

# HyNet North West

## APPLICANT'S COMMENTS ON SUBMISSIONS RECEIVED AT DEADLINE 3

HyNet Carbon Dioxide Pipeline DCO

**Planning Act 2008**

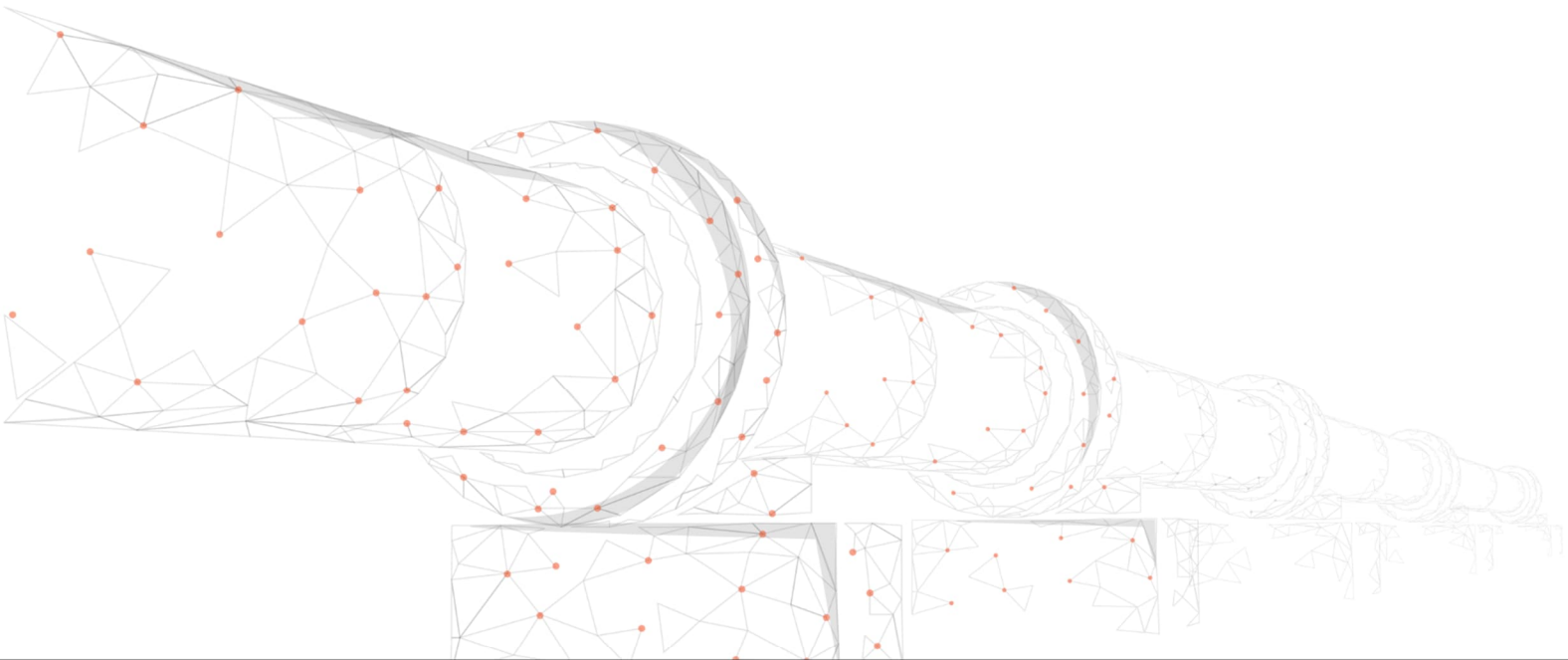
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# TABLE OF CONTENTS

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<b>1. INTRODUCTION.....</b>	<b>1</b>
1.1. Purpose of this document.....	1
1.2. The DCO Proposed Development.....	1
<b>2. APPLICANT’S RESPONSE .....</b>	<b>2</b>

## TABLES

---

Table 2-1 – Applicant's Comments on Submissions Received at Deadline 3 from Turley on behalf of Peel NRE [REP3-049].....	3
Table 2-2 – Applicant's Comments on Submissions Received at Deadline 3 from Flintshire County Council (FCC) [REP3-047].....	13
Table 2-3 – Flintshire County Council's response to the to the Applicant's comments to the Flintshire County Council's Final Local Impact Report (25 April 2023) [REP1A-005] [REP3-046] .....	30
Table 2-4 – Applicant's Comments on Submissions Received at Deadline 3 from Environment Agency [REP3-045].....	60
Table 2-5 – Applicant's Comments on Submissions Received at Deadline 3 from Encirc Limited [REP3-050] .....	69
Table 2-6 – Applicant's Comments on Submissions Received at Deadline 3 from Cheshire West and Chester Council [REP3-042] .....	73
Table 2-7 – Cheshire West and Chester Council's response to the to the Applicant's comments to the Cheshire West and Chester Council's Local Impact Report (26 April 2023) [REP1A-004] [REP3-044] .....	109
Table 2-8 – Applicant's Comments on Submissions Received at Deadline 3 from Canal & River Trust [REP3-041] .....	137
Table 2-9 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of Andrew and Karen Hirst [AS-070].....	138
Table 2-10 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of John Calvin Peers [AS-071].....	138
Table 2-11 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of The Executors of Gwynedd Evans [AS-072].....	139
Table 2-12 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of Various Parties [AS-073] .....	140

# 1. INTRODUCTION

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## 1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared on behalf of Liverpool Bay CCS Limited ('the Applicant') and relates to an application ('the Application') for a Development Consent Order (DCO) that has been submitted to the Secretary of State (SoS) for Energy Security & Net Zero (ESNZ) under Section 37 of the Planning Act 2008 ('the PA 2008'). The Application relates to the carbon dioxide (CO<sub>2</sub>) pipeline which constitutes the DCO Proposed Development.
- 1.1.2. This document provides the Applicant's response to Written Representations submitted at Examination **Deadline 3**.

## 1.2. THE DCO PROPOSED DEVELOPMENT

- 1.2.1. HyNet (the Project) is an innovative low carbon hydrogen and carbon capture, transport and storage project that will unlock a low carbon economy for the North West of England and North Wales and put the region at the forefront of the UK's drive to Net-Zero. The details of the project can be found in the main DCO documentation.
- 1.2.2. A full description of the DCO Proposed Development is detailed in Chapter 3 of the Environmental Statement (ES) **[APP-055]**. On the 27 March 2023, the Applicant submitted Change Request 1, which includes '2023 ES Addendum Change Request 1' **[CR1-124 to 126]** where ES Addendum Chapter 3 provides an update to the description of the DCO Proposed Development **[APP-055]**. The Applicant's Change Request 1 was accepted by the ExA on 24 April 2023. On the 2 June 2023, the Examining Authority (ExA) accepted the Applicant's Change Request 2; subsequently the description of the development has been updated, to include Chapter 3 of the 2023 ES Addendum Change Request 2 **[CR2-017]**.

## 2. APPLICANT'S RESPONSE

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- 2.1.1. This chapter provides the Applicant's comments on submissions received at Deadline 3.
- 2.1.2. The Applicant has not responded to the following submissions made at Deadline 3, as no substantive comments were made by the Interested Parties (IP's) that require further comment from the Applicant at this time:
- Cadent Gas Limited – Deadline 3 Submission **[REP3-040]**
  - Cheshire West and Chester Council – Deadline 3 Submission – Cover Letter **[REP3-043]**
  - Natural Resources Wales – Deadline 3 Submission **[REP3-048]**
- 2.1.3. In addition, where a submission does not comment on a particular matter or points are 'noted', the Applicant has not provided a further response or copied the submission into this document.
- 2.1.4. The Applicant notes that some IPs above have reserved the right to make future submissions.

**Table 2-1 – Applicant's Comments on Submissions Received at Deadline 3 from Turley on behalf of Peel NRE [REP3-049]**

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
	2	<b>Objections</b>	
2.1.1	2.1	Peel NRE is a supporting organisation of HyNet and remains wholly supportive of the principle of the Pipeline. Indeed, Peel NRE recognises that there are potential beneficial synergies between the Pipeline, HyNet and Protos.	The Applicant welcomes Peel NRE's support.
2.1.2	2.2	Peel NRE has been working with the Applicant to resolve the objections presented in the Written Representations (17 April 2023), however the Parties (Peel NRE and the Applicant) have not yet managed to reach agreement on some matters (as listed at paragraph 1.5). Those matters that are agreed (to date) are set out in the Statement of Common Ground (SoCG) submitted by the Applicant. Until satisfactory agreement has been reached with the Applicant on all matters to resolve Peel NRE's concerns, Peel NRE maintains its objection and must continue to reserve the right to make further submissions to the Examination.	The latest revision of the Statement of Common Ground (SoCG) between the Applicant and Peel NRE [REP3-027] is submitted at Deadline 4.
		<b>Layout of the Ince Above Ground Installation</b>	
2.1.3	2.3	There are no concerns with the principle of the Ince AGI element or its general location, however Peel NRE objects to the proposed layout of the Ince AGI.	The Applicant acknowledges Peel NRE's response and notes the Parties are in continued commercial discussions on the points raised by Peel NRE.
2.1.4	2.4	It is noted within the Planning Statement for the Application (ref. D.5.4, para 5.3.31) that the Applicant states the location of the Ince AGI has been agreed with Peel NRE. Whilst the general location is agreed, the layout is not agreed.	
2.1.5	2.5	The Ince AGI is located with the Green Belt, open countryside, flood risk area, and a local wildlife site. The layout needs to be carefully considered to not conflict with existing site constraints.	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.6	2.6	It is understood the Order will be granted to the Works Plans (ref. EN070007-D.2.4-WPSheet 1 Rev D) submitted at DL2, and the final precise layout of the Ince AGI will be within the limits of the Order. No Environmental Mitigation Areas are defined on the Works Plans (D.2.4-WP-Sheet 1 Rev D). Notwithstanding this, the Ince AGI Landscape Layout (ref. D.2.14-LAY-Sheet 2 Rev B) identifies the location for landscaping/ecological mitigation and a drainage detention pond, and these remain unchanged from the previous iteration (Rev A). The current location of such features has the possibility to constrain future planned development across the Affected Land. Peel NRE accordingly objects to the current proposed layout of the Ince AGI. The precise location of the Ince AGI and mitigation features should be agreed with Peel NRE.	<p>The Works Plans which will be authorised by the Development Consent Order (DCO), if consent is given by the Secretary of State (SoS), will be those certified by Article 44 of the DCO [REP3-005]. For the avoidance of doubt, it is possible that these documents will be updated throughout the Examination, and the Deadline 2 version of the Works Plans [REP2-005] may not be the versions certified under the article above.</p> <p>A distinction should be made between Environmental Mitigation Areas and drawings of the landscape/drainage layout for above ground infrastructure. Environmental Mitigation Areas are those areas which are required to ensure no net loss of key environmental assets as a result of the DCO Proposed Development. These areas have been designated as a work for the purpose of the Works Plans and DCO [REP3-005].</p> <p>The indicative landscape drawings show the preliminary design of the landscaping and drainage, the detailed design of which are secured by Requirements 4 and 11 of the DCO [REP3-005].</p>

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
			Regarding the layout of the Ince AGI, Requirement 4(4) of the DCO [REP3-005] requires the undertaker to submit to the Local Planning Authority (in the case of Ince, Cheshire West and Chester) details for approval of the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures and details of permanent accesses to the public highway (and more).
2.1.7	2.7	Peel NRE is liaising with the Applicant to agree terms for a private agreement to regulate how works in proximity to Protos are undertaken and to govern agreement as to the precise location of the Ince AGI to ensure that Protos can continue to come forward and is not compromised by the DCO.	The Applicant acknowledges Peel NRE's response, and all issues related to the same have been identified in the SoCG with Peel NRE [REP3-027]. The Applicant acknowledges Peel NRE's response and notes the Parties are in continued commercial discussions on the points raised by Peel NRE.
		<b>Green Belt</b>	
2.1.8	2.8	The Planning Statement (ref. D.5.4 Planning Statement) correctly identifies the Ince AGI is located within the Green Belt. The National Planning Policy Framework (NPPF) is clear that inappropriate development within the Green Belt is, by definition, harmful 4 and should not be approved except in Very Special Circumstances (VSC) (NPPF para 147). VSC will not exist unless the harm to the Green Belt, and any other harm, is outweighed by other considerations (NPPF para 148).	The Applicant notes Peel NRE's concern and has addressed the same in the Planning Statement [REP2-015]. Chapter 5 (Planning Assessment for Green Belt, Green Wedges and Open Spaces) of the Planning Statement [REP2-015] sets out the case for very special circumstances justifying the 'harm' to Green Belt (and the case for very exceptional circumstances for Green Wedge in other locations along the Carbon Dioxide Pipeline). The Needs Case for the DCO Proposed Development [APP-049] outlines the environmental, economic and socio-economic benefits the DCO Proposed Development can deliver.
2.1.9	2.9	It is agreed the Ince AGI is inappropriate development and is therefore harmful to the Green Belt (by definition). Peel NRE agrees with the Applicant's case presented in the Planning Statement (ref. D.5.4) that the harm to the Green Belt is outweighed by VSC including the locational need of the Ince AGI and the benefits that will arise as a result of the Project as a whole, including contributing to the UKs commitment to achieve net zero by 2050, the urgent need for carbon reduction infrastructure, and contribution to the overall reduction in greenhouse gas emissions. "Other harms" are presented in the Planning Statement, however, an understanding of the balance of the "other harms" resulting from the proposal against the definitional harm to the Green Belt is not clear from the information submitted to the Examination to date.	Please see row 2.1.8 of the Applicant's Response above.
		<b>Open Countryside</b>	
2.1.10	2.10	The site of the Ince AGI is located within the 'countryside' as defined by CWACC Local Plan (Part 1) Strategic Policies. Policy STRAT9 applies which seeks to protect the character and beauty of the countryside by restricting development to that which requires a countryside location and cannot be accommodated within the identified settlements.	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.11	2.11	Whilst the Planning Statement for the Application does not specifically address the 'countryside' element of Policy STRAT 9 (instead focusing the analysis on Green Belt), it is	

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
		our opinion the same case made for the VSC case can also be applied for the need to locate the proposal within the countryside, and that any harm to the countryside is outweighed by the benefits of the scheme including contributing to the UKs commitment to achieve net zero by 2050, the urgent need for carbon reduction infrastructure, and contribution to the overall reduction in greenhouse gas emissions.	
		<b>Flood Risk Zone and Drainage</b>	
2.1.12	2.12	The site of the Ince AGI is located within a 'flood risk zone' as defined by CWACC Local Plan (Part 1) Strategic Policies. Policy ENV 1 applies which seeks to reduce flood risk. The Environment Agency flood risk maps identifies the site as being within an area at 'low' risk of flooding.	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.13	2.13	A Flood Risk Assessment supports the Application which confirms the Ince AGI will be served by a drainage system which will accommodate for the effects of flooding and climate change.	
2.1.14	2.14	Additionally, the layout of the Ince AGI (as shown on plan ref. EN070007-D.2.10-LAYSHEET 1 Rev B) orientates the infrastructure to the northwest, adjacent to an existing drain which travels in an east/west direction to the north of the Ince AGI (East Central Drain) (an Environment Agency "main drain"). The Applicant has confirmed that the location of the Ince AGI and associated surface water drainage infrastructure is 8m from the main drain. This infrastructure also needs to incorporate sufficient space for future planned infrastructure within this area and be located to avoid conflict with future development ambitions. On this basis, relocation of the infrastructure to the 5 east of the Ince AGI should be considered. The surface water treatment will also need to be agreed with the consenting authority.	The Applicant notes no surface water treatment is required as rainwater runoff from the AGI is not contaminated.  The Applicant generally acknowledges Peel NRE's response and notes the Parties are in continued commercial discussions on the points raised by Peel NRE.
2.1.15	2.15	It is also understood that temporary drainage systems and other temporary works to watercourses are proposed (including temporary diversion channels) to facilitate construction. The requirements and extents of such works for the construction access roads to the Ince AGI are not set out in full. These should be discussed and agreed with Peel NRE to ensure that these do not conflict with future development ambitions.	Please refer to the response given to 2.1.14 above.
2.1.16	2.16	Peel NRE accordingly objects in principle to the current proposed layout of the Ince AGI and is in the process of discussing matters with the Applicant to agree a position acceptable to both parties. The precise location of the Ince AGI and other infrastructure should be agreed with Peel NRE.	
		<b>Local Wildlife Site</b>	
2.1.17	2.17	The site of the Ince AGI is located within a 'Local Wildlife Site'. Local Plan (Part 1) Strategic Policy ENV 4 applies which seeks to safeguard and enhance biodiversity. The policy requires 'no net loss' of natural assets. However, there is an emerging requirement for developments to achieve 10% biodiversity net gain. Whilst this requirement is not yet mandatory it is fast becoming the expectation for developments to achieve this figure. It is understood that a 1%	The Applicant acknowledges Peel NRE's response and has no further comments.



Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
		net gain is currently anticipated, with further mitigation land for Biodiversity Net Gain is under consideration by the Applicant which will be reported on later in the examination process.	
2.1.18	2.18	Additionally, the layout of the Ince AGI (as shown on plan ref. EN070007-D.2.10-LAYSHEET 1 Rev B) orientates the infrastructure adjacent to an existing drain which travels in an east/west direction to the north of the Ince AGI (East Central Drain). This drain is known for the presence of Water Voles and mitigation is proposed to ameliorate the impacts on these species (see 'Environmental Considerations' below). However, the location of landscaping is not fixed at this stage. This will need to be discussed further with Peel NRE to ensure that this does not prejudice future development ambitions.	The Applicant acknowledges Peel NRE's response and will continue to engage with them through the Draft SoCG [REP3-027].
2.1.19	2.19	Peel NRE accordingly objects in principle to the current proposed layout of the Ince AGI and is in the process of discussing matters with the Applicant to agree a position acceptable to both parties. The precise location of the Ince AGI should be agreed with Peel NRE.	
		<b>Access</b>	
2.1.20	2.20	The proposed access has been updated by the Applicant to include Grinsome Road (as shown on Works Plan ref. EN070007-D.2.4-WP-Sheet 1). Additionally, the Applicant's response to the ExA Q1 (Q1.17.3) states they have identified and assessed two routes for use which will mitigate the impact of the construction of the DCO Proposed Development and will not compromise the delivery of the approved Protos Plastics Park.	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.21	2.21	The updates provided by the Applicant do not address the objections previously raised by Peel NRE and continues to conflict with the delivery of the approved Protos Plastics Park (CWACC Planning application ref. 21/04076/FUL), and the delivery of the railway 6 line consented as part of the overarching planning permission for Protos (ref. 14/02277/S73), which would constrain the delivery of the developments. Therefore, at this stage, Peel NRE objects to the proposed access (as shown on Works Plan ref. EN070007-D.2.4-WP-Sheet 1).	The Applicant acknowledges Peel NRE's response and will continue to engage with them through the Draft SoCG [REP3-027].
2.1.22	2.22	A plan of the approved Plastics Park masterplan (ref. 20039-FRA-XX-00-DR-A-90-0005 P2) is provided with an overlay of the proposed access route to the Ince AGI and pipeline (shown on plan ref. EN070007-D.2.4-WP-Sheet 1). This is provided at Figure 1 (and at Appendix 16 to the Written Representations (17 April 2023)). This overlay plan clearly shows the conflict of the Applicant's proposed access with the planned development of the Plastics Park at Protos.	
2.1.23	2.23	Protos is identified in CWACCs adopted Local Plan as a key strategic site for economic growth and safeguards the land for a multi-modal resource recovery park and energy from waste facility for use in connection with the recycling, recovery and reprocessing of waste materials (Local Plan Part One Policies STRAT 4 and ENV 8; and Local Plan Part Two Policy EP6). As noted in the Written Representations (17 April 2023), the access to the Ince AGI as proposed in the Application would constrain the delivery of a key strategic site in CWACCs Local Plan.	As per Table 2.1 in the Applicant's Comments on Responses to ExA's ExQ1 [REP2-038], CWCC acknowledges the reasoning behind the Zone of Influence (ZOI) threshold and confirm that the approach is reasonable.

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
2.1.24	2.24	An alternative means of access should be identified by the Applicant to avoid conflicting with planned development at Protos, and avoid conflicting with the strategic ambitions established by CWACC in their adopted Local Plan; or negotiations should continue with Peel NRE as part of the property terms to reach agreement on the access arrangement, as set out in the SoCG.	The Applicant acknowledges Peel NRE's response and will continue to engage with them through the Draft SoCG <b>[REP3-027]</b> .
2.1.25	2.25	It is also noted that construction traffic routes to the Ince AGI would include Ash Road and Grinsome Road via Pool Road, with measures to mitigate effects comprising advanced hazard warning signage along Ash Road is proposed (as set out in the Outline Construction Traffic Management Plan, Annex A, Rev C). Based on revisions to programme (with the inclusion of Saturday morning working), it is anticipated that there will be less than 110 Light Good Vehicles (LGVs) and 30 Heavy Good Vehicles (HGVs) on the road network over a day (Environmental Statement Addendum Change Request 1, Appendix A). Further engagement with Peel NRE should be undertaken on the interaction with vehicles (including HGVs and Abnormal Loads) along these routes with measures to reduce delays / restrictions and engagement with Peel NRE and operators to minimise disruption from these vehicle movements.	
2.1.26	2.26	At this stage Peel NRE objects in principle to the proposed means of access. An alternative means of access should be identified by the Applicant to avoid conflicting with planned development at Protos, and avoid conflicting with the strategic ambitions established by CWACC in their adopted Local Plan; or negotiations should continue with Peel NRE as part of the property terms to reach agreement on the access arrangement, as set out in the SoCG.	
		<b>Environmental Considerations</b>	
		<b>Odour Impact</b>	
2.1.27	2.27	The Applicant has identified the potential for odour emissions at the Ince AGI, with associated Odour Zone, which lies close to Protos (shown on Figure 6.3, Rev B).	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.28	2.28	Within the Written Representations (17 April 2023), Peel NRE raised concerns over the assessment of odour as presented given proximity to commercial and industrial uses and the need to duly consider such receptors as part of the assessment. It was also noted that such emissions (and associated impacts) can be mitigated through the adoption of an appropriate odour management regime, secured as an odour management plan.	The Applicant acknowledges Peel NRE's response, following which an Outline Odour Management Plan <b>[REP2-044]</b> was submitted at Deadline 2.
2.1.29	2.29	An Outline Odour Management Plan has been submitted (as Appendix 5 of the Outline Construction Environmental Management Plan, Rev A), which sets out mitigation in terms of engagement with the local community and places of work and timing of venting (during stable conditions).	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.30	2.30	On this basis of this information, Peel NRE is now satisfied that these matters are addressed and this will be confirmed through the SoCG.	

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
		<b>Location and Extents of Ecological Mitigation</b>	
2.1.31	2.31	With relevance to the Ince AGI, no Environmental Mitigation Areas are defined on the Works Plans (D.2.4-WP-Sheet 1 Rev B). However, ecological mitigation measures are proposed include an area of riparian habitat enhancement along the southern bank of East Central Drain as well as the planting of native triple staggered hedgerow, hedgerow, trees, native shrub planting and species rich grassland around the Ince AGI (D.2.14-LAY-Sheet 2 Rev B). Whilst the need to maintain flexibility at this stage is understood, the location and extent of these works should be discussed with Peel NRE to ensure that these do not prejudice future development ambitions.	The BVS and AGI Landscape Layout Plans <b>[CR1-008]</b> set out a preliminary landscape design and principles of the mitigation. However, given flexibility is required at this stage of the design, the proposals will be refined further at detailed design. The Applicant acknowledges Peel NRE's response and will continue to engage with them through the Draft SoCG <b>[REP3-027]</b> , reference 3.1.3.13, and has 'Agreed' this approach with Peel through the current SoCG issued at Deadline 4 (document reference <b>D.7.2.8</b> ).
2.1.32	2.32	It is recognised that additional opportunities for biodiversity enhancement are being considered by the Applicant to achieve at least 1% gain in Priority Habitats, including refining / reducing the extent of proposed temporary impacts and delivery of further habitats. This remains the position outlined in the Draft Biodiversity Net Gain (BNG) Strategy Update (Rev A).	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.33	2.33	Any further mitigation land requirements identified should be clearly defined and discussed and agreed with Peel NRE if located at Ince AGI to ensure that these do not prejudice development aspirations.	No further mitigation land requirements at Ince AGI are anticipated beyond that required for landscape planting associated within the Ince AGI. All land requirements and areas required for mitigation planting have been identified within D.2.4 Works Plans <b>[REP2- 005]</b> .
2.1.34	2.34	Peel NRE therefore objects on the basis that the currently proposed mitigation measures are not fully fixed and agreed and further mitigation requirements are unknown at this stage.	The Applicant refers Peel NRE to the response provided above in row 2.1.33.
2.1.35	2.35	Within the Written Representations (17 April 2023), Peel NRE also raised concerns in regard to the outstanding ecological survey information and potential additional mitigation requirements. A suite of updated reports have been submitted by the Applicant (specifically the Riparian Mammals Survey Report (Appendix 9.6 Rev C)). Following a review of these documents it is agreed that this corroborates the baseline conditions, impact assessment and mitigation identified within Chapter 9 – Biodiversity. Therefore, Peel NRE are now satisfied that these matters are addressed and this will be confirmed through the SoCG.	The Applicant acknowledges Peel NRE's response and has no further comments.
		<b>Impacts on Development Land and Businesses</b>	
2.1.36	2.36	As part of Chapter 16: Population and Human Health, effects on 'development and land and businesses' have been 'scoped into' the EIA. As part of this assessment, it is acknowledged that the Newbuild Infrastructure Boundary lies in proximity to Protos and effects on the strategic employment site are concluded to be 'Minor Adverse (Not Significant)' following mitigation.	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.37	2.37	Within the Written Representations (17 April 2023), Peel NRE raised concerns over the criteria adopted within the assessment and whether all impacts on Protos as a strategic allocation had been fully assessed within Chapter 16: Population and Human Health. Through further discussions this has been confirmed with the Applicant. Therefore, Peel NRE are now	

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
		satisfied that these matters are addressed and this will be confirmed through the SoCG. Further discussions in respect to access and land acquisition are being progressed with the Applicant.	
2.1.38	2.38	Within the Written Representations (17 April 2023), Peel NRE also sought clarity on whether the Pipeline would be classified as a Major Accident Hazard Pipeline by the Pipeline Safety Regulations 1996 and therefore 'generate' a Consultation Zone with associated land use restrictions. There are a number of other pieces of legislation noted within Chapter 13: Major Accidents and Disasters (e.g. The Planning (Hazardous Substances) Regulations 2015 and The Dangerous Substances and Explosive Atmospheres Regulations 2002). The Applicant has subsequently confirmed that currently the HSE have not classified the proposal under the legislation noted above. 9 However, there remains a potential for this to be case – dependent on forthcoming HSE advice - and therefore Consultation Zone separation or 'stand-off' distances may be applied. Such additional land use restrictions also have the potential to prejudice currently consented and future development ambitions at Protos.	As documented in the Draft SoCG with Peel NRE [REP3-027], the Applicant notes that carbon dioxide is not currently defined as a dangerous fluid under the Pipelines Safety Regulations 1996 and, as such, carbon dioxide pipelines are not classified as Major Accident Hazard Pipelines and do not have an associated Consultation Zone. Therefore, developments around CO2 pipelines are currently not subject to controls under Land Use Planning.  The Applicant also notes that CO <sub>2</sub> is not currently regulated under The Planning (Hazardous Substances) Regulations 2015 or The Dangerous Substances and Explosive Atmospheres Regulations 2002 and, as such, there are no defined separation or 'stand-off' distances.  The Applicant can confirm that there are continued discussions between themselves and the Health and Safety Executive (HSE) on the status of CO <sub>2</sub> Pipelines in respect to Land Use Planning and other regulatory requirements, and will inform the Draft Peel SoCG [REP3-027].
2.1.39	2.39	Given this, Peel NRE maintains this objection on the basis that there remain potential impacts and mitigation requirements that are not understood at this stage.	The Applicant acknowledges Peel NRE's position and is committed to continued discussion on this issue through the SoCG [REP3-027].
		<b>Assessment of Cumulative Effects</b>	
2.1.40	2.40	An assessment of cumulative effects is provided within Chapter 19: Combined and Cumulative Effects. This covers cumulative effects in terms of multiple, different effects to receptors caused by the Pipeline (intra-project) and in combination with any other developments/projects in the vicinity (inter-project). These types of assessment ensure that the requirements to consider cumulative effects pursuant to the Infrastructure Planning (EIA) Regulations 2017 (as amended) are met for the DCO application.	The Applicant acknowledges Peel NRE's response and has no further comments.
2.1.41	2.41	To identify relevant projects for the assessment of inter-project effects, a series of search criteria have been used (Chapter 19, Paragraph 19.5.14). Based on the search undertaken three projects have been identified within Protos (Appendix 19.1 (Table 2) and Figure 19.1), comprising: <ul style="list-style-type: none"> <li>• ID 1e(iii) - TCPA – CWACC: 19/03489/FUL Development of a hydrogen production plant (HPP) and electricity generating plant, comprising of a waste reception and handling building, gasification facility, hydrogen production facility with associated/ ancillary infrastructure which includes access roads, weighbridge, fencing / gates, lighting, surface water drainage, and electricity distribution plant2 ;</li> </ul>	

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
		<ul style="list-style-type: none"> <li>ID 54 TCPA - CWACC Reference: 21/04076/FUL: Materials recycling facility, two plastics recycling facilities, a polymer laminate recycling facility and a hydrogen refuelling station (Protos Plastics Village); and</li> <li>ID 63 TCPA - CWACC Reference: 20/04396/FUL: Resource recovery facility (Plastics Recycling Facility).</li> </ul>	
2.1.42	2.42	<p>Whilst these Other Developments have been considered, there are a number of other extant permissions which have not yet been implemented or are under construction as of Spring 2023 which lie within the land owned by Peel at Protos. These are outlined in Appendix 2. The location of these developments is provided at Appendix 4, and layout plans at Appendices 5 – 15.</p>	<p>As set out in the Applicant's Response to Written Representations at row 2.11.41 (page 111) <b>[REP2-041]</b>, a review of the list of applications provided by Peel NRE has identified developments that would meet the criteria for inclusion in the long-list of the Inter-Project Effects Assessment and were publicly listed prior to the submission of the 2022 ES (31 August 2022) (Table 2 of Appendix 19.1 of the 2022 ES <b>[APP-172]</b>). These developments, (references: 14/02277/S73 (including Plots 1-3 and 5-7), 18/04671/WAS (Plot 4), 19/02566/FUL, 17/02683/FUL (Plot 15) and 18/01543/S73 (Plot 8)) have now been assessed and will be included in the updated 2022 ES towards the end of the DCO examination. The result of this assessment is summarised below.</p> <p>All Protos Plots are assessed as related development despite some being small scale in some cases. These individual developments overlap in some cases with the DCO Proposed Development and therefore have the potential for adverse effects in both construction and operation stages. Development 18/04671/WAS would result in mostly Negligible, but some Minor Adverse Inter-Project Effects primarily in the construction stage.</p> <p>The amended permission (CWCC reference 21/02848/S73) would not lead to a change in the significant residual effects of the Inter-Project Effects Assessment of development 1eii due to the nature of the development (the addition of earthworks) not being anticipated to alter any assessment outcomes of the Inter-Project Effects Assessment.</p>
2.1.43	2.43	<p>Due to the proximity and scale of these developments and potential for intra-project effects due to the presence of common sensitive environmental receptors (specifically in respect to landscape and visual, air quality, traffic and transport and biodiversity), Peel NRE objects to the current scope and contents of the cumulative assessment. It is understood that an updated cumulative assessment will be prepared as part of an update ES during the examination.</p>	<p>The Applicant acknowledges Peel NRE's response and confirms that an updated cumulative assessment will be prepared as part of the updated 2022 ES prior to the end of DCO Examination.</p>
		<b>Other Environmental Matters</b>	
2.1.44	2.44	<p>Within Peel NRE's Responses to ExA's First Written Questions (17 April 2023), a number of other environmental considerations were raised. Based on the subsequent information / responses provided by the Applicant, Peel NRE is satisfied that these matters are addressed and this will be confirmed through the SoCG. These considerations are summarised as follows:</p>	<p>The Applicant acknowledges Peel NRE's response and has no further comments.</p>

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
		<ul style="list-style-type: none"> <li>Climate change, in respect to the methodology and assumptions adopted to calculate greenhouse gas emissions arising from manifold venting;</li> <li>Dewatering, with impacts to be controlled through the preparation of a Surface Water Management and Monitoring Plan to be discussed with Peel NRE as landowner;</li> <li>Land contamination, in regard to the implementation of measures to mitigate impacts; and</li> <li>Lighting, in respect to the implementation of mitigation to minimise disturbance to wildlife during construction and operation.</li> </ul>	
		<b>Easement of the CO<sub>2</sub> Pipeline Corridor</b>	
2.1.45	2.45	The pipeline corridor is proposed to travel north/south along the eastern boundary of the Order limit. The location of the pipeline corridor in the current proposal is an improvement on the location of the pipeline previously proposed in the Section 42 Consultation. However, despite this improvement, the current proposals are still not acceptable to Peel NRE on the basis that the proposed 24.4m corridor around the pipeline for the permanent acquisition of sub-soil (at plots 1-11, 1-12, 1-13, 1-15, 1-18 and 1-19) would cause an unacceptable quantum of land to be restricted from development by way of the proposed restrictive covenants.	The Applicant generally acknowledges Peel NRE's response and notes the Parties are in continued commercial discussions on the points raised by Peel NRE.
2.1.46	2.46	Notwithstanding Peel NRE's objection on this matter, the Applicant has confirmed that the 24.4m easement corridor and associated restrictive covenants proposed to be involved are necessary for the protection of the pipeline. The Parties are currently in discussions to reach an agreed position on this matter but the position has yet to be agreed and so Peel NRE must maintain its objection in principle to the current proposal on the basis that the restrictive covenants to be imposed on this land will unacceptably constrain the development of the Protos Plastics Park.	
		<b>Negotiating Land Agreements</b>	
2.1.47	2.47	The parties have yet to agree a position on the land agreements however progress has been made in regards to the Heads of Terms. However, at this stage, Peel NRE must maintain its objection to the proposed acquisition of land, interests and rights identified within the Land Plans (drawing ref. EN070007-D.2.2-LP-Sheet 1).	The Applicant generally acknowledges Peel NRE's response and notes the Parties are in continued commercial discussions on the points raised by Peel NRE.
	3.	<b>Protective Provisions</b>	
2.1.48	3.1	Peel NRE requests that its protective provisions (a copy of which is appended) (Protective Provisions) are included in the Order to ensure that its land interests and the planned development of the Protos Plastics Park are sufficiently protected in the carrying out of the authorised development and to ensure that Peel NRE is appropriately consulted at the detailed design stage in respect of the elements of the proposed Order which interface with the Protos Plastics Park.	The Applicant acknowledges Peel NRE's response and will continue to engage with them through the Draft SoCG <b>[REP3-027]</b> .

