

## **Application by Liverpool Bay CCS Limited for an Order Granting Development Consent for the HyNet Carbon Dioxide Pipeline Project.**

### **The Examining Authority's second round of written questions and requests for information (ExQ2) Issued on 15 June 2023**

The following table sets out the Examining Authority's (ExA's) written questions and requests for information – ExQ2. If necessary, the examination timetable enables the ExA to issue a further round of written questions. If this is done, the further round of questions will be referred to as ExQ3.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe C to the Rule 6 letter of 20 February 2023. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 2 (indicating that it is from ExQ2) and then has an issue number and a question number. For example, the first question on General and Cross-topic matters is identified as Q2.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact [hynetco2pipeline@planninginspectorate.gov.uk](mailto:hynetco2pipeline@planninginspectorate.gov.uk) and include 'HyNet Carbon Dioxide Pipeline' in the subject line of your email.

A number of Deadlines have past and Additional Submissions have been submitted by the Applicant, including Change Requests. These may already address some of the questions set out below. Should that be the case, the ExA does not consider that question needs to be answered in full, rather the ExA would ask the response to that question signposts exactly where the answer/ information has already been provided (ie Document Title, Applicant's Document Reference Number, Planning Inspectorates Reference Number, Paragraph number, Table number, Etc.)

**Responses are due by Deadline 5: Tuesday 4 July 2023.**



Abbreviations used:

<b>AEoI</b>	Adverse Effect on Integrity	<b>HSE</b>	Health and Safety Executive
<b>AGI</b>	Above Ground Installation	<b>IPs</b>	Interested Parties
<b>BNG</b>	Biodiversity Net Gain	<b>LEMP</b>	Landscape Ecology Management Plan
<b>BVS</b>	Block Valve Station	<b>LPA</b>	Local Planning Authority
<b>CEMP</b>	Construction Environmental Management Plan	<b>LSE</b>	Likely Significant Effects
<b>CWCC</b>	Cheshire West and Chester Council	<b>ML</b>	Marine Licence
<b>DCO</b>	Development Consent Order	<b>NE</b>	Natural England
<b>EA</b>	Environment Agency	<b>NH</b>	National Highways Ltd
<b>EPS</b>	European Protected Species	<b>NMWTRA</b>	North and Mid Wales Traffic Regulation Authority
<b>ES</b>	Environmental Statement	<b>s</b>	Section
<b>ExA</b>	Examining Authority	<b>SAC</b>	Special Area of Conservation
<b>ExQ2</b>	ExA's Second Written Questions	<b>SoCG</b>	Statement of Common Ground
<b>FCC</b>	Flintshire County Council	<b>SPA</b>	Special Protection Area
<b>FLL</b>	Functionally Linked Land	<b>SRN</b>	Strategic Road Network
<b>GCN</b>	Great Crested Newts	<b>SuDS</b>	Sustainable Drainage Systems
<b>HRA</b>	Habitats Regulations Assessment	<b>UUW</b>	United Utilities Water
<b>HRAR</b>	Habitats Regulations Assessment Report	<b>WW</b>	Welsh Water



### **The Examination Library**

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070007/EN070007-001186-HyNet%20Carbon%20Dioxide%20Pipeline%20Bilingual%20Examination%20Library.pdf>.

It will be updated as the examination progresses.

### **Citation of Questions**

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg Q2.1.1 – refers to question 1 in this table.



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ExQ2	Question to:	Question:
<b>1. General and Cross-topic Questions</b>		
Q2.1.1	<i>Information</i> <b>Applicant/ Interested Parties (IP)</b>	<ul style="list-style-type: none"> <li>Given the change requests submitted by the Applicant [CR1-001] and [CR2-016] have been consulted upon and/ or are currently undergoing statutory consultation, and assuming all formal consultation provision has been declared and verified as being met for the Change Requests, the ExA would ask whether if further Hearing(s) or ExA written questions, beyond those already programmed in the Examination timetable, would be required as pertinent avenues to address any remaining Examination matters. Applicant/ IP comment is invited if considered appropriate.</li> </ul>
Q2.1.2	<i>Negotiations/ Conflict resolution</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>The concerns of the Council, Peel NRE and Encirc concerning the potential impacts on Protos Plastics Park, delivery of the railway line that formed part of the overarching planning permission (14/02277/S73) and the potential expansion of the Encirc Glass Manufacturing Facility are noted, including potential loss/ sterilisation of part of a strategic site and/ or safeguarded site(s). The ExA would urge the Applicant to resolve the concerns of the relevant IPs as a priority and provide an update to the ExA in regard to what is being done to address these matters and how they are to be resolved within the remaining Examination period.</li> </ul>
Q2.1.3	<i>Clarification</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>Figure 17.4 (Construction Access) [CR1-092] is unclear in regard to AG1 CTR1, which appears to be obscured by the red line Order boundary. Please review and amend, if required.</li> </ul>
Q2.1.4	<i>Clarification</i> <b>Peel NRE/ Cheshire West and Chester Council (CWCC)</b>	<ul style="list-style-type: none"> <li>Peel NRE references "Future Planned Infrastructure" in its submissions. Can it elaborate on what this means? (e.g. Is it referring to an existing allocation in the adopted Development Plan, or other development proposal(s) it is referring to). The Applicant in its 'Response to Written Representations' [REP2-041] at paragraph 2.11.15 states it is "<i>engaging with the IP to secure details of this infrastructure to ensure the separate developments can co-exist.</i>" Has such engagement with IPs including Peel NRE and CWCC occurred? If so, what was the outcome?</li> </ul>
Q2.1.5	<i>Conflict resolution</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>Peel NRE is maintaining an objection with regard to the Applicant's Assessment of Cumulative Effects (Environmental Statement (ES) Chapter 19 [APP-071]). How is the Applicant resolving/ addressing these concerns?</li> </ul>
<b>2. Assessment of Alternatives</b>		

ExQ2	Question to:	Question:
Q2.2.1	<b>Applicant/ Welsh Government/ IPs</b>	<ul style="list-style-type: none"> <li>• Stephen Gibbons [AS-064] has made submissions regarding the possibility of a shorter (discounted) route to the north of Deeside Industrial Park to run parallel with the A548. That alternative route is referred to by the author of the submission as a better proposition due to: -               <ul style="list-style-type: none"> <li>○ the route does not pass close to residential areas and therefore less likely to have an impact;</li> <li>○ the route is through open countryside and easily accessible for construction from the A548;</li> <li>○ the alternative route is around 7.2km shorter which would lead to significant cost savings; and</li> <li>○ a shorter route minimises interference with the rights of private landowners.</li> </ul> </li> </ul> <p>The ExA acknowledges the Applicant’s reasoning, as set out in [REP2-039] for discounting the above route, which includes:- engineering-related constraints; a landfill site of unknown provenance; a crossing involving shifting sands, implying the need for very deep tunnelling to ensure stability; the land of the western bank being unsuitable; constructing the final part of the route past the power station itself would result in significant disruption from a closure of several weeks; and the land either side of the River Dee within the corridor is internationally designated for its biodiversity importance and the works associated with the pipeline would have a greater environmental impact than the southern corridor. However, the ExA asks: -</p> <ol style="list-style-type: none"> <li>i. What detailed survey information has been undertaken which informs the Applicant’s views/ statements in this regard?</li> <li>ii. Are the engineering/ geological issues referred to insurmountable problems from a scheme delivery perspective? If so, how, and why would they constitute insurmountable issues? Or is it more a time/ cost delivery issue?</li> <li>iii. What depth of tunnelling is the Applicant referring (as a rough indication/ estimate)?</li> <li>iv. For the avoidance of any doubt what is the name of the power station and the specific reason it would need to close?</li> </ol>

