



**APPLICATION BY LIVERPOOL BAY CCS LIMITED FOR AN ORDER
GRANTING DEVELOPMENT CONSENT FOR THE HYNET CARBON
DIOXIDE PIPELINE**

**FLINTSHIRE COUNTY COUNCIL
LOCAL IMPACT REPORT**

Proposal:	Application by Liverpool Bay CCS Limited for a Development Consent Order
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Approved by:	Flintshire County Council's Cabinet on 25 th April 2023
Date:	25 th April 2023

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PART A: BACKGROUND AND CONTEXT

1. INTRODUCTION

- 1.1 Liverpool Bay CCS (Carbon Capture Storage) Limited ('the applicant' / 'the developer') have applied for an Order granting development Consent for the construction and installation a new carbon dioxide (CO₂) pipeline between Ince, near Stanlow, (Cheshire) and Flint, and repurposing of an existing natural gas pipeline between Flint and Talacre. The intention of the pipeline is to transfer waste CO₂ from the manufacture of blue hydrogen at Stanlow, out into the former gas fields offshore, utilising the void spaces left from gas extraction. This project is known as the HyNet North West Carbon Dioxide Pipeline and is considered to be a Nationally Significant Infrastructure Project (NSIP).
- 1.2 Flintshire County Council's Cabinet, at their meeting on 25th April 2023 approved this Local Impact Report (LIR) of Flintshire County Council (FCC).
- 1.3 The purpose of the LIR is for the Council to advise the Examining Authority (ExA) on local impacts it considers the proposed development will have on the local area by reference to specific issues and material considerations. Details of how negative impacts can be overcome and mitigated for will be provided where relevant. The LIR will also appraise the proposed development's compliance with local planning policy and guidance and offer views on the DCO provisions, and proposed requirements. It is acknowledged that this proposal seeks for consent of a cross country pipeline. However, the scope of this LIR only relates to the impacts of the proposal as it affects the administrative area of FCC.
- 1.4 It is understood that on 27th March 2023 the applicant submitted a Material Change Request to the ExA. At the time of writing, it was not known if this change request will be accepted by the ExA, therefore this LIR has no regard to the proposed changes to the DCO application. Should the Change Request be accepted by the ExA, an addendum may be offered by the Council to supplement this LIR, should it be required.

2. DESCRIPTION OF THE PROPOSED DCO DEVELOPMENT

- 2.1 The DCO proposed development is for a new underground CO₂ Pipeline from Cheshire, England to Flintshire, Wales and associated above ground installations (AGIs). It is understood that the DCO proposed development would form part of the HyNet North West Project ('the Project') which is a hydrogen supply and Carbon Capture and Storage (CCS) project. The objectives of the Project are to reduce CO₂ emissions from industry, homes and transport and support economic growth in the North West of England and North Wales.
- 2.2 The applicant states in their submission that the DCO Proposed Development is a critical component of the Project which, by facilitating the transportation of carbon, enables the rest of the Project to be low carbon. It would also allow onward tie-in to local carbon intensive industries to reduce CO₂ emissions.
- 2.3 The Project is based on the production of low carbon hydrogen from natural gas and includes the development of a new hydrogen production plant, distribution pipelines, and the creation of CCS infrastructure. The DCO Development includes infrastructure to facilitate the transportation of CO₂ which would be captured from proposed hydrogen production facilities and existing industrial sources in the North West of England and North Wales and securely stored in depleted oil and gas fields in Liverpool Bay.
- 2.4 The DCO Proposed Development would comprise:
- A system of pipelines for the conveyance of carbon dioxide, and apparatus and works associated therewith.
 - Ancillary works integral to the construction of the CO₂ Pipeline, including construction compounds and temporary and or permanent access tracks.
 - Land required for the construction of the Carbon Dioxide Pipeline
 - Above ground installations at Flint and Northop Hall
 - Block Valve Stations at Cornist Lane near Flint, land off the B5121 at Pentre Halkyn and land off Racecourse Lane, Babell, Flintshire.

3. DESCRIPTION OF THE PROPOSED DCO DEVELOPMENT SITE AND SURROUNDINGS

- 3.1 It is understood from the application documents that 'The Site' refers to the land within which the DCO Proposed Development, and if consented and developed would be located, and bounded by the Order Limits.
- 3.2 The Council's LIR relies upon the Applicant's description of the site and surrounding area as set out in the Applicant's Planning Statement, (document reference APP-048) which divides the proposal into seven separate sections, four of which (Sections 4-7) are within the administrative boundary of Flintshire.
- 3.3 The various appendices of this LIR set out environmental constraints, LDP allocations, built conservation constraints and public rights of way associated with each section of the proposed DCO pipeline within Flintshire.

4. RELEVANT PLANNING HISTORY AND COMMITTED DEVELOPMENTS

- 4.1 Planning applications which are extant or pending determination within the DCO order limit, are set out below. It is noted that the majority of these proposals have not been identified within the applicant's planning statement:

- 4.2 Planning applications pending determination that lie within the DCO Order limit:

- Reference: FUL/000111/23 - Newbridge Farm, Holywell Road, Ewloe, Deeside, CH5 3BS; (RETROSPECTIVE) Construction of a slurry tower with cover. Status – pending.

It is understood that this slurry tank has been constructed and therefore the above planning application is retrospective.

The slurry tower is sited where the proposed DCO CO₂ pipeline is proposed to be located. Liverpool Bay CCS is aware of this existing structure and the pending planning application and has included solutions to resolve this within the change request submitted to the Examining Authority.

- Reference: FUL/000073/23 – Land at Mold Road, Ewloe Green, Ewloe, Flintshire, CH5 3BP; Erection of 5 no Holiday Pods. Status; Pending – consultation period open.

The above planning application site for 5 holiday pods lies within the DCO application boundary.

- Reference: FUL/000719/22 - Beeches Farm, Flint Road, Saltney Ferry, CH4 0BW; Construction of a 42m x 13m silage pit with associated apron yards and effluent drainage.

The application site for the above proposal intersects the DCO application boundary. However, it is understood that the proposed location of the structure lies outside of the DCO application boundary.

- Reference: 064210 - Holywell Grid Substation to Point of Ayr, Talacre; Overhead lines from Holywell Grid Station through Lloc to Talacre; pending decision.

4.3 Planning applications approved within the last 5 years (extant permissions) (to March 2018) that lie within the DCO Order limit are detailed in the table below;

Application number	Site Address	Description of development	Decision Date
058130	Church Lane, Aston Hill, Ewloe. CH5 3BF	Application for a non-material amendment to planning permission ref: 057618	13/03/2018
059029	Ashwood House Church Lane, Aston Hill, Ewloe. CH5 3BF	Retrospective application site re-grading to create a level paddock field for horses & siting of a stable block, new native hedge planting & fencing to be used for boundary treatments & site security.	15/03/2019
059865	Ashwood House Church Lane, Aston Hill, Ewloe, CH5 3BF	Application for the approval of details reserved by condition nos. 4 (landscaping) and 6 (fencing) attached to planning permission ref. 059029	10/07/2019
060579	Nant Cottage Pentre Halkyn, Holywell. CH8 8BD	Creation of a track to provide vehicle access	16/02/2022
060648	Beeches Farm Flint Road, Saltney Ferry. CH4 0BW	Erection of two storage sheds to house livestock and construction of foul water lagoon.	02/10/2020

061666	Shell Northop, Ewloe, CH7 6HB	Formation of Electrical Vehicle Charging Bays with associated plant and compound, Electrical Substation and associated Surfacing to existing Petrol Filling Station	02/11/2020
062980	Mold Road, Ewloe Green, CH5 3PB	Construction of new access to Caravan Licence requirements to serve 5 caravans and closure of existing access on Green Lane.	22/10/2021
063100	Little Oakfield Chester Road, Sandycroft, CH5 2EG	Proposed new 45m x 25m horse exercise arena and access track	04/08/2021
064296	Babell Road, Holywell.	Erection of a steel framed shed	11/04/2022

4.4 Relevant applications refused and under appeal which may be of relevance to the examination of this Application for a DCO is:

- Reference: 062820 - 1 Liverpool Road, CH5 3AR; 'Erection of 130no. Dwellings'. this application has now been refused (26th October 2022). It is uncertain if the applicant will lodge an appeal and we are approaching the end of the period for the applicant to lodge an appeal.

PART B: RELEVANT PLANNING POLICIES AND GUIDANCE

5. UK GOVERNMENT PLANNING POLICY AND LEGISLATION

- 5.1 The main material consideration in the determination of Nationally Significant Infrastructure Projects are National Policy Statements (NPS), with the most relevant to this examination being the Overarching EPS for Energy, EN-1 (Department of Energy and Climate Change, 2011) and EN-4 (Department of Energy and Climate Change, 2011) which is the NPS relating to gas supply infrastructure and gas and oil pipelines as there are no specific NPS relating to CO₂ pipelines.
- 5.2 It is understood that the UK Government is currently undertaking a review of the existing energy NPSs to ensure they provide a suitable framework to support decision-making for nationally significant energy infrastructure and to ensure the planning policy framework can deliver investment in the infrastructure needed for the transition to net zero and revised energy NPSs have been published.
- 5.3 The draft NPSs of relevance are Draft Overarching Energy NPS (EN-1) (Department for Business, Energy and Industrial Strategy, 2021) and Draft National Policy Statement for gas supply infrastructure and gas and oil pipelines (EN-4) (Department for Business, Energy and Industrial Strategy, 2021) which would be expanded to address carbon dioxide pipelines. It is considered that whilst these draft NPS are not yet adopted, they are nevertheless an important and relevant consideration in the determination of the Application. However, these documents still only have draft status and therefore the adopted 2011 NPS apply and remain the most relevant policy documents for the determination of this proposal.
- 5.4 The Council considers that Welsh Government and Local planning policies are also material considerations to be afforded appropriate weight. The policies and legislation the Council consider relevant are set out in the sections below.

6. WELSH GOVERNMENT PLANNING POLICY AND LEGISLIATION

6.1 It is noted that this project is a cross boundary project which would affect both England and Wales. Therefore, the elements of the proposed development that lie in Wales, should also be considered against Welsh Government Policy and the Development Plan within Flintshire.

6.2 The Council considers the following Welsh Government legislation, policy documents and guidance are relevant:

Legislation:

6.3 The provisions within the following Acts are considered to be material considerations:

- The Wales Act 2017
- Well-being of Future Generations (Wales) Act 2015
- The Environment (Wales) Act 2016
- The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021 which set an amended target of reducing carbon emissions in Wales to net zero by 2050.

6.4 The Wellbeing of Future Generations Act 2015 puts in place seven well-being goals guiding sustainable development, one of which endeavours to achieve 'A prosperous Wales' in which *"An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work."* It is considered that the proposed development would contribute to achieving the long term goal of the Wellbeing of Future Generations Act of achieving a prosperous Wales.

Prosperity for All: Low Carbon Wales (2019).

- 6.5 This Plan sets out the Welsh Government's approach to cut emissions and increase efficiency in a way that maximises wider benefits for Wales, ensuring a fairer and healthier society. It sets out 100 policies and proposals that directly reduce emissions and support the growth of the low carbon economy. Its aim is to assist Wales to meet 2016 to 2020 carbon budget, and 2020 emissions reduction targets. The plan:
- Focuses on future skills needed to ensure we transition our workforce to maximise the opportunities presented by global clean growth.
- 6.6 Policy 34 - Maximise Welsh benefit from major infrastructure projects in Wales
States that although the Wales Act 2017 delivers increased powers to Welsh Ministers, there are still many major infrastructure decisions made by UK Government and others. Welsh Government's approach is to ensure we understand the impacts on Wales and ensure we derive the maximum social and economic benefit from the development.
- 6.7 Policy 57 – Energy Efficiency Schemes UK Government
UK Government's Clean Growth Strategy sets out policies and proposals to accelerate the pace of clean growth. It includes the development of a package of measures to support businesses to improve energy productivity by at least 20% by 2030 including working with the Carbon Capture Usage and Storage (CCUS) Council to consider options to deploy CCUS in the UK and maximise its industrial opportunity.
- 6.8 Policy 60 – Carbon Capture Utilisation and Storage
The UKCCC assumes that CCUS could significantly reduce Welsh emissions by 2050 but the deployment of CCUS in its Welsh scenarios does not commence until the late 2030s and will be towards the end of the window of UK deployment.

This reflects the greater practical difficulty and cost in the Welsh context relative to other parts of the UK. UK Government's industry led CCUS Council will need to work with Welsh Government when considering steps required to reduce the cost of deploying CCUS in the UK. In July 2018 the Group published its independent report setting out industry's view on how best to progress CCUS in the UK in order to enable the UK to have the option of deploying CCUS at scale during the 2030s, subject to costs coming down sufficiently.

A Carbon Capture, Utilisation, and Storage Network for Wales (2021)

- 6.9 This sets out the approach that the Welsh Government would like to see regarding Carbon Capture Storage (CCS). The document recognises CCS as “a feasible technical option to support Wales in achieving its statutory emissions reduction targets”.

Planning Policy Wales (Edition 11, February 2021).

- 6.10 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs), Welsh Government Circulars, and policy clarification letters, which together with PPW provide the national planning policy framework for Wales. The following sections of PPW are considered of relevance to this development:
- Chapter 3 – Strategic and Spatial Choices. In particular section 3.58-3.59 inclusive which relates to the best and most versatile agricultural land and section 5.60 to which relates to development in the countryside and supporting infrastructure.
 - Chapter 5 – Production and Enterprising Place. In particular Section 5.7 – 5.9 inclusive, which sets out the policy framework for renewable and low carbon energy development.
 - Chapter 6 - Distinctive and Natural Places. In particular Section 6.1: The Historic Environment; Chapter 6.3: Landscape; Chapter 6.4: Biodiversity and Ecological Networks; Chapter 6.6: Water and Flood Risk; Chapter 6.7: Air Quality and Soundscape; and Chapter 8: Lighting.

