



Frodsham Solar DCO - EN010153

Summary Statement

Cheshire West and Chester Council

Deadline 7

29 April 2026

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# Introduction

- 1.1 Cheshire West and Chester Council (**CWCC**) is the host local authority for the Frodsham Solar Project (**the Proposed Development**). The Order Limits of the DCO include land wholly within the administrative boundary of CWCC.
- 1.2 This document comprises CWCC's 'Summary statement regarding matters previously raised during the examination that have not been resolved' as required for Deadline 7.
- 1.3 The purpose of this statement is directed at matters that have not been resolved during the examination. It should be noted that CWCC support the Applicant's recent change to include Cell 2 as part of the NBBMA. This needs to be recognised as it goes a long way to addressing concerns raised during the examination, although CWCC considers that the northern part of Cell 1 ought to be included and the permissive path in Cell 1 be omitted or diverted west (see CWCC's response to the RIES RQ 11 for further detail).
- 1.4 CWCC's representations during the examination cover a range of impacts associated with the proposed development, some of which are inherent and not capable of being resolved, but need to be considered in the overall planning balance. For example, the impact on landscape character and the visual impact on the setting of, and views from the Grade II listed Frodsham War Memorial. The Green Belt is another aspect where the impact is inherently adverse.
- 1.5 The impacts in terms of biodiversity and habitats, particularly given the range of international, national and local designations, has been a key focus of attention during the examination, not least in terms of addressing the issues to inform the Secretary of State's need to carry out a Habitats Regulations Assessment.
- 1.6 CWCC's representations have been directed partly at assisting the ExA in carrying out a robust assessment of the various issues, but also in identifying those matters which are liable to frustrate the efficient and effective discharge of requirements during the construction, operational and decommissioning phases of the project.
- 1.7 As a general point, one of CWCC's central representations has been to advocate more transparency and content in the draft DCO e.g. with additional requirements relating to matters such as the permissive paths, community liaison group, hours of working, dealing with unexpected contamination, delivery and management of the NBBMA, decommissioning security. It is acknowledged that the 'lower tier' control documents provide much of the information needed, but the complexity to the submission documentation, and plethora of post-decision documentation needed and requiring multiple phased assessment and approval is liable to either delay, or worse, result in a reduction / loss of CWCC's ability to provide effective control over project implementation. An example of this is seen through the complex structure applied to PPW's, with cascade of control to further CEMP or LEMP. The Applicant's desire to promote flexibility for the project management/implementation by separating out PPW's is understandable, but there is a significant risk of

delay/approval by default/important aspects being missed/uncoordinated due to the complexity of the arrangements. Experience suggests that not only is there benefit to transparency for members of the public, but also for the contractor(s) tasked with delivery.

- 1.8 CWCC request that the ExA give consideration to inclusion of reference to these key matters of public interest in the DCO requirements notwithstanding that the Applicant has covered most points within the various control documents. Normally, duplication would not be advocated, but in the interests of providing clarity and signposting to the relevant control documents this would be advantageous.
- 1.9 The main unresolved points are set out in the Statement of Common Ground (SoCG) agreed with the Applicant for Deadline 7, and to be submitted by the Applicant. CWCC's response to the Deadline 6 documents also submitted at Deadline 7 provides further detail on the position. This summary statement should be read in conjunction with the SoCG and CWCC's comments on the Deadline 6 documents.

