



Cheshire West
and Chester

HyNet Carbon Dioxide Pipeline DCO - EN070007

Written Representations

17 April 2023



1. Introduction

- 1.1 Cheshire West and Chester Council (**the Council**) is one of the host authorities for the for the Liverpool Bay CCS Limited's (**the Applicant**) HyNet Carbon Dioxide Pipeline DCO project (**the Project**)
- 1.2 The Order Limits are split between the local planning authority/ local highway authority areas of Flintshire County Council and Cheshire West and Chester Council.
- 1.3 Since March 2021 the Council has been engaged with the Applicant through regular meetings which included project updates, engaging in discussions on a Statement of Common Ground (**SoCG**) with the Applicant and submission of the Relevant Representation [RR-012].
- 1.4 This document is the Council's Written Representations, submitted at Deadline 1 of the Examination into the DCO. At Deadline 1, the Council has also provided responses to the Examining Authority's written questions and requests for information and will be submitting its LIR at Deadline 1(A) on 25 April 2023 which will also include an addendum to this Written Representation in relation to biodiversity due to the late submission of biodiversity survey information by the Applicant.
- 1.5 A summary of the Council's Written Representation and of the suggested changes and requests in the Council's Deadline 1 submissions is provided in Section 4.1 of this document.

2 Written Representation

The Environmental Statement

- 2.1 The Council is in general agreement with much of the identified effects and mitigation contained within the ES. There are however a number of areas where it's considered critical that certain further detail is secured particularly in relation to the content of the final Construction Environmental Management Plan (CEMP), Landscape Ecological Mitigation Plan (LEMP) and in relation to the exceptions allowing 24 hour working. This is further discussed below and as part of the draft DCO comments below.

Economic Impacts

2.2 The Council recognises the Project's wider potential economic benefits in the region however there are some concerns raised in regard to the localised impacts. The Project has the potential for direct and indirect impacts upon existing local businesses including the delivery of safeguarded sites in the Local Development Plan (LDP). The DCO limits for Ince AGI access (identified in Schedule 1 Part 1 of the DCO under 'Work no.3') cuts across an approved plot and building of the Protos Plastics Park approved under planning permission 21/04076/FUL. This site is safeguarded through the Local Development Plan for employment uses and the DCO would sterilise part of the site

Heritage

2.3 With regards to heritage, whilst details of planting and materials are required to be provided by the Outline Landscape Management Plan (OLEMP) [AS-055] it is noted that any further requirement for mitigation to be directed by further Heritage Impact Assessments is not specified within the OLEMP or the Register of Environmental Actions and Commitments (REAC) [AS-054] or directly provided for in the wording of the draft DCO Requirements. For this reason, it is considered that for all permanent above ground installations, further heritage assessments including appropriate mitigation should be provided for within the OLEMP or specifically required within the final DCO Requirement 5.

Mineral Safeguarding

2.4 The Project will directly impact several Mineral Safeguarding Areas (MSAs) for sand and gravel. The desk-based Minerals Resource Assessment (MSA) [APP-131& APP-132] identifies the pre-extraction of such mineral would not be economically viable but incidental extraction is. It is noted that detailed ground investigations of their actual depth and quality have not been undertaken. In consideration of the finite nature of the sand and gravel reserves and in view of the fact that such materials will also likely be required as part of the construction of the development itself such that incidental extraction would be a viable option, the Council ask that a minerals management plan form a clear part of the development's CEMP and therefore be included as part of the OLEMP [AS-055] and directly required as part of the wording of any Requirement of the DCO and particularly Requirement 5.

Trees

2.5 The potential loss of up to 6 veteran trees is of significant concern. Veteran trees are irreplaceable, and their loss cannot be mitigated against therefore the Council would advise that all veteran trees are retained, and protection measures are put in place as part of the CEMP and LEMP. The tree protection measures for all other trees should also form part of any approved LEMP and CEMP.

Biodiversity

2.6 The Council reserves the right to comment on Biodiversity matters and comments will be submitted as an Addendum to this Written Representation (if required) at Deadline 1A.