- 6.11 PPW sets out the overriding requirement for sustainable development. The document sets out a number of planning principles as follows:
- Growing our economy in a sustainable manner
 - Making best use of resources
 - Facilitating accessible and healthy environments
 - Creating and sustaining communities
 - Maximising environmental protection and limiting environmental impact
- 6.12 Paragraph 2.27 advises that planning authorities should ensure that social, economic, environmental and cultural benefits are considered in the decision-making process and assessed in accordance with the five ways of working to ensure a balanced assessment is carried out to implement the Well-being of Future Generations Act and the Sustainable Development Principle.
- 6.13 Paragraph 3.30 onwards explains climate change, decarbonisation and the sustainable management of natural resources (SMNR). This section recognises that the planning system plays a key role in tackling the climate emergency through the decarbonisation of the energy system and the sustainable management of natural resources. One of the key features of the SMNR is recognised as ‘facilitating the move towards decarbonisation of the economy’.
- 6.14 The guidance which is key to the consideration of this proposed development is in section 5.7 relating to Energy. Paragraph 5.7.1 states ‘*The future energy supply mix will depend on a range of established and emerging low carbon technologies, including biomethane and green hydrogen*’. Paragraph 5.7.2 states ‘*In order to ensure future demand can be met, significant investment will be needed in energy generation, transmission and distribution infrastructure. The system will need to integrate renewable generation with storage and other flexibility services, in order to minimise the need for new generation and grid system reinforcement. Collectively we will need to concentrate on reducing emissions from fossil fuel sources, whilst driving further renewable generation which delivers value to Wales*’.

- 6.15 PPW provides guidance on the electricity grid network and also associated energy storage. Paragraph 5.7.10 states '*Planning authorities should plan positively for grid infrastructure. Development plans should facilitate the grid infrastructure required to support the renewable and low carbon energy potential for the area, particularly areas identified for such development. Planning authorities should support appropriate grid developments, whether or not the developments to be connected are located within their authority*'. Although not specifically stated it would appear that this statement is applicable to all energy networks and not just electricity.
- 6.16 Paragraph 5.9.19 provides guidance in respect of development management and advises that planning authorities should take into account:
- '*the contribution a proposal will make to meeting identified Welsh, UK and European targets;*
 - '*the contribution to cutting greenhouse gas emissions; and*
 - '*the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development*'.
- 6.17 Paragraph 5.9.20 advises that '*Planning authorities should also identify and require suitable ways to avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development*'. It further advises that '*The construction, operation, decommissioning, remediation and aftercare of proposals should take into account:*
- '*the need to minimise impacts on local communities, such as from noise and air pollution, to safeguard quality of life for existing and future generations;*
 - '*the impact on the natural and historic environment;*
 - '*cumulative impact;*
 - '*the capacity of, and effects on the transportation network;*
 - '*grid connection issues where renewable (electricity) energy developments are proposed; and*
 - '*the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so, consider whether measures to adapt to climate change impacts give rise to additional impacts*'.

Future Wales: The National Plan 2040 (February 2021)

- 6.18 Future Wales is the Welsh Government's national development framework, setting direction for development in Wales to 2040. Future Wales forms part of the statutory development plan for Wales. It is the highest tier of development plan and regard has been had to Future Wales as part of the preparation of the Flintshire LDP which is now adopted, in terms of ensuring general conformity. It has development plan status and therefore forms part of the planning framework, used as a basis for making planning decisions in Flintshire.
- 6.19 Future Wales draws attention on page 13 to the Natural Resources Policy which identifies the need to '*facilitate the decarbonisation of the economy, including energy and transport choices, and promote the principles of a circular economy*'.
- 6.20 Future Wales sets out some 11 outcomes and outcome 11 on page 56 is '*A Wales where people live ... in places which are decarbonised and climate-resilient*'. The accompanying text is as follows: '*The challenges of the climate emergency demand urgent action on carbon emissions and the planning system must help Wales lead the way in promoting and delivering a competitive, sustainable decarbonised society. Decarbonisation commitments and renewable energy targets will be treated as opportunities to build a more resilient and equitable low-carbon economy, develop clean and efficient transport infrastructure, improve public health and generate skilled jobs in new sectors. New homes will be energy efficient and will help communities adapt to the changing climate*'.
- 6.21 Future Wales sets out a number of policies. Policy 1 is the overarching framework for where development and growth will be focused in each reach. 'Where Wales will Grow' identifies that Wrexham and Deeside is a National Growth Area where '*.. there will be growth in employment and housing*

- opportunities and investment in infrastructure*'. Policy 1 drives the delivery of the Future Wales Outcomes and ensures Future Wales' policies and the planning system in general are committed to achievement. Key issues listed include decarbonisation.
- 6.22 Policy 17 'Renewable Energy and Low Carbon Energy and Associated Infrastructure' strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet future energy needs. The policy states *'In determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales' international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency'*. It further states *'Proposals should describe the net benefits the scheme will bring in terms of social, economic, environmental and cultural improvements to local communities'*. The policy also, and of relevance to this proposed development, recognises the importance of infrastructure stating *'New strategic grid infrastructure for the transmission and distribution of energy should be designed to minimise visual impact on nearby communities. The Welsh Government will work with stakeholders, including National Grid and Distribution Network Operators, to transition to a multi-vector grid network and reduce the barriers to the implementation of new grid infrastructure'*.
- 6.23 Policy 20 'National Growth Area – Wrexham and Deeside' recognises that *'Wrexham and Deeside will be the main focus for growth and investment in the North region'*.
- 6.24 Policy 21 'Regional Growth Area – North Wales Coastal Settlements', recognises and identifies that the North of Wales will play a role in decarbonising society and supports the realisation of new infrastructure projects.

Technical Advice Notes (TANs) and Welsh Government Planning Guidance.

- 6.25 The following TANs and Welsh Government Practice Guidance are considered to be material considerations:
- Technical Advice Note (TAN) 5 - Nature Conservation and Planning (2009)
 - Technical Advice Note (TAN) 6 - Planning for Sustainable Rural Communities (2010)
 - Technical Advice Note (TAN) 11 – Noise (1997)
 - Technical Advice Note (TAN) 12 – Design (2016)
 - Technical Advice Note (TAN) 13 - Tourism (1997)
 - Technical Advice Note (TAN) 15 – Development and Flood Risk (2004)
 - Technical Advice Note (TAN) 18 – Transport (2007)
 - Technical Advice Note (TAN) 20 – Planning and the Welsh Language (2017)
 - Technical Advice Note (TAN) 21 – Waste (2014)
 - Technical Advice Note (TAN) 23 – Economic Development (2014)
 - Technical Advice Note (TAN) 24 – The Historic Environment (2017)

7. LOCAL PLANNING POLICY

- 7.1 The Flintshire LDP was adopted by the Council on 24th January 2023 and covers the period 2015 to 2030. It forms part of the statutory development plan alongside Future Wales: The National Plan 2040.
- 7.2 The LDP does not contain a specific policy in respect of infrastructure projects and would rely on the framework of strategic and detailed development management policies to be read as a whole. Policy STR6 does recognise the need for infrastructure but is in the context of this supporting particular forms of development such as housing, rather than freestanding infrastructure development. The key relevant policies in the adopted LDP are listed below:

- STR4 sets out strategic principles in respect of sustainable development, design and placemaking and is clearly signposted to subsequent detailed policies
- STR13 strategic principles in respect of natural, built environment, green networks and infrastructure and is signposted to subsequent detailed policies
- STR14 sets out strategic principles in respect of climate change and environmental protection
- PC1 guidance on development within and outside of settlement boundaries.
- PC2 sets out general requirements for all developments
- PC3 addresses design matters
- PC4 sets out guidance on the sustainability and resilience of new development
- EN1 seeks to protect existing sports recreational and cultural facilities
- EN2 addresses green infrastructure
- EN4 seeks to ensure new development respects landscape character
- EN6 provides guidance on sites of biodiversity importance
- EN7 provides guidance on trees, woodlands and hedgerows
- EN8 provides guidance on the built historic environment and listed buildings
- EN13 provides guidance on Renewable and Low Carbon Energy Development
- EN14 provides guidance in respect of flood risk
- EN15 seeks to ensure new development does not harm water resources

8. SUPPLEMENTARY PLANNING GUIDANCE NOTES

8.1 Flintshire's Supplementary Planning Guidance Notes (SPGs) were adopted in line with national guidance including involving public consultation and formal resolution to adopt. It is accepted that the SPGs were prepared in line with the previous Unitary Development Plan (UDP) and particular policies, and it is acknowledged that the UDP no longer forms part of the Development Plan for Flintshire. However, most of the SPG's are still applicable to the broad thrust of relevant LDP policies and reasonably up to date in terms of PPW. It is considered therefore that it would be reasonable that in those instances where the guidance in an existing SPG is both relevant and helpful, the SPG's should continue to be afforded appropriate weight.

8.2 It will be necessary when using a particular SPG to ensure that it still remains consistent with the relevant LDP policy and with PPW11. Any inconsistencies would then need to be addressed in terms of relative weight to be attached.

8.3 The Council has a set of adopted Supplementary Planning Guidance (SPG) Notes. The relevant SPGs for this application are as follows:

- SPG3 Landscaping
- SPG4 Trees and Development
- SPG8 Nature Conservation & Development
- SPG8a Great Crested Newt Mitigation Requirements
- SPG28 Archaeology

9. OTHER MATERIAL CONSIDERATIONS

9.1 The Council consider the following technical sources and guidance documents to be material planning considerations:

- Welsh Government LANDMAP: the all-Wales Geographical Information (GIS) based resource for assessing landscape character and quality. LANDMAP is the formally adopted methodology for landscape assessment in Wales and informs planning related uses and landscape baseline conditions at both local and landscape scale.
- Cadw guidance document 'Setting of Historic Assets in Wales Guidance' (CADW, May 2017).
- Welsh Government Predicative Agricultural Land Classification: predicative Map
- Welsh Government Practice Guidance: Planning Implications of Renewable Energy and Low Carbon Energy (February 2011)
- Welsh Government Practice Guidance: Planning for Renewable and Low Carbon Energy – A Toolkit for Planners (September 2015)

PART C: ASSESSMENT OF IMPACTS

10. PRINCIPLE OF DEVELOPMENT / CLIMATE CHANGE

- 10.1. The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021 has set an amended target of reducing carbon emissions in Wales to net zero by 2050.
- 10.2. PPW provides strategic policy support for renewable energy developments of all scales. At 5.7.14 it states the Welsh Government has set targets for the generation of renewable energy, which includes a target of 70% of electricity consumption in Wales to be generated from renewable energy by 2030.
- 10.3. Future Wales, the National Plan 2040 forms part of the adopted development plan for all local planning authority areas in Wales.
- 10.4. Future Wales Policy 17 sets out strong support to the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. It states that, in determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales' international commitments and the Welsh Government target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency.
- 10.5. Policy 1 drives the delivery of the Future Wales Outcomes and ensures Future Wales' policies and the planning system in general are committed to achievement. Key issues listed include decarbonisation.
- 10.6. LDP Policy EN13: Renewable and Low Carbon Energy Development states that:
*“All renewable or low carbon energy proposals will be permitted provided that:
i. the development does not prejudice the purpose of the ILSAs [indicative local search areas] to maximise opportunities for large scale solar PV development;*

- ii. the siting, design, layout, type of installation and materials used do not have a significant adverse effect on the character and features of the proposed location;*
- iii. there would not be unacceptable loss of public amenity or accessibility to the area;*
- iv. the impact of the development upon agriculture, forestry, recreation and other land uses is minimised to permit existing uses to continue unhindered;*
- v. there would be no individual or cumulative significant adverse effect on the landscape, particularly the AONB and its setting;*
- vi. any associated ancillary buildings or structures are sensitively sited and designed to minimize their impact on the character and quality of the locality;*
- vii. in sensitive areas where above ground connections will have an unacceptable adverse effect on the landscape, connection lines and pipes should be located underground;*
- viii. adequate provision has been made in the scheme for the restoration and aftercare of the site on the cessation of use.*

10.7 Of relevance, the explanatory text that accompanies Policy EN13 states: *“The Council is aware that the energy sector is going through significant changes in the light of the need to de-carbonise energy production. Innovative new energy sources such as hydrogen are being developed and there may be opportunities for such development within the County given its long standing energy production role’.*

10.8 Welsh Government has declared a climate emergency in Wales and has set plans for the public sector to be carbon neutral by 2030 (Welsh Government, 2019). As a result, FCC has set the target date of 2030 to decarbonise Council operations and promote the protection and enhancement of the county’s natural environment. FCC has published a Climate Strategy – 2029/30) to help meet this goal (Flintshire County Council, 2021).

