



# Frodsham Solar

## Applicant, Natural England & RSPB Position Paper

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## **POSITION PAPER ON ADVERSE EFFECTS ON INTEGRITY BETWEEN THE APPLICANT, NATURAL ENGLAND AND THE ROYAL SOCIETY FOR THE PROTECTION OF BIRDS**

### **Introduction**

The Examining Authority (ExA) issued a Rule 17 request for further information on 31 March 2026. Within this request, the ExA asked for a collaborative and unified response at Deadline 6 on whether the project would lead to an adverse effect on integrity (AEol) of the Mersey Estuary Special Protection Area (SPA). Specifically, the ExA wants to understand whether the proposed Non Breeding Bird Mitigation Area (NBBMA) will mitigate impacts on functionally linked land so that AEol will not occur.

This paper presents the positions of the Applicant, Natural England and the Royal Society for the Protection of Birds (RSPB) on whether the Proposed Development is likely to have an AEol of the Mersey Estuary SPA, and on the scope and management of the NBBMA. It is intended to assist a clear presentation of the parties' positions and to identify the areas of common ground between them.

Notwithstanding the contents of this paper, each party will make its submission to the ExA at Deadline 6.

In relation to the NBBMA two possible scenarios have been discussed.

### ***Scenario 1***

Delivery of the NBBMA as described within the Outline Non Breeding Bird Mitigation Strategy [REP5-035]. This would entail re-engineering of Cell 3 and the adjacent canal pools to provide high-quality wetland habitats for SPA wetland birds species that currently utilise other areas of the Site as functionally linked land.

In this Scenario, the Outline NBBMS allows for adaptive management, including the removal of panels from areas such as Cell 2, should this be deemed necessary in the event that the NBBMA on Cell 3 was not providing the uplift in habitat quality that was anticipated.

### ***Scenario 2***

Delivery of the NBBMA as per Scenario 1 and removal of Work 1 from Cell 2 and retention of the grassland in Cell 2 that is currently managed for the lifetime of the wind farm in a condition that is favourable for wintering wader species, including golden plover, lapwing and curlew.

### **Applicant's position**

The Applicant's position up to Deadline 6 is that the NBBMA, as proposed under Scenario 1, is sufficient to avoid an AEol of the Mersey Estuary SPA. The Applicant's case has been that mitigation is driven by habitat quality rather than by simple area. Cell 3 can be re-engineered and adaptively managed to deliver substantially higher-quality wet grassland, scrapes, and associated wetland habitat than currently exist..

The Applicant acknowledges that removing Cell 2 from Work 1 and continuing its management for the benefit of wader species would have conservation benefits, but this would reduce the renewable energy-generating capacity of the Proposed Development by approximately 13MW.

The Applicant nevertheless recognises that RSPB, Natural England, Cheshire Wildlife Trust (CWT), and Cheshire West and Chester Council (CWACC) have all requested the inclusion of Cell 2 within the NBBMA to avoid AEol.

The Applicant has therefore decided to remove Cell 2 from the solar array development area and integrate it into the NBBMA.

The Applicant fully supports the delivery of a high quality mitigation area and adaptive long-term conservation management both scenarios. The Outline NBBMS provides for management over a 40-year period by RSPB or another suitably experienced and reputable conservation organisation, with the costs of the management organisation, monitoring and steering group to be borne by the Applicant. The Applicant's intention remains that RSPB should undertake that role, subject to agreement.

The Applicant acknowledges that in the event that RSPB does not take forward the role as the management organisation for the NBBMA then it will be necessary for the Applicant to secure an alternative suitably experienced and reputable nature conservation organisation. This alternative nature conservation organisation would need to be agreed by Cheshire West and Chester Council and Natural England. Without this agreement, the Proposed Development could not be implemented.

### **Natural England's position**

Natural England accepts that Cell 3 can be improved to deliver a substantive increase in quality for wetland birds. However, to achieve this the NBBMA is required to have as high a quality habitat as possible, and this relies upon precise management by a conservation body, preferably the RSPB, 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 AEol.

Natural England was satisfied up to Deadline 6 that Scenario 1 was sufficient to avoid an AEol and that the proposal comprises mitigation, not compensation. However, following Deadline 6, Natural England has held discussions with the RSPB to gain a greater understanding of their views on the likely success of the NBBMA. As a result of these discussions, Natural England has concluded that it is necessary to include Cell 2 in the NBBMA (Scenario 2) to avoid an AEol. If Cell 2 is included in the NBBMA, Natural England considers that there would be no AEol, and therefore no requirement for a derogation, should this be committed to by the Applicant and controlled via the DCO.

Conversely, should Scenario 1 be adopted and the NBBMA does not include the entirety of Cell 2 from the outset, it is considered that there is potential for AEol and that a derogation would be required.

Natural England regards RSPB as best placed to undertake the required level of management required to deliver a successful NBBMA. Whilst Natural England would have concerns if RSPB were not willing to fulfil the role of the management organisation for the NBBMA, it recognises that it must agree to any alternative proposed and therefore has the ability to ensure that a suitable organisation is in place to manage the successful delivery of the NBBMA.

Natural England is satisfied that the proposed approach to adaptive management is suitable and sufficiently flexible to ensure the delivery of the highest quality habitat. Additionally, the approach proposed of a steering group, which would include Natural England, to oversee the management of the NBBMA, is considered appropriate.

### **RSPB's position**

RSPB supports the principle of the NBBMA, agrees that the proposals constitute mitigation rather than compensation, and agrees that the detailed design and management information can be developed during the post-consent detailed stage to make a significant contribution to the conservation objectives of the Mersey Estuary SPA.

RSPB agrees that the proposed adaptive management plan is capable of being sufficiently flexible to achieve the required outcome for the NBBMA. However, for this to be successful, it is essential that the NBBMA is managed by a suitably experienced and properly resourced conservation body.

The RSPB confirms that, in principle, it would be willing to fulfil the role of the management organisation for the NBBMA, but this would be subject to agreement on the details of the management arrangement, including, but not exclusively, ensuring that any legal and financial arrangements fully cover RSPB's costs, responsibilities, and liabilities.

RSPB considers that Scenario 2 is essential to avoid any risk of AEol arising from a net reduction in functionally linked land and to provide continuity of food availability while Cell 3 is remodelled.

Accordingly, RSPB's position is that if Cell 2 is fully incorporated into the NBBMA, and the management of the area is undertaken by a suitably experienced conservation organisation, RSPB has no remaining concerns about the NBBMA's ability to support the conclusion of no AEol on the Mersey Estuary SPA.

### **Areas of common ground**

- all parties support the creation of a high quality mitigation area for non-breeding birds associated with the Mersey Estuary SPA;
- all parties accept that adaptive long-term management by an appropriately experienced conservation body, funded by the Applicant, is critical to the effectiveness of the NBBMA;
- all parties recognise that RSPB is the preferred managing organisation, subject to final agreement and internal approvals;
- all parties agree that the NBBMA is properly characterised as mitigation rather than compensation;

- all parties accept that inclusion of Cell 2 as part of the NBBMA would provide additional conservation benefit and greater flexibility in long-term management, and would avoid AEol from the Proposed Development.