancement Area explicitly, as these are being considered as part of the mitigation solution.</p>		<p>The approach taken to Work No.6 within the Design Parameters Statement is considered entirely appropriate. The oLEMP is a management plan but it is also the primary document that prescribes and controls the landscape and ecological mitigation that is proposed across the Site.</p> <p>The Applicant does not consider that the Lum or the biodiversity enhancement areas shown on the Illustrative Environmental Masterplan (Appendix A of the oLEMP) need to be specifically identified in Work Package 6. Work No. 6A provides for the creation of the habitat proposed in these areas. The habitat enhancements proposed for these locations must be carried out in accordance with the oLEMP, which is secured by Requisition 9.</p>
D3B2.03.04	1.2.10	Work No7. – Construction and Decommissioning Compounds	<p>It is queried / should be clarified how construction compounds will be detailed/controlled for major replacements during the operational phase.</p> <p>Note that in the draft DCO Work No 7 is for "construction, <b>maintenance</b> and decommissioning compounds" (our emphasis).</p> <p>Under the design parameters it would be preferable to clarify the permitted duration for maintenance compounds (e.g. during major replacement works).</p> <p>Works for construction and decommissioning compounds are also included in the definition of Ancillary Works (h) in Schedule 1 of the draft DCO, which appears to be an unnecessary duplication.</p> <p>It would be beneficial to add a Table 9 to the Design Parameters Statement to detail the parameters of Ancillary Works.</p>		<p>Paragraph 3.1.3 of the Technical Note on Major Replacement Works outlines the arrangements for compound areas during replacement campaigns. All operations during the replacement works, regardless of scale, will be managed through the implementation of the OEMP, which must be prepared in accordance with Requirements 13, which stipulates the OEMP must be in substantial accordance with the oOEMP.</p> <p>See response to D3B2.01.08 above on the 'duplication' concern'.</p> <p>Parameters are not required for the Ancillary Works, as by their nature, they are minor works, ancillary to the identified Works numbers. Their effects are controlled via the DCO Requirements, including detailed design approval. However, for completeness, the Applicant has updated the Design Parameters Statement to duplicate controls that are relevant to the Ancillary Works that are already in the statement.</p>
D3B2.03.05	Various tables	Cabling Work	<p>i) Add clarification regarding underground electrical cabling to be in conduits or ducting, as opposed to trenching (unless specified in the parameters).</p> <p>ii) Query whether reference to 'Onsite cabling' referred to in the Component of Proposed Development on Tables 1 and 2 is a duplication in terms of works covered by Work No 5 Works including electrical cables and communication cables including – and the parameters be referenced in Table 5?</p>		<p>i) The Design Parameters Statement requires that cabling between the PV modules and inverters would be buried within underground trenches with cables placed within conduits.</p> <p>ii) Work No. 5 relates to cables connecting the various works to one another. The cabling specified in Table 1 and 2 relate to cabling required between components within that specific work.</p>
D3B2.03.06	Table 1	Work No.1 ground mounted solar photovoltaic generating station	Given the design parameter includes provision that the solar PV modules will have an anti-reflective coating, this satisfies CWCC's earlier concern to ensure that anti-reflective coating be included in Requirement 6 'detailed design approval' (see paragraph 3.6 [REP1-048]).		Noted

D3B2.03.07	Table 1	Work No.1 ground mounted solar photovoltaic generating station	It is queried why the maximum depth of concrete footings or piles for the solar PV modules is 5m BEGL, whereas other works are 4m BEGL?		The depths of the proposed foundations / piles have been determined based on the preliminary ground investigation data and the nature of the anticipated loads associated with different components.
D3B2.03.08	Table 2	Work no 2A & 2B (BESS) e. concrete piling;	Consideration should be given to incorporation of a parameter to restrict piling to use of low pressure, non-percussive piling rigs (refer to CWCC's response to ExQ1 Q9.4.2) [REP2-005].		Refer to Q9.4.2 in Applicant Responses to ExA First Written Questions [REP2-003].
D3B2.03.9	Table 2	Work no 2A & 2B (BESS) f. car parking and access roads;	Consideration should be given to including parameters for the materials surface treatment and drainage of car parking and access roads.		This is not considered necessary at this stage and will be subject to detailed design requirements, which would be subject to agreement pursuant to Requirement 6 (e) and (f) and Requirement 11.
D3B2.03.10	Table 6	Work No. 6A green infrastructure	Consideration should be given to including additional parameters, particularly the hard landscaping and built development. This should include the materials surface treatment and drainage of car park works.  Details of the design and height of fencing, gates, boundary treatment etc. should be included.  Work Package 6 should also include The Lum and Biodiversity Enhancement Area explicitly, as these are being considered as part of the mitigation solution.		See response to D3B2.03.03 and D3B2.03.9. In relation to fencing and boundary treatments this is controlled pursuant to Requirement 10 of the draft DCO.
D3B2.03.11	Table 6	Work No. 6B skylark habitat	No details of Work No 6B 'works to create skylark habitat' are provided. This needs detailing (e.g. provisions such as bird nesting and bat roost features).		The details of Work No. 6B are controlled through the submission and approval of the LEMP, pursuant to Requirement 9 of the draft DCO (which specifically references the need for the LEMP to include details in respect of the SMA).
D3B2.03.12	Table 6	Work No. 6C NBBMA	Additional detail in terms of parameters for Work No. 6C ' Works to create a Non-Breeding Bird Mitigation Area'. No details of design or scale are provided, Parameters in terms of the gross depth of excavations should be provided.  Details of the design and height of parameters for predator control fencing should be included.  Work Package 6 should also include The Lum and Biodiversity Enhancement Area explicitly, as these are being considered as part of the mitigation solution.		The detailed design of the NBBMA (Work No. 6C) is controlled pursuant to Requirement 9(j) of the draft DCO .  See response to D3B2.03.03 in relation to The Lum and biodiversity enhancement areas.
D3B2.03.13	Table 7	Work No 7. Construction and decommissioning compounds	As referred to above. Also add parameter for how long a duration a compound shall remain (even if on broad terms e.g. removal within set period of commissioning operational use.		Paragraph 2.6.2 of the oCEMP [as updated alongside this submission] confirms that the main compounds within the footprint of the solar PV array areas would be retained for decommissioning. However, additional text has been added to confirm that retained compounds would be spread with soil and landscaped in accordance with the approved landscaping details. It has also been revised to require compounds outside the solar PV areas to be removed within 6 months of full commissioning.
D3B2.03.14	Table 8	Work No 8. Access etc.	Query whether a different design specification to permeable compacted stone over an appropriate geotextile is appropriate for some access roads/tracks e.g. those enduring higher levels of use.		The design parameter has been amended to provide for other surfacing where these are agreed pursuant to Requirement 6 of the draft DCO.