Ref	Rep Reference	Peel NRE's Response at Deadline 3	Applicant's Deadline 4 Comments
2.1.49	3.2	Peel NRE is in discussions with the Applicant and hopes to seek the agreement of the content of the Protective Provisions with the Applicant prior to the close of the Examination Period. In the event that agreement on the form of Protective Provisions cannot be reached between Peel NRE and the Applicant, Peel NRE would request that the Protective Provisions in the form appended are included in Schedule 10 of the Order in order to afford Peel NRE the appropriate protection in light of the impacts of the proposed Order on its land interests in the Protos Plastics Park.	
	4.	<b>Withdrawal of Objections</b>	
2.1.50	4.1	<p>In order for Peel NRE to be in a position to withdraw its objection to the proposed Order, Peel NRE requires confirmation from the Applicant that:</p> <ul style="list-style-type: none"> <li>• the access to the Ince AGI is relocated or renegotiated to avoid conflicting with planned development at Protos.</li> <li>• the acquisition of land and rights over the Affected Land (including the extinguishment of any rights) is on terms agreed with Peel NRE.</li> <li>• sufficient protection for the Protos expansion is afforded by the Pipeline scheme to enable the Protos expansion to come forward unhindered.</li> <li>• no works pertinent to the Affected Land shall be carried out without Peel NRE's prior approval of the plans, specification, method statement and programme of works.</li> <li>• full access rights, during both the construction and operation phases, are retained to the Affected Land for the benefit of Peel NRE.</li> <li>• reconsideration of the location of drainage infrastructure to avoid conflicting with planned development at Protos.</li> <li>• clarification on any additional further ecological mitigation requirements at Ince AGI due to BNG.</li> <li>• clarification on hazards posed by the Pipeline (noting that this is subject to HSE advice).</li> <li>• updated cumulative assessment, fully considering intra-project effects with consented development within Protos.</li> <li>• the proposed Protective Provisions are agreed.</li> </ul>	The Applicant notes Peel NRE's position on these matters and will continue to engage with them through the commercial discussions, Draft SoCG [REP3-027] and discussions on Protective Provisions.

Table 2-2 – Applicant's Comments on Submissions Received at Deadline 3 from Flintshire County Council (FCC) [REP3-047]

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
<b>4. Biodiversity, Ecology and Natural Environment</b>						
Q1.4.2	Monitoring FCC	<p><b>IPs</b></p> <p>Confirm whether you are satisfied with the monitoring measures during construction and post construction described within Section 9.13 of ES - Chapter 9 - Biodiversity [APP-061].</p> <p>In particular, your comments are invited on the monitoring requirements anticipated during construction detailed within Table 9.13 and within Appendices 9.1 - 9.10 (Volume III), in relation to protected species licencing and the Outline Landscape Ecology Management Plan [APP-229]. As well as the post-construction monitoring proposed to be undertaken in accordance with a Landscape Ecology Management Plan (LEMP) [APP-230] developed at Detailed Design. The LEMP is proposed to be included within the Operations and Maintenance Environment Management Plan (OMEMP), provided post-construction. The ExA acknowledges that this may be covered by a SoCG. If the answer to these questions are being covered by a SoCG please indicate that accordingly.</p>	<p><b>Construction monitoring measures:</b></p> <p>Table 9.13 of the ES Chapter 9 - Biodiversity [APP-061] with REAC references and OCEMP-Table 6.6: Construction Management and Mitigation summarises REAC references which comprise:</p> <p>Biodiversity BD-001 references the appointment of a Team of Ecological Clerk of Works to support oversee and monitor the Construction Contractor D-BD-002 relates to Permits and EPS licences - Protected species licencing is likely to include additional monitoring in relation to any required mitigation as well as an external auditor.</p> <p>D -BD-003 the appointment of a third party to undertake Environmental compliance audits and regularly report on all parties.</p> <p>FCC is satisfied with the above monitoring measures proposed during construction.</p> <p>An External Auditor is key to ensuring construction works, mitigation and licences adhere to the agreed plans but are only proposed for the duration of construction, and not in the long term during the maintenance and management period for landscape planting.</p> <p><b>LEMP:</b> It is considered that the LEMP need to include a description of what success looks like. For example,</p>	<p><b>Construction Monitoring Measures</b></p> <p>The Applicant understands FCC's statement to mean that an External Auditor is key during the construction phase, but it is not clear from the comment whether FCC is seeking such provision during the operation and maintenance phase.</p> <p>The Applicant acknowledges the response of FCC in respect of construction monitoring measures.</p> <p>With regards the appointment of an External Auditor during construction, this is captured via item D-BD-003 of the Outline Construction Environmental Management Plan (OCEMP) [REP1-017].</p> <p><b>LEMP</b></p> <p>The Applicant refers to its response to Q1.4.2 (page 23) within the Applicant's Response to ExA's ExQ1 [REP1-044] regarding the OLEMP/LEMP and its current and future content. FCC's comments are acknowledged.</p> <p><b>OLEMP</b></p> <p>Mitigation planting and BNG are separate and distinct concepts with different requirements, and it is inappropriate to conflate these. Habitat planting for mitigation will be maintained for the establishment period to ensure the function is met then land management will return to the</p>	<p>To clarify in reference to D-BD-002 in particular GCN EPS licence – this will need to include monitoring and auditing both for construction and the operation and maintenance phase.</p> <p>The details may be specific to the licence but the information needs to be included within the final REAC.</p> <p>It is understood that mitigation and BNG are two separate concepts.</p> <p>The point was that management timescales should be the same ie 30years.</p> <p>It is noted that <i>Paragraph 6.1.2 of the Outline Landscape and Ecological Management Plan [APP-229] notes that, where appropriate, a review will be undertaken of the needs for future maintenance and management of created habitats beyond the establishment/maintenance period.</i></p> <p>What is the incentive for the landowner to maintain the mitigation planting beyond the handover period?</p> <p>And who will enforce this?</p> <p>Will the DCO be able to transfer mitigation land to a third party eg Nature Conservation Body if the landowner does not wish to manage it?</p>	<p>The Applicant can confirm that details of monitoring and auditing will be included within the GCN EPS licence.</p> <p>Habitat planting for mitigation (including reinstatement of habitats) will be maintained for the establishment period to ensure the function is met then land management will return to the landowner. It is inappropriate for the Applicant to seek to control and restrict a landowner's use of land for 30 years for this form of planting.</p> <p>The Applicant considers that the question needs to differentiate between forms of <b>mitigation</b> planting. Landscape mitigation around surface sites and woodland mitigation planting will be managed by the Applicant as part of the development.</p> <p>Hedgerow reinstatement planting would revert to the landowner post establishment. That is appropriate as these hedgerows as replacement not new and should revert to the existing landowner.</p> <p>Transfer to a body is only likely to be applicable for woodland mitigation planting and would depend on the form of land agreement reached. Where the Applicant acquires the freehold (as is proposed) it would be an option however that is not yet determined.</p>



WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p><b>Applicant</b> The ExA notes the LEMP is to be developed at what is described as 'Detailed Design', yet a LEMP has been provided [APP-230]. At what design stage is the document currently? Can the Applicant clarify its inclusion? For example, is its present inclusion to allow consultee responses to feed into the detailed design version?</p> <p>Paragraph 9.13.4 of [APP-061] refers to a 'HEMP' being developed from the detailed Construction Environmental Management Plan (CEMP) and the LEMP. Confirm what is the HEMP and its role.</p> <p>Sensitive land uses are identified within, or within 250m, of Sections 4, 5 and 6 include; Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and designated ancient woodland. In the event of a pipeline leakage or groundwater impacts arising from the Proposed DCO Development how would watercourses/ groundwater/ ecology be safeguarded in the monitoring controls available? Can potential pollution or acidification of inland water be adequately avoided/ safeguarded? If so, how?</p>	<p>provide the number of species planted successfully grown to a certain height, or at what point establishment can be signed off.</p> <p><b>OLEMP:</b> includes 5-year timescales for individual tree and hedgerow establishment and 10 years for native tree and woodland planting. To ensure proper establishment, longer timescales for establishment of woodland planting are needed e.g. 15 years with monitoring after this to ensure it remains in good condition. Timescales should be in line with that proposed for the BNG of circa 30years.</p> <p>What isn't clear within the documentation is if HyNet would retain ownership of the mitigation woodlands. Furthermore, the documentation does not include details with regards to how the long-term management would be monitored.</p> <p>It is considered that there is a need for the external auditor to be retained or a separate organisation (e.g. Woodland Trust, North Wales Wildlife Trust etc) commissioned to ensure the security of the long-term management.</p> <p>There is concern that the LPA will not have time to negotiate a detailed LEMP or the resources to ensure compliance/enforcement. There needs to be liaison between the external auditor and the LPA regarding the compliance with the approved</p>	<p>landowner. It is inappropriate for the Applicant to seek to control and restrict a landowner's use of land for 30 years for this form of planting. Paragraph 6.1.2 of the Outline Landscape and Ecological Management Plan [APP-229] notes that, where appropriate, a review will be undertaken of the needs for future maintenance and management of created habitats beyond the establishment/maintenance period.</p> <p>The mitigation planting is not being used to evidence any gains associated with the BNG assessment. Mitigation planting is not proposed to count towards the requirement of Lowland mixed deciduous woodland compensation which is instead being delivered off-site where a minimum 30-year management can be ensured and delivered by a suitably experienced body.</p> <p>The Applicant has been in contact with the Woodlands Trust, the North Wales Wildlife Trust and Groundworks as evidenced in the BNG Strategy Update (document reference: <b>D.7.23</b>) submitted at Deadline 2, to discuss maintenance provision of BNG habitats.</p>		

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
			documents and similarly with NRW regarding licences.			
Q1.4.3	BNG/ Biodiversity Enhancement  FCC	Paragraph's 9.2.33-36 of ES Chapter 9 states that Biodiversity Net Gain (BNG) will be a statutory requirement for most planning applications, as per the new Environment Act (previously Environment Bill), which achieved Royal Assent through Parliament on 9 November 2021. Whilst there is currently a transition period before mandatory requirements come into force (expected to be winter 2023), it will require development to deliver a 10% net gain in biodiversity units (area habitat, hedge and river units where applicable), as determined through the use of a biodiversity metric. Moreover, it is anticipated by the Applicant that the BNG requirement will apply across all terrestrial infrastructure projects, or terrestrial components of projects, accepted for examination by the Planning Inspectorate through the NSIP regime by November 2025 (subject to the provisions of the applicable National Policy Statements or Biodiversity Gain Statement). Projects accepted for examination before the specified commencement date would not be required to deliver mandatory BNG under the	<p>With regards to the Biodiversity Metric details, FCC respectfully defers the Examining Authority to Cheshire West and Chester Council.</p> <p>With regards to the principles, I understand that the current BNG has been modelled to achieve 1% Net Gain of Priority habitats since 10% is not yet mandatory but if 10% gain is to become mandatory within the construction timescales there is a moral/best practice obligation to demonstrate more than 1% gain.</p> <p>Further mitigation is likely to be required for to be provided by the applicant as part of the European Protected Species Great Crested Newt licence and Water Framework Directive riverine habitats which could contribute to these enhancements but as yet are unmeasured.</p> <p><u>Facilitating BNG</u></p> <p>Discussions have taken place with Flintshire Countryside Service regarding enhancements that could be undertaken on Flintshire owned land. However, these proposals have not yet been quantified.</p> <p>Whether off-site BGG is undertaken on Public or Privately owned land, it is considered that, in order to secure establishment, appropriate long-term management and monitoring, the applicant should enter into a legal agreement that includes</p>	<p>The current BNG target for the DCO Proposed Development, set by The Applicant, is a minimum of 1% net gain in priority habitats.</p> <p>The Applicant notes that there is no statutory obligation under the Environment Act 2021 on this Application to provide BNG. Therefore, while delivery of BNG is agreed to be desirable, the 10% provision threshold does not apply and any positive gain is a benefit and accords with policy.</p> <p>It is the Applicant's understanding, based upon most recent guidance published by DEFRA, that the statutory requirement of 10% net gain will not become an obligation, in any terms, until 2025 for NSIPs, and even then it will only apply to DCO applications submitted after a date to be specified. The potential legal requirement for 10% net gain will be associated with the date of the start of the planning decision-making processes rather than the onset of construction.</p> <p>Therefore, the Applicant considers that the Environment Act legislation in respect of the 10% BNG requirement will not apply, under any circumstances, to the DCO Proposed Development.</p> <p><u>Facilitating BNG</u></p> <p>Discussions around facilitating the necessary habitat offsetting to achieve biodiversity net gain</p>	Noted	

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>terms of the Environment Act.</p> <p><b>Applicant</b></p> <p>i) Nevertheless, biodiversity interests and the wider policy/statutory context those interests sit within, both in England and Wales, remain important and relevant considerations whereby significant enhancement could still potentially be secured irrespective of the BNG statutory provision anticipated. Does the Applicant agree? If not say why.</p> <p>ii) Can the Applicant clarify and set out/signpost how it intends to secure BNG significantly above the 1% currently detailed in the examination documentation? Confirm the level of BNG the Applicant is committed to providing as the overall aim. Outside of BNG measurement, can the Applicant set out how it could further boost and achieve meaningful overall biodiversity enhancements?</p>	<p>provision for a commuted sum to ensure compliance and to confirm that the BMG was being establish to a good standard.</p> <p>Should consent be granted, future proofing woodlands could be secured to some extent by reference to elements of the United Kingdom Woodland Assurance Scheme (UKWAS) which is a comprehensive certification standard for woodland management. The standard includes chapters covering Natural, Historical and the Cultural Environment, and Management Planning including woodland creation. UKWAS certification would mean that the woodlands are being managed in accordance with the best practice.</p> <p>There is concern that the level of BNG will be dependent on landowners' and stakeholders' willingness to offer land for this purpose. Where land is made available there is concern with regards to how long term BNG (30 years) will be secured. There will be a need to adequately incentivise landowners to take part. This should also be secured by legal agreement in the form of a commuted sum to ensure off-site BNG is provided.</p> <p>The OLEMP [APP-229] (paragraph 3.2.9.) specifies UK seed sourced and grown for native tree/shrub/hedge planting, which is welcomed. The successful reinstatement of removed hedgerows is</p>	<p>(BNG) (evidencing this through the biodiversity metric wherever possible) are on-going with Flintshire Countryside Service. The Applicant considers that specific habitat interventions or schemes to facilitate such interventions will be identified, quantified as far as practicable, and outlined within an updated BNG assessment report to be submitted at Deadline 5, however, an update on progress with offset site identification is provided at Deadline 2. This documents the Applicant's interaction with Flintshire Countryside Service as highlighted by FCC (see BNG Strategy Update (document reference: <b>D.7.23</b>) submitted at Deadline 2).</p> <p>As part of these off-site interventions, BNG Good Practice Principles will be adhered to, and underpinned by legal agreements. This includes the requirement of long-term management by suitably qualified or experienced bodies, adhering to a prescribed habitat management plan which will be drafted and agreed during detailed design. Discussions are ongoing around who will manage these habitats in the long-term and suitable payment structures will be agreed to ensure this ongoing dedicated management is fully costed to ensure compliance. The Applicant considers this a vital and fundamental principle</p>		

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>iii) Does the Applicant agree that s106 agreement use involving a commuted sum mechanism to facilitate biodiversity enhancements may be a feasible/ suitable option available?</p> <p>iv) To what extent has peatland, wetland or salt marsh creation/ restoration (or similar) been considered as an enhancement that links to shared interests of climate change risk resilience from flooding and enabling nature based forms of carbon capture. If not, why has it not been considered?</p> <p><b>IPs</b></p> <p>v) Submit your views on seeking biodiversity enhancement/ facilitating BNG, inclusive of any future proofing.</p>	<p>considered to be a key element in minimising post construction landscape impacts along the sections of underground pipe where AGIs and BVSs are not present.</p> <p>Post construction, as a result of the pipeline construction, if consented, there will be sections of missing hedgerows along the line of the route but no other evidence of the construction as the land would be restored. It is possible that, from certain viewpoints, a number of hedgerows gaps would be visible which would indicate where the line of the pipeline is below ground and it is considered that this will feature as a scar across the countryside. To ensure that this does not take place, once the hedgerows have been replanted and grown there should be no evidence of the pipe at all.</p> <p>ather than replacing the gap, where the hedgerow is particularly poor, it would be preferable to replace the whole length of the hedge. These longer sections of replanted hedge would make replacing just the gaps less of a repeating pattern in the countryside and mask the pipe's route, reducing visual sensitivity.</p> <p>In addition to hedge planting, the option for Hedgerow translocation especially for established ancient hedgerows and those identified as having good bat activity needs to be explored. This has been successfully achieved on other</p>	<p>associated with evidencing BNG.</p> <p>As detailed within the response at row 2.12.9 in the Applicant's Response to the Relevant Representations <b>[REP1-043]</b>, the Applicant will continue to seek to avoid hedgerow loss as much as reasonably practical during the detailed design stage of the DCO Proposed Development. Additionally, measures have been included within the Outline CEMP <b>[REP1-017 and CR1-119]</b>, for the planting of any areas of hedgerow removed to facilitate construction. The Applicant considers it disproportionate to remove extended lengths of established hedgerow, including poor hedgerows, as this would increase impacts on established linear habitats unnecessarily and could have implications on their use by protected and/or notable species (for example bats). The Applicant has provisioned micro-siting of the pipeline through existing gaps in hedgerows, as captured within item D-BD-009 of the OCEMP <b>[REP1-017 and CR1-119]</b>. The metric incentivises adherence to the mitigation hierarchy. Only those sections of hedgerow needing to be removed to facilitate construction are being considered, as per the mitigation hierarchy, which aligns with the BNG Good Practice Principles. Removal of additional lengths of hedgerow would also require extending management, monitoring and</p>	<p>As 1.4.2 - It is accepted that the applicant will seek to avoid hedgerow loss as reasonably practical.</p> <p>The comment regarding the replacement of the whole hedge was not to remove more hedgerow but to replant the full length of a gappy/poor hedgerow adjoining the DCO rather than just the pipeline location.</p> <p>This would depend on landowner agreement but could contribute to the BNG requirement for new hedgerow.</p> <p>Disappointing that hedgerow translocation considered too onerous especially for those hedgerows important for bats.</p> <p>Management of the soil and the associated seed bank (relevant to established ancient hedgerows) needs to be included within the LEMP if not already.</p>	<p>The Applicant notes FCC's comment regarding avoiding hedgerow loss.</p> <p>The Applicant acknowledges FCC's comments regarding planting up of gaps in hedgerows. However, the Applicant, would be required to seek additional agreements with landowners to affect hedgerows beyond those areas directly impacted by construction (i.e. those that fall within the construction working corridor), which would be disproportionate in the context of the localised impacts of construction. Any additional planting of gaps would also require consideration of management over the establishment period, as a minimum. To qualify for consideration as part of any BNG strategy any agreement would require the Applicant to secure access to land for management of hedgerows over a 30-year period. This would place an unnecessary inconvenience on the landowner, as well as the Applicant who would require access to be agreed to larger areas of land than would otherwise be necessary. Given the number of hedgerows located within the Order Limits and adjoining the DCO Proposed Development (beyond those included within the construction working width) this would likely result in a not insignificant financial outlay. The Applicant therefore feels it is disproportionate to seek to plant up gaps in hedgerows outwith those impacted within the construction working width by construction.</p> <p>In respect of hedgerow translocation, the Applicant refers FCC to its response to Q1.4.3 within Applicant's Comments on Responses to ExA's First Written Questions <b>[REP2-038]</b>. In addition, it should be recognised that the Order Limits are not representative of the final construction working width. The Applicant will develop a detailed design and route and apply a construction working width of 32m within the Order Limits. Through this, the Applicant will further reduce its impact upon land and landowners accordingly. To effect hedgerow translocation would likely require the Applicant to increase the size of the construction working</p>

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
			<p>gas pipeline and road schemes within Wales, particularly in Carmarthenshire in South Wales.</p> <p>The maintenance for replacement hedgerows of the OLEMP [APP-229] (para 4.3.17) requires more detailed consideration as the height of new hedges should not be cut in the first five years if it is intended lay them. Hedge laying should be undertaken in accordance with the 'Midland Style' which is best suited to newly planted hedgerows. This detail can be agreed with the LPA during the consideration of the detailed LEMP as part of the approval of the requirements as required.</p>	<p>maintenance, placing additional burden and obstacles upon the Applicant unnecessarily. With regards hedgerow translocation, given the constraints of the Order Limits and the landscape through which the DCO Proposed Development covers, the Applicant considers that it is not proportionate or appropriate to employ translocation of hedgerows for the small sections of hedgerow that will be removed.</p>		<p>width, which the Applicant considers inappropriate and disproportionate given appropriate mitigation and reinstatement of hedgerows has been provisioned within the mitigation measures and principles as presented within the Outline Construction Environmental Management Plan [REP2-021].</p> <p>The Applicant can confirm that the LEMP [APP-229], secured by Requirement 11 of the dDCO [REP3-005 and CR2-008], will include details of the management of the soil and seed bank where appropriate.</p>
Q1.4.5	BNG/ Biodiversity Enhancement  FCC	<p>Section 6 under Part 1 of the Environment (Wales) Act 2016 introduced an enhanced biodiversity and resilience of ecosystems duty (the S6 duty) for public authorities in the exercise of functions in relation to Wales. It requires that public authorities must seek to maintain and enhance biodiversity so far as consistent with the proper exercise of their functions and in so doing promote the resilience of ecosystems. Section 7 of the Act entails biodiversity lists and duty to take steps to maintain and enhance biodiversity. It is noted by the ExA that the Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types</p>	<p>Please refer to response at Q1.4.3 above and with regards to Biodiversity and resilience of ecosystems there is a cross reference and links to Wildlife corridor as per response at Q1.4.17 and Q1.11.7.</p> <p><u>Offsite compensation scenarios</u></p> <p>These should be agreed with public and private landowners prior to consent, or at the very least prior to commencement of development. BNG should be undertaken prior to commencement of development or integrated with DCO mitigation.</p> <p>For example, BNG could be provided in part by hedgerow restoration and replacement for the full length of hedge rather, than just the DCO development width as raised above within Q1.4.3.</p>	<p>The Applicant refers FCC to the responses provided for Q1.4.3 (page 24), Q1.4.17 (page 41) and Q1.4.7 (page 32) in the Applicant's Response to ExA's ExQ1 [REP1-044] submitted at Deadline 1.</p> <p><u>Offsite compensation scenarios</u></p> <p>The Applicant intends to agree habitat compensation to achieve a net gain in biodiversity. This will involve specific habitat interventions or schemes to facilitate such interventions which will be identified, quantified as far as practicable, and outlined within an updated BNG assessment report to be submitted at Deadline 5, with an updated assessment associated with impacts occurring within the Order Limits to be provided at Deadline 3 and an update to</p>	<p>Consideration should be given to Replanting/restoring the full length of a poor/'gappy' hedgerow adjoining the DCO rather than just the pipeline location.</p> <p>This would depend on landowner agreement but could contribute to the BNG requirement for new hedgerow and complement Flintshire Countryside Service proposals.</p>	<p>The Applicant refers FCC to its response to Q1.4.3 above.</p>

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		<p>of habitat(s) included in any list published under Section 42 and encourage others to take such steps. <b>Applicant</b></p> <p>i) Signpost in the examination documentation how the above duty would be complied with?</p> <p>ii) The BNG Assessment submitted indicates compliance with the above statutory provision is being pursued during the Examination, in part, through engagement using the off-site compensation scenarios. However, if such an approach is to be utilised how will this be delivered to ensure both legal compliance and robust long-term management?</p> <p>iii) Has the Applicant scoped cross-cutting options available to boost BNG/ biodiversity enhancement with respect to its own scheme in combination with the strategic ecological challenges facing statutory consultees in both England and Wales?</p> <p>iv) The ExA considers that off-site BNG proposals should be more thoroughly</p>	<p>Other linear schemes within Wales have required legal agreements to be entered into that include the provision for appropriate funding administered as grants to landowners.</p> <p>Funding can be costed for agreed BNG but will need to include mechanisms for instigating the grants.</p> <p>Grant schemes are successful where there is a project officer who can undertake the landowner liaison and subsequent monitoring of the schemes. Such schemes can be delivered via the local authority or another body such as the local Wildlife Trust, (North Wales Wildlife Trust in Flintshire) the Woodland Trust, Farming and Wildlife Advisory Group or related farm advisory group.</p> <p>Potentially, if the projects fit in with the proposed Sustainable Farming Scheme in Wales then there will be long term commitment to their success.</p> <p>Hedgerows are likely to be protected from grazing for the life of the associated fences.</p> <p>As for the LEMP proposals, there is a need for the External Auditor to be retained or a separate organisation (eg Woodland Trust, North Wales Wildlife Trust etc) commissioned to ensure the security of the long term management. At present, it is understood that the External Auditor would only be present during the construction phase of the project.</p>	<p>the BNG Strategy Update Document submitted at Deadline 2 (document reference: <b>D.7.23</b>).</p> <p>The Applicant considers that any habitat interventions to achieve a BNG will be secured through a suitable agreement(s) to ensure successful compliance.</p> <p><u><a href="#">Cross cutting options available to boost BNG/ biodiversity enhancement</a></u></p> <p>The Applicant refers to its response to Q1.4.5 (iii) (page 30) in the Applicant's Response to ExA's ExQ1 <b>[REP1-044]</b> in respect of cross-cutting options.</p> <p>In respect of hedgerows, the Applicant refers to the response provided within Q1.4.3 above in respect of hedgerow translocation and restoration of full lengths of hedgerow.</p>		

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>explored and encourages early endeavours to achieve off-site BNG and a significantly greater overall value. The ExA requests the Applicant's views of realistically achieving meaningful off-site BNG (for a minimum of 30 years and formally registered) and the net level anticipated after development.</p> <p>v) The Applicant is advised to take a flexible approach to BNG/ meaningful biodiversity enhancement delivery options. This extends to delivery of net gain on both publicly and privately owned land covering green or blue infrastructure features (including new: woodland, wetland creation, seagrass meadow establishment/ restoration, and saltmarsh establishment/ restoration).</p> <p>vi) The ExA invites such options to be further explored with relevant consultees and landowners as a means to boost overall BNG levels. In that regard the ExA</p>	<p>Other mitigation/compensation schemes in Flintshire tend to be associated with the Great Crested Newt. The most successful schemes are those where the site is handed over or are leased long term to a "Nature Conservation Body" with adequate funding.</p> <p><u>Cross cutting options available to boost BNG/ biodiversity enhancement</u></p> <p>Enhancing connectivity and Ecosystem resilience by hedgerow translocation to retain hedgerow soils and seed banks and local plants; where translocation not appropriate, the restoration of full lengths of hedgerow should be provided rather than just the DCO width. Link to other mitigation requirements relating to WFD and GCN as stated in previous questions.</p> <p>Proposed tree and hedgerow planting will provide additional benefits such as carbon capture.</p>			

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>seeks a timetable to be submitted setting out the discussions taking place with relevant landowners/ strategic bodies having regard to local ecological initiatives (either in place or which could be developed) in the vicinity which may be able to be boosted.</p> <p>vii) It is noted by the ExA that the Joint Nature Conservation Committee (JNCC) is the public body that advises the UK Government and devolved administrations on UK-wide and international nature conservation. It includes members from the nature conservation bodies for England, Scotland, Wales and Northern Ireland and independent members appointed by the Secretary of State (SoS) for the Environment, Food and Rural Affairs. JNCC provide a shared scientific nature conservation service for the UK - the mechanism for the UK Government and devolved administrations to pool their resources to obtain evidence</p>				



WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>and advice on nature conservation and natural capital. Has the advice of JNCC been considered? If not, state why and indicate whether the Applicant is able to procure such advice during the Examination.</p> <p><b>IPs</b></p> <p>viii) Any comments, responding to questions i) to vii) above are welcome.</p>				
Q1.4.8	Great Crested Newts  FCC	<p>The ExA notes the content of Appendix 9.2 Great Crested Newt Survey Report – Part's 1-4 [APP094]; [APP-095]; [APP-096]; and [APP-097].</p> <p><b>Applicant</b></p> <p>i) Clarify and detail whether you believe there is adequate baseline survey information to confirm or discount the potential presence of Great Crested Newts (GCN) as a relevant consideration in all parts of the pipeline route.</p> <p>ii) Confirm/ signpost the details of migration where the GCN would be traveling to/ from?</p> <p>iii) Can the Applicant provide further details as to what mitigation measures would be included if GCNs not</p>	<p>Flintshire is a recognised “hotspot” for Great Crested Newts (GCN) with Supplementary Planning Guidance 8a for GCN Mitigation Requirements.</p> <p><a href="https://www.flintshire.gov.uk/en/PDFFiles/Planning/SPG8a-Great-Crested-Newt-Mitigation-Requirements.pdf">https://www.flintshire.gov.uk/en/PDFFiles/Planning/SPG8a-Great-Crested-Newt-Mitigation-Requirements.pdf</a></p> <p>The GCN surveys undertaken provide an adequate baseline; GCN have been previously recorded in a number of the ponds surveyed, so presence is assumed.</p> <p>As stated in the REAC all species-specific mitigation and predicted impacts would be captured under an European Protected Species mitigation licence subject to agreement with NRW but to date it is understood that no discussions have been undertaken.</p>	<p>The Applicant acknowledges FCC's comments regarding the adequacy of baseline survey information accrued.</p> <p>The Applicant can confirm that it is preparing a draft European Protected Species (EPS) licence to be provided to NRW for their review and comment with a view to securing a Letter of No Impediment from NRW (LoNI). The Applicant can additionally confirm that it has already held discussions with NRW regarding appropriate mitigation and licensing requirements and that NRW have provided further guidance and thoughts on the matter, as evidenced within Table 2-1 Record of Engagement in Relation to the DCO Proposed Development, in particular meetings 02/02/2023 and 09/03/2023 of the SoCG with Natural Resources Wales [REP1-023]. As detailed within Table 3-3 – Issues Related to</p>	<p>Noted FCC are aware that “shadow licences” will be produced. It would be useful to have sight of them when available.</p>	<p>The Applicant can confirm that shadow licences for Wales will be submitted to NRW, these include shadow licences for GCN, bats, and badger. The Applicant can provide a copy of the shadow licenses to FCC.</p>

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>already anticipated by relevant survey are subsequently found?</p> <p>iv) Can the Applicant also clarify if there is a need for a separate GCN mitigation plan?</p> <p><b>IPs:</b> Are there any comments/ concerns you wish to raise with respect to the above matters?</p>	<p>Since, GCN have been recorded in close proximity to the DCO boundary from Ewloe to Flint including the Deeside and Buckley Newt Sites SAC, the majority of the pipeline within Flintshire has the potential to impact GCN terrestrial habitats.</p> <p>As a result, it is anticipated that additional mitigation measures would be required as part of the NRW licence application. These might include restoration or creation of ponds and terrestrial habitat enhancement, additional tree and shrub planting.</p> <p>A separate GCN mitigation plan would assist the licensing process.</p>	<p>the Proposed Development – Ecology - NRW 3.3.11 of the SoCG <b>[REP1-023]</b>, the Applicant and NRW have discussed the need and means of capturing a conservation/mitigation plan for GCN. The approach to this has been agreed within NRW, particularly acknowledging that in the absence of a detailed design for the DCO Proposed Development, there is a requirement for a degree of generality about the licence at this time.</p> <p>The Applicant will continue to engage with NRW in respect of the draft EPS licence for GCN with a view to agreeing its content and approach, acknowledging the final application at the detailed design stage will require further refinements. Future discussions and agreements will be captured within updates to the SoCG with NRW <b>[REP1-023]</b>.</p>		
Q1.4.1 7	Wildlife Corridors  FCC	<p><b>Applicant</b> At the ExA's Unaccompanied Site Inspections [EV-003] and [EV-004] the probable existence of 'informal' wildlife corridors within nearby surrounding areas was observed which could be potentially used by a wide variety of species.</p> <p>i) Clarify how the effect of the proposed development on potential informal</p>	<p>FCC would agree the integration of the construction of the proposed DCO development with the adjacent habitats and wildlife corridors is important.</p> <p>This point is also relevant to the Council's response to Q1.4.5 'Biodiversity enhancement and Ecosystem Resilience'</p> <p>The option for hedgerow translocation especially for established ancient hedgerows and those identified as having good bat activity needs to be explored. This has been</p>	<p>The Applicant refers FCC to its response to Q1.4.17 (ii) (pages 41 &amp; 42) within the Applicant's Response to ExA's ExQ1 <b>[REP1-044]</b> in respect of the interactions of the DCO Proposed Development, mitigation, and wider landscape/habitats.</p> <p>In respect of hedgerow translocation, the Applicant refers FCC to its responses to Q1.4.3 and Q1.4.4 above.</p> <p>The Applicant refers FCC to its responses to Q1.4.1 (iii) (page 41) and Q1.4.19 (iii) (page 45) within the Applicant's</p>	Please refer to response at Q1.4.3.	Refer to the Applicant's response within Q1.4.3 above.

