



**Cheshire West and Chester Council's response to the Examining Authority's Actions raised at Issue Specific Hearings
ISH1 and ISH2**

Submitted at Deadline 4 – Tuesday 20 June 2023

This document represents a table of responses to the Examining Authority's raised actions at Issue Specific Hearings ISH1 and ISH2. Cheshire West and Chester Council's (the Council's) comments for Deadline 4 are entered in the right-hand column and relate to the matters addressed to the Council directly.

| Number. | Party | Action | Deadline | The Council's Response at Deadline4 |
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| ISH1-AP1 | Cheshire West and Chester Council (CWCC)/ Flintshire County Council (FCC) | To consider, and keep under constant review, whether any further developments subject to planning permission need to be declared for cumulative impact consideration purposes and to update the Examining Authority. Ongoing throughout the Examination. | Deadline (DL) 4 (20 June) , and ongoing until the close of the Examination. | The Council will provide any necessary future updates in respect further developments for cumulative impact considerations. |
| ISH1-AP3 | Applicant/ FCC/ CWCC | Undertake a further review of community benefit/ cultural benefits possible relative to law, as well as national and local policy in England and Wales, in tandem with item 2. | DL5 | The Council has no comment to make and to confirm has not been seeking to secure community benefits in relation to this Project. |
| ISH1-AP4 | Natural Resources Wales (NRW)/ Environment Agency (EA)/ FCC/ CWCC | Highlight any outstanding technical points concerning: 1. Derogation issues raised by NRW; 2. Suitability of riparian enhancement for additional areas raised by all parties; and 3. Any flood risk management details not addressed at the Hearing. All Interested Parties (IP) listed. | DL4 | The Council would welcome engagement at the earliest possible stage relating to riparian enhancement and watercourse enhancement. |

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| ISH1-AP5 | FCC/ CWCC | Submit copies of relevant policies/ strategies, discussed at the Hearing, as relevant to the Proposed Development. | DL4 | A copy of Local Development plan Policy DM 44 (Protecting and Enhancing the Natural Environment) is appended to the Council's submissions at Deadline 4. |
| ISH2-AP3 | Applicant/ CWCC | In regard to Article 10 (Street Works) to update the ExA as to whether there is any need for a pre-consultation stage to be inserted into the DCO in regard to submissions under this Article or whether it can be adequately dealt with outside of the DCO to the satisfaction of the Applicant, CWCC and relevant IPs? Response in writing at DL4. | DL4 | The Council does not consider that there is any need for a pre-consultation stage to be inserted into the dDCO and that any pre-consultation can be secured through a private agreement between the parties in the form of a Planning Performance Agreement (PPA) for work required in advance of formal submission under the relevant Requirement. The Council and the Applicant are in discussions and the Council is awaiting a draft PPA from the Applicant and will update the ExA as to progress. |
| ISH2-AP4 | Applicant/ FCC | Article 11(3) concerning restoration and being satisfied in regard to any streets that has been temporarily altered under this article. FCC advised under the Street Works Act it would have a two-year period where FCC could notify the applicant or the person who has conducted the work of a defect and they would have to remediate it. FCC advised it has been in discussion with the Applicant over revising the provisions in Article 11(3) with a view to ensuring a 24-month period is specified. | DL4 | The Applicant has confirmed in writing to the Council and Flintshire County Council that it will be providing a 24 month defect period in the protective provisions appended to the dDCO at Part 4 of Schedule 10. The Council welcomes this position and reserves its position to make further comments and representations once the next iteration of the dDCO has been submitted into the Examination. |

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| | | FCC and Applicant to keep the ExA advised of its progress with negotiations in this regard starting at DL4. | | |
| ISH2-AP5 | CWCC | The ExA noted CWCCs DL1 submission [REP1061], as well as the Applicant's response [REP2-044] at Para 2.2.25, and asked CWCC in its role as Lead Local Flood Authority whether, in the light of the Applicant's response, it was still seeking additional information and if so what information it was seeking and why? CWCC to respond by DL4. | DL4 | <p>The Council in its role as Lead Local Flood Authority (LLFA) continues to have concerns regarding the level of detail included in the application particularly in relation to the disapplication of section 23 of the Land Drainage Act 1991 in relation to ordinary watercourses.</p> <p>The Applicant has suggested that Requirement 8 provides the necessary comfort for the LLFA to approve any interference with an ordinary watercourse however, Requirement 8 only deals with the drainage design for the hardstanding associated with the construction of the Project rather than specifically with alterations to an ordinary watercourse. There are several significant ordinary watercourse crossings affected by the Project that are within areas of associated surface water flood risk.</p> <p>There is insufficient information within the Flood Risk Assessment, surface water drainage strategy (Requirement 8) or the OCEMP to fully understand and assess the impacts that the pipeline and associated works would have on the ordinary watercourse for both permanent and temporary works.</p> |

