

Case Management Team  
National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol,  
BS1 6PN

By email only

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

## Development Management

Planning Service  
Cheshire West and Chester Council  
The Portal  
Wellington Road  
Ellesmere Port  
CH65 0BA

Tel: 07786 198 601

Our ref: 25/01959/NIP

Your ref: EN010153 (Reference **FROD-065**)

Please ask for: [REDACTED]

Email: [REDACTED]

Web: [cheshirewestandchester.gov.uk](http://cheshirewestandchester.gov.uk)

Date: 26 March 2026

Dear Team,

### Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

#### Application by Frodsham Solar Ltd (the Applicant) for an order granting development consent for Frodsham Solar (EN010153)

Further to the 'Rule 8 letter' dated 16 December 2025 [PD-008], I am writing on behalf of Cheshire West and Chester Council as the host local authority with comments in relation to Deadline 5 (26 March 2026).

CWCC's submissions for Deadline 5 comprise this letter and the following:

- Cheshire West and Chester Council's Responses to the ExA second written questions [PD-016]
- Cheshire West and Chester Council's further comments on the Deadline 4 submissions (*see below*)
- other information requested by the ExA for deadline 5 (outstanding from the ISH2 action points) [EV10-024]
  - CWCC's written responses to ISH2 Action Points
  - CWCC's Tabulated 'read-across' Summary of the Green Belt harms and benefits

It has not been practical in the time available to provide comments on all the documents submitted at Deadline 4, nor to provide a comprehensive review in relation to earlier representations (e.g. as to whether comments have been satisfactorily addressed). However, the Applicant and CWCC are intending to engage further before Deadline 6 to address outstanding concerns where practical, and the ExA will be updated as appropriate.

**Summary of ISH2 Action Points requiring CWCC input**

No	Party	Action	Deadline
27	Applicant CWCC	<p>In respect of the historic environment:</p> <ul style="list-style-type: none"> <li>i. provide a response to the December 2025 draft NPPF and any implications this might have in respect of the applicant's conclusions (action for the applicant but CWCC may comment if it wishes to); and</li> <li>ii. provide a tabulated summary or 'read across' of the applicant's and CWCC's conclusions in relation to the effects of the development using the same terminology as NPS EN-1 and the NPPF.</li> </ul> <p><b>Point i) please see CWCC's comments further below;</b></p> <p><b>Point ii) it is expected that the Applicant will submit the final version of the joint note on the heritage matters. CWCC has provided its comments back to the Applicant.</b></p>	5
28	Applicant CWCC	<p>Provide: i. an updated Green Belt Assessment (Appendix A of the Planning Statement [APP-128]); and ii. a tabulated summary or 'read across' of the applicant's and CWCC's conclusions in relation to harms and benefits of the that the parties considered should be weighed in the 'green belt balance', taking account of CWCC's comment that it considers some of the benefits listed by the applicant to be mitigation.</p> <p><b>Please see comments below.</b></p>	5
33	CWCC	<p>CWCC to provide response on mitigation and compensation case law from the applicant.</p> <p><b>Please see comments below.</b></p>	5
39	Applicant CWCC	<p>Make any further submissions in respect of the interaction between any DCO and any permission for the Runcorn spur in respect of the concern relating to the NBBMA. Set out a logical and reasonable solution for resolving the differences (including Liverpool Bay CCS Ltd commentary as applicable) and for assessing the impacts if the Runcorn Spur Pipeline was to be delivered after the NBBMA had been established. 4 and 5 Provide views on the logistics, pros and cons of imposing a Grampian-style requirement on the DCO preventing work beginning on the NBBMA unless and until the pipeline was laid and/ or the potential for a section of pipeline to be laid by the applicant. Also set out what powers the applicant, as landowner, would have on timing of the works of the Runcorn Spur (if approved).</p>	4 and 5

		<b>Please see update below following CWCC’s Deadline 4 submission [REP4-065 and REP4-066]</b>	
44	CWCC, Cheshire Fire and Rescue, EA	Respond to the applicant’s chemical summary note and the representations from Cllr Mrs Sumner (watch recording of today’s event for details), and whether the risks are appropriately scoped and can be managed.  <b>Please see comments below.</b>	

**Action Point 27 i): Note on historic environment and draft NPPF**

The Applicant has shared draft notes on their submission under Action Point 27i) relating to the proposed revisions to the ‘Conserving and enhancing the historic environment’ section of the draft NPPF (December 2025).