ExQ2	Question to:	Question:
		<p>v. Were any technical alternatives considered allowing the power station to remain in use?</p> <p>vi. In relation to the biodiversity elements of reasons for the route being discounted a) was there any study undertaken showing that the ecological designation was not conducive to achieving an appropriate pipeline scheme design b) was there a study undertaken to conclude there would have a greater impact than the existing route? Please provide the full details.</p> <p>vii. Does the Applicant agree/ disagree that the current scheme has a greater interference on land ownership rights than the alternative discounted? Please state reasoning.</p> <p><b>IPs</b></p> <ul style="list-style-type: none"> <li>• Are invited to make comments, if appropriate.</li> </ul>
<p><b>3. Air Quality and Emissions</b></p>		
<p>Q2.3.1</p>	<p><i>Mitigation/ management</i>  <b>Flintshire County Council (FCC)/ CWCC/ IPs</b></p>	<ul style="list-style-type: none"> <li>• What existing management mechanisms/ practices would be in place at a local level to report an air quality issue (such as odour or dust) if a problem did arise from the Development Consent Order (DCO) development during construction or operation reported by a member of the public?</li> </ul>
<p>Q2.3.2</p>	<p><i>Mitigation/ management</i>  <b>FCC/ CWCC/ IPs</b></p>	<ul style="list-style-type: none"> <li>• Does the Council have a clear timeframe as to how quickly local air quality issues raised by a member of the public concerning issues such as odour abatement would be acknowledged and responded to, should that transpire? If so, please explain the end-to-end-- process.                      If there are existing corporate Enforcement policies in place, please detail the nature of those including all commitments to how complaints would be managed.</li> </ul>
<p>Q2.3.3</p>	<p><i>Mitigation/ management</i>  <b>Applicant/ IPs</b></p>	<ul style="list-style-type: none"> <li>• Having regard to both operation and construction phases does the Applicant propose any active management channels/ mechanisms to support any future local complaint management scenarios related to the proposed infrastructure?                      Would there be any active management channel in place for the DCO development which members of the public would be able to contact directly? For example, if any member of the public needed to report an issue.                      If so, what would the contactable management provision comprise of? What assurances can the Applicant provide through formal mechanisms within the DCO to ensure that</li> </ul>

ExQ2	Question to:	Question:
		<p>there would be adequate day to day management safeguards to deal with any public complaint issue/ concern should it arise during construction or operation? The question would also extend to managing any landscaping provision to be undertaken.</p>
<p><b>4. Biodiversity, Ecology and Natural Environment</b></p>		
<p>Q2.4.1</p>	<p><i>Surveys</i> <b>Applicant/ CWCC/ FCC/ Natural England (NE)/ Natural Resources Wales (NRW)/ IPs</b></p>	<ul style="list-style-type: none"> <li>• The absence of ecological surveys beyond the order boundary limits for barn owls and badgers are referred to by CWCC in their detailed correspondence received at Deadline 2 and it has highlighted concerns of incomplete surveys in respect of Bats and Barn Owls. As such CWCC consider the assessments of importance levels and value/ sensitivity of receptors are taken to be as being based on incomplete data sets. In addition, it notes the need for clarifications in respect of surveys of other identified receptors. The ExA would ask:             <ol style="list-style-type: none"> <li>i. CWCC clarify which specific locational receptors it is referring to?</li> <li>ii. Whether CWCC take the view that all the information it has referred to is in fact necessary to inform a decision, or is it instead considered to be desirable in nature?</li> <li>iii. What are the specific reasons for any further surveys/ data being a necessary requirement of the Applicant?</li> <li>iv. What recommended distances (relative to the DCO area) for species specific ecological survey or additional data would need to be factored, bearing in mind any local or national best practice or professional expertise available to the Council? Provide clear reference to the source or ecological expertise involved.</li> <li>v. Does CWCC wish to add any ecological information it has knowledge of to the examination record with these above issues in mind?</li> </ol> </li> </ul>
<p>Q2.4.2</p>	<p><i>Surveys</i> <b>CWCC and IPs</b></p>	<p><b>CWCC</b></p> <ul style="list-style-type: none"> <li>• CWCC notes further surveys were presented to the Examination on 3 March 2023 by the Applicant and accepted by the ExA, as part of the Applicant's Section (s) 51 advice response, on 14 March 2023. Some of these documents were subsequently superseded by documents that replace the originals due to a publishing error. These were accepted into the examination by the ExA on 20 March 2023. The replacement documents have a</li> </ul>



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ExQ2	Question to:	Question:
		<p>`*` next to the Examination Library document reference number in the list set out below.</p> <p>These surveys were contained in: Chapter 9 – Biodiversity [AS-025]; Bat Activity Survey Report [AS-057]*; Bats Activity Survey Report Annex G Part 2 [AS-029]; Bats and Hedgerows Assessment [AS-031], [AS-033], [AS-035] to [AS-038] and [AS-059]*; Riparian Mammal Survey Report [AS-039]; and an Outline Construction Environmental Management Plan (CEMP) [AS-055].</p> <p>CWCC indicated additional time is needed to properly address this environmental information. The ExA would ask how much additional time is being sought or whether CWCC is able to clarify its views on the content of the above documents at this stage? If so, please give your comments.</p> <p><b>IPs</b></p> <p>All IPs are invited to comment.</p>
Q2.4.3	<p><i>Survey data</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>The response to the CWCC [REP-042] infers that data has been collected beyond order limits, but it is not clear where this is and seems to refer to the previously larger draft DCO Order Limits at pre-application stage rather than a measured survey strategy relating to species ranges and standard survey distances considered for relevant species. The Applicant is requested to provide clarification and/ or make provision for further ecological information to be submitted on this matter.</li> </ul> <p>Secondly, features potentially impacted outside the DCO boundary are referred to as constituting indirect impacts. But `indirect` impacts may not be the correct term applicable. Can the Applicant clarify which features outside the DCO boundary are properly accounted for and indicate the minimum distance thresholds, the technical expertise and ecological guidance it is basing its rationale and conclusions on?</p>
Q2.4.4	<p><i>Survey/ mitigation</i> <b>Applicant/ CWCC/ FCC/ NE/ NRW/ IPs</b></p>	<ul style="list-style-type: none"> <li>The Applicant indicates updated surveys will take place at detailed design stage and mitigation is sufficient to safeguard or otherwise mitigate identified receptors within the Order Limits and beyond. But how is it clear mitigation would be effective without full survey information being available to first inform this?</li> <li>Do IPs find the Applicant’s position appropriate?</li> </ul>