## **Summary of unresolved matters with the draft DCO [REP6-004]**

- 2.1. The main comments stemming from the draft DCO Articles relate to the definition of permitted preliminary works (PPW) and the complexity of arrangements associated with PPW, noting that CWCC's preference was for removal of site clearance and remedial works from the definition due to concerns regarding control and mainly biodiversity related potential impacts.
- 2.2. In terms of Schedule 1 and the authorised development, the main aspect unresolved is the treatment of areas of mitigation being categorised in specific work packages that ensure their importance is recognised. This relates the Lum and Marsh Farm biodiversity enhancement areas being identified as separate Works within Schedule 1. e.g. Addition of Work No 6D to include creation and maintenance of habitat works (new scrapes) by the LUM (Fig 2.2. Indicative Operational Layout) of **APP-109** and new wetland area adjacent to the NBBMA (between fields A01 and A02)).
- 2.3. The main comments on the draft DCO Schedule 2 requirements relate to:
  - Requirement 2 – Commencement of the authorised development [REP5-048] (D5.1.1.04) relating to the development being 'kept alive'. CWCC's view is that the development consent should only be kept alive by virtue of commencement. This is considered unnecessary and counterproductive to promotion of much needed infrastructure.
  - Requirement 9 (1) (f) – relating to BNG - CWCC expect a requirement that obliges the Applicant to satisfy basic metric rules (trading rules and to reverse the declassification of reedbed habitats) and that includes requirement for a BNG strategy and associated HMMP. See REP6-045 (response to PC002) New Requirement 22 and REP6-043 (CWCC's cover letter of 22 April 2026) for draft suggested wording.

- 2.4. Notable points where agreement has not been reached include the absence of requirements relating to:
- a community liaison group and complaints procedure;
  - agreement over the provision of decommissioning security given the importance of decommissioning and environmental sensitivity of the area (CWCC welcome the ExA's proposed suggestion regarding this requirement);
  - Provision of a 'no net loss' BNG DCO requirement (addressing the trading rules) and declassification of reedbeds via a BNG Strategy;
  - Securing management of the NBBMA by the RSPB (or other approved conservation organisation) either as a requirement or other means; preferably secured before the DCO decision is made.
  - Provisions relating to the permissive paths
  - Construction hours (See Appendix A to WR [REP1-048] for example wording)
  - Unexpected contamination (CWCC welcome the ExA's proposed suggestion regarding this requirement in principle, but have commented on the detail in REP6-045)
  - Control over the cumulative development, by means of a requirement in the DCO to restrict any further development, works or activities within the NBBMA, other than those permitted as part of the adaptive management under the oNBBMS [REP3-032], for a given period following the NBBMA being notified/accepted to the Council as being functional [See REP4-066].
- 2.5. Whilst recognising that there are advantages to deferring matters to the various control documents (oCEMP, oLEMP etc) such as providing flexibility, CWCC consider that it is important for certain elements to be covered explicitly in the requirements. There are a number of reasons for this, not least transparency.
- 2.6. For outstanding concerns relating to the control/management documents please refer the SoCG.

## **Biodiversity matters**

- 3.1. Outline Landscape and Ecology Management Plan – the main unresolved issue is in relation to the wetland areas east of Marsh Farm and The Lum being identified as separate Works within Schedule 1 as they form part of the non-breeding bird mitigation areas.
- 3.2. Outline Non-Breeding Bird Mitigation Strategy - CWCC considers that the NBBMA is too small, due to lack of a robust methodology and removal of existing mitigation areas. The addition of Cell 2 is a positive step and starts to enact the precautionary principle required in the absence of an agreed methodology, however, CWCC considers that solar panels should be set back in Cell 1 to give stand-off on eastern and northern boundaries, and footpath A should be re-routed away from these boundaries, due to likely disturbance of birds on this promontory into the River

Weaver, where birds are shown as regularly using. CWCC is concerned that reducing the area available to birds adjacent to the Estuary and having reduced undeveloped areas in-between the Estuary and favoured marsh areas, will negatively impact the SPA bird population. The grassland habitats should be in place before the NBBMA can be considered to be functional and should include FWF mitigation replacement (paragraph 1.5.1 (1) of oNBBMS / 2,4,5 of oCEMP) [REP4-068].

