



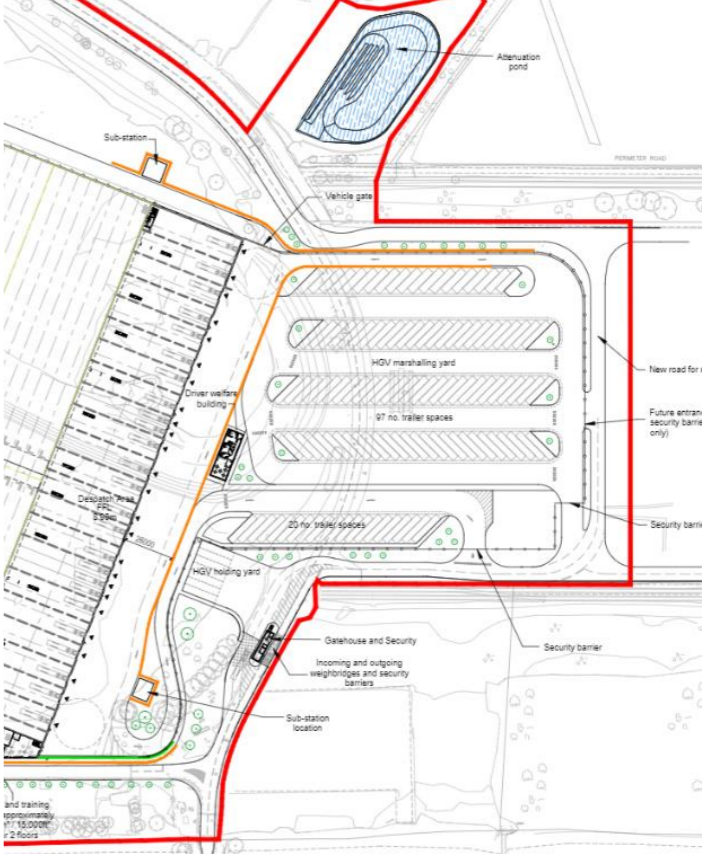
**Cheshire West and Chester Council's response to the
to the Applicant's comments to Cheshire West and Chester's Written Representation submitted at Deadline 1 (17 April 2023) [REP1-061]**

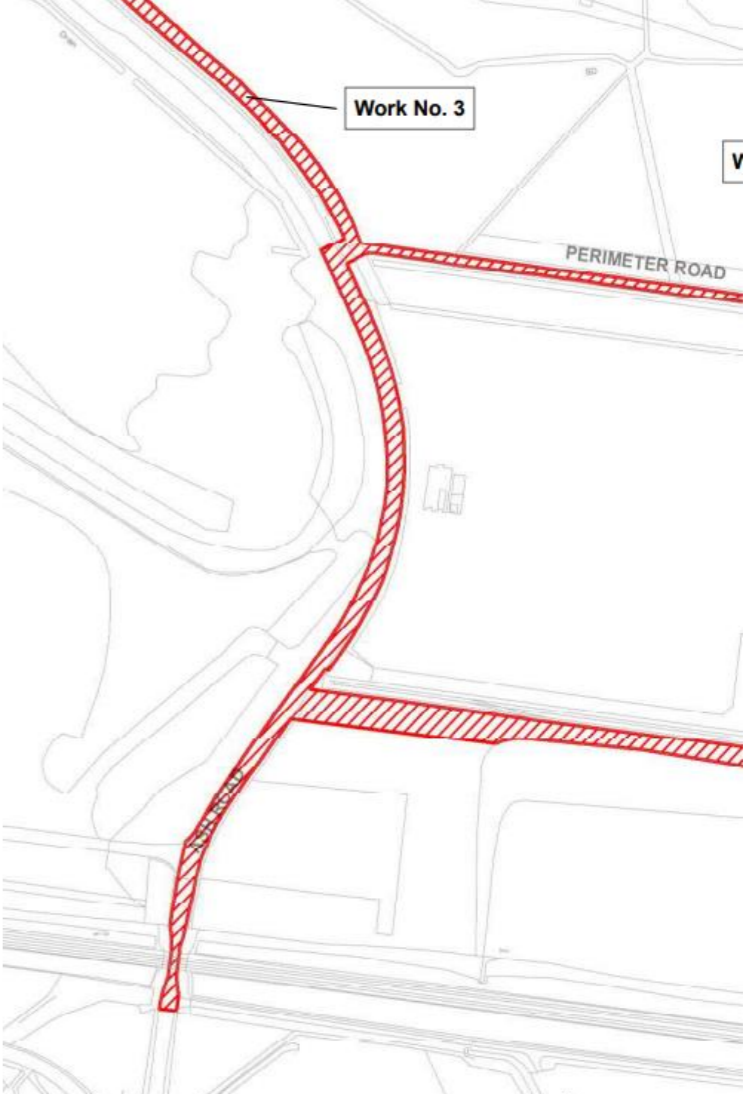
Submitted at Deadline 3 – Tuesday 23 May 2023

This document represents a table of responses to the Liverpool Bay CCS Limited (“the Applicant’s”) response to the Cheshire West and Chester Council’s (“the Council”) Written Representation submitted at Deadline 1 (17 April 2023), in respect of the Applicant’s application for development consent for the Hynet Carbon Dioxide Pipeline DCO (“the Project”).

The Council’s comments for Deadline 3 are entered in the right-hand column and relate to the matters addressed to the Council directly.

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant’s Response submitted at Deadline 2	Council’s Response at Deadline 3
Economic Impacts				
2.2.2	2.2	<p>The Council recognises the Project’s wider potential economic benefits in the region however there are some concerns raised in regard to the localised impacts. The Project has the potential for direct and indirect impacts upon existing local businesses including the delivery of safeguarded sites in the Local Development Plan (LDP). an approved plot and building of the Protos Plastics Park approved under planning permission 21/04076/FUL. This site is safeguarded through the Local Development Plan for employment uses and the DCO would sterilise part of the site</p>	<p>The Applicant notes this response from CWCC. In respect to the Protos Plastics Park, the Applicant refers to the responses given to [REP1-075] (document reference: D.7.16) and [REP1-074] (document reference: D.7.19) submitted at Deadline 2, regarding the site based impacts to the Protos Plastics Park and to the Peel SoCG [REP1-027] to be reissued at Deadline 2, in which these their concerns (including site access and potential sterilisation) are being addressed with that particular IP through frequent commercial discussions</p> <p>The Applicant notes the infrastructure delivered by the DCO proposal will be critical for the future development of businesses in Cheshire (as well as Flintshire). A number of the land-owning businesses impacted directly or indirectly are to some extent reliant on the development for their future plans. In the Ince-Stanlow area companies such as Peel NRE, Essar Oil UK, and Encirc, are land owners directly impacted but either require the CO₂ pipeline to be constructed for it to be used to transport CO₂ from their / their tenants’ production facilities or plan to use Low Carbon Hydrogen (from the Stanlow Manufacturing Complex), which requires 97% of CO₂ to be captured and transported using the CO₂ pipeline.</p> <p>Looking further into the future, the CO₂ Transport Pipeline will be an asset for local industry and land owners and (as part of future developments and conditional on future consents being given) is likely to attract businesses to develop and/or expand their operations in the region, including the Protos Plastics Park.</p> <p>In general response to Economic Impact, the Applicant would like to draw the ExA’s and CWCC’s attention to the Applicant’s Response to the ExA’s ExQ1 at</p>	<p>This matter is detailed in Part 6 of the Council’s Local Impact Report [REP1A-002].</p> <p>Whilst the Council is aware of the ongoing negotiations with landowners, it is noted that the Applicant has not addressed the issue of the direct impact from the potential loss / sterilisation of part of a strategic site, and with no alternatives or suggestions put forward to resolve this matter the Council would maintain its concerns on this matter.</p> <p>In addition to the access issue raised regarding the Protos Plastics Park, as outlined in paragraph 6.8 of LIR [REP1A-002] the Council also note that the Project’s permanent access at Ince, Work No. 03 of the Works plans within Part1 of Schedule 1 of the dDCO [REP1-004], could also potentially impact upon a proposed significant expansion of the adjacent Encirc glass manufacturing facility which is on a site safeguarded under the LDP for employment use (EP2 and EP2A). Full permission is sought, and currently being determined by the Council with a decision likely within the next couple of months, under application no. 22/03693/FUL, for the erection of an automated warehouse (Use Class B2/B8), ancillary office space, an automated link between the automated warehouse and existing facility, a driver welfare building, HGV marshalling yard, security building and other associated works.</p> <p>As shown below, the permanent access under dDCO Work No. 3 would cut through the proposed HGV parking area and would potentially affect the proposed access layout.</p>

Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
			<p>Deadline 1 [REP1-044] Q1.16.1 (Pages 106-107), which outline the economic benefit to the region the development will provide (as summarised in the text below):</p> <ul style="list-style-type: none"> • 42,000 jobs created / maintained in North West England and North Wales • Creation / maintenance of 55,000 UK jobs by 2030 • 6,000+ UK Construction jobs in any given year until at least 2030 	 <p>Extract from Proposed site plan 12473-AEXX-XX-DR-A-0501 Rev P23 of application no. 22/03693/FUL</p>

Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
				 <p data-bbox="2080 1287 2748 1356">Work No.3, EN070007-D.2.4-WP-Sheet 1 (Rev D) [REP2-005].</p> <p data-bbox="2080 1392 2739 1488">The Council would welcome engagement and constructive dialogue from the Applicant on these matters.</p>
Heritage				
2.2.3	2.3	With regards to heritage, whilst details of planting and materials are required to be provided by the Outline Landscape Management Plan (OLEMP) [AS-055] it is noted that any further requirement for mitigation to be directed by further Heritage Impact Assessments is not specified within the OLEMP or the Register of Environmental Actions and Commitments (REAC) [AS-	The Applicant can confirm that the tracked change REAC [AS-054] only details the updates made to the REAC for that Examination submission. For that submission, the complete REAC is reference [AS-053]. The Applicant would refer CWCC to the version of the REAC [REP1-015] issued at deadline 1, and also as updated at Deadline 2. The REAC includes a	With regard to archaeology, as outlined in paragraph 9.22 the Council's Local Impact Report [REP1A-02] the Council is satisfied that the submitted OWSI [APP-223] and overall draft programme for archaeology including the measures identified in the updated REAC [REP1-015] are appropriate.

Reference	LPA Reference	Written Representation submitted at Deadline 1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		054] or directly provided for in the wording of the draft DCO Requirements. For this reason, it is considered that for all permanent above ground installations, further heritage assessments including appropriate mitigation should be provided for within the OCEMP or specifically required within the final DCO Requirement 5.	<p>commitment (D-CH-001) which states: “<i>Archaeological works where required will be undertaken in consultation with the relevant Archaeological Advisor (the LPA, Historic England or Cadw), and in accordance with an approved archaeological Written Scheme of Investigation (WSI).</i>” and a second commitment to fence off the Elton scheduled monument (NHLE 1012122) (secured within Requirement 10 of the dDCO [REP1-004]).</p> <p>The potential effects as a result of the AGIs are detailed in 2.12.4 in the Applicant's Response to the Relevant Representation from CWCC [REP1-042], which indicates where the full impact assessment can be found. Furthermore, this response details the proposed mitigation, which can be found in paragraph 8.10.8 of Chapter 8 of the 2022 ES [APP-060] and [CR1-124], which states “<i>Permanent impacts to the setting of the historic assets will be mitigated through the planting of vegetative screening around upstanding aspects of the proposed AGI and BVS installations to reduce the impact of the visual intrusion within the landscape.</i>” As stated in the Outline Landscape and Ecological Management Plan [APP-229], the detail of the planting and materials will be produced by the appointed construction contractor during the detailed design stage.</p>	In respect identified heritage assets, further to the Council's comments as set out in section 2.12.4 of the Council's response to the Applicant's comments on its Relevant Representation submitted at Deadline 2 [REP2-046] , and paragraph 2.3 of the Council's Written Representations [REP1-061] , in view of the Applicants' further clarification the Council is satisfied with the overall approach in the identification and mitigation any significant effects on heritage assets. In view of the provided detail and in consideration of impacts to identified heritage features during the Projects operation and decommissioning phases sufficient mitigation is considered to be able to be put in place in the form of suitable landscape planting, to be approved within the final LEMP, so as to ensure that no significant impact would result from the Project on identified heritage assets.
Mineral Safeguarding				
2.3.4	2.4	The Project will directly impact several Mineral Safeguarding Areas (MSAs) for sand and gravel. The desk-based Minerals Resource Assessment (MSA) [APP-131 & APP132] identifies the pre-extraction of such mineral would not be economically viable but incidental extraction is. It is noted that detailed ground investigations of their actual depth and quality have not been undertaken. In consideration of the finite nature of the sand and gravel reserves and in view of the fact that such materials will also likely be required as part of the construction of the development itself such that incidental extraction would be a viable option, the Council ask that a minerals management plan form a clear part of the development's CEMP and therefore be included as part of the OCEMP [AS-055] and directly	The Applicant considers that commitment D-MW-006 of the REAC [CR1-109 and REP1-015] , as secured by Requirement 5 of the dDCO [REP1-004] , in relation to following guidance within the Materials Management Plan (MMP), would include the re-use of suitable mineral resources such as sand and gravel incidentally extracted during construction. An Outline MMP will be submitted before the end of Examination.	<p>The Minerals Resource Assessment (MRA) [APP-131 /132] or the need for any subsequent management plan for the management of minerals is not specified / referred to in the draft DCO (Requirement 5), OCEMP [REP1-17] or REAC [REP1-015].</p> <p>REAC Commitment D-MW-006 [REP1-015] states “<i>The Construction Contractor will implement, and follow guidance within, the Materials Management Plan (MMP) in accordance with the CL:AIRE Definition of Waste: Code of Practice</i>”. The Applicant states that this commitment in the MMP would include re-use of ‘suitable mineral resources’.</p>

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		<p>required as part of the wording of any Requirement of the DCO and particularly Requirement 5.</p>		<p>The Council notes the above REAC commitment D-MW-006 [REP1-015] appears to principally relate to the handling of waste and does not specify the use of incidentally extracted minerals. The use of the word 'mineral' is absent and there is no reference to the recommendations of the MRA in and commitments of the REAC or OCEMP. It is not currently explicit if and how the use of incidentally extracted mineral resources should be undertaken.</p> <p>The Council also notes that the MRA [APP-131& APP132] is currently only desk based and as such, the Council requests that when ground investigations are undertaken as part of the Project the impacts on the existing MRA should be considered and potential for prior extraction or incidental extraction and re-use of minerals should be considered further in order to safeguard / re-use minerals.</p> <p>To address this, the inclusion of detail of minerals safeguarding in the MMP is supported, the Council would however ask the following clarifications / inclusions are provided in any submitted plan:</p> <ul style="list-style-type: none"> • Clear reference to the findings of the MRA with commitments for any further necessary ground investigations. • A definition of what a 'suitable mineral resources' would represent? • Detail of process should the extracted material not be suitable as it was, but could be screened or sorted then used - clarification of is and how that would that be done? • Where extracted mineral can be re-used, on the site or elsewhere? <p>It is noted that the Applicant states that an outline MMP will be submitted before the end of Examination.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
				For the above reasons, the Council reserves its right to make further comments relating to minerals safeguarding after reviewing the draft MMP.
Trees				
2.3.5	2.5	The potential loss of up to 6 veteran trees is of significant concern. Veteran trees are irreplaceable, and their loss cannot be mitigated against therefore the Council would advise that all veteran trees are retained, and protection measures are put in place as part of the CEMP and LEMP. The tree protection measures for all other trees should also form part of any approved LEMP and CEMP.	<p>As part of early design commitments, efforts have been made by the Applicant to avoid sensitive habitats and features, wherever possible, including Ancient Woodland and veteran trees.</p> <p>For example, Commitment D-BD-008 in the REAC [CR1-109 and REP1-015] states '<i>Design of the DCO Proposed Development has included use of trenchless crossing techniques to avoid and reduce adverse effects on Ancient Woodland present within the Order Limits.</i>' Through this approach, the Applicant has sought to avoid direct impacts (i.e. the felling of trees) to ancient woodland, specifically at Northop, and maintain the integrity of the woodland.</p> <p>Areas of ancient woodland have been avoided and removed from the Order Limits and/or buffered wherever practicable from construction. This also includes the ancient woodlands of concern that the Trust has referenced.</p> <p>The latest design refinements as set out in the Change Request and assessed in the ES addendum [CR1-124] have reduced the number of veterans trees to be directly removed to zero. Three veteran trees are assessed as being 'at risk of removal but aiming to retain' due to potential root encroachment, however mitigation will be implemented to allow their protection. As such, the ES addendum [CR1-124] states that the '<i>Proposed Development will seek to protect and retain all veteran trees during construction</i>'. Mitigation will be detailed within a site-specific Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP). which will be approved by the Local Planning Authority as committed to in the REAC (D-LV-014), as secured by the CEMP within Requirement 5 of the dDCO [REP1-004].</p> <p>Further detail regarding mitigation is under discussion between the Applicant and the with Woodland Trust,</p>	The Council acknowledges the proposed change request in respect reducing impacts upon veteran trees with potential for 'zero losses'. As the Council would object to the removal of any veteran trees this position is supported. However, whilst noting the above, the Council does note that three trees remain at risk and there is no commitment for the retention of all veteran trees.