Land Contamination

2.7 The ground investigation reports [APP-135-137] identify that further contamination investigation is required around the Stanlow Refinery area (made ground). Whilst it is noted that the requirement for a suitable remediation strategy is to be produced following the additional ground investigation under the OCEMP [AS-055] it is however noted that there is no mention of the requirement for the validation of remediation works which is an essential part of any remediation plan. Similarly, this requirement is needed for unexpected contamination under draft DCO Requirement 9.

2.8 Without the requirements for validation / verification reporting for any necessary remediation of both identified and unidentified contamination the Council raises concern as to demonstrating that necessary remediation has been undertaken. It is therefore asked that that the OCEMP [AS-055] and draft DCO Requirement 9 is amended to require the approval of validation reporting for any necessary remediation.

Cumulative Impacts

2.9 The Council is satisfied with the methods proposed to assess the combined and cumulative impacts as set out within in ES Chapter 19 [APP-071]. The four staged approach appears to be consistent with PINS Guidance Note 17. However, the basis for the inclusion of other projects (i.e. scale, proximity to the pipeline or date range) within table 19 of Chapter 19 of the ES is not clear. The following project is considered to have a significant cumulative impact and should be included:

- Roften Works site, Hooton Road, Hooton, Ellesmere Port: Residential development comprising 265 residential units and a care home together with access from Hooton Road (17/02741/FUL) (As of April 2022, 137 dwellings remain to be constructed under the approved planning permission).

2.10 The Council notes that the combined effects with other projects may also not have been adequately considered, these include national projects such as HS2 in terms of impacts on MSAs, waste generation and transport. Similarly, there is little information available as to how other nationally significant infrastructure projects including the Cadent Hydrogen Pipe has been accounted for, with impacts arising from matters including its Pipe location and HAGIs (which would have potential for some physical

overlap near to the Hydrogen production plan plant and the pipeline offshoot to the Protos Site) potentially giving rise to likely significant environmental impacts.

2.11 In respect to paragraph 19.5.31 and 19.5.35 of Chapter 19 of the ES, the Council would suggest that a more holistic approach to the mitigation measures proposed is necessary, where the Applicant has failed to fully assess a project, on the grounds of information not being publicly available should be provided. The concerns relate particularly to where the mitigation relates to other nationally significant infrastructure projects which although not publicly available, would be available to the Applicant. The Applicant should provide more detail and where information has not been made available, justify why data has not been provided.

3 DRAFT DEVELOPMENT CONSENT ORDER

Provision Number	Description	Issue	Amendment Required/Comment
Article 2	"commence"	The exemptions listed in the definition should not include any operational works	The " <i>erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, the diversion or laying of services and environmental mitigation measures</i> " should be excluded.
Article 6	Limits of Deviation	Art 6(1)(b) allows the undertakers to deviate the pipeline works vertically upwards to a limit of not less than 1.2m below the surface of the ground (except where ground conditions make this impracticable in which case the upward limit is 0.452m below the surface of the ground. Art 6(2) provides that the limits mentioned above do not apply if the SoS is satisfied that deviation in excess of these limits would not give rise of any materially new or materially different environmental effects to those identified in the environmental statement.	CWCC reserves their position on this.
Article 8	Disapplication of legislation	Art 8(1)(c) disapplies s23 (prohibition on obstructions etc in watercourses) and s30 (authorisation of drainage works in connection with a	The application does not provide sufficient details as to the drainage being proposed and without this detail the CWCC cannot agree to the disapplication

