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04/07/23

Dear Sir/Madam,

**PIBLINELL CARBON DEUOCSID HYNET ARFAETHEDIG / PROPOSED HYNET  
CARBON DIOXIDE PIPELINE**

**RE: NATURAL RESOURCES WALES' DEADLINE 5 SUBMISSION**

This letter comprises Natural Resources Wales' (NRW) response to the Examining Authority's second round of questions.

The comments provided in this submission comprise NRW's response as a Statutory Party under the Planning Act 2008 and Infrastructure Planning (Interested Parties) Regulations 2015 and as an 'interested party' under s102(1) of the Planning Act 2008.

In addition to being an interested party under the Planning Act 2008, NRW exercises functions under legislation as detailed in the cover letter of NRW's Deadline 1 Written Representations [REP1-071].

Please do not hesitate to contact Chris Jones should you require further advice or information regarding these representations.

Yours sincerely,

**Chris Jones**  
**Uwch Gynghorydd – Cynllunio Datblygu / Senior Advisor – Development Planning**  
**Cyfoeth Naturiol Cymru / Natural Resources Wales**

[CONTINUED]

## ANNEX A – RESPONSES TO EXAMINING AUTHORITY’S QUESTIONS (ROUND 2)

Please find below NRW’s responses (right hand column) to the Examining Authority’s second round of questions:

Reference	Respondent:	Question:	NRW Response:
<b>1. General and Cross Topic Questions</b>			
Q2.1.1	Applicant/ Interested Parties (IP)	Given the change requests submitted by the Applicant [CR1-001] and [CR2-016] have been consulted upon and/ or are currently undergoing statutory consultation, and assuming all formal consultation provision has been declared and verified as being met for the Change Requests, the ExA would ask whether if further Hearing(s) or ExA written questions, beyond those already programmed in the Examination timetable, would be required as pertinent avenues to address any remaining Examination matters. Applicant/ IP comment is invited if considered appropriate.	The Applicant’s second change request is currently undergoing consultation, the responses being due on 17 July. NRW has not yet fully considered the proposals and as a result is not presently in a position to confirm this.
<b>2. Assessment of Alternatives</b>			
Q2.2.1	Applicant/ Welsh Government/ IPs	<ul style="list-style-type: none"> <li>• Stephen Gibbons [AS-064] has made submissions regarding the possibility of a shorter (discounted) route to the north of Deeside Industrial Park to run parallel with the A548. That alternative route is referred to by the author of the submission as a better proposition due to: -               <ul style="list-style-type: none"> <li>o the route does not pass close to residential areas and therefore less likely to have an impact;</li> <li>o the route is through open countryside and easily accessible for construction from the A548;</li> </ul> </li> </ul>	NRW notes this information and has no comments to make at this time.

		<p>o the alternative route is around 7.2km shorter which would lead to significant cost savings; and o a shorter route minimises interference with the rights of private landowners.</p> <p>The ExA acknowledges the Applicant's reasoning, as set out in [REP2-039] for discounting the above route, which includes:- engineering-related constraints; a landfill site of unknown provenance; a crossing involving shifting sands, implying the need for very deep tunnelling to ensure stability; the land of the western bank being unsuitable; constructing the final part of the route past the power station itself would result in significant disruption from a closure of several weeks; and the land either side of the River Dee within the corridor is internationally designated for its biodiversity importance and the works associated with the pipeline would have a greater environmental impact than the southern corridor. However, the ExA asks: -</p> <p>i. What detailed survey information has been undertaken which informs the Applicant's views/ statements in this regard? ii. Are the engineering/ geological issues referred to insurmountable problems from a scheme delivery perspective? If so, how, and why would they constitute insurmountable issues? Or is it more a time/ cost delivery issue? iii. What depth of tunnelling is the Applicant referring (as a rough indication/ estimate)?</p>	
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		<p>iv. For the avoidance of any doubt what is the name of the power station and the specific reason it would need to close?</p> <p>v. Were any technical alternatives considered allowing the power station to remain in use?</p> <p>vi. In relation to the biodiversity elements of reasons for the route being discounted a) was there any study undertaken showing that the ecological designation was not conducive to achieving an appropriate pipeline scheme design b) was there a study undertaken to conclude there would have a greater impact than the existing route? Please provide the full details.</p> <p>vii. Does the Applicant agree/ disagree that the current scheme has a greater interference on land ownership rights than the alternative discounted? Please state reasoning.</p> <p>IPs</p> <ul style="list-style-type: none"> <li>• Are invited to make comments, if appropriate.</li> </ul>	
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**3. Air Quality and Emissions**