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			with the intent to reach an agreed position in a SOCG (document reference: D.7.2.24) to be submitted at Deadline 3.	
Biodiversity				
2.3.6	2.6	The Council reserves the right to comment on Biodiversity matters and comments will be submitted as an Addendum to this Written Representation (if required) at Deadline 1A.	The Applicant acknowledges the response and refers the Council to the BNG Strategy Update (document reference: D.7.23) issued at Deadline 2. The Applicant and has no further comments.	The Council notes the BNG strategy update which provides updates on BNG negotiations so far. The Council refer the ExA to paragraph 2.15 of the Councils Written Representation Addendum (Biodiversity) [REP1A-004] and paragraph 12.2.10 of the Councils response to the Applicant's comments to the Councils Relevant Representation [REP2-046] .
Land Contamination				
2.3.7	2.7	The ground investigation reports [APP-135-137] identify that further contamination investigation is required around the Stanlow Refinery area (made ground). Whilst it is noted that the requirement for a suitable remediation strategy is to be produced following the additional ground investigation under the OCEMP [AS-055] it is however noted that there is no mention of the requirement for the validation of remediation works which is an essential part of any remediation plan. Similarly, this requirement is needed for unexpected contamination under draft DCO Requirement 9.	Regarding the Stanlow Manufacturing Complex site, the Applicant is currently engaging with the site owner, Essar Oil UK, as documented in the SoCG [REP1-032] , regarding the handover conditions and responsibilities for any necessary remediation of any contaminated land prior to construction. The Applicant will revert to the CWCC once these agreements are in place prior to any ground investigation work commencement. In more general terms and excluding the specific site above, Environment Agency 'Land Contamination Risk Management', LCRM (2021) guidance requires that a remediation strategy includes details of how the remediation will be verified through a verification report (part of the remediation strategy). The Applicant proposes to add reference to the inclusion of a verification report within the remediation strategy requirement in REAC [CR1-109 and REP1-015] commitment D-LS-021.	The Council notes the Applicant's intention to include verification in the REAC commitment D-LS-021 [REP1-015] . For clarification the Council notes that REAC commitment D-LS-021 [REP1-015] OCEMP reference D-LS 21 [REP1-017] has not been updated to include verification reporting for the approval of the relevant planning authority. The Council also notes the inclusion of verification reporting in Requirement 9 (5) of the updated dDCO [REP1-004] , however, as is noted in 2.3.35 below, the Council requires this to be submitted for approval for this to be acceptable.
2.3.8	2.8	Without the requirements for validation / verification reporting for any necessary remediation of both identified and unidentified contamination the Council raises concern as to demonstrating that necessary remediation has been undertaken. It is therefore asked that that the OCEMP [AS-055] and draft DCO	Environment Agency 'Land Contamination Risk Management', LCRM (2021) guidance requires that a remediation strategy includes details of how the remediation will be verified through a verification report (part of the remediation strategy).	

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		Requirement 9 is amended to require the approval of validation reporting for any necessary remediation.	<p>The Applicant has added reference to the inclusion of a verification report within the remediation strategy requirement in REAC [CR1-109 and REP1-015] commitment D-LS-021.</p> <p>The Applicant updated Requirement 9 of the draft DCO [REP1-004] at Deadline 1 to include the submission of a verification report following completion of the works to the relevant planning authority.</p>	
Draft Development Consent Order				
2.3.12	Article 2	<p>Commence</p> <p><i>Issue</i> The exemptions listed in the definition should not include any operational works</p> <p><i>Amendment Required/Comment</i> The "erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, the diversion or laying of services and environmental mitigation measures" should be excluded.</p>	<p>The Applicant understands that CWCC is seeking the deletion of the quoted wording from the exceptions. The Applicant does not agree and refers to the Applicant's Response to ExA's ExQ1, Q1.19.9 (page 121) [REP1-044]. The Applicant considers that the activities listed have very limited potential to have an impact which do not require detailed controls to be in place.</p>	<p>The Council shares the concerns raised within the ExA's question Q1.19.9 [PD-014] and consider that the 'excluded activities', which by definition constitute material operations in accordance with the 2008 Act, have the potential to result in significant impacts and as such require controls to mitigate any potential harm.</p> <p>The Council has reviewed the Applicant's response to Q1.19.9 [REP1-044].</p> <p>Whilst the Council accepts that certain exceptions have been allowed on other recent DCOs, considering the proximity of this Project to residential uses, and its ecological sensitivities, the Council considers that the wording as presented by the Applicant has the potential to result in operations with potentially significant impacts.</p> <p>For example, the erection of fencing, and in particular permanent fencing as part of the above ground installations and any uncontrolled engineering operations, which would likely involve the use of heavy machinery, associated with the diversion or laying of services have the potential to result in more than very limited impacts especially where they occur near to residential and ecological receptors.</p> <p>For this reason, the Council's maintains that the "erection of fencing to site boundaries or the diversion or laying of services and environmental mitigation measures" should be excluded from any exception.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
2.3.14	Article 8	<p>Disapplication of legislation</p> <p><i>Issue</i> Art 8(1)(c) disapplies s23 (prohibition on obstructions etc in watercourses) and s30 (authorisation of drainage works in connection with a ditch) of the Land Drainage Act 1991.</p> <p><i>Amendment Required/Comment</i> The application does not provide sufficient details as to the drainage being proposed and without this detail the CWCC cannot agree to the disapplication of the consent process. A mechanism for the approval of these detail needs to be included within the DCO or a side agreement.</p>	<p>The permanent surface water drainage design requires to be approved under Requirement 8 (Surface Water Drainage) of the dDCO [REP1-004]. In line with the ethos and objective of the DCO regime, a separate consent should not be required where this can be addressed through the DCO</p>	<p>Requirement 8 does not deal with the disapplication of s23 and the approval needed by the Lead Local Flood Authority (LLFA). As this is a prescribed consent, the disapplication must be approved by the LLFA and they need to be consulted on and approve all works that affect an ordinary watercourse. The Council expects Protective Provisions to be inserted into the draft DCO by the Applicant.</p>
2.3.15	Article 10	<p>Street Works</p> <p><i>Issue</i> Art 10(1) provides the undertaker with the ability to undertake works to streets (as specified in Part 1 (Streets subject to street works) and Part 2 (Streets subject to temporary street works) of Schedule 3) without the consent of the street authority.</p> <p><i>Amendment Required/Comment</i> If any such works within a street, for which the street authority will be liable, are to be retained, there needs to be a mechanism for the street authority to inspect and approve these works before taking liability for them. Additionally, there is no requirement for the undertaker to ensure that the street is restored to the reasonable satisfaction of the street authority (NB. Note that this is included in Art 11(3) but not in Art 10).</p>	<p>The Applicant notes that the dDCO [REP1-004] provides for street works to be undertaken without <u>further consent</u>, as the street where works are known to be needed are included within and the works authorised by the DCO.</p> <p>The Applicant had anticipated that the local highway authority would seek protections on these points and included the first draft of the PPs to demonstrate it had considered that and provide a starting point for discussion, however it has had no comments on these from the authority.</p>	<p>The Council would welcome constructive dialogue with the Applicant on the Protective Provisions included in Part 7 of Schedule 10 to the draft DCO and the Council will be providing comments on the Protective Provisions and negotiating with the Applicant throughout the Examination.</p> <p>The current drafting of the Protective Provisions does not specifically address the issue of restoration of a street.</p>
2.3.16	Article 10(3)	<p>Street Works</p> <p><i>Issue</i> Art 10(3) allows the undertaker to carry out additional works within a street with the consent of the street authority.</p> <p><i>Amendment Required/Comment</i> The application for consent should allow for the street authority to make recommendations or amendments to the proposed works, as may be necessary, for the</p>	<p>The Applicant is willing to add an explicit provision stating that any consent may be issued subject to reasonable conditions.</p>	<p>The Council welcomes the Applicant amending the draft DCO to include an explicit provision that consent may be issued subject to reasonable conditions and reserves its position on this issue until it has reviewed the next iteration of the draft DCO.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		purposes of ensuring highway safety and the safe movement of traffic.		
2.3.17	Article 10(5)	<p>Street Works</p> <p><i>Issue</i> Art 10(5) imposes a timescales for the street authority to respond to an application for consent for works as being "42 days beginning with the date on which the application was made"</p> <p><i>Amendment Required/Comment</i> The period of 42 days is too short and CWCC require a minimum of 70 days to consider any such application. The timescales are ambiguous as there is no definition for an application being "made". In addition, the timescales are too short. We would suggest using "within 70 days of receiving an application for consent" in line with the wording used in Art 14(7).</p>	<p>The Applicant notes that the article follows standard, well precedented drafting, including the use of 'made' and on the time limit. The Secretary of State has repeatedly determined the wording used to be suitable and sufficiently clear, including in the very recently made A47 Wansford to Sutton DCO (February 2023), which include in article 14(4) "If a street authority which receives an application for consent under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 28 days <u>beginning with the date on which the application was made</u>, it is deemed to have granted consent". (emphasis added)</p> <p>Article 10(5) only applies where a need to undertake works on a street outside the order limits arises, ie something is required which the Applicant cannot reasonably foresee at this time and has not included in the order limits. The most likely circumstances would therefore be works being required in connection with works the Order Limits, but which need to extend beyond the red line. It is not reasonable in such circumstances for consent applications to take 70 days to be determined, especially where that would delay the completion of other works.</p> <p>The Applicant would strongly object to the period being changed to 70 days as being inappropriately long, and much longer than the period in other recently granted DCOs. The UK Government has set an ambitious target for the delivery of track 1 decarbonisations projects, including this application. The Applicant considers that over two months to consider an application for street works in the context of the DCO project and the Government delivery targets is not reasonable.</p>	<p>At a meeting between the Council and the Applicant on 3 May 2023, the issue of timescales was discussed with the Applicant and it was suggested that suitable resources could be provided to the Council to allow works to be undertaken in advance of the formal submission.</p> <p>The Council is awaiting further details from the Applicant in this regard and reserves its position on appropriate timescales.</p>
2.3.18	Article 11	<p>Power to alter layout etc of streets</p> <p><i>Issue</i> Art 11 (2) allows the undertaker to temporarily or permanently alter the layout of any street whether or not within the Order limits. The street authority's consent is required for these works under Art 11(4). Art 11(5) requires the street authority to respond to any</p>	<p>The Applicant is willing to add an explicit provision stating that any consent may be issued subject to reasonable conditions.</p> <p>The Applicant refers to its response to the comments on wording and timescales under Article 10. The Applicant would strongly object to the period being changed to 70 days as being inappropriately long, and</p>	<p>The Council welcomes the Applicant amending the draft DCO to include an explicit provision that consent may be issued subject to reasonable conditions and reserves its position on this issue until it has reviewed the next iteration of the draft DCO.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p>application for consent "before the end of the period of 42 days beginning with the date on which the application was made".</p> <p><i>Amendment Required/Comment</i> Where works are being carried out permanently to the street and the street authority will be liable for those works in the future, there needs to be a mechanism for the street authority to inspect and authorise these works. The application for consent should allow for the street authority to make recommendations or amendments to the proposed works, as may be necessary, for the purposes of ensuring highway safety and the safe movement of traffic. The timescales are ambiguous as there is no definition for an application being "made". In addition, the timescales are too short. CWCC would suggest using "within 70 days of receiving an application for consent" in line with the wording used in Art 14(7).</p>	much longer than the period in other recently granted DCOs.	The Council refers to 2.3.17 above in relation to timescales.
2.3.19	Article 13	<p>Temporary restriction of public rights of way</p> <p><i>Issue</i> The local highway authority has to notify the undertaker whether any diversion "is satisfactory within 28 days of being requested in writing to do so".</p> <p><i>Amendment Required/Comment</i> The timescales are ambiguous as it is not clear when the request is made or notified to the local highway authority. In addition the timescales are too short. CWCC would suggest using "within 70 days of receiving an application for consent" in line with the wording used in Art 14(7).</p>	The Applicant refers to its response to the comments on wording and timescales under Article 10. The Applicant would strongly object to the period being changed to 70 days as being inappropriately long, and much longer than the period in other recently granted DCOs	The Council refers to 2.3.17 above in relation to timescales.
2.3.20	Article 14	<p>Temporary restriction of use of streets</p> <p><i>Issue</i> In Art 14(7) the street authority must notify the undertaker of its decision "within 42 days of receiving an application for consent".</p> <p><i>Amendment Required/Comment</i> These timescales are too short. CWCC require 70 days.</p>	The Applicant refers to its response to the comments on wording and timescales under Article 10. The Applicant would strongly object to the period being changed to 70 days as being inappropriately long, and much longer than the period in other recently granted DCOs.	The Council refers to 2.3.17 above in relation to timescales.

