



Cheshire
Wildlife Trust

Frodsham Solar DCO - EN010153

Response to second set of Written Questions EX Q2

Cheshire Wildlife Trust (CWT)

26th March 2026

2.2.9 Alternatives and Habitats Regulations Assessment (HRA)

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.

Incorporating Cell 2 into the NBBMA is essential and should be considered a bare minimum requirement. The retention and eventual enhancement of Cell 3 (NBBMA) represents approximately a five times reduction in size of the current extent of Functionally Linked Land (FLL) and a significantly greater reduction when the windfarm development land is factored in.

At this point in time there is absolutely no guarantee that the NBBMA would provide an equivalent function to the original Frodsham, Helsby and Ince marshes Local Wildlife Site (FLL and de-designated SSSI). There must be contingency built into the proposals in case unforeseen circumstances arise (including further disruption from pipeline/ maintenance etc.) and inclusion of Cell 2 would help provide this.

2.4.2 Post works BNG summary

Explain why the BNG units within the BNG assessment in sections 5.1.3 to 5.1.6 and section 6.1 of the Biodiversity Net Gain Report [REP4-038] have changed for deadline 4, see screen shot below. Fully explain the basis of the recalculation, including the changes within tables 6.1, 6.2 and 6.3.

CWT would like to challenge changes to the BNG metric assessment.

The revised sections 2.3.8 of the updated BNG report (Frodsham Solar BNG report March 2026) incorrectly identifies that the site is '*high strategic significance*' in the post-development calculations. This is a fundamental error as there are no mapped measures attributed to core sites in the Local Nature Recovery Strategy. Frodsham, Helsby and Ince Marshes is a Local Wildlife Site and a core site in the Cheshire and Warrington LNRS.

An extract from Table 7 of the BNG User Guide (referred to in the BNG report) is provided below:

High Strategic Significance - This category can only be applied to post development interventions when:

- the location of the habitat parcel has been mapped in the Local Habitat Map as an area where a **potential measure has been proposed** to help deliver the priorities of that LNRS; (emphasis added)

and

- the proposed intervention is consistent with the **mapped potential measure** in the LNRS for the habitat parcel (emphasis added)

This fundamental error means that the figures quoted in sections 5.13 and 6.1 (overview) of the BNG report are highly inaccurate and the **BNG calculations need to be re-calculated**.

2.4.3 Classification of reedbeds within the applicant's BNG assessment

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: 'Following receipt of Relevant Representations by CWACC a review has 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'.

1) Do you agree with the applicant's classification of reedbed in general?

No

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?

No. It looks as though Avian Ecology has used an assessment of wetness at a particular point in time (a single visit at the end of summer on the 1st October during a drought year) to re-classify a parcel of previously identified reedbed as grassland, solely because the habitat trading rules were not met. This is highly irregular and unacceptable and this conduct calls into question membership of the professional body CIEEM.

Reedbeds are amongst the most important habitats for birds in the UK (JNCC) and avoiding high distinctiveness habitat is a key part of the mitigation hierarchy which is built into the BNG metric. Where there are uncertainties related to the identification of these habitats because surveys have not provided the level of detail required (i.e. UK Habs survey) a more

detailed botanical survey should be undertaken using the National Vegetation Classification system. This forms part of BNG good practice and is well understood by practitioners who have received the relevant training, such as CIEEM's biodiversity metric training <https://cieem.net/i-am/upcoming-training-and-events/bng-training-courses/> . The author of these comments has taught this course for 3 years between August 2022 and November 2025.

In the absence of a NVC survey (or indeed absence of continued monitoring of water levels) the precautionary principle must be applied and reedbed should be assumed to be present on the >5m patches 'dominated by common reed' (SJ5070978474). The 'inclusions' listed in the UK Habs definition also make this clear i.e. *'parcels that meet the size threshold in the definition that include both a reed filled ditch and reed dominated vegetation extending onto dry land'*.

It is especially important that there is no net loss of wetlands because the retention of wetland habitats formed part of the overarching aims of the windfarm mitigation plan.

3) 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]?