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ExQ2	Question to:	Question:
Q2.4.5	<p><i>Likely Significant Effects (LSE) to protected fauna</i>  <b>CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs</b></p>	<ul style="list-style-type: none"> <li>• Does CWCC/ IPs agree that the direct/ indirect affects arising to protected fauna from the pipeline route could either be managed/ avoided (where it is possible) and subsequently mitigated if needed? If not, please state why not outlining the specific areas of disagreement.</li> </ul> <p>What formal mechanisms could be applied to ensure that direct/ indirect effects arising from any survey absence or ecological data shortcoming is properly managed/ accounted for through the DCO?</p>
Q2.4.6	<p><i>Biodiversity Enhancement/ Biodiversity Net Gain (BNG)</i>  <b>CWCC/ FCC/ NE/ NRW/ Woodland Trust/ Welsh Government/ IPs</b></p>	<ul style="list-style-type: none"> <li>• The Applicant's 'Draft BNG Strategy Update' received at Deadline 2 [REP2-042] states that they are seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5. As part of that intended programme, the Applicant has indicated this would comprise the following: <ul style="list-style-type: none"> <li>- Identification of landowners for BNG for Welsh Woodland.</li> <li>- Confirmation of English and Welsh sites for other required habitat offsets.</li> <li>- Initial data check of baseline via a desktop study.</li> <li>- Review and checking of third-party survey data.</li> <li>- Agree format of legal agreements to secure ongoing management of BNG.</li> <li>- Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management.</li> </ul> </li> <li>• Do IPs feel the above draft intentions are extensive enough?</li> <li>• Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion?</li> <li>• What else could be done to maximise ecological enhancements or BNG proposals?</li> </ul>
Q2.4.7	<p><i>Biodiversity Enhancement/ BNG</i>  <b>Applicant/ CWCC/ FCC/ NE/ NRW/ Welsh Government/ Woodland Trust/ IPs</b></p>	<ul style="list-style-type: none"> <li>• Nature markets referred to in UK Government guidance could provide a realistic channel for making further improvements that benefit nature. Local planning authorities can assist with such proposals by formulating/ providing: <ul style="list-style-type: none"> <li>- biodiversity action plans;</li> <li>- green infrastructure strategies;</li> <li>- catchment management plans;</li> <li>- biodiversity opportunity areas; and</li> </ul> </li> </ul>

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ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>- local nature partnership documentation.</li> <li>• Any proposal would also need a secure relevant land by legal agreement managing the habitat for at least 30 years. This could be achieved through a planning obligation (s.106) or a conservation covenant with a responsible body. The land could be subsequently registered as a biodiversity gain site from November 2023. Current guidance outlines that the biodiversity units could be allocated to a development before or after they are registered.</li> <li>• What scope is there for nature markets to be used to deliver biodiversity enhancement?</li> <li>• Would IPs want to assist such proposals in any active engagement with the Applicant?</li> <li>• Has the Applicant considered such an approach, in tandem with the range of nature strategies mentioned by IPs in responding to the ExA’s first written questions?</li> <li>• The ExA requests that full consideration of emerging/ developing nature markets be given in the draft BNG Strategy (as an additional last resort option), alongside it being broadened to incorporate an ecological enhancement strategy given the specific terminology used in wider Welsh and English environmental law/ policy applicable to the scheme (including s.6 of the Welsh duty).</li> </ul>
Q2.4.8	<p><i>Trees</i>  <b>Applicant/ CWCC/            FCC/ NE/ NRW/            Woodland Trust/ IPs</b></p>	<ul style="list-style-type: none"> <li>• It is noted by the ExA that in the absence of a finalised detailed design, definitive extents of hedgerow and tree losses, across the Order Limits, cannot be confirmed.</li> <li>• How does the Applicant justify this approach from an ecological/ habitat management perspective given there are also further survey requirements which may be triggered?</li> <li>• How can the ExA reasonably rely upon the worst-case scenario information within the ES? Or the other related ecological impact information and supporting BNG calculations provided without a detailed design and the full effects of the development being first established?</li> <li>• Are all trees and hedges within the Order Limits considered to be at risk of direct impacts or removal now detailed within Table 9.11 LSEs during the construction stage within Chapter 9 - Biodiversity [AS-025]?</li> </ul>
Q2.4.9	<p><i>Trees</i>  <b>Applicant/ CWCC/            FCC/ NE/ NRW/ IPs</b></p>	<ul style="list-style-type: none"> <li>• A ‘Trees and Woodland Strategy Toolkit’ has been published during 2023 with the aim to equip Local Authorities so they can plan, create or update their own Trees and Woodland Strategies and harness the long-term benefits that trees can bring to local communities.</li> </ul>

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<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		<ul style="list-style-type: none"> <li>• All relevant Councils are requested to acknowledge the advice now issued.</li> <li>• All parties within the Examination are invited to make use of all best practice provision and reference currently available.</li> <li>• Do relevant Councils have any plans or potential aspirations to formulate such strategies in the coming fiscal periods, in light of the Examination matters for discussion or otherwise?</li> </ul>
Q2.4.10	<i>European Protected Species (EPS) Licence</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>• The ExA notes a draft EPS licence application is to be provided to NRW during the Examination for comment. When is this to be provided to NRW and is a copy to be entered into the Examination? If so, when? If not, the ExA requests it be notified, at the same time, of the provision of the draft EPS licence application to NRW, if prior to the close of the Examination.</li> </ul>
Q2.4.11	<i>Letter of no impediment</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>• Does the Applicant intend to submit the 'letter of no impediment' it is seeking from the relevant statutory bodies (i.e., NE/ NRW) into the Examination prior to its close? If so, please set out the timescales from seeking it to when its likely to be submitted.</li> </ul>
Q2.4.12	<i>Marine Licence (ML) Application</i> <b>Applicant/ NRW</b>	<ul style="list-style-type: none"> <li>• It is noted that a ML application was submitted to NRW on 23 May 2023. Please can the Applicant and/ or NRW provide an update regarding progress of the ML Application.</li> </ul>
<b>5. Climate Change</b>		
Q2.5.1	<i>Mitigation/ Design</i> <b>Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust /IPs</b>	<ul style="list-style-type: none"> <li>• The new tree and landscaping provision anticipated in the DCO scheme could be more robust in the safeguards available against any climatic or environmental condition changes triggering future failure.</li> <li>• The Applicant is requested to thoroughly review this element of the scheme provision with the aim to lengthen replacement periods along with a tighter future management provision which is formally secured. The aim of the approach is to ensure all replacement and new planting is effective as possible, with the highest environmental outcomes possible realistically achieved.</li> <li>• The point would also be applicable to any off-site landscaping element yet to be tabled but indicated as being subject to ongoing discussion.</li> </ul>