- 10.9 The applicant's 'Needs Case' [APP-049] and the Planning Statement [APP-048] considers the Energy and Planning Policy and Legislative context for this proposed development. The documents set out general conformity with NPS EN-1 and NPS EN-4.
- 10.10 From a carbon reduction perspective, the Council are supportive of the proposal due to the anticipated carbon emissions savings that would be prevented from entering the atmosphere. As such, the HyNet project would contribute to carbon reduction and, in turn aid the UK in its target to be net zero carbon by 2050.
- 10.11 The wider HyNet project would also contribute to relieving the strain on the national electricity grid, as it is understood that some of the Hydrogen produced would be used in energy generation to supply domestic buildings.
- 10.12 The decarbonisation of heat within the UK's housing stock will largely be met by the installation of heat pumps, with targets of 600,000 per year installed by 2028. Combined with the introduction of electric vehicles and their associated charging infrastructure, this represents a significant increase in demand on the country's electricity network, the reinforcement of which, to cope with the aforementioned increased demand, will no doubt come at a significant cost.
- 10.13 A significant proportion of the area covered by the HyNet network is largely industrial, currently emitting large amounts of carbon emissions, and if a proportion of this can be captured this would be beneficial, not just for the immediate areas in which the Hydrogen production plant is proposed in Cheshire, but also for Flintshire and beyond. Furthermore, should the DCO application for a carbon dioxide pipeline be consented, this would provide opportunities in the future (subject to separate consenting) for large CO₂ emitting industries to capture their carbon and connect and 'tie-in' to the proposed HyNet CO₂ pipeline for offshore storage.

10.14 The project therefore would contribute to the reduction of CO₂ in the atmosphere and would make a significant contribution to the national and local effort to alleviate the climate change emergency. The Council agree that the proposal would deliver clear and substantial benefits on a local, regional and national level.

10.15 However, from a 'green' perspective there are a number of constraints and drawbacks with the wider HyNet project. HyNet proposes the production of what is known as 'Blue' Hydrogen; using natural gas (a fossil fuel) in order to accelerate the move to a zero carbon energy network. This appears to be somewhat counter intuitive as it does not represent an avoidance of emissions and it may further encourage investment into natural gas industries and potentially away from the renewable energy sector. Whilst it can be noted that 'Blue' Hydrogen represents somewhat of a stop gap, if hydrogen networks are to be developed then ultimately these need to switch to renewable energy enabled 'Green' Hydrogen in order to truly reach net zero carbon, which is currently not particularly feasible at scale, although this is being further developed as part of UK Government's 'twin track' approach.

10.16 **Conclusion on assessment of impact:**

- Construction Phase: **NEUTRAL**
- Operational Phase: **POSITIVE**

11. PLANNING ASSESSMENT FOR THE IMPACT ON THE GREEN WEDGE

- 11.1. Paragraph 4.3.62 of the applicant's Planning Statement [APP-048] states that the Order Limits do not conflict with any land designated as 'green wedge'. However, the Council does not agree with this statement. Within the application documents, the applicant has failed to identify that a large proportion of the proposed development would potentially affect a number of green wedges that are designated in the adopted Flintshire LDP under Policy EN11.
- 11.2. The following table lists the green wedges that would potentially be affected by the proposed development with corresponding project 'Works Nos' noted. FCC LIR Appendix 5 – 'HyNet DCO and Green Wedge' provides a map of the locations of green wedge and its relationship with the Order Limits.

Green Wedge Areas - Policy EN11	Works No's affected
11. Connah's Quay – Northop Hall / Ewloe / Shotton	Works Nos 40B – 43A affected
12. Shotton – Mancot – Hawarden – Ewloe	Works Nos 34 – 39 affected Including Aston Hill BVS
13. Hawarden – Mancot – Hawarden Airport – Saltney (S of R. Dee)	Works Nos 33 – 34 affected
15. Sealand – Cheshire Border (N of R. Dee)	Works Nos 29 – 31C affected

- 11.3. Paragraph 5.10.1 of EN-1 states that an energy infrastructure project will have direct effects on the existing use of the proposed site and may have indirect effects on the use, or planned use, of land in the vicinity of other types of development. Specifically, regarding Green Belts, paragraph 5.10.4 explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Paragraph 5.10.18 states that in Wales, 'green wedges' may be designated locally. These enjoy the same protection as Green Belt in Wales and the Secretary of State should adopt a similar approach.

- 11.4. PPW (2021) states at paragraph 3.68 *“Green wedges are local designations which essentially have the same purpose as Green Belts. They may be used to provide a buffer between the settlement edge and statutory designations and safeguard important views into and out of the area. Green wedges should be proposed and be subject to review as part of the LDP process.”*
- 11.5. Paragraph 3.71 continues, *“To maintain openness, development within a Green Belt and green wedge must be strictly controlled”*. Paragraph 3.73 states *“When considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. Substantial weight should be attached to any harmful impact which a development would have on the purposes of Green Belt or green wedge designation.”*
- 11.6. Paragraph 3.74 states that *“Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge.”*
- 11.7. The general planning policy presumption against ‘inappropriate development’ applies with equal force in relation nationally significant energy infrastructure projects.
- 11.8. Construction of new buildings in a Green Belt or Green Wedge is considered to be inappropriate development unless it meets the criteria as set out in PPW paragraph 3.75. Certain other forms of development may be appropriate in the Green Belt or Green Wedge provided they preserve its openness and do not conflict with the purposes of including land within it. PPW paragraph 3.77 lists low carbon energy generation and engineering operations as other development that may be appropriate, provided they preserve its openness.

11.9. Policy EN11 of the adopted Flintshire LDP echoes this policy stance and states:

Within the designated green wedges development will only be permitted for:

- a) justified rural enterprise needs;*
- b) essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the green wedge and which do not conflict with the purpose of including land within it;*
- c) limited extension, alteration or replacement of existing dwellings;*
- d) small scale diversification within farm complexes where this is run as part of the farm business; or*
- e) the re-use of buildings provided that:*
 - i. the original building is substantial, permanent and capable of conversion without major reconstruction;*
 - ii. the new use will not have a greater impact on the openness of the green wedge and the purposes of including land within it; and*
 - iii. the building is in keeping with its surroundings.*

Certain other forms of development may be appropriate in the green wedge provided they preserve its openness and do not conflict with the purposes of including land within it. These are: mineral extraction; renewable and low carbon energy generation; engineering operations; and local transport infrastructure. Other forms of development would be inappropriate development unless they maintain the openness of the green wedge and do not conflict with the purposes of including land within it.

11.10. Whilst the applicant has not identified that the proposal would potentially affect the green wedges within Flintshire, the Order Limits also fall within land designated for the Cheshire West and Chester Green Belt. Chapter 5 of the applicant's Planning Statement [APP-048] provides a detailed assessment of Green Belt Policy. This assessment is considered transferable in the consideration of the impact the proposed development would have on the green wedge within Flintshire.

- 11.11. It is noted that due to the strategic, linear nature of the DCO Proposed Development, the applicant has stated that it is necessary for the pipeline and associated infrastructure to pass through the Cheshire West and Chester Green Belt to avoid settlements and unnecessary conflict with other development. The same justification would apply for the pipeline crossing through the green wedges of Flintshire.
- 11.12. Within the Flintshire green wedges, the proposal would comprise a permanent underground pipeline and a permanent BVS at Aston Hill. The table above and appended plan shows the DCO limits in relation to the Flintshire Green Wedges and respective 'Works Nos'. There would also be a total of four temporary construction compounds to facilitate the construction.
- 11.13. Paragraph 5.2.5 onwards of the applicant's Planning Statement [APP-488] discusses the nature of the elements of the DCO Proposed Development within the Cheshire Green Belt and considers whether these elements should be considered appropriate development in the Green Belt, or whether there is a need for a case for very special circumstances to be made. Whilst the applicant has not identified that the proposal would fall within the Flintshire Green Wedges, it is considered that the commentary and considerations provided in the Planning Statement in relation to the proposal in the Cheshire Green Belt are transferable and applicable for the consideration of the appropriateness of the proposal in the Flintshire Green Wedge as the features of the development are comparable.
- 11.14. The Council would agree that by its very nature, the DCO Proposed Development would principally be an 'engineering operation' and therefore is likely to be excluded from the definition of inappropriate development in the green wedge, provided it preserved its openness.

- 11.15. This approach is consistent with other similar gas pipeline schemes and confirmed by the statement in paragraph 5.10.12 of EN-1: *“An applicant may be able to demonstrate that a particular type of energy infrastructure, such as an underground pipeline, which, in Green Belt policy terms, may be considered as an “engineering operation” rather than a building is not in the circumstances of the application inappropriate development.”*
- 11.16. PPW paragraph 3.77 lists engineering operations as other development that may be appropriate provided they preserve its openness. Likewise, Policy EN11 of the Flintshire LDP states that engineering operations may be appropriate in the green wedge provided they preserve its openness and do not conflict with the purposes of including land within it.
- 11.17. The Council would agree with paragraph 5.2.7 of the Planning Statement with regards to the consideration of the pipeline within the Cheshire Green Belt and that this assessment is applicable to the Flintshire Green Wedge. As the sections of pipeline would be buried underground, this element of the development is considered to be appropriate development within the green wedge for which there will be no harm to the open character of the green wedge or conflict with the purposes of including land within it.
- 11.18. The permanent BVS within the Flintshire green wedge comprise the BVS at Aston Hill. The features of this development would be comparable to those detailed within the Planning Statement at paragraph 5.2.10. The Council would concur that this BVS would also be considered to be an engineering operation essential to the operation of the DCO proposed development.
- 11.19. Due to their scale and nature of the development, it is unlikely that these facilities would preserve the openness of the Green Wedge in this location and therefore, this BVS in the green wedge would be considered to be ‘inappropriate development’.

- 11.20. However, whilst it is considered that the Aston Hill BVS would impact the openness of the green wedge, as the development being proposed is necessary to efficiently and safely operate a gas pipeline, the presence of the BVS in the green wedge is not considered to conflict with the purposes of the designation, as set out in PPW at paragraph 3.67.
- 11.21. In relation to the temporary construction compounds proposed in the green wedge, the Council concurs with the assessment provided by the applicant. Seemingly there is no guidance with regards to how temporary effects on the opens of the green wedge should be considered, however, any effect would be temporary and short term.
- 11.22. Once the construction is completed, the compounds would be removed and the pipeline would not be visible, and the land restored. Therefore, the Council would concur with the assessment that there would be no long-term harm of the openness of the green wedge.
- 11.23. A case for very special circumstances has been made by the applicant in their Planning Statement at paragraph 5.2.23. This is in relation to the effect on the openness of the Cheshire Green Belt and not the Flintshire green wedge. It is considered that the applicant should provide a case for 'very exceptional circumstances' for inappropriate development in the Flintshire green wedge in relation to the Aston Hill BVS so that a judgement can be made as to whether the harm of the BVS on the green wedge would be outweighed by the need for the development. It is the Council's view that exceptional circumstances would be demonstrated in this instance.
- 11.24. **Conclusion on assessment of impact:**
- Construction Phase: **NEUTRAL**
 - Operational Phase: **NEGATIVE (ASTON HILL BVS ONLY),
ALL OTHER ELEMENTS – NEUTRAL**

12. ARCHAEOLOGY AND BUILT AND CULTURAL HERITAGE

- 12.1. Planning Policy Wales (PPW 11) Chapter 6 'Distinctive and Natural Places' states there should be a general presumption in favour of the preservation or enhancement of the character or appearance of a conservation area or its setting and Section 6.1.10 indicates that where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building or its setting, and any features of special architectural or historic interest which it possesses.
- 12.2. Technical Advice Note 24 (TAN24) at 1.23 states *"Planning Policy Wales identifies how local planning authorities must treat World Heritage Sites, scheduled monuments, unscheduled nationally important archaeological remains, listed buildings, conservation areas and registered historic parks and gardens in Wales in their consideration of planning applications and producing development plans. This includes the impact of proposed developments within the settings of these historic assets."* Impact on setting is therefore a material consideration to be afforded weight.
- 12.3. Policy EN8: Built Historic Environment and Listed Buildings of the adopted Flintshire Local Development Plan seeks to preserve the County's buildings and features of special architectural and historic importance, and their settings. It states in criterion b. that *"Development should preserve Scheduled Ancient Monuments and their settings and where appropriate the preservation of other archaeological remains, having regard to the intrinsic importance of the remains and the need for the proposed development"*.
- 12.4. Appendices FCC LIR Appendix 3.1 through to FCC LIR Appendix 3.6 show the locations of listed buildings/heritage assets in Flintshire in the vicinity of the proposed DCO development.

- 12.5. The Environmental Statement Chapter 8 – Cultural Heritage [APP-060] assesses the Cultural Heritage Assessment which includes the assessment of archaeology in and around the Order Limit.
- 12.6. The Council would also respectfully defer to the Examining Authority to any comments or representations made by CADW, and the Clwyd Powys Archaeological Trust (CPAT) on matters relating to Archaeology and Built Heritage.
- 12.7. It is understood however from discussions between the Council and CPAT that following pre-application discussions and on-going liaison and advice, the applicant has completed as much pre-determination evaluation trenching as possible in advance of examination and this has been progressing over recent months. It is understood that the initial stage of archaeological trenching of locations based on the geophysics results has taken place. It is understood that this information will be included in an addendum to the Environmental Statement Chapter 8 relating to Cultural Heritage. This will update the predicted impacts and proposed mitigation.
- 12.8. It is also understood that an additional 2% trial trench sample evaluation will be completed following Detailed Design of the remainder of the DCO Proposed Development, focussed on the refined 32m wide working width for the construction of the Carbon Dioxide Pipeline.
- 12.9. The Council has been advised that following the initial evaluation trenching that nothing significant has been found. However, a number of locations did contain undated features of local interest would need further archaeological investigation prior to the pipeline being constructed, should it receive consent, and this would be secured by Requirement 10 with regards to the need to produce a pre-commencement written scheme for the investigation areas of archaeological interest relevant to that stage.