If BNG is an agreed outcome for the development then the rules and principles of the BNG metric must be applied in their entirety. The trading rules are a fundamental principle and allow the measurement of gains in biodiversity. Without applying these rules it is not possible to claim a gain in biodiversity has been achieved because the particular biodiversity lost has not been compensated for. The trading rules for reedbed must be applied if reedbed is impacted by the scheme.

2.4.5 BNG metric Rule 4

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. 1) Do you agree with the way the applicant has applied Rule 4 to the proposed development? 2) Do you agree with the comparison the applicant has made between the proposed development and the case study in Annex 4?

The application of Rule 4 is a decision that sits entirely with the Local Planning Authority and the metric User Guide (pages 17 and 18) specifies that there are very specific circumstances and clear ecological justification where it can be applied, namely:

- You should not use rule 4 for most projects. It may be used in exceptional ecological circumstances, occurring when:

1. Highly complex landscape scale habitat changes such as creation of heathland, heathland grassland mosaic or other mosaic habitats
2. River re-meandering, or
3. Large-scale restoration of natural processes

The solar farm development meets none of the above criteria as it is not a river nor a complex landscape scale restoration scheme. Furthermore the LPA needs to be satisfied that the exceptional ecological circumstances in which rule 4 can be applied are occurring, however the LPA are objecting in this case.

Deviation from biodiversity metric trading rules can occur when there is a clear ecological justification for the habitat intervention which is not being reflected by the biodiversity metric tool. In the case of Frodsham solar farm there is **no ecological justification why reedbeds should be subject to a net loss**.

The Rule 4 example of Open Mosaic Habitat Priority Habitat (OMH) being replaced with scrub and grassland cited in section 6.4.3 of the BNG report is not comparable to the solar development. This is because OMH is almost impossible to recreate so constitutes exceptional ecological circumstances (i.e. no other available option) whereas reedbeds are relatively easy. There is no justification for the loss of reedbed units and the habitat trading rules must be followed for the scheme to be BNG compliant.

2.4.7 Area required for adequate skylark mitigation

In your deadline 4 submission [REP4-075] you state that: ‘The literature commonly used to determine the necessary hectarage for skylarks states that a pair requires 3.3ha per territory. As there are 21 pairs of skylarks at peak count on the site, this would amount to about 70ha’. Please provide the references for the literature that you refer to substantiate this position.

Skylark nesting density varies depending on habitat and crop type, although is typically between 0.05 and 0.1 territories per ha within grassland and arable habitats, increasing to 0.3 territories per ha within set-aside land - **Donald, P.F. and Vickery, J.A. (2000). ‘The importance of cereal fields to breeding and wintering Skylarks** . For 21 pairs of skylark

this equates to 70 ha of land and assumes skylark plots provide habitat equivalent to set-aside.

A minimum of 42 skylark plots in 70 ha of arable land is required based upon a 2:1 ratio of plots to pairs as detailed below:

https://assets.publishing.service.gov.uk/media/667a95365b0d63b556a4b2ac/8_Skylark_Mitigation_Strategy_vf_Mar_24_Redacted.pdf

In coming up with these figures the authors gave consideration to both RSPB and Government guidance (RSPB (undated). 'Farming for Wildlife: Skylark Plots.'

AHW4:Skylark plots <https://www.gov.uk/find-funding-for-land-or-farms/ahw4-skylark-plots>

The advice indicates that fields supporting skylark plots should be more than 5ha in size if they have an open aspect (or >10ha if bounded by trees or woodland), and plots should be located at least 24 - 50m from field boundaries or margins.

2.4.11 Mitigation for wintering wader species including golden plover, lapwing and curlew

Do you have any ongoing concerns regarding mitigation proposals for these species?

We have significant concerns regarding the mitigation proposals and whether an agreement framework can be secured with the RSPB. There is no guarantee at this stage that RSPB will be prepared to take on the responsibility of managing this site, or that they are satisfied the SPA birds will not be threatened by the loss of Functionally Linked Land including land that was secured to provide mitigation for the windfarm.

