

Date: 20 March 2026
Our ref: [REDACTED]
Your ref: EN010153



[REDACTED]
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Customer
Services
Hornbeam
House
Crewe
Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

BY EMAIL ONLY

T 0300 060
3900

Dear Mr Wallis

NSIP Reference Name / Code: EN010153
User Code: FF7113D45

The Examining Authority's written questions issued on 13 March 2026

Submission deadline 5 dated of 26 March 2026

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

This letter details Natural England's responses to the Examining Authority's Second Written Questions in the attached Annex A. Please note that all responses relate strictly to matters within Natural England's remit.

For any further advice on this consultation please contact me on the details below and copy to consultations@naturalengland.org.uk.

Yours sincerely

Angela Leigh
Senior Officer for Coastal Planning Casework
Cheshire to Lancashire Area Team
[REDACTED]

Annex A. Natural England responses to ExQ2

2. Principle of Development and Need			Natural England response
Site selection and alternatives			
2.2.9	<p>Applicant</p> <p>Cheshire West and Chester Council (CWCC)</p> <p>Cheshire Wildlife Trust (CWT)</p> <p>Natural England (NE)</p> <p>Royal Society for the Protection of Birds (RSPB)</p> <p>Mr Dermot Smith</p>	<p>Alternatives and Habitats Regulations Assessment (HRA)</p> <p>Several IPs have suggested incorporating Cell 2 into the NBBMA so as to avoid an Adverse Effect on Integrity occurring. Could this be an alternative solution that could mitigate harm arising to the Mersey Estuary Special Protection Area (SPA)? With regard to the consideration of alternative solutions in relation to the Habitats Regulations, explain the importance and relevance of this alternative to the SoS' decision-making process for this project.</p>	<p>Natural England is satisfied on the basis of the information provided that the mitigation proposed within the NBBMA is sufficient to avoid an adverse effect on site integrity. We consider incorporating Cell 2 into the NBBMA would be considered additional enhancement and would provide further certainty to the mitigation proposals which is welcomed.</p>
4. Biodiversity and ecology			
Biodiversity Net Gain (BNG)			
2.4.2	<p>Natural England (NE)</p> <p>CWCC</p> <p>CWT</p>	<p>Classification of reedbeds within the applicant's BNG assessment</p> <p>The applicant has provided further information on the classification of reedbeds within Annex 3 of its deadline 4 Biodiversity Net Gain Report [REP4-038]. This states that:</p> <p><i>'Following receipt of Relevant Representations by CWACC a review has</i></p>	<p>Natural England has no comments to make regarding BNG.</p>

		<p><i>been undertaken of particular reedbed habitats against both JNCC and UKHab definitions. Following the review, an area formerly classified as reeded located within Frodsham Windfarm East has now been reclassified as g3.16 instead due to not meeting soil moisture criteria. Further, several areas which may meet the UKHab definition of reedbed, are not considered priority habitat but rather smaller stands of reed'.</i></p> <ol style="list-style-type: none"> 1) Do you agree with the applicant's classification of reedbed in general? 2) Do you agree with the applicant's classification of reedbed at the Frodsham Windfarm East area described in table 1 [REP4-038] and above as not meeting the definition of reedbed? <p>Do you agree with the approach the applicant has demonstrated to the overall consideration of reedbed within the applicant's deadline 4 Biodiversity Net Gain Report [REP4-038]?</p>	
2.4.5	NE CWCC CWT	<p>BNG metric Rule 4</p> <p>The applicant has provided further explanation of its application of Rule 4 to the proposed development within its deadline 4 Biodiversity Net Gain Report [REP4-038], citing a case study from NE in Annex 4.</p> <ol style="list-style-type: none"> 1) Do you agree with the way the applicant has applied Rule 4 to the proposed development? 	Natural England has no comments to make regarding BNG.

