CHESHIRE WEST AND CHESTER COUNCIL

Frodsham Solar DCO - EN010153

Cheshire West and Chester Council's response to the Examining Authority's schedule of proposed changes to the draft Development Consent Order (dDCO) (9 April 2026)(PD-018)

Submitted at Deadline 6 – 22 April 2026

This document represents a table of responses by Cheshire West and Chester Council (**CWCC**) to the Examining Authority's schedule of proposed changes to the draft Development Consent Order (dDCO) (9 April 2026)[PD-018] in respect of Frodsham Solar Ltd's (**the Applicant**) application for development consent for Frodsham Solar Farm DCO (**the Project**). CWCC's comments for Deadline 6 (22 April 2026) are entered in the right-hand column.

CWCC's comments are in response to the ExA's proposed changes. CWCC note that other amendments/additional requirements have been suggested in earlier representations, and in CWCC's comments on the Deadline 5 submission documents that are also submitted for Deadline 6 along with the comments below.

Table 1: CWCC response to the Examining Authority's schedule of proposed changes to the draft Development Consent Order

Ref No	Provision	Proposed Change	Reasoning	CWCC comment
PC001	New Requirement 21	**Decommissioning Fund** In this paragraph: "decommissioning security" means a form of security that secures the costs of undertaking decommissioning works and meeting all obligations under a decommissioning environmental management plan approved under Requirement 20 for the phase to which the security will relate; and "valuer" means a suitably independent professional jointly appointed by the undertaker and the relevant planning authority prior to the first discharge of this Requirement but where an individual cannot be agreed, then this inability to agree should be considered to be a refusal of an application to discharge a Requirement for the purposes of article 46 and Schedule 12.	Given the complexities and uncertainties of the future and given the environmental circumstances of the project site, it is considered necessary in the public interest to ensure adequate funds are secured for the decommissioning phase of the project.	The Applicant's submission presents very limited information 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. It would be helpful to include reference to the decommissioning security providing details of who holds the security and provisions for the relevant planning authority to access the funds in default of the decommissioning. It would also be helpful for the decommissioning security to provide details of arrangements in place to cover the costs if the site is transferred and/or the undertaker changes. In discussions with the Applicant, the Springwell Solar DCO decision was mentioned and the decision by the Secretary of State to not include a decommissioning fund. However, CWCC notes

		21- (1) No phase of the authorised development may commence until the form and value of a decommissioning security for that phase has been submitted to and approved by the local planning authority. (2) Any decommissioning security approved under this paragraph shall be maintained until the date of completion of the decommissioning works to which that decommissioning security relates. (3) The value of the decommissioning security shall be reviewed by the valuer no less than every five years from the date of approval given under sub-paragraph (1) and the undertaker must increase or decrease the value of the security to reflect the results of the valuer's review, such review to take account of any variation, since the approval of the decommissioning security, or the previous review (as appropriate), in the estimated or actual costs of carrying out the decommissioning works, meeting all obligations under a decommissioning environmental management plan approved under Requirement 20 for the phase to which the decommissioning security relates, and complying with best practice prevailing at the time of each review. (4) The undertaker may launch an appeal under paragraph 4 of Schedule 12 in respect of the relevant planning authority's consideration of a submitted		that this decision can be distinguished from this Project due to the detail on the decommissioning arrangements in the funding statement provided by the applicant in the Springwell Solar DCO which is not replicated for this Project, also noting the additional environmental sensitivities of the site.