One of the main changes identified in the draft NPPF is the removal of ‘less than substantial’ harm as single categorisation for impacts on a designated asset’s significance where the impacts are not considered ‘substantial’. The degree of harm should be identified. It is understood that the Applicant will draw on the Chapter 11 – Cultural Heritage [APP-044] to indicate the degree of any harm.

It is not expected that CWCC will need to make further comment on the Applicant’s submission in relation to the draft NPPF, but will consider the position for Deadline 6.

**Action Point 28 ii): Tabulated summary on Green Belt.**

The Applicant has provided CWCC with a draft dated version of the tabulated summary, and it is expected that the Applicant will submit their final version of the summary note (without CWCC comments).

CWCC has completed the draft with ‘read across’ comments shown in red text, and this is submitted with CWCC’s Deadline 5 submissions.

Please note that given the number of outstanding matters in relation to ecology, it has proved difficult to provide a definite/final weighting at this stage to each of the items listed. However, it does seem reasonably clear that there is a significant difference between the Applicant’s assessment of the ecology aspects (with the operational phase (post mitigation) being categorised as benefits, with varying degrees of weight. At this stage, CWCC considers that most (not all) of those benefits at operational stage, should be considered under the harms. The weighting of these elements in the Green Belt assessment is to a degree linked to the point below in Action Point 33 about clarifying where mitigation/compensation ends and enhancement begins. Generally, CWCC considers that most of the elements are mitigation or compensation, and any weight in terms of the Green Belt assessment would at best be ‘no weight’ (and likely to be weighted as a harm of some degree, with some elements at least significant harm). CWCC also consider that the breakdown of the ecology elements would benefit from further review (and probably simplifying).

The tabulated summary is therefore draft, and an update will be provided for Deadline 6.

**Action Point 33): CWCC to provide response on mitigation and compensation case law from the applicant.**

Further to Action Point 33 and ExA Q2 - Q2.5.7 regarding NBBMA mitigation versus compensation evidence / case law provided by the Applicant in response to ISH2 Action Point 31 [REP4-055] CWCC acknowledges that the case law directs the decision maker to consider the protected selection feature / basis of designation at risk (which may be particular species rather than a particular habitat) and that there is a distinction between proposed replacement habitat in a situation directly affecting a protected site (e.g. Mersey Estuary SPA) and those in a situation where the replacement is near (e.g. linked to) but outside the protected site.

It is also acknowledged that in Natural England's response at Deadline 4 [REP4-069] they state that the measures proposed by the Applicant within the NBBMA in the appropriate assessment are considered to be mitigation as they will reduce the impacts of the loss of FLL on the SPA/Ramsar population and so avoid an adverse effect on site integrity.

Notwithstanding the above, this is an unusually complicated scenario where Cell 3 and other parts of the FLL on the Marshes already comprises mitigation for the impacts of the Frodsham Wind Farm (FWF) on the Mersey Estuary SPA, and whilst the proposed measures in the Frodsham Solar scheme are presented as additive to that existing mitigation, the point remains that not only is the NBBMA proposed on land that is FLL in its own right (i.e. without the FWF) it is also replacing the existing mitigation provided as a result of FWF. It may be that in HRA terms the proposed NBBMA is mitigation not compensation, but in policy hierarchy terms CWCC considers it more appropriate to consider it as compensation.

On a broader note, CWCC has raised the issue over a lack of clarity in the Applicant's various submissions regarding whether elements of the project are mitigation, compensation or enhancement. This point has been raised with the Applicant, and CWCC has suggested that it would assist the ExA if a up to date 'Table of Mitigation' (as advocated in 5.2 16. Securing mitigation to the Advice Note Fifteen: drafting Development Consent Orders) be provided, setting out precisely how and where mitigation measures relied upon in the ES are secured in the draft DCO and clearly distinguishing this from compensation and enhancement proposals.

**Action Point 39): Update interaction between any DCO and any permission for the Runcorn spur in respect of the concern relating to the NBBMA**

Further to Action Point 39 and ExA Q2- Q2.9.15 regarding a tripartite memorandum of understanding (MoU) with respect to the Runcorn Spur, the Applicant produced a first draft MOU and sent it to CWCC on 23.03.2026. CWCC have yet to provide comments on the draft back to the Applicant and will seek to do so as soon as possible.