- 3.3. Outline Construction Environmental Management Plan – There are a number of comments outstanding from REP6-044. Matters still outstanding: D.6.6.1; D.6.6.2; D6.6.3; D6.6.4; D.6.6.6; D.6.6.7; D6.6.9; D6.6.10, and D.6.6.11 – 14 relating to Table 5.3, with further comments on Table 5-3 in CWCC’s comments on Deadline 6 submissions submitted for Deadline 7. The issue of cumulative impacts of construction with other projects is still outstanding, as well as agreement of seasons in which works should take place. CWCC do not agree that the NBBMA can be agreed to be functional immediately after works are finished, as some of the invertebrate resource required by certain species will take time to reestablish. Also, establishment needed in order to fulfil/compensate for existing obligations under Frodsham Windfarm mitigation on Cells 2 and 5. See answer to RQ1 RIES Questions for more detail. There is concern that reasonable endeavours to establish a Working Group with HyNet projects is not considered robust enough, with no detail of controls and responsibilities if remedial measures are required. CWCC prefers a legal agreement. The EcOW trigger threshold of 1% of the SPA population is considered too high and insufficiently justified.
- 3.4. Outline Operational Environmental Management Plan – There is a significant concern in relation to the new and upgraded permissive footpaths, in that there has been no baseline study carried out to ascertain current level and type of footpath usage on which to base an assessment of the impacts of the new permissive routes on SPA qualifying species and Badgers and nesting birds. Main outstanding concerns relate to Footpaths B. (See Fig 1 Indicative route Hierarchy in oLEMP). See CoCG for more detail. There is particular concerns over the appropriate trigger for major replacement works, and measures to control timing of works. CWCC continue to consider 50% replacement is too high a threshold and recommends a 25% threshold should apply, as 50% replacement works would take 6 months which will extend into the non-breeding bird season.
- 3.5. Outline Decommissioning Environmental Management Plan – CWCC is particularly concerned regarding the risk to mitigation areas when handed back to landowners, particularly on Cell 3, where the specialist wetland areas could be removed. CWCC considers that as a minimum measure, the removal of solar development from the western array needs to be programmed to be well in advance (e.g. 24 months) before the hand back of the NBBMA to the landowner in order that the previously developed areas have time to re-colonise in terms of SPA birds. It is noted that the Applicant’s Deadline 7 submissions may help address this concern and others referred to in the SoCG.
- 3.6. In general, the restrictions on working Nov to Feb are insufficient; there is a need to protect whole non-breeding bird period (winter and passage season).
- 3.7. The issue of cumulative impacts of construction with other projects is still outstanding. Also, the Applicant treats FWF as baseline, rather than cumulative.

CWCC consider it is at least in part cumulative because FWF had embedded mitigation. This links to representations regarding whether elements are mitigation or compensation as covered in representations.

- 3.8. Working Group with HyNet projects is not considered robust enough, with no detail of controls and responsibilities if remedial measures are required.
- 3.9. Other issues in relation to impacts on international/European/national sites and non-breeding birds are noted in 8.3 of the SoCG.
- 3.10. There are unresolved issues in relation to Biodiversity Net Gain (as set out in 8.3 of the SoCG).
  - the Applicant's approach to classifying reedbeds,
  - non-satisfaction of trading rules
  - no net loss to be achieved (noting that mitigation areas cannot be used to accrue net gain over 0%)
  - disagreement on application of Rule 4
  - impacts on high distinctiveness habitats (reedbed)
  - monitoring of proposed mitigation measures (particularly in relation to lack of parameters and details of the steering group (e.g. in terms of triggers and remedial works));
- 3.11. There are unresolved issues in relation to Local Wildlife Sites (as summarised in 8.3 of the SoCG).
  - the assessment of impacts on the Frodsham, Helsby, and Ince Marshes LWS
  - unresolved impacts relating to qualifying features of the LWS;
    - non-breeding birds,
    - reedbeds,
    - wildlife corridors
- 3.12. In terms of breeding birds and the Skylark Mitigation Area, there are unresolved issues (also summarised in 8.3 of the SoCG):
  - the location and effectiveness of the Skylark Mitigation Area;
  - lack of baseline data of Skylark Mitigation Area
  - lack of detail on when SMA will become functional
  - monitoring of proposed mitigation measures (particularly in relation to lack of parameters and details of the steering group (e.g. in terms of triggers and remedial works)).
- 3.13. Following from the point in the introduction above, the information to inform the Habitat Regulations Assessment is of key importance. CWCC has raised concerns in relation to the Habitats Regulations Assessment and the adequacy of the proposed mitigation. Even with Cell 2 added to the NBBMA, CWCC do not advocate a recommendation that no AEoI should be concluded by the SoS. This is primarily due to lack of agreed methodology to calculate the NBBMA required, impacts from

solar panels and footpaths on Cell 1 and cumulative impacts. Engagement with the precautionary principle is required.