		decommissioning security under paragraphs (1) and (2) and where such an appeal is launched the Secretary of State must appoint the valuer as the appointed person under paragraph 4(2)(c) (5) The undertaker may dispute the results of any review carried out under paragraph (3) and article 46 and Schedule 12 shall apply to such dispute.		
PC002	New Requirement 22	**Biodiversity Net Gain** 22.—(1) No part of the authorised development may commence until a biodiversity net gain plan has been submitted to and approved by the relevant planning authority, in consultation with the relevant statutory nature conservation body. (2) The biodiversity net gain plan must include details of how the strategy will secure a minimum of 25% biodiversity net gain in area based habitat units, a minimum of 80% biodiversity net gain for hedgerow units, and a minimum of 11% biodiversity net gain for watercourse units as substantially in accordance with the methodology outlined in the outline landscape and ecology management plan, using the Department of Environment, Food and Rural Affairs' 4.0 metric to calculate those percentages (or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body). (3) The biodiversity net gain plan must be implemented as approved and maintained throughout the	The applicant stated [REP2-015] that an amendment would be made to Requirement 9 of the draft DCO at deadline 3 to provide a commitment to achieving a net gain in biodiversity. The ExA can see no such amendment was proposed to Requirement 9 of the draft DCO at either deadline 3 [REP3-002] or deadline 4 [REP4-004], although wording has been proposed in the draft DCO at deadline 5 [REP5-002]. Natural England's deadline 4 response [REP4-069] states in	(1) CWCC notes that reference to a biodiversity gain plan is made and assumes this refers to the document required under the BNG statutory system. This document gives very basic level data regarding units and requires information not relevant to this development, due to its non-statutory status. CWCC considers a Habitat Management and Monitoring Plan-style document to be more appropriate to secure than a biodiversity gain plan, in this requirement. It is noted that in the Rule 17 letter, a BNG Strategy document is referred to and this could also provide the level of detail required. This element of the requirement mentions percentages of gain. CWCC has previously represented that these percentages are arbitrary, due to the metric trading rules not being satisfied, as well as issues regarding declassification of some habitats. Therefore, if this requirement is pursued, it should include

		operation of the relevant part of the authorised development to which the plan relates.	paragraph 1.3.2 that: *'Biodiversity Net Gain can now be considered as 'Green' issues and have been successfully resolved (subject always to the appropriate requirements being adequately secured)' [emphasis added].* The ExA considers this provision in a standalone requirement secures the delivery of the ambitious biodiversity net gain objectives of the applicant. This would be consistent with the wording used in other recently made Development Consent Orders for solar projects.	"and satisfies trading rules" and the other BNG issues that CWCC have represented on. Note that CWCC does not require anything above no net loss (0%), but asserts that the trading rules should be satisfied, as a fundamental part of the metric, in line with guidance. CWCC is tasked with discharging DCO Requirements, so it needs to be satisfied that it agrees with the information on which the requirement is based. There are concerns that there are still significant outstanding issues with the BNG as presented and so wording must be acceptable to all parties. It is also noted that this element of the requirement refers to Metric 4.0, whereas the Applicant has presented the information in the statutory metric. It should be confirmed if the transfer of the calculation will change the metric results or not. Note that CWCC does not have any views on whether metric 4.0 or the statutory metric is used, but would note that all comments and discussion have been based on the statutory metric version that the Applicant has submitted. (2) CWCC is not sure what this requirement element is securing; a standard BGP does not include detail on implementation or maintenance. Again, a HMMP/BNG Strategy-style document with an implementation schedule, habitat creation and management

				detail, with a monitoring schedule would be more appropriate here. As a note, the ExA in the explanatory text for this new requirement state that NE are satisfied with BNG, however in the Rule 17 - Request for further information letter issued on 31st of March by the ExA, it has been pointed out that CWCC does not agree with NE in terms of BNG. As has been confirmed in NE's Deadline 5 Responses to the Examining Authority's (ExA's) second written questions (ExQ2) response (REP5-056), NE has no further comment on the detail of BNG. Please see CWCC's response to the Rule 17 letter [PD-017] submitted at Deadline 6 in its covering letter. Following discussion with NE it is understood that NE supports CWCC leading on the assessment of the BNG metric and considers that where the BNG metric is being used that the associated metric rules including trading rules should be satisfied. Also in the Rule 17 letter, it is stated that many recent DCOs include a BNG requirement that states a BNG strategy must be approved by the Local Planning Authority (LPA) in consultation with the relevant Statutory Nature Conservation Body (SNCB). CWCC is therefore not sure why the DCO requirement itself has been written to require a Biodiversity Gain Plan, not a BNG Strategy, as would be more appropriate and consistent.