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
2.3.21	Article 15	<p>Access to works</p> <p><i>Issue</i> In Art 15(2) the street authority must notify the undertaker of its decision "before the end of the 42 day period beginning with the date on which the application was made".</p> <p><i>Amendment Required/Comment</i> The timescales are ambiguous as there is no definition for an application being "made". In addition, the timescales are too short. We would suggest using "within 70 days of receiving an application for consent" in line with the wording used in Art 14(7).</p>	<p>The Applicant refers to its response to the comments on wording and timescales under Article 10. The Applicant would strongly object to the period being changed to 70 days as being inappropriately long, and much longer than the period in other recently granted DCOs.</p>	<p>The Council refers to 2.3.17 above in relation to timescales.</p>
2.3.22	Article 18(1)	<p>Traffic regulation</p> <p><i>Issue</i> Art 18 allows the undertaker to make, revoke, amend or suspend traffic regulation orders at any time, for the purposes of, or in connection with, the construction of the authorised development. The traffic authority is to be consulted and their consent is required (such consent not to be unreasonably withheld or delayed).</p> <p><i>Amendment Required/Comment</i> There is no flexibility to allow the traffic authority to impose conditions or to take into consideration any representation made. Such flexibility is included within other DCO's such as the A417 DCO. The power to make such orders is available "at any time". As the power is limited to the construction of the authorised development, it should specify that the power conferred by article 18(1) may only be exercised for a limited period (e.g. any time prior to the expiry of 12 months from the completion of the construction works for the authorised development).</p>	<p>The Applicant has no objection to adding wording requiring representations to be taken into account as set out in the A417 DCO.</p>	<p>The Council welcomes the Applicant amending the draft DCO to include an explicit provision requiring representations to be taken into account and reserves its position on this issue until it has reviewed the next iteration of the draft DCO.</p>
2.3.23	Article 18(3) and 18(7)	<p>Traffic regulation</p> <p><i>Issue</i> The timescales for the notice of intention in Art 18(3)(a) are specified as being "not less than 42 days". Article 18(7) requires the traffic authority to notify the undertaker of its decision "within 42 days of receiving an application".</p>	<p>The Applicant refers to its response to the comments on wording and timescales under Article 10. The Applicant would strongly object to the period being changed to 70 days as being inappropriately long, and much longer than the period in other recently granted DCOs.</p>	<p>The Council refers to 2.3.17 above in relation to timescales.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p><i>Amendment Required/Comment</i> These timescales are too short and CWCC requires 70 days for both Art 18(3)(a) and 18(7).</p>		
2.3.24	Article 18(5)	<p>Traffic regulation</p> <p><i>Issue</i> Art 18(5) provides that "Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) at any time."</p> <p><i>Amendment Required/Comment</i> The power to make such orders is available "at any time". This should be limited to specified period (e.g. within a period of 24 months from the opening of the authorised development).</p>	The Applicant has no objection to including a time limitation. The Applicant notes that the precedent cited (A417) provides for a limit of 24 months not 12 as suggested	The Council welcomes the Applicant amending the draft DCO to include a time limit of 24 months to make orders under Article 18 and reserves its position on this issue until it has reviewed the next iteration of the draft DCO.
2.3.25	Article 19	<p>Discharge of Water</p> <p><i>Issue</i> Insufficient details of the proposed works have been provided in order for CWCC to confirm whether these provisions are agreed.</p> <p><i>Amendment Required/Comment</i> CWCC need to ensure there is no flood risk in connection with the undertakers use of powers under Article 19. At present, LLFA do not have sufficient information to confirm whether the wording of Art 19 can be agreed.</p>	Article 19 is concerned with the rights to discharge, i.e. land rights, it does not infringe on the LLFA's remit as a regulator. The Applicant notes that permanent drainage design is subject to approval under requirement 8 and that the drainage strategy requires attenuation to the equivalent of greenfield run-off rate, which could not create new flood risk.	<p>This Council welcomes clarification from the Applicant regarding the cross over between Article 19 and Article 8 with regard to the LLFA's remit as regulator when its controls are being disapplied with no protective provisions currently being in place.</p> <p>The permanent drainage design in Requirement 8, as referred to in the Applicant's response, only relates to surface water drainage to permanent works.</p>
		<p>Authority to survey and investigate the land Art</p> <p><i>Issue</i> 21(7) the timescale for notifying the undertaker of its decision is "within 28 days of receiving the application for consent".</p> <p><i>Amendment Required/Comment</i> The timescale is too short and CWCC requires 70 days.</p>	The Applicant notes that the article follows standard, well precedented drafting, including the time limit. The Applicant would strongly object to the period being changed to 70 days as being inappropriately long for the powers concerned which would authorise works of survey and investigation which would be necessary to inform other works, including for example preparing management plans which then need to be discharged, creating the risk of consequential delay. The Applicant considers that over two months to consider an application for access for surveys is not reasonable.	
Draft DCO Part 5				
2.3.28	Article 34	Temporary use of land for carrying out the authorised development	The Applicant notes that this power is primarily related to land ownership and possession and not the	The Council would welcome constructive dialogue with the Applicant on the Protective Provisions