- 3.14. In terms of the extent of the NBBMA CWCC consider that increasing the undisturbed buffers around the eastern and northern edges of Cell 1, where SPA qualifying birds were consistently recorded (including rerouting the permissive path away from the boundaries of Cell 1) would establish a reasonable precautionary approach (in the absence of an agreed methodology for establishing the size of the NBBMA), paving the way to a robust conclusion of no AEol.
- 3.15. Other HRA concerns relate to:
- Omission of passage Redshank from the appropriate assessment stage
  - Lack of agreed methodology to calculate the NBBMA required
  - Definition of mitigation versus compensation when considering existing FWF mitigation cells
  - Definition of season impacting non-breeding birds and works programming; CWCC would consider September -April to be the NBB sensitive season, however, this is referred to as November to March and November to February in some HRA sections
  - Mechanisms for remedial measures under the adaptive management and controls
  - Lack of robustness of cumulative impact assessment with Runcorn Spur and considering FWF as a cumulative project.

## **Green Belt**

- 4.1. CWCC does not agree with the Applicant's assessment that the Site constitutes grey belt, or that the tests of paragraph 155 of the NPPF are passed. Consequently, CWCC does not agree that the Proposed Development is not inappropriate development in the Green Belt.
- 4.2. There are divergent views between the Applicant and CWCC across a range of issues in relation to the Green Belt assessment of harms to the Green Belt (see REP5-039 – Green Belt Impacts Summary Table).
- 4.3. CWCC consider that there is substantial harm to the first three purposes of the Green Belt
- a) to check the unrestricted sprawl of large built-up areas (see RR-037 (paragraphs 5.19 – 5.29)
  - b) to prevent neighbouring towns merging into one another (see RR-037 (paragraphs 5.31 – 5.39);
  - c) to assist in safeguarding the countryside from encroachment (see RR-037 (paragraphs 5.50 – 5.29).
- 4.4. CWCC also consider that there is significant/substantial harm to the openness of the Green Belt. CWCC place greater weight on the spatial and perceived openness impacts of the development than the Applicant. The spatial expanse is substantial

notwithstanding less volume/mass associated with the panels than other forms of urban development, and CWCC consider the perception of impact is greater than the Applicant suggests, by reference to the surrounding industry etc.

- 4.5. Numerous parties/documents reference the current openness of the area despite urbanising influences, The duration of the impact, whilst (in DCO requirement terms) time limited, is extensive, and liable to impact on openness for a generation or more. Taking ‘permanence’; as an essential characteristic, loss of openness for 40 years substantially detracts from the Green Belt permanence.

## Landscape and visual

- 5.1. The Green Belt Impact Summary Table (REP6-039) details where there is agreement on the weighting of various items of Landscape and Visual effects, with comments on variations in the assessment.
- 5.2. In terms of visual effects disagreement is largely narrowed to the following:
- The effects from Viewpoint 9 (Frodsham Hill War Memorial).
  - The effects from Viewpoints 6 and 26 (St Lawrence’s Church).
- 5.3. In terms of Visual impact from within Order Limit, as set out in paragraph 6.21 of RR-037 and discussed at ISH2 (e.g. paragraphs 2.10 and 2.17) impact of the development experienced from within the OL is difficult to appreciate from individual representative viewpoints, as the impacts will be experienced holistically as part of a journey through the site. See also paragraph 7.9 of WR (REP1-048).
- 5.4. The impact of proposed planting (subject to appropriate management) is accepted as lessening the visual impact of the proposed development from within the OL, but this would still be at the upper end of moderate and into significant, when considering the holistic impact visual impact. See also paragraph 6.29 of RR-037. The visual impacts (including perception of openness to the landscape character) would be long lasting, through to decommissioning (see paragraph 13.22 of LIR [REP1-046]). As noted in 6.8.69 of APP-039 “The experience of users of the byway would change from one of travelling through an open area of large-scale pasture grassland with wind turbines and other infrastructure to one of travelling through a solar farm”; and at 6.8.70 “Nevertheless, the Proposed Development would remain a prominent addition that introduces notable change from baseline in all directions. A moderate to major adverse effect would occur, which would be **significant.**” (our emphasis)”.
- 5.5. CWCC consider the Applicant’s assessment of moderate/non-significant impact at VP6 and 26 (St Lawrence’s Church) is underestimated (paragraph 6.30 of RR-037), and there is disagreement over VP9 (War Memorial) as expressed in 6.23 to 6.27 of RR-037. See also reference to the qualities of landscape character and the importance of the views from the distinctive landmark at the War Memorial supported by reference to the National Character Areas (NCA 60 and NCA 62) (LIR REP1-046 – LV.002) including reference to Policy GBC2 of LP2. See also paragraphs 7.1 to 7.9 of WR (REP1-048).