ExQ2	Question to:	Question:
Q2.5.2	<i>Mitigation/ Design</i> <b>Applicant/ CWCC/  FCC/ NRW/ NE/  Woodland Trust/ IPs</b>	<ul style="list-style-type: none"> <li>• What provision/ commitments can be made for fast growing trees? And if so, how could that be formally committed to and secured?</li> <li>• How can new planting species selection be conducive in dealing with both climate change pressures and reinforcing native wildlife?</li> <li>• Are the public organisations involved in the Examination able to provide further recommendations towards species/ resilience matters with locational specific advice in mind? If so, your comments are invited.</li> </ul>
<b>6. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b>		
Q2.6.1	<b>Applicant</b>	<ul style="list-style-type: none"> <li>• The ExA notes that any undeclared option for potential Compulsory Acquisition of land for BNG/ or any further ecological enhancement purpose is likely to be incompatible with the examination timetable currently being worked. This is due to statutory periods invoked. Therefore, it is imperative any mechanism dealing with off-site biodiversity provision is fully addressed as a priority consideration and within the timetable worked to.</li> </ul> <p>With this in mind, is the Applicant aware of any further potential Change Requests that would invoke Regulations 5 to 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010?</p>
Q2.6.2	<i>Strategic Road Network (SRN) - 'highway right' and 'subsoil property rights'</i> <b>National Highways Ltd (NH)/ Welsh Government/ North and Mid Wales Traffic Regulation Authority (NMWTRA)</b>	<ul style="list-style-type: none"> <li>• Your attention is drawn to [REP3-033] and Table 2.2, reference 2.2.2.</li> </ul> <p>Do NH agree with the premise that at a point in depth NH would cease to be the Highway Authority for the SRN and the subsurface would revert back to the owner, whether that be NH or another 'Affected Person'?</p> <p>Bearing in mind caselaw and in regard to Plots 5-06, 5-09 and 7-05, as shown on the Land Plans [REP2-014], at what depth do NH consider the highway rights (being the road surface, air space and subsoil required for the operation, maintenance and repair of the highway) on each of those plots to cease and sub-soil property rights resume? Please justify your answer.</p> <ul style="list-style-type: none"> <li>• Responses from the IPs listed to the Applicants reply set out in the above-mentioned table, and reference, especially in regard to depth of a 'highway right' and at what point subsoil property rights would occur, are sort.</li> </ul>
Q2.6.3	<i>Clarification</i> <b>Rostons</b>	<ul style="list-style-type: none"> <li>• Your Deadline 1 submission [REP1-079], made on behalf of Ms Craven-Smith-Milne and Mr Griffith, is noted. The ExA would seek further information in regard to the proposed</li> </ul>

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<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		<p>solar scheme mentioned within the letter. Please could you confirm whether a planning application has been formally made for this proposed solar scheme. In responding, where possible, please supply:</p> <ul style="list-style-type: none"> <li>i) the planning application reference number issued by the Local Planning Authority (LPA);</li> <li>ii) a copy of the planning decision issued by the LPA.</li> </ul>
Q2.6.4	<p><i>Clarification</i> <b>Applicant/ CWCC</b></p>	<ul style="list-style-type: none"> <li>• Pursuant to Q2.6.3 above, the ExA would ask the Applicant/ CWCC to confirm whether they are aware of any submission(s)/ application(s), planning or otherwise, formally submitted for the above-mentioned solar scheme. This includes any submissions not yet formally registered (ie 'Invalid'). In the event of such a submission/ application(s) having been lodged please provide, where possible/ relevant: <ul style="list-style-type: none"> <li>i. the submission/ planning application reference number issued by the LPA;</li> <li>ii. a description of the type of application and the development; and</li> <li>iii. a copy of the decision/ opinion issued by the LPA.</li> </ul> </li> </ul>
Q2.6.5	<p><i>Clarification</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>• The Applicant refers to undertaking Farm Business Assessment(s) but has not indicated if/ when such assessments would be undertaken or whether it is intended to submit such assessment(s) into the Examination. Please clarify.</li> </ul>
Q2.6.6	<p><i>Clarification</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>• The ExA notes the Crown Land Plans [REP3-004] deleted Sheet 2 and gave justification for the deletion of the relevant plots was given in the Applicant's 'Schedule of Changes to the Book of Reference' [REP3-016]. However, the ExA cannot find a similar document justifying the deletion of Sheet 1 from the Crown Land Plans. Please signpost where this explanation can be located in the submitted documentation or explain the deletion of Sheet 1 from the Crown Land Plans.</li> </ul>
<b>7. Cultural Heritage and the Historic Environment</b>		
Q2.7.1	<p><i>Information</i> <b>Applicant/ CWCC / FCC</b></p>	<ul style="list-style-type: none"> <li>• It is highlighted in paragraph 2.3 of [REP1-061], that any further requirement for mitigation to be directed by further Heritage Impact Assessments is not specified within the Outline LEMP or the Register of Environmental Actions and Commitments [REP2-017], nor directly provided for in the wording of the draft DCO Requirements.</li> <li>• For this reason, the CWCC position remains that further heritage assessments including appropriate mitigation should be provided for within the Outline CEMP or specifically</li> </ul>

ExQ2	Question to:	Question:
		<p>required within the DCO Requirements. The Applicant’s view on such an approach is sought?</p> <p><b>CWCC</b></p> <ul style="list-style-type: none"> <li>• Can CWCC provide any information to the Examination on the specific heritage assets involved including any relevant appraisals or risk surveys within its administrative area?</li> <li>• Does CWCC have Heritage/ Conservation Officer advice it can refer to the Examination for the benefit of dealing with this issue?</li> <li>• Does the Council have an independent working party, or similar, to which heritage advice can be procured and fed into the Examination?</li> <li>• Can the Council clarify its own views on the cultural and heritage implications of the proposal including on the Shropshire and Union Canal?</li> <li>• Please specify any requests for specific mitigation such as additional landscaping or any other measures not already accounted for.</li> </ul> <p><b>FCC/ CWCC</b></p> <ul style="list-style-type: none"> <li>• Would cultural appreciation enhancements to be embedded within the scheme design be appropriate? For example, public information display/ notices close to public rights of way linked to any heritage assets potentially impacted by the scheme, or linked to a local cultural/ heritage trail or similar?</li> </ul>
Q2.7.2	<p><i>Information</i></p> <p><b>FCC</b></p>	<ul style="list-style-type: none"> <li>• Is FCC able to provide any information to the Examination on the specific heritage and cultural assets affected by the scheme within its administrative area including any appraisals or risk surveys undertaken?</li> <li>• Does the FCC have Heritage/ Conservation Officer advice it can refer to the Examination for the benefit of dealing with heritage issues?</li> <li>• Would cultural appreciation enhancements be embedded within the scheme design be appropriate? For example, public information notices close to public rights of way linked to any heritage assets potentially impacted by the scheme, or linked to a local cultural/ heritage trail or similar?</li> <li>• Can the Council further clarify its own views on the cultural and heritage implications of the proposal. Including any requests for mitigation not presently being considered such as landscaping or any other measure should it be deemed appropriate.</li> </ul>

ExQ2	Question to:	Question:
Q2.7.3	<i>Archaeology</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>Historic England recognises the Outline Written Scheme of Investigation to be robust but flags the need for initial evaluation to be carefully designed and targeted. How will the Applicant ensure this occurs.</li> </ul>
Q2.7.4	<i>Archaeology</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>Target trenching regarding archaeology (see [REP1-042] reference 2.35.4) is mentioned. Please confirm whether this has been undertaken. If not, when is it programmed to be done. If undertaken, when are the results to be entered into the Examination?</li> </ul> <p>Additionally, the Applicant refers to use of 'either a designated archaeological clerk of works, if required, or a member of the excavation team undertaking twice weekly reviews... to ensure archaeological remains are identified and recorded.' How will the Applicant ensure whoever is appointed is appropriately qualified and how is this to be secured?</p>
Q2.7.5	<i>Archaeology</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>The Applicant's response [REP2-040] to the request of Clwyd Powys Archaeological Trust, for an Archaeological Watching Brief on all works during construction, is noted. However, the ExA would ask it to elaborate on why it does not consider the request to be proportionate.</li> </ul>
<b>8. Design and Layout</b>		
Q2.8.1	<i>Aesthetics</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>What scope is available to further improve the aesthetics of the scheme for the above ground aspects of the pipeline route?</li> <li>Further explain how you have considered good design policy guidance as an important and relevant consideration. Particularly the concept of achieving 'beauty' referred to within the Framework.</li> <li>The Applicant is asked to undertake an Applicant led review of all soft and hard landscaping provision (including perimeter fencing style) indicated to date and explore how it can boost and enhance aesthetics as credible options available now rather than left as a subsequent requirement at a later date.</li> <li>Following the Applicant led review undertaken, an indication of the Applicant's detailed commitments to improving aesthetics at this point in time is requested by the ExA to be submitted to the Examination, as a future marker to the design quality which would be worked to also assuming any DCO requirement is subsequently implemented.</li> </ul>