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p><i>Issue</i> Art 34(1) includes wide powers to not only temporarily use land (subsection 1 (a)) but also to:</p> <p>(b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land; (c) construct temporary works (including the provision of means of access), structures and buildings on that land; (d) use the land for the purposes of a working site with access to the working site in connection with the authorised development; and (e) construct any permanent works specified in relation to that land in column (4) of Part 1 of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development; (f) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 7, or any mitigation works; (g) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and (h) carry out mitigation works required pursuant to the requirements in Schedule 2.</p> <p>Art 34(3) and 34(4) relate to the temporary possession ceasing, the removal of temporary works and restoring the land, save that the undertaker is not required to:</p> <p>(a) replace a building, or structure removed under this article; (b) remove any drainage works installed by the undertaker under this article; (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to streets works) (d) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(e); or (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.</p>	<p>regulation of streets/highways in their statutory status which is addressed by other articles. The Applicant does not agree and refers to the explanation set out at paragraph 4.120 of the Explanatory Memorandum [REP1-006].</p> <p>As regards street works, the Applicant is not aware of a circumstance where permanent works are required outside the limits of the plots where subsurface acquisition is sought. However, if a permanent work such as ground strengthening is required, the inclusion of that in this article is entirely standard and very well-precedence. Requiring acquisition for this would be contrary to the principle requiring permanent land take to be minimised.</p> <p>The Applicant had anticipated that the local highway authority would seek protections on street works points and included a first draft of the PPs to demonstrate it had considered that and provide a starting point for discussion, however it has had no comments on these from the authority.</p>	<p>included in Part 7 of Schedule 10 to the draft DCO and the Council will be providing comments on the Protective Provisions and negotiating with the Applicant throughout the Examination.</p> <p>The current drafting of the Protective Provisions does not specifically address the issue of permanent works outside of the order limits.</p> <p>The wider issue of the use of temporary powers for permanent works has not been addressed by the Applicant.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p><i>Amendment Required/Comment</i></p> <p>It is not clear how the use of temporary powers can be extended to allow for the construction of permanent works over the land (art 34(1) and for those works not to be removed (art 34(4). If land is required for permanent works, these should be included within the compulsory acquisition powers and should be subject to the appropriate compensation for the acquisition of that land. Where any works are carried out to a street and these works are not being removed/land restored, the highway/street authority must have the right to inspect and approve the works before being required to maintain the street (art 34(4)(c)).</p>		
Schedule 2: Part 1, Requirements				
2.3.29	Requirement 2	<p>Time Limits</p> <p><i>Issue</i></p> <p>2(2) "Notice of commencement of the authorised development must be given to the relevant planning authorities within 7 days of the date on which the authorised development is commenced".</p> <p><i>Amendment Required/Comment</i></p> <p>CWCC requires 14 days advance notice of the commencement of development so as to allow officers time to ensure compliance,</p>	<p>The Applicant notes that the DCO as drafted [REP1-004] requires notification within 7 days of commencement occurring, not in advance. The Applicant agrees to amend the provision to notice 14 days in advance.</p>	<p>The Council acknowledges and welcomes the suggested by the Applicant, The Council reserves its position until it has had an opportunity to review the next iteration of the draft DCO.</p>
2.3.30	Requirement 3	<p>Stages of authorised development</p> <p><i>Issue</i></p> <p>"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." The requirement does not require the submitted scheme to be approved or for the undertaker to undertake the development in accordance with the submitted approved stages.</p> <p><i>Amendment Required/Comment</i></p> <p>Suggested wording: 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</p>	<p>As set out in the Applicant's Response to ExA's ExQ1 Q1.19.44 [REP1-044], the submission of stages is proposed to give the LPAs visibility of the planned approach to the development. It is intended to assist the LPA in planning their work load by giving them warning of when applications would be made. It is not submitted for approval. The development will be carried out with multiple work fronts and with some elements, such as complex trenchless crossings carried out ahead of the main pipeline spread.</p>	<p>The Council requires a definition of 'Stage' to be included in this requirement. It is unclear what the parameters of each stage are and whether each Stage will include specific work numbers. The Council suggests the definition includes this level of detail and if the Stage needs to be amended throughout the Project then the relevant local planning authority is consulted on any change and its consultation response is taken into consideration.</p> <p>For the avoidance of doubt, this requirement should be amended to ensure that the Project is implemented in accordance with submitted (or amended) Stages to ensure that all parties are clear on what is required and by when.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		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.		
2.3.32	Requirement 4 (1)	<p>Scheme Design - Changes to above</p> <p><i>Issue</i> It is not clear what the “environmental effects” include. No definition is provided in Requirement 2 (Interpretation). Importantly, it is not clear who determines whether any changes cause “materially new or materially different environmental effects”. What mechanism is there for determining this?</p> <p><i>Amendment Required/Comment</i> Recommend a definition for the term “environmental effects”. The mechanism for determining whether any changes are “material” needs to be included otherwise this will be a self-approved process with no input from the relevant authority.</p>	<p>This is standard wording in DCOs and has been approved repeatedly by the Secretary of State, including in insertions made on their behalf at determination stage.</p> <p>The Applicant notes that for details to be approved, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 apply and when details are submitted for approval the LPA is required to consider if they are within the scope of the ES or if further environmental information is required. For other elements, failure to comply with a DCO is a criminal offence and the undertaker will have to take a view on materiality in that context. Where the relevant LPA disagrees, its enforcement powers would be available to it.</p>	<p>The Council is concerned that there is a self-approval mechanism for determining whether or not any changes are material. This same issue has been discussed at length on the A66 Northern Trans-Pennine DCO which is currently in Examination which is due to close on 26 May 2023. If a change is proposed, this change needs to be assessed by the Secretary of State as to whether or not it is material and therefore needs his approval or otherwise.</p> <p>The Council would suggest a similar approach be taken in this Project.</p>
2.3.32a	Requirement 4 (1)	<p>Changes to above ground development</p> <p><i>Issue</i> The need for approval of detailed design is welcomed. However, it is unclear how this will tie in with the CEMP and LEMP.</p> <p><i>Amendment Required/Comment</i> CWCC request that the wording be amended to include a requirement for the detailed design be based upon the mitigation outlined within the CEMP and LEMP.</p>	<p>Where relevant the detailed design will be based upon relevant mitigation measures that are identified within 2022 ES and subsequent ES Addendum Change Request 1 [CR1-124]. Where relevant these commitments are also included in the Outline LEMP [APP-229], the Outline CEMP [REP1-017] and the Outline OMEMP [REP1-051].</p> <p>The draft DCO [REP1-004] includes provisions to ensure the full versions of these management plans are in accordance with the outline versions including the working methods and mitigation measures to be applied during design, construction and operation (dependent on plan). The draft DCO also includes provisions to ensure that no materially new or materially different environmental effects from those assessed in the ES arise as part of the Proposed DCO Development. This would mean that mitigation measures and their performance criteria, as assessed in the ES, have to be applied in order to ensure there are no material changes to the effects. It is therefore</p>	<p>The Council acknowledges that mitigation is to be provided for the project based upon the approval and compliance with the commitments of the various management plans of the ES which are to be approved by the relevant requirements of the DCO on a Stage by Stage basis.</p> <p>It is however noted that the scheme design is based on works numbers not ‘Stages’.</p> <p>For consistency and to tie the detailed design for above ground installations to that of the final CEMP and LEMP, both which are approved on a Stage basis the Council ask that reference to the submitted / approved ‘Stages’ is included in the approval of detailed works in this requirement. For this, and subject to wording of requirement 3 (Stages) as referred to above (2.3.30) it is asked that the following wording be used for requirements 4(4) and 4(5).</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
			not considered necessary to include a requirement for the detailed design be based upon the mitigation outlined within the CEMP and LEMP as this is already provided for in the draft DCO.	<p><i>"No Stage including works Nos shall commence until details....."</i></p> <p>This would then effectively link the CEMP, LEMP mitigation requirements to the approved detailed design which are on a 'Stage' basis.</p>
2.3.33	Requirement 5 (2) (a-m)	<p>CEMP – Working Methods and Mitigation Measures</p> <p><i>Issue</i> Specific measures for construction works are missing including plant and equipment detail; night-time noise levels; minerals safeguarding, and identified contamination.</p> <p><i>Amendment Required/Comment</i> Include the following additional measures:</p> <ul style="list-style-type: none"> • mineral safeguarding plan, • protection and replacement planting of all significant trees and hedgerows (not just ancient woodland), • specification of noise limits (day and night) • heritage mitigation measures • biodiversity survey reporting and monitoring strategies • contamination • mechanism for review 	The detailed CEMP, secured by Requirement 5 of the dDCO [REP1-004], will include the details of those measures raised by the IP including working methods and mitigation measures to ensure the reduction of potential adverse impacts as a result of construction works.	<p>As identified at 2.3.4 above, the Council is not clear how matters of mineral resource management are to be secured in the final CEMP. At this stage, the Council ask that the consideration / inclusion of mineral management be explicit in the final CEMP.</p> <p>The Council also asks that the following are explicitly referred to in Requirement 5:</p> <ul style="list-style-type: none"> • Contamination mitigation measures; • Heritage mitigation measures and; • The specification of noise limits (day and night) <p>The Council has incorrectly inserted the below issues as relating to Requirement 5. The Council confirms that these issues relate to Requirement 11, and are further raised in 2.3.36 – 2.3.40 below:</p> <ul style="list-style-type: none"> • protection and replacement planting of all significant trees and hedgerows (not just ancient woodland), • biodiversity survey reporting and monitoring strategies • mechanism for review
2.3.34	Requirement 8 (3)	<p>Water Discharge</p> <p><i>Issue</i> Requires details to be submitted but not approved in writing.</p> <p><i>Amendment Required/Comment</i> Rewording to: "No discharge of water under article 19 (discharge of water) must be made until details of the location and rate of discharge have been submitted</p>	This was added to the requirement at Deadline 1, please see [REP1-005] for a tracked version of the dDCO.	The Council notes that Requirement 8(3) only requires the submission of details but not for the LLFA to be consulted nor its approval to those details. This needs to be included in the next iteration of the draft DCO.