		ditch) of the Land Drainage Act 1991.	of the consent process. A mechanism for the approval of these detail needs to be included within the DCO or a side agreement.
Article 10	Street Works	Art 10(1) provides the undertaker with the ability to undertake works to streets (as specified in Part 1 (Streets subject to street works) and Part 2 (Streets subject to temporary street works) of Schedule 3) without the consent of the street authority.	If any such works within a street, for which the street authority will be liable, are to be retained, there needs to be a mechanism for the street authority to inspect and approve these works before taking liability for them. Additionally, there is no requirement for the undertaker to ensure that the street is restored to the reasonable satisfaction of the street authority (NB. Note that this is included in Art 11(3) but not in Art 10).
Article 10(3)	Street Works	Art 10(3) allows the undertaker to carry out additional works within a street with the consent of the street authority.	The application for consent should allow for the street authority to make recommendations or amendments to the proposed works, as may be necessary, for the purposes of ensuring highway safety and the safe movement of traffic.
Article 10(5)	Street Works	Art 10(5) imposes a timescales for the street authority to respond to an application for consent for works as being “42 days beginning with the date on which the application was made”	The period of 42 days is too short and CWCC require a minimum of 70 days to consider any such application. The timescales are ambiguous as there is no definition for an application being “made”. In addition,



			the timescales are too short. We would suggest using “ <i>within 70 days of receiving an application for consent</i> ” in line with the wording used in Art 14(7).
Article 11	Power to alter layout etc of streets	<p>Art 11 (2) allows the undertaker to temporarily or permanently alter the layout of any street whether or not within the Order limits. The street authority’s consent is required for these works under Art 11(4).</p> <p>Art 11(5) requires the street authority to respond to any application for consent “<i>before the end of the period of 42 days beginning with the date on which the application was made</i>”.</p>	<p>Where works are being carried out permanently to the street and the street authority will be liable for those works in the future, there needs to be a mechanism for the street authority to inspect and authorise these works. The application for consent should allow for the street authority to make recommendations or amendments to the proposed works, as may be necessary, for the purposes of ensuring highway safety and the safe movement of traffic. The timescales are ambiguous as there is no definition for an application being “made”. In addition, the timescales are too short. CWCC would suggest using “<i>within 70 days of receiving an application for consent</i>” in line with the wording used in Art 14(7).</p>
Article 13	Temporary restriction of public rights of way	The local highway authority has to notify the undertaker whether any diversion “is satisfactory within 28 days of being requested in writing to do so”.	The timescales are ambiguous as it is not clear when the request is made or notified to the local highway authority. In addition the timescales are too short. CWCC would

			suggest using “ <i>within 70 days of receiving an application for consent</i> ” in line with the wording used in Art 14(7).
Article 14	Temporary restriction of use of streets	In Art 14(7) the street authority must notify the undertaker of its decision “within 42 days of receiving an application for consent”.	These timescales are too short. CWCC require 70 days.
Article 15	Access to works	In Art 15(2) the street authority must notify the undertaker of its decision “before the end of the 42 day period beginning with the date on which the application was made”.	The timescales are ambiguous as there is no definition for an application being “made”. In addition, the timescales are too short. We would suggest using “ <i>within 70 days of receiving an application for consent</i> ” in line with the wording used in Art 14(7).
Article 18(1)	Traffic regulation	Art 18 allows the undertaker to make, revoke, amend or suspend traffic regulation orders at any time, for the purposes of, or in connection with, the construction of the authorised development. The traffic authority is to be consulted and their consent is required (such consent not to be unreasonably withheld or delayed).	There is no flexibility to allow the traffic authority to impose conditions or to take into consideration any representation made. Such flexibility is included within other DCO’s such as the A417 DCO. The power to make such orders is available “at any time”. As the power is limited to the construction of the authorised development, it should specify that the power conferred by article 18(1) may only be exercised for a limited period (e.g. any time prior to the expiry of 12 months from the completion of the

			construction works for the authorised development).
Article 18(3) and 18(7)	Traffic regulation	The timescales for the notice of intention in Art 18(3)(a) are specified as being “not less than 42 days”. Article 18(7) requires the traffic authority to notify the undertaker of its decision “within 42 days of receiving an application”.	These timescales are too short and CWCC requires 70 days for both Art 18(3)(a) and 18(7).
Article 18(5)	Traffic regulation	Art 18(5) provides that “Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) <u>at any time.</u> ”	The power to make such orders is available “at any time”. This should be limited to specified period (e.g. within a period of 24 months from the opening of the authorised development).
Article 19	Discharge of Water	Insufficient details of the proposed works have been provided in order for CWCC to confirm whether these provisions are agreed.	CWCC need to ensure there is no flood risk in connection with the undertakers use of powers under Article 19. At present, LLFA do not have sufficient information to confirm whether the wording of Art 19 can be agreed.
Article 21	Authority to survey and investigate the land	Art 21(7) the timescale for notifying the undertaker of its decision is “within 28 days of receiving the application for consent”.	The timescale is too short and CWCC requires 70 days.
Part 5, Articles 24-32	Powers of acquisition		CWCC has had limited contract from the Applicant regarding the compulsory acquisition of its land. CWCC will review its