**REP1-018 7.4 Outline Construction Traffic Management Plan**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-018 7.4 Outline Construction Traffic Management Plan					
D3B2.04.01		General	<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>		As set out in Section 3.14 of the main report submitted at Deadline 4, the Applicant believes that these aspects have been addressed within the oCTMP in Section 4.4 Construction Staff Sustainable Travel Considerations and Section 8.0 Monitoring and Compliance.
D3B2.04.02	5.4.1	Highway peak hours (AM)	<p>The tracked changes from [PD2-014] have not been carried forward to the latest version [REP1-018];</p> <p>PD2-014</p> <p><b>5.4 Impact on Other Highway Users</b></p> <p>5.4.1 It is not envisaged that the construction site will have any impact on other road users caused by delays accessing the site. Arrangements will be made to ensure that lorries avoid (wherever possible) entering and leaving the site during the weekday highway peak hour periods between <del>08:07:30 – 09:08:30</del> and 16:030 – 17:030 (these peak hour periods will be clarified and confirmed with the LHA and updated as necessary within the final CTMP). These arrangements will be organised locally by the Site Manager who will be responsible for the day to day running of the construction programme.</p>		The Outline Construction Traffic Management Plan [as updated alongside this submission] has been revised to reflect the hours in PD2-014. The Applicant can confirm that the other changes made within PD2-014 were carried through to REP1-018.
			<p>REP1-018</p> <p><b>5.4 Impact on Other Highway Users</b></p> <p>5.4.1 It is not envisaged that the construction site will have any impact on other road users caused by delays accessing the site. Arrangements will be made to ensure that lorries avoid (wherever possible) entering and leaving the site during the weekday highway peak hour periods between 08:30 – 09:30 and 16:30 – 17:30 (these peak hour periods will be clarified and confirmed with the LHA and updated as necessary within the final CTMP). These arrangements will be organised locally by the Site Manager who will be responsible for the day to day running of the construction programme.</p>		

**REP1-020 7.5 Outline Construction Environmental Management Plan - P03**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-020 7.5 Outline Construction Environmental Management Plan - P03					
D3B2.05.01		General	Any further comments to follow		Noted
D3B2.05.02	Table 5-5		<p>As referred to in comments on the draft DCO [REP1-004] Table 5-5 of the oCEMP [REP1-021] provides additional detail of an unexpected contamination protocol.</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>		The Outline Construction Environmental Management Plan [as updated alongside this submission] has been revised to be clearer on the intent, which was that if the Applicant decided after coming across the unexpected contamination, to develop in that area, then it would need to come to the Council to have the remediation scheme approved. The Applicant accepts that it would be for the Council, in consultation with the Environment Agency, to decide if the remediation scheme is necessary or sufficient if development was sought to be taken forward in such areas.

**REP1-022 7.6 Outline Operational Environmental Management Plan - P03**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-022 7.6 Outline Operational Environmental Management Plan - P03					
D3B2.06.01		General	Further comments to follow		Noted.
D3B2.06.02		General	The oOEMP includes an Environmental Incident Management and Pollution Prevention Plan and an Unexpected Contamination Protocol to ensure appropriate response if contamination is encountered, this would apply for any major replacement campaign.		The Applicant is in agreement with this statement.
D3B2.06.03		General	<p>With regard to the unexpected contamination protocol, CWCC consider it appropriate to replicate the detail from the oCEMP [REP1-021] in the oOEMP (and oDEMP).</p> <p>Table 5-5 of the oCEMP provides additional detail of a protocol, which should also be included in the oOEMP/oDEMP [REP1-022 and REP1-024].</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>		As per similar point on the oCEMP above - the proposed amendments have been made to the oOEMP and oDEMP [as updated alongside this submission].

D3B2.06.04		General	<p>As referred to in comments on the draft DCO [REP1-004] Table 5-5 of the oCEMP [REP1-021] provides additional detail of an unexpected contamination protocol.</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>		As above.

**REP1-024 7.7 Outline Decommissioning Environmental Management Plan - P03**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-024 7.7 Outline Decommissioning Environmental Management Plan - P03					
D3B2.07.01		General	Further comments to follow		Noted
D3B2.07.02		General	<p>As noted in Appendix A to CCWS's Written Representations [REP1-048] ISH1 Agenda items 3 a)</p> <p>The oDEMP needs to cover aftercare/restoration provisions.</p>		Paragraph 2.4.8 of the oDEMP was amended at Deadline 1 [REP1-025] to include a requirement for the DEMP to include a plan illustrating the proposed final end state of the Site following completion of the decommissioning and restoration works. The DEMP shall show any infrastructure that will be left in place and the landscaping and access provisions which remain at the point the land is to be returned to the landowners. The Applicant would not be responsible for aftercare once it has handed back the land to landowners.
D3B2.07.03		General	<p>With regard to the unexpected contamination protocol, CWCC consider it appropriate to replicate the detail from the oCEMP [REP1-021] in the oDEMP (and oOEMP).</p> <p>Table 5-5 of the oCEMP provides additional detail of a protocol, which should also be included in the oOEMP/oDEMP [REP1-022 and REP1-024].</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>		See response to D3B2.06.03 above.
D3B2.07.04		Decommissioning End State	Please refer to Appendix A of CWCC's Written Representations [REP1-048]		<p>See response to D3B2.07.02.</p> <p>Noting the comments in relation to Cells 2, 3 and 5 this would be reflected within the proposed end state plans, but it is likely that the</p>

