Cheshire Wildlife Trust

Frodsham Solar DCO - EN010153

Response to RIES

Cheshire Wildlife Trust (CWT)

21st April 2026

3.1.9 Potential loss of FLL – suitability of NBBMA - construction and operation

NE [RR-012], CWCC [RR-037], and CWT [REP1-068] stated that insufficient detail had been provided to demonstrate that habitat loss mitigation for SPA species is adequate. CWCC's written representation [REP1-048] stated that replacing larger mitigation areas with a smaller, higher-quality area is flawed because it reduces space for displaced birds, increases vulnerability to disease, and diminishes the extent and resilience of FLL. NE [RR-012] and CWCC [RR-037] also stated that there is inadequate evidence that Cell 3 could support both existing birds and those displaced from the SADA. NE requested clarity on the proportion of the NBBMA currently unsuitable for birds to better understand the enhancement potential. NE further noted limited opportunities to reliably increase wetness across the site and requested that the oNBBMS [APP-144] explain how water would be managed, including how sufficient water levels and water-storage capacity would be maintained. The applicant's updated oNBBMS (within the oLEMP [PD2-023]) included a Water Balance Report (Annex 4) and additional analysis on SPA species' use of the site and the suitability of proposed mitigation. The oNBBMS was updated with more detail on how the NBBMA would be created and managed. CWCC [RR-037] and CWT [REP1-068] questioned the use of the Cleve Hill method to calculate the area of land required for the NBBMA, arguing that if habitat quality is not accounted for, adequacy of mitigation cannot be demonstrated. As detailed above in 3.1.5 of this table, CWCC stated [REP2-005] that the applicant should amend the proposed layout releasing back the existing mitigation areas to enable a less risky approach. Mr Smith [REP2-014] and the RSPB [REP4-067] proposed that the NBBMA should incorporate the entirety of Cell 2.

In its response [REP4-052], the applicant stated that Cleve Hill calculations are used only for the grassland-wader guild (lapwing, golden plover, curlew) and are not relied upon as the sole measure of mitigation adequacy. The applicant [REP4-052] explained that other SPA species are addressed through broader habitat design and management within the mitigation package. Further justification was also provided for why the NBBMA is considered sufficient. NE [REP4-069] reviewed the additional information and confirmed that its main concerns had been addressed, agreeing with the HRA conclusion [REP3-006] that FLL loss would not result in AEoI, subject to mitigation being secured in the DCO. CWCC [REP4-068] and CWT's [REP4-075] concerns remain unresolved at D4.

RQ7*: Please can CWCC and CWT provide an update on their positions on this matter in light of the applicant's D4 submission [REP4 052].*

The proposals are based upon the presumption that increasing the quality of Cell 3 will mitigate the impacts on the birds of the SPA caused by the loss of Functionally Linked Land from when the solar farm is developed. We maintain that Cell 3 (and Cells 2 and 5) **currently provides mitigation for the impacts of the windfarm both to the birds of the SPA and to the wider Local Wildlife Site and its associated species including breeding birds and bats**. It is obvious that any period of disturbance during any month of the year will remove or diminish all or part of this function.

To remove or reduce the mitigation secured for the windfarm for any length of time without additional mitigation secured in advance is unacceptable. Cells 2, 3 and 5 were **legally secured** for the lifetime of the windfarm, so there is a legal basis for ensuring they continue to function as mitigation at all times.

We strongly believe that the methodology used to calculate the area of mitigation required for the solar farm plus windfarm is flawed, and furthermore it fails to address the breeding bird mitigation legally secured for the windfarm.

- To maintain the ecological function that Cell 3 performs during the construction phase of the NBBMA will require **advance** creation or enhancement of alternative habitat, above and beyond what was secured for the windfarm.
- It is evident that no contingency habitat is being secured should problems arise with the restoration of Cell 3 (NBBMA), or if subsequent disturbances occur, such as the construction or maintenance of a pipeline.
- The 'bare minimum' approach put forward by Cubico is unacceptable given the potential risks to the outstanding bird assemblage (including the likely 68 breeding bird species and foraging hobby, peregrine falcon and marsh harrier in addition to birds of the SPA).
- Following construction of the solar farm the 64 ha NBBMA will be acting to mitigate the impacts of the windfarm **plus** the impacts of the solar farm. There will be a reduction of already compromised Functionally Linked Land from 274ha today to just 64ha (which is just 23% of existing). No studies have been provided to evidence whether the reduction in extent is capable of mitigating for the impacts of both schemes together (in combination) not just for SPA species but for the outstanding breeding bird assemblage too.

For these reasons it is imperative that Cell 2 (considered favourable condition in 2021) is **not developed** and is brought into the NBBMA to be improved and maintained under the specific conditions set out by RSPB.