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>wildlife corridors has been considered.</p> <p>ii) Explain the extent of integration of any ecological enhancements/ mitigation with existing informal wildlife corridors and how those elements are to be secured through the DCO.</p> <p>iii) Explain what scope is available within the overall engineering and new landscaping works proposed by the DCO to enable ecological corridors the earliest chance of re-establishment prior to completion of all works. Also explain how such potential provision could be secured formally. Have novel and innovative nature based approaches been sufficiently explored?</p> <p>iv) What mitigation is proposed to ensure protected species and other species are protected from noise and vibration?</p> <p><b>Ips</b></p> <p>v) Are there any comments/ concerns you wish to raise with respect to the above matters?</p>	<p>successfully achieved on other gas pipeline and road schemes within Wales and avoids the need for replanting as referred to above.</p> <p>It is understood that details are to be provided regarding maintaining hedgerow connectivity for bats such as lesser horseshoes at the design stage. This would be provided in the detailed LEMP a the discharge of requirements stage.</p> <p>FCC's Ecologist is aware that "trees on trolleys" have been used on other schemes which can be wheeled into place at the end of the working day to maintain connectivity. This could be explored for this project.</p>	<p>Response to ExA's ExQ1 [REP1-044] and can confirm that the means/design of faux hedgerow sections for maintaining connectivity during construction will be confirmed at the detailed design stage.</p>		
<b>10. Flood Risk, Hydrology, Water Resources and Contamination</b>						
Q1.10.4	Flood Risk	<b>Applicant:</b>	It is understood that the water Table in the Sandycroft and	The Applicant notes that, where any dewatering activities	It is noted that a Dewatering Management Plan and a	The Applicant acknowledges the response and can confirm that an Outline Dewatering

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
	LLFA SDSAB	<p>i) There is limited information on the groundwater levels at each of the proposed BVS and AGI sites. What groundwater survey information/ monitoring is proposed to understand any potential risk of groundwater flooding to inform the detailed drainage design?</p> <p>ii) The statutory consultation phase highlighted Chester Road, Pentre and Leaches Lane Mancot where both internal and external sewer flood risks due to hydraulic incapacity. In addition, the postcode area CH5 3HJ (Blackbrook Avenue, Hawarden) is an identified risk of external flooding. How have those specific risks been factored/ mitigated by the scheme?</p> <p>iii) Can the Applicant confirm if a Dewatering Management Plan and a Groundwater Management and Monitoring Plan is able to be submitted to inform the Examination?</p> <p><b>Applicant and IPs</b></p> <p>iv) Significant dewatering is expected adjacent to the River Gowy and the West Central</p>	<p>Pentre areas is generally found at a depth of circa 1.20 – 1.50 Metres and is widespread.</p>	<p>are proposed to support construction, then a Dewatering Management Plan (DMP) and Groundwater Management and Monitoring Plan (GWMMP) will be prepared by the Construction Contractor. The GWMMP will consider collection of pre-construction groundwater level data which can be used to inform the risk of groundwater flooding. An Outline Dewatering Management Plan and Outline Groundwater Management and Monitoring Plan will be submitted prior to the end of Examination.</p> <p>The Applicant notes that, whilst there are noted areas of historical flooding, these are above ground and as the proposed pipeline is buried at those locations, it is unlikely that the proposed pipeline will exacerbate any of the existing flood risk. The proposed pipeline alignment will take into account the alignment and the location of the existing drainage assets, and the design will avoid clashes with these assets.</p>	<p>Groundwater Management and Monitoring Plan will be prepared by the Construction Contractor for appropriate locations. I consider this to be a positive proposal and welcome receipt of the Outline Plans for both activities.</p>	<p>Management Plan and an Outline Groundwater Management and Monitoring Plan will be submitted at Deadline 5.</p>

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		Drain. These are in the Gowy and Ince Marshes WFD surface water bodies. Do IPs have any comments to make on that aspect or any other aspect of the proposal? Can any related ecological benefits be secured in tandem with dealing with flood risk management issues arising?				
<b>14. Noise and Vibration</b>						
Q1.14.6	<b>FCC</b>	<p>Having reviewed the methodology and calculations set out in ES Chapter 15 (Noise and Vibration) [APP-067], it would appear that very noisy equipment will be in use at certain locations for approximately 80% of the time. Indeed Paragraph 15.9.4 notes "...some receptors in all sections are likely to experience either a medium or a high adverse noise impact at some point during the construction phase." It also records the magnitude of impact as being considered to be a "significant effect (significant)".</p> <p>Bearing this in mind the ExA would ask the Relevant Local Authorities (CWCC and FCC) whether they:</p> <p>i) consider there to be a potential for complaint resulting from the use of such equipment</p>	<p>i) Given the predicted noise output for certain locations during the construction phase, there is a high probability and severe likelihood of the FCC receiving complaints from residents.</p> <p>ii) FCC do not agree with the defence to statutory nuisance methodologies that the applicant has proposed. Mitigation is not a defence if any proceedings are brought under the Environmental Protection Act. Clarification is required in respect the defence to proceedings and arbitration in respect of statutory nuisance for noise and its interplay with existing statute. Furthermore, FCC are not clear on construction/operational /decommissioning time frames</p>	<p>i) The Applicant acknowledges that noise complaints from individual receptors are possible when construction works are in proximity. However, due to the linear nature of the construction works, any impacts would be of relatively short duration. Under D-NV-003 of the REAC [REP1-015 and CR1-109], and as secured by the CEMP in Requirement 5 of the dDCO [REP1-004], the Contractor is obliged to nominate a community liaison representative, who would be responsible for managing and responding to complaints in accordance with the Noise and Vibration Management Plan, which will be approved by the Local Authority in the CEMP as committed in D-NV-002 of the REAC [REP1-015 and CR1-109]. Temporary re-</p>	<p>FCC are in agreement that the applicant 'may' have a defence to any statutory nuisance complaints by use of Best Practical Means, however the detail of any mitigation to meeting Best Practical Means has not been provided at this time and it will be under discussion when completed final Management Plans are submitted and assessed as part of the Requirements.</p>	<p>The Applicant agrees that the detail of any mitigation to meeting Best Practicable Means will be provided in the Noise and Vibration Management Plan under D-NV-003 of the REAC [REP2-017 and CR1-109], and as secured by the CEMP under Requirement 5 of the dDCO [REP3-005 and CR2-008]. The Applicant can confirm that an Outline Noise and Vibration Management Plan will be submitted at Deadline 5.</p>

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>and/ or the duration of such use of equipment;</p> <p>ii) and ii) have any concerns in regard to Article 9 (Defence to Proceedings in respect of statutory nuisance) as set out in the draft DCO [APP-024].</p>		<p>housing will also be considered through consultation with the Local Authority, if necessary, in accordance with D-NV-010 of the REAC [REP1-015 and CR1-109].</p> <p>Allegations of statutory nuisance from construction works would typically be dealt with using the Control of Pollution Act. Under those circumstances, mitigation (Best Practicable Means (BPM)) is a statutory defence. It is recognised that proceedings can also be brought under the Environmental Protection Act (EPA); however, Article 9 of the draft DCO would also similarly protect the Applicant from proceedings under the EPA based on use of BPM or compliance with the approved CEMP as committed in D-NV-002 of the REAC [REP1-015 and CR1-109]. FCC are required to approve the CEMP secured in Requirement 5 of the dDCO [REP1-004], and so will ultimately have control of the mitigation measure therein.</p>		
<b>16. Socio-economic Effects, Including Population and Human Health</b>						
Q1.16.3	General FCC	<ul style="list-style-type: none"> <li>Scope for a Community Benefit Fund is referenced within the full Relevant Representations received from FCC [RR-034] [RR-035]. They specifically comment <i>“that the construction of the pipeline would cause significant disruption to a number of communities</i></li> </ul>	<p><b>HYNET COMMUNITY BENEFIT FUND</b></p> <p>FCC is of the view that HyNet should provide a voluntary community benefit scheme, established and managed by the developer to mitigate against the impacts of the development.</p>	<p>The Applicant would refer to the Applicant's response to ExA's ExQ1 Q1.16.3 (page 112) in the Applicant's Response to ExA's EXQ1 [REP1-044] submitted at Deadline 1.</p>	<p>The applicant's response to ExA's Qu1 is noted in relation to this point and would welcome further information with regards to the details of the proposed voluntary community benefit fund.</p>	<p>The Applicant notes FCC's request and is reviewing the opportunity to provide a voluntary proposal for a community benefit fund, and the form such a proposal might take. As any funding would be provided on a voluntary basis and not tied to the DCO, the review and approval cycle is not currently following the same timescale as the DCO process.</p> <p>However, the Applicant has had some early discussions with some FCC members and is</p>

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p><i>in Flintshire for the duration of construction. Furthermore, should consent be granted, this would result in extending the life of the PoA Terminal which is currently expected to be restored by 2023. However, it is noted that the communities and industry of Flintshire would not benefit from receiving hydrogen until much later in the project as there are no immediate plans to construct a hydrogen pipeline in Flintshire. As such, it is considered reasonable for the developers to commit to providing a community benefit fund for those affected communities”.</i></p> <p><b>FCC</b></p> <p>i) Explain what the suggested Community Benefit Fund you describe would be specifically used for?</p> <p>ii) By what formal regulatory mechanism would you be seeking such funding from the Applicant if it is to be pursued?</p> <p>iii) Detail how any policy/ statutory test associated to securing the funding requests described would be met.</p> <p>iv) If you have not already done so advise on the full details any CILCS in place for the</p>	<p>The fund could be used to fund projects in the communities affected by the construction of the pipeline and the above ground installations/BVS, and also the development at the Point of Ayr Terminal.</p> <p>Projects that the fund could support include those that would either promote the use or invest in the development of the reduction of carbon emissions, skills and research regarding Carbon Capture Storage and green hydrogen production, and de-carbonisation of transport for example. It could also work in partnership with the Ambition North Wales Low Carbon Energy Hydrogen Hub programme as discussed above.</p> <p>Example of this type of developer funding scheme in Flintshire include the Parc Adfer Community Benefit Fund: Which supports local projects that will help or benefit the local environment in some way. There are five main project criteria, one theme includes carbon reduction and also de-carbonisation of transport. More details can be found:</p> <p><a href="https://www.flintshire.gov.uk/en/Resident/Funding-Opportunities/Parc-Adfer-Community-Benefit-Fund.aspx">https://www.flintshire.gov.uk/en/Resident/Funding-Opportunities/Parc-Adfer-Community-Benefit-Fund.aspx</a></p> <p>The Gwynt y Môr Offshore Windfarm Community Fund is</p>			<p>happy to continue to engage on this outside of the DCO process, as the proposal develops.</p>

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
		<p>administrative area or any plans to introduce one.</p> <p><b>Applicant</b></p> <p>v) What are your views on the principle of achieving a Community Benefit Fund having regard to the policy and legislative context it would need to be considered within?</p> <p>vi) The submitted Planning Statement [APP048] references that mitigation is to be provided in accordance with paragraph 5.12.9 of EN-1 which states that the SoS should consider whether mitigation measures are necessary to mitigate any adverse socio-economic impacts of the development. Having regard to all existing adverse socio-economic impact mitigation envisaged and proposed, do you agree there is policy scope to provide an additional broader local community benefit package in line with EN-1?</p> <p>vii) If you are in agreement, how would those elements be formally captured by the proposed DCO?</p>	<p>also available for communities in coastal areas of Flintshire.</p> <p><a href="https://cvsc.org.uk/en/funding/gwynt-y-mor-community-fund">https://cvsc.org.uk/en/funding/gwynt-y-mor-community-fund</a></p> <p>The Burbo Bank Extension Community Fund is also another example of a large infrastructure project that has established a community fund to provide funding for those communities affected by the development.</p> <p><a href="https://grantscape.org.uk/fund/burbo-bank-extension-community-fund/">https://grantscape.org.uk/fund/burbo-bank-extension-community-fund/</a></p> <p>It is understood that there is no formal regulatory mechanism to seek such funding from the applicant. Furthermore, as stated above in the Council's response to question Q1.1.3, there is no Community Infrastructure Levy Charging Schedule in place in Flintshire.</p> <p>Following the adoption of the LDP on 24/01/23 Flintshire County Council will be reviewing the feasibility of introducing a Community Infrastructure Charging system compared against the continuation of the present s106 based approach. If a CIL were to prove viable it is unlikely to be implemented within the timescales for determining this present development proposal.</p>			
<b>19. Draft Development Consent Order</b>						



WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response
Q1.19.13	DCO Articles <b>Relevant Local Authority</b>	<ul style="list-style-type: none"> <li>Article 2 (Interpretation) – Definition of 'Commence'</li> <li>Are the Relevant Local Authorities satisfied as to the list of exceptions within the definition of commencement?</li> </ul>	<p><b>Article 2 (Interpretation) – Definition of 'Commence'.</b></p> <p>Suggested amendment to the following (in bold blue):</p> <p><i>“commence” means carry out a material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or for the purposes of the authorised development other than site preparation works, remediation works, environmental (including archaeological) surveys and investigation, site, utility or soil survey, erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, the diversion or laying of services or environmental mitigation measures, and any such accesses that may be required in association with the above exclusions and “commencement”, “commenced” and cognate expressions are to be construed accordingly;</i></p>	The Applicant is happy to propose this change in the next revision of the DCO.	Noted and welcomed. The Council reserves its position until the amendment is made in the next iteration of the draft DCO.	The Applicant notes FCC's position and has no further comments at this time.

Table 2-3 – Flintshire County Council's response to the to the Applicant's comments to the Flintshire County Council's Final Local Impact Report (25 April 2023) [REP1A-005] [REP3-046]

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response
	<b>Part B</b>	<b>Relevant Planning Policies and Guidance</b>			
2.1.10	7	Local Planning Policy	The Applicant acknowledges the submission from FCC and confirms that a full assessment of Local Planning Policy can be found within the Planning Statement Section 3.3.8 and Appendix B [REP1-013].	Noted for the avoidance of doubt, for former Flintshire Unitary Development Plan no longer forms part of the Development Plan for Flintshire.	The Applicant acknowledges the response from FCC and considers no further response required.
	<b>Part C</b>	<b>Assessment Of Impacts</b>			

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response
	<b>10.</b>	<b>Principle of Development/ Climate Change</b>			
	11.	<b>PLANNING ASSESSMENT FOR THE IMPACT ON THE GREEN WEDGE</b>			
2.1.29	11.1.	Paragraph 4.3.62 of the applicant's Planning Statement [APP-048] states that the Order Limits do not conflict with any land designated as 'green wedge'. However, the Council does not agree with this statement. Within the application documents, the applicant has failed to identify that a large proportion of the proposed development would potentially affect a number of green wedges that are designated in the adopted Flintshire LDP under Policy EN11.	The Applicant has further considered the potential impacts upon land designated under policy EN11 as a Green Wedge and clarifies that the land intersects and conflicts with designated Green Wedges.  The Applicant has therefore updated the Planning Statement and a full assessment against EN11 can be found in Chapter 5 of the Planning Statement <b>[REP1-013]</b> and Appendix B.	Noted and welcomed however, it is noted that the Applicant's Planning Statements makes very little reference to the policy context set out in PPW with regards to inappropriate development in the green wedge and places a reliance on NPPF which does not apply in Wales.	The Applicant acknowledges the response from FCC and confirms this matter has been resolved. The Applicant has updated the Planning Statement <b>[REP2-015]</b> to consider the relevant policies of the PPW within section 5.2 and 5.3. The updated Planning Statement is submitted at Deadline 4.
2.1.41	11.13.	Paragraph 5.2.5 onwards of the applicant's Planning Statement [APP-488] discusses the nature of the elements of the DCO Proposed Development within the Cheshire Green Belt and considers whether these elements should be considered appropriate development in the Green Belt, or whether there is a need for a case for very special circumstances to be made. Whilst the applicant has not identified that the proposal would fall within the Flintshire Green Wedges, it is considered that the commentary and considerations provided in the Planning Statement in relation to the proposal in the Cheshire Green Belt are transferable and applicable for the consideration of the appropriateness of the proposal in the Flintshire Green Wedge as the	The Applicant acknowledges the comments of FCC regarding Green Wedge Policy and confirms this has been incorporated into an updated version of the Planning Statement <b>[REP1-013]</b> and Appendix B.  The Applicant notes that the Needs Case for the DCO Proposed Development <b>[APP-049]</b> outlines the environmental, economic and socio-economic benefits the DCO Proposed Development can deliver and therefore forms the case for very special circumstances justifying the impact to the Green Wedge.	Noted and welcomed however, it is noted that the Applicant's Planning Statements makes very little reference to the policy context set out in PPW with regards to inappropriate development in the green wedge and places a reliance on NPPF which does not apply in Wales.  Very 'exceptional' circumstances is the term used in PPW as opposed to 'very special circumstances'	See response to row 2.1.29 above.

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response
		features of the development are comparable.			
	<b>12.</b>	<b>ARCHAEOLOGY AND BUILT AND CULTURAL HERITAGE</b>			
2.1.62	12.10.	It is understood that CPAT and the applicant are in agreement with the mitigation suggested in the Environmental Statement, and the agreed outline Archaeological Written Scheme of Investigation [APP-223]. CPAT have confirmed that the outline Written Scheme of Investigation is largely robust and appropriate. This gives the Council and CPAT confidence that the evaluation work already recommended by CPAT, together with additional evaluation and mitigation options suggested by the applicant's consultants, would be adequately address any archaeological impacts arising from the proposals for the proposed DCO development.	While the principles of the mitigation strategy are agreed, the specifics are not yet available and will require further discussion. CPAT has requested an archaeological watching brief on all works during construction, but the Applicant does not believe this is proportionate. Further information can be found in the Applicant's Response to Examining Authority's First Written Questions to Q1.7.1 (page 65) <b>[REP1-044]</b> . Ongoing discussions in relation to this matter are being captured in the FCC Statement of Common Ground (SoCG) <b>[REP1-020]</b> .	For clarity, CPAT and FCC are not asking for a watching brief over the whole works area, but targeted at those ground reduction locations where no trenching evaluation or subsequent mitigation has been agreed.  A watching brief should be maintained and targeted on ground reduction work and not over the whole works areas (easement strip, new access tracks, works compounds, pipe trench) to formation level for areas of the scheme beyond the locations for agreed mitigation arising from evaluation trenching completed at the pre and post consent stages or outside agreed areas of strip/map/excavate (SME) coverage. This is required to identify and mitigate impacts to archaeology which will not have been detected by the geophysics or the limited evaluation trenching of geophysical anomalies. The watching brief should be completed by a suitably qualified archaeological contractor in accordance with an approved WSI.	The Applicant is not clear whether CPAT and FCC are asking for an archaeological watching brief in areas where evaluation trenching has negative results (i.e. no archaeology is located), and is seeking confirmation. As previously discussed in the Applicant's Response to the ExAs First Written Questions <b>[REP1-044]</b> , watching briefs will be considered in some areas where required, such as locations where there is a higher potential for earlier prehistoric remains or where evaluation is not possible. However, if areas have been subject to evaluation trenching and the results are negative, it is not proportionate to undertake an archaeological watching brief in these areas.
2.1.63	12.11.	Conclusion on assessment of impact: <ul style="list-style-type: none"> <li>Construction Phase: NEGATIVE</li> <li>Operational Phase: NEUTRAL</li> </ul>	The Applicant acknowledges the position of FCC and has no further comments at this time.	For further clarity, it is considered that the construction impact is not wholly NEGATIVE as there clearly are features which require mitigation as a result of the trenching evaluation completed so far and there would undoubtedly be new features located by the phase 2 trenching, and outside areas where no mitigation has been agreed by the watching brief. The overall impact, with mitigation is likely to be LOW assuming	The Applicant acknowledges the position of FCC and has no further comments at this time.

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response
				the additional trenching which has yet to be completed does not find any significant archaeology.	
		<b>Deeside and Buckley Newt Sites SAC</b>			
2.1.93	13.30.	The GCN licence is likely to require specific mitigation to benefit the Flintshire GCN population which would be over and above that agreed within the LEMP. The licence requirements would need to be included in details submitted to the LPA as part of the approval of the LEMP.	It is recognised by the Applicant that protected species licensing for GCN is the primary means to safeguard the species during construction. The contents and mitigation of any agreed protected species licence would be reflected within the LEMP <b>[APP-229]</b> .	Noted FCC are aware that "shadow licences" will be produced. It would be useful to have sight of them when available.	The Applicant can confirm that shadow licences for Wales will be submitted to NRW, these include shadow licences for GCN, bats, and badger. The Applicant can provide sight of the shadow licenses to FCC.
		<b>Sessile Oak Woods</b>			
		<b>Habitats</b>			
		Protected Species identified within/adjacent to DCO corridor			
2.1.104	13.41.	<b>Bats; Bat roosts.</b> With regards to the impact of the development on bats and bat roosts there are a limited number of buildings or structures along the pipeline and DCO corridor within Flintshire. One barn; ref B133 is a confirmed day roost which is used by 4 Common pipistrelles and 3 Soprano pipistrelles occurs within the DCO boundary at Aston. Where practicable a 10m buffer will be retained around the confirmed roost, otherwise an NRW license and mitigation will be required.	The Applicant can confirm that applications for necessary protected species licenses will be made, with construction only commencing upon receipt of required licenses as detailed within item D-BD-002 of the OCEMP <b>[REP1-017 and CR1-119]</b> .	Noted FCC are aware that "shadow licences" will be produced. It would be useful to have sight of them when available	Refer to the Applicant's response within row 2.1.93 above.
	<b>16.</b>	<b>NOISE AND AIR QUALITY – RESIDENTIAL/PUBLIC AMENITY</b>			
2.1.151	16.8.	Whilst the mitigation measures stated within the outline Construction Environmental Management Plan (OCEMP) and Register of Environmental Actions	As provided in Section 2.2 of the Outline CEMP <b>[REP1-017 and CR1-119]</b> , construction core working hours will be 08.00 to 18.00 Monday to Friday (excluding bank holidays) and from 08.00 to 13.00 on Saturdays. To maximise productivity within core working hours, the	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	The Applicant notes that start up and shut down hours are routinely allowed outside the core hours as they include activities such as staff arrival, briefings,

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response
		and Commitments (REAC) are noted, the operational and construction hours are unclear. Concerns are raised with regards to out of hours reasonable working time parameters and if there is potential requirement for consent under the Control of Pollution Act.	<p>Construction Contractor(s) will require a period of up to one hour before and up to one hour after core working hours for the start-up and close-down of activities.</p> <p>As stated within Chapter 3 – Description of the DCO Proposed Development [APP-055], the DCO Proposed Development will operate without the need for any permanent on-site staff. The AGIs and BVSs will generally be operated remotely.</p> <p>As stated in the Other Consents and Licences Document [REP1-011], the Applicant has included a potential consent under the Control of Pollution Act 1974 (section 61) for any works that could cause noise nuisance. If required, this would be applied for prior to the start of construction (or prior to specific construction activities).</p>	<p>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>	<p>toolbox talks, health and safety checks etc.</p> <p>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 OCEMP Section 2.2 Paragraph 2.2.1 [REP2-021] contains the following wording pertaining to start up and close down activities:</p> <p><i>“This will include, but not be limited to, deliveries, movement to place of work, unloading, maintenance and general preparation works. It will not include the operation of any plant or machinery likely to cause disturbance to local residents or businesses.”</i></p>
	<b>19.</b>	<b>PUBLIC RIGHTS OF WAY</b>			
2.1.174	19.2.	Generally speaking, it is considered that the applicant has identified all the affected public rights of way that would be affected by the proposal and they propose to making provision for temporary diversions during construction, which is welcomed. The Council's main concerns surround construction compound areas, permanent access tracks at some locations, and we have a significant interest in Deeside Lane and Bridleway No. 9 being identified as being used for the construction access for traffic (works no 30E).	The Applicant acknowledges the response of FCC, with location specific details provided below.	Noted	
		<b>Work No.</b>	<b>Proposal</b>	<b>PROW comments</b>	

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
		Work No. 30E	<p>Creation and use of a temporary construction access from the A548, within the location shown on Sheets 13 and 14 of the Work Plans, including—</p> <p>(a) improvement of an existing junction with the public highway;</p> <p>(b) improvement of road surfacing and provision of new hard surfacing; and</p> <p>(c) creation of visibility splays.</p>	<p>The proposed construction access track is along Public Bridleway No.8 (309/8/10) from its junction with Sealand Road in a southerly direction to the junction with Deeside Lane (309/10/30). The construction access track then continues along Deeside Lane to the proposed pipeline construction.</p> <p>Bridleway No. 8 is an unmade track which is not part of the adopted highway network. The Local Authority (LA) is under a duty to maintain it only to a standard for users on foot and on horseback. Deeside Lane has highway status as a public footpath only and the LA is only required to maintain the route up to a footpath standard. Both tracks are currently unsuitable for the proposed usage that would come with this proposal.</p> <p>The LA do not argue with the route being used as a temporary construction access on the basis that it is suitably upgraded to serve the construction traffic that would be using it.</p>	<p>The Outline PRowMP [REP1-043], the latest revision of which was submitted at Deadline 1 will be further developed during later stages by the Construction Contractor(s) to form a final PRowMP which will contain the following information to be approved by the relevant authority for each PRow:</p> <ul style="list-style-type: none"> <li>• Plans (showing the relevant control measures)</li> <li>• Length (distance) of the closure</li> <li>• Route, length and any surfacing proposals for diversions</li> <li>• Details of any gates, stiles, or similar features to be removed and reinstated on any PRow</li> <li>• Details of signage to be provided for diversions and</li> <li>• The appropriate standards for reinstatement of the PRow</li> </ul> <p>The management for each PRow will be secured in the final PRowMP to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as</p>	<p>Noted</p> <p>Noted</p> <p>The Council notes the comments. However, while some heavy agricultural vehicles do use Bridleway No. 8, the usage is not considered to be consistent nor regular/frequent. The siting of the compound at this location would subject the Bridleway to usage by larger vehicles (such as HGV's) on a more regular, prolonged, and repetitive basis during the construction of the pipeline at this location. Reinstating the condition of the route on completion of the construction phase of the DCO Proposed Development is not considered satisfactory in light of scale and duration of the proposal, and the length of time that this construction</p>	<p>The Applicant does not agree or accept that surfacing of the bridleway is necessary or appropriate. The Applicant submits that this is already appropriately surfaced and will only need minor repairs and improvements pre and post occupation of the compound.</p> <p>The Applicant is satisfied that the bridleway is suitable for the proposed use and would highlight that it is currently frequently used by HGVs to access the various agricultural and light industrial properties accessed. The Applicant does not agree that their proposed use would be a material intensification of that use, particularly given the temporary nature of the use, which would require surfacing of this route.</p> <p>The Applicant notes that it has not assessed the drainage or landscape or visual impacts of surfacing this track. The Applicant notes that it has adopted an approach of not providing new tarmac surfacing on tracks in agricultural areas elsewhere so that these are sympathetic with the rural nature of the landscape.</p>

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			<p>We do not feel that it would be suitable to use any type of crushed stone/aggregate for the track as this would generate dust pollution that would be detrimental to anybody walking the rights of way and also to the neighbouring properties and businesses. The use of the bridleway and Deeside Lane would also increase potential conflict between walkers and vehicles.</p> <p>To support the proposal of Bridleway No. 9 and Deeside Lane being utilised as the temporary construction access track we are requesting that the entire route under '<b>Work No. 30E</b>' be upgraded to a tarmac surface. This would be suitable for the construction traffic, limit the dust pollution to walkers and the community and be an improvement for users as part of the legacy of the Hynet project. The details of the specification of this should be agreed as part of the approval of details at that stage in the development. This would mitigate against any negative effect of the development during the use of this track during construction.</p>	<p>required by Requirement 5 of the draft DCO [REP1-004].</p> <p>The Applicant notes that Public Bridleway No.8 (309/8/10) is currently used by heavy agricultural vehicles. The Applicant commits to reviewing the condition of the route and its suitability for construction traffic, but does not currently consider that it is appropriate/necessary to upgrade the condition prior to use. The Applicant commits to reinstating the condition of the route to its original condition (or better) on completion of the construction phase of the DCO Proposed Development.</p> <p>The Applicant does not believe a legal agreement is appropriate in this instance and would instead secure the standard of the PRoW through final PRoWMP, which will be submitted to and requires approval by the relevant planning authority, as secured in Requirement 5 of the dDCO [REP1-004].</p>	<p>compound would be used for. Therefore, FCC consider that the route should be surface with an appropriate material prior to the commencement of the development of the construction compound in this location at Works no 30E, and prior to the use of the Bridleway for construction vehicles.</p> <p>With specific regard to the construction access track which incorporates Public Bridleway No. 8 &amp; Footpath 309/10/30 (along Deeside Lane), the LPA is still seeking improvements prior to the work commencing. It is considered that the proposal would have a negative impact for both the commercial entities and residential properties on Deeside Lane, such as noise and dust pollution. Addressing the issue of surfacing these routes would alleviate these issues prior to work commencing and would also provide a legacy community benefit for those affected on Deeside Lane.</p> <p>FCC accept this could be delivered through Requirements No.5 now that point (n) has been included as part of the CEMP, rather than a legal agreement.</p> <p>However, the Outline Construction Environmental Management Plan (OCEMP) Appendix 3 – Outline Public Rights of Way Management [REP1-043] plan needs to be amended to include this point. At present, this document does not refer to this and therefore FCC considers this point should be specifically referenced for the avoidance of any doubt, and to ensure that the specification details can be approved</p>	

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
				The Council would welcome the applicant entering into a legal agreement to ensure this section of the right of way network is upgraded to a standard suitable to sustain heavy traffic		prior to the works in that stage of the proposed development. This would provide certainty that the bridleway would be surfaced in the appropriate materials prior construction traffic using this route.	
		Work No. 33C	Creation and use of a permanent access from Chester Road East, within the location shown on Sheets 15 and 16 of the Work Plans, including— (a) improvement of an existing junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing	This area is PROW 308/4/10 the proposal is not too concerning as this is already used as a short vehicular access to the adjacent Church and property. The stiles currently in-site should be replaced with kissing gates upon completion of the access track. PROW 308/1 and 308/3 are also affected and would require temporary diversions during the works.	The Applicant acknowledges that PROW 308/1 and 308/3 are affected in the construction phase of the DCO Proposed Development. It is proposed that a temporary diversion would be implemented in this location to avoid the closure of the PROWs (see Figure 17.6 [CR1-094]). <i>“Details of any gates, stiles, or similar features to be removed and reinstated on any PROW”</i> will be part of the Final PROWMP that will be submitted by the Construction Contractor(s) to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO [REP1-004].	The Council is satisfied these will be addressed by the Construction Contractor(s) for each relevant stage of works.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.
		Work No. 38B	Creation and use of a temporary construction access from Lower Aston Hall	This would appear to cross PROW 303/26/10. The route would need to be adequately incorporated into any new access. In the	The Applicant notes the access at Work No. 38B is permanent. The Applicant has updated the text of Work No. 38B in Schedule	The Council welcomes the clarification regarding the wording.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.



Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
		Lane, within the location shown on Sheet 17 of the Work Plans, including— (a) improvement of an existing junction with the public highway; and (b) improvement of road surfacing and provision of new hard surfacing.	DCO this is described as a temporary access but the work plans state Work No. 38B to be a permanent access. It would be helpful to have this clarified.	<p>1 of the draft DCO to state “permanent” from Rev B [REP1-004].</p> <p>During the construction phase, the section of the PRoW does not need to be stopped up and can be managed by traffic management measures.</p> <p>During the operation of the Carbon Dioxide Pipeline, permanent access is required infrequently for operational inspections of the Carbon Dioxide Pipeline, for light duty vehicles within the land located between the Borderlands Railway Line and the A494. Permanent access will also be required for occasional visits associated with maintenance operations of the environmental mitigation land at Work No. 57H.</p> <p>The access in this location is existing and traffic movements currently cross the PRoW without diversions or specific measures. The operational stage of the DCO Proposed Development will not result in a volume of movements greater than that outlined above and as such it is believed that no traffic management/further work</p>	<p>Noted</p> <p>Noted</p> <p>The Council is satisfied with this clarification regarding the PRoW at this location.</p>	

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
					<p>to the PRoW to incorporate it into the access will be required.</p> <p>The PRoW will not require permanent modification and will be retained on its current alignment.</p>		
		Work No. 39	<p>Construction of an underground Carbon Dioxide (CO2) pipeline approximately 402 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 38 and Work No. 40.</p>	<p>303/25/20 is in the work area but doesn't appear to be affected. More detail in the construction phase will be required if the pipeline is affecting the route of the footpath.</p>	<p>303/25/20 is in work no.39 and shown as "to be temporarily stopped up with proposed diversion" in Appendix 3 – Outline Public Rights of Way Management Plan <b>[REP1-043]</b>.</p> <p>Figure 17.6 of the ES <b>[CR1-094]</b> incorrectly does not show the PRoW as being affected. An updated Figure 17.6 of the ES will be submitted at Deadline 3, to correct this.</p> <p>303/25/20 is shown as being affected on Sheet 17 of the Rev C version of D.2.5 Access and Rights of Way Plans - Part 1 <b>[CR1-012]</b>, which was submitted with the Applicant's Change Request.</p> <p>More detail will follow at a later stage. The management for each PRoW will be secured in the final PRoWMP to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as</p>	<p>The Council would welcome the chance to view this at Deadline 3 and reserves its position to comment at a later date.</p> <p>The Council is satisfied that this will be addressed in the final PRoWMP.</p>	<p>The Applicant notes FCC has reserved its position on this point.</p> <p>The Applicant welcomes FCC's confirmation that they are satisfied with this point.</p>

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
					required by Requirement 5 of the draft DCO [REP1-004].		
		Work No. 40B	The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on the Work Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.	The corner of this proposed site is crossed by PROW 303/24A/10. The route would need to be temporarily closed during its use as a compound area. As the route is a good link towards Ewloe, a temporary diversion should be provided but this isn't set out on the work plan	PRoW 303/24A/10 is shown to fall within the construction area required to execute the trenchless crossing under Church Lane. The PRoW will be maintained without any closures or diversions.	The Council is satisfied with the confirmation from the applicant regarding PRoW 303/24A/10.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.
		Work No. 41C	Creation and use of a permanent access from the B5125, within the location shown on Sheet 18 of the Work Plans, including— (a) creation of a new bellmouth junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing.	This small area marked as a permanent access appears to be directly where we currently have a stile and public footpath sign. The footpath affected 303/143 would need to be protected and stile replaced with a kissing gate following construction.	As stated in the Outline PRoWMP [REP1-043] "Details of any gates, stiles, or similar features to be removed and reinstated on any PRoW" will be included in the Final PRoWMP secured through Requirement 5 of the dDCO [REP1-004] that will be submitted by the Construction Contractor to be signed off by the relevant authority prior to the commencement of the relevant stage of works.	The Council is satisfied that this will be addressed in the final PRoWMP	The Applicant welcomes FCC's confirmation that they are satisfied with this point.