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		and approved in writing by the relevant planning authority”		
2.3.35	Requirement 9	Contaminated land and Groundwater <i>Issue</i> This is missing a requirement for the submission and approval of a validation report. <i>Amendment Required/Comment</i> CWCC require the Requirement to be revised to include validation reporting and for the details to be approved by CWCC.	This was added to the requirement at Deadline 1, please see REP1-005 for a tracked version of the dDCO.	The Council notes the inclusion of Requirement 9(5) for verification reporting to be submitted to the relevant planning authority, however it does not require approval. Amendment is required for the submission of a verification report to be submitted for approval.
2.3.36	Requirement 11 (1)	LEMP <i>Issue</i> Combining ecology and Landscape will involve a lot of details, which if included together has the potential to miss important elements <i>Amendment Required/Comment</i> CWCC recommends that the details be split into landscape and ecological matters or for them to be set out in separate requirements.	The Applicant considers that such a split would be entirely artificial and leads to unnecessary duplication and a risk of inconsistency. The LEMP will cover prescriptions for a range of elements such as; woodland, native shrub planting, hedgerows and species rich grassland. All these elements contribute to both landscape and ecological value but require a single management regime, agreed by the respective disciplines, to maximise environmental benefits. For example, hedgerow restoration and reinforcement can serve more than one purpose, reinstating landscape boundary features and providing ecology benefits. Trying to allocate a separate landscape and ecology management regime to the hedgerow would be potentially contradictory and confusing. The Applicant notes that the outline LEMP [APP-229] provides what must be included in the detailed plan and therefore can be used as a check that all the required matters have been covered in any detailed plan submitted.	By reference to 2.2.89 above and in the Council's response to comments on its Local Impact Report (also submitted at Deadline3), the Council acknowledges the reasoning behind the combined approach undertaken in the OLEMP including the need for a single management scheme. Subject to the final LEMP having clear separate landscape and ecological objectives, as advised by the Applicant, the Council is satisfied that the final combined LEMP would be able to appropriately address the effects of the Project in terms of both landscape and ecological receptors.
2.3.37	Requirement 11 (1)	LEMP <i>Issue</i> It is not clear whether the landscape part include measures to protect Heritage. <i>Amendment Required/Comment</i> Detail inclusion of heritage matters	Cultural heritage matters are not specifically normally included in Landscape and Ecological Mitigation Plans. However permanent impacts to the setting of the historic assets will be mitigated through the planting of vegetative screening around the proposed AGI and BVS installations to reduce the impact of the visual intrusion within the landscape. Details of this planting, and any specified materials and pallets to be used, to ensure the permanent design is integrated within the landscape will be included in the LEMP.	In view of the clarification provided by the Applicant in 2.2.3 above the Council accepts that sufficient landscape and heritage mitigation would be secured as part of the planting specifications under the final LEMP without specific rewording to include heritage matters.

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
			Specific mitigation measures relevant to cultural heritage and archaeology are included within the REAC [REP1-015 and CR1-109], as secured by the CEMP within Requirement 5 of the DCO [REP1-004] and within the Outline Archaeological Written Scheme of Investigation [APP-223] as secured by Requirement 10 of the DCO [REP1-004].	
2.3.38	Requirement 11 (1)	11(2) LEMP – Inclusion <i>Issue</i> Missing heritage measures <i>Amendment Required/Comment</i> Detail inclusion of heritage matters	The Applicant refers CWCC to the response to 2.3.37 above.	
2.3.39	Requirement 11 (2)(c)	LEMP – Inclusion <i>Issue</i> There is no definition for “existing features” <i>Amendment Required/Comment</i> A definition should be added which should include updated ecological survey, reporting to the appropriate bodies and monitoring strategies.	This is standard wording in DCOs and has been approved repeatedly by the Secretary of State.	This definition is accepted by the Council, however, the point stands that the LEMP should include commitment to updated ecological surveys, reporting to the appropriate bodies and long-term monitoring strategies
2.2.40	Requirement 12	Ecological surveys <i>Issue</i> In Requirement 12 only ecological surveys referred to be carried out prior to works, are for European protected species. <i>Amendment Required/Comment</i> European sites, international sites and nationally protected habitats and species should also be included in this requirement, in addition to non-statutory sites (Local Wildlife Sites) as well if appropriate. Mitigation, compensation and obtaining appropriate licences if required, should also be stipulated here.	The requirement for EPS surveys does not imply an absence of or negate any need for any other surveys. The other surveys which are required are specified in the relevant plans, including the Outline LEMP [APP-229]. The only reason that EPS are singled out is that the LPA is not normally the licensing authority, and it is common for the inclusion of this to be sought by licencing bodies in the DCO [REP1-004] as they are not the approving body for the detailed plans, unlike the LPA.	The Council accept that EPS were highlighted due to the aforementioned process, rather than their reference meaning other non-EPS species would not be subject to the same process. The Council therefore accept the wording of Requirement 12.
2.3.41	Requirement 13 (1)	Construction Hours <i>Issue</i> The requirement restricts hours of constructions “except in the event of emergency” and provides definition of “emergency” as “means a situation where,	The exception for emergencies is necessary as where works are required to protect life, health safety, the environment or property it should not be a criminal offence to undertake those. That is not agreed to be a reasonable position for a DCO to create. The Applicant strongly objects to any deletion of this.	The Council would agree to the Applicant's definition of “emergencies” but subject to requirement provision 13(3)(c) being removed. Please see 2.3.42 below.