			<p>CWCC agrees that the end state should be defined, so certainty on the state of the mitigation areas at the time of handover back to landowners can be secured.</p> <p>CWCC recommended that the following issues be incorporated:</p> <ul style="list-style-type: none"> <li>• Clarification of decommissioning end state (e.g. no mention of access tracks in Section 2.4 of oDEMP (PD2-020); provision of 'restoration plan' (preferably as part of the oDEMP)</li> <li>• Retention of habitat mitigation areas included in 'end state' for handback to landowners;</li> <li>• Addition of appropriate restoration aftercare provisions 15</li> </ul> <p>Regarding mitigation Cells 2, 3 and 5 of the Frodsham Wind Farm, at the decommissioning end state, these are no longer obligated to be in the management condition they are currently, as the Wind Farm would have been decommissioned at that point. Therefore, the decommissioning end state may not simply be the same as the current baseline and it should be clarified what condition these areas will be in at the point of handover.</p> <p>Following on from this, the Applicant states there is no guarantee what happens to the mitigation areas after the handover back to landowners. If there is no post-operational long-term management of the NBBMA and other mitigation areas, the landowner could, for example, fill in wetland scrapes, with no controls or mitigation put in place. This could have significant adverse impacts on the non-breeding bird populations and designated sites.</p>		<p>default in this area, should the wind farm be decommissioned, would be the land use prior to the construction of the wind farm i.e. agricultural grazing.</p> <p>The Applicant considers that paragraphs 2.4.6 and 2.4.7 of the ODEMP are completely clear on what the Applicant is able to commit to – the Applicant will hand back the habitat mitigation areas in situ, but once handed back to landowners, it has no control as to what the landowners may do following this.</p> <p>In relation to the management of the NBBMA following decommissioning of the Proposed Development the Applicant would not be in control of how the land was managed. It would need to be determined by the Council whether the subsequent use of the land was lawful.</p> <p>It is also noted that the NBBMA within the SSSI will be subject to the NBBMS on an on-going basis post decommissioning, meaning the landowners would need to get Natural England consent to change how that land is managed.</p>
D3B2.07.05			<p>CWCC recommended that the following issues be addressed incorporated:</p> <ul style="list-style-type: none"> <li>• Periodic review of commissioning end state (linked to monitoring of biodiversity)</li> <li>• Provision for seasonal biodiversity surveys prior to final DEMP</li> </ul>		<p>Paragraph 1.3.5 of the oDEMP requires the final DEMP and the associated management plans will be reviewed and updated periodically to ensure continued compliance with regulatory requirements and best practice standards. The Applicant does not consider it necessary for the end state plans to be periodically reviewed as it may evolve over time – the key factor is what the end state will be at the time the land is to be handed back, which will be in the detailed DEMP. The Applicant also previously updated the OCEMP and OOEMP to ensure that design, construction and operational activities are undertaken with decommissioning in mind.</p> <p>Table 5-3 requires a pre-decommissioning ecological survey to be conducted to assess changes in site conditions and update mitigation requirements.</p>

**REP1-026 7.10 Outline Soil Management Plan**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-026 7.10 Outline Soil Management Plan					
D3B2.08.01		General	Further detail of soil management in relation to the works to create the NBBMA should be included; or at least references to be included in the full soil management plan.		The outline Soil Management Plan [as updated alongside this submission] has been revised to include a description of management of soils within the NBBMA. It describes how the management of topsoil within the NBBMA will be handled

			One of the objectives of the proposed soil re-engineering for the NBBMA is to remove the existing seedbed and resolve issues of ruderal vegetation encroachment (paragraph 6.9.3 of oLEMP [REP1-028]. This should be referenced in the outline Soil Management Plan, preferably with details of the measures used to achieve this. For the wider development reference is made in Section 5 to Preliminary Works and Soil Stripping, with topsoil stripped and stockpiled. Clarification should be provided as to whether a different approach is to be taken for form the NBBMA.		specifically to reduce the propensity of ruderal weeds. It identifies that the detailed SMP will include the proposed methods for soil handling to achieve the conservation objectives of the NBBMA and shall be informed by the conservation organisation that will manage the NBBMA.
D3B2.08.02	Section 5	Soil Management by Project Phase	<p>Given that works to form the NBBMA will constitute the first phase of the Authorised Development, and the NBBMA will be complete before the commencement of works on the SADA (East and West) (as per para. 1.1.2 of the Note on updated Construction Resourcing Scheule [REP1-042]) it would be appropriate to set out for clarity how the soil management plan will deliver on that phasing in more detail.</p> <p>For instance, setting out the framework of a programme in relation to the carious elements and how they may overlap; e.g. the cut and fill exercise; the filling in of the canal pools, formation of the new scrapes, seeding/soft landscaping of Cell 3, eradication of the New Zealand pygmyweed (<b>NZPW</b>), excavation of the water storage area within the SSSI boundary, and removal from the NBBMA of excavated material arising from construction of the water storage area.</p>		The details of the programming of the works within the NBBMA will be determined by the contractor that undertake the works, with the input of the conservation organisation that will be managing the NBBMA. The phasing of the works will be dependent on specific methods used and the results of more detailed site investigation. The Council would be able to consider these matters as part of the approval of the detailed SMP, LEMP and NBBMS.

**REP1-028 7.13 Outline Landscape and Ecology Management Plan - P03**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-028 7.13 Outline Landscape and Ecology Management Plan - P03					
D3B2.09.01		General	Further comments to follow		Noted
D3B2.09.02		General	CWCC consider that the Non-Breeding Bird Mitigation Strategy (Appendix B) be submitted as a separate document; and referred to as such in the draft DCO.		The NBBMS is now provided as a separate document reference REP3-032.
D3B2.09.03		General	More detail is needed on the NBBMS and soil re-engineering. This is a general point across the SADA, and should be added to the design parameters e.g. in terms of the extent of land raising / details of cut and fill		As noted above in response to D3B2.08.02 the details of the approach to soil management and soil re-engineering will be subject to detailed design. The depth of excavations will be determined by the depth of the buried lower permeability materials. The site investigations undertaken to date have shown that these soils lie within a depth of approximately 1m below ground. Earthworks will be minimised as much as possible to achieve the habitats shown within the NBBMS. It is not considered that parameters for these works would be appropriate or necessary as the details will be subject to approval through the submission of the final Non Breeding Bird Mitigation Strategy and the Ground Investigation Strategy which are secured pursuant to Requirement 9(2)(j) and 17 respectively.