			position and update the Examining Authority at a later deadline.
Article 34	Temporary use of land for carrying out the authorised development	<p>Art 34(1) includes wide powers to not only temporarily use land (subsection 1 (a)) but also to:</p> <p><i>(b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;</i></p> <p><i>(c) construct temporary works (including the provision of means of access), structures and buildings on that land;</i></p> <p><i>(d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;</i></p> <p><i>and</i></p> <p><i>(e) construct any permanent works specified in relation to that land in column (4) of Part 1 of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development;</i></p> <p><i>(f) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 7, or any mitigation works;</i></p> <p><i>(g) construct such works on that land as are mentioned in Part 1 of</i></p>	<p>It is not clear how the use of temporary powers can be extended to allow for the construction of permanent works over the land (art 34(1) and for those works not to be removed (art 34(4)). If land is required for permanent works, these should be included within the compulsory acquisition powers and should be subject to the appropriate compensation for the acquisition of that land. Where any works are carried out to a street and these works are not being removed/land restored, the highway/street authority must have the right to inspect and approve the works before being required to maintain the street (art 34(4)(c)).</p>



		<p><i>Schedule 1 (authorised development); and (h) carry out mitigation works required pursuant to the requirements in Schedule 2.</i></p> <p>Art 34(3) and 34(4) relate to the temporary possession ceasing, the removal of temporary works and restoring the land, save that the undertaker is not required to:</p> <p><i>(a) replace a building, or structure removed under this article;</i></p> <p><i>(b) remove any drainage works installed by the undertaker under this article;</i></p> <p><i>(c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to streets works)</i></p> <p><i>(d) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(e); or</i></p> <p><i>(e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.</i></p>	
Schedule 2, Part 1, Requirements			



2	Time Limits	2(2) <i>“Notice of commencement of the authorised development must be given to the relevant planning authorities within 7 days of the date on which the authorised development is commenced”.</i>	CWCC requires 14 days advance notice of the commencement of development so as to allow officers time to ensure compliance,
3	Stages of authorised development	<p><i>“The authorised development may not commence until a written scheme setting out all stages of the authorised development including a plan indicating when each stage will be constructed has been submitted to each relevant planning authority.”</i></p> <p>The requirement does not require the submitted scheme to be approved or for the undertaker to undertake the development in accordance with the submitted approved stages.</p>	<p>Suggested wording: <i>No part of the authorised development may commence until a written scheme setting out all stages of the authorised development including a plan indicating when each stage will be constructed has been submitted to and approved in writing by each relevant planning authority. The authorised development shall then be undertaken in accordance with the approved stages plan unless approved in writing by each relevant planning authority in accordance with Requirement 17.</i></p>
4(1)	Scheme Design – Above ground development	The requirement only allows for above ground elements to be in <i>“general accordance with the general arrangement plans”</i> .	The wording <i>“in general accordance”</i> is too vague and unenforceable. CWCC request that the words <i>“general”</i> be removed from the Requirement and replaced with <i>“substantially”</i> .
4(1)	Scheme Design - Changes to above	It is not clear what the <i>“environmental effects”</i> include. No definition is provided in Requirement 2 (Interpretation).	Recommend a definition for the term <i>“environmental effects”</i> .