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p>if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action". This definition of "emergency" is not considered acceptable as it would allow for uncontrolled out of hours construction works.</p> <p><i>Amendment Required/Comment</i> CWCC would prefer a scheme for out of hours work to be submitted to the relevant authority for approval. The blanket exception for "emergency" needs to be removed or redefined.</p>		
2.3.42	Requirement 13 (3)	<p>Construction Hours</p> <p><i>Issue</i> List of operations allowed outside approved working hours including trenchless construction techniques and works required to mitigate delays due to extreme weather conditions etc. this is too open and has the potential to result in unacceptable noise impacts.</p> <p><i>Amendment Required/Comment</i> Revise wording of Requirements to require any working outside of agreed hours only as part of an approved scheme.</p>	<p>The Applicant does not agree that a scheme is required for the works (a), (b) and (d). It is known that some working outside standard hours is required, for example on trenchless crossings make no sense to require a scheme for works already known. Trenchless crossings once commenced cannot be halted except in an emergency. It is inappropriate for activities which are known to need continuous working not to be provided for on the face of the DCO. The drafting of this requirement follows precedent where such exceptions are routinely included.</p> <p>The Applicant will agree to amend the DCO so that working for what is currently (c) would require approval under a scheme but maintains that allowing 24 hour working for (a), (b) and (d) is necessary and appropriate.</p>	<p>The Council questions how a scheme for working under 13(3)(c) would be secured / undertaken.</p> <p>The Council therefore requires the removal of Requirement 13 (3) (c) and would only accept the retention of operations under 13(3) (a), (b) and (d), subject to the noise and vibration management plan, to be approved as part of the final CEMP, including detail of any additional mitigation for of all out of hours working including that for operations identified under these parts.</p>
2.3.43	Requirement 13 (4) (a)	<p>Construction Hours</p> <p><i>Issue</i> The requirement provides that "nothing in subpara. (1) preclude the receipt of oversized deliveries to site and the undertaking on non-intrusive activities". Non-intrusive activities as defined in subpara. (5) would need further clarification and tighter links to prevailing noise limits and most importantly the character of the noise, duration, frequency, maximum levels.</p> <p><i>Amendment Required/Comment</i></p>	<p>The Applicant does not agree and notes that all works will be subject to noise controls through the CEMP and where appropriate COPA prior approvals. A scheme is not necessary as noise controls are already provided for under other requirements.</p> <p>The requested deletion of 'outside the Order Limits' is not understood as that is not considered by the Applicant to make sense. The definition provides that non-intrusive activities are those which cause a discernible impact outside the Order Limits – there can be no activity which does not cause an impact inside as the person carrying out can clearly discern it, they will not be working in the dark for example. The</p>	<p>As outlined in paragraph 15.8 of the Local Impact Report [REP1A-002] the Council accepts oversized deliveries for non-intrusive activities outside identified hours.</p> <p>The Council notes the Applicant's response in respect of noise controls to be contained in the CEMP however the specific additional mitigation for out of hours working is not currently specified in these documents. As is outlined in 2.3.42, above, the Council maintains that the control of any working outside the identified hours, including any</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p>Revise wording of Requirements to require any working outside of agreed hours only as part of an approved scheme.</p> <p>The wording "outside the Order limits" in the "non-intrusive activities" definition needs to be deleted.</p>	<p>definition is there to stop task lighting 'spilling' outside the order limits, not prevent a worker turning on lights inside a kiosk.</p>	<p>additional mitigation, should form part of an approved scheme. The Council suggests that this could be secured as part of the yet to be approved noise and vibration management plan, which will form part of the final CEMP.</p> <p>The Council's point regarding the definition of "non intrusive activities" and outside the Order Limits relates to the fact that there currently exists residential receptors (including The Spinney, Hallsgreen Lane, CH2 4JX) within the Order Limits and these would be missed within this definition.</p>
2.3.44	Requirement 13 (4) (b)	<p>Construction Hours</p> <p><i>Issue</i> The requirement provides that "nothing in subpara. (1) preclude start-up and shut-down activities up to an hour either side of the core working hours and undertaken in compliance with the CEMP". CWCC also advise that start up and shut down activities should be very much part of the core hours of operation and is not separate.</p> <p><i>Amendment Required/Comment</i> Revise wording of Requirement to require any working outside of agreed hours only as part of an approved scheme.</p>	<p>The Applicant disagrees and notes that start up and shut down hours are routinely allowed outside the core hours as they are include activities such as staff arrival, briefings, tool box talks, health and safety checks and numerous other activities which do not have the impacts of the main construction. The Applicant is willing to discuss the wording of this to address any concerns regarding the scope of activity allowed but does not agree a scheme is required for the types of activities listed.</p>	<p>The Council maintains that uncontrolled start up and shut down operations, even with the controls under the CEMP, such as the use of external machinery including generators and start-up and maintenance of heavy machinery and plant have the potential for significant impacts to amenity especially given the Projects proximity to residential receptors.</p> <p>With suitable controls / restrictions the Council would however not be averse to certain out of hours start up and shut down activities.</p> <p>The Council would advise that this issue could be resolved by a further definition for "non-discernible activities" for start-up and shut-down operations and we would specifically say that these should not include certain activities including use /starting up of engines of any external plant or machinery including generators, heavy plant and the use of high level flood lighting.</p>
2.3.45	Requirement 16	<p>Restoration of Land</p> <p><i>Issue</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</p>	<p>This requirement is a reserve power to allow the LPA to require restoration in default or where there is an issue. The primary mechanism for controlling restoration is the land agreements which will include for example schedules of condition before possession is taken, the details of restoration, which will in the main be to the former use. Drainage would be reinstated in its former location. Deterioration in land</p>	<p>The Council maintains that the restoration of land and suitable aftercare is a planning matter, land ownership is not. The draft DCO should be re worded to require full details of a restoration scheme, combined within Requirement 16 or include more detail within the soil management plan.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p>as the relevant planning authority may approve, within 12 months of completion of the authorised project.” “fit for its former use” is not precise or enforceable and would not secure return the higher grades of agricultural land back to their former grading / condition including drainage etc. Requirement 16 as a whole is not precise or enforceable and does not require the approval of a scheme of restoration and aftercare.</p> <p><i>Amendment Required/Comment</i> The requirement to reinstate should be on a section or phase basis, not the whole project, as that will increase the time to restoration of habitats (and alter the biodiversity net gain result).</p>	<p>would be a compensatable issue not a planning one. Aftercare of agricultural land once returned to the landowners use is not appropriate or reasonable as it would not only interfere with the land agreements between the landowner and Applicant but would require the Applicant to control land for longer than necessary, to interfere with the landowners use, to take rights for longer than necessary and it is accordingly disproportionate to move from the control of the landowner to the LPA.</p>	
2.3.46	Requirement 17	<p>Post construction environmental management plans</p> <p><i>Issue</i> “Operational and maintenance management” and “decommissioning” are distinctly separate stages of the project. These should be covered in separate requirements. Furthermore, the scheme does not provide or require details of restoration aftercare.</p> <p><i>Amendment Required/Comment</i> CWCC advise that the requirement be split into two requirements for the approval of schemes for restoration and aftercare and one for decommissioning. CWCC require details of restoration and aftercare to be provided to the relevant planning authority for approval. This could be incorporated under Requirement 17 or alternatively a detailed scheme could be included Requirement 16.</p>	<p>The Applicant has no objection to splitting this into two requirements.</p> <p>Restoration aftercare from construction is addressed above. Restoration of decommissioning would be covered by the DEMP under Requirement 17(3) of the dDCO [REP1-004].</p>	<p>The Council welcomes splitting this requirement into operational and maintenance environment management (OMEMP) and decommissioning environmental management plan (DEMP). However as is noted above, in 2.3.45 above, these plans need to include detail of full restoration and aftercare schemes.</p>
2.3.47	Requirement 17(1) and 17(3)	<p>Post construction environmental management plans</p> <p><i>Issue</i> Requirement 17(1) requires the submission of an operational and maintenance environment management plan. Requirement 17(3) requires the submission of a DEMP.</p> <p><i>Amendment Required/Comment</i></p>	<p>This was added to the requirement at Deadline 1, please see [REP1-005].</p>	<p>The Council notes that requirement 17(1) the revised dDCO submitted at Deadline1 omits for the approval by the relevant planning authority.</p> <p>The Council request that this is amended in the next iteration of the draft DCO.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		For these requirements to be acceptable, CWCC require these plans to be submitted for approval by the relevant planning authority and to be implemented in accordance with the approved plans.		
2.3.48	Requirement 19(4)	<p>19(4) Amendments</p> <p><i>Issue</i> The requirement provides for a "42 days" notification period. There is no ability to agree extension of time.</p> <p><i>Amendment Required/Comment</i> CWCC would advise the use of the standard period for decision of 16 Weeks and the inclusion of a provision to agree an extension of time i.e. "within such longer period as may be agreed by the undertaker and the host authorities in writing"</p>	The Applicant is happy to make this amendment.	The Council reserves its position until the amendment is made in the next iteration of the draft DCO.
Schedule 2: Part 2: Applications made under requirements (pp. 70-72)				
2.3.49	Article 21(1)	<p>Applications made under requirements</p> <p><i>Issue</i> The requirement provides that notice of a decision is required within 42 days. This period is too short and not in accordance with standard timescales for determining applications.</p> <p><i>Amendment Required/Comment</i> In line with Article 27 of the DMPO and EIA Regs, CWCC consider a 16 week period to be reasonable.</p>	<p>The Applicant is aware that CWCC do not agree with the period sought however the Applicant notes that the 42-day period is the same as that in the Southampton to London Pipeline Order, The Applicant is willing to amend the period to 56 days (8 weeks) as requested by FCC but considers the 16 week period sought to be unreasonably long.</p> <p>The Applicant notes that article 27(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 provides "<i>The authority must give notice to the applicant of their decision on the application within a period of 8 weeks beginning with the day immediately following that on which the application is received by the authority, or such longer period as may be agreed by the applicant and the authority in writing.</i>" The 16 week period stated applies to applications for full planning permission for developments requiring EIA, not applications for discharge of conditions and is an inappropriate comparison in this circumstance. The applications are the equivalent of discharge of conditions not a full planning application. The principle of development is established, policy compliance assessed and the EIA impacts considered in the DCO process, that work is not required to be undertaken at discharge stge. The 5</p>	Whilst the Council would prefer a longer period to provide a response it is considered that the statutory 8-week period would be acceptable.