D3B2.09.04		<p><b>3.1.14</b> The SI, as provided in Annex 3, identified moderate to high levels of permeability within the upper metre of made ground, with ground water present at depths of 0.8 to 2.0 m below ground level. Groundwater was perched on a layer of black clay, thought to be deposited within the cells at depth due to the differentiated settlement of finer clay particles compared to the coarser silts and sands. This indicates that re-engineering the cells so the lower permeability clays are closer to the surface could deliver a wet soil at the surface, and therefore wet grassland could be created as demonstrated within the Water Balance report provided as Annex 4.</p>	<p>CWCC consider that further detail of the re-engineering works to form the NBBMA should be provided and additional details provided in the Design Parameters Statement [REP1-014] for Work No. 6. In particular, parameters relating to the depth of excavation.</p>		<p>See response to D3B2.09.03</p>
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**REP1-032 8.12 Applicant's Response to Other Relevant Representations - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
<b>REP1-032 8.12 Applicant's Response to Other Relevant Representations - P01</b>					
D3B2.10.01		General	Any comments to follow		Noted

**REP1-033 8.13 Written Summary of Applicant's Oral Submissions at the Issue Specific Hearing 1**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
<b>REP1-033 8.13 Written Summary of Applicant's Oral Submissions at the Issue Specific Hearing 1</b>					
D3B2.11.01		General	Any comments to follow		Noted

**REP1-034 8.14 Technical Note on Major Replacement Works**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments

REP1-034 8.14 Technical Note on Major Replacement Works					
D3B2.12.01		General	Further comments to follow		
D3B2.12.02		General	<p>General comment that the submission does not try to address the scale of major replacement activities.</p> <p>Further discussion with the Applicant is needed in relation to the NBBMA.</p>		<p>Noted. The document has been provided to provide assurance that where a major replacement activity is undertaken that adequate controls would be in place by virtue of the existing controls within the oOEMP – the conclusions of the note would apply even if (unlikely) total replacement was required.</p> <p>The commitment that where more than 50% of the panels are to be replaced in a single campaign, a notification must be submitted with details of the management measures that are proposed to be put in place for those replacement activities is considered a reasonable and proportionate approach, providing an additional safeguard for major replacement campaigns without planning undue administrative burden on the Applicant or the Council.</p>
D3B2.12.03	16.1.2	<p><b>Frodsham Wind Farm</b></p> <p>Firstly, it should be noted that there is a side agreement between Frodsham Wind Farm and the Applicant which requires both parties to coordinate activities associated with construction, operation and decommissioning. It would not be in the interest of either party to be undertaking a major replacement campaign at the same time as decommissioning or repowering, either logistically or from a safety perspective.</p>	<p>CWCC note the comments made on behalf of Frodsham Wind Farm Limited (FWFL) in response to the ExQ1 and relating to the side agreement / asset protection agreement are noted. <i>[At the time of this submission the letter from Osborne Clark LLP (dated 15 January 2026, and showing as loaded on PINS website 21 January 2026 Deadline (DL2) is not included in the Examination Library (28 Jan 2026)]</i></p> <p><i>“There are still a number of outstanding points to be addressed primarily relating to:</i></p> <ul style="list-style-type: none"> <li><i>• sharing and maintenance of the access track which currently serves FWF and is intended to additionally serve the Frodsham Solar Project;</i></li> <li><i>• the potential for ground subsidence to the wind turbines and associated equipment during construction of the Frodsham Solar Project and the responsibilities of both parties during the lifetime of the projects; and</i></li> <li><i>• the practicalities and set back distances, specifically around oversail and the lay down areas for the turbines when it comes to repowering or decommissioning of FWF.”</i></li> </ul>		<p>Noted. The Applicant remains in discussion with Frodsham Wind Farm but anticipates that all matters will be resolved prior to the close of the examination and will keep the ExA updated on progress at forthcoming deadlines.</p>
D3B2.12.04	16.1.3	<p>Irrespective of this, in respect of wind farm decommissioning, the timing and approach to the works would be controlled by virtue of the planning conditions and the requirements of the two consents. Condition 48 of the Frodsham Wind Farm consent requires the operator of the wind farm to submit, for approval by Cheshire West and Chester Council, a scheme for the demolition and removal of the wind farm. In relation to a major replacement campaign of Frodsham Solar, the oOEMP requires the submission of a notification for approval of the</p>	Any further comments to be provided		Noted

		works prior to them being undertaken, taking account of the wind farm demolition and removal scheme. These mechanisms provide the necessary control by the Council to ensure that measures are in place to prevent any unacceptable cumulative effect arising if the two programmes were to overlap.			
D3B2.12.05	16.1.4	If Frodsham Wind Farm were to re-power, this would require planning permission, and the planning application for that scheme would have to show how the ongoing maintenance of the Proposed Development had been taken account of in its environmental management measures.	Any further comments to be provided		Noted

**REP1-035 8.15 Note on updated National Policy Statements EN-1, EN-3, and EN-5 - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
<b>REP1-035 8.15 Note on updated National Policy Statements EN-1, EN-3, and EN-5 - P01</b>					
D3B2.13.01		General	The Applicant's submission update on policy is welcome background information.		Noted
D3B2.13.02	1.1.5		With regard to the highlighted point in the Executive Summary of the Government's Response: "For applications that have been accepted for examination before publication of the updated 2025 NPSs, the 2024 versions will underpin planning decisions"  It seems reasonable to conclude that the intention behind this statement is that where there is a disparity between the old and the new policy versions, for applications already under Examination, the 2024 policy statements would take precedence. However, CCWC acknowledge that the 2025 statements are material considerations, and as the more up to date, where practical they should be taken into account.		Noted
D3B2.13.02	Table 1	Paragraph 2.10.82 of the updated NPS EN-3 (formerly paragraph 2.10.90 of the 2024 NPS EN-3) has been updated to strengthen the requirement on applicants to "consider reasonable opportunities to maximise restoration, creation, and enhancement of wider	The Cheshire and Warrington Local Nature Recovery Strategy 2025-2035 has only recently been published.		Noted

		biodiversity” and introduces Local Nature Recovery Strategy Strategies as a means of identifying opportunities.			
D3B2.13.02	Table 1	Paragraph 2.10.26 of the updated 2025 NPS EN-3 (formerly paragraph 2.10.34 of the 2024 NPS EN-3) has been updated to note that where peat soils are present on a site, then an applicant’s Soil Management Plan should include consideration of mitigation against impacts to peat soils. Paragraph 2.10.84 of the updated 2025 NPS EN-3 (formerly paragraph 2.10.92 of the 2024 NPS EN-3) has also been amended to say that applicants should consider whether they need to provide geotechnical and hydrological information such as identifying the presence of peat “according to country-specific definitions” at each site.	The Applicant’s position is noted.		Noted
D3B2.13.02	Table 1	Updates to Paragraph 5.14.7 of the updated 2025 NPS EN- and Paragraph 5.14.8 of the updated 2025 NPS EN-1 (formerly paragraph 5.14.7 of the 2024 NPS EN-1) has also been updated to require that applicants prepare a travel plan “adopting a vision-led approach to identify demand management and monitoring and fall-back measures that proactively mitigate transport impacts [the underlined text being the new text inserted in 2025 NPS]”	CWCC consider that reference to demand management etc should be included in the oCTMP.		As set out in Section 3.14 of the main report, the Applicant believes that these aspects have been addressed within the oCTMP in Section 4.4 Construction Staff Sustainable Travel Considerations and Section 8.0 Monitoring and Compliance.
D3B2.13.02	Table 1	Paragraph 5.15.9 of the updated 2025 NPS EN-1 (formerly paragraph 5.15.10 of the 2024 NPS EN-1) has been updated to set out that applicants “must consider the Circular Economy and how to ensure that their project aligns with the government’s circular economy ambitions”. Paragraph 5.15.12 of the updated 2025 NPS EN-1 (formerly paragraph 5.15.13 of the 2024 NPS EN-1) has also been	The Applicant’s position is noted.		Noted