However, (on the basis it is expected that the Applicant may submit a draft of the MOU with its Deadline 5 submissions) it is worth pointing out the following:

1. CWCC do not consider it appropriate to comment in detail on the appropriateness of planning conditions on the LBCCS planning application through the Examination into the

Frodsham Solar DCO application and are concerned neither to pre-determine (nor be seen to be pre-determining the application) nor fetter its decision on another application through its submissions on this DCO. For the avoidance of doubt, the Council retains absolute discretion as decision maker on the appropriateness or otherwise of conditions imposed on the LBCCS planning permission (if the decision is made to grant planning permission).

2. CWCC notes that Natural England's (NE) assessment and confirmation that it agrees with the conclusions of the Habitat Regulations Assessment for Frodsham Solar [REP4-069] is on the basis of the pipeline development taking place ahead of any works within the NBBMA, and that NE suggest that in the event of a delay to the pipeline works not being completed ahead of the NBBMA that a revised HRA for the CO2 pipeline would be needed at that time. CWCC considers that a robust mechanism to prevent the pipeline works progressing in this 'after scenario' without appropriate HRA would need to be in place for this to avoid potential Adverse Effect on the Integrity (AEoI) of the Mersey Estuary Special Protection Area.
3. CWCC also notes/understands that NE's current position on the CO2 pipeline application (25/02108/FUL) is that there is insufficient information to rule out potential adverse effects on the Integrity of the Mersey Estuary SPA and in order to assess the impacts of the pipeline in the operational phase, that further assessment is required on the impact of excavation for laying the pipeline and the stabilisation columns on hydrology (movement and water level).
4. CWCC acknowledges the potential concerns of Frodsham Solar Ltd with regard to the suggested additional DCO requirement, but requests that the ExA considers this option (if necessary taking legal advice on the matter) in making its recommendation to the SoS. CWCC notes that in the absence of control via the DCO there is no guarantee of control via planning condition on the LBCCS application until a decision is made, which is not expected before close of the examination. CWCC will of course proactively update the ExA / SoS on progress of the LBCCS application and its determination.
5. CWCC notes that Frodsham Solar Ltd (and LBCCS) have concerns about a tripartite agreement not being secured through planning. However, such an agreement could be entered into under section 106 of the Town and Country Planning Act 1990 to bind the land (and/or S111 of the Local Government Act 1972) irrespective of linking it to any specific planning application, even though the other parties do not wish to be bound in this way.

See also CWCC's comments on the Deadline 4 submissions in relation to 'Scenario 3 Pipeline Construction After Development of Frodsham Solar [REP4-053].

**Action Point 44): Response to the applicant's chemical summary note Appendix D of [REP4-055] and the representations from Cllr Mrs Sumner.**

CWCC's Environmental Protection Team have provided the following response:

"Commenting on fire risk is not within the remit of the Environmental Protection Team. However, our understanding is that heat from a fire dissipates rapidly with increasing depth given soil is a poor conductor.

The applicant's chemical summary note provides details of the proposed testing undertaken to date and comments that further testing will be undertaken in future site investigations where appropriate. We understand that the Environment Agency has requested that the list of chemicals be extended to include chloroform, hydrogen chloride and polychlorinated biphenyls (Q3.2.3) but we have yet to see this information.

CWCC is satisfied that sufficient investigation has been undertaken at this preliminary risk assessment phase. Additional site investigation works are proposed to further characterise the site, to inform the final mitigation measures and remediation strategy. Any potential risks from land contamination to the future development can be addressed through the land contamination requirements to ensure that the site is suitable for its intended use as a solar farm."

### ***Statement of Common Ground with Cheshire West and Chester Council (SoCG)***

The Applicant CWCC have continued to discuss matters, and following provision of some responses by CWCC to the Applicant on the draft SoCG on 17 February 2026, an updated draft has been provided by the Applicant today for further discussion.

The delay in completion of the SoCG has in part been due to the number of outstanding / unresolved matters, and a desire by both parties to resolve as many of the matters as possible. However, at this stage it is anticipated that a simplified SoCG may be most appropriate for submission into the Examination.

A meeting is being arranged post Deadline 5 to progress matters of common ground and CWCC will update the ExA on progress at the appropriate time.

### **Planning Performance Agreement – Post decision for discharging requirements**

CWCC and the Applicant have progressed the PPA and the draft is currently with the Applicant for comment. CWCC will update the ExA on progress at the appropriate time.

Yours faithfully

  
*Principal Planning Officer*