Q2.3.2	FCC/ CWCC/ IPs	<p>Does the Council have a clear timeframe as to how quickly local air quality issues raised by a member of the public concerning issues such as odour abatement would be acknowledged and responded to, should that transpire? If so, please explain the end-to-end-- process.</p> <p>If there are existing corporate Enforcement policies in place, please detail the nature of those including all commitments to how complaints would be managed.</p>	<p>These matters would not fall under the remit of NRW as the pipeline itself would not be regulated under an Environmental Permit.</p> <p>NRW therefore defers to FCC as the local planning authority to comment on such issues within the DCO Proposed Development's Zone of Influence within Wales.</p>
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Q2.3.3	Applicant/ IPs	<p>Having regard to both operation and construction phases does the Applicant propose any active management channels/ mechanisms to support any future local complaint management scenarios related to the proposed infrastructure? Would there be any active management channel in place for the DCO development which members of the public would be able to contact directly? For example, if any member of the public needed to report an issue.</p> <p>If so, what would the contactable management provision comprise of? What assurances can the Applicant provide through formal mechanisms within the DCO to ensure that there would be adequate day to day management safeguards to deal with any public complaint issue/ concern should it arise during construction or operation? The question would also extend to managing any landscaping provision to be undertaken.</p>	<p>NRW notes that this question refers to the Applicant's proposed provisions for future local complaint management scenarios and therefore has no comments to make.</p>
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**4. Biodiversity, Ecology and Natural Environment**

Q2.4.1	Applicant/ CWCC/ FCC/ Natural England (NE)/ Natural Resources Wales (NRW)/ IPs	<ul style="list-style-type: none"> <li>The absence of ecological surveys beyond the order boundary limits for barn owls and badgers are referred to by CWCC in their detailed correspondence received at Deadline 2 and it has highlighted concerns of incomplete surveys in respect of Bats and Barn Owls. As such CWCC consider the assessments of importance levels and value/ sensitivity of receptors are taken to be as being based on incomplete data sets. In addition, it notes the need for clarifications in respect of surveys of other identified receptors.</li> </ul>	<p>NRW notes that this question refers to Cheshire West and Chester Council's (CWCC) representation and therefore has no comments to make.</p>
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		<p>The ExA would ask:</p> <ul style="list-style-type: none"> <li>i. CWCC clarify which specific locational receptors it is referring to?</li> <li>ii. Whether CWCC take the view that all the information it has referred to is in fact necessary to inform a decision, or is it instead considered to be desirable in nature?</li> <li>iii. What are the specific reasons for any further surveys/ data being a necessary requirement of the Applicant?</li> <li>iv. What recommended distances (relative to the DCO area) for species specific ecological survey or additional data would need to be factored, bearing in mind any local or national best practice or professional expertise available to the Council? Provide clear reference to the source or ecological expertise involved.</li> <li>v. Does CWCC wish to add any ecological information it has knowledge of to the examination record with these above issues in mind?</li> </ul>	
Q2.4.2	CWCC and IPs	<p>CWCC</p> <ul style="list-style-type: none"> <li>• CWCC notes further surveys were presented to the Examination on 3 March 2023 by the Applicant and accepted by the ExA, as part of the Applicant's Section (s) 51 advice response, on 14 March 2023. Some of these documents were subsequently superseded by documents that replace the originals due to a publishing error. These were accepted into the examination by the ExA on 20 March 2023. The replacement documents have a '*' next to the Examination Library document reference number in the list set out below.</li> </ul>	<p>NRW notes that this question relates to CWCC's representation and therefore has no comments to make.</p>