**ExQ2: 15 June 2023**

**Responses due by Deadline 5: Tuesday 4 July 2023**

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
Q2.8.2	<i>Lighting</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>Please explain how lighting would be adequately controlled, together with any issues/ concerns resulting from it, during construction and operation?</li> </ul>
<b>9. Environmental Impact Assessment/ Environmental Statement</b>		
Q2.9.1	<b>N/A</b>	<ul style="list-style-type: none"> <li>No further questions at this stage.</li> </ul>
<b>10. Flood Risk, Hydrology, Water Resources and Contamination</b>		
Q2.10.1	<i>Flood risk</i> <b>Applicant/ NRW</b>	<ul style="list-style-type: none"> <li>Accounting for Deadline 2 responses NRW refers to s.165 of the Water Resources Act 1991. NRW is empowered to access land to conduct flood risk management works. The provisions of the DCO cannot override these powers and NRW does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991. NRW therefore advises that there should be no physical impediment to access for flood defence assets. Accordingly, NRW consider the DCO should ensure this as a matter of design/ construction.</li> <li>Can the design and construction details implied be submitted to the Examination in line with NRW's request?</li> </ul>
Q2.10.2	<i>Flood risk</i> <b>Applicant/ NRW</b>	<ul style="list-style-type: none"> <li>NRW have noted that if any of the construction compounds are within 16m of the Hawarden and Northern Embankments of the river Dee main river, they would require an environmental permit (a Flood Risk Activity Permit) under the Environmental Permitting Regulations 2016 for which NRW is the consenting authority. Therefore, the location of compounds would need to be considered in the determination of any such application and subject to NRW's approval.</li> <li>Does the Applicant acknowledge that as a necessary step?</li> <li>How will/ should that be accommodated in the DCO as a formal commitment to be undertaken?</li> </ul>
Q2.10.3	<i>Drainage/ Water environment</i> <b>Environment Agency (EA)/ NRW/ United Utilities Water (UW) FCC/ CWCC/ IPs</b>	<ul style="list-style-type: none"> <li>The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs would be submitted to and approved by</li> </ul>

ExQ2	Question to:	Question:
		<p>the relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority.</p> <ul style="list-style-type: none"> <li>Do IPs have any comments on that approach bearing in mind policy/ legislative changes which could be implemented?</li> <li>Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not?</li> </ul>
Q2.10.4	<p><i>Drainage/ Water environment</i>  <b>EA/ NRW/ UUW/ FCC/ CWCC/ IPs</b></p>	<ul style="list-style-type: none"> <li>The Applicant indicates the current drainage proposal follows the Simple Index Approach suggested by The SuDS Manual CIRIA C753 in order to evaluate the water quality. The scheme is referred to as being designed so the total pollution mitigation index has exceeded the pollution hazard index. The Applicant has also provided details in the submitted Outline Surface Water Drainage Strategy [CR1-111].</li> <li>Is the approach indicated adequate given any existing uncertainties in gauging surface and ground water conditions?</li> </ul>
Q2.10.5	<p><i>Contamination</i>  <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>Applicant's response [REP2-037] to the EAs answer at Q1.10.9 [REP1-062] is noted, as is the EAs DL3 response [REP3-045]. The Applicant is asked to explain how it intends to resolve the issues arising regarding 'Contaminated Land Related Matters.'</li> </ul>
<p><b>11. Habitats Regulations Assessment</b></p>		
Q2.11.1	<p><i>European sites</i>  <b>NE/ NRW/ IPs</b></p>	<ul style="list-style-type: none"> <li>The locations of European sites identified by the Applicant relative to the Proposed Development are depicted on Annex A Figure 9.1.1, Sheets 1, 2 and 3 of ES Appendix 9.1 [CR1-054].</li> <li>NE in its Deadline 1 response [REP1-070] mentions additional European sites lie within 10km of the application site and suggest the Habitats Regulations Assessment (HRA) Report could be amended for clarity. Please amend this document accordingly and submit at the next Deadline.</li> </ul>
Q2.11.2	<p><i>European sites</i>  <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>NRW confirmed in REP1-071 that it concurred with the sites and features considered in the Applicant's HRA. Para 5.1.1 of the updated HRA Report (HRAR) [REP2-023] reflects the revised distances of the identified European sites from the Proposed Development because of the changes included in Change Request 1. However, not all of these revisions are reflected in the screening matrices contained in HRAR Section 6.3 nor are they consistent with or reflect all of the changes made to Table 2 of the updated ES Appendix 9.1 [CR1-054].</li> </ul>

**ExQ2: 15 June 2023**

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ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Please can the Applicant confirm which figures are correct and which were used to inform the updated HRA.</li> </ul>
Q2.11.3	<p><i>LSE</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>• Para 6.2.12 of the HRAR refers to studies that have 'considered the impacts of noise on birds during the winter period' and implies that levels &gt;56dB can affect waders and &gt;85dbA can affect all waterfowl. However, this is not particularly clear and there is no explicit statement as to what noise levels the Applicant considers could result in a LSE or an Adverse Effect on Integrity (AEoI).  Furthermore, predicted construction noise levels are shown on ES Figure 15.2 [APP-209] – but there does not appear to be any predicted noise levels around the River Dee crossing. Predicted noise levels generally appear to be a maximum of 75dB LAeq T and Para 6.2.14 assumes that significant disturbance is unlikely beyond a distance of 300m. However, it is not clear whether there is any Functionally Linked Land (FLL) within this 300m buffer and this generalisation has been questioned by NE [RR-065].  Bearing the above in mind, can the Applicant:               <ol style="list-style-type: none"> <li>Confirm the extent of FLL that it has assumed in its assessment for qualifying features of the Mersey Estuary Special Protection Area (SPA)/ Ramsar and the Dee Estuary SPA/ Ramsar; provision of a figure would be helpful in this regard.</li> <li>Clarify how the extent of FLL has been established?</li> <li>Confirm and explain the noise levels that it considers would result in either a LSE or an AEoI?</li> </ol> </li> </ul>
Q2.11.4	<p><i>LSE</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>• Can the Applicant provide further details of expected noise levels from all construction activities (not only at the River Dee crossing), and identify whether any of the noise levels which it considers would result in either LSE or AEoI (see question above) would be exceeded on FLL that could be utilised by birds from the Mersey Estuary SPA/ Ramsar and the Dee Estuary SPA/ Ramsar?</li> <li>• Can the Applicant confirm whether there are any large amplitude startling components during construction in proximity to these sites?</li> </ul>
Q2.11.5	<p><i>LSE</i> <b>NE</b></p>	<ul style="list-style-type: none"> <li>• On which qualifying features of which sites do NE consider a LSE could arise from noise disturbance.</li> </ul>