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
		Work No. 42	Construction of an underground CO2 pipeline approximately 1.8km in length and with an external diameter of 36 inches (914.4 mm) between Work No. 41 and Work No. 43.	The PROW affected by the pipeline in this section are adequately protected with temporary diversions during works. PROW 303/143 runs through the site and no temporary diversion has been shown which suggests it won't be affected during construction clarification is required.	This PROW (Ref: 303/143) is intended to be diverted within the Order Limits, if required, during the construction of the DCO Proposed Development. Figure 17.6 and the dDCO will be updated at Deadline 3 to reflect this.  The management for each PROW will be secured in the final PROWMP to be signed off by the relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO [REP1-004].	The Council would welcome the chance to view this at Deadline 3.	The Outline Public Rights of Way Management Plan was submitted at Deadline 3 [REP3-028] and has been updated at Deadline 4. The Applicant awaits FCC's response to that document.
		Work No. 44	Construction of an underground CO2 pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4mm) between Work No. 43 - Work No. 47.	We have concerns related to the compound and surrounding area with regard to PROW 414/4. These concerns are regarding Work Nos 44C, 45 & 46 (see comments below).	See responses below in relevant sections pertaining to Work Nos 44C, 45 and 46.	The Council is satisfied that this will be addressed in the final PROWMP.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.
		Work No. 44C	The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised	The proposed compound is on the line of PROW 414/4. At present this is a field footpath. The footpath needs to be restored back to its previous condition (if not better), following completion of the AGI at this location and the	The Applicant commits to reinstating the condition of the PROW 414/4 route to its original condition (or better) on completion of the construction phase of the DCO Proposed Development.	The Council is satisfied that this will be addressed in the final PROWMP.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
			<p>development, within the location shown on Sheet 20 of the Work Plans, including—</p> <ul style="list-style-type: none"> <li>a. office, welfare and security facilities;</li> <li>b. a parking area;</li> <li>c. power supplies and temporary lighting;</li> <li>d. pipe equipment and fittings storage;</li> <li>e. plant storage;</li> <li>f. a fabrication area;</li> <li>g. a plant wheel wash area;</li> <li>h. waste processing and management areas; and</li> </ul> <p>fencing and gating.</p>	<p>compound no longer being required.</p>	<p>The management for each PRoW will be secured in the final PRoWMP to be signed off by the relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO <b>[REP1-004]</b>.</p>		
		<p>Work No. 46</p>	<p>The creation and use of a permanent vehicular access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including—</p>	<p>This proposed new permanent access would create a junction right on top of where PROW 414/4 meets the junction of B5125. The footpath needs to be adequately incorporated into this junction design with the proposed new vehicular access to ensure pedestrians are not in</p>	<p>Following the acceptance of Change Request 1 by the ExA on 24 April 2023 <b>[PD-016]</b>, this PRoW (ref: 414/4) will no longer be permanently affected by the DCO Proposed Development due to the relocation of the Northop Hall AGI and associated access to the west.</p>	<p>The Council welcomes the acceptance of the change request. The Council is satisfied that this will be addressed in the final PRoWMP.</p>	<p>The Applicant welcomes FCC's confirmation that they are satisfied with this point.</p>

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
		<ul style="list-style-type: none"> <li>a. improvement of road surfacing and provision of new hard surfacing;</li> <li>b. creation of a new bellmouth junction and visibility splays;</li> <li>installation of utilities.</li> </ul>	<p>conflict with vehicles unnecessarily. We would request that the proposed design for the AGI and associated track is reviewed by the PROW team before any progression.</p>	<p>This PROW is still proposed to be diverted during the construction of the DCO Proposed Development. The management for each PROW will be secured in the final PROWMP to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO <b>[REP1-004]</b>.</p>		
	<b>20.</b>	<b>WATER ENVIRONMENT AND FLOOD RISK</b>				
		<u>Land drainage</u>				
2.1.180	20.5.	The Council has additional duties and powers associated with the management of flood risk under the Land Drainage Act. As Land Drainage Authorities, Ordinary Watercourse consent would be required for any permanent or temporary works that could affect the flow within an ordinary watercourse under their jurisdiction in order to ensure that local flood risk is not increased.	As set out in the Other Consents and Licences document <b>[REP1-011]</b> , the Applicant will submit an appropriate application after the DCO is made.		FCC notes that the approval of the surface water drainage systems by the SuDS Approving Body (SAB) is not listed within <b>[REP1-011]</b>	The Applicant can confirm that this has been added into the Other Consents and Licences document <b>[REP3-017]</b> , as submitted at Deadline 4.
2.1.182	20.7.	It is noted that the REAC [APP-222] states that consents would be sought from LLFA for works affecting for Ordinary Watercourses.	As set out in Article 8 of the draft DCO <b>[REP1-004]</b> , the requirement for ordinary watercourse consents is disapplied. 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.		This is noted however, FCC would like to ensure that all documentation that would be required for Ordinary Water Course Consent is provided as part of the Requirements as it does not appear to be detailed in the draft DCO or specified in the requirements specifically.	The Applicant has requested that FCC reviews the outline plans and the strategy secured under the detailed requirements where this detail would be placed and advise what changes it is seeking.
		Surface Water Drainage:				

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2.1.184	20.9.	Schedule 3 of the Flood and Water Management Act 2010 makes sustainable drainage systems (SuDS) a mandatory requirement on all new developments involving more than a single dwelling or a construction area more than 100m <sup>2</sup>	The Applicant acknowledges the position of FCC and has no further comments at this time.	FCC notes that the approval of the surface water drainage systems by the SuDS Approving Body (SAB) is not listed within <b>[REP1-011]</b>	Refer to row 2.1.180 above.
2.1.187	20.12.	The DCO application also includes for the provision of temporary hardstanding areas for temporary construction compounds and access routes. It is not clear from the application documents how the Applicant will mitigate any impacts to watercourses, highways, or property as a consequence of any runoff from these temporary hardstanding areas. It is understood that temporary hard standing areas are not usually considered as part of an application for SAB approval. However, on the basis that these temporary hardstanding areas are likely to be in excess of 100 M <sup>2</sup> , the length of time that these 'temporary' hardstanding areas maybe considerable, consent via the SAB may be a practical means for consideration and the applicant would be invited to include these areas that are proposed to be 'temporary' as part of the SAB application process. Early contact could also be made with the SAB via a request for pre-application advice.		FCC would be interested to learn from the applicant how surface water runoff will be managed from areas of temporary hardstanding as this is not usually considered as part of the SAB approval.  The applicant has not yet provided a response to this point raised.	This will be set out in the details provided in the CEMP, secured by Requirement 5 of the dDCO <b>[REP3-005]</b> , for each stage which will include a surface water drainage strategy for the construction works.
	<b>21.</b>	<b>MINERALS SAFEGUARDING</b>			

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response
2.1.195	21.6.	Chapter 14 of the applicant's Environmental Statement [APP-066] refers to the requirement of producing a Material Management Plan (MMP). It confirms that a MMP would be produced by the Construction Contractor(s) as a Requirement of the DCO (as part of requirement 5 of the draft DCO with regards to the production of a CEMP) [APP-024]. This is welcomed to ensure that limited incidental extraction of mineral resource can be managed.	The requirement for a Materials Management Plan is included as a commitment in D-MW-006 of the REAC <b>[REP1-015]</b> , as secured by the CEMP within Requirement 5 of the dDCO <b>[REP1-004]</b> .	<p>The applicant's response is noted. However FCC still have concerns with regards to ensuring incidental extraction of mineral resource can be managed. The Minerals Resource Assessment (MRA) <b>[APP-131 /132]</b> or the need for any subsequent management plan for the management of minerals does not appear to be not specified / referred to in the draft DCO (Requirement 5), OCEMP <b>[REP1-17]</b> or REAC <b>[REP1-015]</b>.</p> <p>REAC Commitment D-MW-006 <b>[REP1-015]</b> 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> <p>The Council notes the above REAC commitment D-MW-006 <b>[REP1-015]</b> 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 <b>[APP-131&amp; APP132]</b> is currently only desk based and as such, the Council requests that when ground investigations are undertaken as part of</p>	<p>The Applicant has discussed this point with FCC and understands that the Council accepts in principle that this can be addressed in the Materials Management Plan (MMP). An Outline MMP will be submitted at Deadline 4 for the Council's review (document reference: <b>D.7.32</b>).</p> <p>The Applicant has had regard to the comments from FCC in production of the Outline MMP.</p>



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				<p>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>o 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"> <li>• lear reference to the findings of the MRA with commitments for any further necessary ground investigations.</li> <li>• A definition of what a 'suitable mineral resources' would represent?</li> <li>• 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?</li> <li>• Where extracted mineral can be re-used, on the site or elsewhere?</li> </ul> <p>It is noted that the Applicant states that an outline MMP will be submitted before the end of Examination.</p> <p>Therefore the Council reserve the right to make further comments relating to minerals safeguarding after reviewing the draft MMP.</p>	
	<b>22.</b>	<b>GENERAL COMMENTS ON THE DRAFT DCO</b>			
		<i>Part 2</i>			
2.1.198	22.2	Flintshire County Council do not agree with the current words of the provisions as set out in the draft DCO Part 2; Principal Powers,	The Applicant refers FCC to the response given on this point to the FCC in the draft SoCG in row 3.12.1 <b>[REP1-020]</b> . A full explanation of the legal position on this article	Noted and agreed, this status can be changed in the SOCG Council <b>[REP1-020]</b> from 'Under Discussion' to 'Agreed'	The Applicant notes this response and has updated the SoCG at Deadline 3 <b>[REP3-025]</b> .

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		article 9 with regards to 'Defence to proceedings in respect of statutory nuisance'. The current wording of the draft DCO would effectively remove the main control the Local Authority would have under the Environmental Protection Act 1990.	has also been provided by email to FCC for their consideration.		
		<i>Part 4</i>			
2.1.201	22.5.	Part 4; Supplemental powers, article 19; Discharge of water. It is considered that Article 19 (5) should also include reference to seeking Ordinary Watercourse consent. The Council suggest that the following wording should be considered: " <i>The undertaker must not, in carrying out or maintaining the works pursuant to this article, damage or interfere with the bed or banks or construct any works within any Ordinary Watercourse without obtaining Ordinary Watercourse Consent from Flintshire County Council.</i> "	This addition would directly conflict with the provisions of article 8 where the requirement for ordinary watercourse consents is disapplied. 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.	This is noted however, FCC would like to ensure that all documentation that would be required for Ordinary Water Course Consent is provided as part of the Requirements as it does not appear to be detailed in the draft DCO or specified in the requirements specifically.	Please see response to line 2.1.182 above
	<b>23.</b>	<b>OBLIGATIONS</b>			
2.1.209	23.3.	Furthermore, as set out in Section 19 above, should Development Consent be granted, to support the proposal of Bridleway 9 and Deeside Lane being utilised as the temporary construction access track, the Council considers it necessary for the entire route under 'Work No. 30E' be upgraded to a tarmac surface.	Please see Applicant's response above in row 2.1.174 in response to FCC's LIR response in paragraph 19.2 <b>[REP1A-005]</b> .	The Council notes the comments. However, while some heavy agricultural vehicles do use Bridleway No. 8, the usage is not considered to be consistent nor regular/frequent. The siting of the compound at this location would subject the Bridleway to usage by larger vehicles (such as HGV's) on a more regular, prolonged, and repetitive basis during the construction of the pipeline at this location. Reinstating the condition of the route on completion of the construction phase of the DCO Proposed Development is not	The Applicant does not agree or accept that surfacing of the bridleway is necessary or appropriate. The Applicant submits that this is already appropriately surfaced and will only need minor repairs and improvements pre and post occupation of the compound.  The Applicant is satisfied that the bridleway is suitable for the proposed use and would highlight that it is currently frequently used by HGVs to access the various agricultural and light

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				<p>considered satisfactory in light of scale and duration of the proposal, and the length of time that this construction compound would be used for. Therefore, FCC consider that the route should be surface with an appropriate material prior to the commencement of the development of the construction compound in this location at Works no 30E, and prior to the use of the Bridleway for construction vehicles.</p> <p>With specific regard to the construction access track which incorporates Public Bridleway No. 8 &amp; Footpath 309/10/30 (along Deeside Lane), the LPA is still seeking improvements prior to the work commencing. It is considered that the proposal would have a negative impact for both the commercial entities and residential properties on Deeside Lane, such as noise and dust pollution. Addressing the issue of surfacing these routes would alleviate these issues prior to work commencing and would also provide a legacy community benefit for those affected on Deeside Lane.</p> <p>FCC accept this could be delivered through Requirements No.5 now that point (n) has been included as part of the CEMP, rather than a legal agreement.</p> <p>However, the Outline Construction Environmental Management Plan (OCEMP) Appendix 3 – Outline Public Rights of Way Management <b>[REP1-043]</b> plan needs to be amended to include this point. At present, this document does not refer to this and therefore FCC considers this point should be specifically referenced for the avoidance</p>	<p>industrial properties accessed. The Applicant does not agree that their proposed use would be a material intensification of that use, particularly given the temporary nature of the use, which would require surfacing of this route.</p> <p>The Applicant notes that it has not assessed the drainage or landscape or visual impacts of surfacing this track. The Applicant notes that it has adopted an approach of not providing new tarmac surfacing on tracks in agricultural areas elsewhere so that these are sympathetic with the rural nature of the landscape.</p>

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				<p>of any doubt, and to ensure that the specification details can be approved prior to the works in that stage of the proposed development.</p> <p>This would provide certainty that the bridleway would be surfaced in the appropriate materials prior construction traffic using this route.</p>			
	<b>24.</b>	<b>COMMENTARY ON APPLICANT'S DRAFT DCO REQUIREMENTS</b>					
		<b>Part/Schedule</b>	<b>Observation</b>	<b>Recommendation</b>			
		1. Interpretation	In the definitions there is no reference of a Decommissioning Environmental Management Plan (DEMP) The Council considers the submission of a DEMP at the appropriate time necessary – see comments later at point 16: Post construction environmental management plans	It is suggested to include within the Requirements the need to submit a Decommissioning Environmental Management Plan (DEMP) therefore please can this be listed in the Interpretation.	This change was made at Deadline 1 – please see tracked version of the dDCO [REP1-005].	The amendment is noted and welcomed however the Council notes that the definition of CEMP on the tracked version of the dDCO [REP1-005] has now been struck through on this version. This will need to be reinstated.	The definition of CEMP has been moved to article 2 rather than the Schedule so the strikethrough is correct as this does not need to be repeated in the Schedule.
		2: Time limits of 7 days to respond	It is considered that 7 days isn't sufficient to respond.	Having reviewed other DCOs 14 days seems to be standard. Suggested amendment to increase the time limits to 14 days to allow Officers to ensure compliance.	The Applicant notes that the DCO as drafted requires notification within 7 days of commencement occurring, not in advance. The Applicant agrees to amend the provision to notice 14 days in advance.	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.	The Applicant welcomes FCC's confirmation that they are satisfied with this point and notes that FCC has reserved its position.

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		<p>3: Stages</p> <p><i>"The authorised development may not commence until a written scheme setting out all stages of the authorised development including a plan indicating when each stage will be constructed has been submitted to each relevant planning authority."</i></p> <p>The requirement does not require the stages scheme to be approved or for the undertaker to undertake the development in accordance with the submitted approved stages.</p>	<p>Suggested wording:</p> <p>No part of the authorised development may commence until a written scheme setting out all stages of the authorised development including a plan indicating when each stage will be constructed has been submitted to and approved in writing by each relevant planning authority. The authorised development shall then be undertaken in accordance with the approved stages plan unless approved in writing by each relevant planning authority in accordance with Requirement 17.</p>	<p>As set out in the Applicant's response to Q1.19.44 (page 138 to 143) in the Applicant's response to ExA's First Written Question [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 on in the 'interpretation' section of the DCO. 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. 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>	<p>The Applicant has proposed a definition of 'stage' in revision G of the dDCO at Deadline 4.</p>
		<p>4.(1) Scheme Design – Above ground development</p> <p>The requirement only allows for above ground elements to be in "general accordance with the general arrangement plans"</p> <p>This is too vague to enable other</p>	<p>It is recommended that an additional requirement is included to provide detailed design for approval for all above ground infrastructure on a stage-by-stage basis. Details include the need to see the elevations for example. Can be provided alongside the CEMP and LEMP?</p>	<p>Requirement 4 already secures the need for approval of detailed design for the above ground structures in sub-paragraph (4):</p> <p><i>"(4) Each of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may not be commenced until, for that Work No. the following details have been</i></p>	<p>Noted</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</p>	<p>The Applicant has proposed a definition of 'stage' in revision G of the dDCO at Deadline 4.</p>

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		<p>assessments / detailed mitigation e.g. Visual and ecological impacts LEMP. Mitigation against worst case scenario may well result in unnecessary mitigation resulting other impacts / effects</p> <p>Detailed design would no doubt be required to allow Detailed LEMP or CEMP scheme to be undertaken?</p>	<p>Or as a submission with each design stage?</p> <p><i>submitted to and approved by the relevant planning authority:</i> <i>(a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures...</i></p> <p>The information needed is therefore already being provided and a further requirement is not necessary.</p> <p>The relevant parts of the CEMP and LEMP cannot be finalised until the detailed design is known.</p>	<p>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 (2.1.211) it is asked that the following wording be used for requirements 4(4) and 4(5). <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>	
		<p>4.(2) Scheme Design - Changes to above ground development</p> <p>Question over what the "environmental effects" actually include?</p> <p>There is no definition is provided in Requirement 1 within the interpretation. Importantly clarity is required with regards to who determines if the</p>	<p>Suggested that a definition is included or wording amended to provide clarity</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. 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</p>	<p>The Council is concerned that this would effectively allow 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>	<p>The Applicant does not consider it appropriate that the SoS needs to screen every change for materiality no matter how minor that may be. The Applicant does not consider this to be necessary. The Applicant notes it is normally for the Applicant to determine what form of amendment a change is when determining the appropriate consenting route to make an application, and it is for the Applicant to make the case for the chosen route.</p>

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			changes cause materially new environmental effects? And what are the mechanisms for approval?		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.		
		5. (2) (a-m) CEMP – Management plans, Working Methods and Mitigation Measures	Specific measures for construction works are missing including plant and equipment detail; night-time noise levels; minerals safeguarding is not specifically referenced in the MMP	Include the following additional measures: <ul style="list-style-type: none"> <li>• Detail of all construction plant and equipment.</li> <li>• Specify noise limits and mitigation (day and night-time).</li> <li>• The Material Management Plans should be renamed to Material and Minerals Management Plan to ensure Minerals Safeguarding (in accordance with outline minerals safeguarding assessment).</li> <li>• Address / mitigate identified risks from contamination.</li> <li>• A mechanism for review should also be included</li> </ul>	These details are secured in the plans as set out in the outline and do not need to be repeated in the requirement itself. A review mechanism is not required as the CEMP will only apply during construction and each plan to the stage/s it is for. A Materials Management Plan is governed by the Definition of Waste Code of Practice and is used to assess if earthworks can be reused. A Materials Management Plan is not associated with the extraction or use of minerals – this is considered in the Mineral Resource Assessment. As such, the Applicant does not agree that the Materials Management Plan should be renamed.	Noted  As identified at 2.1.195 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.	As above, the Applicant considers that this can be addressed in the MMP and is providing an outline document at Deadline 4 (document reference: <b>D.7.32</b> ) for review.

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		9. Contaminated land and Groundwater	Only addresses unexpected contamination	Include an additional requirement to address mitigate identified Contaminated Land or incorporate into the CEMP (5.(2)) as recommended above	REAC [REP1-015] commitments D-LS-006, D-MW-006 and D-GG-005 refer to the implementation of a Materials and Management Plan, which would include measures and guidance on how to deal with contaminated land and materials (known or unexpected) as secured by the CEMP within Requirement 5 of the DCO [REP1-004]. As such, the Applicant considers that the Materials and Waste assessment has considered the potential for hazardous materials, albeit unquantifiable for inclusion in the quantitative assessment.	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.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).
		13. Construction Hours (1-5)	The current wording of requirement 13 (3) (c) would appear to allow works outside of the stated construction hours in any eventuality – this is quite open-ended. The proposed exceptions and definitions in relation to the proposed construction	Consider more precise wording	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 hours working for (a), (b) and (d) is necessary and appropriate.	The amendment is noted however, the Council questions how a scheme for working under 13(3)(c) would be secured / undertaken. 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.	The Applicant notes that amendments have been made to this requirement at Deadline 3 and further amendments are proposed in the Deadline 4 submissions.



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		working hours are not considered acceptable.				
		<p>16. Restoration of Land</p> <p><i>“Subject to article 34 (temporary use of land for carrying out the authorised project)], any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12 months of completion of the authorised project.”</i></p> <p><i>“fit for its former use” - not precise or enforceable and would not secure return the higher grades of agricultural land back to their former grading / condition including drainage etc...</i></p>	<p>Re-word to require full detail of restoration scheme or remove and combine into Requirement 16</p> <p>Or include more detail in the soil management plan</p>	<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.</p> <p>Deterioration in land would be a compensatable issue not a planning one.</p> <p>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</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>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>

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			Requirement 15 as a whole is not precise or enforceable and does not require the approval of a scheme of restoration and aftercare if required.		from the control of the landowner to the LPA.		
		17: Post construction environmental management plans	Operational Maintenance and management and decommissioning are distinctly separate stages of the project and cannot be easily dealt with together in one scheme?  Does not detail restoration aftercare?	Split into two requirements for the approval of schemes for restoration/aftercare, if necessary, on agricultural land and one for decommissioning. Include a Decommissioning Environmental Management Plan (DEMP). As above - Detail of restoration and aftercare needs to be provided for approval can be incorporated here or a detailed scheme approved under Requirement 15. Need to include wording for scheme to be completed / undertaken in accordance with approved details.	The Applicant has no objection to splitting this into two requirements. Restoration aftercare from construction is addressed above. Restoration of decommissioning would be covered by the DEMP secured by Requirement 17 of the dDCO <b>[REP1-004]</b> .	The Council welcomes splitting this requirement into operational and maintenance environment management (OMEMP) and decommissioning environmental management plan (DEMP). However as is noted above, above, these plans need to include detail of full restoration and aftercare schemes.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).
		19. (4) Amendments to approve details	"42 days" notification period The current wording is not flexible as there is no ability to agree	Suggestion to use a standard period for decision of 56 days (8 Weeks) Include provision to agree an extension of time i.e. <i>"within such longer period as may be agreed by the</i>	The Applicant is willing to amend the period to 56 days (8 weeks) as requested by FCC.  The Applicant is willing to add the flexibility requested	The amendment is noted and welcomed; however, the Council reserves its position until the amendment is made in the next iteration of the draft DCO.	The Applicant welcomes FCC's confirmation that they are satisfied with this point and notes that they reserve their position.

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response	
			an extension of time if required	<i>undertaker and the host authorities in writing</i>	to allow agreement of a different period.		
<b>Schedule 2: Part 2: Applications made under requirements</b>							
		22. Multiple relevant authorities	Any request for comments on multiple authorities – “21 days” Timescale is short and doesn't allow any agreed extensions of time. This is in effect a pre-app to and between the two authorities – the need for timescales at all is questioned? If a timescale is accepted there should at very least be the ability to agree an extension of time. The current wording is not acceptable.	Remove provision or provide a reasonable extended period of time 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	The Applicant is willing to add the flexibility requested to allow agreement of a different 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.	The Applicant notes that the 20 days period is only to provide comments on the form of proposed applications. The Applicant does not agree that is insufficient.
		23. (2) Further Information	<i>“(2) If the relevant authority considers further information is necessary and the requirement does not specify that consultation with a requirement</i>	Amend to longer and reasonable time scale, include the provision for allowing an extension of time for an agreement.	The Applicant would be willing to add the flexibility requested to agree a longer timescale, and will agree to change 5 days to 10, but will not agree to extend the 21-day period.	This amendment is noted, however the Council would still consider 10 days to be an unreasonably short period of time, especially where detailed responses are required from internal and external consultees. The Council maintain that this either be amended to a more reasonable length of time (e.g. 21 days) or removed in its entirety	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
		<p><i>consultee is required, the relevant authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required. Notification required in 5 business days to specify further information required."</i></p> <p>Even for internal consultees it is not considered reasonable to only allow 5 working days for notification for further information.</p> <p>Notwithstanding the admin time, consultees will need time to fully review the provided material to be able to advise if further information will be required. This is not considered reasonable or acceptable.</p>				

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
		Article 23 (3) Further Information	<p><i>“(3) If the requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within five business days of receipt of such a request and in any event within 21 days of receipt of the application.”</i></p> <p>The timescales stated are unreasonable. Requiring a specified timescale for consultation of external bodies is not considered reasonable or necessary. This</p>	Amend to longer and reasonable time scale, include the provision for allowing an extension of time for an agreement.	<p>Where consultation is needed on a requirement that would be stated in the requirement and known upfront.</p> <p>The Applicant will not agree to remove this wording but would be willing to amend the period to 10 days.</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>	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)		Applicant's Response (Deadline 2)		Council's Response/Comments (Deadline 3)	Applicant's Response
			can be adequately dealt with under an agreed extension of time under Schedule 2 Part 2 (19(1)).				
		Article 23(4) Further Information	<p>“(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.”</p> <p>This provision effectively removes the LPA entitlement to request further information if the 5 day timescales are missed.</p>	Remove provision.	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 project. The Applicant does not agree that this standard wording should be deleted. The Applicant will not agree to remove this wording but would be willing to amend the period to 10 days.	The Council 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 proactively with the Applicant	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).

Previous Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response
		<p>This is unreasonable.</p> <p>If insufficient info has been provided the host authority should have the right to ask for further information as deemed necessary. If this was to remain in place the Host Authority, if missing it's 5 day notice period, would have no choice but to refuse the requirement application – this would be counterproductive.</p>			

**Table 2-4 – Applicant's Comments on Submissions Received at Deadline 3 from Environment Agency [REP3-045]**

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
	<b>1</b>	<b>Applicant's Responses [REP2-038] [REP2-041] to EA's Comments on Water Framework Directive Assessment and Biodiversity Related Matters</b>	
2.4.1	<b>1.1</b>	<p>We welcome and acknowledge the applicant's responses with regards to our comments on Water Framework Directive (WFD) and Biodiversity related matters.</p> <p>We would highlight to the Examining Authority (ExA) that we will be discussing WFD related matters with the applicant in the near future (anticipated for early June 2023). We are also currently reviewing the applicant's responses with regards to the impacts of noise and vibration during the construction of the proposed scheme on the aquatic environment, with particular reference to fish species.</p> <p>Therefore, we would welcome an opportunity to update the ExA on our position with regards to the above matters as part of a future Deadline submission.</p>	<p>The Applicant welcomes this response from the Environment Agency (EA) and will continue to engage with the EA on the matter of Water Framework Directive (WFD) and other issues; this engagement is set out in the SoCG between the Applicant and the EA [REP1-024].</p>

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
	<b>2</b>	<b>Applicant's Responses [REP2-038] [REP2-041] to the EA's Comments on Environmental Statement Chapter 11 – Land and Soils</b>	
2.4.2	<b>2.1</b>	We acknowledge the applicant's decision to undertake further ground investigation work along the length of the proposed pipeline and would welcome further engagement with the applicant on land contamination and groundwater protection matters as included in the SoCG [REP1-024].	The Applicant will continue to engage with the EA on land contamination and groundwater protection matters and other issues; this engagement will be described in the SoCG between the Applicant and the EA [REP1-024].
2.4.3	<b>2.2</b>	We recognise that the desk-based study shows that the majority of the corridor has not been used for industrial purposes or other land uses that may have introduced adverse contamination to the ground. However, we advise the series of irregularly spaced historic maps presented are indicative and cannot reveal true ground conditions as this is an iterative process based on ground investigation works. Many unknown or restricted land uses are not necessarily recorded on maps for national and public security reasons. To date, we do not believe sufficient information is available to make any assessment on the remedial works that may be required, and therefore, additional investigation / assessment is critical to this process.	The Applicant notes that additional ground investigation and risk assessment in line with REAC commitments D-LS-020 and D-LS-021, as secured in the CEMP within Requirement 5 of the dDCO [REP3-005], will be undertaken by the Construction Contractor at detailed design and will identify any additional remedial works that are required.
2.4.4	<b>2.3</b>	We advise that the additional characterisation and further understanding of ground conditions will directly influence the detailed design stage. Given the natural / artificial geology (and associated ground conditions) there is a possibility that preferential pathways could be created to allow for migration of liquids to occur; be that natural groundwaters, leachate or polluting matter between geological units and sources to receptors. In addition to establishing remedial requirements where necessary, the additional ground investigation will support the assessment of potential preferential pathways and inform the depth to which the pipeline can be installed whilst establishing additional protective or preventative measures, where necessary, to stop / limit migration pathways.	<p>The Applicant notes that additional ground investigation and risk assessment in line with REAC commitments D-LS-020 and D-LS-021, as secured in the CEMP within Requirement 5 of the dDCO [REP3-005], will be undertaken by the Construction Contractor at detailed design and will identify any additional remedial works that are required.</p> <p>The Applicant notes that D-WR-039 of the REAC [REP2-017], as secured by the CEMP under Requirement 5 of the DCO [REP3-005], includes the use of trench breakers at regular intervals along the pipeline to avoid preferential flow pathways being created. This encompasses all locations where this could occur, including where there may be leachate or otherwise polluted groundwater present. The Applicant can confirm that the requested additions will be updated into the ES prior to the end of Examination.</p>
2.4.5	<b>2.4</b>	We note ES ref. D-WR-039 of the REAC [REP2-017] includes the use of trench breakers at regular intervals along the pipeline to avoid preferential pathways being created. We advise this includes reference 'to avoid preferential flow pathways for contamination or contaminated groundwater to migrate and impact groundwater and / or surface water receptors. Trench breakers will also be required where the pipeline may act as a preferential pathway for groundwater flow which could lead to a lowering of the water table up hydraulic gradient (passively dewatering the aquifer).	As per response to Reference 2.4.4 above, D-WR-039 of the REAC [REP2-017], as secured by the CEMP under Requirement 5 of the DCO [REP3-005], encompasses all locations where the creation of preferential flow pathways could occur. However, the Applicant acknowledges the specific advice for trench breakers to avoid preferential flow pathways for contamination or contaminated groundwater to migrate or to create a lowering of the water table up hydraulic gradient. The Applicant confirms this will be updated in the ES, where relevant, prior to the end of Examination.
2.4.6	<b>2.5</b>	We welcome the intended inclusion of Per and polyfluorinated alkyl substances (PFAS) within the list of determinands for investigation at the Stanlow Manufacturing Complex. We advise that PFAS contamination is an important and strongly suspected issue in this area. Without this additional information, we would consider the ground investigation and	In relation to the Stanlow Manufacturing Complex site, the Applicant is currently engaging with the site owner, Essar Oil UK, regarding the handover conditions and responsibilities for any necessary remediation of any contaminated land prior to construction (refer to the SoCG with Essar Oil UK [REP3-031]). The Applicant will



Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
		characterisation to be incomplete and, therefore, inadequate. General testing suites are usually acceptable, however, where historic maps indicate novel land use types (i.e. landfilling and other storage depots / areas) then more bespoke testing suites are necessary. We would refer the applicant to the DoE Industrial Profile series for initial information to inform further investigative works.	revert to the Environment Agency once these agreements are in place prior to any ground investigation work commencement.
	<b>3</b>	<b>Applicant's response [REP2-039] to the EA's Deadline 1 Submission [REP1-084]</b>	
2.4.7	<b>3.1</b>	For clarity, our concern regarding the end-of-life process for the redundant pipeline post-operation is not in reference to continued agricultural use. We advise the pipeline and the surrounding area may continue to act as preferential pathway for the migration of contamination in sensitive environmental receptors without a sufficient ongoing maintenance and monitoring programme that would have identified and rectified such problems during the operational lifetime of the pipeline. We acknowledge since our Deadline 1 submission [REP1-084] the applicant has submitted an Outline Operational and Maintenance Environmental Management Plan [REP2-036] (see EA comments below under 'Outline Operational and Maintenance Environmental Management Plan [REP2-036]').	The Applicant acknowledges the response and has no further comments.
2.4.8	<b>3.2</b>	We advise that retaining the pipeline in the ground post-operation has a number of difficulties as it will become unmanaged after a point of decommissioning. Therefore, any problems associated with the development or the area around it will be ownerless, unless there is a post-operations management arrangement (we would welcome clarification from the applicant on this matter). We understand a Decommissioning and Environment Management Plan will be produced as part of the CEMP. This will need to consider and propose measures to ensure that the pipeline does not provide a preferential pathway for the migration of pollutants / contamination post decommissioning of the pipeline network.	It is not correct to state that the pipeline would become unmanaged and/or that the land would become ownerless. This appears to be predicated on a misunderstanding of the property rights proposals. If the pipeline is installed under lease, the freehold owner would continue to own the land and the lease would continue to authorise the retention of the pipe in the ground in favour of the Applicant and with appropriate allocation of responsibility. If the lease were to be ended the landowner would still own the land with the pipeline in it. Where compulsory acquisition (CA) powers are used and a strata of land is acquired, the Applicant would become and remain the owner.
2.4.9	<b>3.3</b>	As raised in our additional Deadline 1 submission response [REP1-084], additional ground investigation / assessment work will be necessary to determine the acceptability of the decommissioning proposals post-operation. We would, however, consider the removal of the pipeline is desirable or at least partial removal when or where in close proximity to sensitive receptors (source removal approach), if feasible.	The Applicant does not agree removal is preferable given that the impacts of removal would be similar to that of construction. It is normal UK practice to make pipeline safe in situ not to remove them. The Applicant submits it is premature to seek to pre-empt the appropriate route now given that there could be considerable change in environmental legislation and best practice over the operational period.
	<b>4</b>	<b>Applicant's Responses [REP2-038] [REP-041] to the EA's Comments on the Outline Construction Environmental Management Plan [APP-225] and Other Consents and Licenses [APP-046] Document</b>	
	<b>4.1</b>	<i>Contaminated Land Related Matters</i>	
2.4.10	<b>4.1.1</b>	We request further clarification on the applicant's intentions with regards to the additional ground investigation work that is required to support the proposed development. In the applicant's response [REP-041], ref. 2.4.37 of Table 2.4, it is acknowledged that further ground investigation is required to inform the OCEMP but then contradicts this by stating the	The Applicant notes that additional ground investigation and risk assessment in line with REAC commitments D-LS-020 and D-LS-021, as secured in the CEMP within Requirement 5 of the dDCO [REP3-005], will be undertaken by the construction contractor at detailed design stage and will identify any additional remedial works that are required.