		<p>These surveys were contained in: Chapter 9 – Biodiversity [AS-025]; Bat Activity Survey Report [AS-057]*; Bats Activity Survey Report Annex G Part 2 [AS-029]; Bats and Hedgerows Assessment [AS-031], [AS-033], [AS-035] to [AS-038] and [AS-059]*; Riparian Mammal Survey Report [AS-039]; and an Outline Construction Environmental Management Plan (CEMP) [AS-055].</p> <p>CWCC indicated additional time is needed to properly address this environmental information. The ExA would ask how much additional time is being sought or whether CWCC is able to clarify its views on the content of the above documents at this stage? If so, please give your comments.</p> <p>IPs</p> <p>All IPs are invited to comment</p>	
Q2.4.4	Applicant/ CWCC/ FCC/ NE/ NRW/ IPs	<ul style="list-style-type: none"> <li>• The Applicant indicates updated surveys will take place at detailed design stage and mitigation is sufficient to safeguard or otherwise mitigate identified receptors within the Order Limits and beyond. But how is it clear mitigation would be effective without full survey information being available to first inform this?</li> <li>• Do IPs find the Applicant's position appropriate?</li> </ul>	Please refer to NRW's Written Representation (REP1-071) (para. 6.6, 6.7, 6.9 and 6.12) for our detailed comments regarding this matter.
Q2.4.5	CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	<ul style="list-style-type: none"> <li>• Does CWCC/ IPs agree that the direct/ indirect affects arising to protected fauna from the pipeline route could either be managed/ avoided (where it is possible) and subsequently mitigated if needed? If not, please state why not outlining the</li> </ul>	With regards to the nationally and internationally fully protected species which fall within its remit to advise on NRW agrees that the direct/indirect effects arising from the pipeline route could either be managed/avoided (where possible) and subsequently mitigated if needed.

		<p>specific areas of disagreement. What formal mechanisms could be applied to ensure that direct/ indirect effects arising from any survey absence or ecological data shortcoming is properly managed/ accounted for through the DCO?</p>	
Q2.4.6	<p>CWCC/ FCC/ NE/ NRW/ Woodland Trust/ Welsh Government/ IPs</p>	<ul style="list-style-type: none"> <li>• The Applicant's 'Draft BNG Strategy Update' received at Deadline 2 [REP2-042] states that they are seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5. As part of that intended programme, the Applicant has indicated this would comprise the following: <ul style="list-style-type: none"> <li>- Identification of landowners for BNG for Welsh Woodland. –</li> <li>Confirmation of English and Welsh sites for other required habitat offsets.</li> <li>- Initial data check of baseline via a desktop study.</li> <li>- Review and checking of third-party survey data.</li> <li>- Agree format of legal agreements to secure ongoing management of BNG.</li> <li>- Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management.</li> </ul> </li> <li>• Do IPs feel the above draft intentions are extensive enough?</li> <li>• Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion?</li> </ul>	<p>NRW notes that habitats are to be offered as offsets for other habitats lost to the proposal.</p> <p>NRW would expect to be consulted insofar as such proposals are relevant to Wales and in respect of any proposed planning obligation or other legal agreements.</p>