12.10. It is understood that CPAT and the applicant are in agreement with the mitigation suggested in the Environmental Statement, and the agreed outline Archaeological Written Scheme of Investigation [APP-223]. CPAT have confirmed that the outline Written Scheme of Investigation is largely robust and appropriate. This gives the Council and CPAT confidence that the evaluation work already recommended by CPAT, together with additional evaluation and mitigation options suggested by the applicant's consultants, would be adequately address any archaeological impacts arising from the proposals for the proposed DCO development.

12.11. Conclusion on assessment of impact:

- Construction Phase: **NEGATIVE**
- Operational Phase: **NEUTRAL**

13. BIODIVERSITY AND NATURE CONSERVATION

13.1. PPW11 Section 6.4 'Biodiversity and Ecological Networks', current legislation and the Conservation and Enhancement of Biodiversity SPG, which stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

13.2. PPW11 sets out that *"planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity"* (Section 6.4.5). PPW also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities

to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. It is important that biodiversity and resilience considerations are taken into account at an early stage when considering development proposals (Section 6.4.4).

13.3. LDP Policy STR13: Natural and Built Environment, Green Networks and Infrastructure sets out the strategic policy framework for conserving, protecting and enhancing the quality and diversity of Flintshire’s natural environment including biodiversity and it also aims to promote opportunities to enhance biodiversity and ensure resilience.

13.4. LDP Policy EN6: Sites of Biodiversity Importance states:

“Development likely to significantly affect any site of international importance, either alone or in combination with other plans or projects, will be subject to a Habitat Regulations Assessment (HRA). Development will only be permitted where it is possible to ascertain no adverse effect on the integrity of the Site or where there are Imperative Reasons of Overriding Public Interest and compensatory measures are secured.

Development likely to impact the special features of a Nationally Designated Site will only be granted in exceptional circumstances where appropriate compensation can be provided.

Development proposals that would have a significant adverse effect on locally designated sites or site with other biodiversity and / or geological interest, including priority species, will only be permitted where:

- a. it can be demonstrated that the need for the development outweighs the biodiversity or geological importance of the site; and*
- b. it can be demonstrated that the development cannot reasonably be located elsewhere; and*
- c. any unavoidable harm is minimised by effective mitigation to ensure that there is no reduction in the overall biodiversity value of the area. Where this is not feasible compensation measures designed to create, restore and enhance biodiversity must be provided.*

Development that results in the restoration, enhancement and creation of habitats will be supported especially where this promotes the resilience of ecosystems.

- 13.5. The applicant has considered and assessed the impact on biodiversity and nature conservation interests which is provided in the Environmental Statement, Chapter 9 [APP-061] and accompanying appendices; Appendix 9.1 – 9.10 [APP-091 to APP-116]. Chapter 9 of the ES sets out the mitigation principles and emphasises the importance of embedded and secondary mitigation without which there would be potential for significant impacts.
- 13.6. As part of the preparation for this DCO application, extensive ecological surveys have been undertaken as set out in Table 9.3, Table 9.8, and Table 9.10 of the ES Chapter 9 with regards to Receptor Survey Area with Reference to Best Practice Guidelines, Summary of Species Survey Results and Embedded mitigation designed for the DCO Proposed Development respectively.
- 13.7. The exact route of the pipeline would be determined at the detailed design stage. Therefore, the impact assessment assumes worst case scenario with regards to mitigation requirements. The detailed design would aim to reduce impacts further, however this may well be limited by actual timing of works and length of time within one locality. It is unlikely that the works would be undertaken at the least sensitive time of year for all species for the whole length of the pipeline, meaning that not all habitats and species can be buffered as proposed.
- 13.8. FCC LIR Appendix 1.1 through to FCC LIR Appendix 1.6 show the environmental constraints in relation to the DCO application.
- 13.9. Table 9.12 of Chapter 9 of the ES sets out Design and Mitigation Measures and their Delivery Mechanisms. This sets out the measures and reasoning which are then detailed within the Outline Construction Environmental Management Plan (OCEMP), Outline Landscape and Ecological Management Plan (OLEMP) and Register of Environmental Actions and Commitments (REAC).

- 13.10. At each stage of the development, it is understood that the detailed CEMP, LEMP and REAC would be agreed by the Local Planning Authority as set out in the requirements of the draft DCO. Action, commitments and mitigation including monitoring requirements are aligned and cover habitats and species thoroughly within the Order Limits. NRW species licences may require additional mitigation and monitoring especially for species such as Great Crested Newt (GCN), which are widespread within Flintshire.
- 13.11. The OLEMP sets out the tree and scrub planting mitigation which is to be welcomed. It is not clear however if the areas are specifically chosen for their mitigation value or landowner agreement. It would be beneficial to include opportunities for other habitats such as grassland and pond enhancements.

Biodiversity Net Gain/ Net Benefit

- 13.12. In Wales, PPW11 sets out in paragraph 6.4.5 that *“planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity”*. This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016.
- 13.13. As the submitted Biodiversity Net Gain (BNG) Assessment provided within the applicant’s submission [APP-231 to APP-236] states, BNG is specified through the metric, comments within this LIR have been relied on by colleagues in Cheshire West and Chester Council with regards to actual gains (as opposed to benefits as the Welsh Government guidance refers).
- 13.14. However, discussions have taken place with regards to what Flintshire County Council’s Countryside Service can achieve through off site habitat compensation. Discussions are also being undertaken with other organisations and private landowners particularly with regards to woodland planting. Securing

these biodiversity gains or benefits for the long term should be secured via legal documentation and a draft Heads of Terms should be provided by the applicant for the purpose of the DCO.

- 13.15. In addition the Welsh policy means there is an opportunity to look at wider benefits for ecosystem resilience which includes the specified proposals set out in the BNG report but could include wider species opportunities namely for the GCN which are prevalent in Flintshire.
- 13.16. Habitat and Species impacts and mitigation are summarised below but ultimately these will depend on the detailed design and what mitigation can and can't be achieved within the DCO.

Designated Sites

- 13.17. FCC LIR Appendix 1.1 through to FCC LIR Appendix 1.6 show the locations of the various designated sites in relation to the DCO application.
- 13.18. The applicant has provided a Habitats Regulations Assessment (HRA) which provides information to inform an Appropriate Assessment [APP-226]. Table 6.11 provides a summary of Stage 1 Screening Results. Section 7 of the HRA Stage 2 incorporates mitigation measures to address potential effects on European Sites as specified within the OCEMP and REAC.

River Dee Special Area of Conservation

- 13.19. The proposed DCO CO2 pipeline if consented would cross under River Dee Special Area of Conservation (SAC) at a minimum depth of 15m with the entrance/exit pits situated at least 16m from the riverbanks outside the designated boundary. Drilling fluid/mud would be required to keep the borehole open, made up of bentonite and biodegradable polymers. The crossing is anticipated to take up to four weeks with 24hour working.

- 13.20. **Migratory fish**; the crossing depth of 15m below the river bed, the intensity of vibration at the riverbed is predicted to be negligible but the lighting required for 24hour working has the potential to cause disturbance. Dust generated from open cut trenches within 50m of the River Dee could result in smothering of vegetation/habitats or a deterioration of water quality without mitigation.
- 13.21. **Otter**; no otter field signs were recorded along the River Dee but they are known to occur. Otter were recorded along Wepre and Alltami Brooks which are hydrologically connected to the River Dee and within the home range (32km for male otters and 20km for female). Open cut techniques on the pipeline have the potential to cause entrapment. The need for 24hour working with lighting together with the equipment noise and vibration has the potential to prevent otter commuting along the River Dee. However, the entrance/ exit pits are expected to be a minimum of 125m apart and the width of the River Dee and natural topography should still allow otter to move along the river.
- 13.22. Mitigation measures are set out in the OCEMP and REAC to avoid dust and lighting impacts, with detailed reasonable avoidance measures and the potential need for otter licences dependent on the detailed design.
- 13.23. The River Dee is accepted as functionally linked to the Dee Estuary Site of Special Scientific Interest (SSSI)/ Special Protection Area (SPA)/Ramsar/SAC. No Dee Estuary SAC (estuarine habitats) features are proposed to be impacted due to crossing at a minimum depth of 15m below the riverbed and with the entrance/exit pits at least 16m from the river banks.
- 13.24. SPA and Ramsar qualifying species include Shelduck, teal oystercatcher and curlew were recorded in low numbers (less than 0.1% mean monthly counts). Redshank were recorded in more significant numbers with over 1% peak and mean monthly count of passage birds and over 1% peak wintering birds. The topography of the River Dee at the crossing site means that works at the

entrance/ exit pits is not predicted to be in the line of sight of SPA birds using the mudflats but noise disturbance may still cause an impact. The crossing is anticipated to take up to four weeks and will include 24hour working requiring lighting which could result in the disturbance of mudflat habitat.

- 13.25. Mitigation measures are set out in the OCEMP and REAC to avoid disturbance and lighting impacts. If timing of works is limited to specific summer months, then there would be no impact on passage or wintering Redshank.

Deeside and Buckley Newt Sites SAC

- 13.26. The Deeside and Buckley New Site SAC is designated for the great crested newt (GCN) habitat. The Order Limits falls just outside the Deeside and Buckley Newt SAC boundary which has compartments to the north and south of the newbuild infrastructure boundary, including south of the A55.
- 13.27. Brewery Pond, Waterbody 161, within the SAC has confirmed breeding and occurs 250m to the north west of the DCO at Wepre Woods. It is accepted that the majority of GCN stay within 250m of breeding ponds but a proportion of GCN will migrate over 500m-1km. FCC's Supplementary Planning Guidance 8a, Appendix 1 references 500m buffer to the Deeside and Buckley SAC for planning purposes. Waterbody 10 falls within this buffer so it is potentially linked to the proposal but the ES assume presence.
- 13.28. The SAC compartments/GCN habitats are linked by hedgerows and agricultural land. The proposed pipeline if consented would result in temporary direct habitat loss, potential mortality, disturbance and fragmentation without mitigation. As stated in the REAC, all species specific mitigation and predicted impacts to GCN would be captured under an EPS mitigation licence application subject to agreement with Natural Resources Wales. No adverse impact on the integrity of the SAC is predicted as a result. Further surveys are proposed to inform this licence. However, GCN populations have been recorded adjacent to

the DCO application boundary from Ewloe to Flint. Therefore, the majority of the pipeline within Flintshire has the potential to impact GCN terrestrial habitat.

- 13.29. The DCO development is expected to last 16 months but with teams working simultaneously. Installation of the pipeline within 50m of the Deeside and Buckley SAC is estimated to last up to 3 months but the overall impact on GCN along the length of the pipeline Flintshire will be much longer. Reasonable avoidance and mitigation measures required for the NRW licence have yet to be detailed. North East Flintshire is a GCN hotspot¹ and while the DCO works do not intend to impact existing ponds, connectivity would be impacted. There is an opportunity to provide mitigation and enhancement opportunities for example pond restoration of the Habitat Suitability Index poor ponds.
- 13.30. The GCN licence is likely to require specific mitigation to benefit the Flintshire GCN population which would be over and above that agreed within the LEMP. The licence requirements would need to be included in details submitted to the LPA as part of the approval of the LEMP.

Sessile Oak Woods

- 13.31. Deciduous woodland functionally linked to Annex 1 woodland at Wepre is present within the DCO where it crosses Alltami Brook. Open cut trench techniques are proposed at Wepre Brook, Alltami Brook and New Inn Brook which could result in silt or contaminants entering the water course which could have detrimental effect downstream.
- 13.32. Mitigation measures are set out in the OCEMP and REAC. Loss of functionally linked deciduous woodland would be mitigated through the planting of native species at a ratio of 3:1, replacement planting will be in an area functionally

¹ Spatial Conservation Status Modelling of the Great Crested Newt in Anglesey and North-East Wales
A.P.Arnell & J.W.Wilkinson, Amphibian and Reptile Conservation, CCW Contract Science Report No
1044 2013

linked to the SAC and set out in the OLEMP. Area 57K is adjacent to Alltami Brook so it is presumably the specified mitigation although this is not clear. Hydrogeological effects due to open trench techniques will be avoided by pollution prevention measures as detailed within the REAC.

Wildlife Sites (WS) and Ancient woodlands within 50m:

- 13.33. FCC LIR Appendices 1.1-1.6 show environmental constraints along each section of the proposed pipeline. Wildlife Sites and Ancient Woodland have largely been excluded from DCO which is to be welcomed. The DCO boundary encroaches into the edge of Leadbrook Wood WS, and Coed y Cra WS. Brook Park Farm Wood WS/ancient woodland included within trenchless installation as cannot be avoided.
- 13.34. New Inn Brook Wood WS and Warred Wood WS occur 16m west and 41m south respectively. Little Leadbrook Wood and Church Lane Ewloe Wood Ancient woodland are adjacent to/within DCO boundary.

Habitats

- 13.35. Table 9.7 of Chapter 9 of the ES [APP-061] sets out the habitats present within the Order Boundary and their importance. Primarily habitats of low ecological importance (eg agricultural land and existing hard-standing) are proposed for permanent built structures including AGIs and BVSs within Flintshire and temporary compound and storage areas and there is no objection to the siting of these on ecological grounds.
- 13.36. Specific pond (Predictive System for Multi-metrics PSYM) surveys were conducted on ponds within the DCO boundary but these were recorded as generally poor due to poor water quality, livestock poaching and low macrophyte diversity. As stated above, loss of deciduous woodland would be mitigated through the planting of native species at a ratio of 3:1; replacement planting sites have been specified within the LEMP.