	ground development	Importantly, it is not clear who determines whether any changes cause “materially new or materially different environmental effects”. What mechanism is there for determining this?	The mechanism for determining whether any changes are “material” needs to be included otherwise this will be a self-approved process with no input from the relevant authority.
4(1)	Scheme Design - Changes to above ground development	The need for approval of detailed design is welcomed. However, it is unclear how this will tie in with the CEMP and LEMP.	CWCC request that the wording be amended to include a requirement for the detailed design be based upon the mitigation outlined within the CEMP and LEMP.
5(2) (a – m)	CEMP – Working Methods and Mitigation Measures	Specific measures for construction works are missing including plant and equipment detail; night-time noise levels; minerals safeguarding, and identified contamination.	Include the following additional measures: <ul style="list-style-type: none"> • mineral safeguarding plan, • protection and replacement planting of all significant trees and hedgerows (not just ancient woodland), • specification of noise limits (day and night) • heritage mitigation measures • biodiversity survey reporting and monitoring strategies • contamination • mechanism for review
8(3)	Water Discharge	Requires details to be submitted but not approved in writing.	Rewording to: <i>“No discharge of water under article 19 (discharge of water) must be made until details of the location</i>

			<i>and rate of discharge have been submitted and approved in writing by the relevant planning authority”</i>
9	Contaminated land and Groundwater	This is missing a requirement for the submission and approval of a validation report.	CWCC require the Requirement to be revised to include validation reporting and for the details to be approved by CWCC.
11 (1)	LEMP	Combining ecology and Landscape will involve a lot of details, which if included together has the potential to miss important elements	CWCC recommends that the details be split into landscape and ecological matters or for them to be set out in separate requirements.
11(1)	LEMP	It is not clear whether the landscape part include measures to protect Heritage.	Detail inclusion of heritage matters
11(2)	LEMP – Inclusion	Missing heritage measures	Detail inclusion of heritage matters
11(2)(c)	LEMP – Inclusion	There is no definition for “existing features”	A definition should be added which should include updated ecological survey, reporting to the appropriate bodies and monitoring strategies.
12	Ecological surveys	In Requirement 12 only ecological surveys referred to be carried out prior to works, are for European protected species.	European sites, international sites and nationally protected habitats and species should also be included in this requirement, in addition to non-statutory sites (Local Wildlife Sites) as well if appropriate. Mitigation, compensation and obtaining appropriate

			licences if required, should also be stipulated here.
13(1)	Construction Hours	<p>The requirement restricts hours of constructions “except in the event of emergency” and provides definition of “emergency” as “<i>means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action</i>”.</p> <p>This definition of “emergency” is not considered acceptable as it would allow for uncontrolled out of hours construction works.</p>	CWCC would prefer a scheme for out of hours work to be submitted to the relevant authority for approval. The blanket exception for “emergency” needs to be removed or redefined.
13(3)	Construction Hours	List of operations allowed outside approved working hours including trenchless construction techniques and works required to mitigate delays due to extreme weather conditions etc. this is too open and has the potential to result in unacceptable noise impacts.	Revise wording of Requirements to require any working outside of agreed hours only as part of an approved scheme.
13(4)(a)	Construction Hours	The requirement provides that “nothing in subpara. (1) preclude the receipt of	Revise wording of Requirements to require any working outside of

		oversized deliveries to site and the undertaking on non-intrusive activities”. Non-intrusive activities as defined in subpara. (5) would need further clarification and tighter links to prevailing noise limits and most importantly the character of the noise, duration, frequency, maximum levels.	agreed hours only as part of an approved scheme. The wording “outside the Order limits” in the “non-intrusive activities” definition needs to be deleted.
13(4)(b)	Construction Hours	The requirement provides that “nothing in subpara. (1) preclude start-up and shut-down activities up to an hour either side of the core working hours and undertaken in compliance with the CEMP”. CWCC also advise that start up and shut down activities should be very much part of the core hours of operation and is not separate.	Revise wording of Requirement to require any working outside of agreed hours only as part of an approved scheme.
16	Restoration of Land	<i>“Subject to article 34 (temporary use of land for carrying out the authorised project)], any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12</i>	The requirement to reinstate should be on a section or phase basis, not the whole project, as that will increase the time to restoration of habitats (and alter the biodiversity net gain result).

