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## Development Management

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Date: 29 April 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 7 (29 April 2026).

CWCC's submissions for Deadline 7 comprise this letter and the following:

- Summary statement regarding matters previously raised during the examination that have not been resolved
- Cheshire West and Chester Council's comments on the Deadline 6 submissions.

Other information is also provided below:

- Update on Statement of Common Ground (SoCG) with CWCC
- Comment on inclusion of Cell 2 in the NBBMA – Adverse Effect on Integrity (AEoI)
- Comment on Rule 17 letter 24 April 2026 – Trading rules [PD-019]
- Comment on documentation following inclusion of Cell 2 in NBBMA

- Comment on other documentation submitted during Examination
- Update on Planning Performance Agreement (PPA) – Post decision for discharging requirement.

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

The Applicant and CWCC have agreed the SoCG and this will be submitted signed by both parties by the Applicant.

## **2) Comment on inclusion of Cell 2 in the NBBMA – Adverse Effect on Integrity (AEol)**

The addition of Cell 2 to the NBBMA is welcomed, in terms of providing more area for non-breeding qualifying bird species and reducing development of the Site near to the Estuary, providing connected, contiguous habitat along part of that boundary. Concerns regarding Footpath A are also reduced to lower than significant, as although this means that the Footpath runs along more of the expanded NBBMA, birds will have more areas to displace to at this location.

However, to avoid an Adverse Effect on the Integrity of the Mersey Estuary SPA/RAMSAR, CWCC still advise that solar panels and Footpath B should be pulled back from the northern and eastern boundaries of Cell 1, as previously represented (e.g. paras 7.8, 7.70 to 7.72 of the CWCC Relevant Representation (RR-037) and Comments on the Report on Implications for European Sites (if required) (REP6-046) at RQ11. This is because there are SPA qualifying birds regularly using the mudflats adjacent to Cell 1 and using northern and eastern areas within Cell 1. This is likely because Cell 1 is adjacent to the River Weaver (an area highly used by SPA birds) and forms a promontory that protrudes into where the River Weaver meets the Mersey Estuary itself.

There are still other outstanding issues regarding impact on qualifying bird species of the Mersey Estuary as represented in this and previous representations.

In addition to the Cell 1 SADA and footpath point above, other aspects relating to the seasonality of proposed working into the sensitive non-breeding bird season, concerns over the work programme and functionality of the NBBMA, disagreement over the conclusion to the HRA (e.g. in REP4-068) and lack of resolution to the in-combination/cumulative impacts, means that CWCC still considers there to be a significant adverse impact on the Mersey Estuary RAMSAR/SPA concerns.

For the avoidance of doubt, if amendments to the scheme were made in relation to Cell 1 SADA and the footpath point, this would be sufficient to address CWCC's concerns relating to the AEol, notwithstanding that CWCC's other concerns remain outstanding.

The addition of Cell 2 has not been assessed in terms of impacts on other species. The Applicant should assess any possible negative impacts on other protected species and any mitigation that is required. CWCC would point out the following:

- Breeding Skylarks were recorded in Cell 2 on occasion and so taking development away from this area means that concerns regarding Skylarks are reduced. Outstanding concerns regarding the size and lack of survey of the Skylark Mitigation Area remain.

- Badger setts are located along the boundary of Cell 2 and although they will benefit from having no development on the north side of these setts, the NBBMA predator-fencing will restrict Badgers from this area, so a larger part of the site, directly adjacent to an area of setts, will become inaccessible for Badgers. It is noted that the predator fencing is specified to be placed along ditches, so are unlikely to indirectly impact setts which are on embankments, and it is understood that the final route of predator fencing will be decided by the nature conservation organisation. Therefore, there looks to be flexibility to place the predator-fencing northwards, away from the southern boundary of Cell 2, to provide more area for badger foraging and to be set-back from setts. This can be agreed at the detailed stage.
- Reduction of the developable area is also welcomed in terms of LWS concerns, however, there is still a significant issue here, in terms of the amount of area of the LWS that is considered to be lost and impacts on qualifying criteria.