- 13.37. It is considered that there is an opportunity for other habitat creation within the LEMP. For example, LEMP site 57M Northop Hall is recorded on the Phase 1 habitat map as semi-improved grassland. However, there may be an opportunity to enhance at least part of the grassland rather than turn it all into woodland. Similarly, there may be opportunities to enhance ponds within the DCO boundary that are considered to be of poor quality to benefit the aquatic habitat and also potentially GCN.
- 13.38. Table 9.10 of Chapter 9 of the ES [APP-061] sets out the embedded mitigation designed for the DCO Proposed Development which would include micro siting to avoid water bodies, sensitive habitats, trees hedgerows as much as is practicably possible. This is welcomed but will await the detailed designs.
- 13.39. It is considered that the detailed design stage will need to demonstrate the following embedded mitigation.
- *Where opportunities exist for routing through existing gaps in hedgerows, scrub and woodlands, avoiding the need to remove vegetation, these will be prioritised. Where hedgerow removal is required to facilitate construction, it has been assumed this will be kept to a maximum width of 15 m (this includes both hedgerows and the trees that sit within hedgerows).*
 - *Retained waterbodies within the construction easement of the DCO Proposed Development will be demarcated by a minimum 5 m exclusion buffer to avoid/reduce potential adverse impacts to waterbodies, associated terrestrial bankside habitat and associated aquatic receptors from construction.*
 - *Stand-off distances around watercourses will be implemented prior to the commencement of works and clearly demarcated through the use of physical barriers (fencing, tape or similar). A minimum 8 m buffer will be demarcated around non-tidal main river watercourses.*
 - *Plant, personnel and site traffic will be constrained to a prescribed working corridor through the use of temporary barriers, where practicable, to firstly avoid and secondly minimise damage to habitats, encroachment of the construction*

easement, and potential direct mortality and/or disturbance of fauna located within and adjacent to the construction corridor.

Protected Species identified within/adjacent to DCO corridor

- 13.40. **Great crested newt** are widespread within North East Flintshire. No GCN ponds are proposed to be permanently lost as a result of this development but works would be in close proximity to a number of breeding ponds from Ewloe to Flint, as stated above.
- 13.41. **Bats; Bat roosts.** With regards to the impact of the development on bats and bat roosts there are a limited number of buildings or structures along the pipeline and DCO corridor within Flintshire. One barn; ref B133 is a confirmed day roost which is used by 4 Common pipistrelles and 3 Soprano pipistrelles occurs within the DCO boundary at Aston. Where practicable a 10m buffer will be retained around the confirmed roost, otherwise an NRW license and mitigation will be required.
- 13.42. Ongoing surveys and aerial tree climbing inspections of trees classified as moderate or high suitability dependent on Potential Roost Features (PRF). Tree roosts are notoriously difficult to locate. A number of trees have been recorded as day roosts used by a single Common or Soprano Pipistrelle. (One Noctule maternity roost recorded to date T321 in Cheshire). Where practicable, tree roosts will be retained with an exclusion buffer of 10m.
- 13.43. Trees to be felled would be subject to further assessments and relevant licences as required. Bat activity of foraging and commuting bats were recorded, and a number of hedges assessed as excellent relating to bat usage particularly where connected to ancient woodland. Bat species recorded include lesser horseshoe bats, Brown long eared, Myotis spp, Noctule as well as Pipistrelles spp.

- 13.44. The REAC sets out specific measures for “Faux hedges” to be used during construction to maintain connectivity of good or excellent assessed hedgerows which is to be welcomed. Their design will be determined at the detailed design stage but may include straw bales, live willow screening or trees in pots.
- 13.45. Badger permeable fencing is proposed where required which is welcomed. Any main setts would be retained in situ with a 30m buffer which would be confirmed at the detailed design stage. A number of outlier setts would be closed under licence.
- 13.46. **Barn owl**; BOB3 is confirmed with breeding barn owls. Temporary closure of the nest box is proposed as detailed within the REAC, with placement of additional nest boxes. Barn Owls are known within this locality, and there are a number of regularly monitored nest sites here and to the south west at Moor lane. The placement of new boxes should take existing records into account and there needs to be liaison with the recorders.
- 13.47. **Breeding birds** – reasonable avoidance measures set out in the REAC to avoid vegetation clearance during nesting season. The detail design and associated timetable would need to take this into account.
- 13.48. Reasonable avoidance measures for reptiles and water vole are set out in the REAC. Otter are known to use the majority of rivers and small tributaries within Flintshire for commuting and foraging. Although outside the DCO boundary, the activity recorded through the ES surveys along Wepre Brook at Northop Hall is significant. Pre commencement surveys will be undertaken at least 3 months prior to construction works to update mitigation measures required.
- 13.49. **Fish**; eDNA surveys of Brooks and “Drains” have been undertaken. Significant records include Brown/Sea trout in Broughton Brook plus Eels in most other watercourses. Open trench work would need to take these species into

account. Seasonal restrictions may limit working in these watercourses 1st October – 31st April for European eel unless exemptions are granted. With regards to Invasive Non-Native Species (INNS) a Biosecurity Management Plan would be prepared at Detailed Design to be implemented during construction to prevent the spread of INNS.

- 13.50. The Council considers the species surveys and ecological assessment carried out to be satisfactory and would be in general agreement with the conclusions set out in Chapter 9 of the Environmental Statement [APP-061], subject to adequate ecological mitigation and compensation measures being secured through imposition of requirements.
- 13.51. Furthermore, in order to ensure compliance with Planning Policy Wales and the duties set out in the Environment (Wales) Act, the development is also required to incorporate biodiversity enhancements measures into the schedule of works in addition to the necessary ecological mitigation and compensation, in order to achieve a net benefit to biodiversity interests.
- 13.52. Conclusion on assessment of impact:
- Construction Phase: **Neutral with mitigation**
 - Operational Phase: **Positive with mitigation and Biodiversity BNB**

14. LANDSCAPE AND VISUAL IMPACT

- 14.1. The Overarching National Policy Statement for Energy EN-1 provides a number of statements and guidance of relevance to the landscape, including green infrastructure and visual impacts of energy infrastructure in general.
- 14.2. The National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) within section 2.21, Gas and Oil Pipelines Impacts: Biodiversity

and Landscape and Visual, also provides policy guidance with regards to long term impacts and appropriate assessment and mitigation of pipeline features.

- 14.3. PPW11 sets out key guidance and planning policies for development and achieving good design throughout Wales with reference to landscape and natural spaces.
- 14.4. Policy STR13: Natural and Built Environment, Green Networks and Infrastructure of the adopted Flintshire LDP sets out the strategic policy framework for conserving, protecting and enhancing the quality and diversity of Flintshire's natural environment including landscape.
- 14.5. General Requirements Policy PC2 states that *“All development should harmonise with or enhance the character, local distinctiveness and appearance of the site, existing building(s) and surrounding landscape/ townscape.”*. Furthermore, Policy PC3: Design states that *“All development should retain existing landscape and nature conservation features and incorporate opportunities to enhance biodiversity and ecological connectivity.”*
- 14.6. Policy EN4: Landscape Character states that: *“New development, either individually or cumulatively, must not have a significant adverse impact on the character and appearance of the landscape. Landscaping and other mitigation measures should seek to reduce landscape impact and where possible bring about enhancement.”*
- 14.7. The applicant's Environment Statement, Chapter 12 [APP-064] considers the impact of the development on landscape and visual amenity. It covers the development's anticipated effect on the landscape and visual amenity. The Environmental Statement also contains Landscape and Visual Impact Assessment appendices; 12.1-12.4 [APP-138-141 respectively].

- 14.8. No significant concerns have been identified by the Local Planning Authority relating to the Landscape and Visual Impact Assessment (LVIA) process and the assessments that have been made for the construction, operational and decommissioning stages of the DCO.
- 14.9. The Landscape Analysis at paragraph 12.3 of Chapter 12 of the Environment Statement states that there will be a '*Moderate adverse effect*' on three Landscape Character Areas during the construction stage but these will be '*Negligible adverse (not significant)*', in landscape terminology, once construction is complete. Similarly, where '*Minor adverse effects (not significant)*' have been identified on other Landscape Character Areas during construction stage it is predicted that these will decrease to a '*Negligible adverse (not significant)*' on completion. These effects reflect the nature of the DCO which would be largely underground.
- 14.10. The visual impacts on receptors in the landscape are set out in Table 1 of Appendix 12.4 - Visual Analysis [APP-141] and highlight the longer term visual impact on receptors resulting from the Above Ground Installations (AGIs) at Flint and Northop Hall, together with the Block Valve Stations (BVSs) at Babell, Pentre Halkyn, Cornist Lane and Aston Hill. The visual impacts are dependent on the site's visibility, the sensitivity of the receptor to change and magnitude of the effect.
- 14.11. By year 15 of operation, it is anticipated that the landscaping will have largely diminished the adverse visual effects noted in the first year of operation. The visual impact on receptors will be greatest during the construction of the pipeline and difficult to mitigate.
- 14.12. It is considered that the 'moderate adverse' effects identified for certain receptors are acceptable for a short period, taking into account the mitigation and enhancement measures proposed to address site specific concerns

proposed in paragraph 12.10 of the Chapter 12 of the Environment Statement [APP-064].

- 14.13. The proposals include an Outline Landscape and Ecological Management Plan (OLEMP) which proposes landscape layouts for the AGIs and BVS, and there are minor concerns relating to these. However, should the development receive consent, there is an opportunity at the approval of the requirements prior to each stage of the development for officers to work with the appointed contractor's landscape specialists, later in the development process, to improve these layouts and ensure the AGIs and BVSs assimilate as much as possible with the surrounding countryside, whilst recognising their design limitations.
- 14.14. The OLEMP makes provision for environmental mitigation to be carried out elsewhere where 'like for like' replacement cannot be carried out. The areas comprise of woodland planting (with scrub planting on the pipe's easement) and are identified in Table 1. The Proposed Mitigation Areas in Flintshire amount to 36.4 acres. The provision of these areas of planting should provide a net enhancement of the landscape, although it is acknowledged that there would be limitations on planting directly over the pipeline to maintain an easement.
- 14.15. In addition to the OLEMP a Biodiversity Net Gain Assessment stating that the applicant is committed to achieving at least a 1% net gain in Priority Habitats on land. It is considered necessary to require a legal agreement to secure this.
- 14.16. In Wales, Priority Habitats include Lowland Mixed Deciduous Woodland and Native Species Rich Hedgerows with Trees. The commitment is to be pursued through engagement with landowners and other stakeholders on land not associated with the DCO, which would result in further enhancement of the landscape's character, however they may not necessarily occur within the landscape affected by the pipeline.

14.17. Overall, the evaluated impact of the DCO on Flintshire’s landscape (as a resource and receptors experiencing it), is considered to be neutral with positive impacts expected to be gained when schemes of landscaping have been implemented and are establishing. To some extent the degree of positive impact will dependent upon landowners’ and other stakeholders’ willingness to be involved with the commitment of achieving Biodiversity Net Benefit.

14.18. Conclusion on assessment of Landscape impact:

- Construction Phase: **NEUTRAL**
- Operational Phase: **NEUTRAL (Positive subject to Biodiversity Net Benefit and additional Planting)**

14.19. Conclusion on assessment of Visual impact:

- Construction Phase: **NEGATIVE**
- Operational Phase - **Pipeline: NEUTRAL**
- Operational Phase – **AGIs and BVS: NEUTRAL (Subject to successful landscaping)**

15. TREES, HEDGEROWS AND WOODLAND

15.1. The applicant’s ES Volume III has provided an Arboricultural Impact Assessment to accompany the DCO application [APP-115 and Ref APP-116].

15.2. Flintshire LDP Policy EN7: Development Affecting Trees, Woodlands and Hedgerows states that:

“Development proposals that will result in significant loss of, or harm to, trees, woodlands or hedgerows of biodiversity, historic, and amenity value will not be permitted.

Where the impact of development affecting trees, woodlands or hedgerows is considered acceptable, development will only be permitted where:

- a. the development maximises their retention through sensitive design measures; and*
- b. where the removal of trees is considered necessary, suitable replacements shall be provided elsewhere within the site; and*
- c. it results in a net benefit in biodiversity.”*

- 15.3. With respects to trees and woodland, it is evident that the applicant has sought to minimise impact to trees and woodlands as much as possible, by the careful planning of the DCO Pipeline route through the open countryside.
- 15.4. No trees or woodlands subject to Tree Preservation Orders or within planning Conservation Areas have been identified as being impacted by the new pipeline or AGIs/BVS. The route of the propose DCO CO₂ pipeline passes underneath an ancient woodland near Northop Hall as shown on FCC LIR Appendix 1.3 within Section 5 of the DCO Pipeline; at Works no 44. It is proposed to install the pipeline in this location using a trenchless crossing to avoid any direct impact on the ancient woodland. Other trenchless crossings (e.g. for roads) will also enable trees growing along the line of the pipe to be retained which is welcomed.
- 15.5. The Arboricultural Impact Assessment (AIA) [APP-115 and Ref APP-116] was undertaken at the Preliminary Design Stage on ‘a reasonable worst-case basis’. The methodology used appears robust with the assumption that all trees within a 32m buffer zone of the pipeline will be removed (16m either side) and trees within the Newbuild Infrastructure Boundary ‘At Risk of Removal Aiming to Retain’. This acronym demonstrates that as the design has not been finalised there is a degree of uncertainty over which trees can be retained at this stage. However, it is stated that 82% of the tree features (Trees and Groups of Trees) have the potential to be retained on implementation of the scheme.