		amended to set out that applicants are "encouraged to prepare a construction materials management plan to inform the use of construction best practices in relation to storing materials in an adequate and protected place on site to prevent waste, or degeneration of valuable materials, for example, from accidental damage or excessive weathering [the underlined text indicates text inserted by 2025 NPS]"			
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**REP1-036 8.16 Statement of Common Ground with Cheshire West and Chester Council (CWCC) - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-036 8.16 Statement of Common Ground with Cheshire West and Chester Council (CWCC) - P01					
D3B2.14.01		General	Under discussion with Applicant		Noted

**REP1-037 8.17 Statement of Common Ground with the Environment Agency - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-037 8.17 Statement of Common Ground with the Environment Agency - P01					
D3B2.15.01		General	Current position noted		Noted

**REP1-038 8.18 Statement of Common Ground with National Highways - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-038 8.18 Statement of Common Ground with National Highways - P01					
D3B2.16.01		General	Current position noted		Noted

**REP1-039 8.19 Statement of Common Ground with Liverpool Bay CCS Limited - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-039 8.19 Statement of Common Ground with Liverpool Bay CCS Limited - P01					
D3B2.17.01		General	Current position noted Please refer to comments on the Technical Note on Pipeline Interactions [REP1-041] below.		Noted

**REP1-040 8.20 Statement of Commonality - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-040 8.20 Statement of Commonality - P01					
D3B2.18.01		Table 2 Statement of commonality	CWCC consider that more detail of the community benefit fund is needed before this can be considered agreed with the Applicant.		Noted. The Applicant has continued to discuss the approach to the community benefit fund with the Council.

**REP1-041 8.21 Technical Note on Pipeline Interactions**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-041 8.21 Technical Note on Pipeline Interactions					
D3B2.19.01		General	Any further comments to follow		Noted
D3B2.19.02	Section 1	Introduction	Noted		Noted
D3B2.19.03	Section 2	Before Scenario	One of the implications of the Runcorn Pipeline being installed before the NBBMA is that the detailed design of the NBBMA would need to take account of the pipeline in its construction and design. Natural England's (NE) Written Representations [REP-056] refer to concerns regarding the operational impacts of the CO2 pipeline relating to the potential for changes to the hydrology within the NMMBA. NE consider that this impact need to be addressed within the Habitats Regulations Assessment (HRA). At NE35 [REP1] NE advise that  "The applicant must consider any factors that may undermine the success of the proposed habitats within the NBBMA. If works to the pipeline are undertaken before or at the same time as the habitats within the NBBMS are created, this creates a risk for the applicant in terms of the success of the NBBMA.  The route of the pipeline in its current form shows the route passing through the NBBMA between the Canal Pools area and the wetland		The Applicant has responded to the issues raised by Natural England (ref NE35) in the Applicant Response to Written Representations [REP3-041], and has updated the Information to Inform Habitats Regulations Assessment [REP3-006] to set confirm that constructing the pipeline before establishing the NBBMA would not affect the creation of the proposed wetland habitats. Regarding the use of the proposed water storage area to help manage water level management the pipeline would be installed at a sufficient depth to allow any drains or pipes carrying water from the storage area to the wetland to be constructed.

			<p>habitats. It is not clear how locating the pipeline in this area will impact on the water supply mechanisms to the wetland habitats and how it may alter the movement of water within the NBBMA.</p> <p>We advise assessment of the incombination operational impacts of the pipeline should be addressed within the HRA".</p> <p>As a result NE does not agree with the overall conclusions of the HRA at this stage.</p> <p>It may well be that the Applicant is able to address NE's concerns, noting that the conceptual model in the Water Balance Report (Annex 4 of the NBBMS in Appendix B of the oLEMP [REP1-028]) appears not to rely on the proposed water storage area to be provided in place of the canal pools, although the water storage area does appear to add resilience to adaptive water management of the NBBMA.</p>	
D3B2.19.04	Section 3	Concurrent Scenario	<p>Section 3 details the Applicant's commitments, through the oCEMP and establishment of a Working Group. At paragraphs 3.3 and 3.4 emphasis is placed on CWCC's ability to refuse to approve the CEMP if it is not satisfied at that time with the outcome of discussions between the Applicant and LBCCS.</p> <p>CWCC's primary concern is not with the ability to control the concurrent scenario via the CEMP (and with the benefits of the Working Party), but with the After Scenario.</p> <p>CWCC may need to consider further the case law referred to in paragraphs 3.8 and 3.9, but the position at present seems to be that if the projects' timeline slips into the After Scenario, CWCC's reliance on the provisions of T&amp;CPA controls (e.g. CEMP) for the Runcorn Pipeline could be inadequate to avoid significant cumulative effects or in-combination adverse effects on integrity.</p> <p>There does not seem to be an issue in principle with exercising the sort of control on the Runcorn Pipeline suggested in paragraph 3.14 to ensure that works in Cells 1, 2 and 5 are separated from works to create the NBBMA; and to secure involvement of a Working Group.</p> <p>Consideration of the alternative of conditioning the Runcorn Pipeline to be developed before the NBBMA (paragraph 3.16) is noted, may not be acceptable to LBCCS.</p> <p>The Back Stop position advanced in paragraphs 3.18 and 3.20 involving potential use of the Applicant's compulsory acquisition powers is noted. However, CWCC cannot rely on the Applicant pursuing this route to establish that the EIA/HRA conclusions would be secured. A preferable position would be for the Applicant and LBCCS to reach formal agreement, to deal in particular with the After Scenario, but preferably all scenarios.</p>	<p>The Council has identified a concern that if, in the 'concurrent scenario', the projects' timelines slip into the 'after scenario' period, this could give rise to significant cumulative effects or in-combination adverse effects on integrity. However, within the approved CEMPs, there would be a programme, and the Applicant would expect, given the concerns about timelines, that these programmes would need to be sufficiently detailed to assure the Council that changes in programme that could alter impacts on the Mersey Estuary SPA and Ramsar site are controlled.</p> <p>The programmes contained in the respective CEMPs would form a core part of the approved documents. If either project's programme changes, it would put that project in conflict with an approved scheme, meaning construction could not lawfully continue without modifying the CEMP.</p> <p>This provides an opportunity for the developer of that particular project to propose additional mitigation measures if necessary to address any unforeseen impacts and prevent significant cumulative or in-combination adverse effects on integrity. If not this could not be demonstrated the Council would not approve the revised CEMP and the development could not proceed without risk of enforcement.</p> <p>The comment in relation to paragraph 3.16 may be true, but the Applicant is simply trying to identify possible remedies to the concerns raised by the Council. LBCCS may not like such a condition but it would be entirely in accordance with their planning application, Environmental Statement and Habitat Regulations Assessment with is predicated on the pipeline being developed prior to the NBBMA. Furthermore, the Applicant considers that such conditions are only the robust way in which the Council could discharge its obligations as competent authority under the Habitats Regulations.</p>
D3B2.19.05	Section 4	After Scenario	<p>The points in paragraphs 4.1 to 4.3 regarding acceptance of the need to consider the Runcorn Sour Pipeline for the EIA/HRA are noted. The Applicant's position seems to rely on a nuanced argument at paragraph</p>	<p>The Council seems to have misunderstood the Applicant's position. Once created, the NBBMA cannot result in cumulative impacts with pipeline construction; it becomes part of the environmental baseline at that stage.</p>