The feasibility of the strategy depends on whether continuity of habitat will be provided during the re-modelling of Cell 3 (NBBMA). **Cell 3 is currently providing mitigation for the windfarm.** During informal discussions between RSPB and CWT, RSPB have said that Cell 2 is required in addition to Cell 3, and not just during the re-modelling period. Cell 2 (Functionally Linked Land) is not an alternative to the NBBMA/Cell 3 but is required to remain as FLL if the NBBMA is to function as intended.

We are of the view that Cell 5 is also necessary to provide the ongoing SPA compensatory habitat that was secured for the windfarm. **The solar farm must not jeopardise the measures put in place for the windfarm.**

The mitigation proposals must provide suitable (RSPB approved) perimeter predator-exclusion fencing (including for Cell 2) otherwise the whole scheme could be undermined. Details of this have not been provided.

We do not consider this additive mitigation approach compliant with guidance from Natural England [Wild birds: advice for making planning decisions - GOV.UK](#) regarding development mitigation and compensation measures for wild birds, which states:

‘There should be a suitable amount of replacement habitat to compensate for the displacement. For example, there should be:

- ***no net loss of habitat*** (emphasis added)
- *like-for-like replacement near to the original nest to provide a long-term home*
- *alternative habitat that is better in quality or area than the lost habitat*
- ***maintained habitat connection to allow normal bird movement*** (emphasis added)

The development proposal should make sure compensation sites are established for wild birds to use before work starts’.

We particularly highlight that there will be a substantial net loss of habitat area (Functionally Linked Land) as the NBBMA is approximately five times smaller than the existing FLL within the development boundary.

2.5.5 Adaptive management approach to the NBBMA

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.

1) Is the detail on adaptive management throughout the Outline Non-Breeding Bird 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?

No, we are particularly concerned that there must be an agreed process to annually monitor the bird populations against pre-agreed thresholds and an agreement on exactly what would trigger an intervention and what the intervention would be. Although this is referred to in the document we believe there needs to be more detail provided at this stage so that there is confidence legal mechanisms and funds will be in place for appropriate contingency measures.

The plan also needs to incorporate the specific species-related objectives of the Frodsham Wind Farm. There is no reference to these objectives in the Outline Non-Breeding Bird Mitigation Strategy.

Furthermore there must be agreed monitoring and identification of possible interventions/contingency for BNG purposes.

All deviations from the original proposals must be accompanied by a BNG re-evaluation so that BNG can still be achieved for the scheme as a whole. This needs to be set out clearly with contingency funds legally secured.

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?

A process must be agreed on how remedial work will be undertaken without undermining the functionality of the site (for example by temporary losses of FLL). This means there must be contingency land available to utilise if required. The current AMP does not address this.

2.5.7 NBBMA mitigation verses compensation evidence provided by the applicant at deadline 4

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]. 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.

The NBBMA area currently provides mitigation for the bird populations of the SPA (in relation to the windfarm) as it compensates for the loss of Functionally Linked Land linked to the windfarm development. Any further loss (including temporary/partial loss of NBBMA) of FLL needs to be compensated for so that potential impacts on the SPA birds are mitigated.

2.5.8 NBBMA mitigation verses compensation positions

The ExA acknowledges the applicant's deadline 4 submissions justifying why it believes the NBBMA 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.

As above the NBBMA currently performs a function compensating for the loss of Functionally Linked Land that had previously been secured for the purpose of enabling the wind farm to be built.

2.5.12 Highly Pathogenic Avian Influenza (HPAI)

At ISH2, concerns were raised regarding the clustering of birds on a smaller parcel of land and the potential for HPAI, or other diseases, to spread more rapidly. Please set out clearly as to why you feel the risks would increase to an extent to be deleterious to the bird species involved, and comment on the position that the RSPB has taken [REP4-067] that HPAI risks would not be significant.

We defer to RSPB in relation to the seven named SPA bird species, however we maintain that large numbers of birds forced to use an area approximately five times smaller than previously could increase the risk of disease. Many wild-bird associated pathogens (WBAP) are spread in excrement and waterfowl have been shown to host the highest number of pathogens compared to other groups (including human pathogenic viruses). Habitat suitability (particularly in relation to waterfowl) is cited as a main determiner in the spread of wild-bird associated pathogens

[REDACTED]