- 15.6. It should be noted that the AGI/BVS have been subject to site specific AIAs which have not identified any significant arboricultural impacts.
- 15.7. The OLEMP [APP- 229] sets out in Section 6 a maintenance and management schedule for landscape works which would be developed further at the detailed design stage. It is noted that within the maintenance schedule that during the 5-year maintenance any dead, dying or diseased trees, shrubs or hedges would be replaced, and with respects to native tree planting or woodland planting the maintenance period would be 10 years which is welcomed.
- 15.8. As outlined under the above section on Landscape and Visual there are several methods of securing replacement tree planting. The evaluated impact on trees and woodlands reflects the Landscape and Visual Impact Assessment with a loss of trees and groups of trees in the construction and early operational stages but in the longer term resulting in an increase in tree and woodland cover. A reasonable assessment of the DCO's impact on trees and woodlands would be a minor positive effect and at the worst neutral. The degree of positive tree and woodland change will be dependent on the success of landscape planting.
- 15.9. Conclusion on assessment of impact:
- Construction Phase: **NEUTRAL**
 - Operational Phase: **NEUTRAL**

16. NOISE AND AIR QUALITY – RESIDENTIAL/PUBLIC AMENITY

- 16.1. Policy STR14 of the adopted Flintshire LDP: Climate Change and Environmental Protection states that:

“The Council will seek to mitigate the effects of climate change and ensure appropriate environmental protection in the County through:

vi. Ensuring that new development has regard to the protection of the environment in terms of air, noise and light pollution”

- 16.2. Policy PC2 General Requirements for Development states that
*“All Development should:
“not have a significant adverse impact on the safety and living conditions of nearby residents, other users of nearby land/property, or the community in general, through increased activity, disturbance, noise, dust, vibration, hazard, or the adverse effects of pollution”*
- 16.3. Chapter 15 of the applicant’s Environmental Statement [APP-067] assesses the proposed development in terms of noise and vibration and Chapter 6 considers air quality [APP-058]. Mitigation measures set out in the Register of Environmental Actions and Commitments [APP-222] are acceptable. The detail however will be subject to approval at each stage of the development.
- 16.4. The Council’s Public Protection Officer has noted potential local impacts on residents, tourists in terms of their amenity and enjoyment of the County, the use of the public right of way network and the potential impact on local businesses and commercial premises.
- 16.5. There are potential strategic impacts of the proposed development arising from noise from construction and maintenance vehicles, including anticipated expected increase in traffic. Operational noise, construction noise, maintenance, and decommissioning stages.
- 16.6. There is also a potential impact for dust arisings from construction and maintenance vehicles, including increase in traffic, during all aspects of operational, maintenance and decommissioning stages. Also, there is potential for a reduction in air quality from all aspects of operational, maintenance and decommissioning stages.

- 16.7. Artificial light would be used for operational works and security at sites during non-daylight hours which may give rise to an impact on residential amenity.
- 16.8. Whilst the mitigation measures stated within the outline Construction Environmental Management Plan (OCEMP) and Register of Environmental Actions and Commitments (REAC) are noted, the operational and construction hours are unclear. Concerns are raised with regards to out of hours reasonable working time parameters and if there is potential requirement for consent under the Control of Pollution Act.
- 16.9. More detail is required with regards to the mitigation of noise during construction and decommissioning stages. However, it is understood at each stage of the development a full CEMP would be submitted for approval. Therefore, the Council seeks to ensure that a greater level of detail is submitted with regards to noise mitigation at each stage for subsequent approval.
- 16.10. A single point of contact is required to be identified in the detailed CEMP to ensure clarity on who and by what methods communities should direct concerns/queries to. The Council's Environmental Protection Officer would also need to discuss further with the responsible person the application submitted by the developer (for the controls of noise on site in accordance with the Control of Pollution Act 1974) so that the Council can authorise this once mitigation is approved during construction and at the decommissioning.
- 16.11. Section 61 of the Control of Pollution Act 1974 allows the project to apply for consent. Given potential noise complaints this is deemed a necessary step and as explained in the DCO. Early dialogue with the Council's Environmental Protection Team is required and approval given. The Council would serve the appropriate notice at each required stage, once we have all the information about secondary mitigation measures, which currently is not available.

16.12. Conclusion on assessment of impact:

- Construction Phase: **NEUTRAL (Subject to satisfactory control)**
- Operational Phase: **NEUTRAL**

17. LAND CONTAMINATION AND SOILS

17.1. Planning Policy Wales (PPW) guidance sets out the land use planning policies of the Welsh Government. The primary objective of the PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental, and cultural well-being of Wales.

17.2. Policy STR14 of the adopted Flintshire Local Development Plan sets out strategic principles in respect of climate change and environmental protection and states that: *“The Council will seek to mitigate the effects of climate change and ensure appropriate environmental protection in the County through:*

- vi. Ensuring that new development has regard to the protection of the environment in terms of contaminated land.”*

17.3. PC2: General Requirements states that all development should not result in or be susceptible to problems related to, contamination, either on or off site.

17.4. The Council’s contaminated land officer has provided the applicant with pre-application advice, and there has been ongoing discussions with the applicant’s consultants. In terms of dealing with land contamination, the approach to that had, for the most part, been put in place in the applicant’s Environmental Statement Chapter 11 relating to land and soils [APP-063].

17.5. The extent and scope of the applicants’ approach to land contamination is an agreed point in that the methodology, extent of impact and proposed mitigation are agreed. It is understood that information relating to the findings of the sampling and any remediation which may be necessary, will be submitted in due course.

- 17.6. Conclusion on assessment of impact:
- Construction Phase: **NEUTRAL**
 - Operational Phase: **NEUTRAL**

18. TRAFFIC AND TRANSPORT

- 18.1. The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.
- 18.2. LDP Policy PC2 states that: *“All development should, ...*
- a) *not have an unacceptable effect on the highway network or highways safety as a result of problems arising from traffic generation, inadequate and poorly located parking spaces, servicing and manoeuvring;”*
- 18.3. This reflects general principles set out in Planning Policy Wales (PPW 11) and TAN 18 – Transport, in support of sustainable development.
- 18.4. The proposed DCO development proposes the use of a number of existing and new access points that would be constructed to facilitate various elements of the proposal; all accesses being derived from the Local Highway Network there for the existing highway infrastructure would be used to route vehicles to the application sites during construction.
- 18.5. The Transport Assessment [APP-161] that supports the application looks at the worst-case scenario over the construction phase of the project and assesses the peak month being August 2024.

- 18.6. The Council agrees with the conclusions of the Traffic & Transport Chapter 17 in the Environmental Statement and Transport Assessment [APP-161] and accepts that the adverse impacts on the highway network, for the construction phase, can be adequately mitigated. The operational/maintenance phase of the project having an insignificant impact on the highway network.
- 18.7. The Local Highway Authority has considered the content of the application and discussed the impacts likely to be experienced on the network. The Local Highway Authority is satisfied that the development can be managed on the Local Network and accords with national and local planning policies in respect of sustainable development. The Outline Construction Traffic Management Plan [APP-224] (OCTMP) and IWTP framework documents are agreed in principle.
- 18.8. Full details of the access locations, design and visibility will be submitted, as required by the DCO, would be submitted for approval prior to each stage of development. The detail contained in the OCTMP is considered acceptable and full Construction Traffic Management Plan (CTMP) would be submitted, as required by the DCO, prior to each stage of development. The full CTMP's shall include details relating to parking facilities being provided for contractor's vehicles (numbers & layout) at the construction compounds.
- 18.9. The Local Highway Authority does however wish to see the construction phase carefully managed to reduce the impact on the highway network.
- 18.10. For information to the ExA, the Roads Review Panel recently released their report and recommendations to the Welsh Government, one of which related to the removal of the proposed A55 'Red Route' as a new road scheme. The Welsh Government has yet to finalise its response to the Panel's recommendations, as there are ongoing considerations following a notice of motion. The Flintshire LDP was adopted prior to the panel's report being published, and the Red Route

is therefore referenced within Policy PC10 New Transport Schemes, under criterion i., and is shown on the proposals maps as a protected route. Until such a time as the Welsh Government publish their formal response to the Road Review Panel Report, the position must be assumed to be as set out in the LDP and it cannot be said at present that there will not be any potential conflict between the Hynet proposals and this road scheme.

18.11. Conclusion on assessment of impact:

- Construction Phase: **NEGATIVE**
- Operational Phase: **NEUTRAL**

19. PUBLIC RIGHTS OF WAY

19.1 Appendices FCC LIR Appendix 4.1 to 4.6 provide plans showing the public right of way network in relation to the proposed DCO application. The following table provides commentary on the proposed DCO and its potential impact on the Public Right of Way network within Flintshire. The commentary is provided for each affected Works No.

19.2 Generally speaking, it is considered that the applicant has identified all the affected public rights of way that would be affected by the proposal and they propose to making provision for temporary diversions during construction, which is welcomed. The Council’s main concerns surround construction compound areas, permanent access tracks at some locations, and we have a significant interest in Deeside Lane and Bridleway No. 9 being identified as being used for the construction access for traffic (works no 30E).

Work No.	Proposal	PROW comments
Work No. 30D	The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 13 and 14 of the Work Plans.	Our concerns are not necessarily to do with the site being used as a construction compound but the access track that is being proposed (Work No. 30E). The proposed access track would tie into this compound and would impact on the public rights of network to a great effect. During the construction this would have a negative effect on the public right of way.

<p>Work No. 30E</p>	<p>Creation and use of a temporary construction access from the A548, within the location shown on Sheets 13 and 14 of the Work Plans, including—</p> <ul style="list-style-type: none"> (a) improvement of an existing junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing; and (c) creation of visibility splays. 	<p>The proposed construction access track is along Public Bridleway No.8 (309/8/10) from its junction with Sealand Road in a southerly direction to the junction with Deeside Lane (309/10/30). The construction access track then continues along Deeside Lane to the proposed pipeline construction.</p> <p>Bridleway No. 8 is an unmade track which is not part of the adopted highway network. The Local Authority (LA) is under a duty to maintain it only to a standard for users on foot and on horseback. Deeside Lane has highway status as a public footpath only and the LA is only required to maintain the route up to a footpath standard. Both tracks are currently unsuitable for the proposed usage that would come with this proposal.</p> <p>The LA do not argue with the route being used as a temporary construction access on the basis that it is suitably upgraded to serve the construction traffic that would be using it. We do not feel that it would be suitable to use any type of crushed stone/aggregate for the track as this would generate dust pollution that would be detrimental to anybody walking the rights of way and also to the neighbouring properties and businesses. The use of the bridleway and Deeside Lane would also increase potential conflict between walkers and vehicles.</p> <p>To support the proposal of Bridleway No. 9 and Deeside Lane being utilised as the temporary construction access track we are requesting that the entire route under 'Work No. 30E' be upgraded to a tarmac surface. This would be suitable for the construction traffic, limit the dust pollution to walkers and the community and be an improvement for users as part of the legacy of the Hynet project. The details of the specification of this should be agreed</p>
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		<p>as part of the approval of details at that stage in the development.</p> <p>This would mitigate against any negative effect of the development during the use of this track during construction.</p> <p>The Council would welcome the applicant entering into a legal agreement to ensure this section of the right of way network is upgraded to a standard suitable to sustain heavy traffic.</p>
Work No. 31	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 873 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 30 and Work No. 32.	The main concern is regarding Work Nos. 31B and 31C rather than the pipeline itself. Work No. 31B is described as a <u>permanent access</u> and would directly impact PROW 307/2. The Local Planning Authority would need to see detailed plans at the construction stage for this phase to be satisfied that the public right of way is adequately incorporated into the design. At the very minimum, the route would need to be temporarily closed during the period that this area is used as a compound and access track.
Work No. 31B	Creation and use of a permanent access from the B5129, within the location on Sheet 14; Work Plans— (a) improvement of an existing junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing; and (c) creation of visibility splays.	As per above, the construction of a permanent access from the B5129 would directly affect PROW 307/2 and we would need to see proposals that satisfy us that the right of way is adequately incorporated into the design and protected along its current alignment.
Work No. 33	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No.32 and Work No. 34.	The PROW affected by the pipeline in this section are adequately protected with temporary diversions during works.
Work No. 33C	Creation and use of a permanent access from Chester Road East, within the location shown on Sheets 15	This area is PROW 308/4/10 the proposal is not too concerning as this is already used as a short vehicular access to the adjacent Church and property. The stiles

	and 16 of the Work Plans, including— (a) improvement of an existing junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing	currently in-site should be replaced with kissing gates upon completion of the access track. PROW 308/1 and 308/3 are also affected and would require temporary diversions during the works.
Work No. 35	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 1.9km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No.34 and Work No. 38.	The PROW no. 303/32 affected by the pipeline in this section are adequately protected with temporary diversions during works.
Work No. 38	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 377 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 35 and Work No. 39.	There are a number of PROWs affected by the pipeline in this section are adequately protected with temporary diversions during works.
Work No. 38B	Creation and use of a temporary construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Work Plans, including— (a) improvement of an existing junction with the public highway; and (b) improvement of road surfacing and provision of new hard surfacing.	This would appear to cross PROW 303/26/10. The route would need to be adequately incorporated into any new access. In the DCO this is described as a temporary access but the work plans state Work No. 38B to be a permanent access . It would be helpful to have this clarified.
Work No. 39	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 402 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 38 and Work No. 40.	303/25/20 is in the work area but doesn't appear to be affected. More detail in the construction phase will be required if the pipeline is affecting the route of the footpath.
Work No. 40	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 561 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 39 and Work No. 41...	Work No. 40 includes Church Lane which is recorded as PROW 303/25/20. The lane is also private vehicular access to properties. Church Lane would need to be restored back to the same condition following the installation of the pipeline.