		<ul style="list-style-type: none"> <li>• What else could be done to maximise ecological enhancements or BNG proposals?</li> </ul>	
Q2.4.7	Applicant/ CWCC/ FCC/ NE/ NRW/ Welsh Government/ Woodland Trust/ IPs	<ul style="list-style-type: none"> <li>• Nature markets referred to in UK Government guidance could provide a realistic channel for making further improvements that benefit nature. Local planning authorities can assist with such proposals by formulating/ providing: <ul style="list-style-type: none"> <li>- biodiversity action plans;</li> <li>- green infrastructure strategies;</li> <li>- catchment management plans;</li> <li>- biodiversity opportunity areas; and</li> <li>- local nature partnership documentation.</li> </ul> </li> <li>• Any proposal would also need a secure relevant land by legal agreement managing the habitat for at least 30 years. This could be achieved through a planning obligation (s.106) or a conservation covenant with a responsible body. The land could be subsequently registered as a biodiversity gain site from November 2023. Current guidance outlines that the biodiversity units could be allocated to a development before or after they are registered.</li> <li>• What scope is there for nature markets to be used to deliver biodiversity enhancement?</li> <li>• Would IPs want to assist such proposals in any active engagement with the Applicant?</li> <li>• Has the Applicant considered such an approach, in tandem with the range of nature strategies</li> </ul>	<p>NRW considers that the Flintshire Great Crested Newt Conservation Plan, Flintshire Local Biodiversity Action Plan and the Deeside &amp; Buckley Newt Sites Core Management Plan and SSSI Site Management statements could help to inform delivery of biodiversity enhancements.</p> <p>NRW would expect to be consulted insofar as such proposals are relevant to Wales and in respect of any proposed planning obligation or other legal agreements.</p>

		<p>mentioned by IPs in responding to the ExA's first written questions?</p> <ul style="list-style-type: none"> <li>• The ExA requests that full consideration of emerging/ developing nature markets be given in the draft BNG Strategy (as an additional last resort option), alongside it being broadened to incorporate an ecological enhancement strategy given the specific terminology used in wider Welsh and English environmental law/ policy applicable to the scheme (including s.6 of the Welsh duty).</li> </ul>	
Q2.4.8	Applicant/ CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	<ul style="list-style-type: none"> <li>• It is noted by the ExA that in the absence of a finalised detailed design, definitive extents of hedgerow and tree losses, across the Order Limits, cannot be confirmed.</li> <li>• How does the Applicant justify this approach from an ecological/ habitat management perspective given there are also further survey requirements which may be triggered?</li> <li>• How can the ExA reasonably rely upon the worst-case scenario information within the ES? Or the other related ecological impact information and supporting BNG calculations provided without a detailed design and the full effects of the development being first established?</li> <li>• Are all trees and hedges within the Order Limits considered to be at risk of direct impacts or removal now detailed within Table 9.11 LSEs during the construction stage within Chapter 9 - Biodiversity [AS-025]?</li> </ul>	<p>NRW notes that this question refers to the Applicant's assessment, so they are best placed to answer.</p> <p>From a species licensing perspective, NRW advises that the final confirmed loss of trees/hedgerows will need to be considered appropriately mitigated to ensure no detriment to the maintenance of Favourable Conservation Status of each local species population potentially affected by the proposals.</p>

Q2.4.9	Applicant/ CWCC/ FCC/ NE/ NRW/ IPs	<ul style="list-style-type: none"> <li>• A 'Trees and Woodland Strategy Toolkit' has been published during 2023 with the aim to equip Local Authorities so they can plan, create or update their own Trees and Woodland Strategies and harness the long-term benefits that trees can bring to local communities.</li> <li>• All relevant Councils are requested to acknowledge the advice now issued.</li> <li>• All parties within the Examination are invited to make use of all best practice provision and reference currently available.</li> <li>• Do relevant Councils have any plans or potential aspirations to formulate such strategies in the coming fiscal periods, in light of the Examination matters for discussion or otherwise?</li> </ul>	NRW notes this information and has no comments to make.
Q2.4.12	Applicant/ NRW	<ul style="list-style-type: none"> <li>• It is noted that a ML application was submitted to NRW on 23 May 2023. Please can the Applicant and/ or NRW provide an update regarding progress of the ML Application.</li> </ul>	NRW (Marine Licensing) has received notification from the Applicant (email dated 21/06/23) explaining that it intends to withdraw its Marine Licence application and re-submit it at a later date in order to respond to the advice and guidance provided by NRW regarding the content and form of the application documentation.