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| | | | | <p>The Council has requested a meeting to discuss the detail needed, however, the Applicant has confirmed that it will not have any further detail until the detailed design stage.</p> <p>As a result of this lack of detail, the LLFA would either need protective provisions for the protection of the LLFA or for the disapplication of section 23 of the Land Drainage Act 1991 to be removed from Article 8(c) of the dDCO.</p> |
| ISH2-AP9 | CWCC/ FCC | <p>The ExA asked both CWCC and FCC to comment on the observations made by them concerning R4 containing an element of 'self-approval'. CWCC and FCC both asked to come back to the ExA in writing on this matter, as their appeared to be a discrepancy in the wording of the response provided. CWCC and FCC to clarify their position re R4, in writing, at DL4.</p> | DL4 | <p>The Council has concerns regarding the wording of Article 4 in that the Applicant decides whether or not any amendments to the authorised development are in 'general accordance' with the 'general' arrangement plans and therefore there is almost a self-approval mechanism here. There is no independent approval mechanism if there is a departure and whether or not that departure 'would give rise to any materially new or materially different environmental effects from those assessed in the environmental statement'.</p> <p>The Council would welcome clarification from the Applicant as to the mechanism for resolving any dispute as to whether or not the amendments proposed by the Applicant are in 'general accordance' with the 'general arrangements plan'.</p> |

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| | | | | There does not appear to be any ability to refer the matter to the Secretary of State or otherwise. |
| ISH2-AP12 | Applicant/ CWCC/ FCC | To review Rs 21 (Applications made under this R) and 24 (Further Information) with regard to cross referenced Rs and timescales, as previous revisions have cross-referenced different Rs and caused some confusion. Applicant/ CWCC/ FCC to review and revert back to the ExA at DL4. | DL4 | <p>As raised in paragraph 2.3.48 of the Council's response to comments made by the Applicant at Deadline3 [REP3-042] the Council accepts the revised timescale of 56 days for the approval of details submitted under the Requirements and the inclusion of ability to approve such longer period as agreed between the Applicant and the relevant authority. The Council accepts that this is now reflected in revision E of the dDCO submitted at Deadline [REP3-005], in Requirement 22(1) and Requirement 22(1)(c) respectively.</p> <p>The Council, however, does not support the inclusion of controls in respect to the requests for Further Information, including the need for and short timescales for requesting information under Requirement 24) of the dDCO [REP3-005].</p> <p>This issue was further raised by the Council during the ISH2 hearing and the Applicant responded highlighting that the wording of Requirement 22(1) would allow a further 56 days once that further information is supplied by the Applicant.</p> <p>The Council appreciates the Applicant's position and the need for timely decisions to be made on</p> |

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| | | | | <p>applications made by the Applicant to the Council under the requirements of the dDCO. The Council suggests a simpler approach would be to delete Requirements 22(1)(a and b) and 24(2-4) and subsequent rewording of the remaining sub sections of the Requirements, thereby requiring approvals and or decisions within 56 days or such extended period as may be agreed in writing between the Applicant and the relevant authority. The Council suggests that this approach would provide the same if not more certainty for both parties without the need for, what the Council considers to be unnecessary and overly restrictive controls over the request for further information.</p> |
| ISH2-AP13 | Applicant/ CWCC/ FCC | <p>With regard to any agreements securing BNG, please could the Applicant and the IPs listed give the ExA a clear explanation as to what has been/ is being agreed between the Applicant and IPs. Additionally, could the Applicant and relevant IPs explain: how such an agreement(s) is to be secured, including what is required; how it relates back to the DCO; and whether or not there is an intention to enter a copy of the completed agreement(s) into the examination as evidence. In the event a copy is not intended to be entered into the Examination, please advise how the</p> | DL4 | <p>The Applicant and the Council are in the process of negotiating a financial contribution to be paid by the Applicant for creation and enhancement of habitat on the Council's land (outside of the Order Limits). The specific details of the land identified to deliver the habit is included in the Applicant's REP3-022 Liverpool Bay CCS Limited Deadline 3 Submission - D.6.5.12 Biodiversity Net Gain Assessment.</p> |

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| | | Applicant and relevant IPs intend to demonstrate to the ExA an agreement in this regard has been completed between the Applicant and relevant IPs to the satisfaction of all relevant IPs? | | |