3.1.12 Potential disturbance to overflying birds and access to other habitats (scale, glint and glare, openness) impacts on designated sites and FLL – operation

CWCC [RR-037] and CWT [REP1-068] stated that the applicant has not sufficiently assessed behavioural impacts on birds, including access to habitats, potential glint and glare effects, narrowing of development-free corridors, and the overall scale of the solar development's influence on bird movements. CWCC [RR-037] highlighted that Cell 6, outside but adjacent to the Order limits, supports high numbers of qualifying bird species. CWCC is concerned that solar panels in western Cells 2 and 5 could disrupt flightpaths between the Estuary and Cell 6 due to glint and glare or birds mistaking panels for water. CWCC [RR-037] noted that the Glint and Glare Assessment [APP-056] exclude ecological receptors and that the HRA Report [APP-125] does not sufficiently consider the landscape-scale implications of a large solar array and considered that even intermittent exposure may be significant due to scale. CWCC [RR-037] also stated that development could disrupt connectivity between Cells 2, 3, 5, and Cell 6, fragmenting FLL through visual disturbance and reducing available landing areas. CWCC stated that operational impacts on Cell 6, and therefore on FLL as a whole, have not been properly assessed. The applicant's response [PD2-027] stated that NE agrees with its conclusions and maintains that glint and glare would not cause significant effects. NE's position on glint and glare within its RR [RR-012] is marked as 'green' due to embedded mitigation measures such as low-profile panels that have non-reflective coatings. CWCC [REP3-046] reiterated that the applicant has not addressed landscape-scale effects and referenced the FWF ES, which retained undeveloped corridors between the Estuary and Cell 6 to protect flightpaths. CWCC stated that the proposed development would reduce FLL without adequate compensation, limit access to favoured habitats inside and outside the Order limits and significantly alter current bird movement patterns. The dDCO was updated at D4 [REP4-004] to include Requirement 6(1)(h) which requires the detailed design of the anti-reflective coating to be used on the solar modules in Work No. 1 to be submitted and approved in writing by the local planning authority and NE. Matters raised by CWCC [REP4-068] and CWT [REP1-068] remain unresolved at D4.

RQ9: ***Please can CWCC and CWT confirm whether the wording of Requirement 6(1)(h) of the dDCO [REP4-004] is satisfactory in terms of the anti-reflective coating to be***

used on solar modules and to specify if they have outstanding issues in relation to this matter.

CWT has no specialist knowledge to comment on whether the anti-reflective coating will be sufficient to prevent birds in the wider area mistaking the panels for water or other habitats. However, we concur with CWCC and have ongoing serious concerns about the implications for breeding and non-breeding birds and bats due to the **reduction of available land** (loss of FLL to just 23% of existing).

Securing undeveloped corridors of land that link the Estuary with Cell 6 and the wider area was fundamental in enabling the development of the windfarm (embedded mitigation for an array of species including SPA birds, breeding birds and bats). Any disturbance or reduction in functionality of this corridor (caused by construction and operation of adjacent solar panels) could significantly alter current movement patterns and undermine the mitigation legally secured for the wind farm. This is unacceptable.

Additional comments

Biodiversity Net Gain

At least 10% of the Biodiversity Net Gain for the solar farm must be **additional** to the BNG secured within the boundary of the NBBMA. This is clearly set out in government guidance which explains the 'in part' rules which apply for:

- Mitigation or compensation to a special area of conservation, special protection area, or protected species
- Mitigation or compensation to functionally linked land (FLL)

In part rules - '*at least 10% of the developer's biodiversity units must come from additional activities other than mitigation and compensation'*

https://www.gov.uk/guidance/what-you-can-count-towards-a-developments-biodiversity-net-gain-bng

We can't see evidence to confirm that the developer is following these rules and BNG cannot be claimed for the scheme if it relies on measures that legally must be secured. *A tangible net gain must be **additional** to any legally secured measures*.

The developer must clearly demonstrate how a minimum 10% BNG has been secured **over and above** the uplift for the NBBMA, which is legally required specifically to mitigate for the impacts on the birds of the SPA.

Future restoration potential

The habitats of Frodsham, Helsby and Ince marshes currently represent one of the most valuable natural capital assets in the county[1], due to the vast size, restoration potential and outstanding bird assemblage (birds of the SPA, likely 68 breeding birds plus foraging hobby, peregrine falcon and marsh harrier).

The de-designated SSSI with its peat and wetlands probably represents the best site in the region to target biodiversity net gain or carbon offsetting projects and contribute significantly to nature's recovery in Cheshire.

Although the scheme has a high impact on the extent of Cheshire's natural assets, it is very disappointing that it is giving relatively little back. With a highly questionable BNG contribution and a vast reduction in the size of the marshes/FLL, a core asset of the region, this does not represent a sustainable 'green' project and CWT believes the ambition should have been set much higher.

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[1] Frodsham, Helsby and Ince Marshes is the largest core site of the Cheshire region Local Nature Recovery Strategy 2026 (as secured by the Environment Act 2021)