**5. Climate Change**

Q2.5.1	Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust /IPs	<ul style="list-style-type: none"> <li>• The new tree and landscaping provision anticipated in the DCO scheme could be more robust in the safeguards available against any climatic or environmental condition changes triggering future failure.</li> <li>• The Applicant is requested to thoroughly review this element of the scheme provision with the aim to lengthen replacement periods along with a tighter future management provision which is</li> </ul>	NRW notes this information and has no comments to make.
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		<p>formally secured. The aim of the approach is to ensure all replacement and new planting is effective as possible, with the highest environmental outcomes possible realistically achieved.</p> <ul style="list-style-type: none"> <li>• The point would also be applicable to any off-site landscaping element yet to be tabled but indicated as being subject to ongoing discussion.</li> </ul>	
Q2.5.2	Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust /IPs	<ul style="list-style-type: none"> <li>• What provision/ commitments can be made for fast growing trees? And if so, how could that be formally committed to and secured?</li> <li>• How can new planting species selection be conducive in dealing with both climate change pressures and reinforcing native wildlife?</li> <li>• Are the public organisations involved in the Examination able to provide further recommendations towards species/ resilience matters with locational specific advice in mind? If so, your comments are invited.</li> </ul>	NRW has no comments to make.
<b>10. Flood Risk, Hydrology, Water Resources and Contamination</b>			
Q2.10.1	Applicant/ NRW	Accounting for Deadline 2 responses NRW refers to s.165 of the Water Resources Act 1991. NRW is empowered to access land to conduct flood risk management works. The provisions of the DCO cannot override these powers and NRW does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991. NRW therefore advises that there should be no physical impediment to access for flood defence assets. Accordingly, NRW	NRW would welcome such clarification. However, it is understood that the Applicant may not be in a position to provide finalised details at this stage. In that event, NRW's approval must be obtained for the design of the construction compounds where there is any risk of any physical impediment to access. Such approval may be secured either by way of distinct requirement in the draft DCO or by inclusion of a provision to this effect in the CEMP, making clear that construction of the compounds

		<p>consider the DCO should ensure this as a matter of design/ construction.</p> <ul style="list-style-type: none"> <li>• Can the design and construction details implied be submitted to the Examination in line with NRW's request?</li> </ul>	<p>may not take place unless and until NRW has given approval.</p>
Q2.10.2	Applicant/ NRW	<ul style="list-style-type: none"> <li>• NRW have noted that if any of the construction compounds are within 16m of the Hawarden and Northern Embankments of the river Dee main river, they would require an environmental permit (a Flood Risk Activity Permit) under the Environmental Permitting Regulations 2016 for which NRW is the consenting authority. Therefore, the location of compounds would need to be considered in the determination of any such application and subject to NRW's approval.</li> <li>• Does the Applicant acknowledge that as a necessary step?</li> <li>• How will/ should that be accommodated in the DCO as a formal commitment to be undertaken?</li> </ul>	<p>As acknowledged by the ExA, any construction compounds within 16m of the Hawarden and Northern Embankments of the river Dee main river would require an environmental permit (a Flood Risk Activity Permit) under the Environmental Permitting Regulations 2016 for which NRW is the consenting authority. Therefore, the location of these compounds would need to be considered in the determination of any such application and subject to NRW's approval. This reinforces the need for NRW to be provided with full details of such compounds and the opportunity of approving these.</p> <p>NRW considers that the Applicant should be able to identify whether or not any FRAPs will be needed at this stage.</p>
Q2.10.3	Environment Agency (EA)/ NRW/ United Utilities Water (UW) FCC/ CWCC/ IPs	<ul style="list-style-type: none"> <li>• The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSSs would be submitted to and approved by the</li> </ul>	<p>As this question relates to surface water drainage, NRW advises that the Lead Local Flood Authority/SuDS Approval Body is best placed to answer.</p>