		303/24/10 is also affected and runs from Old Aston Hill towards Aston Hill Farm. The same applies to this lane as above. 303/22/10 appears to be affected but necessary diversions are in place.
Work No. 40B	The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on the Work Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.	The corner of this proposed site is crossed by PROW 303/24A/10. The route would need to be temporarily closed during its use as a compound area. As the route is a good link towards Ewloe, a temporary diversion should be provided but this isn't set out on the work plan.
Work No. 41	Construction of an underground CO ₂ pipeline approximately 1.1km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 40 and Work No. 42...	The PROW affected 303/20 by the pipeline in this section are adequately protected with temporary diversions during works.
Work No. 41C	Creation and use of a permanent access from the B5125, within the location shown on Sheet 18 of the Work Plans, including— (a) creation of a new bellmouth junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing.	This small area marked as a permanent access appears to be directly where we currently have a stile and public footpath sign. The footpath affected 303/143 would need to be protected and stile replaced with a kissing gate following construction.
Work No. 42	Construction of an underground CO ₂ pipeline approximately 1.8km in length and with an external diameter of 36 inches (914.4 mm) between Work No. 41 and Work No. 43.	The PROW affected by the pipeline in this section are adequately protected with temporary diversions during works. PROW 303/143 runs through the site and no temporary diversion has been shown which suggests it won't be affected during construction clarification is required.
Work No. 43	Construction of an underground CO ₂ pipeline approximately 611 metres in length and with an external diameter of 36 inches (914.4 mm) between Work No. 42 and Work No. 44.	The PROW affected by the pipeline in this section are adequately protected with temporary diversions during works.

Work No. 44	Construction of an underground CO ₂ pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4mm) between Work No. 43 and Work No. 47.	We have concerns related to the compound and surrounding area with regard to PROW 414/4. These concerns are regarding Work Nos 44C, 45 & 46 (see comments below).
Work No. 44C	The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Work Plans, including— (a) office, welfare and security facilities; (b) a parking area; (c) power supplies and temporary lighting; (d) pipe equipment and fittings storage; (e) plant storage; (f) a fabrication area; (g) a plant wheel wash area; (h) waste processing and management areas; and (i) fencing and gating.	The proposed compound is on the line of PROW 414/4. At present this is a field footpath. The footpath needs to be restored back to its previous condition (if not better), following completion of the AGI at this location and the compound no longer being required.
Work No. 45	Construction of an AGI at Northop Hall, comprising equipment for the control and interface of the Stanlow AGI to Flint AGI Pipeline, within the location shown on Sheet 20 of the Works Plans.	The AGI itself doesn't appear to be on the line of the PROW 414/4 therefore the AGI would not permanently affect PROW 414/4 and a diversion would not be required.
Work No. 46	The creation and use of a permanent vehicular access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including— (a) improvement of road surfacing and provision of new hard surfacing; (b) creation of a new bellmouth junction and visibility splays; (c) installation of utilities.	This proposed new permanent access would create a junction right on top of where PROW 414/4 meets the junction of B5125. The footpath needs to be adequately incorporated into this junction design with the proposed new vehicular access to ensure pedestrians are not in conflict with vehicles unnecessarily. We would request that the proposed design for the AGI and associated track is reviewed by the PROW team before any progression.

Work No. 47	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 2.4km in length and with an external diameter of 36 inches (914.4 mm) between Work No. 44 and Work No. 50.	The PROW affected by the pipeline in this section are adequately protected with temporary diversions during works.
Work No. 50	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 422 metres in length and with an external diameter of 24 inches (609.6 millimetres) between Work No. 47 and the existing pipeline.	The PROW affected by the pipeline in this section are adequately protected with temporary diversions during works.

19.3 Conclusion on assessment of impact:

- Construction Phase: **NEGATIVE**
- Operational Phase: **NEUTRAL**

20. WATER ENVIRONMENT AND FLOOD RISK

20.1. Planning Policy Wales confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The drainage / flooding impacts of a development proposal are a material consideration.

20.2. PPW Section 6.6.22 to 6.6.29 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, which provides a detailed framework within which risks arising from different sources of flooding should be assessed. TAN 15 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and

- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event.

Flood Risk:

- 20.3. Flooding is also an important consideration for any new development as a large proportion of the site is mostly within a C1 Flood Risk Zone as defined by TAN15 and is therefore an area at risk of coastal flooding (served by significant infrastructure including flood defences). It will also be necessary to have regard to the new TAN15 and Flood Map for Planning which is due to come into force in June 2023, although it has been indicated by Welsh Government that this date may be pushed back as the consultation on the further revisions to the draft TAN has only just closed. Works Nos 29 – 35 all lie within a C1 Flood Risk Zone which is illustrated on FCC LIR Appendix 1.1. Land within works no 43 also lies within a C2 Flood Risk Zone.
- 20.4. The Council would respectfully defer to comments from Natural Resources Wales, as the statutory body for coastal and fluvial flood risk, on matters relating to flooding.

Land drainage

- 20.5. The Council has additional duties and powers associated with the management of flood risk under the Land Drainage Act. As Land Drainage Authorities, Ordinary Watercourse consent would be required for any permanent or temporary works that could affect the flow within an ordinary watercourse under their jurisdiction in order to ensure that local flood risk is not increased.
- 20.6. Flintshire County Council, as Lead Local Flood Authority (LLFA) is responsible for the management of risks associated with local sources of flooding such as ordinary watercourses, surface water and groundwater.

20.7. It is noted that the REAC [APP-222] states that consents would be sought from LLFA for works affecting for Ordinary Watercourses.

20.8. From a local flood risk and land drainage perspective, the LLFA would like to offer alternative wording within the Supplemental Powers contained in Part 4 of the draft DCO which are outlined within paragraph 22.5 below.

Surface Water Drainage:

20.9. Schedule 3 of the Flood and Water Management Act 2010 makes sustainable drainage systems (SuDS) a mandatory requirement on all new developments involving more than a single dwelling or a construction area more than 100m².

20.10. New developments of more than a single dwelling or a construction area more than 100m² must have:

- Sustainable drainage systems to manage on-site surface water;
- Surface water drainage systems designed and built in accordance with mandatory Welsh Government standards for sustainable drainage;
- Approval of the surface water drainage systems by the SuDS Approving Body (SAB).

20.11. It does not appear to be the case that supplementary powers are being sought through Part 4 of the DCO with respect to the duties under Schedule 3 of the Flood and Water Management Act 2010. As such, separate, formal approval from Flintshire County Council as the SAB is therefore required in relation to the surface water drainage and SuDS features.

20.12. The DCO application also includes for the provision of temporary hardstanding areas for temporary construction compounds and access routes. It is not clear from the application documents how the Applicant will mitigate any impacts to watercourses, highways, or property as a consequence of any runoff from these

temporary hardstanding areas. It is understood that temporary hard standing areas are not usually considered as part of an application for SAB approval. However, on the basis that these temporary hardstanding areas are likely to be in excess of 100 M², the length of time that these 'temporary' hardstanding areas maybe considerable, consent via the SAB may be a practical means for consideration and the applicant would be invited to include these areas that are proposed to be 'temporary' as part of the SAB application process. Early contact could also be made with the SAB via a request for pre-application advice.

20.13. As the planning process should not duplicate other legislative controls, the Council does not wish to make any observations on the provisional surface water drainage strategy for the AGI and BVS as it will be controlled through the SuDS approval process. Furthermore, any works involving watercourses would require ordinary water course consent. What is not clear however, is how the applicant intends to deal with run-off and surface water issues in relation to those areas of hardstanding that are below the threshold for SAB consent, and those elements of the project that do not create hardstanding but effect watercourses such as works effecting ditches.

20.14. Conclusion on assessment of impact:

- Construction Phase: **NEUTRAL**
- Operational Phase: **NEUTRAL**

21. MINERALS SAFEGUARDING

- 21.1. Key national land use planning policies are provided by Planning Policy Wales (PPW11), in particular Section 5.14 which relates to the sustainable extraction of minerals. Supplementary guidance is provided the following Minerals Technical Advice Notes (MTAN 1).
- 21.2. Minerals Technical Advice Note 1 (MTAN1): Aggregates, Minerals Planning Policy (Wales), providing guidance on how the land use planning system should contribute to the sustainable supply of aggregates and sets out detailed advice on aggregates, such as limestone, sand and gravel.
- 21.3. Policy EN23 states: “Non-mineral development within Mineral Safeguarding Areas as defined on the proposals map will only be permitted where it can be demonstrated that:
- a. *The mineral underlying the site does not merit extraction, or*
 - b. *The need for the non-mineral development outweighs the need to protect the resource, or*
 - c. *The mineral can be satisfactorily extracted prior to the non-mineral development, or*
 - d. *The development is of a temporary nature or can be removed within the timescales within which the mineral is likely to be needed, and*
 - e. *Essential infrastructure that supports the supply of minerals would not be compromised or would be provided elsewhere.*

All applications for development, with the exception of householder applications, in these areas shall be supported by a Mineral Safeguarding Assessment.

Proposals for non-mineral development on sites of 4ha or more, which are underlain by Category 1 sand and gravels shall be supported by a Prior Extraction Assessment”

- 21.4. Chapter 11 of the applicant's Environmental Statement [APP-063] acknowledges that the proposed DCO development would intersect multiple Mineral Safeguarding Areas. This is also shown on FCC LIR Appendices 2.1 – 2.5 which shows the Flintshire LDP allocations and includes the locations of Mineral Safeguarding Areas.
- 21.5. A Minerals Resource Assessment (MRA) has been provided to accompany the application [APP-131 and Ref APP-132]. The Council largely concurs with the conclusions of the MRA which states that the mineral resources located within the MSA do no present workable or viable mineral prospects due to poor quality resources, and due to the constraints associated with the site areas. Some of the resources are also sterilised by existing infrastructure or development.
- 21.6. Chapter 14 of the applicant's Environmental Statement [APP-066] refers to the requirement of producing a Material Management Plan (MMP). It confirms that a MMP would be produced by the Construction Contractor(s) as a Requirement of the DCO (as part of requirement 5 of the draft DCO with regards to the production of a CEMP) [APP-024]. This is welcomed to ensure that limited incidental extraction of mineral resource can be managed.
- 21.7. Conclusion on assessment of impact:
- Construction Phase: **NEUTRAL**
 - Operational Phase: **NEUTRAL**

PART D: COMMENTS ON DRAFT DCO, OBLIGATIONS AND DCO REQUIREMENTS

22. GENERAL COMMENTS ON THE DRAFT DCO

- 22.1 The Local Highway Authority is satisfied with the proposed draft DCO requirements which will ensure that full traffic management plans and construction worker travel plans will be approved in consultation with the Local Highway Authority prior to the commencement of any stage of development.

Part 2

- 22.2 Flintshire County Council do not agree with the current words of the provisions as set out in the draft DCO Part 2; Principal Powers, article 9 with regards to 'Defence to proceedings in respect of statutory nuisance'. The current wording of the draft DCO would effectively remove the main control the Local Authority would have under the Environmental Protection Act 1990.
- 22.3 It is considered unclear whether the current wording of the draft DCO is based on legislation that contains powers to over-ride other existing statute. It is unclear if the Local Authority would have the authority to override either the Control of Pollution Act 1974, and the Environmental Protection Act 1990, irrespective of its content. Clarification is therefore required in respect the defence to proceedings and arbitration in respect of statutory nuisance for noise and its interplay with existing statute and the Control of Pollution Act 1974.

Part 3

- 22.4 Article 11 (3) of Part 3, Streets is noted that '*The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article*'. However, the Council considers it necessary to also include within the DCO the provisions of Section 72 of the New Roads and Steet Works Act 1991. This would ensure remedial works to be carried out by the developer should there be a subsequent failure in the highway network after restoration.

Part 4

- 22.5 Part 4; Supplemental powers, article 19; Discharge of water. It is considered that Article 19 (5) should also include reference to seeking Ordinary Watercourse consent. The Council suggest that the following wording should be considered: *“The undertaker must not, in carrying out or maintaining the works pursuant to this article, damage or interfere with the bed or banks or construct any works within any Ordinary Watercourse without obtaining Ordinary Watercourse Consent from Flintshire County Council.”*
- 22.6 Additional the following wording should also be inserted after the word ‘soil’ in the final sentence of Article 19(6) *“silt, sediment or other solid substance etc”*.
- 22.7 Part 4; Supplemental powers, article 21; Authority to survey and investigate the land. Reference is made to accessing land for the purpose of sampling and to trial holes/pits. The Council consider that this is too restrictive an approach and may not be sufficient to yield the information needed. Whilst it is not expected that there will be a need to drill boreholes, trial pits are generally only to be used for visual inspection of the condition of the ground where appropriate or where there is a known aspect which needs only indicative information. So, for example, to find the edge of a feature, to visually inspect buried wastes or to enable semi-quantitative sampling to be undertaken such as to chase a plume of contamination to allow locations for accurate exploratory methods or sampling to be targeted.
- 22.8 The Council would suggest that alternative terminology is used based upon the likely exploratory techniques that the assessment of land contamination to be carried out will rely upon. For example, window/windowless sampling. It is likely that alternative methods of exploring the ground conditions at the different points along the route of the pipeline; including the BVS, will need to be relied

upon to enable the samples required to be collected and so there appears to be a conflict between the approach to be taken in terms of assessing and addressing land contamination and the scope of the DCO.