		Do you agree with the comparison the applicant has made between the proposed development and the case study in Annex 4?	
Mitigation measures			
2.4.1	NE RSPB CWT	<p>Mitigation for wintering wader species including golden plover, lapwing and curlew</p> <p>Do you have any ongoing concerns regarding mitigation proposals for these species?</p>	Natural England is satisfied with the mitigation proposals subject to the applicant securing a conservation body to manage the NBBMA.
5. Habitats Regulations Assessment			
2.5.2	NE	<p>Precise position clarification</p> <p>In the deadline 4 response [REP4-069], you appear to agree with the applicant's HRA as a whole and appears to endorse the conclusions that an AEoI can be ruled out. This position is reached because the Outline Non-Breeding Bird Mitigation Strategy (NBBMS) contains commitments in writing to secure a nature conservation body to take on the upkeep and maintenance of the Non-Breeding Bird Mitigation Area (NBBMA).</p> <p>The RSPB was to be the nominated conservation body. However, the ExA directs your attention to their submission [REP4-067] and the question posed to the RSPB above. The RSPB, as can be seen, believes that the mitigation area should be expanded before it could be supported wholly.</p> <p>In light of this, please respond to the following:</p>	<p>1) Natural England has carefully considered the mitigation proposed within NBBMA. We accept that Cell 3 can be improved in quality to support more birds than at present, and consider the current NBBMA proposals will deliver a substantive increase in quality.</p> <p>It has proved difficult to quantify how many additional birds will be supported by the proposals, and whether this is greater than or equal to the number of birds displaced. The applicant used the bird-days calculations, and this suggested a larger area of habitat should be provided as mitigation. Although this could be considered precautionary, as the calculations give the area of average quality habitat that</p>

		<ol style="list-style-type: none"> 1) Noting the 'quality over quantity' argument from the applicant, what is your position on the need (or otherwise) of incorporating all of Cell 2 into the mitigation area? Justify your response. 2) If Cell 2 as a whole remained outside the scope of the NBBMA (i.e. as currently proposed) would you stand by your position that an AEoI would not occur? If so, why? 3) If the project does not change and the RSPB is not willing to progress with the applicant, do you remain confident in the wording secured in the NBBMS? 4) Set out any other agreements and disagreements or clarity on why NE's position on AEoI is tenable in the circumstances. 	<p>would be required to support the birds currently using land in the Order Limits.</p> <p>Natural England accepts that the area indicated by the bird-days calculation does not need to be provided to avoid an adverse effect on site integrity (AEoSI) because a greater quality habitat will be provided.</p> <p>The current proposals for the NBBMA are required to have as high a quality habitat as possible and this relies upon precise management by a conservation body to be able to achieve this in the long term. The conservation management body is therefore crucial to the mitigation proposals and providing the certainty required to reach a conclusion of no AEoSI.</p> <p>Incorporating Cell 2 into the NBBMA would be considered enhancement and therefore allow for additional certainty to support the conclusions of no AEoSI.</p> <ol style="list-style-type: none"> 2) Natural England does not consider that our position will change. We are satisfied that providing a conservation body can be secured this ensures that the highest quality habitat can be delivered.
--	--	--	---

			<p>3) Natural England is satisfied with the wording within the outline NBBMS (rev. P04) to secure the management by a conservation body. However, we would have concerns if RSPB is not willing to progress with the applicant.</p> <p>We consider RSPB are best placed to take on the required level of management and we are not aware there is currently another conservation body being considered by the applicant. Where agreement with a conservation management body cannot be reached then we consider there is a risk of deliverability of the NBBMA and as a result a risk to the development scheme.</p> <p>4) Natural England does not fully understand RSPB's position at this stage and so we welcome the clarity requested by the ExA in the second written questions.</p> <p>Natural England's position at this time is on the basis that RSPB support the proposals within the NBBMS and consider the habitat creation and management of the NBBMA as it stands to be fully achievable on the ground, and that deliverability of the NBBMS</p>
--	--	--	--