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
		additional work will occur at the detailed design stage (as also recognised in the REAC [REP2-017]).	The Applicant can clarify that the ground investigation work will be undertaken at the detailed design stage, the results of which will be used to inform the design and any associated and relevant commitments within the OCEMP [REP2-017] or detailed CEMP at that time, depending upon the status of the live document.
2.4.11	4.1.2	It is important that the additional investigation / assessment work is undertaken, to ensure all issues are identified and resolved, prior to commencement of the scheme. As highlighted in our Deadline 1 Written Representation [REP1-062], we would advocate such additional ground investigation work is undertaken to support the DCO examination to identify areas where remedial works and potential consenting / permitting requirements will be necessary. This information can also be utilised to refine the commitments under the REAC and considerations for the forthcoming CEMP.	The Applicant confirms that an appropriate and standard level of Ground Investigation has been completed at the current stage of the Development. The Applicant notes that additional ground investigation and risk assessment in line with REAC commitments D-LS-020 and D-LS-021, as secured in the CEMP within Requirement 5 of the dDCO [REP3-005], will be undertaken by the proposed contractor at detailed design stage and will identify any additional remedial works that are required.
2.4.12	4.1.3	If such further ground investigation works are not undertaken at this time, we advise the additional investigation / assessment on PFAS is reflected, initially, in the REAC as a stand-alone issue to ensure subsequent CEMP / OMEMP documents include this consideration as part of any first; second; or third stage iterations. This will ensure the contents of associated management plans of the CEMP at the detailed design stage (i.e. (but not limited to) Material Management Plan; Soil Management Plan; Waste Management Plan; and Dewatering Management Plan) will reflect the ground investigation works; risk assessments; and, where necessary, remedial activities required. As previously highlighted, if PFAS is found to be present, in certain circumstances, specialist treatment and additional permitting requirements may need to be considered.	Regarding the potential for PFAS at the Stanlow Manufacturing Complex site, the Applicant is currently engaging with the site owner, Essar Oil UK (see SoCG [REP3-031]), regarding the handover conditions and responsibilities for any necessary remediation of any contaminated land prior to construction. The Applicant will revert to the EA once these agreements are in place prior to any ground investigation work commencement.
2.4.13	4.2	<i>Materials Management</i> With regards to the re-use of materials, we note the applicant has updated ES ref. DLS-022 in the REAC [REP2-017], however, the EA do not consider the proposed wording to be acceptable as the position on the suitability of materials re-use is entirely dependent on the current ground investigation undertaken to date. We have already identified that the work currently undertaken is not sufficient to fully characterise the length of the proposed pipeline. Therefore, this entry needs to reflect the position in ES ref. D-LS-020, where there is a need to undertake additional ground investigation with additional testing to inform materials management and re-use. As above, we advise site-specific determinands are added to the laboratory analysis suite based on historic and / or current land uses within given locations. The additional details that will be provided from the further ground investigation work that is / will be undertaken will be essential to the soils / waste narrative and the approach taken for re-use.	An Outline MMP has been submitted at Deadline 4 (document reference: <b>D.7.32</b> ), which includes the requirement for the Construction Contractor to undertake further investigation in relation to the re-use of materials at detailed design.
2.4.14	4.3	<i>Emergency Plan</i> We acknowledge the applicant's response in ref. 2.4.7 of Table 2.4 [REP2-041] with regards to producing an Emergency Plan within the Construction Environmental Management Plan (CEMP) and Operational and Maintenance Environmental Management Plan (OMEMP)	The Applicant acknowledges the response. The Construction Contractor(s) will produce an emergency procedure to cover response, preparedness and non-conformance processes as part of the CEMP and OMEMP under DCO Requirements 5 and 17 respectively of the draft DCO [REP3-005].

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
		under DCO Requirements 5 and 17 respectively of the draft DCO [REP1-004]. We would advise submitting a separate Emergency Plan document as an Annex of the CEMP for ease, however, if included within the details of the CEMP and the OMEMP, direction to the Emergency Plan needs to be clear. We welcome the inclusion to develop an emergency procedure in consultation with the emergency services to ensure all potential eventualities are addressed within the Emergency Plan (Section 3.4 of the OCEMP [REP2-022]).	
2.4.15	<b>4.4</b>	<i>Outline Dewatering Management Plan and Outline Groundwater Management and Monitoring Plan</i> We welcome the applicant's intention to submit an Outline Dewatering Management Plan and Outline Groundwater Management and Monitoring Plan to inform the DCO examination [REP2-038]. Whilst we expect that these plans will provide the general framework for assessing the impacts of dewatering activities on dependant receptors, we would highlight the subsequent Hydrogeological Impact Assessments will need to include site-specific data and evidence to support any forthcoming abstraction licence applications. We would welcome an opportunity to review these documents once available.	The Applicant acknowledges the response and has no further comments.
2.4.16	<b>4.5</b>	<i>Other Consents and Licences Document [REP1-011]</i>	
2.4.17	<b>4.5.1</b>	We welcome the revisions made to 'Other Consents and Licences' document [REP1- 011] as part of the Applicant's Deadline 1 submission, which provides an overview of the permits / consents / licences that will likely be required to be obtained from relevant authorities	The Applicant acknowledges the response and has no further comments.
2.4.18	<b>4.5.2</b>	We advise if the applicant is intending to carry out any test pumping to investigate aquifer properties to inform the detailed Dewatering Management Plan; Groundwater Management and Monitoring Planning; and Hydrogeological Impact Assessments, the applicant will need to apply for a Groundwater Investigation Consent under Section 32(3) of the Water Resources Act 1991 in advance if abstraction rates are in excess of 20m <sup>3</sup> /day during the tests. The requirement for a Section 32(3) Groundwater Investigation Consent should be included in a future revision of the 'Other Consents and Licences' document.	The Applicant acknowledges the response. The requirement for a Section 32(3) Groundwater Investigation Consent has been added to the Other Consents and Licences document [ <b>REP3-017</b> ] as submitted at Deadline 4.
2.4.19	<b>4.5.3</b>	If water supply required for the purposes of hydrotesting is to be supplied from a groundwater source, the applicant will need to apply for a Groundwater Investigation Consent to drill and test pump the source aquifer prior to applying for an abstraction licence. Further advice and guidance is available from Apply for consent to investigate a groundwater source - GOV.UK ( <a href="http://www.gov.uk">www.gov.uk</a> ).	The Applicant acknowledges the response and has no further comments.
2.4.20	<b>4.5.4</b>	We also advise the applicant makes suitable provision of space for attenuation ponds to attenuate the 1 in 30 year rainfall event for temporary site compounds where necessary. We understand the drainage details for construction activities will be determined at the detailed design stage, however, we recommend the applicant considers this at the earliest opportunity to ensure this is factored into the DCO Limits / Work Plans, particularly if required for consenting / permitting purposes.	The Applicant has ensured that sufficient space has been allowed for in the works areas to accommodate drainage arrangements, if required. The works areas have some flexibility to allow the final layout to accommodate attenuation if that is needed in accordance with the details to be provided under the CEMP sub-plans, primarily the surface water management and monitoring plan.

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
2.4.21	4.5.5	We welcome the confirmation from the applicant that a groundwater risk assessment will be undertaken as part of any application for an Environmental Permit to determine if a potential discharge will be acceptable. This approach is acceptable, however, the risk assessment process should be for all discharges to relevant receptors (groundwater and / or surface waters). Failure to undertake this work may lead to polluting discharges to ground, groundwater and / or surface waters which could be considered an offence under relevant environmental legislation.	The Applicant acknowledges the responses and has no further comments.
2.4.22	4.5.6	We would highlight to the applicant that suitable provision is built into the scheme programme in advance to ensure sufficient time is included for applying / obtaining relevant permits / consents / licences and would welcome early engagement on such matters.	The Applicant notes the response and has no further comments.
	5	<b>EA Comments on the Outline Operational and Maintenance Environmental Management Plan [REP2-036]</b>	
2.4.23	5.1	We acknowledge the submission of the Operational and Maintenance Environmental Management Plan (OMEMP) [REP2-036] and have the following advice for the applicant to consider with regards to certain mitigation measures presented within the Tables of the document:	The Applicant acknowledges the response and has no further comments.
2.4.24	5.1.1	<p><i>Table 2.2.2. Operational and Maintenance Management and Mitigation - Consideration of Alternatives</i></p> <p>We welcome the proposal for 24 hour monitoring of the pipeline operation to ensure leaks are detected and ensure shut down procedures are followed in a timely manner (D-CA-003). However, we would suggest the inclusion of regular on-site checks alongside the remote monitoring to ensure proactiveness in identifying potential pipeline leakages.</p>	<p>The Applicant refers the EA to Section 3.7 of Chapter 3 – Description of the DCO Proposed Development [APP-055], which describes regular checks to the AGIs and BVSSs.</p> <p>The Applicant notes that they will employ real time monitoring / leak detection equipment at all times and will allow them to identify and address any leaks.</p> <p>The Applicant will develop an Operation and Maintenance Environment Management Plan (OMEMP) in line with their Environmental Management System (EMS) in line with ISO14001.</p> <p>The OMEMP will include monitoring and maintenance to be performed on the CO<sub>2</sub> transport facilities to limit fugitive emissions. Operating procedures will draw upon industry standard guidance to estimate fugitive emissions for the DCO Proposed Development. This will include:</p> <ul style="list-style-type: none"> <li>• Identification of the plant components (valves, vents, flanges etc.) that may cause fugitive emissions;</li> <li>• Periodic monitoring to check the status of the identified components by using leak detectors;</li> <li>• Implementation of a leak detection and repair programme to minimise fugitive emissions, for each component for which leakages have been identified; and</li> <li>• Reporting results of monitoring and repairing activities.</li> </ul> <p>The pipeline will be monitored remotely 24/7 by the Point of Ayr control room, for routine operations including Co2 detection and CCTV installed at the BVS &amp; AGI sites for any abnormal issues arising. The pipeline route will be checked weekly by</p>

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
			the pipeline care contractor and reports provided to ENI UK. The BVS and AGI sites will have an operations and maintenance regime in place requiring personnel to attend these sites on a regular basis for preventative and corrective maintenance all history will be stored in the company MMS.
2.4.25	5.1.2	<p><i>Table 2.7. Operational and Maintenance Management and Mitigation - Land and Soils</i></p> <p>We consider ES ref. D-LS-015, to ensure ongoing monitoring and maintenance of temporary or permanent drainage work, reasonable as far as it places the responsibility for the ongoing operations on the applicant and their pollution prevention duties.</p> <p>As above, the EA raised concerns with the potential decommissioning approach to retain the pipeline in-situ post-operation. Whilst we welcome the intention to produce a Decommissioning Environmental Management Plan (Es ref. D-LS-023), we advise the above comments under 'Applicant's response to the Environment Agency's Deadline 1 Submission [REP1-084]' are considered.</p>	Please refer to response to row 2.4.8 above.
2.4.26	5.1.3	<p><i>Table 2.11. Operational and Maintenance Management and Mitigation – Water Resources and Flood Risk</i></p> <p>We welcome the intention to undertake regular water sampling before, during and after the construction works (ES ref. D-WR-070) as part of the Surface Water Management and Monitoring Plan. We advise including regular water sampling throughout the construction phase to assist in the early detection of changes in water quality.</p>	The Applicant acknowledges the response and has no further comments.
	<b>6</b>	<b>Applicant's Response [REP2-041] to the EA's Comments on Environmental Statement Chapter 18 – Water Resources and Flood Risk [APP-070]</b>	
2.4.27	6.1	<p><i>Dewatering Management Plan</i></p> <p>We note the applicant's response [REP2-041] in ref. 2.4.22 of Table 2.4. We advise where RPS 261 has been referred to within Chapter 18 of the ES (paragraph 18.10.6), that this relates to the discharge of abstracted water. Where the abstracted water is wholly or mainly groundwater, then an Environmental Permit will be required to authorise the discharge of water to the environment, and not an abstraction licence. To clarify, paragraph 18.10.7 refers to the exemption requirements outlined by the Water Abstraction and Impounding Regulations 2017. It should be acknowledged by the applicant that this exemption only applies to abstractions from a sump or excavation as outlined in the Regulations and any other dewatering methods will not meet this requirement of the exemption.</p> <p>Whilst we appreciate paragraphs 18.10.6 and 18.10.7 have been included for guidance, we would request the applicant ensures these statements are clarified within any future revision of Chapter 18 of the ES.</p>	<p>The Applicant understands that the exemption outlined in the Water Abstraction and Impounding Regulations 2017 only applies to abstractions from a sump or excavation. The Applicant expects that this is the approach to dewatering that most likely would be taken, however this would be confirmed at detailed design. Should another dewatering method be utilised (e.g., by the use of an abstraction well) the appropriate permit will be sought.</p> <p>The Applicant confirms this will be updated in the ES, where relevant, prior to the end of Examination.</p>
2.4.28	6.2	<p><i>Flood Risk</i></p> <p>We welcome the applicant's comments [REP2-041] with regards to the Ince Pumping Station as in ref. 2.4.23 in Table 3.4. We acknowledge the principal flood protection measure, included in the Flood Risk Assessment (FRA), for the Ince AGI is to raise the slab level</p>	The Applicant further clarifies that the raised slab level is deemed sufficient to mitigate residual flows and therefore residual fluvial flood risk from the local land drains.

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
		sufficiently to prevent the ingress of floodwater into the installation which is considered acceptable. Our comments within our Written Representation [REP1-062] with regards to the land drainage function of the Ince Pumping Station was made to ensure that its limited capacity in dealing with residual flow rates only is noted and recognised in the FRA.	
	<b>7</b>	<b>Applicant's Responses [REP2-041] to the EA's Comments on the Outline Surface Water Management Strategy [APP-231]</b>	
2.4.29		We acknowledge the applicant is involved in ongoing discussions with Essar Oil UK, where the surface water drainage connection for the Stanlow AGI to the wider existing Stanlow Manufacturing Complex effluent network has been identified as a discussion point [REP1-032]. We would advise the applicant to make the operator aware that such connections may necessitate changes to the operator's existing permits for the site. We acknowledge further clarification on the surface water drainage proposals and connection to the existing effluent network will be provided at the detailed design and would welcome engagement from the applicant and operator at this stage.	The Applicant has ongoing discussions with Essar Oil UK including on the drainage approach, and will make Essar Oil UK aware of EA's comments with respect to the existing permits for the site (see SoCG [REP3-031]).
	<b>8</b>	<b>Applicant's Response [REP2-041] to the EA's Comments relating to Gowy Landfill</b>	
2.4.30		We welcome the applicant's engagement with the Gowy Landfill operator (ref. 2.4.56 / 2.4.57 of Table 2.4 [REP2-041]) and await confirmation on whether the proposed scheme may impact the operator's ability to comply with their Environmental Permit.	The Applicant acknowledges the response and has no further comments at this stage.
	<b>9</b>	<b>Draft Development Consent Order [REP1-004]</b>	
2.4.31	<b>9.1</b>	<i>EA Protective Provisions – Disapplication of the North West Region Land Drainage Byelaws</i> As raised in our Deadline 1 Response [REP1-062], Part 2 Article 8(1) of the draft Development Consent Order (DCO) includes the disapplication of the North West Region Land Drainage Byelaws. We note the applicant's responses [REP2-038] [REP2-041], where we can confirm that the EA has provided the applicant's legal team with a short set of protective provisions on this matter to consider / agree and would welcome further discussions if required.	The Applicant has received the EA's draft Protective Provisions and is responding outside this submission.
2.4.32	<b>9.2</b>	<i>EA Response to addressing matters raised with regards to 'Limits of Deviation'</i> We note the applicant's response [REP2-041], ref. 2.4.63 and 2.4.64 of Table 2.4, with regards to Part 2 Article 6(1) ('Limits of Deviation') within the draft DCO to deviate the upwards limit of the pipeline depth. The applicant has suggested that a set of Protective Provisions could be agreed to address the concerns where the pipeline could potentially be laid shallower than 1.2m below the channel bed at watercourse crossings / base of flood defences. We would welcome further discussions with the applicant on this matter to determine the most suitable approach to address this concern.	The Applicant is happy to discuss this further and would also refer the EA to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).
	<b>9.3</b>	<i>DCO Requirement 9 – Contaminated Land and Groundwater</i>	
2.4.33	<b>9.3.1</b>	We note the applicant's response [REP2-041] in ref. 2.4.68 of Table 2.4, where the REAC [REP2-017] includes additional ground investigation / assessment work for 'point sources'	The Applicant notes that additional ground investigation and risk assessment in line with REAC commitments D-LS-020 and D-LS-021, as secured in the CEMP within

Ref	Rep Reference	EA's Response at Deadline 3	Applicant's Deadline 4 Comments
		and determination of remedial requirements where necessary (ES refs. D-LS020 and D-LS-021). The EA has identified that insufficient information has been gathered to date to form any type of assessment as to the presence of contamination and therefore, subsequent remedial requirements if necessary.	Requirement 5 of the dDCO [REP3-005], will be undertaken by the Construction Contractor at detailed design stage and will identify any additional remedial works that are required.
2.4.34	9.3.2	It is therefore crucial that the additional ground investigation is undertaken to confirm ground conditions to inform the detailed design stage. We would request DCO Requirement 9 includes sufficient provision for additional ground investigation work (assuming the characterisation will not be completed as part of the DCO examination stage) and, where required, production of a remediation strategy and validation report based on the findings of the ground investigation / assessment work. In addition, we advise, where remedial works are required, a verification report will need to be produced following on from the completion of the remedial works, to demonstrate the remedial works have been successful. We note the production of a verification report has not been currently captured in the REAC / as part of DCO Requirement 9.	The Applicant would refer the Environment Agency to Q1.10.14 of the Applicants Comments on Responses to ExAs First Written Questions [REP2-038]. REAC [REP2-017] commitment D-LS-021, as secured by the CEMP though Requirement 5 of the DCO [REP3-005], was updated at Deadline 2 to state that the remediation strategy will include a verification report which includes details of how the remediation strategy will be verified.  The Applicant can also confirm that Requirement 9 of the dDCO [REP3-005] was updated at Deadline 1 to include the submission of a verification report.
2.4.35	9.3.3	We advise the ExA that our position remains as previous [REP1-062] on the current wording of DCO Requirement 9 which we acknowledge addresses the management of unexpected contamination but does not recognise the additional works, as above, that are required to be undertaken to ensure the protection of controlled waters as part of the proposed development.	
	10	<b>Book of Reference [CR1-022]</b>	
2.4.36	10.1	We welcome the applicant's response [REP2-038] and clarification provided with regards to the plots where the EA has been identified as an 'occupier or reputed occupier' as a precautionary measure, given the location includes a section of designated 'main river'. We would advise that the EA regulates proposed works to 'main rivers' under the Environmental Permitting (England and Wales) Regulations 2016 and therefore, would not be considered specifically an 'occupier' in such circumstances. We are aware the applicant has acknowledged the requirements to obtain a Flood Risk Activity Permit, where necessary, for works impacting a 'main river'.  We acknowledge that plot '6-12', within EA land ownership, has been omitted from the latest Book of Reference [CR1-022] as a result of the recent Change Request submitted.	The Applicant notes the response and has no further comments.

**Table 2-5 – Applicant's Comments on Submissions Received at Deadline 3 from Encirc Limited [REP3-050]**

Ref	Rep Reference	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
	1.	<b>Introduction</b>	
2.5.1	1.3.1	Encirc is an affected person with a significant amount of land impacted by the Project. This land is vital for the operation of the Encirc site and Encirc should therefore be allowed to make representations in this regard, participate fully in the Examination process and appear at any necessary hearings including the compulsory acquisition hearings;	The Applicant agrees that Encirc is an Interested Party and welcomes submissions and discussions from them as a part of the DCO process.
2.5.2	1.3.2	The Encirc site is recognised in the Environmental Statement (Appendix 16 – Land Use and Assets) as having high sensitivity and it is set out that the Project will have a 'moderate adverse (significant)' effect on it. Encirc believes that these impacts can be minimised and would welcome the ability to make representations in this regard;	The Applicant can confirm that, within Appendix 16.1 [APP-147], the Encirc site is assessed to be of high sensitivity due to its size. Without mitigation it would experience moderate adverse (significant) short-term, temporary construction effects as a result of potential minor access restrictions and amenity effects. However, as reported in Table 16.31 of Chapter 16 – Population and Human Health [APP-068], with the implementation of best practice mitigation measures identified within the Outline CEMP [REP2-021] and Outline CTMP [REP3-020] as secured through Requirements 5 and 6 respectively of the dDCO [REP3-005], the residual effects upon the Encirc site is considered by the Applicant to be Minor Adverse (not significant).
2.5.3	1.3.3	Encirc is currently pursuing a program of development at its site which is well publicised and is concerned that the Project could sterilise or prevent these important works. This Project could also cause co-ordination issues with the Project and this has not been taken into account by the Promoter;	The Applicant would welcome ongoing discussion with Encirc ahead of prospective planning consents being granted.
2.5.4	1.3.4	Given the change requests made by the Promoter and the changes to the Project introducing new issues and interested parties and consequently to the Examination timetable, allowing representations from Encirc should not prejudice the progress of the Examination. Further, the Promoter is already aware of the issues outlined by Encirc below and so Encirc is not raising any new issues in this regard; and	The Applicant acknowledges Encirc's position and will respond to Encirc's Relevant Representation on the change requests following publication.
2.5.5	1.3.5	In its section 42 response dated 22 March 2022, it was requested that copies any future documents were sent to Lichfields and Eversheds Sutherland. No formal correspondence on this Project has been received by either party to date. Further, Encirc consider that the Schedule of Negotiations submitted by the Promoter indicates a low level of engagement considering the impact of the Project on Encirc's land and the sensitivity of the site.	The Applicant notes this response and will ensure that this is corrected for future communication and documentation. The Applicant notes that Encirc commented positively on the engagement during the proceedings of CAH1 on 7 June 2023. The Applicant intends to continue engagement and will ensure the Encirc representatives listed are sent copies of future documents.
2.5.6	1.4	Encirc is ultimately supportive of the principle of the Project but is concerned about the impact of the current plans on the operation of its site and is keen to work with the Promoter to ensure that such impacts are minimised.	The Applicant welcomes Encirc's support for the DCO Proposed Development in principle and is also keen to maintain positive engagement with Encirc
2.5.7	1.5	Encirc notes the recent change request which was accepted by the Examining Authority which impacts Encirc's land interests. A relevant representation in respect of these changes will be submitted in due course but Encirc wishes to be able to protect all its interests through the Examination process.	The Applicant will respond to Encirc's Relevant Representation on the change request following publication.



Ref	Rep Reference	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
	2.	<b>Encirc</b>	
2.5.8	2.1	The Encirc Elton facility was originally established in 2005 to manufacture glass containers. This has evolved to include the filling, packaging and storage of glass containers, as well as the final distribution to the point of sale.	The Applicant acknowledges Encirc's response and has no further comments at this time.
2.5.9	2.2	Encirc is home to the largest glass container furnace of its type in the world and approximately 2.2 billion glass bottles are produced at Encirc each year.	
2.5.10	2.3	Encirc has Europe's largest fully automated bonded warehouse, providing HM Revenue and Customs approved storage and onward transport processing facilities for tax and duty suspended goods (alcoholic beverages).	
2.5.11	2.4	Encirc's workforce in Elton has increased to more than 900 staff, plus a further 130 full time contractors.	
	3.	<b>Land Impacted</b>	
2.5.12	3.1	Land owned and occupied by Encirc has been included in the Book of Reference and the Promoter has applied for the compulsory acquisition of rights over the following plots:	The Applicant can confirm that this information is correct.
2.5.13	3.1.1	Plots 1-01, 1-01a, 1-02, 1-03, 1-06, 1-06a, 1-06b, 1-06c, 1-21, 1a-01, 1a-02, 1a-03 – required for access to the Ince AGI.	
2.5.14	3.1.2	1-01, 1-02, 1-03, 1-06, 1- 20, 1-21, 1-221-20 and 1-22 required for the pipeline	
2.5.15	3.2	Encirc objects to any compulsory acquisition of land or rights in its ownership.	That Applicant acknowledges Encirc's concerns and is continuing to engage with them on these matters.
2.5.16	3.3	Encirc is currently in the process of negotiating private treaty agreements with the Promoter for the land rights required by the Promoter.	The Applicant acknowledges Encirc's response and has no further comments at this time.
	4.	<b>Concerns</b>	
2.5.17	4.1	Encirc has a number of concerns about the Project and the impact which this will have on the operation of the facility and the plans for the future development of the site. These concerns are summarised below and further detail will be provided in due course:	That Applicant acknowledges Encirc's concerns and is continuing to engage with them on these matters.
	4.1.1	<b>Future development:</b>	
2.5.18	4.1.1.1	Encirc is concerned that the Project will impact its future development proposals for the facility. Encirc submitted a full planning application for a new distribution hub in February 2023 and remains concerned that the effects of this Project and other proposed projects at the Encirc site are not adequately considered in the submitted Environmental Statement.	As set out in response to Q1.1.2 in Table 2.4 of the Applicant's Comments on Responses to ExA's First Written Questions [REP2-038], the identified development 22/03693/FUL would meet the criteria for inclusion in the long list of the Inter-Project Effects Assessment (Table 2 of Appendix 19.1 of the 2022 ES [CR1-044]). The development is of a proximity and scale to have potential significant Inter-Project Effects and therefore would be scoped into the short-list for full Inter-Projects Effects Assessment (Table 3 of Appendix 19.1 of the 2022 ES [CR1-044]). However, as the application was received by CWCC on 30 September

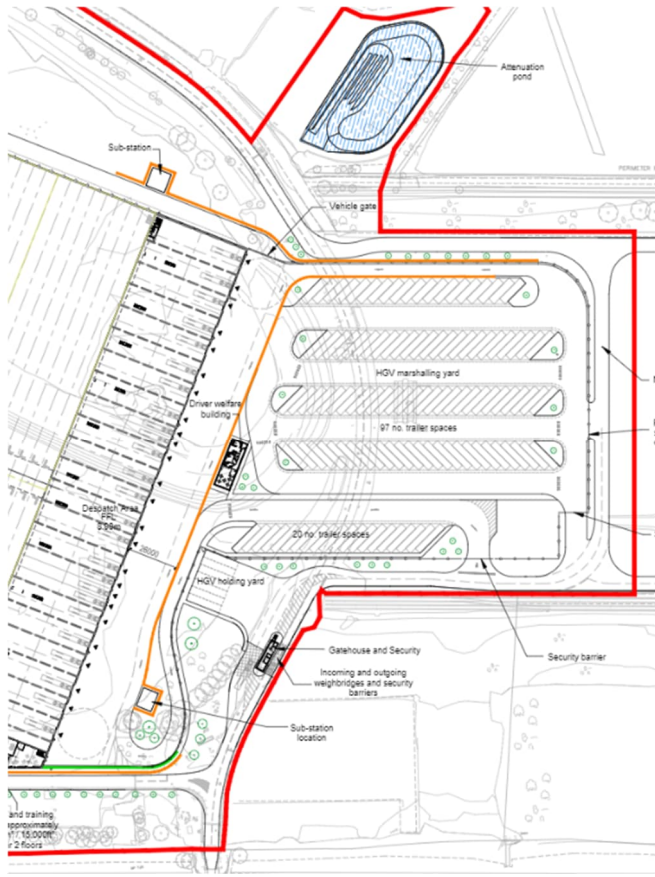
Ref	Rep Reference	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			<p>2022, this falls outside the scope of the DCO Proposed Development's assessment of Inter-Project Effects.</p> <p>Notwithstanding the above, the Applicant has voluntarily engaged with Encirc via Statement of Common Ground (SoCG) discussions <b>[REP2-033]</b> (updated and submitted at Deadline 4) regarding the interactions between the two developments (which is primarily related to site access) and this is being handled via commercial discussions between the two parties.</p>
2.5.19	4.1.1.2	Once this permission has been implemented, part of the proposed Project access route (Works No.3) will be affected.	The Applicant and Encirc are engaging in frequent communication and aim to resolve this process access via commercial and protective provision discussions.
2.5.20	4.1.1.3	Further future development to realise the full potential of the Site is also planned and well publicised. This includes an ultra low carbon furnace as well as further rail development on site (trials have been taking place to determine feasibility).	The Applicant acknowledges Encirc's response and notes that the Applicant has not received detailed plans to date. The Applicant is open to and will review the plans when made available from Encirc
2.5.21	4.1.1.4	Construction of Encirc's new infrastructure and the Project works may conflict and it is not clear how traffic movements around this constrained area would be managed. This should be considered in terms of cumulative effects.	<p>As stated in row 2.5.18 above, Chapter 17 Traffic and Transport of the 2022 ES <b>[APP-069]</b> and the subsequent ES Addendum <b>[CR1-124]</b> and Appendix 19.1 Inter-Projects Effects Assessment <b>[CR1-044]</b> were produced prior to the submission of the Encirc planning application 22/03693/FUL in September 2022 and as such do not consider the cumulative effects arising from that planning application.</p> <p>The Applicant would welcome ongoing discussion with Encirc should respective planning consents be granted around how traffic could be managed in this location and could incorporate this within the detailed Construction Traffic Management Plan (CTMP) as secured by Requirement 6 of the dDCO <b>[REP3-005]</b>.</p>
2.5.22	4.1.2	<p><b>Project Access:</b></p> <p>Encirc is concerned that the proposed access route for the Project, as shown on Works Plans 1 (Work No.3), will impact its operations. Particularly the parts of the proposed internal access routes and to the south of the railhead. As stated, part of the proposed Project access route will cease to exist following construction of Encirc's new distribution hub.</p>	The Applicant acknowledges complexities around access in this specific location and has identified two options for use shown in Figure 17.4 Construction Traffic Routes <b>[CR1-092]</b> , which will mitigate the impact of the construction of the DCO Proposed Development. The Applicant shall continue to engage with Encirc on commercial discussions, via a SoCG <b>[REP2-033]</b> and Protective Provisions.
	4.1.3	<b>Impact on the Railway:</b>	
2.5.23	4.1.3.1	Encirc is legally obligated to bring 12% of its raw material to the site by rail or other alternative sustainable modes of freight transport as set out in an agreement under section 106 of the Town and Country Planning Act 1990. As Encirc's operations expand, it has ambitions to enhance its existing rail capabilities and increase the amount of material that can be brought to site by rail, to ensure that it can maintain its 12% quota. Therefore, the land around the existing railhead must be safeguarded to facilitate this expansion. Encirc is also concerned that the Project construction activity could impact the current operation of its railhead. Operation must be maintained at all times to ensure Encirc can meet its prescribed quotas.	<p>In-lieu of a suitable technical contact at Encirc to discuss engineering requirements for a railway crossing, the Applicant is proposing in principle to match the requirements for installing pipeline under the adjacent Network Rail asset.</p> <p>The Applicant is keen to negotiate a working solution to address Encirc's concerns in this matter and shall continue to engage with Encirc on a SoCG <b>[REP2-033]</b> and Protective Provisions.</p>
2.5.24	4.1.3.2	Further, Encirc is concerned about the safety aspects of the rail crossing and how Encirc's requirements will be taken into account.	That Applicant acknowledges Encirc's concerns and is continuing to engage with them on these matters.