		<p><i>months of completion of the authorised project.”</i></p> <p>“<i>fit for its former use</i>” is not precise or enforceable and would not secure return the higher grades of agricultural land back to their former grading / condition including drainage etc.</p> <p>Requirement 16 as a whole is not precise or enforceable and does not require the approval of a scheme of restoration and aftercare.</p>	
17	Post construction environmental management plans	<p>“Operational and maintenance management” and “decommissioning” are distinctly separate stages of the project. These should be covered in separate requirements.</p> <p>Furthermore, the scheme does not provide or require details of restoration aftercare.</p>	<p>CWCC advise that the requirement be split into two requirements for the approval of schemes for restoration and aftercare and one for decommissioning.</p> <p>CWCC require details of restoration and aftercare to be provided to the relevant planning authority for approval. This could be incorporated under Requirement 17 or alternatively a detailed scheme could be included Requirement 16.</p>
17(1) and 17(3)	Post construction environmental management plans	Requirement 17(1) requires the submission of an operational and maintenance environment management plan.	For these requirements to be acceptable, CWCC require these plans to be submitted for approval by the relevant planning authority and to be

		Requirement 17(3) requires the submission of a DEMP.	implemented in accordance with the approved plans.
19(4)	Amendments	The requirement provides for a “42 days” notification period. There is no ability to agree extension of time.	CWCC would advise the use of the standard period for decision of 16 Weeks and the inclusion of a provision to agree an extension of time i.e. <i>“within such longer period as may be agreed by the undertaker and the host authorities in writing”</i>
Schedule 2: Part 2: Applications made under requirements (pp. 70-72)			
21(1)	Applications made under requirements	The requirement provides that notice of a decision is required within 42 days. This period is too short and not in accordance with standard timescales for determining applications.	In line with Article 27 of the DMPO and EIA Regs, CWCC consider a 16 week period to be reasonable.
21(2)	Applications made under requirements - deemed approval	This requirement includes the deemed approval for applications submitted pursuant to a requirement. This is too onerous.	CWCC consider “deemed approval” should not be included within Article 21.
22	Multiple relevant authorities	The requirement provides 20 days for discharging authorities to comment on applications relating to multiple authorities within “20 days”. Timescale is short and doesn’t allow any agreed extensions of time. This is in effect a pre-app to and between the two authorities – the need for	Advise the removal of this Requirement or provide a reasonable extended period of time [e.g. within 40 days and ability to agree an extension of time i.e. <i>“within such longer period as may be agreed by the undertaker and the host authorities in writing”</i>

		timescales at all is questioned. If a timescale is accepted there should at very least be the ability to agree an extension of time.	
23(2)	Further Information	<p><i>“(2) If the relevant authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required. Notification required in 5 business days to specify further information required.”</i></p> <p>Even for internal consultees it is not considered reasonable to only allow 5 working days for notification for further information.</p> <p>Notwithstanding the admin time, consultees will need time to fully review the provided material to be able to advise if further information will be required. This is not considered reasonable and significant concern is raised by CWCC.</p>	CWCC may not know whether they need to consult a requirement consultee within the first 5 days. CWCC recommend that this be amended to a more reasonable length of time (e.g. 21 days) or removed in its entirety.



23(3)	Further Information	<p><i>“(3) If the requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within five business days of receipt of such a request and in any event within 21 days of receipt of the application.”</i></p> <p>The 5 day timescales for issuing the consultation and reverting to the undertaker as to whether further information is required is not appropriate where external consultation is needed.</p> <p>Requiring a specified timescale for consultation of external bodies is not considered reasonable or necessary. This can be adequately dealt with under an agreed extension of time under Schedule 2 Part 2 (19(1)).</p>	CWCC advise this be amended to a more reasonable length of time (35 days).
23(4)	Further Information	<p><i>“(4) If the relevant authority does not give the notification mentioned in sub paragraphs (2) or (3)</i></p>	Advise this requirement is removed.