			<p>4.5 that the NBBMA itself could not be seen as causing an impact, and should be seen as a baseline for the Runcorn Spur Pipeline.</p> <p>That seems to be an untenable position, in consideration of the cumulative impact of both projects, which are currently both under assessment.</p> <p>The point about the NBBMA not causing an impact/effect, also seems misplaced, as the primary function of the NBBMA is to provide mitigation for the Frodsham Solar project and without it, the impacts of Frodsham Solar would be acknowledged to be significant adverse effects. A non-functioning or only partially functioning NBBMA would demonstrably cause adverse effects.</p> <p>Again the Applicant's point at paragraph 4.7 is made on the basis that the Frodsham Solar development has been carried out, and how the pipeline projects should be considered in that situation. However, that is not the position in terms of consideration of the current draft DCO (nor in relation to consideration of the current pipeline application), both of which require consideration of the cumulative / in-combination effects.</p> <p>The Applicant's point at paragraph 4.8 and 4.9 appears to side-step the Applicant's responsibility to carry out the assessment and present appropriate mitigation for the impacts, and places the onus on LCCS or CWCC.</p> <p>Paragraphs 4.10 and 4.11 appear to acknowledge/confirm that the combined developments in the After Scenario would result in significant EIA effects.</p>		<p>The NBBMA does not generate any 'impacts' that could combine cumulatively with the pipeline construction. Instead, it establishes an alternative environmental baseline on which the pipeline could cause impacts.</p> <p>Accordingly, the Applicant maintains that it is the LBCCS responsibility to assess impacts if it is constructed after the NBBMA is established. However, LBCCS does not suggest this scenario would occur in its application; otherwise, it would have been assessed.</p> <p>Once again, imposing an appropriate condition on the pipeline application to secure the approach to construction set out in its application appears to be the logical way to ensure the project is developed on the basis of its Habitat Regulations Assessment.</p> <p>To assist the Examination, and without prejudice to its position that such an assessment should be considered 'cumulative', the Applicant has prepared a technical note undertaking an assessment of the 'After Scenario'. This confirms that, to ensure no AEol impacts are caused, LBCCS would need to be required to put in place appropriate mitigation measures, as it is their development which would be causing an impact. Such measures would need to be conditioned by the Council.</p>
D3B2.19.06	Section 5	Conclusion on Runcorn Spur Pipeline	<p>CWCC disagrees with the Applicant's conclusions on the Before Scenario, and the After Scenario.</p> <p>For the Before Scenario this is in light of NE's comments referred to above, and it is acknowledged that the Applicant may be able to present further information to NE to remove its concerns.</p> <p>For the After Scenario CWCC disagrees that the Applicant is not required to assess the cumulative / in-combination effects.</p> <p>At present, it seems unlikely that the project would have no adverse effect on the integrity of a European site.</p>		See responses to D3B2.19.04 and D3B2.19.05.
D3B2.19.07	Section 6	Hynet Hydrogen Pipeline	<p>CWCC acknowledge the delay to the Hynet North-West Hydrogen Pipeline project.</p>		Noted.

**REP1-042 8.22 Note on updated Construction Resourcing Schedule - P01**

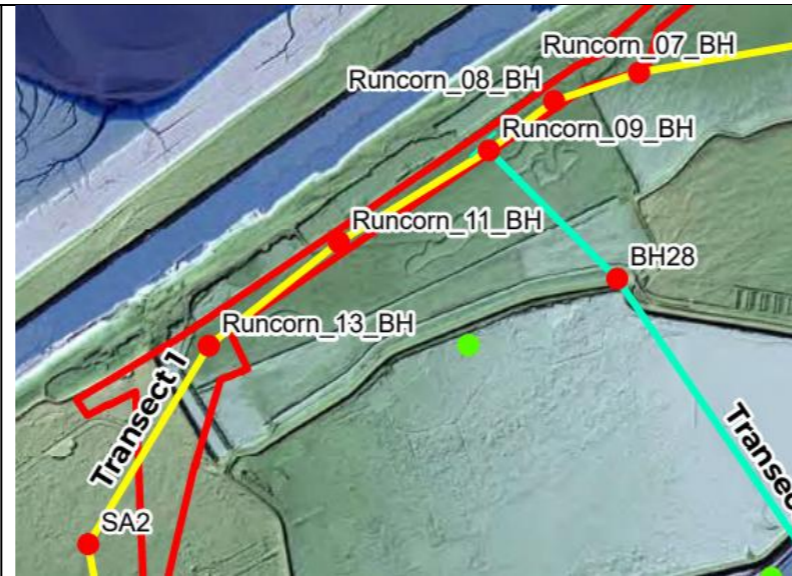
Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-042 8.22 Note on updated Construction Resourcing Schedule - P01					
D3B2.20.01		General	Further comments to follow		Noted.