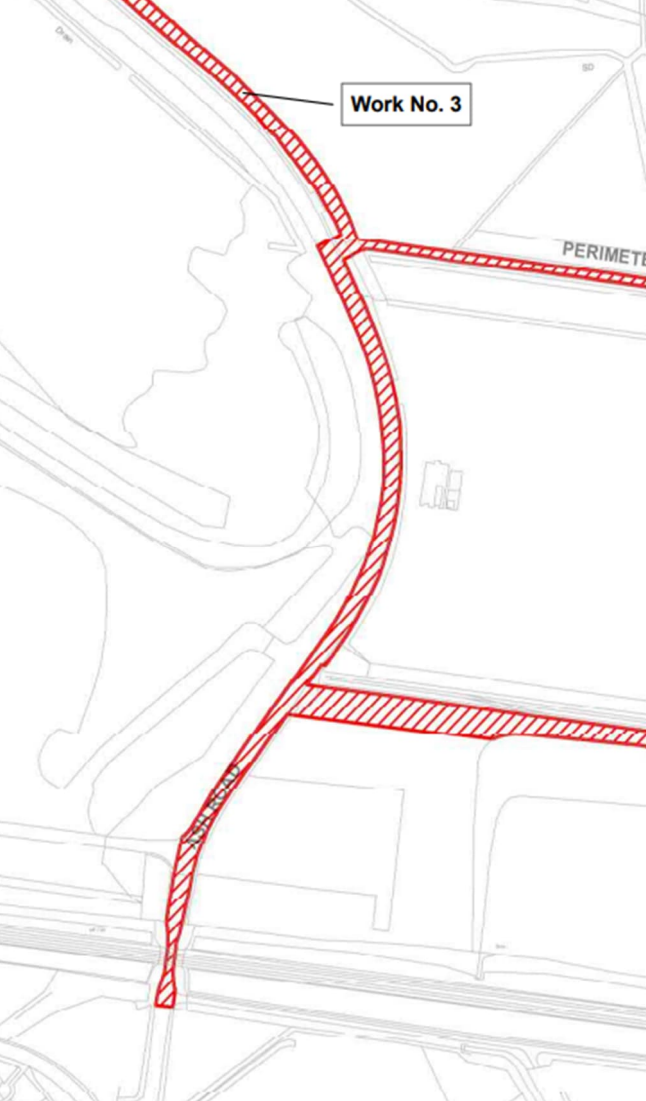
Ref	Rep Reference	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
2.5.25	4.1.4	<p><b>Depth of the Pipeline:</b> Encirc is concerned about the depth of the pipeline. The Project must not sterilise the site and prevent future development.</p>	<p>In-lieu of a suitable technical contact at Encirc to discuss engineering requirements for a railway crossing, the Applicant is proposing in principle to match the requirements for installing pipeline under the adjacent Network Rail asset.</p> <p>As such, the depth of the pipeline under railway crossings is normally determined by a combination of geotechnical factors combined with condition surveys of the existing rail track.</p> <p>The pipeline easement corridor shall be 24.4m regardless of depth, within the 100m limit of deviation shown.</p> <p>The Applicant is keen to negotiate a working solution to address Encirc's concerns in this matter and shall continue to engage with Encirc on a SoCG <b>[REP2-033]</b> and Protective Provisions.</p>
2.5.26	4.1.5	<p><b>HMRC bonded site:</b> Encirc has HMRC approved storage on its facility and must comply with pre-agreed conditions for this. Encirc is concerned that the proposed Project access onto its facility could cause a breach of these conditions. It should be noted that there is no permitted vehicular access to the Encirc Site from Grinsome Road.</p>	<p>The Applicant is keen to negotiate a working solution to address Encirc's concerns in this matter and shall continue to engage with Encirc on commercial discussions, via a SoCG <b>[REP2-033]</b> and Protective Provisions.</p>
2.5.27	4.1.6	<p><b>Operation and Security of Site:</b> Encirc is concerned about the wider security impacts of the Project access through its facility.</p>	<p>That Applicant acknowledges Encirc's concerns and is continuing to engage with them on these matters.</p>
2.5.28	4.1.7	<p><b>COMAH:</b> The Site is regulated under the Control Of Major Accident Hazards (COMAH) Regulations 2015 and as a result must operate strict site access to comply with obligations.</p>	
	4.1.8	<p><b>Ash Road HGV Movements:</b></p>	
2.5.29	4.1.8.1	<p>There is a daily limit of 912 HGV movements to the Encirc facility agreed through planning permission ref. 18/04948/S73. Encirc is concerned that movements associated with the Project will consume part of Encirc's pre-agreed limits.</p>	<p>The Applicant's traffic would not count toward Encirc's limits as those limits do not apply to the Applicant's traffic. Those limits relate to Encirc's use under its planning consent and do not bind other planning consents which must assess their own impact in addition to Encirc's existing consented use. The Transport Assessment <b>[CR1-042]</b> presents the Annual Average Daily Traffic (AADT) (24hrs) for HGV movements on Ince Lane (between Ash Road and A5117). This has been derived using an Automatic Traffic Count (ATC) survey undertaken in 2021 and would capture all HGVs using Ash Road which is the primary access to Encirc. The ATC data has been used to calculate the AADT (24hrs) on Ash Road as 219 HGVs.</p> <p>The Transport Assessment <b>[CR1-042]</b> calculates the forecast AADT (24hrs) required to serve the DCO Proposed Development in the Project Peak Month which is 9 two-way trips. This represents under 9% of all HGV movements that currently take place daily on Ince Lane (between Ash Road and A5117). The Transport Assessment <b>[CR1-042]</b> has also identified two separate routes which</p>

Ref	Rep Reference	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			can be used to access Ince AGI to reduce the impact of the construction of the DCO Proposed Development on Ash Road and Encirc's operations.
2.5.30	4.1.8.2	In addition, Encirc has a S.278 agreement with the Council to pay for improvements to Ash Road, as required. If movements associated with the Project cause deterioration of the road, then Encirc should not be liable for the cost of these improvements.	Pre-and post access surveys will be undertaken for agreed access routes and appropriate remediation measures taken should the extraordinary use of highways due to the construction of the DCO Proposed Development lead to a demonstrable deterioration in road condition.

**Table 2-6 – Applicant's Comments on Submissions Received at Deadline 3 from Cheshire West and Chester Council [REP3-042]**

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
Economic Impacts					
2.2.2	2.2	The Council recognises the Project's wider potential economic benefits in the region however there are some concerns raised in regard to the localised impacts. The Project has the potential for direct and indirect impacts upon existing local businesses including the delivery of safeguarded sites in the Local Development Plan (LDP). 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	The Applicant notes this response from CWCC. In respect to the Protos Plastics Park, the Applicant refers to the responses given to <b>[REP1-075]</b> (document reference: <b>D.7.16</b> ) and <b>[REP1-074]</b> (document reference: <b>D.7.19</b> ) submitted at Deadline 2, regarding the site based impacts to the Protos Plastics Park and to the Peel SoCG <b>[REP1-027]</b> 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  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	This matter is detailed in Part 6 of the Council's Local Impact Report <b>[REP1A-002]</b> . 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.  In addition to the access issue raised regarding the Protos Plastics Park, as outlined in paragraph 6.8 of LIR <b>[REP1A-002]</b> 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 <b>[REP1-004]</b> , 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	The Applicant notes the response from CWCC. The Applicant is engaging with Encirc Limited (see SoCG <b>[REP2-033]</b> ) on a regular basis through commercial discussions. The issue regarding access for both project is one of the points discussed by the parties and a commercial agreement and protective provisions are in negotiation between the parties to ensure that both developments can coexist.  The Applicant notes its development, provides a critical piece of infrastructure that will enable the future development of Encirc Limited's sites, as it allows for Low Carbon Hydrogen fuel production. This is an enabling project that will ensure the prosperity of Encirc limited and other businesses located in CWCC's authority.

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			<p>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 CO<sub>2</sub> pipeline to be constructed for it to be used to transport CO<sub>2</sub> from their / their tenants' production facilities or plan to use Low Carbon Hydrogen (from the Stanlow Manufacturing Complex), which requires 97% of CO<sub>2</sub> to be captured and transported using the CO<sub>2</sub> pipeline.</p> <p>Looking further into the future, the CO<sub>2</sub> 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 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>	<p>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>  <p>Extract from Proposed site plan 12473-AEXX-XX-DR-A-0501 Rev P23 of application no. 22/03693/FUL</p>	

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			<ul style="list-style-type: none"> <li>• 42,000 jobs created / maintained in North West England and North Wales</li> <li>• Creation / maintenance of 55,000 UK jobs by 2030</li> <li>• 6,000+ UK Construction jobs in any given year until at least 2030</li> </ul>	 <p data-bbox="1507 1302 2110 1501">Work No.3, EN070007-D.2.4-WP-Sheet 1 (Rev D) [REP2-005]. 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	The Applicant can confirm that the tracked change REAC <b>[AS-054]</b> only details the updates made to the REAC for that Examination submission. For that submission, the complete REAC is reference <b>[AS-053]</b> .	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.	The Applicant welcomes CWCC's confirmation that they are satisfied on these points and the Applicant has no further comments at this time.

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>Assessments is not specified within the OLEMP or the Register of Environmental Actions and Commitments (REAC) [AS-054] or directly provided for in the wording of the draft DCO Requirements. For this reason, it is considered that for all permanent above ground installations, further heritage assessments including appropriate mitigation should be provided for within the OCEMP or specifically required within the final DCO Requirement 5.</p>	<p>The Applicant would refer CWCC to the version of the REAC <b>[REP1-015]</b> issued at deadline 1, and also as updated at Deadline 2. The REAC includes a 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 <b>[REP1-004]</b>).</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 <b>[REP1-042]</b>, 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 <b>[APP-060]</b> and <b>[CR1-124]</b>, 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</i></p>	<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 <b>[REP2-046]</b>, and paragraph 2.3 of the Council's Written Representations <b>[REP1-061]</b>, 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.</p>	

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			<p><i>installations to reduce the impact of the visual intrusion within the landscape.</i>" As stated in the Outline Landscape and Ecological Management Plan <b>[APP-229]</b>, the detail of the planting and materials will be produced by the appointed construction contractor during the detailed design stage.</p>		
Mineral Safeguarding					
2.3.4	2.4	<p>The Project will directly impact several Mineral Safeguarding Areas (MSAs) for sand and gravel. The desk-based Minerals Resource Assessment (MSA) [APP-131&amp; 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 required as part of the wording of any Requirement of the DCO and particularly Requirement 5.</p>	<p>The Applicant considers that commitment D-MW-006 of the REAC <b>[CR1-109 and REP1-015]</b>, as secured by Requirement 5 of the dDCO <b>[REP1-004]</b>, 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>	<p>The Minerals Resource Assessment (MRA) <b>[APP-131 /132]</b> 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 <b>[REP1-17]</b> or REAC <b>[REP1-015]</b>.</p> <p>REAC Commitment D-MW-006 <b>[REP1-015]</b> 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> <p>The Council notes the above REAC commitment D-MW-006 <b>[REP1-015]</b> 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 Applicant has considered the comments from CWCC in production of the Outline Materials Management Plan submitted at Deadline 4 (document reference: <b>D.7.32</b>).</p> <p>The Applicant also notes the following REAC commitment, specifically the third point in relation to resource streams; <b>(D-MW-001 of the Register of Environmental Actions and Commitments (REAC), Document Reference: D.6.5.1)</b>.</p> <p>Application of circular economy principles by the Construction Contractor implemented in the detailed CEMP including:</p> <ul style="list-style-type: none"> <li>• Designing solutions to prevent the generation of waste where feasible, and to send waste for recovery, wherever possible.</li> <li>• Considering all Stages of construction, operation and decommissioning in a lifecycle approach.</li> <li>• Identification of resource streams that might be considered by-products (i.e. not wastes, as per applicable legislation) and reused or recycled</li> </ul>



Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
				<p>The Council also notes that the MRA [APP-131&amp; 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"> <li>• Clear reference to the findings of the MRA with commitments for any further necessary ground investigations.</li> <li>• A definition of what a 'suitable mineral resources' would represent?</li> <li>• 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?</li> <li>• Where extracted mineral can be re-used, on the site or elsewhere?</li> </ul> <p>It is noted that the Applicant states that an outline MMP will be submitted before the end of Examination.</p> <p>For the above reasons, the Council reserves its right to make further comments relating to minerals safeguarding after reviewing the draft MMP.</p>	
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	As part of early design commitments, efforts have been made by the Applicant to avoid sensitive habitats and features, wherever possible, including	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	As raised during Issue Specific Hearing 1 on the 6June 2023, the Applicant has revisited the three trees detailed as 'at risk, aiming to retain' and has committed to retaining these trees with protection measures. The Applicant has prepared a revised

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>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>	<p>Ancient Woodland and veteran trees.</p> <p>For example, Commitment D-BD-008 in the REAC <b>[CR1-109]</b> and <b>REP1-015]</b> 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 <b>[CR1-124]</b> 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 <b>[CR1-124]</b> 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</p>	<p>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.</p>	<p>Appendix 9.11 - Arboricultural Impact Assessment <b>[APP-115]</b> and <b>[CR1-058]</b> as submitted at Deadline 4 capturing this change.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			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 <b>[REP1-004]</b> . Further detail regarding mitigation is under discussion between the Applicant and the with Woodland Trust, 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: <b>D.7.23</b> ) 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) <b>[REP1A-004]</b> and paragraph 12.2.10 of the Councils response to the Applicant's comments to the Councils Relevant Representation <b>[REP2-046]</b> .	The Applicant acknowledges CWCC's response and has no further comments.
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	Regarding the Stanlow Manufacturing Complex site, the Applicant is currently engaging with the site owner, Essar Oil UK, as documented in the SoCG <b>[REP1-032]</b> , 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	The Council notes the Applicant's intention to include verification in the REAC commitment D-LS-021 <b>[REP1-015]</b> . For clarification the Council notes that REAC commitment D-LS-021 <b>[REP1-015]</b> OCEMP reference D-LS 21 <b>[REP1-017]</b> 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 <b>[REP1-004]</b> , however, as is noted in 2.3.35 below, the Council	The Applicant refers the Council to its responses to the actions from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		needed for unexpected contamination under draft DCO Requirement 9.	<p>any ground investigation work commencement.</p> <p>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).</p> <p>The Applicant proposes to add reference to the inclusion of a verification report within the remediation strategy requirement in REAC <b>[CR1-109]</b> and <b>REP1-015]</b> commitment D-LS-021.</p>	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 Requirement 9 is amended to require the approval of validation reporting for any necessary remediation.	<p>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).</p> <p>The Applicant has added reference to the inclusion of a verification report within the remediation strategy requirement in REAC <b>[CR1-109]</b> and <b>REP1-015]</b> commitment D-LS-021.</p> <p>The Applicant updated Requirement 9 of the draft DCO <b>[REP1-004]</b> at Deadline 1 to</p>		The Applicant refers the Council to its responses to the actions from ISH2 on the dDCO (document reference: <b>D.7.31</b> ).

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			include the submission of a verification report following completion of the works to the relevant planning authority.		
Draft Development Consent Order					
2.3.12	Article 2	<p>Commence <i>Issue</i> The exemptions listed in the definition should not include any operational works <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) <b>[REP1-044]</b>. 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 <b>[PD-014]</b> 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 <b>[REP1-044]</b>.</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>	<p>The Applicant refers the Council to its responses to the actions from ISH2 on the dDCO (document reference: <b>D.7.31</b>) and the revisions made to the dDCO in revision G at Deadline 4.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
2.3.14	Article 8	<p>Disapplication of legislation</p> <p><i>Issue</i></p> <p>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></p> <p>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>	<p>The Applicant would be willing to consider protective provisions if necessary but would ask CWCC to provide some drafting for that. The Applicant would however also request that the Council review the outline strategy and CEMP outline and consider if the required detail could be listed in there as has been proposed to FCC.</p>
2.3.15	Article 10	<p>Street Works</p> <p><i>Issue</i></p> <p>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></p> <p>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>	<p>The Applicant and CWCC have discussed the protective provisions following the hearing and further drafting being progressed.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
2.3.16	Article 10(3)	<p>Street Works</p> <p><i>Issue</i></p> <p>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></p> <p>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.</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>	<p>This change was made in revision E of the dDCO at Deadline 3 <b>[REP3-005]</b>.</p>
2.3.17	Article 10(5)	<p>Street Works</p> <p><i>Issue</i></p> <p>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></p> <p>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 <b>beginning with the date on which the application was made</b>, 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</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>	<p>The Applicant is preparing a proposal to put to the Councils for consideration.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			<p>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>		
2.3.18	Article 11	<p>Power to alter layout etc of streets <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</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>	<p>This change was made in revision E of the dDCO at Deadline 3 <b>[REP3-005]</b>.</p>



Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>these works under Art 11(4). Art 11(5) requires the street authority to respond to any 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></p> <p>Where works are being carried out permanently to the street and the street authority will be liable for those works in the future, there needs to be a mechanism for the street authority to inspect and authorise these works. The application for consent should allow for the street authority to make recommendations or amendments to the proposed works, as may be necessary, for the purposes of ensuring highway safety and the safe movement of traffic. The timescales are ambiguous as there is no definition for an application being "made". In addition, the timescales are too short. CWCC would suggest using "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>	<p>The Applicant understands from ISH2 that CWCC is not maintaining this objection on timescales.</p>
2.3.19	Article 13	<p>Temporary restriction of public rights of way</p> <p><i>Issue</i></p> <p>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></p> <p>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</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>	<p>The Applicant understands from ISH2 that CWCC is not maintaining this objection on timescales.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		short. CWCC would suggest using "within 70 days of receiving an application for consent" in line with the wording used in Art 14(7).			
2.3.20	Article 14	<p>Temporary restriction of use of streets <i>Issue</i></p> <p>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></p> <p>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.	The Applicant understands from ISH2 that CWCC is not maintaining this objection on timescales.
2.3.21	Article 15	<p>Access to works <i>Issue</i></p> <p>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></p> <p>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>	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.	The Applicant understands from ISH2 that CWCC is not maintaining this objection on timescales.
2.3.22	Article 18(1)	<p>Traffic regulation <i>Issue</i></p> <p>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</p>	The Applicant has no objection to adding wording requiring representations to be taken into account as set out in the A417 DCO.	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.	This change was made in revision E of the dDCO at Deadline 3 <b>[REP3-005]</b> .

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>required (such consent not to be unreasonably withheld or delayed).</p> <p><i>Amendment Required/Comment</i></p> <p>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>			
2.3.23	Article 18(3) and 18(7)	<p>Traffic regulation</p> <p><i>Issue</i></p> <p>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><i>Amendment Required/Comment</i></p> <p>These timescales are too short and CWCC requires 70 days for both Art 18(3)(a) and 18(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>	<p>The Applicant is preparing a proposal to put to the Councils for consideration.</p>
2.3.24	Article 18(5)	<p>Traffic regulation</p> <p><i>Issue</i></p> <p>Art 18(5) provides that "Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker</p>	<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</p>	<p>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.</p>	<p>This change was made in revision E of the dDCO at Deadline 3 <b>[REP3-005]</b>.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>from time to time by subsequent exercise of the powers of paragraph (1) at any time.”</p> <p><i>Amendment Required/Comment</i></p> <p>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>			
2.3.25	Article 19	<p>Discharge of Water</p> <p><i>Issue</i></p> <p>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></p> <p>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>	<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>	<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>The Applicant agrees that Requirement 8 only refers to permanent drainage and would refer the Council to the sub-plans to the CEMP which would provide the detail for the construction phase.</p>
		<p>Authority to survey and investigate the land Art</p> <p><i>Issue</i></p> <p>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></p> <p>The timescale is too short and CWCC requires 70 days.</p>	<p>The Applicant notes that the article follows standard, well precedented drafting, including the time limit.</p> <p>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</p>		-

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			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	<p>Temporary use of land for carrying out the authorised development</p> <p><i>Issue</i></p> <p>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;</p> <p>(c) construct temporary works (including the provision of means of access), structures and buildings on that land;</p> <p>(d) use the land for the purposes of a working site with access to the working site in connection with the authorised development; and</p> <p>(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;</p> <p>(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;</p> <p>(g) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and</p>	<p>The Applicant notes that this power is primarily related to land ownership and possession and not the regulation of streets/highways in their statutory status which is addressed by other articles.</p> <p>The Applicant does not agree and refers to the explanation set out at paragraph 4.120 of the Explanatory Memorandum <b>[REP1-006]</b>.</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</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 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>	<p>The Applicant has not sought consent for any permanent works outside of the order limits. The point on use of temporary powers for permanent works has been addressed by the Applicant in response to the ExA's First Written Questions <b>[REP1-044]</b>.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>(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> <ul style="list-style-type: none"> <li>a. replace a building, or structure removed under this article;</li> <li>b. remove any drainage works installed by the undertaker under this article;</li> <li>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)</li> <li>d. restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(e); or</li> <li>e. remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.</li> </ul> <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</p>	<p>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>		

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		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)).			
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 <b>[REP1-004]</b> 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>	<p>This change was made in revision E of the dDCO at Deadline 3 <b>[REP3-005]</b>.</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."</p> <p>The requirement does not require the submitted scheme to be approved or for the undertaker to undertake the development in accordance with the submitted approved stages.</p> <p><i>Amendment Required/Comment</i></p> <p>Suggested wording: No part of the authorised development may</p>	<p>As set out in the Applicant's Response to ExA's ExQ1 Q1.19.44 <b>[REP1-044]</b>, 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>	<p>The Applicant refers the Council to its responses to the actions from ISH2 on the dDCO (document reference: <b>D.7.31</b>) and the revisions made to the dDCO in revision G at Deadline 4.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		commence until a written scheme setting out all stages of the authorised development including a plan indicating when each stage will be constructed has been submitted to and approved in writing by each relevant planning authority. The authorised development shall then be undertaken in accordance with the approved stages plan unless approved in writing by each relevant planning authority in accordance with Requirement 17.			
2.3.32	Requirement 4 (1)	<p>Scheme Design - Changes to above <i>Issue</i></p> <p>It is not clear what the “environmental effects” include. No definition is provided in Requirement 2 (Interpretation).</p> <p>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></p> <p>Recommend a definition for the term “environmental effects”.</p> <p>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>	<p>The Applicant does not consider it appropriate that the Secretary of State (SoS) needs to screen every change for materiality no matter how minor that may be. The Applicant does not consider this to be appropriate or necessary. The Applicant notes it is normally for the applicant to determine what form of amendment a change is when determining the appropriate consenting route to make an application to and it is for the applicant to make the case for the chosen route.</p>
2.3.32a	Requirement 4 (1)	Changes to above ground development	Where relevant the detailed design will be based upon	The Council acknowledges that mitigation is to be provided for the project based upon	The Applicant has proposed a definition of 'stage' in revision G of the dDCO at Deadline 4.



Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p><i>Issue</i></p> <p>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></p> <p>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>relevant mitigation measures that are identified within 2022 ES and subsequent ES Addendum Change Request 1 <b>[CR1-124]</b>. Where relevant these commitments are also included in the Outline LEMP <b>[APP-229]</b>, the Outline CEMP <b>[REP1-017]</b> and the Outline OMEMP <b>[REP1-051]</b>.</p> <p>The draft DCO <b>[REP1-004]</b> 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 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>	<p>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> <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>	

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
2.3.33	Requirement 5 (2) (a-m)	<p>CEMP – Working Methods and Mitigation Measures</p> <p><i>Issue</i></p> <p>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></p> <p>Include the following additional measures:</p> <ul style="list-style-type: none"> <li>• mineral safeguarding plan,</li> <li>• protection and replacement planting of all significant trees and hedgerows (not just ancient woodland),</li> <li>• specification of noise limits (day and night)</li> <li>• heritage mitigation measures</li> <li>• biodiversity survey reporting and monitoring strategies</li> <li>• contamination</li> <li>• mechanism for review</li> </ul>	<p>The detailed CEMP, secured by Requirement 5 of the dDCO <b>[REP1-004]</b>, 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>	<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. The Council also asks that the following are explicitly referred to in Requirement 5:</p> <ul style="list-style-type: none"> <li>• Contamination mitigation measures;</li> <li>• Heritage mitigation measures and;</li> <li>• The specification of noise limits (day and night)</li> </ul> <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"> <li>• protection and replacement planting of all significant trees and hedgerows (not just ancient woodland),</li> <li>• biodiversity survey reporting and monitoring strategies</li> <li>• mechanism for review</li> </ul>	<p>As above, the Applicant considers that this can be addressed in the Materials Management Plan and is provided as an Outline Materials Management Plan (document reference: <b>D.7.32</b>) at Deadline 4 for review.</p> <p>The requested additions to Requirement 5 of the dDCO <b>[REP3-005]</b> are already covered in the outline plans where appropriate. A full suite of outline plans will be submitted at Deadline 5 for review and comment.</p>
2.3.34	Requirement 8 (3)	<p>Water Discharge</p> <p><i>Issue</i></p> <p>Requires details to be submitted but not approved in writing.</p> <p><i>Amendment Required/Comment</i></p> <p>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 and approved in writing by the relevant planning authority"</p>	<p>This was added to the requirement at Deadline 1, please see <b>[REP1-005]</b> for a tracked version of the dDCO.</p>	<p>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.</p>	<p>The Applicant proposes to secure consultation under the strategy, not the requirement in the dDCO.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
2.3.35	Requirement 9	<p>Contaminated land and Groundwater <i>Issue</i></p> <p>This is missing a requirement for the submission and approval of a validation report.</p> <p><i>Amendment Required/Comment</i></p> <p>CWCC require the Requirement to be revised to include validation reporting and for the details to be approved by CWCC.</p>	<p>This was added to the requirement at Deadline 1, please see <b>REP1-005</b> for a tracked version of the dDCO.</p>	<p>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.</p> <p>Amendment is required for the submission of a verification report to be submitted for approval.</p>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>
2.3.36	Requirement 11 (1)	<p>LEMP <i>Issue</i></p> <p>Combining ecology and Landscape will involve a lot of details, which if included together has the potential to miss important elements</p> <p><i>Amendment Required/Comment</i></p> <p>CWCC recommends that the details be split into landscape and ecological matters or for them to be set out in separate requirements.</p>	<p>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.</p> <p>The Applicant notes that the outline LEMP [<b>APP-229</b>]</p>	<p>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.</p>	<p>The Applicant notes CWCC is now satisfied with this point and has no further comments at this time.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			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.		
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.  Specific mitigation measures relevant to cultural heritage and archaeology are included within the REAC [ <b>REP1-015</b> and <b>CR1-109</b> ], as secured by the CEMP within Requirement 5 of the DCO [ <b>REP1-004</b> ] and within the Outline Archaeological Written Scheme of Investigation [ <b>APP-223</b> ] as secured by Requirement 10 of the DCO [ <b>REP1-004</b> ].	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.	The Applicant notes CWCC is now satisfied with this point and has no further comments at this time.
2.3.38	Requirement 11 (1)	11(2) LEMP – Inclusion <i>Issue</i> Missing heritage measures	The Applicant refers CWCC to the response to 2.3.37 above.		

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<i>Amendment Required/Comment</i> Detail inclusion of heritage matters			
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	The Applicant has considered needs for surveys, reporting and monitoring of ecological features (both habitats and protected / notable species) within Section 4.4 of the Outline Landscape and Ecological Management Plan (OLEMP) <b>[APP-229]</b> . Further definition regarding survey, reporting and monitoring requirements will be developed during the detailed design of the DCO Proposed Development and captured within a final LEMP.
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 <b>[APP-229]</b> . 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 <b>[REP1-004]</b> 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.	The Applicant notes CWCC is now satisfied with this point and has no further comments at this time.
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, if the relevant action is not taken, there will be adverse health, safety, security or environmental	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.	The Applicant notes that amendments have been made to this requirement at Deadline 3 <b>[REP3-005]</b> and further amendments are proposed in the Deadline 4 submissions.

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>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</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>	<p>The Applicant notes that amendments have been made to this requirement at Deadline 3 <b>[REP3-005]</b> and further amendments are proposed in the Deadline 4 submissions.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			require approval under a scheme but maintains that allowing 24 hour working for (a), (b) and (d) is necessary and appropriate.		
2.3.43	Requirement 13 (4) (a)	<p>Construction Hours <i>Issue</i></p> <p>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>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>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 definition is there to stop task lighting ‘spilling’ outside the order limits, not prevent a worker turning on lights inside a kiosk.</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>he 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 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>	<p>The Applicant notes that amendments have been made to this requirement at Deadline 3 <b>[REP3-005]</b> and further amendments are proposed in the Deadline 4 submissions.</p>
2.3.44	Requirement 13 (4) (b)	<p>Construction Hours <i>Issue</i></p> <p>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</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</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</p>	<p>The Applicant notes that amendments have been made to this requirement at Deadline 3 <b>[REP3-005]</b> and further amendments are proposed in the Deadline 4 submissions.</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>and undertaken in compliance with the CEMP".</p> <p>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></p> <p>Revise wording of Requirement to require any working outside of agreed hours only as part of an approved scheme.</p>	<p>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>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></p> <p>"Subject to article 34 (temporary use of land for carrying out the authorised project)], any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12 months of completion of the authorised project."</p> <p>"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.</p> <p>Requirement 16 as a whole is not precise or enforceable and does not require the approval of a scheme of restoration and aftercare.</p> <p><i>Amendment Required/Comment</i></p> <p>The requirement to reinstate should be on a section or phase basis, not the</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 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</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>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>



Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		whole project, as that will increase the time to restoration of habitats (and alter the biodiversity net gain result).	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.		
2.3.46	Requirement 17	<p>Post construction environmental management plans</p> <p><i>Issue</i></p> <p>“Operational and maintenance management” and “decommissioning” are distinctly separate stages of the project. These should be covered in separate requirements.</p> <p>Furthermore, the scheme does not provide or require details of restoration aftercare.</p> <p><i>Amendment Required/Comment</i></p> <p>CWCC advise that the requirement be split into two requirements for the approval of schemes for restoration and aftercare and one for decommissioning.</p> <p>CWCC require details of restoration and aftercare to be provided to the relevant planning authority for approval. This could be incorporated under Requirement 17 or alternatively a detailed scheme could be included Requirement 16.</p>	<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 <b>[REP1-004]</b>.</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>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>
2.3.47	Requirement 17(1) and 17(3)	<p>Post construction environmental management plans</p> <p><i>Issue</i></p> <p>Requirement 17(1) requires the submission of an operational and maintenance environment management plan.</p> <p>Requirement 17(3) requires the submission of a DEMP.</p>	<p>This was added to the requirement at Deadline 1, please see <b>[REP1-005]</b>.</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>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p><i>Amendment Required/Comment</i></p> <p>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.</p>			
2.3.48	Requirement 19(4)	<p>19(4) Amendments</p> <p><i>Issue</i></p> <p>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></p> <p>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.	The Applicant notes CWCC reserves its position on this matter.
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></p> <p>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></p> <p>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</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.	The Applicant acknowledges the response and has no further comments.

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
			<p><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 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.</p> <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.</p>		

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
2.3.50	Article 21(2)	<p>Applications made under requirements - deemed approval</p> <p><i>Issue</i></p> <p>This requirement includes the deemed approval for applications submitted pursuant to a requirement. This is too onerous.</p> <p><i>Amendment Required/Comment</i></p> <p>CWCC consider "deemed approval" should not be included within Article 21.</p>	<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.</p>	<p>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.</p>	<p>The Applicant notes the Council's acceptance.</p>
2.3.51	Article 22	<p>Multiple relevant authorities</p> <p><i>Issue</i></p> <p>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.</p> <p>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></p> <p>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>	<p>The Applicant would be willing to add the flexibility requested to agree a longer timescale but will not agree to extend the period.</p>	<p>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.</p>	<p>The Applicant notes that the 20 days period is only to provide comments on the form of proposed applications. The Applicant does not agree that is insufficient.</p>
2.3.52	Article 23(2)	<p>Further Information</p> <p><i>Issue</i></p> <p>"(2) If the relevant authority considers further information is necessary and</p>	<p>Where consultation is needed on a requirement that would be stated in the requirement and</p>	<p>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</p>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>the requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required.</p> <p>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></p> <p>CWCC may not know whether they need to consult a requirement consultee within the first 5 days. CWCC recommend that this be amended to a more reasonable length of time (e.g. 21 days) or removed in its entirety.</p>	<p>known upfront. That is stated in sub-paragraph (3).</p> <p>The Applicant will not agree to remove this wording but would be willing to amend the period to 10 days.</p>	<p>Council maintain that this either be 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></p> <p>“(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</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</p>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		<p>business days of receipt of such a request and in any event within 21 days of receipt of the application.”</p> <p>The 5 day timescales for issuing the consultation and reverting to the undertaker as to whether further information is required is not appropriate where external consultation is needed.</p> <p>Requiring a specified timescale for consultation of external bodies is not considered reasonable or necessary. This can be adequately dealt with under an agreed extension of time under Schedule 2 Part 2 (19(1)).</p> <p><i>Amendment Required/Comment</i></p> <p>CWCC advise this be amended to a more reasonable length of time (35 days).</p>		<p>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>	
2.3.54	Article 23(4)	<p>Further Information</p> <p><i>Issue</i></p> <p>“(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.”</p> <p>This is not considered reasonable – If insufficient info has been provided the host authority should have the right to ask for further information as deemed necessary. If this was to remain in place the Host Authority, if missing it's 5-day notice period, would have no</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>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b>).</p>

Previous Reference	LPA Reference	Written Representation submitted at Deadline1	Applicant's Response submitted at Deadline 2	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
		choice but to refuse the requirement application – this would be counterproductive. <i>Amendment Required/Comment</i> Advise this requirement is removed.			
Schedules 3 & 4					
2.3.55	All parts	<i>Issue</i> "In the County of Cheshire West and Chester" <i>Amendment Required/Comment</i> Reword: "In the Borough of Cheshire West and Chester"	This change will be made in the next revision of the dDCO.	The Council reserves its position until the amendment is made in the next iteration of the draft DCO.	The Applicant notes CWCC reserves its position on this matter.
Schedule 10 – Protective Provisions					
2.3.56	Part 7	Protective Provisions – Local highway authorities <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. <i>Amendment Required/Comment</i> CWCC reserve the right to comment on the protective provisions.	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.	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.	The Applicant is engaging with the Council on these points.