- 22.1 For this reason, it is suggested that the DCO is amended to allow for a broader scope of exploratory methods to be used to enable the works proposed. The current wording of the DCO is considered too restrictive
- 22.2 Part 6; Miscellaneous and general, article 44. Certification of plans, part (m): a document number is required for the outline written scheme of archaeological investigation. It is understood from the examination that this document is [APP-223] that this reference should state D.6.5.2.

23. OBLIGATIONS

- 23.1. The applicant's Biodiversity Net Gain Assessment [APP-231 to APP-236] states that the applicant will achieve the required Biodiversity Net Gain (Biodiversity Net Benefit in Wales) through engagement with private landowners using the off-site compensation scenarios.
- 23.2. As set out in Section 13 above, should Development Consent be granted, the Council considers it necessary to secure a package of nature conservation management contributions secured by legal agreement to ensure the successful delivery and implementation of the required Biodiversity Net Benefit in Wales and Biodiversity Net Gain in England. It is considered that a legal agreement is required to ensure compliance and the long-term management of off-site biodiversity compensation scenarios to ensure Biodiversity Net Gain/Net Benefit is achieved.

- 23.3. Furthermore, as set out in Section 19 above, should Development Consent be granted, to support the proposal of Bridleway 9 and Deeside Lane being utilised as the temporary construction access track, the Council considers it necessary for the entire route under 'Work No. 30E' be upgraded to a tarmac surface.
- 23.4. The upgrading of the Bridleway is considered necessary to ensure that it would be suitable for the construction traffic that would use it. By providing an appropriate surface for construction traffic this would limit the dust pollution to walkers and the community. It would also provide an improvement for users as part of the legacy of the HyNet project and should be secured by a legal agreement.

24. COMMENTARY ON APPLICANT’S DRAFT DCO REQUIREMENTS

24.1. The Council has reviewed the applicant’s Draft Planning Requirements set out in Schedule 2 of the DCO and has and the following observations to make.

Part / Schedule	Issue/Observation	Recommendation
Schedule 2: Part 1: Requirements (pp. 63-70)		
1: Interpretation	In the definitions there is no reference of a Decommissioning Environmental Management Plan (DEMP) The Council considers the submission of a DEMP at the appropriate time necessary – see comments later at point 16: Post construction environmental management plans	It is suggested to include within the Requirements the need to submit a Decommissioning Environmental Management Plan (DEMP) therefore please can this be listed in the Interpretation.
2: Time limits of 7 days to respond	It is considered that 7 days isn’t sufficient to respond.	Having reviewed other DCOs 14 days seems to be standard. Suggested amendment to increase the time limits to 14 days to allow Officers to ensure compliance.
3: Stages	<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 stages scheme to be approved or for the undertaker to undertake the development in accordance with the submitted approved stages.</p>	<p>Suggested wording:</p> <p>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.</p>

<p>4.(1) Scheme Design – Above ground development</p>	<p>The requirement only allows for above ground elements to be in “general accordance with the general arrangement plans”</p> <p>This is too vague to enable other assessments / detailed mitigation e.g. Visual and ecological impacts LEMP. Mitigation against worst case scenario may well result in unnecessary mitigation resulting other impacts / effects</p> <p>Detailed design would no doubt be required to allow Detailed LEMP or CEMP scheme to be undertaken?</p>	<p>It is recommended that an additional requirement is included to provide detailed design for approval for all above ground infrastructure on a stage-by-stage basis. Details include the need to see the elevations for example. Can be provided alongside the CEMP and LEMP?</p> <p>Or as a submission with each design stage?</p>
<p>4.(2) Scheme Design - Changes to above ground development</p>	<p>Question over what the “environmental effects” actually include? There is no definition is provided in Requirement 1 within the interpretation.</p> <p>Importantly clarity is required with regards to who determines if the changes cause materially new environmental effects?</p> <p>And what are the mechanisms for approval?</p>	<p>Suggested that a definition is included or wording amended to provide clarity</p>
<p>4. (3) Scheme Design - Parameters</p>	<p>AGI and BVS – Maximum height of buildings and structures including operational fencing and lighting columns – 5m from ground level.</p>	<p>The current wording would allow for buildings and operational fencing up to 5m in height, which would not be visually acceptable.</p> <p>Recommend separate AGI parameters for buildings, lighting columns and fencing or specify accordingly – clarity is needed</p>
<p>5. (2) CEMP</p>	<p>‘Substantially’ is this too vague?</p>	<p>Recommendation to remove the word “substantially”</p>

5. (2) (a-m) CEMP – Management plans, Working Methods and Mitigation Measures	Specific measures for construction works are missing including plant and equipment detail; night-time noise levels; minerals safeguarding is not specifically referenced in the MMP	<p>Include the following additional measures:</p> <ul style="list-style-type: none"> • Detail of all construction plant and equipment. • Specify noise limits and mitigation (day and night-time). • The Material Management Plans should be renamed to Material and Minerals Management Plan to ensure Minerals Safeguarding (in accordance with outline minerals safeguarding assessment). • Address / mitigate identified risks from contamination. • A mechanism for review should also be included
8. (1) Surface Water Drainage	Not all Works numbers are listed. Where there are BVS location and all AGI works.	Include works Nos. for all BVSs and AGIs Cross reference check is required.
9. Contaminated land and Groundwater	Only addresses unexpected contamination	Include an additional requirement to address mitigate identified Contaminated Land or incorporate into the CEMP (5.(2)) as recommended above
11. (1) LEMP	Lots of detail in combining ecology and Landscape – has the potential to miss important elements	Recommendation to separate the landscape and ecological matters and the inclusion of an additional Requirement to ensure important items are not missed.
	Does the LEMP include measures to protect Heritage?	Detail inclusion of heritage matters
11. (2) LEMP – Inclusion	Missing heritage measures	Detail inclusion of heritage matters
11. (2) (d) LEMP – Inclusion	“features”	Definition of features in the ES – include LWS, Statutory Sites, heritage features, landscape features etc?.
13. Construction Hours (1-5)	The current wording of requirement 13 (3) (c) would appear to allow works outside of the stated	Consider more precise wording.

	<p>construction hours in any eventuality – this is quite open-ended.</p> <p>The proposed exceptions and definitions in relation to the proposed construction working hours are not considered acceptable.</p>	
15. Restoration of Land	<p><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 months of completion of the authorised project.”</i></p> <p><i>“fit for its former use”</i> - 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 15 as a whole is not precise or enforceable and does not require the approval of a scheme of restoration and aftercare if required.</p>	<p>Re-word to require full detail of restoration scheme or remove and combine into Requirement 16</p> <p>Or include more detail in the soil management plan</p>
16: Post construction environmental management plans	<p>Operational Maintenance and management and decommissioning are distinctly separate stages of the project and cannot be easily dealt with together in one scheme?</p> <p>Does not detail restoration aftercare?</p>	<p>Split into two requirements for the approval of schemes for restoration/aftercare if necessary on agricultural land and one for decommissioning.</p> <p>Include a Decommissioning Environmental Management Plan (DEMP).</p> <p>As above - Detail of restoration and aftercare needs to be provided for approval can be incorporated here or a detailed scheme approved under Requirement 15.</p>

		Need to include wording for scheme to be completed / undertaken in accordance with approved details.
17. (4) Amendments	<p>“42 days” notification period</p> <p>The current wording is not flexible as there is no ability to agree an extension of time if required</p>	<p>Suggestion to use a standard period for decision of 56 days (8 Weeks)</p> <p>Include 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>”</p>
Schedule 2: Part 2: Applications made under requirements (pp. 70-72)		
19.(1) pp70 - Applications made under requirements	<p>Notice of decision is required within 42 days</p> <p>This period is too short and not in accordance with standard timescales for determining applications.</p>	Suggestion to use standard period for decision of 56 days (8 Weeks)
20. pp70 - Multiple relevant authorities	<p>Any request for comments on multiple authorities – “21 days”</p> <p>Timescale is short and doesn’t allow any agreed extensions of time.</p> <p>This is in effect a pre-app to and between the two authorities – the need for timescales at all is questioned?</p> <p>If a timescale is accepted there should at very least be the ability to agree an extension of time. The current wording is not acceptable.</p>	Remove provision or provide a reasonable extended period of time 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> ”
21. (2) pp70 - Further Information	“(2) <i>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</i>	Amend to longer and reasonable time scale, include the provision for allowing an extension of time for an agreement.

	<p><i>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 or acceptable.</p>	
21. (3)) pp70 - 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 timescales stated are unreasonable.</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>	Amend to longer and reasonable time scale, include the provision for allowing an extension of time for an agreement.
21. (4)) pp70 - Further Information	<p><i>“(4) If the relevant authority does not give the notification mentioned in sub paragraphs (2) or (3) 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</i></p>	Remove provision.

	<p>application and is not thereafter entitled to request further information without the prior agreement of the undertaker.”</p> <p>This provision effectively removes the LPA entitlement to request further information if the 5 day timescales are missed.</p> <p>This is unreasonable.</p> <p>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>	
22. pp71 - Fees	Fee of £97 does not reflect any current fee for planning	Clarification on fees and a suggestion to align with current fee schedule
	Return of fee does not allow for the provision of an extension of time.	Include in the provision - unless an extension of time has been agreed in accordance with Schedule 2 Part 2 (19(1))
	<p>The Council questions the timescales for dealing with applications made under requirements</p> <p>What evidence has been provided for the timescales suggested for the application to be refunded?</p>	<p>Clarification on timescales</p> <p>Suggestion to use a standard period for decision of 56 days (8 Weeks)</p>

PART E: CONCLUSION

25. CONCLUSIONS

25.1 The proposed impacts of the DCO application are summarised in the table below:

Material Consideration	Conclusion on assessment of impact	
	Construction phase	Operational Phase
PRINCIPLE OF DEVELOPMENT / CLIMATE CHANGE	Neutral	Positive
IMPACT ON THE GREEN WEDGE	Neutral	Neutral Negative Aston Hill BVS Only
BUILT AND CULTURAL HERITAGE	Negative	Neutral
BIODIVERSITY AND NATURE CONSERVATION	Negative	Positive with mitigation and Biodiversity Net Benefit (BNB)
LANDSCAPE IMPACT	Neutral	Neutral (Positive subject to BNB and additional Planting)
VISUAL IMPACT	Negative	Pipeline: Neutral AGI/BVS: Neutral (subject to successful landscaping)
TREES, HEDGEROWs AND WOODLAND	Neutral	Neutral
NOISE – RESIDENTIAL/PUBLIC AMENITY	Neutral (subject to satisfactory mitigation)	Neutral
LAND CONTAMINATION AND SOILS	Neutral	Neutral
TRAFFIC AND TRANSPORT	Neutral	Neutral
PUBLIC RIGHTS OF WAY	Negative	Neutral
WATER AND FLOOD RISK	Neutral	Neutral
MINERALS SAFEGUARDING	Neutral	Neutral

PART F: APPENDICES

Part F comprising the following have been submitted to the Examining Authority separately

Environmental Constraints

- FCC LIR Appendix 1.1 - HyNet Section 4: Environmental Constraints Plan**
- FCC LIR Appendix 1.2 - HyNet Section 5a: Environmental Constraints Plan**
- FCC LIR Appendix 1.3 - HyNet Section 5b: Environmental Constraints Plan**
- FCC LIR Appendix 1.4 - HyNet Section 6: Environmental Constraints Plan**
- FCC LIR Appendix 1.5 - HyNet Section 7a: Environmental Constraints Plan**
- FCC LIR Appendix 1.6 - HyNet Section 7b: Environmental Constraints Plan**

LDP Allocations

- FCC LIR Appendix 2.1- HyNet Section 4: LDP Allocations Plan**
- FCC LIR Appendix 2.2- HyNet Section 5a: LDP Allocations Plan**
- FCC LIR Appendix 2.3- HyNet Section 5b: LDP Allocations Plan**
- FCC LIR Appendix 2.4- HyNet Section 6: LDP Allocations Plan**
- FCC LIR Appendix 2.5- HyNet Section 7: LDP Allocations Plan**

Archaeology and Built Heritage

- FCC LIR Appendix 3.1- HyNet Section 4: Archaeology and Built Heritage**
- FCC LIR Appendix 3.2- HyNet Section 5a: Archaeology and Built Heritage**
- FCC LIR Appendix 3.3- HyNet Section 5b: Archaeology and Built Heritage**
- FCC LIR Appendix 3.4- HyNet Section 6: Archaeology and Built Heritage**
- FCC LIR Appendix 3.5- HyNet Section 7a: Archaeology and Built Heritage**
- FCC LIR Appendix 3.6: HyNet Section 7b - Archaeology and Built Heritage**

Public Rights of Way

- FCC LIR Appendix 4.1- HyNet Section 4: Public Rights of Way**
- FCC LIR Appendix 4.2- HyNet Section 5a: Public Rights of Way**
- FCC LIR Appendix 4.3- HyNet Section 5b: Public Rights of Way**
- FCC LIR Appendix 4.4- HyNet Section 6: Public Rights of Way**
- FCC LIR Appendix 4.5- HyNet Section 7a: Public Rights of Way**
- FCC LIR Appendix 4.6- HyNet Section 7b: Public Rights of Way**

Green Wedge

- FCC LIR Appendix 5 - HyNet DCO and Green Wedge**