		<p>relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority.</p> <ul style="list-style-type: none"> <li>• Do IPs have any comments on that approach bearing in mind policy/ legislative changes which could be implemented?</li> <li>• Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not?</li> </ul>	
Q2.10.4	EA/ NRW/ UUW/ FCC/ CWCC/ IPs	<p>The Applicant indicates the current drainage proposal follows the Simple Index Approach suggested by The SuDS Manual CIRIA C753 in order to evaluate the water quality. The scheme is referred to as being designed so the total pollution mitigation index has exceeded the pollution hazard index. The Applicant has also provided details in the submitted Outline Surface Water Drainage Strategy [CR1-111].</p> <ul style="list-style-type: none"> <li>• Is the approach indicated adequate given any existing uncertainties in gauging surface and ground water conditions?</li> </ul>	As this question relates to surface water drainage, NRW advises that the Lead Local Flood Authority/SuDS Approval Body is best placed to answer.
<b>11. Habitats Regulations Assessment</b>			
Q2.11.1	NE/ NRW/ IPs	<ul style="list-style-type: none"> <li>• The locations of European sites identified by the Applicant relative to the Proposed Development are depicted on Annex A Figure 9.1.1, Sheets 1, 2 and 3 of ES Appendix 9.1 [CR1-054].</li> <li>• NE in its Deadline 1 response [REP1-070] mentions additional European sites lie within</li> </ul>	NRW notes that this question refers to Natural England's representation and therefore has no comments to make.

		10km of the application site and suggest the Habitats Regulations Assessment (HRA) Report could be amended for clarity. Please amend this document accordingly and submit at the next Deadline.	
Q2.11.7	NRW	<ul style="list-style-type: none"> <li>• NRW [RR-066] requested mitigation to avoid the main run-time for key fish species to ensure such effects are minimal and sought clarification regarding timeframes for trenchless crossings of the River Dee.</li> <li>• Can NRW confirm what the 'main run-time' for sea and river lamprey would be?</li> </ul>	NRW considers the migratory period for sea lamprey to generally fall between April – June (note: this can be water temperature dependent as 12° is a trigger temperature, but the above dates encompass the main migration period). River (and brook) lamprey migration occurs between October - March, with spawning occurring in April.
Q2.11.8	NRW	<ul style="list-style-type: none"> <li>• On the basis of the Applicant's response [REP1-042] to NRW's comments in its RR [RR-066] about potential consequences of frac-out, do NRW agree that there would be no LSE on the sea and river lamprey features of the Dee Estuary/ Aber Dyfrdwy Special Area of Conservation (SAC)?</li> </ul>	NRW agrees that there would be no LSE on the sea and river lamprey features of the Dee Estuary / Aber Dyfrdwy Special Area of Conservation (SAC).
Q2.11.11	Applicant/ IPs	<ul style="list-style-type: none"> <li>• The list of watercourses where signs of otter were recorded contained in para 4.4.7 of the updated HRAR includes additional locations within and in proximity to the Newbuild Infrastructure Boundary. Have potential impacts on otter, as a feature of the River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC, in these locations been assessed? If not, please provide an updated assessment for this feature.</li> </ul>	NRW notes that this question refers to the Applicant's assessment and has no further comments to make at this time.
Q2.11.12	Applicant/ NRW/ FCC	<ul style="list-style-type: none"> <li>• Can the Applicant confirm the duration of the road diversions that would be located within 200m of the Deeside and Buckley Newt Sites SAC and</li> </ul>	Based on the current proposals, possible changes to air quality arising as a consequence of the proposed road diversions are in this case not considered likely to have significant effects in respect of the conservation objectives