Table 2-7 – Cheshire West and Chester Council’s response to the to the Applicant’s comments to the Cheshire West and Chester Council’s Local Impact Report (26 April 2023) [REP1A-004] [REP3-044]


Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant’s Response (Deadline 2)	Council’s Response (Deadline 3)	Applicant’s Deadline 4 Comments
<b>5. Relevant Development Planning Policies</b>					
The Statutory Local Development Plan (LDP)					
2.2.4	5.3	<p>The Council notes that some relevant LDP Policies are missing from Table B4 ‘Planning policy compliance assessment: local planning policy (Cheshire West and Chester)’ [APP-048], as follows:</p> <p>STRAT 4 ‘Ellesmere Port’ refers to the key sites at Stanlow and Ince Park (which are close to the proposed Carbon Dioxide pipeline, a small part of the pipeline falls within Stanlow and the access falls within Protos). The potential impacts (or lack of negative impacts) on Stanlow and Ince Park (now known as ‘Protos’) should be considered. This is also covered by LPP2 policies EP 3 and EP 6, EP 1 which provide the settlement boundary linked to STRAT 4.</p> <p>STRAT 11 ‘Infrastructure’ supports the provision of new infrastructure, including schemes intended to mitigate and adapt to climate change and any cross-boundary schemes necessary to deliver the priorities of the LDP where this will have no significant adverse impact on recognised environmental assets.</p> <p>SOC 5 ‘Health and wellbeing’ identifies that development that gives rise to significant adverse impacts on health and quality of life (e.g. soil, noise, water, air or light pollution, and land</p>	<p>The Applicant acknowledges the response from CWCC and confirms that the Planning Statement, Appendix B was updated for Deadline 1 [REP1-013] to include any potential missing local policy.</p>	<p>As is stated in the Councils response to Applicant’s comments on the Relevant Representation [REP2-046], the Council acknowledges the inclusion of the identified missing Local Development Plan policies in the revised Planning Statement [REP1-013].</p>	<p>The Applicant acknowledges the response from CWCC and considers this matter to be resolved.</p>

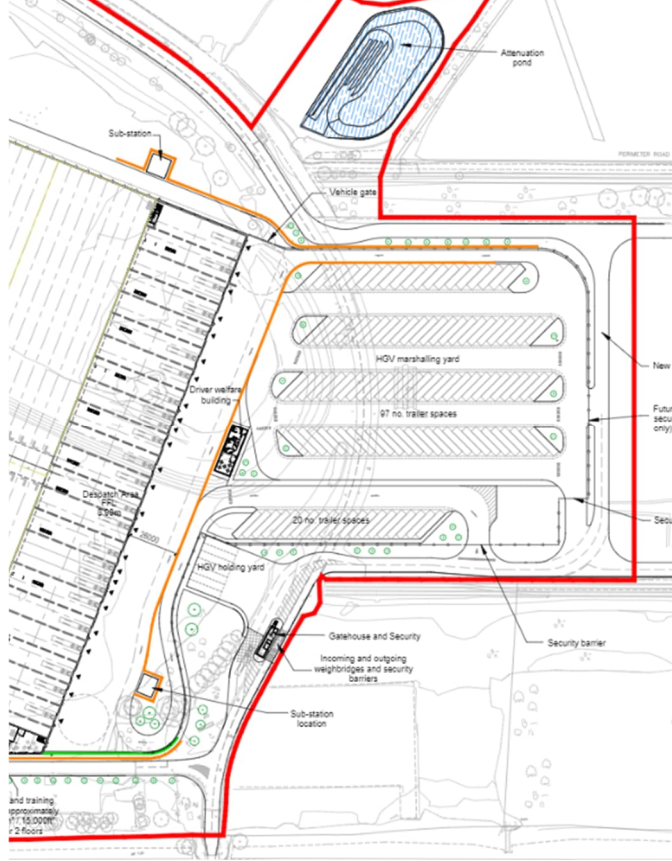



Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		<p>instability etc) including residential amenity, will not be allowed.</p> <p>EP6 'Ince Park' as the pipeline passes along the edge of this area and a small part of the access falls within the defined Protos boundary (EP 6).</p> <p>DM 2 'Impact on residential amenity' as this identifies that development will only be supported where it does not result in a significant impact upon the residential amenity of the occupiers of existing properties.</p> <p>DM 37 'Recreational routeways' identifies that development incorporating or adjacent to the following must protect and, wherever possible, enhance and extend: public rights of way, footpaths/bridleways, cycle routes, canals and waterways. This policy also identifies that re-routing should be avoided, but may be supported if the alternative route is acceptable and / or the re-routeing is for a temporary period.</p>			
2.2.5	5.4	<p>The route passes through and near to several made and emerging neighbourhood Plan areas which should also be taken into consideration as their 'made' policies form part of the LDP. It is noted that the submitted planning statement omits consideration of emerging plans. There is a made Neighbourhood Plan covering the Upton-by-Chester area and Helsby area and Neighbourhood Plans are currently under preparation for Frodsham, Ince, Dunham on the Hill and Hapsford and Mickle Trafford and</p>	<p>The Applicant acknowledges the response from CWCC and confirms that the Planning Statement, Appendix B was updated for Deadline 1 [REP1-013] to include any neighbourhood plan catchment areas which intersected the Order Limits.</p>	<p>The Council confirms that relevant neighbourhood plans have been correctly identified.</p> <p>The Ince Neighbourhood Plan was submitted for examination in January 2023 (Ref: 01/AM/INP) and is under examination.</p>	<p>The Applicant acknowledges the response from CWCC and considers this matter to now be resolved. The Applicant confirms they will monitor the status of the Ince Neighbourhood Plan through the examination.</p>

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		District. More information about Neighbourhood Plans is available at: Cheshire West and Chester Council - Neighbourhood Planning.			
<b>6. ECONOMIC IMPACTS</b>					
2.2.9	6.4	In terms of the local context, the LDP facilitates employment uses in Ellesmere Port and surrounding area, including the industrial areas Stanlow and Ince, and makes provision for transport and other infrastructure improvements. To meet strategic development requirements, land adjacent to Encirc Glass is allocated in the LDP for employment use (EP2 and EP2.A) together with land at Station Rd Ince (EP2 and EP2.G). Thornton Science Park (EP5), which is part of the University of Chester, is also located within the Stanlow Refinery boundary and has a close functional relationship with established industries in the wider area.	<p>The Applicant confirms that consideration for LDP Policy EP2 (and sub criterium) has been shown within Appendix B of the Planning Statement [REP1-013].</p> <p>The Applicant is engaging with a number of landowners which intersect the Order Limits and this is evidenced through the respective SoCG's for Peel [REP1-027], Cadent Gas [REP1-031], Essar Oil (UK) Limited [REP1-032], and CF Fertilisers UK Limited [REP1-039]. An SoCG with Encirc (document reference: D.7.2.36) will also be submitted at Deadline 2.</p>	The Council acknowledges and notes the ongoing engagement / negotiations with local landowners in respect of the employment uses affected by the Project.	The Applicant acknowledges this response and has no further comments at this time.
2.2.10	6.5	Some of the borough's major employers are in the vicinity of the pipeline in Ellesmere Port and Ince areas. One of the major employers immediately adjacent to the Project, CF Fertilisers, announced closure in 2022. The LDP supports refurbishment/enhancement of the site for continued economic use. The main employment areas to the east of Ellesmere Port town centre and the M53, are within the settlement boundary for Ellesmere Port and	The Applicant acknowledges the response from CWCC and confirms that a collaborative approach has been undertaken with developers (including CF Fertilisers) to ensure the DCO Proposed Development is compatible with uses in the locality to meet future employment needs. The Applicant has a number of SoCGs set up with developers including CF Fertilisers [REP1-	The Council acknowledges and notes the ongoing engagement / negotiations with local landowners in respect employment uses.	The Applicants acknowledges this response and has no further comments at this time.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		bounded by Green Belt. LDP Policy requires all development proposals in Ellesmere Port be compatible with the retained employment uses in the locality and would be supported where they would not limit the range, choice and quality of employment sites available to meet future employment needs.	<b>039]</b> which will record the progress of discussions throughout the examination.		
2.2.11	6.6	The Planning Statement, Table B4 Planning Policy Compliance Assessment for CWAC Local Plan [APP-048], does not identify that part of the DCO limits fall within an area of land allocated to meet the strategic requirement for new employment development in Ellesmere Port: Policy EP2/EP2.A land at Encirc Glass Ltd (34 hectares, use classes B1, B2, B8) or Protos (Ince Park).	The Applicant acknowledges the response from CWCC and confirms that the Planning Statement, Appendix B was updated for Deadline 1 [REP1-013] to include any potential missing local policy.	As is stated in the Council's response to Applicant's comments on the Relevant Representation <b>[REP2-046]</b> , the Council acknowledges the inclusion of the identified missing LDP policies in the revised Planning Statement <b>[REP1-013]</b> .	The Applicants acknowledges this response and has no further comments at this time.
2.2.12	6.7	The Project includes a permanent access route at Grinsome Road roundabout shown on plans EN070007-D.2.4-WP-Sheet 1, (work.no.3) [AS-12] which passes through the Protos (Ince Park) development site. This site is safeguarded under LDP Policies ENV8, STRAT4, ECON1 and EP6 for employment uses. Policy ECON1 details that 'Protos' site is a key employment location identified in the LDP which is safeguarded as essential to meeting the future economic growth.	The Applicant acknowledges the response from CWCC and that the Order Limits intersect along the edge of this area and a part of the access falls within the defined Protos boundary (EP6), which is a safeguarded area. A collaborative approach has been shown with developers here to ensure appropriate development is delivered.  A record of engagement has been submitted in the Schedule of Negotiations with Land Interests [REP1-009]. Statements of Common Ground have been submitted	Whilst the Council notes the above 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 maintains its concerns on this matter.  In addition to the access issue raised regarding the Protos Plastics Park, as outlined in paragraph 6.8 of LIR <b>[REP1A-002]</b> 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 <b>[REP1-004]</b> , could also potentially impact upon a proposed significant expansion of the adjacent Encirc glass manufacturing facility which is on a site safeguarded under	The Applicant notes the response from CWCC. The Applicant is engaging with Encirc limited on a regular basis through commercial discussions. The issue regarding access for both project is one of the points discussed by the parties and a commercial agreement and protective provisions are in negotiation between the parties to ensure that both developments can coexist.  The Applicant notes its development, provides a critical piece of infrastructure that will enable the future development of Encirc Limited's sites, as it allows for Low Carbon Hydrogen fuel production. This is an enabling project that will ensure the prosperity of Encirc limited and other businesses located in CWCC's authority.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
			at Deadline 1 with adjacent landowners such as Peel [REP1-027].	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.	
2.2.13	6.8	<p>As part of the wider Protos (Ince Park) development, the masterplan of a recently approved Plastics Park (planning application no. 21/04076/FUL) shown in figure 6.1. Project 'work.no3' runs directly through plot 11 and building of the approved plastics park masterplan see figure 6.1 below, effectively sterilising this part of the site.</p>  <p>Figure 6.1 – Extract of the Ince Park Plastics Masterplan - Drawing Number: 20039-FRA-XX-00-DR-A-90-0005 P2 approved under application no. 21/04076/FUL and works no.3, EN070007-D.2.4-WP-Sheet 1 [AS-012].</p>	<p>The Applicant acknowledges the potential for future delivery of the Protos Plastic Park (CWCC reference: 21/04076/FUL) and Protos Railway Line (CWCC reference: 10/01488/FUL, amended by CWCC reference: 14/02277/S73). The combined and cumulative effects of the DCO Proposed Development and the Protos Plastic Park (CWCC reference: 21/04076/FUL) have been assessed within Chapter 19 - Combined and Cumulative Effects of the 2022 ES [APP-071] and of the Environmental Statement Addendum Change Request [CR1-124].</p> <p>The Applicant continues to engage with Peel NRE directly on this matter. A record of this engagement is available in the Peel SoCG [REP1-027] updated at Deadline 2.</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>	
2.2.14	6.9	By sterilising part of approved development which falls within an area safeguarded for economic / employment uses in the LDP, the Council highlights the Project's potential for adverse local economic impacts.	The Applicant refers CWCC to the responses 2.2.10 to 2.2.13 above.		

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
				 <p data-bbox="1489 1102 2116 1218">Extract from Proposed Site Plan 12473-AEXX-XX-DR-A-0501 Rev P23 of application no. 22/03693/FUL</p>	

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
				 <p data-bbox="1498 1333 2107 1396">Work No.3, EN070007-D.2.4-WP-Sheet 1 (Rev D) [REP2-005]</p> <p data-bbox="1498 1417 2107 1575">The Council would welcome engagement and constructive dialogue from the Applicant in respect the impacts of the proposed permanent access (Work No. 3).</p>	

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
2.2.15	6.10	<p>The Council highlights the potential for local impacts on existing businesses/operations or future expansion redevelopment plans, such as at Protos,</p> <p>Encirc and CF Fertilisers sites, which can, as outlined above, be directly affected by the Project and indirectly by any potential future Safeguarding Directions placed on the land. NPPF paragraph 187 (agent of change) states this is to ensure existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The Council note that Document D4.1.1 [APP-028] states that negotiations by the Applicant are ongoing with Encirc and Peel NRE.</p>	<p>The Applicant acknowledges the response from CWCC and considers that there is appropriate ongoing communication as evidenced within the submitted SoCG's. Statements of Common Ground have been submitted at Deadline 1 with adjacent landowners such as Peel [REP1-027] and CF Fertilisers [REP1-039]. The Applicant proposes to submit an SoCG with Encirc (document reference: D.7.2.36) at Deadline 2.</p> <p>It is considered by the Applicant that, through engagement, the Applicant can co-ordinate with businesses/operators to ensure there is a minimal impact and that safeguarding is adhered too.</p>	<p>The Council acknowledges and notes the ongoing engagement / negotiations with local landowners in respect employment uses.</p> <p>As is noted at 2.2.9 above there is the potential for impacts to the expansion of Encirc.</p>	Please refer to row 2.2.12 above.
<b>9 CULTURAL HERITAGE (ES CHAPTER 8)</b>					
Conservation					
2.2.25	9.5	<p>The Ince Above Ground Installation (AGI) (work no.1) will be located within a compound of approximately 1800sqm, with buildings up to 5m and secure fencing up to 3.5m in height. The Ince AGI does not appear to have any direct effect on any heritage assets however due to its proximity to both Ince and Elton Conservation Areas, both within the 1km study area there is the potential for impacts.</p>	<p>Both the Ince and Elton Conservation Areas will be screened from Ince AGI. The Ince conservation area will be located at least 1.3km from the AGI and the extant Protos development is located between the conservation area and the AGI. While the Elton Conservation Area is approximately 0.5km from the</p>	<p>The Council accepts that impacts from the Ince AGI on Ince and Elton Conservations areas have been scoped out of the Heritage Assessment [APP-060], and as such it is accepted that there would be no resulting likely significant harm to these heritage assets from this and therefore no specific requirement for mitigation including 'vegetative screening' as a result of impact on heritage at this location.</p>	The Applicant notes CWCC's comment and has no further comments at this time.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
			Ince AGI, it is located within a built-up urban area with no views of the proposed AGI. As a consequence, the conservation areas were scoped out of the assessment as there is no likely impact upon them. This is detailed in Table 8.1 of Chapter 8 Cultural Heritage [APP-060].		
2.2.26	9.6	The same is to be said for the Stanlow AGI (work no.9). This 2656sqm compound would be lit permanently and is located just outside the Thornton-le-Moors conservation area. There is the potential for impacts from lighting on views into and out of the conservation area, especially in the evenings.	The Thornton-le-Moors Conservation Area is assessed within paragraphs 8.2.1-8.2.3 and 12.2.4-12.2.5 of Appendix 8.1 [APP-084 to APP-086]. This concludes that " <i>The view from the CA to the proposed AGI is screened by thick mature vegetation and the AGI is set within the industrial landscape of the Stanlow Manufacturing Complex and would likely blend into the refinery infrastructure.</i> " The final assessment is temporary slight adverse (not significant) during construction works and permanent slight adverse (not significant) during the operation stage.	The Council accepts the Applicant's position on this point and confirms, that due to the Stanlow AGI' location with existing screening, there is no requirement for any further mitigation as a result of any heritage impacts at this location.	The Applicant notes CWCC's comment and has no further comments at this time.
2.2.29	9.9	ES Chapter 8 [APP-060] gives an overview of the assessment in relation to above ground heritage. The Councils previous response to the PIER requested that individual Heritage Impact Assessments (HIA's) be submitted for each heritage asset within the DCO limits. From the	All assets within the Newbuild Infrastructure Boundary are included within the assessment. While Chapter 8 [APP-060] and [CRT-142] details the likely significant effects of the DCO Proposed Development, other impacts	The Council accepts the Applicants reasoning and position on this matter including the absence of individual heritage impact assessments for the AGIs and BVs	The Applicant notes CWCC's comment and has no further comments at this time.



Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		<p>information submitted in ES Chapter 8 [APP-060] it does not appear this information has been submitted. As such a true assessment of the impacts of the proposed BV and AGIs has not been undertaken at this stage.</p>	<p>are detailed in Section 7 to 13 of Appendix 8.1 [APP-084 to APP-086]. As well as considering assets within the Newbuild Infrastructure Boundary, the assessment covers assets which could be affected by changes in their setting, including:</p> <ul style="list-style-type: none"> <li>• Thornton-le-Moors Conservation Area</li> <li>• Chester Canal Conservation Area</li> <li>• The scheduled Moated Site, Fishpond and Connecting Channel, Elton</li> <li>• Picton Conservation Area</li> <li>• The Willows and associated barn and sundial (all Grade II listed buildings)</li> <li>• Footpath guidepost (grade II listed building)</li> </ul> <p>Each of these assets contains a statement of significance in line with NPPF, and considers the contribution setting makes to that significance, in line with guidance from Historic England.</p> <p>As stated in Paragraph 8.1.2 of Appendix 8.1 [APP-084 to APP-086], 130 heritage assets were scoped out of the assessment with rationale and were not considered further.</p>		

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
			It is not proportionate or required for Heritage Impact Assessments to be undertaken as individual reports as part of the DCO process. However, the information contained within Appendix 8.1 [APP-084 to APP-086] covers this requirement.		
2.2.30	9.10	ES Chapter 8 [APP-060] does however discuss the contribution of the Setting to the Value of Heritage Assets effect by the proposal and their relative sensitivity is provided within Table 8.5 [APP-060]. The Sensitive Heritage receptors identified as High as part of this process includes the Thornton le Moors Conservation Area, The Willows (Grade II), Barn 25 metres southeast of Willow Farmhouse (Grade II) and Sundial within the garden of The Willows (Grade II) for which the impact of the scheme should be expected to be addressed in more detail.	The impact on Thornton-le-Moors Conservation Area can be found in paragraphs 8.2.1-8.2.3 and 12.2.4-12.2.5, and the impact assessment on The Willows, barn and sundial is included within Paragraphs 12.3.4 to 12.3.6 of Appendix 8.1 [APP-084 to APP-086]. They are not assessed within Chapter 8 [APP-060] and [CRT-142] as the impacts are considered by the Applicant to be temporary slight adverse (not significant) effect.	The Council accepts this position and, as outlined in paragraph 2.2.29 above, whilst considering the Applicants response the Council accept the reasoning for the absence of individual heritage impact assessments.	The Applicant notes CWCC's comment and has no further comments at this time.
2.2.33	9.12	It is agreed that screening, in addition to site layout, will help in reducing the visual impact on the setting of the affected heritage assets and has the potential to mitigate any significant effects. In consideration that only general parameters (Requirement 4 of the draft DCO) and an indicative layout and elevations have been provided, and these only give some impression of the scale of the installations, the heritage assessments undertaken to date are not able to fully consider the impacts of the final layout or go into	While the assessments are based upon the indicative layouts and elevations, as stated in Chapter 5 of the ES [APP-057] and [CRT-142], in paragraph 5.12.1 " <i>In line with the Rochdale envelope approach, the EIA reported in this ES is based on likely reasonable worst case assumptions about the construction and operation of the DCO Proposed Development.</i> " Therefore, the	The Council is satisfied with this explanation and refer to the Council's comments in paragraph 2.2.36 below.	The Applicant notes that CWCC is satisfied on this matter and has no further comments at this time.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		any further depth regarding materials and mitigation measures that may be in effect in each instance.	impact assessment reflects the worst case and any reassessment following detailed design would not change the impact assessment for the worse.		
2.2.34	9.13	<p>The Council also highlight the need for adequate consideration in respect the potential for impact of vegetation removal during the construction phase on heritage assets, including the ability to replant any trees within 15m of the pipeline (30m gap). The change to the wider open setting of historic assets in rural area can be key to their significance. Again, until the final scheme design has been established the magnitude of any such effects on the setting of heritage assets is therefore difficult to quantify.</p>	As stated in the response to 2.2.33 above, the Applicant has assessed the worst case scenario so any tree removal is considered as part of the assessment.	The Council is satisfied with this explanation and refer to the Council's comments in paragraph 2.2.36 below.	The Applicant notes that CWCC is satisfied on this matter and has no further comments at this time.
2.2.35	9.14	Whilst details of planting and materials are required to be provided by the Outline Landscape Management Plan (OLEMP) [APP-229] it is noted that any further requirement for mitigation to be directed by further Heritage Impact Assessments is not specified within the OLEMP or the Register of Environmental Actions and Commitments (REAC) [AS-054] and is not directly provided for in the wording of the Requirements in the draft DCO.	Cultural heritage matters are not normally included in the Landscape and Ecological Mitigation Plan [APP-229]. Details are included within the REAC [REP1-015 and CR1-109] and within the Outline Archaeological Written Scheme of Investigation [APP-223].	Please see the Council's response in paragraph 2.2.36 below.	The Applicant notes that CWCC is satisfied on this matter and has no further comments at this time.
2.2.36	9.15	In conclusion, it is considered that a thorough assessment of the potential and mostly limited impacts on the historic environment has been	The mitigation for impacts caused by changes to setting can be found in paragraph 8.10.8 of Chapter 8 of the 2022	The Council notes the requirement for detail of replacement and screen planting is to be secured by the final LEMP, and in view of the assessment being based upon the findings of	The Applicant notes that CWCC is satisfied on this matter and has no further comments at this time.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		undertaken and that further detail and mitigation can be provided and secured as part of the approved scheme albeit with further heritage assessments either within a revised OLEMP or directly by the wording of the Requirements in the draft DCO.	ES [APP-060] and [CRT-142]. This 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.  Mitigation relevant to cultural heritage are included within the REAC [REP1-015], as secured by the CEMP within Requirement 5 of the dDCO [REP1-004] and within the Outline Archaeological Written Scheme of Investigation [APP-223], as secured by Requirement 10 of the dDCO [REP1-004].	the Heritage Assessment where considerations have been based on a 'worst case scenario', the Council is satisfied that any requirement for further specific heritage assessments in the OLEMP or Draft DCO would not be necessary to ensure that there would be no resulting significant harm to identified heritage assets from the Project.	
<b>10 BIODIVERSITY (ES CHAPTER 9)</b>					
<i>Surveys and Assessment of Likely Impacts and Effects</i>					
2.2.48	10.4	An updated ES Chapter 9 [AS-025] and additional survey data in respect bats and riparian mammals has been provided [AS-029-042 and AS-057-59] and was accepted by the ExA as	The Applicant refers CWCC to the response to row 2.2.49 below.	The Council directs the ExA to the response in paragraph 2.2.49 below.	The Applicant refers CWCC to the response to row 2.2.49 below.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		additional information on the 20 <sup>th</sup> March 2023. On review of the scope of all the reported surveys, including the Additional Submission, the Council notes that there remains to be incomplete surveys including for Bats and Riparian mammals.			
2.2.49	10.5	In view the incomplete surveys the Council raise doubt as to the robustness of conclusions of level of impacts on ecological receptors presented in ES Chapter 9, until this has been resolved the Council is unable to give a detailed view of the impacts of the Project on ecological receptors. This is reflected in the Council's currently limited response on local impacts.	Through consultation with CWCC in advance of submission of the DCO Application, the Applicant made CWCC aware of the need to apply a Precautionary Approach to assessment and surveys due to on-going issues with land access (despite use of appropriate powers), as well as the need for the Applicant to submit supplementary information post DCO Application (as captured within Table 2-1 – Record of Engagement in relation to the DCO Proposed Development and item CWCC 3.6.2 of Table 3-6 of the Statement of Common Ground – Cheshire West and Chester Council [REP1-021]). The Applicant as such has highlighted within Chapter 9 of the ES [AS-026] and [CR1-142], and the associated appendices, where limitations to survey effort have occurred and where a precautionary approach to assessment has been utilised. As discussed with CWCC during consultation pre-DCO	<p>A review of the updated survey information is provided within the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] and within paragraphs 2.12.7 and 2.12.8 of the Council's response to Applicants comments on its Relevant Representation [REP2-046].</p> <p>The Council appreciates that some survey updates will happen through the process, and some updated surveys have been since received, however, at this stage it is the Council's position that ecological surveys are to date incomplete. As is highlighted in the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] and response to Applicants comments on its Relevant Representation [REP2-046] there are discrepancies in the updated reports. Additionally, the ecological survey progress, and the proportion of "precautionary approaches" used, compared to field results, is not clear. This means that the Council is unable to make robust conclusions on impacts on protected species and habitats from the survey results and analysis provided so far.</p> <p>The Council's position is that a number of clarifications remain to be provided regarding the protected species surveys, including potentially incomplete survey data for Bat and Barn Owls.</p>	<p>The Applicant has addressed concerns relating to survey information within the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] within the Applicant's Response to Cheshire West and Chester Council's Written Representation Addendum (biodiversity) [REP3-038]. The Applicant has also held meetings with the council to discuss concerns and queries raised with a view to providing the clarity sought by the council, as captured within an updated Statement of Common Ground (SoCG) [REP2-027] to be submitted at Deadline 5.</p> <p>The Applicant has addressed points 2.12.7 and 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation [REP2-046] within row 2.1.7 and 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 [REP3-033].</p> <p>In addition, the Applicant has engaged further with CWCC and held meetings to address concerns regarding ecological survey data and the robustness of the field survey data. Through this engagement, it is the Applicant's understanding that CWCC's concerns have been addressed appropriately. Recent discussions between CWCC and the Applicant will be submitted within an updated Statement of Common Ground (SoCG) [REP2-027] at Deadline 5, with a view to capturing the council's concerns as an 'Agreed' item through the SoCG.</p>

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
			<p>Application, the Applicant has additionally taken a precautionary approach to mitigation prescriptions and recommendations, owing to the need to apply a precautionary assessment to a select number of receptors, and is therefore confident that the mitigation items provided within the OCEMP [REP1-017 and CR-119] are sufficiently robust. The Applicant seeks to engage with CWCC through the SoCG and will update the document accordingly in response through the Examination.</p>		
<i>Local Wildlife Sites (LWS)</i>					
2.2.52	10.8	<p>There are potential direct impacts on LWS from the Projects temporary construction works. Note should be made to the impacts upon Frodsham Helsby and Ince Marshes; Saughall Bank; Gowy Meadows and Ditches; and Gowy Meadows and Ditches LWS all of which lie within the DCO limits and are locations where the quality of any reinstatement works, and aftercare is of importance. In these instances, the Council would advise reinstatement is secured such that the habitats reach a level of either priority habitat status or enhanced condition and the long-term (30year) management plan is put in place to mitigate any impacts.</p>	<p>Current BNG guidance requires consideration of securing land for habitat maintenance and management for 30 years. Mitigation planting and BNG are separate and distinct concepts with different requirements, and it is inappropriate to conflate these. Habitat planting for mitigation (including reinstatement of habitats) will be maintained for the establishment period to ensure the function is met then land management will return to the landowner. It is inappropriate for the Applicant to seek to control and restrict a</p>	<p>The Council accepts the point regarding conflating BNG and LWS management periods. However, the Council reiterates that LWS mitigation and/or compensation for permanent LWS loss should be secured such that the habitats are in the locality of the LWS and reach a level of either priority habitat status or enhanced condition in the long-term.</p>	<p>The Applicant reiterates that habitat planting for LWS mitigation will be maintained for the establishment period to ensure the function is met, then land management will be returned to the landowner. Permanent habitat losses from LWS are restricted to and associated with the location of the Ince AGI, sited within the Frodsham, Helsby and Ince Marshes LWS. The location of the AGI falls within a worked agricultural field, however, the Priority Habitat mapping shapefile layers categorise the field as Coastal Floodplain Grazing Marsh. The permanent habitat losses associated with the AGI siting represent 0.03% of the total LWS area. Habitats temporarily impacted to facilitate construction will be reinstated post construction and it is expected that their condition will return to that of baseline levels within two years of works completion, but also remain in the same management as that currently (i.e. worked agricultural). Given its current use, the</p>

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
			landowner's use of land for 30 years for this form of planting.		landscape design associated with the AGI provides a betterment in terms of habitat variety and composition beyond that of the worked field. The landscape design will be further developed during detailed design and shall have regard for LWS habitats. The Applicant can confirm that habitats affected by or created following the DCO Proposed Development will be subject to appropriate management to be defined at the detailed design stage within the LEMP (secured by Requirement 11 of the dDCO <b>[REP3-005]</b> ) as captured within item D-BD-062 (Outline CEMP <b>[REP2-022]</b> ) as secured by Requirement 5 of the dDCO <b>[REP3-005]</b> .
2.2.53	10.9	The Council notes that the Frodsham Helsby and Ince Marshes LWS will be directly impacted by the Project for the permanent siting of the Ince AGI (work. no.1) and its access.	The Applicant acknowledges the response from CWCC and has no further comments.	The Council directs the ExA to the response in paragraph 2.2.52 above.	The Applicant refers CWCC to the response to row 2.2.52 above.
<i>Protected Species Considerations – Bats</i>					
2.2.54	10.10	Further to identified likely significant effects assessment within ES Chapter 9 (Table 9.11) [AS-025] the Council agrees that there is the potential for both direct and indirect impacts on bat roost resulting from the Project by way of loss and impact upon hedgerows and trees. Without full survey information and robust assessments, the Council does not consider there to be sufficient information to be able to have a view on the degree or significance of effects or the residual impacts.	Updated survey information was submitted to the Inspectorate on 3 March 2023 including Appendix 9.3 – Bat Activity Survey Report Part 1 [AS-057] and Part 2 [AS-029] and Appendix 9.4 – Bat and Hedgerows Assessment Part 1 to Part 7 [AS-031-AS-038]. The Applicant also responded to this point in row 2.12.7 of the Applicant's Response to Relevant Representations [REP1-042].	The Council directs the ExA to paragraph 2.27 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A <b>[REP1A-004]</b> and points 2.12.7 and 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation <b>[REP2-046]</b> . The Council also directs the ExA to the comments in 2.2.49 above, in particular the comment regarding discrepancies in updated surveys and survey progress.	The Applicant has addressed paragraph 2.27 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A <b>[REP1A-004]</b> within row 2.26 of the Applicant's Response to Cheshire West and Chester Council's Written Representation Addendum (biodiversity) <b>[REP3-038]</b> . The Applicant has addressed points 2.12.7 and 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation within row 2.1.7 and 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 <b>[REP3-033]</b> .
<i>Protected Species Considerations – Riparian Mammals</i>					

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
2.2.55	10.11	Further to identified likely significant effects assessment within ES Chapter 9 (Table 9.11) [AS-025] the Council agrees that there is the potential for both direct and indirect impacts on Riparian Mammals resulting from the Project by way of impacts from the disturbance and severance of watercourses as well as potential impacts on local drainage. Without full survey information and robust assessments, the Council does not consider there to be sufficient information to be able to have a view on the degree or significance of effects or the residual impacts.	Updated survey information was submitted to the Inspectorate on 3 March 2023 including Appendix 9.6 – Riparian Mammal Survey Report Part 1 to 3 [AS-039 to 42]. The Applicant also responded to this point in row 2.12.7 of the Applicant's Response to Relevant Representations [REP1-042]. The Applicant also refers to its response to row 2.2.49 above.	The Council directs the ExA to paragraph 2.30 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] and to 2.2.7 and 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation [REP2-046].  The Council also directs the ExA to the Council's comments in paragraph 2.2.49 above and in particular the comment regarding discrepancies in updated surveys and survey progress	The Applicant has addressed paragraph 2.30 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] within row 2.29 of the Applicant's Response to Cheshire West and Chester Council's Written Representation Addendum (biodiversity) [REP3-038].  The Applicant has addressed points 2.12.7 and 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation within row 2.1.7 and 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 [REP3-033].  In addition, the Applicant has engaged further with CWCC and held meetings to address concerns regarding ecological survey data, including riparian mammals, and the robustness of the field survey data. Through this engagement, it is the Applicant's understanding that CWCC's concerns have been addressed appropriately. Recent discussions between CWCC and the Applicant will be submitted within an updated SoCG [REP2-027] at Deadline 5, with a view to capturing the council's concerns as an 'Agreed' item through the SoCG.
<i>Protected Species Considerations – Great Crested Newts</i>					
2.2.56	10.12	Further to identified likely significant effects assessment within ES Chapter 9 (Table 9.11) [AS-025] the Council agrees that there is the potential for both direct and indirect impacts on GCN resulting from the Project by way of direct injury during construction works, impacts from the disturbance to ponds and connected habitats as well as potential impacts on local drainage.	The Applicant acknowledges the response from CWCC and has no further comments.	The Council refers the ExA to paragraph 2.35 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] and to paragraph 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation [REP2-046].  It is noted that the Applicant has yet to provide a response.	The Applicant has addressed paragraph 2.35 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] within row 2.33 of the Applicant's Response to Cheshire West and Chester Council's Written Representation Addendum (biodiversity) [REP3-038].  The Applicant has addressed point 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation within row 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 [REP3-033].  In addition, the Applicant has engaged further with CWCC and held meetings to address concerns regarding ecological survey data, including GCN, and



Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
					the robustness of the field survey data. Through this engagement, it is the Applicant's understanding that CWCC's concerns have been addressed appropriately. Recent discussions between CWCC and the Applicant will be submitted within an updated SoCG [REP2-027] at Deadline 5, with a view to capturing the council's concerns as an 'Agreed' item through the SoCG.
<i>Protected Species Considerations – Badgers</i>					
2.2.57	10.13	Further to identified likely significant effects assessment within ES Chapter 9 (Table 9.11) [AS-025] the Council agrees that there is the potential for both direct and indirect impacts on Badgers resulting from the Project by way of loss of setts, direct mortality / injury from construction activities, loss and severance of habitat, impact from noise light and vibration, and effects to commuting.	The Applicant acknowledges the response from CWCC and has no further comments.	The Council refers the ExA to paragraph 2.37 the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] and to paragraph 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation [REP2-046].  It is noted that the Applicant has yet to provide a response.	The Applicant has addressed paragraph 2.37 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] within row 2.35 of the Applicant's Response to Cheshire West and Chester Council's Written Representation Addendum (biodiversity) [REP3-038].  The Applicant has addressed point 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation within row 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 [REP3-033].  In addition, the Applicant has engaged further with CWCC and held meetings to address concerns regarding ecological survey data, including badger, and the robustness of the field survey data. Through this engagement, it is the Applicant's understanding that CWCC's concerns have been addressed appropriately. Recent discussions between CWCC and the Applicant will be submitted within an updated SoCG [REP2-027] at Deadline 5, with a view to capturing the council's concerns as an 'Agreed' item through the SoCG.
<i>Protected Species Considerations – Barn Owls</i>					
2.2.58	10.14	The Barn Owl Survey report [APP-108] identifies three features including one roost and two nesting sites. Further to identified likely significant effects	The Applicant acknowledges the response from CWCC and has no further comments.	The Council refers the ExA to paragraph 2.39 the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] and paragraphs 2.12.7	The Applicant has addressed paragraph 2.39 of the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] within row 2.37 of the Applicant's Response to Cheshire

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		assessment within ES Chapter 9 (Table 9.11) [AS-025] the Council therefore agrees that there is the potential for significant direct and indirect impacts on Barn Owls resulting from the Project by way of loss of direct mortality / injury from construction activities, loss of nesting and roost sites, loss and severance of habitat, and the impact from noise light and vibration.		and 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation [REP2-046].  It is noted that the Applicant has yet to provide a response.	West and Chester Council's Written Representation Addendum (biodiversity) [REP3-038].  The Applicant has addressed points 2.12.7 and 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation within row 2.1.7 and 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 [REP3-033].  In addition, the Applicant has engaged further with CWCC and held meetings to address concerns regarding ecological survey data, including barn owl, and the robustness of the field survey data. Through this engagement, it is the Applicant's understanding that CWCC's concerns have been addressed appropriately. Recent discussions between CWCC and the Applicant will be submitted within an updated SoCG [REP2-027] at Deadline 5, with a view to capturing the council's concerns as an 'Agreed' item through the SoCG.
<i>Protected Species Considerations – Breeding/Wintering Birds</i>					
2.2.59	10.15	Further to identified likely significant effects assessment within ES Chapter 9 (Table 9.11) [AS-025] the Council agrees that there is the potential for significant direct and indirect impacts on Breeding / Wintering Birds resulting from direct injury during construction works, loss of nesting and foraging during construction, disturbance / displacement.	The Applicant acknowledges the response from CWCC and has no further comments.	The Council refers the ExA to paragraph 2.41 the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A [REP1A-004] and paragraph 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation [REP2-046].  It is noted that the Applicant has yet to provide a response.	The Applicant has provided a response to Council's Addendum to Written Representations (Biodiversity) [REP1A-004] paragraph 2.41 within row 2.39 within the Applicant's Response to Cheshire West and Chester Council Written Representation Addendum (Biodiversity) [REP3-038].  The Applicant has addressed point 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation within row 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 [REP3-033].  In addition, the Applicant has engaged further with CWCC and held meetings to address concerns regarding ecological survey data, including breeding/wintering birds, and the robustness of the field survey data. Through this engagement, it is the Applicant's understanding that CWCC's concerns have been addressed appropriately. Recent

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
					discussions between CWCC and the Applicant will be submitted within an updated SoCG <b>[REP2-027]</b> at Deadline 5, with a view to capturing the council's concerns as an 'Agreed' item through the SoCG.
<i>Fish</i>					
2.2.60	10.16	Further to identified likely significant effects assessment within ES Chapter 9 (Table 9.11) [AS-025] the Council agrees that there is the potential for significant direct and indirect impacts on fish resulting from the Project by way of significant direct and indirect impacts from trenchless construction operations, habitat watercourse severance, disturbance, habitat (water quality) degradation.	The Applicant acknowledges the response from CWCC and has no further comments.	The Council refers the ExA to paragraph 2.42 the Council's Addendum to Written Representations (Biodiversity) submitted at DL1A <b>[REP1A-004]</b> and paragraph 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation <b>[REP2-046]</b> .  It is noted that the Applicant has yet to provide a response.	The Applicant has provided a response to Council's Addendum to Written Representations (Biodiversity) <b>[REP1A-004]</b> paragraph 2.42 within row 2.40 within the Applicant's Response to Cheshire West and Chester Council Written Representation Addendum (Biodiversity) <b>[REP3-038]</b> .  The Applicant has addressed point 2.12.8 of the Council's response to Applicant's comments on its Relevant Representation within row 2.18 of the Applicant's Comments on Submissions Received at Deadline 2 <b>[REP3-033]</b> .  In addition, the Applicant has engaged further with CWCC and held meetings to address concerns regarding ecological survey data, including fish, and the robustness of the field survey data. Through this engagement, it is the Applicant's understanding that CWCC's concerns have been addressed appropriately. Recent discussions between CWCC and the Applicant will be submitted within an updated SoCG <b>[REP2-027]</b> at Deadline 5, with a view to capturing the council's concerns as an 'Agreed' item through the SoCG.
LAND AND SOILS (ES CHAPTER 11)					
<i>Land Contamination</i>					
2.2.65	12.4	The requirement for further site investigations is detailed under the OCEMP [AS-055] which is to form the final CEMP. Table 6.8 (Construction Management and Mitigation – Land and Soils) of the OCEMP [AS-055]	Environment Agency 'Land Contamination Risk Management', LCRM (2021) guidance requires that a remediation strategy includes details of how the remediation	The Council notes the Applicant's intention to include verification in REAC commitment D-LS-021 <b>[REP1-015]</b> . For clarification the Council notes that REAC commitment D-LS-021 <b>[REP1-015]</b> OCEMP reference D-LS 21 <b>[REP1-017]</b> has not been updated to include	The Applicant can confirm that REAC commitment D-LS-021 <b>[REP2-017]</b> , as secured by the OCEMP <b>[REP2-021]</b> through Requirement 5 of the DCO <b>[REP3-005]</b> , was updated at Deadline 2 to state that the remediation strategy will include a verification report.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		provides details of the additional investigation to be undertaken (Unique ES Reference D-LS-020). D-LS-021 states that if remediation is required a suitable remediation strategy will be produced following the additional ground investigation. The Council note that there is no mention of validation of remediation works which is an essential part of any remediation plan.	will be verified through a verification plan (part of the remediation strategy).  The Applicant has added reference to the inclusion of a verification report within the remediation strategy requirement in REAC [REP1-015 and CR1-109] commitment D-LS-021, as submitted at Deadline 2.	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 paragraph 2.3.35, below, the Council would require this to be submitted for approval for this to be acceptable.	
2.2.66	12.5	Requirement 9 (Contaminated Land and Groundwater) under Schedule 2 Part 1 of the of the draft Development Consent Order [AS-016] addresses the requirement for dealing with any impacts from unexpected contamination and sets out how it would be managed. The Council concurs with this approach. It is however noted that again the requirement for remediation validation / verification reporting is absent from this Requirement and that this should be included to ensure any necessary remediation is successful.	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.		The Applicant refers the Council to its summary of submissions to ISH2.
<i>Mineral Safeguarding</i>					

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
2.2.77	12.16	The Council advise that a mineral management / safeguarding plan should form a clear part of the developments approved Construction Environment Protection Plan (CEMP). It is advised that the minerals management plan should include details of the material to be extracted / removed from the ground and an assessment of opportunities for processing and / or re-use of the material. If the material extracted includes granular material (aggregate sand or gravel), this should be processed as necessary and re-used where possible to provide granular bedding material for the pipeline. The MRA identifies that many of the safeguarded mineral deposits intersected consist of sand and gravel which may be suitable for use as bedding for the pipeline and this would reduce the volume of sand and gravel that would need to be imported. If this is not considered the best option in environmental terms (due to the need for it to travel long distances for processing for example), it should be re-used to backfill the trench rather than as bedding within the trench or for other localised works if possible. This would reduce the need to dispose of the material extracted off-site.	The Applicant considers that commitments D-MW-006 and D-MW-001 of the REAC [REP1-015 and CR1-109] 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.	The Council would highlight that the key consideration in relation to impacts on safeguarded mineral resources is the consideration as to the ability / feasibility of mineral resources, extracted incidentally, to be reused within the Project or other developments.  The Council consider that the Project impacts on mineral resources can be effectively dealt within a suitably worded Materials Management Plan (MMP) and / or Waste Management Plan (WMP) both which have yet to be submitted as part of the final CEMP.	The Applicant has considered the comments from CWCC in production of the Outline MMP submitted at Deadline 4 (document reference: <b>D.7.32</b> ).  The Applicant can confirm that an Outline Waste Management Plan will be submitted at Deadline 5.
LANDSCAPE AND VISUAL (ES CHAPTER 12)					
<i>Mitigation</i>					
2.2.87	13.6	Regarding mitigation, the information on replacement hedges and trees will	The applicant notes that the mitigation planting proposals	The Council acknowledges this requirement under the LEMP.	The Applicant notes this comment and has no further comments at this time.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		also need to be agreed. It is the Council's understanding that the mitigation and detailing works will take the form of a phased approach, as each stage commences. This approach is supported. It will allow both parties an accurate understanding of the works at a detailed level. Furthermore, the potential impacts will be more up to date, as will the approach towards mitigation.	will be further refined and submitted for the approval of the LPA at the detailed design stage.		
<i>Phased Works</i>					
2.2.89	13.8	<p>A Landscape and Ecological Management (LEMP) is to be provided as a requirement of the DCO (Requirement 11) [APP-024]. It is accepted that the information will be provided as each stage of works progresses. It is advised that the LEMP should refer to the above Local Landscape Character Areas and for ease</p> <p>of understanding it is advised that the landscape and ecologic features be provided as separate chapters within any subsequent submission to be approved.</p>	<p>The Applicant notes the response regarding the LEMP. The detailed mitigation proposals will be developed in relation to prevailing landscape characteristics which will include consideration of key characteristics and guidance specific to individual Landscape Character Areas. The LEMP will provide separate landscape and ecological objectives but there will be one set of management prescriptions to ensure clarity and avoid duplication.</p>	<p>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 on both landscape and ecological receptors.</p>	<p>The Applicant notes this comment and has no further comments at this time.</p>
<i>Trees</i>					
2.2.92	13.11	<p>The Project has the potential to impact upon a large number of trees as well as Hedgerows along its route. Whilst the desk study did not identify any veteran trees the subsequent surveys show 34 trees assessed as veteran. Losses of veteran trees represent the loss of an 'irreplaceable habitat' (NPPF) and has</p>	<p>The Applicant refers CWCC to the response to row 2.2.93 below.</p>	<p>The Council acknowledges the proposed change request in respect reducing impacts upon veteran trees.</p> <p>As outlined in its Written Representation [REP1-061] the Council objects to the removal of any veteran trees.</p>	<p>The Applicant notes this comment and has no further comments at this time.</p>

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		permanent long-standing effects on both the landscape and habitats.			
2.2.93	13.12	Four veteran trees (3 native oaks and a willow) are proposed to be removed with a further two at risk. The loss of up to six veteran trees would be raised as a significant local impact both in terms of habitat and visual landscape wise and would conflict with guidance within the NPPF and the LDP.	Further design refinements as set out in ES Addendum Change Request 1 [CR1-124] have reduced the number of veteran trees at risk of being removed. Three trees are now assessed as being 'at risk of removal but 'aiming to retain', as their root protection areas are potentially encroached. However, mitigation measures will be implemented during construction to allow their protection, and as such, the ES Addendum Change Request 1 [CR1-124] states that the DCO Proposed Development will seek to protect and retain all veteran trees during construction. Mitigation will be detailed within a site-specific Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) to be prepared at the detailed design stage by the Construction Contractor, as required within item D-LV-030 of the Outline Construction Environmental Management Plan [REP1-017 and CR1-119] under Requirement 5 of the dDCO [REP1-004].		The Applicant refers CWCC to its response within Table 2-6, Q2.3.5 above.  In summary, the Applicant has revisited those veteran trees categorised as 'at risk, aiming to retain' and has now committed to these trees being 'retained, with protection measures'.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
2.2.94	13.13	The Council advise that all alternatives including trenchless crossings, and other micro sighting changes to the pipeline are fully exhausted before any such losses made, and that significant weight is given to their loss the overall considerations of the Project.	The Applicant refers CWCC to the response to row 2.2.93 above.		The Applicant refers CWCC to the response in row 2.2.93 above.
<b>15 NOISE AND VIBRATION (ES CHAPTER 15)</b>					
2.2.103	15.4	Construction noise will primarily be controlled / mitigated through hours of operation which is controlled under draft DCO Requirement no. 13. The Council advise hours of construction and deliveries should, as a default, not take place outside 08.00 hours to 18.00 hours Mondays to Fridays; 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or Bank Holidays as is set out in the LDP (Planning Policy DM30).	The Applicant notes the comment but requires to retain flexibility for deliveries, especially where transportation by road during quieter periods is necessary to mitigate the potential for adverse traffic impacts from large or slow moving vehicles.	As outlined in paragraph 15.8 of the Local Impact Report [REP1A-002] the Council accept oversized deliveries for non-intrusive activities outside identified hours.  The Council acknowledges the need for special load deliveries during quieter periods. However, standard deliveries should take place during the construction hours as agreed.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ) and the revisions made to the dDCO in revision G.
2.2.104	15.5	Whilst this is generally reflected proposed draft DCO Requirement no. 13, however, a number of exceptions including in the event of an "emergency" and specified works are provided, these include: <ul style="list-style-type: none"> <li>• Trenchless construction</li> <li>• Filing, testing, dewatering and drying</li> <li>• Works required to mitigate delays due to extreme weather</li> <li>• Commissioning</li> <li>• Receipt of Oversized deliveries</li> <li>• Start-up /shut-down activities</li> <li>• Works on traffic sensitive streets</li> </ul>	The Applicant will remove the weather wording and add an ability to seek consent for works outside standard hours to address delays	The Council agrees to the inclusion of the Applicant's definition of "emergency" but subject to the removal of requirement 13(3)(c) of the draft DCO.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference <b>D.7.31</b> ) and the revisions made to the dDCO in revision G.



Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
2.2.105	15.6	In respect the provided definition of "emergency" the Council advise that extreme weather should not provide as justification for out of hours activity (effectively the Applicant's desire to make up on lost time) and, therefore, advise that this is not an acceptable exception.	The Applicant will agree to amend the wording of DCO requirement 13(3)(c) so that working to address delays due to extreme weather conditions would require approval from the Council under a scheme but maintains that allowing 24 hour working for requirement 13(3) (a), (b) and (d) is necessary and appropriate.	The Council questions how a scheme for working under 13(3)(c) would be secured / undertaken.  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.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ) and the revisions made to the dDCO in revision G.
2.2.106	15.7	The Council advise that where uninterrupted (24hr) trenchless construction techniques are required that this should only form part of an approved scheme. Any such activity that can be reasonably predicted to overrun should be well planned in advance and agreed prior to commencement of said activity. Therefore, whilst the Council advise that extending hours into the weekend as per LDP Policy DM30 para. 13.17 would be acceptable and that they are not opposed to the principle of extending hours for certain operations, however, this should only occur where it is agreed within certain confines to be agreed in writing.	The Applicant does not agree that an approved 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 which 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.  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.  The Noise and Vibration Management Plan secured		

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
			through Requirement 5 of the dDCO [REP1-004] will detail the construction techniques, duration of the activities and associated mitigation measures for the trenchless crossings. The proposed activities will only proceed following approval from the Local Planning Authority.		
2.2.107	15.8	Requirement 13(4) of the draft DCO – provides that “nothing in subpara. (1) preclude oversized deliveries and the undertaking on non-intrusive events”. The Council advise that they would accept the requirements of over-sized deliveries as these are out of the control of the Applicant, but non-intrusive events as defined by 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>The Noise and Vibration Management Plan secured in the dDCO [REP1-004] will describe the noise limits, character of the noise, duration and frequency for non-intrusive events as defined by sub paragraph (5).</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>	The Council notes the Applicant's response in respect noise controls contained in the CEMP however 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 its position that the control of any working outside the identified hours, including any 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.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ) and the revisions made to the dDCO in revision G.
2.2.108	15.9	The Council also advise that start up and shut down activities are very much part of the core hours of operation and not separate. Staff arriving is possibly acceptable depending on location and number of vehicles but activities such as moving heavy plant for example to warm up, refuel or for maintenance is possibly not acceptable depending on the associated impact. Similarly, the start-up of generators at sensitive	The Applicant disagrees and notes that start up and shut down hours are routinely allowed outside the core hours as they 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	<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 adverse to certain out of hours start up and shut down</p>	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference: <b>D.7.31</b> ) and the revisions made to the dDCO in revision G.

Previous Reference	LPA Reference	Local Impact Report (Deadline1A)	Applicant's Response (Deadline 2)	Council's Response (Deadline 3)	Applicant's Deadline 4 Comments
		locations is not appropriate without due consideration. The exception may be as to enable subsection 4(c) where night-time works may be approved/required by the Highways Authority and it would be contradictory to prevent access to depot/storage sites. However, again, thorough assessments are needed to minimise associated impacts where practical.	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.	activities. 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.	
2.2.109	15.10	In short, whilst the Council advise that they are not averse to extending hours for certain sections of the proposed route, there should be clear requirements in the DCO for the Applicant to present suitable assessments and data to support any variation to the standard hours of operation and which should be subject to written approval by the Local Planning Authority with clear controls in place. This process does not appear to be in place in the current draft of the draft DCO. Without such controls the Council raises the potential for unacceptable local impacts from noise and vibration.	All works will be subject to the controls in the Noise and Vibration Management Plan secured in the dDCO [REP1-004]. In addition, where applicable, prior consent under section 61 of the COPA will be sought. It is therefore not accurate that there are no controls in place.	The Council welcomes the inclusion of the controls within the NVMP and the prior consent within the COPA. However, as noted above, further controls / mitigation beyond British Standards and those outlined in the OCEMP and REAC is needed for out of hours operations (including trenchless crossings).	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference <b>D.7.31</b> ) and the revisions made to the dDCO in revision G.
	18	WATER ENVIRONMENT AND FLOOD RISK (ES CHAPTER 18)			
2.2.124	18.5	The Council highlights that the potential for climate change impacts where the pipeline crosses an area of high likelihood flooding from sea level rise near to the Ince marshes and Elton areas.	The Applicant has considered the potential effects of climate change within the Flood Risk Assessment and Flood Consequences Assessment [APP-166 – 170].	The Council acknowledges the inclusion of climate change impacts in the submitted Flood Risk Assessment and Flood Consequences Assessment [APP-166 – 170].	The Applicant notes this comment and has no further comments to make at this time.

**Table 2-8 – Applicant's Comments on Submissions Received at Deadline 3 from Canal & River Trust [REP3-041]**

Reference	Council's Response at Deadline 3	Applicant's Deadline 4 Comments
2.8.1	<p><u>Statement of Common Ground (SoCG)</u></p> <p>The Trust and the applicant held a virtual meeting on Friday 19th May 2023 to discuss the draft Statement of Common Ground (SoCG) and progress made. We were able to agree further matters and make progress on matters which can be agreed. Several outstanding concerns can also be addressed by the Trust being consulted on the final Construction Environment Management Plan (CEMP), as per Requirement 5 of the draft DCO. The Applicant has offered a commitment that the Trust will be consulted on the final CEMP in relation to the canal corridor. The main outstanding matters within the SoCG are linked to the protective provisions for the Canal &amp; River Trust and land rights and reaching agreement on these. It is understood that the applicant will be sharing an updated SoCG Rev B with the Canal &amp; River Trust, as part of their DL3 submissions.</p>	<p>The Applicant acknowledges the response from the Trust regarding the Statements of Common Ground (SoCG). This matter is captured in ref 3.4.1 of the SoCG [REP3-030]. The Applicant will consult with the Trust on the detailed Construction Environmental Management Plan (CEMP) (secured by Requirement 5 of the dDCO [REP3-005]) for any works adjacent to the Canal as will be stated in the CEMP [REP2-021], an updated version of which is submitted at Deadline 4.</p>
2.8.2	<p><u>Protective Provisions for the Trust</u></p> <p>As set out in our Deadline Two letter the Trust received a set of amended draft protective provisions for the Canal &amp; River Trust on 27th April 2023. The Trust has reviewed these and can confirm that good progress has been made on these. The Trust provided the applicant with further clarification/edits/amendments on these protective provisions on 17th May 2023 in hope that agreement can soon be reached. As set out previously, the Trust is keen to reach agreement on all matter as getting these protective provisions for the Trust agreed would go a long way to address our concerns/objection and save Examination time.</p>	<p>The Applicant continues to engage with the Trust regarding Protective Provisions.</p>
2.8.3	<p><u>Compulsory Acquisition</u></p> <p>Both the Trust and the applicant are keen to get this matter resolved and reach a voluntary agreement in relation to the land rights sought. The Trust remain hopefully that an agreement can be reached ahead of the Compulsory Acquisition Hearings, so that we might be able to save examination time.</p>	<p>The Applicant acknowledges the Trust's position and is similarly keen to get the matter resolved. The Applicant issued revised Heads of Terms to the Trust on 5 June 2023 and is continuing to engage with the Trust with the intention to reach a voluntary agreement. The Applicant is also continuing to engage with the Trust in relation to their concerns on Compulsory Acquisition powers through discussions on protective provisions.</p>
2.8.4	<p><u>Trusts' response to Deadline Two matters</u></p> <p>The Trust have reviewed the various relevant DL2 submissions of the applicant which relate to the Trust's interests. On the basis of the positive ongoing discussions regarding protective provisions and a voluntary land rights agreement, the Trust has no specific comments to make on these at this stage.</p>	<p>The Applicant has no further comments on this matter at this time.</p>
2.8.5	<p><u>Change Application Request</u></p> <p>As set out in our DL2 letter, in relation to the applicants change request, we fully support change 14 in relation to the reduction of the Order limits to remove a section of the Shropshire Union Canal at Work No.18.</p>	<p>The Applicant welcomes the Trust's support and has no further comments on this matter at this time.</p>

**Table 2-9 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of Andrew and Karen Hirst [AS-070]**

Reference	Response at Deadline 3	Applicant's Deadline 4 Comments
	<b>General Representations</b>	
2.9.1	The general points as referred to in a separate representation and attached hereto are relevant to this client	
2.9.2	The proposals pass to the rear of a large residential property and in particular to recently constructed equestrian facilities. Whilst assurances have been given to part in relation to use of the exercise ménage during the construction period, there remains concerns that the easement width will restrict this further and that the precise location of the ménage has not been accurately plotted and overlaid in relation to the pipeline.	As per the Applicant's response in row 2.7.4 below, the subject land is not residential it is designated as Agricultural land. The Applicant has already downgraded the compulsory acquisition rights sought over plot 16-03a to acquisition of rights only as per Change Request 1. The Applicant is continuing to engage and negotiate with the landowner regarding the commercial terms sought in relation to the landowner's property.
2.9.3	As referred to in the general comments, the possible request for access rights over all of the remaining property to the pipeline is totally unacceptable passing through residential curtilage, the consequence of which is a severe blight upon the property. There is no requirement for such widespread permanent access rights, as access can be obtained along the length of the pipeline with very few parcels being far from the public highway.	The Applicant acknowledges the comments and is currently reviewing this point as part of the commercial negotiations.
2.9.4	The current compensation proposals makes no allowance for the injurious affection of the scheme to the overall property and is purely based upon agricultural land values which are not relevant in this instance.	The Applicant notes this is a compensation point and will be dealt with under the compensation code. The Applicant also notes the land is designated as Agricultural land with no current planning consents or valid planning allocations present. If there is a valid claim for injurious affection, then this will need to be made in accordance with Section 10 of the Compulsory Purchase Act 1965.
2.9.5	My client would also be grateful for a site inspection by the Inspector at a time and date to be confirmed.	The Applicant will submit an updated Accompanied Site Inspection (ASI) Itinerary if requested by the ExA.

**Table 2-10 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of John Calvin Peers [AS-071]**

Reference	Response at Deadline 3	Applicant's Deadline 4 Comments
	<b>General Representations</b>	
2.10.1	The general points as referred to in a separate representation and attached hereto are relevant to this client	
2.10.2	The land is subject to the proposed pipeline and associated easement and also the land to be acquired for mitigation purposes. The consequences of this will virtually blight the land of any possible beneficial use including future development potential for which approaches have been made by developers who wish to promote the land in the future. The current proposals do not in any way provide any compensation or any possible mitigation of the impacts of the scheme and are unreasonable and are unacceptable.	The Applicant notes this is a compensation point and will be dealt with under the compensation code. The Applicant also notes the land is designated as Agricultural land with no current planning consents or valid planning allocations present.
2.10.3	Of particular concern (as referred to in the general schedule) is the suggestion that permanent rights of access are to be taken across all of the site. The implications of this are catastrophic in relation to the development of the site as theoretically/legally no properties could be built	The Applicant acknowledges the comments and is currently reviewing this point as part of the commercial negotiations.

	anywhere as it would obstruct the rights of access being sought. In relation to this land there is no requirement for such rights as there is road frontage onto which the pipeline leads. Such rights totally sterilises the site and is unreasonable and excessive.	
2.10.4	My client would also be grateful for a site inspection by the Inspector at a time and date to be confirmed.	The Applicant will submit an updated ASI Itinerary if requested by the ExA.

**Table 2-11 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of The Executors of Gwynedd Evans [AS-072]**

Reference	Response to Hearing (7 <sup>th</sup> June)	Applicant's Deadline 4 Comments
	<b>General Representations</b>	
2.11.1	The general points as referred to in a separate representation and attached hereto are relevant to this client	
2.11.2	The land is subject to an Option Agreement with a national house builder to promote the site for residential development. Attached is an updated summary as regards the proposed promotion/application for the site together with a site plan. Please note that it is the intention to submit an application in 2023/2024.	The Applicant acknowledges the comments made and notes the land is designated as Agricultural land with no current planning consents or valid planning allocations present.
2.11.3	Whilst the pipeline and associated easement is located through land identified as public open space on the site layout, the whole of this area (public open space) has been identified by Hynet as environmental mitigation land and is proposed to be permanently acquired.	
2.11.4	The loss of this land will severely impact the viability and development of the remainder of the site requiring an additional area to be incorporated within the development, and the loss of housing units as referred to on the attached commentary. The proposals make no allowance for loss of this development value or for any associated compensation.	The Applicant notes this is a compensation point and will be dealt with under the compensation code. The Applicant also notes the land is designated as Agricultural land with no current planning consents or valid planning allocations present.
2.11.5	The identification of this land for mitigation purposes is unreasonable and excessive and have significant implications to the landowner with what would appear to be little thought or consideration given to mitigating losses and impact to the landowner.	The Applicant notes this is a compensation point and will be dealt with under the compensation code. The Applicant is keen to engage further with the landowner on this point.
2.11.6	Of particular concern (as referred to in the general schedule) is the suggestion that permanent rights of access are to be taken across all of the site. The implications of this are catastrophic in relation to the development of the site as theoretically/legally no properties could be built anywhere as it would obstruct the rights of access being sought. In relation to this land there is no requirement for such rights as there is road frontage onto which the pipeline leads. Such rights totally sterilises the site and is unreasonable and excessive.	The Applicant acknowledges the comments and is currently reviewing this point as part of the commercial negotiations.
2.11.7	My client would also be grateful for a site inspection by the Inspector at a time and date to be confirmed.	The Applicant notes that ExA have issued the Rule 16 letter on 15 June 2023, and notes to the ExA that the site referenced by the ExA is located in relative close proximity to SP E and SP F.

**Table 2-12 – Applicant's Comments on Submissions Received at Deadline 3 from J Bradburne Price and Co on behalf of Various Parties [AS-073]**

Reference	Response to Hearing (7 <sup>th</sup> June)	Applicant's Deadline 4 Comments
	<b>General Representations/Objections Applicable To All Clients.</b>	
2.12.1	Notwithstanding the number and extent of intrusive and non intrusive surveys undertaken on the subject land, there remains no clear indication as to the exact line of the pipeline and the associated easement. This uncertainty causes concern to the landowners/occupiers, and it is not acceptable that they have been requested to enter into Agreements with such uncertainty as to the rights that will be taken through the property which limits their ability to plan and make long term decisions for the subject properties.	<p>The surveys undertaken to date were necessary to inform route selection and the environmental impacts assessment but further investigation is required to allow the detailed design of the final routing to be completed. That is entirely normal in large scale infrastructure projects where detailed design is not carried out until after a DCO is granted. The Applicant recognises that there is uncertainty as to the precise route within the corridor within which the pipeline will be laid, however, the Applicant has sought to be as clear as possible on the rights needed, including by categorising rights sought into those for the buried pipeline, accesses, surface sites and mitigation land.</p> <p>The Applicant notes that there is always some uncertainty in options as they are normally contingent on some other process, commonly planning, reaching a determination and submits that this case is not unusual in that regard.</p>
2.12.2	The requirement for an easement width of 24m is excessive and has not been justified, this potentially sterilises a large area through the subject properties and where relevant will prevent appropriate development and restrict other operations including some agricultural operations.	<p>The width of the corridor is necessary to protect and safely operate the pipeline, including being able to access it for maintenance if required. A similar width has been imposed in other DCOs. The proposed Permanent Rights Corridor is the main mechanism by which the project can comply with the requirements of the 1996 Pipeline Safety Regulations over the majority of the route., Regulation 7 of those regulations provides:</p> <p><i>“The operator shall ensure that no fluid is conveyed in a pipeline unless it has been so designed that, so far as is reasonably practicable, it may be examined and work of maintenance may be carried out safely.”</i></p> <p>The corridor is sized to enable safe excavation of discrete sections of pipeline for future inspection and maintenance.</p> <p>A second function of the permanent rights corridor is to restrict future developments without prior consultation with the pipeline owner in order to protect the pipeline. This is to ensure that construction work does not encroach on the pipeline and cause damage directly, and that any development does not restrict future maintenance access.</p>
2.12.3	The extent of land included within the Option Agreement is excessive and has not been justified and is beyond what is reasonably required for the construction of the pipeline. Whilst possibly not within the remit of this hearing, this consequently sterilises for the period of the option which is potentially up to 8 years.	The Applicant has based the option plans on the DCO plans which include the 100m corridor. The option has to allow for the pipeline to be routed within that corridor. The final lease will reflect the detailed design and be over the 24m corridor once that is known. The Applicant notes the option period forms part of the ongoing commercial negotiations.
2.12.4	There is no indication within the proposal that the Heads of Terms are requesting the grant of such rights as to the number, size and location of manholes, vents, marker posts and other such structures, which may be constructed along the line of the pipe. There is no provision for agreement with the affected landowners/occupiers as to the location of these structures.	<p>The Applicant considers that this is a detailed drafting point for the commercial negotiation of the option itself and would be happy to discuss this in that process.</p> <p>In general, the Applicant notes that above ground elements such as marker posts will be fixed as part of the detailed design, however it has already committed in principle to siting surface infrastructure in field margins and verges and highway verges and not in open land where possible in order to minimise impacts.</p> <p>There are no vents proposed along the pipeline.</p>

Reference	Response to Hearing (7 <sup>th</sup> June)	Applicant's Deadline 4 Comments
2.12.5	Uncertainty as the exact location of the pipeline and the associated easements together with the excessive extent of the option area potentially places a blight upon the subject property in relation to valuation and possible near future sales. Assurances are sought that any diminution in value of the property ahead of construction of the scheme will be compensated for.	The Applicant notes this is a compensation point and will be dealt with under the compensation code on a case-by-case basis.
2.12.6	Of particular concern is the suggestion that permanent rights of access to the pipeline are to be taken over all of the landowners adjoining land, i.e. not over an allocated route. Such rights totally sterilises all of the remaining land as if granted these rights can be exercised over any area, thus preventing any buildings or structures which may obstruct them. This is unreasonable, excessive and not required as linear access can be taken along the pipeline easement and in event many parcels of land have road frontage which is crossed by the pipeline. Assurances are sought that any permanent access rights to reach the easement are along allocated and agreed routes (if any).	The Applicant acknowledges the comments and is currently reviewing this point as part of the commercial negotiations.
2.12.7	There has been a lack of positive engagement by Hynet and their agents to landowners concerns with no amendments or discussions on many of the objections raised, and little movement on land valuations despite open market evidence being provided to indicate that the broad brush valuations adopted are not reasonable or reflective of Open Market Values for many parcels of affected land.	The Applicant acknowledges the comments and notes the comments made relate to commercial negotiations.
2.12.8	Agents acting on behalf of Hynet have indicated that in the event that the pipeline lease cannot be entered into consensually and Hynet subsequently utilised the compulsory powers (if granted) they will be seeking to acquire the pipeline strip on a freehold basis. This is totally unacceptable. Inspection of most affected properties will show that the majority of land parcels will be severed resulting in loss of access, irregularly shaped fields, severing of services, issues in relation to management of purchase strip etc. Any rights taken should be on the basis of a permanent underground pipeline easement.	The Applicant notes that powers of compulsory acquisition sought for the buried pipeline sections would be subsurface ownership precisely to avoid the types of impacts listed. The Applicant cannot rely on an easement for the pipeline and this has been explained in the submissions made previously.