		<p><i>or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.”</i></p> <p>This is not considered reasonable – If insufficient info has been provided the host authority should have the right to ask for further information as deemed necessary. If this was to remain in place the Host Authority, if missing it’s 5-day notice period, would have no choice but to refuse the requirement application – this would be counterproductive.</p>	
Schedules 3 & 4			
	All parts	“In the County of Cheshire West and Chester”	Reword: “In the Borough of Cheshire West and Chester”
Schedule 10 – Protective Provisions			
Part 7	Protective Provisions – Local highway authorities	The details of the protective provisions were not negotiated with CWCC prior to being included within the DCO. These are being discussed with the applicant.	CWCC reserve the right to comment on the protective provisions.

4 Summary of Written Representation

4.1 A summary of the suggested changes and requests set out in the Written Representation are provided in the table below:

Topic	Summary of suggested changes and requests
Definition “commence”	Operational development needs to be excluded from definition.
Limits of deviation	Council reserves its position on this.
Drainage	Additional information required before Council can agree to the disapplication of the Land Drainage Act 1991 (Article 8) or the provisions within Article 19.
Highways, Street Works, Traffic	Where works are being carried out on highways for which the Council will be responsible for, details of the proposed works should be submitted to and approved by the Council in advance.
	Where the Council’s approval or consent is required, there should be an obligation to take any comments into account.
	The timescales provided for considering requests for approval are too short and the triggers for calculating the timescales need to be clear and consistent throughout the DCO.
Acquisition of Land	The Council has had limited contact from the Applicant regarding land acquisition. The Council reserves its position on this.
Temporary Use of Land	The provisions set out in Article 34 are not clear as they appear to allow permanent works to be carried out and retained on land which is identified as being “temporary use”. Where land is being used temporarily, the land should be reinstated or where works are being left in place, the approval of the landowner should be required. There should be no permanent work on temporary land (unless agreed).
Time limits (requirement 2)	At least 14 days advance notice of the commencement of development should be provided.
Submission of plans/schemes (e.g. Requirements 3, 8, 17)	Where requirements provide for details, schemes, plans etc to be submitted to the relevant authority, the requirement should provide for these details, schemes, plans etc to be approved in writing and thereafter for the development to be carried out in accordance with those approved details.
Scheme Design (Article 4)	The wording “in general accordance with” should be replaced with “substantially in accordance with”.
	A definition for “environmental effects” is required.

	A mechanism for determining whether an amendment is “material” needs to be included.
CEMP (Requirement 5)	Details to be covered by the CEMP need to be broader and include additional necessary information.
Contaminated land and Groundwater (Requirement 9)	Requires the inclusion of a validation report and details being approved by the relevant authority.
LEMP (Requirement 11)	Details regarding ecology and landscaping need separating out into two separate requirements.
	Details regarding heritage measures need to be included within the LEMP.
	A definition for “existing features” is required.
Ecological surveys (Requirement 12)	This needs to be widened to include european sites, international sites and nationally protected habitats and species. Mitigation, compensation and obtaining appropriate licences if required, should also be stipulated.
Construction hours (Requirement 13)	Any proposed out of hours construction should be included within a scheme to be approved by the relevant authority.
	The definition “emergency” needs to be amended or deleted.
	The wording “outside the Order limits” in the “non-intrusive activities” definition needs to be deleted.
Restoration of Land (Requirement 16)	Reinstatement should be on a phase by phase/section by section basis and not delayed to the end of the Project.
PCEMP (Requirement 17)	“Operational and maintenance management” and “decommissioning” should be covered in separate requirements.
	Details of restoration and aftercare to be provided should be included in the requirement with the relevant planning authority to approve.
Amendments (Requirement 19)	The timescale should be 16 weeks with a provision to agree an extension of time.
Applications (Requirement 21)	The timescale should be 16 weeks with a provision to agree an extension of time.
	The deemed approval process should not be included within this requirement.
Multiple authorities (Requirement 22)	The timescale should be 40 days with a provision to agree an extension of time.
Further information (Requirement 23)	If a “requirement consultee” needs to be consulted, additional time is required or the timescales imposed in Article 23(2) should be removed.

	Timescales for requests from requirement consultees should be extended to 35 days from receipt of the request.
	Requirement 23(4) should be removed.
Protective provisions (Sch 10, Part 7)	The Council reserve the right to comment on the protective provisions for local highway authorities.