			<p>does not present an unacceptable risk to RSPB.</p> <p>Should RSPB consider that overall success of the NBBMA cannot be achieved in it's current form because there is no leeway in the requirements of achieving such high quality habitat as set out by the outline NBBMS then this raises concerns regarding the certainty of the mitigation proposals which we would need to consider further.</p>
2.5.5	<p>CWCC CWT RSPB NE</p>	<p>Adaptive management approach to the NBBMA</p> <p>The ExA is interested to understand your position on the adaptive management proposals from the applicant. The applicant proposed that the management of the NBBMA would be through an adaptive approach, setting out the detail in section 4.4 of the Outline Non-Breeding Bird Mitigation Strategy [REP4-048] which states that on-going conservation management of the NBBMA would be secured through Requirement 9(j) of the draft DCO and the final NBBMS would include an Adaptive Management Plan (AMP). The combination of Requirement 9(1) and (2)(j) means the final NBBMS and AMP would have to be agreed with consultees including NE and the RSPB and approved by CWCC as the Local Planning Authority.</p> <p>1) Is the detail on adaptive management throughout the Outline Non-Breeding Bird</p>	<p>1) Adaptive management as set out in section 4.4 is crucial to achieving the highest quality habitat possible.</p> <p>Natural England is satisfied that the measures proposed in section 4.4 are sufficient for all the SPA species of concern. We note that at 4.4.5 actions are stated to 'include, but are not limited to' which provides sufficient flexibility within the AMP at this stage.</p> <p>2) We are satisfied that the AMP is adequately flexible. The management will be overseen by a steering group, which will be important to keep the management on track.</p>

		<p>Mitigation Strategy [REP4-048] and particularly within section 4.4 which has been updated by the applicant at deadline 4, sufficient for you to have confidence that the AMP would ensure adequate mitigation could be achieved for all species of concern? If not, what additional measures would you like to see?</p> <p>2) Do you consider it likely that the AMP would be adequately flexible to provide the required mitigation? If this was not shown to be the case what would the implications be?</p>	<p>If the management approach is not sufficiently flexible, particularly in responding promptly to on-site conditions then the implications will be that the habitat and water level management will not be sufficient. As a result of this the site will not support the number of birds needed to provide adequate mitigation for the solar development.</p>
2.5.7	<p>CWCC CWT RSPB NE</p>	<p>NBBMA mitigation verses compensation evidence provided by the applicant at deadline 4</p> <p>The issue of whether the NBBMA proposal would be classified as mitigation or compensation according to the Habitats Regulations Assessment was discussed at ISH2. The applicant subsequently provided case law examples at deadline 4 [REP4-055].</p> <p>In light of this evidence, do you agree with the applicant's position that the NBBMA proposals would be mitigation and not compensation in relation to the HRA? If not, clearly explain why not.</p>	<p>Natural England agrees with applicant's position that the NBBMA proposals are mitigation.</p> <p>The proposals are designed to reduce the impacts of the development to be able to conclude no AEoSI. The applicant's submission [REP4-055] highlights that this is possible as the development is impacting land outside the SPA but considered functionally linked to it (as in case law), Natural England supports this position.</p>
2.5.8	<p>Applicant CWT NE</p>	<p>NBBMA mitigation verses compensation positions</p> <p>The ExA acknowledges the applicant's deadline 4 submissions justifying why it believes the NBBMA</p>	<p>Natural England considers the loss of Cell 3 as temporary loss of land outside the SPA and so this loss and reinstatement can still be considered as mitigation.</p>

		would be classified as mitigation and not compensation [REP4-055]. CWCC has raised in its various representations that as Cell 3 would be lost and then reinstated this makes it compensation. Could you respond to this statement please.	The applicant has stated that the NBBMA works are to take place avoiding the peak wintering period for SPA/Ramsar birds and that the mitigation area will be created and functional before the solar development begins, so that the solar development area will still be available for birds whilst the NBBMA is being created. This provides suitable mitigation measures to reduce the impacts on SPA/Ramsar birds and avoid adverse effects.
2.5.13	Applicant NE	Flight lines Provide comment on CWCC's position [REP4-074] that flight paths would be disrupted through Cells 2 and 5 down to Cell 6, which CWCC states is a favoured cell by the birds.	Natural England is not aware of any evidence regarding solar panels being a barrier to movement of birds from one area of suitable habitat to another. Flight height data could be used to look at this in further detail. We are aware that birds still maintain routes and move over buildings and warehouses etc close to SPAs to reach areas of suitable habitats and so presume that birds will still move over the site in the same way as currently. It is also noted that there remains a gap at Cell 3 and so a direct route of open habitat remains from the designated sites to Cell 6, allowing birds to continue to use Cell 6.
2.5.17	NE	Effect of any required unexploded ordnance detonations Could NE comment on the applicant's approach to UXO detonations in relation to designated features	Natural England is satisfied with the applicant's approach and consider adequate mitigation has been included within the HRA