### 3) Comment on Rule 17 letter 24 April 2026 – Trading rules [PD-019]

It is noted that the ExA have asked the Applicant *“Can the applicant explain to the ExA why it has not proposed to purchase off-site units of reedbed habitat of high distinctiveness and scrub broad habitat of medium distinctiveness to offset the anticipated losses from the proposed development. Would the applicant consider committing to purchasing sufficient off-site units of these types to achieve no net loss of these particular units and if so, securing that commitment in the draft Development Consent Order?”*

As represented previously, CWCC would advise that the first option should be to redesign the scheme to retain and/or create more reedbed habitats to satisfy trading rules, in line with mitigation hierarchy. If there is robust justification for not doing this, then CWCC would agree to the principle of the provision of off-site units to satisfy trading rules in terms of reedbed and scrub habitats. This provision should include the declassified reedbed “Frodsham Windfarm East” as referenced in the Annex 4 Reedbed classification note.

It is known that these units are available in the Borough.

These could be secured as follows:

- a monetary payment to CWCC for CWCC habitat bank to deliver the habitats secured by a Section 111/Section 106 agreement;
- With another habitat bank in the CWCC area. (There are currently three habitat banks in the CWCC area, one of which is showing reedbed units are available and two of which are showing scrub habitats are available) These would have to be de-registered to provide the non-statutory units and enter into a Section 106 agreement with CWCC, however, it is understood that some habitat banks will do this; or
- The Applicant could also propose off-site areas in other landholdings.

On that basis, in principle, after an outline proposal is consulted on, CWCC would be satisfied that no net loss had been achieved and that this was in compliance with policy.

### 4) Comment on documentation following inclusion of Cell 2 in NBBMA

Cubico’s cover letter of 22 April 2026 [REP6-001] refers to the following documents being updated to reflect the inclusion of Cell 2 into the NBBMA:

1. The Works Plans [EN010153/DR/1.5]
2. Outline Landscape and Ecology Management Plan [EN010153/DR/7.13]
3. Outline Non-Breeding Bird Mitigation Strategy [EN010153/DR/8.32]
4. Outline Construction Environmental Management Plan [EN010153/DR/7.5]
5. Outline Operational Environmental Management Plan [EN010153/DR/7.6]

It is important that the application documents as a whole are substantially consistent and up to date. In particular, the documents and plans to be certified under Schedule 10 of the draft DCO need to be updated where appropriate to reflect the change in the application.

The information to inform the Habitat Regulations Assessment [REP4-012] is another key report that ought to be updated. This applies to the text as well as the figures e.g. Figures 3 and 4 of the HRA.

Where subsequent applications are made under the DCO requirements there is a need to assess any materially new or materially different environmental effects to those identified in environmental statement, and therefore it is important that the environmental statement is up to date as well. For example, the figures in Environmental Statement Volume 3 Chapter 1 Figures P02.

## **5) Comment on other documentation submitted during Examination**

Various documents have been submitted by the Applicant during the Examination in the form of appendices to the Applicant's submissions, and some of these provide important information that if it is to be relied upon, ought to be incorporated / readily identified. It would assist to have a consolidated document tracker that references such documentation, and clarifies the status e.g. as part of, or supporting the ES, or as part of the application documents and whether any of these documents and plans are to be certified under Schedule 10.

Examples are:

- Appendix A – Simplified Illustrative Drawing of Overhead Cable Crossing of River Weaver, supporting Applicant response to reference EA014 [REP3-041] Applicant's response to Written Representations.
- Figures and appendices to Applicant's response to ISH2 [REP4-055] (*although the Applicant has included the PRow figures in the oPRowMP at CWCC's request*)
- Appendices to Applicant's response to ExQ2 [REP5-041] including FWF site investigations

Without such a consolidation of the documentation submitted, there would be significant difficulty in navigating the submission documentation when it comes to discharge of requirements etc.

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

CWCC and the Applicant have agreed the form of the PPA and arranging for engrossments to be issued and signed.

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As this is the final Deadline response before close of the Examination, I would also like to add CWCC's appreciation of the handling of the Examination by the ExA (both the original members and the replacement team), especially in such challenging circumstances given the change mid-way through, and the support given by the Case Team.

Yours faithfully

  
*Principal Planning Officer*