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<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
Q2.11.6	<i>LSE</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>• Table 6.10 of the submitted HRAR identifies the potential for LSE resulting from in-combination disturbance effects to bird species from: <ul style="list-style-type: none"> <li>- Mersey Estuary SPA;</li> <li>- Mersey Estuary Ramsar;</li> <li>- Dee Estuary SPA; and</li> <li>- Dee Estuary Ramsar.</li> </ul> </li> <li>• The Applicant is asked to confirm to which qualifying features of each site and to which type of disturbance (i.e., visual/ lighting/ noise) this conclusion applies?</li> </ul>
Q2.11.7	<i>LSE</i> <b>NRW</b>	<ul style="list-style-type: none"> <li>• NRW [RR-066] requested mitigation to avoid the main run-time for key fish species to ensure such effects are minimal and sought clarification regarding timeframes for trenchless crossings of the River Dee.</li> <li>• Can NRW confirm what the 'main run-time' for sea and river lamprey would be?</li> </ul>
Q2.11.8	<i>LSE</i> <b>NRW</b>	<ul style="list-style-type: none"> <li>• On the basis of the Applicant's response [REP1-042] to NRW's comments in its RR [RR-066] about potential consequences of frac-out, do NRW agree that there would be no LSE on the sea and river lamprey features of the Dee Estuary/ Aber Dyfrdwy Special Area of Conservation (SAC)?</li> </ul>
Q2.11.9	<i>LSE</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>• Can the Applicant confirm whether the conclusion of a LSE for in-combination dust effects is in relation to qualifying fish species only, or also habitats and/ or otter of the River Dee and Bala Lake/ Afon Dyfrdwy a Lyn Tegis SAC.</li> </ul>
Q2.11.10	<i>LSE</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>• The Applicant is asked to confirm the impact pathway for which it considers there to be a potential LSE to otter of the River Dee and Bala Lake/ Afon Dyfrdwy a Lyn Tegis SAC when considered in combination with Other Developments referenced (Table 6.10 of the HRAR [REP2-023]).</li> </ul>
Q2.11.11	<i>Information</i> <b>Applicant/ IPs</b>	<ul style="list-style-type: none"> <li>• The list of watercourses where signs of otter were recorded contained in para 4.4.7 of the updated HRAR includes additional locations within and in proximity to the Newbuild Infrastructure Boundary. Have potential impacts on otter, as a feature of the River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC, in these locations been assessed? If not, please provide an updated assessment for this feature.</li> </ul>

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<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
Q2.11.12	<i>Information</i> <b>Applicant/ NRW/ FCC</b>	<ul style="list-style-type: none"> <li>Can the Applicant confirm the duration of the road diversions that would be located within 200m of the Deeside and Buckley Newt Sites SAC and the anticipated vehicle movements along these diversions.</li> </ul> <b>NRW/ FCC</b> <ul style="list-style-type: none"> <li>Are NRW/ FCC content that air quality impacts from these diversions do not require assessing?</li> </ul>
Q2.11.13	<i>Information</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>The Applicant is asked to confirm the approach that was taken to assessment of the waterbodies that were not subject to Habitat Suitability Index assessment for Great Crested Newts (GCN), including the five additional waterbodies scoped in because of the proposed changes (HRAR para 4.3.6) but not subject to survey because they were identified outside of the seasonal survey windows.</li> </ul>
Q2.11.14	<i>Information</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>The ExA notes that the draft Statement of Common Ground (SoCG) with NRW [REP1-023] highlight revised dispersal distances for GCN, as set out in updated 2022 Joint Nature Conservation Committee guidance, do not appear to be reflected in the HRAR, and that this matter is currently under discussion. Please could the Applicant provide an update on this matter, including if/ when the assessment within the HRAR will be updated as a result.</li> </ul>
Q2.11.15	<i>Information</i> <b>NRW</b>	<ul style="list-style-type: none"> <li>In light of the Applicant's response to NRW's concerns set out in their Written Representations and response to ExQ1 [REP1-071] about the GCN surveys undertaken by the Applicant, please can NRW state if they are satisfied that the surveys and proposed mitigation are sufficient and confirm their position of no AEOI on the Deeside and Buckley Newt Sites SAC.</li> </ul>
Q2.11.16	<i>Information</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>Appendix A of the HRAR [REP2-023] indicated that the Dee Estuary SAC, Dee Estuary SPA and Dee Estuary Ramsar are in favourable condition. Can the Applicant confirm this understanding is correct? Can the Applicant provide the current conservation status for all remaining sites for which a LSE has been identified?</li> </ul>
<b>12. Landscape and Visual</b>		
Q2.12.1	<b>N/a</b>	<ul style="list-style-type: none"> <li>Please see 'Design and Layout' section for relevant questions.</li> </ul>
<b>13. Mineral Resources</b>		
Q2.13.1	<b>N/a</b>	<ul style="list-style-type: none"> <li>No questions at this stage.</li> </ul>

ExQ2	Question to:	Question:
<b>14.</b>	<b>Noise and Vibration</b>	
Q2.14.1	<i>Survey</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>The ExA notes that noise and vibration effects to aquatic life are not supported by an underpinning survey and therefore any assessment or conclusion drawn is currently largely opinion based. Can the Applicant further justify its approach to assessing the full impacts to aquatic life given the implications to protecting ecology?</li> </ul>
Q2.14.2	<i>Survey</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>Is additional aquatic survey work expected to inform the Examination and, if so, when is it to be formally submitted.</li> </ul>
<b>15.</b>	<b>Planning Policy</b>	
Q2.15.1	<i>National Policy</i> <b>Applicant/ FCC/ CWCC/ IPs</b>	<ul style="list-style-type: none"> <li>In relation to National Planning Policy for England and Wales. Planning for new energy infrastructure: revisions to National Policy Statements (NPS) is likely to be considered relevant. See <a href="#">Planning for new energy infrastructure: review of energy National Policy Statements</a>. This includes consultation on the Draft overarching NPS EN-1; Draft NPS for Renewable Energy Infrastructure EN-3; Draft NPS for Gas Supply Infrastructure and Gas and Oil Pipelines EN-4; HRA of the energy NPS review; as well as Appraisal of Sustainability: Main Report.</li> <li>Does the Applicant or any IPs wish to make comment on implications of the consultation to the Examination including the decision-making status of the draft documents referred to?</li> <li>Additionally: - <a href="#">Targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience (incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure)</a> consultation is being considered by the Welsh Government. Are there any comments on the implications of that, in relation to the likely ecological outcomes expected of this current DCO scheme?</li> </ul>
Q2.15.2	<i>National Strategy</i> <b>Applicant/ FCC/ NRW/ EA/ IPs</b>	<ul style="list-style-type: none"> <li>The ExA acknowledges that on 10 January 2023 the UK Government published the 'Sustainable Drainage Systems Review' and have accepted the recommendation to make SuDS mandatory for new developments in England and will progress with the implementation phase. The Government has indicated it will devise regulations and processes for the creation of SuDS systems through the implementation of Schedule 3 to the Flood and Water Management Act 2010. Implementation of the new approach is expected during 2024 and therefore any outcomes/ implications to the DCO development should be addressed at this point.</li> </ul>