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
			<p>and 8 week periods are a more reasonable comparison for determining details under requirement.</p> <p>It is noted that the Norfolk Vanguard and Norfolk Boreas orders allowed 8 weeks (56 days) not 16. The Applicant submits it is inappropriate to delay a NSIP through deemed refusal just where a LPA has failed to deal with an application timeously.</p>	
2.3.50	Article 21(2)	<p>Applications made under requirements - deemed approval</p> <p><i>Issue</i> This requirement includes the deemed approval for applications submitted pursuant to a requirement. This is too onerous.</p> <p><i>Amendment Required/Comment</i> CWCC consider "deemed approval" should not be included within Article 21.</p>	The Applicant submits it is inappropriate to delay a NSIP through deemed refusal just where a LPA has failed to deal with an application timeously.	In view of the agreement of an extended timescale for determinations to 8 weeks for applications made under requirements and with the inclusion of the ability to otherwise agree in writing an extension to this period the Council is able to accept this position.
2.3.51	Article 22	<p>Multiple relevant authorities</p> <p><i>Issue</i> The requirement provides 20 days for discharging authorities to comment on applications relating to multiple authorities within "20 days".</p> <p>Timescale is short and doesn't allow any agreed extensions of time. This is in effect a pre-app to and between the two authorities – the need for timescales at all is questioned. If a timescale is accepted there should at very least be the ability to agree an extension of time.</p> <p><i>Amendment Required/Comment</i> Advise the removal of this Requirement or provide a reasonable extended period of time [e.g. within 40 days and ability to agree an extension of time i.e. "within such longer period as may be agreed by the undertaker and the host authorities in writing"]</p>	The Applicant would be willing to add the flexibility requested to agree a longer timescale but will not agree to extend the period.	The Council would welcome the inclusion of flexibility to agree longer timescales, however, a 20 day response time would be an unreasonably short period of time for the Council to be able provide any substantive response.
2.3.52	Article 23(2)	<p>Further Information</p> <p><i>Issue</i> "(2) If the relevant authority considers further information is necessary and the requirement does not</p>	Where consultation is needed on a requirement that would be stated in the requirement and known upfront. That is stated in sub-paragraph (3).	The Council would still consider 10 days to be an unreasonably short period of time, especially where detailed responses are required from internal consultees. The Council maintain that this either be

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
		<p>specify that consultation with a requirement consultee is required, the relevant authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required. Notification required in 5 business days to specify further information required.”</p> <p>Even for internal consultees it is not considered reasonable to only allow 5 working days for notification for further information. Notwithstanding the admin time, consultees will need time to fully review the provided material to be able to advise if further information will be required. This is not considered reasonable and significant concern is raised by CWCC.</p> <p><i>Amendment Required/Comment</i> CWCC may not know whether they need to consult a requirement consultee within the first 5 days. CWCC recommend that this be amended to a more reasonable length of time (e.g. 21 days) or removed in its entirety.</p>	<p>The Applicant will not agree to remove this wording but would be willing to amend the period to 10 days.</p>	<p>amended to a more reasonable length of time (e.g. 21 days) or removed in its entirety.</p>
2.3.53	Article 23(3)	<p>Further Information</p> <p><i>Issue</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.” The 5 day timescales for issuing the consultation and reverting to the undertaker as to whether further information is required is not appropriate where external consultation is needed. 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> <p><i>Amendment Required/Comment</i> CWCC advise this be amended to a more reasonable length of time (35 days).</p>	<p>Where consultation is needed on a requirement that would be stated in the requirement and known upfront. That is stated in sub-paragraph (3).</p> <p>The Applicant will not agree to remove this wording.</p>	<p>In view of the provisions / time scales and ability to agree extension of time afforded for under Article 21 (8 weeks) the Council questions the need for any restriction on consultation times and requests for additional information.</p> <p>Notwithstanding this point, should the ExA accept the retention of consultation restrictions under this article, in view of the standard 21-day response time for external consultees, it is considered unreasonable to only allow 21 days for the Council to respond to the undertaker for additional information, especially where there is the potential for delays in external consultee responses or where responses are received on day 21. In this respect the Council do not consider it unreasonable to amend this timescale to 35 days to allow sufficient time for adequate and meaningful consultation.</p>

Reference	LPA Reference	Witten Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3
2.3.54	Article 23(4)	<p>Further Information</p> <p><i>Issue</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 application and is not thereafter entitled to request further information without the prior agreement of the undertaker.” This is not considered reasonable – If insufficient info has been provided the host authority should have the right to ask for further information as deemed necessary. If this was to remain in place the Host Authority, if missing it's 5-day notice period, would have no choice but to refuse the requirement application – this would be counterproductive.</p> <p><i>Amendment Required/Comment</i> Advise this requirement is removed.</p>	<p>The discharging authority has the ability to ask for further information, within the timescales stated, not at any time thereby delaying determination unpredictably and with an impact on delivery of the NSIP. The Applicant does not agree that this standard wording should be deleted.</p>	<p>The LPA maintains that this provision should be removed, it could be more likely to result in a decision being made with insufficient information which could result in a refusal, particularly given the tight time scale, delaying the delivery of the Project further rather than allowing the local planning authority to work pro-actively with the Applicant.</p>
Schedules 3 & 4				
2.3.55	All parts	<p><i>Issue</i> “In the County of Cheshire West and Chester”</p> <p><i>Amendment Required/Comment</i> Reword: “In the Borough of Cheshire West and Chester”</p>	<p>This change will be made in the next revision of the dDCO.</p>	<p>The Council reserves its position until the amendment is made in the next iteration of the draft DCO.</p>
Schedule 10 – Protective Provisions				
2.3.56	Part 7	<p>Protective Provisions – Local highway authorities</p> <p><i>Issue</i> The details of the protective provisions were not negotiated with CWCC prior to being included within the DCO. These are being discussed with the applicant.</p> <p><i>Amendment Required/Comment</i> CWCC reserve the right to comment on the protective provisions.</p>	<p>The Applicant had anticipated that the local highway authority would seek protections on street works points and included a first draft of the PPs to demonstrate it had considered that, was happy in principle to progress such PPs and provide a starting point for discussion, however it has had no comments on these from the authority.</p>	<p>The Council would welcome constructive dialogue with the Applicant on the Protective Provisions included in Part 7 of Schedule 10 to the draft DCO and the Council will be providing comments on the Protective Provisions and negotiating with the Applicant throughout the Examination.</p>