D3B2.20.02	2.1.1	<p>“However, to provide a conservative assessment a nominal allowance for HGVs and personnel movements has been allowed for Document Ref: EN010153/DR/8.15 Frodsham Solar December 2025 Note on updated Appendix 2-2: Resource Schedule Revision P01 2 in Month 1 and 2 <b>should PPW be required in advance of starting the NBBMA</b>. This retains a 30-month programme. (<i>Our emphasis</i>)</p>	<p>The potential adverse impacts of PPW taking place on the SADA during and potentially even before construction of the NBBMA need to be assessed.</p> <p>Further discussion with the Applicant is needed in relation to the construction programme, noting that there appears to be no provision for the newly created NBBMA to establish and provide suitable functional habitat for use by all SPA species before construction on the SADA commences.</p> <p>See CWCC's comments at paragraph 7.43 and 7.44 in Relevant Representations [RR-037] and the corresponding further comments in response to CWACC7.40 in CWCC D3(A) submission for Deadline 3.</p> <p>CWCC expect the Skylark mitigation habitat to be provided before works to the NBBMA commence; and this needs incorporating into the schedule.</p>		<p>The Applicant considers that the controls which have been applied within Environmental Statement: Volume 2 - Appendix 2-3: Permitted Preliminary Works [as updated alongside this submission] are adequate to ensure that the residual impacts reported in the Environmental Statement would remain valid.</p> <p>In relation to the NBBMA becoming functional the Applicant has set its position in Response to Local Planning Authority and Statutory Environmental Body Relevant Representations [PD2-027] reference CWACC7.40, noting that Natural England have agreed the Applicant's definition of 'functional' which does not require there to be an 'establishment' period.</p>																																																																																																																																																																																																																																														
D3B2.20.03	Appendix A	ES Vol 2 Appendix 2-2: Indicative Construction Phasing and Resource Schedule Rev P02	<p>The totals in the table seem to contain errors (e.g. yellow highlight on extract below).</p> <table border="1" data-bbox="869 982 1798 1228"> <thead> <tr> <th></th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> <th>7</th> <th>8</th> <th>9</th> <th>10</th> <th>11</th> <th>1</th> </tr> </thead> <tbody> <tr> <td>Solar Array Development Area West</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>26</td> <td>68</td> <td>116</td> <td>15</td> </tr> <tr> <td>Solar Array Development Area East</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>21</td> <td>68</td> <td>43</td> <td>6</td> </tr> <tr> <td>BESS / Frodsham Solar Substation</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>5</td> <td>40</td> <td>44</td> <td>4</td> </tr> <tr> <td>SPEN Substation Grid Connection - OHL</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> <td></td> </tr> <tr> <td>Grid Connection - Private Wire</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>NBBMA</td> <td></td> <td></td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Permitted Preliminary Works</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total</td> <td>16</td> <td>14</td> <td>115</td> <td>106</td> <td>72</td> <td>49</td> <td>54</td> <td>56</td> <td>67</td> <td>178</td> <td>661</td> <td>58</td> </tr> <tr> <td></td> <td>0</td> <td>0</td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td>52</td> <td>176</td> <td>203</td> <td>26</td> </tr> </tbody> </table>		1	2	3	4	5	6	7	8	9	10	11	1	Solar Array Development Area West									26	68	116	15	Solar Array Development Area East									21	68	43	6	BESS / Frodsham Solar Substation									5	40	44	4	SPEN Substation Grid Connection - OHL									0	0	0		Grid Connection - Private Wire													NBBMA			20	20	20	20	20	20					Permitted Preliminary Works	10	10	10	10	10	10	10	10					Total	16	14	115	106	72	49	54	56	67	178	661	58		0	0	20	20	20	20	20	20	52	176	203	26		<p>There are arithmetic errors within the table. The correct figures for months 1 to 8 are shown below. These do not impact the conclusions of Note on updated Construction Resourcing Schedule [REP1-042].</p> <table border="1" data-bbox="1932 982 2709 1192"> <thead> <tr> <th></th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> <th>7</th> <th>8</th> <th>9</th> <th>10</th> <th>11</th> </tr> </thead> <tbody> <tr> <td>Solar Array Development Area West</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>26</td> <td>68</td> <td>116</td> </tr> <tr> <td>Solar Array Development Area East</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>21</td> <td>68</td> <td>43</td> </tr> <tr> <td>BESS / Frodsham Solar Substation</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>5</td> <td>40</td> <td>44</td> </tr> <tr> <td>SPEN Substation Grid Connection - OHL</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Grid Connection - Private Wire</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>NBBMA</td> <td></td> <td></td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td>20</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Permitted Preliminary Works</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td>10</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total</td> <td>10</td> <td>10</td> <td>30</td> <td>30</td> <td>30</td> <td>30</td> <td>30</td> <td>30</td> <td>52</td> <td>176</td> <td>203</td> </tr> </tbody> </table>		1	2	3	4	5	6	7	8	9	10	11	Solar Array Development Area West									26	68	116	Solar Array Development Area East									21	68	43	BESS / Frodsham Solar Substation									5	40	44	SPEN Substation Grid Connection - OHL									0	0	0	Grid Connection - Private Wire												NBBMA			20	20	20	20	20	20				Permitted Preliminary Works	10	10	10	10	10	10	10	10				Total	10	10	30	30	30	30	30	30	52	176	203
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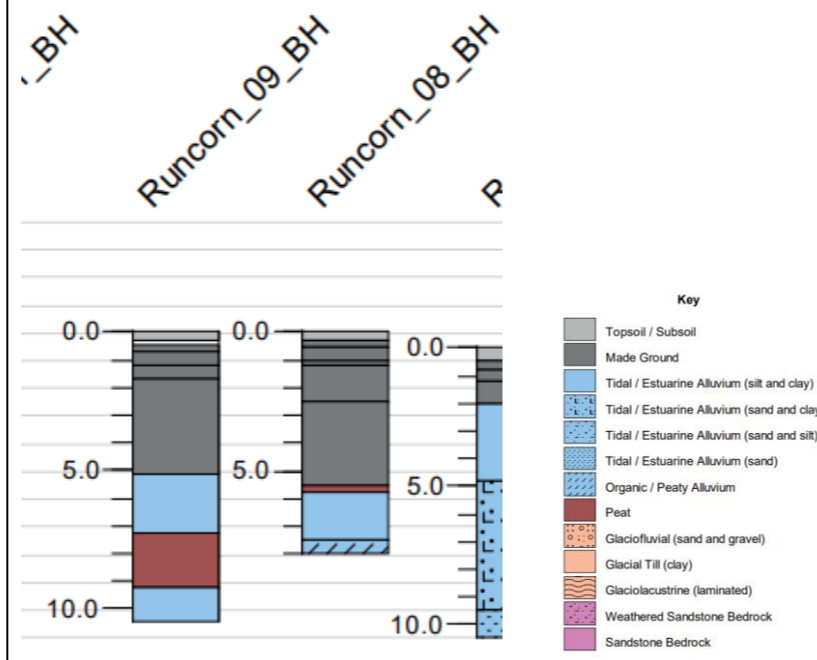
**REP1-043 8.23 Technical Note on Peat Resources - P01**