		<p>the anticipated vehicle movements along these diversions.</p> <p>NRW/ FCC</p> <ul style="list-style-type: none"> <li>• Are NRW/ FCC content that air quality impacts from these diversions do not require assessing?</li> </ul>	<p>for the species (GCN) and habitat (broadleaf woodland) features of the SAC.</p> <p>This view considers the location of the proposal close to both urban areas and proximity of the A55.</p> <p>NRW reserves the right to advise further on receipt of further/more detailed information from the Applicant, as requested by the first part of the question.</p>
Q2.11.15	NRW	<ul style="list-style-type: none"> <li>• In light of the Applicant's response to NRW's concerns set out in their Written Representations and response to ExQ1 [REP1-071] about the GCN surveys undertaken by the Applicant, please can NRW state if they are satisfied that the surveys and proposed mitigation are sufficient and confirm their position of no AEoI on the Deeside and Buckley Newt Sites SAC.</li> </ul>	<p>NRW considers the GCN surveys to be appropriate and proportionate for this proposal.</p> <p>NRW also notes the outline recommendations and proposed principles for mitigation in the ES, OCEMP and the OLEMP. We note that the OLEMP [APP-229] and OCEMP [APP-225] form the basis for a detailed LEMP and CEMP to be produced at detailed design stage, as secured by Schedule 2, Requirements 11 and 5 of the dDCO [APP-024]. NRW is satisfied with this overall approach.</p> <p>NRW understands that the Applicant intends to submit draft species license application documents into the examination. To date, this has not been done and absent of this further information, NRW is not in a position to advise further in this regard.</p> <p>NRW have previously advised the Applicant that their shadow HRA does not appear to have considered that revised GCN dispersal distances can be over 1.5km (<i>Guidelines for the Selection of Biological SSSIs. Part 2: Detailed Guidelines for Habitats and Species Groups: Chapter 18 Reptiles and Amphibians (jncc.gov.uk)</i>).</p>



			Following a meeting with the Applicant on 29/06/23 NRW understands that this will be addressed. However, until any further details are provided NRW is currently unable to advise regarding no AEoI on the Deeside and Buckley Newt Sites SAC. NRW has another meeting scheduled with the Applicant regarding this matter on 13/07/23.
<b>15. Planning Policy</b>			
Q2.15.1	Applicant/ FCC/ CWCC/ IPs	<p>In relation to National Planning Policy for England and Wales. Planning for new energy infrastructure: revisions to National Policy Statements (NPS) is likely to be considered relevant. See Planning for new energy infrastructure: review of energy National Policy Statements. This includes consultation on the Draft overarching NPS EN-1; Draft NPS for Renewable Energy Infrastructure EN-3; Draft NPS for Gas Supply Infrastructure and Gas and Oil Pipelines EN-4; HRA of the energy NPS review; as well as Appraisal of Sustainability: Main Report.</p> <ul style="list-style-type: none"> <li>• Does the Applicant or any IPs wish to make comment on implications of the consultation to the Examination including the decision-making status of the draft documents referred to?</li> <li>• Additionally: - Targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience (incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure) consultation</li> </ul>	NRW notes that the Welsh Government consultation on targeted policy changes to Planning Policy Wales on net benefit for Biodiversity and Ecosystems Resilience closed on 31 May 2023. NRW advises that specific questions relating to the implementation of national planning policy in Wales are directed to the Welsh Government for comment. However, NRW would expect the proposals to be given appropriate weight in the determination of this application.