				CWCC is not sure why the BNG delivery is referred to as ambitious, when it does not satisfy the integral mechanics of BNG to even achieve no net loss (0%) (trading rules).
PC003	New Requirement 23	**Unexpected Contamination** 23.—(1) The authorised development may not commence until an unexpected contamination protocol has been developed, detailing the steps to follow if previously unidentified contamination (e.g. contaminated soil or groundwater) is encountered. In the event such contamination is found, works in the affected area will pause and the material will be investigated and risk assessed, with appropriate remediation, measures implemented in line with regulatory requirements. The unexpected contamination protocol must be submitted to and approved by the relevant planning authority, in consultation with the Environment Agency, in accordance with requirements 12, 13 and 20. (2) No part of the authorised development may commence until targeted ground investigations have been carried out at the project substation, the area surrounding and beneath the proposed project BESS (Works No. 2A) and the proposed non-breeding bird mitigation area (Works No. 6C). Soil samples (and leachate, where relevant) from these areas must be collected and laboratory-tested using a laboratory accredited with the British	Given the complexities and uncertainties of the environmental circumstances of the project site, it is considered necessary in the public interest to ensure that risks surrounding the identification and control of unexpected contamination are fully secured.	CWCC welcomes the introduction of a specific unexpected contamination requirement as previously represented in response to Q3.2.12 [REP2-005]. It is suggested that New Requirement 23 'Unexpected contamination' is just 23 (1), and that the other parts be either included as separate requirements (or possibly an amendment/addition to existing Requirement 16 Soil management plan in the case of 23 (3). Requirement 23 (2) appears to duplicate Requirement 17 and whilst it provides detail on areas to be investigated it may not be necessary. In terms of req23 (2), the detailed drafting appears to restrict development commencing across the site until details relating the NBBMA (Work No 6C) and the BESS (Work No 2A) have been investigated, and this may be overly restrictive, particularly in relation to the information needed for the BESS; less so with the NBBMA, as that will comprise an early phase in any event. If requirement 23 (2) is to be included, there needs to be a requirement for submission of the investigation results, assessment and any remediation measures for approval by the relevant planning authority (in consultation with the Environment Agency); and for the remediation to be carried out as approved (with a

		Standards Institution to identify any contaminants and their concentrations. Based on the results, a thorough risk assessment must be completed to determine safe handling and reuse strategies for the excavated materials. If necessary, site-specific remediation or special handling measures should be devised for those materials and set out in a remedial strategy (for example, isolating or treating any hotspots of contamination). (3) Remediation measures made under this requirement must be approved in writing by the Local Planning Authority in consultation with the Environment Agency. The findings of these investigations must directly inform the materials management approach included in the final soil management plans drafted in accordance with requirement 16, ensuring that any contaminated soil is managed appropriately from the outset. (4) If soil contamination levels exceed the thresholds for suitable use as defined by the CL:AIRE Definition of Waste Code of Practice, then that material will not be reused under the most up to date version of the CL:AIRE Definition of Waste: Code of Practice. Instead, such material must be subject to treatment or disposal via an appropriate permitted waste route. If certain excavated soils require treatment to make them safe e.g. stabilisation of contaminated dredge material, a mobile		validation reporting and approval requirement included). It appears that Requirement 23 (3) might be incorporated into Requirement 16. Requirement 23 (4) appears to be largely a matter for the Environment Agency to comment on. It would seem appropriate if Requirement 23 (5) was made a separate piling requirement from the unexpected contamination requirement. Some of the elements referred to e.g. pollution prevention and dust would be expected to be dealt with via other controls such as the CEMP (Requirement 12 (b) and 12 (h).

		treatment permit must be obtained under The Environmental Permitting (England and Wales) Regulations 2016 and the soil should be treated on-site and only after successful treatment would it be reused, otherwise it will be taken off-site to a facility licensed by the Environment Agency (5) Additional ground investigation and risk assessment must be undertaken by the undertaker during the detailed design stage to inform foundation and piling strategies. A Foundation Works Risk Assessment (FWRA) will be produced and complied with by the undertaker to address any areas of known or potential contamination, and it must include measures such as dust suppression during ground works and the prevention of silt-laden runoff (using sediment traps, settlement ponds, etc.) to avoid pollution of soil and water. A Piling Risk Assessment (PRA) must be prepared and complied with by the undertaker to ensure that the chosen piling method generates minimal arisings and does not mobilise contaminants; this must guide the adoption of drilling and piling techniques to be undertaken by the undertaker that protect both construction workers and the environment. The FWRA and PRA must be submitted to and approved by the relevant planning authority, in consultation with the Environment Agency prior to		

		commencement of the authorised development.		
PC004	Schedule 10	For the non-breeding bird mitigation strategy, change the version and the date to being: 'outline non-breeding bird mitigation strategy 8.32 P04 March 2026'	The table reference listing the non-breeding bird mitigation strategy gives the incorrect document reference and incorrect date. In addition, it does not have the word 'outline' at the start. The applicant will need to keep version control under observation should later versions of this (and other) document be provided in the remaining examination deadlines.	No comment.