Ref	Document Para number	Document summary point	CWCC comments	Status	Applicant's comments
REP1-043 8.23 Technical Note on Peat Resources - P01					
D3B2.21.01		General	CWCC's comments on peat in its Written Representations [REP1-048] including Appendix A relating to ISH 5g) Peat deposits remain relevant.		Noted.
D3B2.21.02		General	The technical note REP1-043 is welcome to aid understanding of the peat deposits. As confirmed in CWCCs response to ExQ1 (Q6.0.1) [REP2-005] it is considered that the archaeological aspects can be dealt with via Requirement 18 [REP1-004] and the oWSI [AS-029].		Noted
D3B2.21.03	Fig 3.3 Para. 3.7	Figure 3.3: Image showing exploratory hole locations that contain peat and where peat is	CWCCs response to ExQ1 Q6.0.1. [REP2-005] has already noted that Figure 3.3 of the Technical Note on Peat resources reveals peat encountered below 2m within the proposed NBBMA.		The Technical Note on Peat Resources [REP1-043] pulls together a significant volume of ground investigation data, including within the NBBMA, in relation to buried peat deposits. As noted by the Council

		<p>present in the top 2m within the Non-Breeding Bird Mitigation Area (NBBMA), hatched in blue. Peat is absent in the Black. Peat is encountered in the Blue coloured with green halos positions below 2m (includes Runcorn_08_BH, Runcorn_09_BH, Runcorn_013_BH, BH28, BH29 and SJ47NE14). Peat has not been encountered within 2 metres of the existing ground surface.</p> <p>3.7 Based upon the proven peat distribution on Figure 3.1, which identifies positions where shallow peat (within 1.2 metres of the current ground surface) is encountered in the Blue coloured positions with red halos, 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. This interpretation is generally consistent with the interpretation proposed within the Geoarchaeology Assessment undertaken for the Runcorn Carbon Dioxide Spur Pipeline Development [Planning Application reference 25/02108/FUL].</p>	<p>The technical note identifies Runcorn_08_BH, Runcorn_09_BH (in particular) within the NBBMA; and further detail of these boreholes is provided in the Geoarchaeological Desk-Based Assessment Runcorn Carbon Dioxide Spur Pipeline Proposed Development (Appendix C of CWCC's Written Representations [REP1-048]. See extracts below.</p> <p>Whilst the boreholes indicate that the peat deposits are between 5-10m below current ground levels, it is notable that the depth and the thickness of these peat layers vary over a relatively short distance along the transect. The point being that knowledge of variances in peat deposits in the NBBMA, where there will be extensive re-engineering works, may require further investigation/assessment, although it is also acknowledged that the majority of the exploratory locations in the NBBMA revealed no peat.</p> <p>Fig 4.1 of the technical note shows areas of potential further investigation, and whilst the canal pools along the northern side of the NBBMA are included, it is notable that no further reference is made in relation to the NBBMA. Given the extent of engineering work proposed on the NBBMA, intentionally bringing less permeable soils nearer the surface, it is considered that a Peat Management Plan for the NBBMA would be appropriate.</p> <p>Peat deposits in the NBBMA that may be currently at greater depth than 5m, are liable to have excavations above that would temporarily or otherwise bring the deposits closer to the surface. This may not be an issue, but further clarity from the Applicant regarding the assessment of the impact of the re-engineering works within the NBBMA on potential peat deposits would be welcome, especially in relation to compaction from earthworks. It appears that potential impacts may be greater than for other areas, such as the SADA, due to the large-scale excavation (cut and fill) exercise to form the NBBMA; as well as some peat deposits being present at 5m-10m depth.</p> <p>In general, i.e. not just to satisfy concerns about peat deposit, greater detail of the proposed engineering works to the NBBMA soils (e.g. in terms of how the composition of the soils would be altered) and establishment of parameters for works in the NBBMA (e.g. in terms of limits on depth of excavation) should be provided.</p> <p>The Water Balance Update Report (Annex 4 of the NBBMS within the oLEMP [REP1-028] contains the drawing GM12793-007 Rev A (Proposed Levels Option 2), and this shows proposed cut and fill along with sections.</p> <p>It is understood that this is a conceptual model, and it does not depict provision of the water storage area on the northern embankment to Cell 3. It is understood that the water storage area is proposed, not least as this would add resilience to the adaptive water management for the NBBMA. Clarification from the Applicant regarding the provision of a water storage area and its parameters e.g. location (viz-a-viz) the SSSI should be provided.</p> <p>Re-engineering of the soils is proposed to form the NBBMA, and</p>		<p>peat was identified at depths of between 5 and 10m below ground level within two of the site investigation locations within Cell 3. As set out in the NBBMS the proposal is to excavate into the dredging deposits within Cell 3 to a depth of up to approximately 1m in order to reach the lower permeability soils present at this depth. The overall depth of dredging deposits are approximately 5m. On this basis the Applicant does not anticipate there to be any likelihood of impacts on peat deposits at greater depth.</p> <p>The Applicant is required to undertake a Ground Conditions Investigation Strategy, pursuant to Requirement 17, prior to commencing work construction of the NBBMA.</p> <p>Table 5-1 and 5-5 of the oCEMP confirms that the investigation should include an assessment of peat depths, and if present and it is demonstrated that there could be impacts on the peat resources a Peat Management Plan will need to be prepared.</p>
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Extract of Fig 7 from APPENDIX 8.4 –  
GEOARCHAEOLOGICAL DESKBASED ASSESSMENT  
Runcorn Carbon Dioxide Spur Pipeline Proposed  
Development (Appendix C of CWCC's Written Representations [REP1-048])



Extract of Transect 1 from APPENDIX 8.4 –  
GEOARCHAEOLOGICAL DESKBASED ASSESSMENT  
Runcorn Carbon Dioxide Spur Pipeline Proposed

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			Development (Appendix C of CWCC's Written Representations [REP1-048])		
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