- 5.6. There is also some disagreement over:
- Whether sequential visual effects are underestimated or not fully acknowledged for persons walking through the Site along the length of a PRoW.
- 5.7. The Applicant considers there would be moderate long-term impact as by year 10 landscape mitigation would have reduced. CWCC accepts that the impact of proposed planting (subject to appropriate management) lessens the visual impact of the proposed development from within the OL, but this would still be at the upper end of moderate and into significant, when considering the holistic impact visual impact. See paragraph 6.29 of RR-037. The visual impacts (including perception of openness to the landscape character) would be long lasting, through to decommissioning.

## **Tourism and recreation**

- 6.1. CWCC broadly agrees with the baseline data for the assessment of tourism and recreation impacts. However, CWCC note the lack of baseline data relating to recreational use to provide information relating to use of the footpaths within the Order Limits; making assessment of the ecological impacts arising from use of the proposed permissive paths difficult (as referred to in response to ExQ2 Q2.5.15 [REP5-045]).
- 6.2. CWCC has raised concerns in relation to the following specific areas: The assessment of tourism and recreation impacts and effects do not adequately address the visual impact on users of public rights of way, and enjoyment of the footpath network.
- 6.3. CWCC considers that the assessment undervalues the sensitivity of local public rights of way, and underplays the magnitude of impact, resulting in a lower overall level of effect.

## **Cumulative effects**

### ***Runcorn Spur CO2 Pipeline***

- 7.1. CWCC set out in REP1-048 the concern that if the proposed development and pipeline are constructed within a year or two of each other or less, this would amount to continued long-term cumulative disturbance to the bird population associated with the SPA, past the original assessed impacts.
- 7.2. CWCC notes that the Applicant's cumulative assessment of scenario 3 (Runcorn Spur comes after pipeline) for the Runcorn CO2 Spur pipeline [REP4-053] is based on utilising trenchless methods of construction, which has not been proposed or confirmed by the Applicant for the CO2 spur. This may be one form of mitigation, but it would be unreliable to regard this as anything more than a plausible or potential option for the method of construction works in the NBBMA.
- 7.3. CWCC has suggested a legal agreement for all parties to sign up to, or a 24month restrictive condition on both developments, to control the situation with one cohesive, consistent approach, due to the complexity of phasing of both projects and limited

seasonal window in which works can take place, and likely significant impacts that could occur. However, these have been refused by both the applicant and the Runcorn Spur developer.

### ***Frodsham Windfarm***

- 7.4. CWCC also consider the Frodsham Windfarm to be relevant in terms of cumulative impact, noting the following issues/aspects:
- Embedded mitigation; gap between turbine arrays
  - Stand-off from estuary
  - FWF commitment to dredging of cell 6
  - Mitigation vs compensation
  - Lack of adequate replacement of Cell 5

## **Conclusion**

- 8.1. CWCC respectfully request the ExA and Secretary of State to consider the above and the Council's various other representations made during the examination when deliberating over the DCO application, and if possible to secure further amendments to the proposed scheme / drafting of the DCO to address the concerns raised.