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ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>• The overarching aim is to reduce the risk of surface water flooding, pollution and help alleviate the pressures on traditional drainage and sewerage systems, reducing the overall amount of water that ends up in the sewers and storm overflow discharges.</li> <li>• The ExA asks would new drainage mitigation, relevant to the DCO scheme and its future management, be in line or made in line with the policy/ legislative changes to be implemented? Explain your reasoning why either way.</li> </ul>
Q2.15.3	<p><i>Local Policy</i> <b>FCC</b></p>	<ul style="list-style-type: none"> <li>• In relation to the Flintshire Local Development Plan 2015-2030 (adopted January 2023). The ExA requests all policy wording, and supporting text, relevant to this document as listed by the Council in earlier correspondence as applicable to this Proposed Development be formally submitted into the Examination.</li> <li>• FCC's 'Environment and Sustainability Policy' is noted as being superseded by 'FCC's Climate Change Strategy.' What is the basis, significance and aims of the strategy? Is it part of the development plan or a separate corporate strategy? Please provide the full details and a copy of the wording into the Examination.</li> <li>• The Neighbourhood Plan referred to by FCC as being relevant to the area of land affected by the DCO is requested to be submitted into the Examination.</li> <li>• Electronic copies will suffice and are preferred.</li> </ul>
Q2.15.4	<p><i>Local Policy</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>• Please signpost the ExA to where in the submitted documentation the Applicant has assessed the proposed developments compliance with the 'Countryside' element of Policy STRAT 9 of the CWCC Local Plan Part 1. If not addressed, please review and address, as required, and enter the assessment of this element into the Examination.</li> </ul>
Q2.15.5	<p><i>National and Local Policy</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>• 'Other harms' in the context of Green Belt/ Green wedge policy designations are presented in the Applicant's Planning Statement [REP2-015]. However, an understanding of the balance of the 'other harms' resulting from the proposal against the definitional harm to the Green Belt/ Green wedge appears unclear from the information submitted to date. Please review and address, as appropriate.</li> </ul>
<p><b>16. Socio-economic Effects, Including Population and Human Health</b></p>		
Q2.16.1	<p><i>Sealand Golf Driving Range</i> <b>Applicant/ Sealand Golf Driving Range/ IPs</b></p>	<ul style="list-style-type: none"> <li>• Having regard to [REP2-039] and the location of Sealand Golf Driving range/ Sealand Road, it is noted that Deeside Lane allows access to a customer car park.</li> <li>• Further explain what would be the likely trade impacts of the construction phase of the development on the Golf Course and how these can be successfully gauged?</li> </ul>

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ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Clarify what measures would be undertaken to ensure any vehicle routing or noise disruption is reduced to an acceptable level?</li> <li>• How can the ES be taken as accurately measuring any LSEs/indirect effects to the business and its customer base which may well be reliant on tourism/ seasonal linked activity?</li> </ul>
<b>17. Transportation and Traffic</b>		
Q2.17.1	<p><i>2 Sisters Food Group</i>  <b>Applicant/ 2 Sisters Food Group/ Welsh Government (as Highway Authority)/ FCC/ IPs</b></p>	<ul style="list-style-type: none"> <li>• 2 Sisters Food Group have detailed parking issues in representations received to the Examination. Could the applicant please confirm its proposals to resolve parking problems caused by the development/ the exacerbation of existing parking problems? What would be the effects to the business if these issues cannot be satisfactorily resolved?</li> </ul> <p>What avoidance/ mitigation measures can be adopted?</p> <p><b>FCC/ IPs</b></p> <ul style="list-style-type: none"> <li>• Is any 'public' parking facility/ land available for use as a feasible option?</li> </ul>
Q2.17.2	<p><i>Existing Highway Infrastructure/ Road maintenance</i>  <b>Welsh Government/ NMWTRA</b></p>	<ul style="list-style-type: none"> <li>• The ExA notes that the Welsh Government/ NMWTRA did not provide a response to ExQ1 Q1.17.4. FCC deferred to the Welsh Government/ NMWTRA in regard to this question and Q1.17.5 (See [PD-013] (Welsh)/ [PD-014] (English)). The Welsh Government/ NMWTRA are asked to respond to these questions.</li> </ul>
Q2.17.3	<p><i>Conflict resolution</i>            Royal Mail</p>	<ul style="list-style-type: none"> <li>• The Applicant's response to DL1 submissions [REP2-039] and table 2.9 is noted. The ExA would ask Royal Mail whether this response addresses its previous concerns?</li> </ul>
<b>18. Waste Management</b>		
Q2.18.1	<p><b>Applicant/ EA/ NRW/ NE/ Canal and River Trust/ IPs</b></p>	<ul style="list-style-type: none"> <li>• Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with invasive plant species during construction which constitute a 'Controlled Waste' should they be found and need to be removed/ disposed. (i.e., 'Japanese Knotweed' affected soil would amount to a Controlled Waste).</li> </ul> <p>What formal mechanisms within the DCO would be in place to deal with invasive plants such as Japanese Knotweed should that be identified at any stage.</p>



**ExQ2: 15 June 2023**

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ExQ2	Question to:	Question:
		<p>Is survey work to investigate the presence of invasive plant species needed at this stage? If not, state why not.</p> <p>Do additional specific requirements/ commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species? If not, state why not.</p>
<b>19. Draft Development Consent Order</b>		
Q2.19.1	<p>Local Government Act 1972, s.111 <b>Applicant/ FCC/ CWCC</b></p>	<ul style="list-style-type: none"> <li>Does the Applicant/ FCC/ CWCC/ IPs anticipate utilising mechanisms available under s.111 of the Local Government Act 1972 within the DCO? (i.e., to secure off-site provision, or any other requirement applicable?)</li> </ul>
Q2.19.2	<p><i>Off-site Biodiversity Enhancement/ BNG provision</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>How would the DCO deal with the off-site BNG/ ecological enhancement provision mentioned by the Applicant if those are to be incorporated during the examination period during its course?</li> <li>The ExA notes incorporating such changes to the terms of the DCO would be substantial alterations in nature and therefore would encourage early revision and clarification where it is appropriate to do so.</li> <li>The ExA also notes that the draft DCO would potentially be able to include terms at this stage on a precautionary basis with sufficient opt out or blue pencil clause should BNG/ ecological enhancement details or other similar requirement not able to be formally agreed or need to be up taken using such mechanism.</li> </ul>
Q2.19.3	<p><i>Off-site Biodiversity Enhancement/ BNG provision</i> <b>Applicant</b></p>	<ul style="list-style-type: none"> <li>The applicant is asked to further clarify how off-site provision would be dealt with in the legal provisions available.</li> </ul>
Q2.19.4	<p><i>Flood Risk Management/ Design</i> <b>Applicant/ NRW</b></p>	<ul style="list-style-type: none"> <li>The ExA is aware that the Applicant is seeking to address NRW's concerns by including Protective Provisions within the DCO (see Schedule 10, Part 8 of the draft DCO [REP3-005]) as follows:  "For the protection of NRW</li> </ul>