		<p>is being considered by the Welsh Government. Are there any comments on the implications of that, in relation to the likely ecological outcomes expected of this current DCO scheme?</p>	
Q2.15.2	Applicant/ FCC/ NRW/ EA/ IPs	<p>The ExA acknowledges that on 10 January 2023 the UK Government published the ‘Sustainable Drainage Systems Review’ and have accepted the recommendation to make SuDS mandatory for new developments in England and will progress with the implementation phase. The Government has indicated it will devise regulations and processes for the creation of SuDS systems through the implementation of Schedule 3 to the Flood and Water Management Act 2010. Implementation of the new approach is expected during 2024 and therefore any outcomes/ implications to the DCO development should be addressed at this point.</p> <ul style="list-style-type: none"> <li>• The overarching aim is to reduce the risk of surface water flooding, pollution and help alleviate the pressures on traditional drainage and sewerage systems, reducing the overall amount of water that ends up in the sewers and storm overflow discharges.</li> <li>• The ExA asks would new drainage mitigation, relevant to the DCO scheme and its future management, be in line or made in line with the policy/ legislative changes to be implemented? Explain your reasoning why either way.</li> </ul>	<p>NRW notes that this question refers to SuDS in England only and therefore has no comment.</p> <p>NRW advises that the Lead Local Flood Authority/SuDS Approval Body is best placed to answer questions relating to surface water drainage within the Welsh part of this proposal.</p>

## 18. Waste Management

Q2.18.1	Applicant/ EA/ NRW/ NE/ Canal and River Trust/ IPs	<p>Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with invasive plant species during construction which constitute a 'Controlled Waste' should they be found and need to be removed/ disposed. (i.e., 'Japanese Knotweed' affected soil would amount to a Controlled Waste).</p> <p>What formal mechanisms within the DCO would be in place to deal with invasive plants such as Japanese Knotweed should that be identified at any stage.</p> <p>Is survey work to investigate the presence of invasive plant species needed at this stage? If not, state why not. Do additional specific requirements/ commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species?</p> <p>If not, state why not.</p>	<p>From a nature conservation perspective invasive species could impact current conservation status of habitat and species features of interest. NRW therefore advises that invasive species surveys are required to inform the decision-making process.</p> <p>The presence of invasive species/certain diseases e.g., Chytrid should materially inform the detail of construction method statements and proposed landscaping/restoration schemes.</p>
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## 19. Draft Development Consent Order

Q2.19.4	Applicant/ NRW	<p>The ExA is aware that the Applicant is seeking to address NRW's concerns by including Protective Provisions within the DCO (see Schedule 10, Part 8 of the draft DCO [REP3-005]) as follows:</p>	<p>NRW refers the ExA to its Deadline 4 response (REP4-291) regarding this matter. These concerns <u>must</u> be addressed and accommodated by the applicant.</p>
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		<p><i>“For the protection of NRW 82. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and NRW...</i></p> <p><i>83. The undertaker will permit access by NRW to its assets and landholdings within the Order Limits, through land of which the undertaker is in occupation during construction, on reasonable request. In particular: - (a) access to the bank and flood defences along the River Dee/ Afon Dyford within the plots shown as 13-20, 13-21, 14-04, 14-05, 14-06, 14-07, 14-08 on the land plans will, where the undertaker is in occupation of those plots, be made available by the undertaker on request; and</i></p> <p><i>(b) access over the plots shown as 14-11, 14-14a, 14-20, 14-21, 14-22 14-23, 14- 24, 14-25, 14-26 and 14-27 on the land plans, will be maintained for NRW, or where interrupted by construction activity, will be made available to NRW on reasonable request.</i></p> <p><i>84. The undertaker will consult NRW during development of detailed design regarding the proposed design in order to ensure that the proposed design would not prevent or unduly restrict NRW in accessing or maintaining any of its assets, including flood defences”.</i></p> <p>NRW submissions at Deadline 2 highlight the concerns to this approach, advising s.165 of the Water Resources Act 1991 empowers it to access land to conduct flood risk management works and</p>	
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		<p>that the provisions of the DCO cannot override these powers. NRW states it does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991.</p> <p>The ExA asks how this matter is to be resolved between the parties?</p>	
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