		of the Mersey Estuary SPA and Ramsar. Is NE content with the applicant's conclusions of no AEoI to the Mersey Estuary SPA and Ramsar site from the risk of UXO detonations?	<p>regarding UXO detonation. We agree with the applicant's conclusions of no AEoSI.</p> <p>If UXO detonation occurs this is considered an isolated disturbance event after which any birds that may be disturbed are expected to return to previous behaviours.</p>
Cumulative and inter-related effects			
2.916	NE	<p>HRA in-combination effects from the Runcorn Spur pipeline</p> <p>The ExA notes that you stated in your deadline 1 submission [REP1-056] in relation to issue NE35 HRA in-combination effects that:</p> <p><i>'Natural England has ongoing concerns with regards to the potential impacts on the NBBMA as a result of the Runcorn CO₂ spur pipeline. We continue to encourage the applicants of both developments to work together to minimise impacts and welcome the joint working group proposed by the applicant. 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 habitats. It is not clear how locating the pipeline in this area will impact on the water supply mechanisms to the</i></p>	<p>Natural England previously raised concerns regarding in-combination effects related to the overlapping development of the Runcorn Spur pipeline within the boundary of the NBBMA proposed by Frodsham Solar. These concerns related to both the construction and the operational period of the pipeline (i.e. once pipeline construction works are complete and the pipeline is in the ground and the NBBMA has been created).</p> <p>Natural England's position has been informed by engagement with both Frodsham Solar and the Runcorn Spur pipeline.</p> <p>In our recent discussions with the Runcorn Spur pipeline team they have stated that the pipeline development is to take place ahead of the solar development and NBBMA works, and that their HRA scopes in only this scenario as a result.</p> <p>In this case the construction periods will not then overlap with Frodsham Solar and so we are satisfied with the information provided</p>

		<p><i>wetland habitats and how it may alter the movement of water within the NBBMA. We advise assessment of the in combination operational impacts of the pipeline should be addressed within the HRA’.</i></p> <p>At deadline 2 you stated [REP2-009] in response to ExA written question Q5.1.5 regarding the in-combination assessment that:</p> <p><i>‘NE welcomes the additional information provided by the applicant with regards to in-combination however we consider that there are matters outstanding which require further consideration by the applicant. Our detailed advice is given within our WR’.</i></p> <p>(NE’s written representation is REP1-056 quoted above).</p> <p>NE did not submit a representation at deadline 3 but the applicant submitted an updated (unsigned) Statement of Common Ground between itself and NE which stated the following on this issue which was recorded as ‘amber’:</p> <p><i>‘NE require additional information in relation to matters NE35 and NE36. The Applicant has confirmed within its written responses to the NE Written Representation and also within the updated HRA how, once implemented, the pipeline would not affect the functioning of the NBBMA’.</i></p> <p>Your deadline 4 submission states [REP4-069] that you believe the matter regarding HRA in-combination effects of the Runcorn Spur pipeline is now resolved due to the additional information provided by the applicant and the clarification</p>	<p>within Frodsham Solar’s HRA regarding construction impacts.</p> <p>Natural England is in the process of reviewing additional information submitted to CWCC by the pipeline applicant to support the conclusions of their HRA regarding the operational stage of the development and assessing impacts on the NBBMA once all works are completed.</p> <p>The updated HRA submitted by Frodsham Solar discusses the operational effects of the pipeline on the NBBMA on the basis of the information available to them currently. Natural England cannot fully support the statements made within the HRA at this time as this matter remains subject to review of further information from the pipeline applicant.</p> <p>We consider in this circumstance that Frodsham Solar have provided sufficient information for their development to enable us to agree with their overall conclusions and as stated in our deadline 4 response, it then remains for the applicant of the pipeline development to demonstrate that the pipeline will not impact upon either the existing mitigation in Cell 3 or the proposed NBBMA.</p>
--	--	---	--

		<p>provided within the HRA and confirmed the issue as 'green'.</p> <p>Particularly in light of question 2.9.15 above, can you explain in more detail the reason you believe the matter regarding HRA in-combination effects of the Runcorn Spur pipeline is now resolved. The ExA would like to understand what has changed since you made your deadline 1, 2 and 3 submissions quoted above to bring NE to its current conclusion.</p>	
--	--	---	--