**ExQ2: 15 June 2023****Responses due by Deadline 5: Tuesday 4 July 2023**

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		<p>82. <i>The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and NRW...</i></p> <p>83. <i>The undertaker will permit access by NRW to its assets and landholdings within the Order Limits, through land of which the undertaker is in occupation during construction, on reasonable request. In particular: -</i></p> <p><i>(a) access to the bank and flood defences along the River Dee/ Afon Dyford within the plots shown as 13-20, 13-21, 14-04, 14-05, 14-06, 14-07, 14-08 on the land plans will, where the undertaker is in occupation of those plots, be made available by the undertaker on request; and</i></p> <p><i>(b) access over the plots shown as 14-11, 14-14a, 14-20, 14-21, 14-22 14-23, 14- 24, 14-25, 14-26 and 14-27 on the land plans, will be maintained for NRW, or where interrupted by construction activity, will be made available to NRW on reasonable request.</i></p> <p>84. <i>The undertaker will consult NRW during development of detailed design regarding the proposed design in order to ensure that the proposed design would not prevent or unduly restrict NRW in accessing or maintaining any of its assets, including flood defences”.</i></p> <p>NRW submissions at Deadline 2 highlight the concerns to this approach, advising s.165 of the Water Resources Act 1991 empowers it to access land to conduct flood risk management works and that the provisions of the DCO cannot override these powers. NRW states it does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991.</p> <p>The ExA asks how this matter is to be resolved between the parties?</p>
Q2.19.5	<i>Construction and safety</i> <b>Applicant</b>	<ul style="list-style-type: none"><li>• [RR-077] advises measures proposed in section 6.5 of the Coal Mining Risk Assessment [AS-043] should be included as a Requirement in the DCO. Please signpost where this has been done or advise how such measures are to be secured in the DCO?</li></ul>

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<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
Q2.19.6	<b>Canal and River Trust</b>	<ul style="list-style-type: none"><li>In its representations have raise concerns in regard to Articles 21 (Authority to survey and investigate the land) 31 (Acquisition of subsoil and airspace) and 34 (Temporary use of land for carrying out the authorised development) of the draft DCO. However, it has not elaborated as to what those concerns are. Please could the Canal and River Trust provide a detailed explanation as to what its concerns regarding these Articles are?</li></ul>
Q2.19.7	<b>Network Rail Infrastructure Ltd (NR)</b>	<ul style="list-style-type: none"><li>In its representations to date has indicated it objects to the powers contained in specific Articles contained in the draft DCO, as they would be authorising the Promoter to compulsory acquire rights in or over land, or temporarily use land, which forms part of NR's operational railway land and which NR relies upon for the carrying out of its statutory undertaking.  The Articles of concern are Articles 19 (Discharge of water), 21 (Authority to survey and investigate the land), 22 (Protective work to buildings), 24 (CA of land), 26 (CA of rights and restrictive covenants), 27 Statutory authority to override easements and other rights, 28 (CA of land: minerals), 29 (Private rights), 31 (Acquisition of subsoil or airspace only), 33 (Rights under or over streets), 34 (Temporary use of land for carrying out the authorised development), 35 (Temporary use of land for maintaining the authorised development) and 39 (Felling or lopping of trees and removal of hedgerows).  The ExA notes there are ongoing discussions with the Applicant, with a view to agreeing a position acceptable to both parties, but to date concerns raised have not been resolved. Without going into any of the Change Requests, which will be subject to separate consultation/ Hearings (if required), please could the Applicant and NR provide an update in regard to the ongoing discussions between the parties regarding NRs objections to the Articles listed above, including whether any of those objections have been resolved.</li><li>Should any of NRs objections to the Articles listed above still remain, please could the Applicant/ NR advise what is being done with a view to resolving NRs outstanding</li></ul>

**ExQ2: 15 June 2023**

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ExQ2	Question to:	Question:
		objections and when, within the remaining Examination timetable, resolution(s) is/ are likely to be forthcoming?
<b>20. Other</b>		
Q2.20.1	<b>Applicant/ Welsh Water (WW)/ IPs</b>	<ul style="list-style-type: none"> <li>Utility services beneath the DCO area are referenced to include WW pipework. Although there are submissions of minimum depth restrictions to 1.2 metres, as per the Statement of Reasons [REP2-008]. How would such measures ensure access for standard water pipe maintenance or in the event of emergencies, such as water leakage? For the avoidance of any doubt, and assuming the minimum depth restrictions as indicated above, could the parties confirm whether water pipes would be located above or below the Applicant's pipeline?</li> </ul>
Q2.20.2	<i>Safety</i> <b>Health and Safety Executive (HSE)</b>	<ul style="list-style-type: none"> <li>No response to ExQ1 Q1.20.2 or Q1.20.3 was received from the HSE and the ExA invites it to respond now. Additionally, the ExA would ask whether the HSE intends to designate the proposed development as a Major Accident Hazard Pipeline, or similar designation, which would generate a consultation zone with associated land use restrictions?</li> </ul>
Q2.20.3	<i>Clarification</i> <b>Applicant/ FCC</b>	<ul style="list-style-type: none"> <li>If the three BVS located in FCCs jurisdiction fall to be considered as 'Authorised Development' within this DCO, why has planning permission been sought from FCC (Application Reference FUL/000231/23)? The ExA would ask the Applicant and FCC whether it is appropriate to consider the BVS under both the Planning Act 2008 and the Town and Country Planning Act 1990. Please give the reasoning for your answer?</li> </ul>
Q2.20.4	<i>Clarification</i> <b>Applicant</b>	<ul style="list-style-type: none"> <li>The Applicant's Statement of Commonality for SoCG [REP2-025] includes a letter at Appendix A from the Coal Authority which it purports confirms no SoCG is required. Can the Applicant signpost where within that letter it is confirmed no SoCG is required?</li> </ul>
Q2.20.5	<i>Clarification</i> <b>FCC</b>	<ul style="list-style-type: none"> <li>[RR-054] refers to a refusal of planning, reference 061368, being appealed; whilst FCC advised of a potential appeal against its refusal of planning against reference 062820. Can FCC advise whether either refusal's have been appealed? If so, please confirm the status of the appeal(s). If no appeal(s) have been lodged, have the timescales for appeal on these decisions now lapsed?</li> </ul>

**ExQ2: 15 June 2023****Responses due by Deadline 5: Tuesday 4 July 2023**

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
Q2.20.6	<i>Bio-security measures</i> <b>Applicant</b>	<ul style="list-style-type: none"><li>• The Applicant's response to Written Representations [REP1-080] and [REP1-081] is noted. The ExA would ask for clarification from the Applicant as to what bio-security measures would need to be put in place and how is the provision of such measures to be secured through the DCO?</li></ul>
Q2.20.7	Clarification <b>Applicant</b>	<ul style="list-style-type: none"><li>• [REP2-041] at reference 2.9.61 refers to the "...Applicant's response in row 1.2.3 c) above", whilst reference 2.9.62 refers to the "...Applicant's response in row 1.2.3 d) above." Is this reference correct? Please clarify, if required.</li></ul>
Q2.20.8	<b>Applicant</b>	<ul style="list-style-type: none"><li>• The ExA noted [RR-001] (2 Sisters Food Group) reference was made in the Applicant's response [REP1-042] in table 2.1 at 2.1.5 and 2.1.7 reference was made to employment of a 'robust project management team' which will include public relations with a view to handling complaints. The Applicant deferred responding to the ExAs request to explain how such a provision is to be secured in the DCO, advising it would respond at DL4?</li></ul>