

HyNet North West

DRAFT BIODIVERSITY NET GAIN (BNG) STRATEGY UPDATE (CLEAN)

HyNet Carbon Dioxide Pipeline DCO

Planning Act 2008

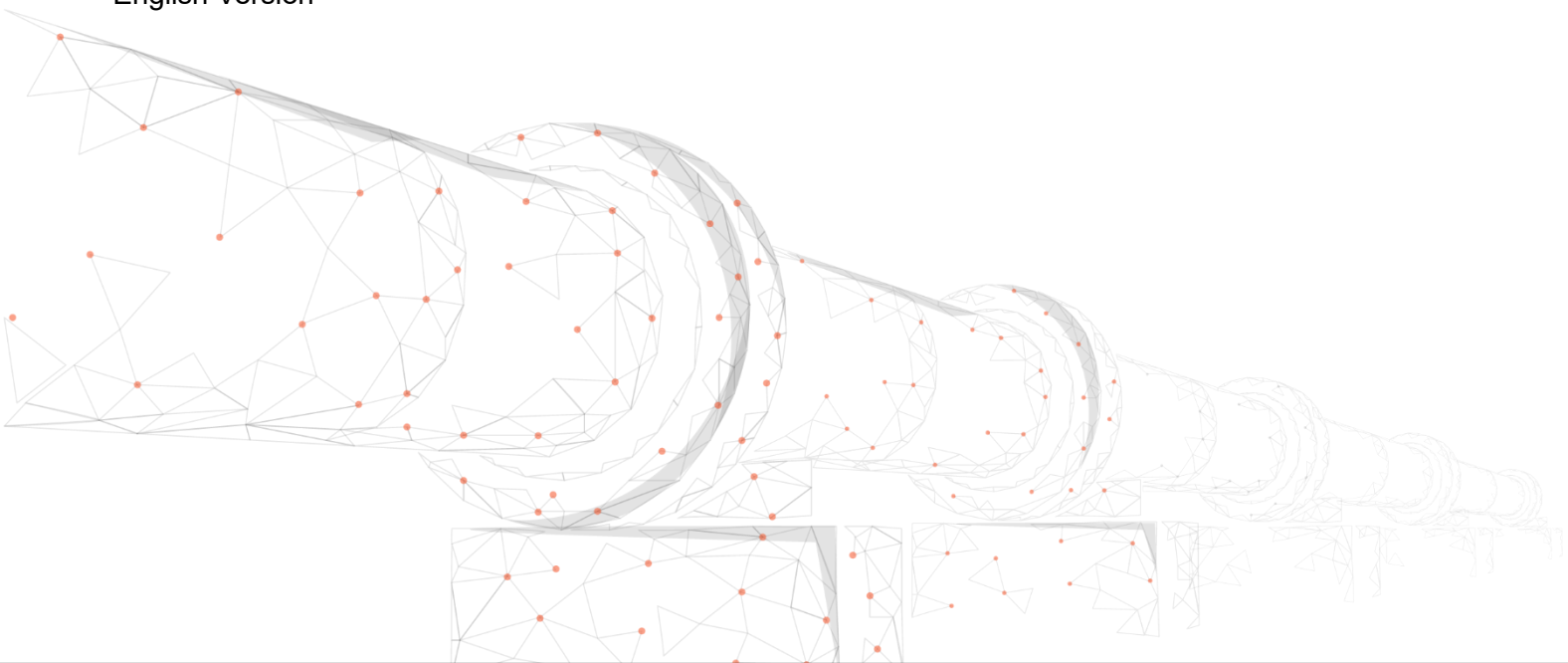
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1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared by Liverpool Bay CCS Limited ('the Applicant') for the purpose of capturing strategic updates on its proposals for Biodiversity Net Gain (as it is referred to in England) or Biodiversity Net Benefit (as it is referred to in Wales). For the purposes of this document and other references, the term 'BNG' is used to refer to both Biodiversity Net Gain and Biodiversity Net Benefit.
- 1.1.2. The purpose of this document is to update the Examining Authority (ExA) in respect of BNG related to the Development Consent Order (DCO) Proposed Development.
- 1.1.3. **Chapter 1** sets out the Applicant's BNG proposals as these have been developed during the pre-application and early Examination phases. **Chapter 2** of this document records the consultation undertaken by the Applicant with key external stakeholders. **Chapter 3** of this document sets out the further work being undertaken.

1.2. THE APPLICANT'S BNG POSITION

- 1.2.1. Nationally Significant Infrastructure Projects (NSIP) are not currently statutorily required to assess or implement BNG in England or deliver a set level of quantified benefit in Wales. BNG is often used in Wales to demonstrate compliance with the Environment (Wales) Act 2016 by showing that there is an overall benefit to biodiversity and, in particular, to priority habitat.
- 1.2.2. The Applicant notes that there is no statutory obligation under the Environment Act 2021 to provide BNG as part of this Application. Therefore, while the Applicant considers that delivery of BNG is desirable, the 10% provision threshold (mandated by the Environment Act 2021 for non-DCO schemes) does not apply and any positive gain is a benefit and accords with policy.
- 1.2.3. The Applicant agrees that BNG is desirable and supported by policy, and consequently has engaged with a number of key parties in the area to identify means to deliver the 1% BNG targeted for England and the 1% BNG targeted for Wales (calculated, provided and managed separately) for priority habitat. These would be delivered via priority habitat creation and/or enhancement for both England and Wales. The Applicant has been in discussion with Cheshire West and Chester Council (CWCC) and Flintshire County Council (FCC) on the provision of enhancements and / or creation of priority habitats – as described in Chapter 3 of this document. Discussions have also been held with a number of wildlife trusts on the provision of long-term management of these habitats, as summarised in Chapter 3 of this document. In addition to this, where achievement of BNG targets is not achievable in this manner, discussions are in progress with landowners located on or adjacent to the pipeline route regarding

the long-term provision and maintenance of ecological enhancement of their land.

- 1.2.4. The Applicant has committed to achieving BNG for Priority Habitats, following the industry good practice principles for BNG developed by CIEEM, CIRIA and IEMA, as well as the latest (at the time of first assessment) Biodiversity Metric guidance and user guide information. This aligns with Planning Policy Wales 10 which sets out that development “...*must provide a net benefit for biodiversity*”. This policy responds to the Section 6 Duty of the Environment (Wales) Act (2016) that requires public authorities to “...*seek to maintain and enhance biodiversity...and in so doing promote the resilience of ecosystems*”.
- 1.2.5. Having regard to various policy objectives, the Applicant has considered what level of BNG is both feasible and proportionate in the context of the nature of the DCO Proposed Development and has chosen to seek to provide gains of a minimum of 1% in Priority Habitats. This target and approach have been discussed with and accepted by relevant stakeholders (Natural England, Natural Resources Wales, Flintshire County Council, and Cheshire West and Chester Council). This target has been chosen on the basis of the effects on biodiversity resulting from the DCO Proposed Development, which are predominantly associated with the construction phase and are broadly temporary, short term, and localised in nature. Given the constraints of the Order Limits, opportunities to achieve net gain within that area are limited. This is particularly the case given that the majority of the land used in construction will be reinstated to agricultural use. As affected land predominantly comprises discrete sections of arable and grazing pasture fields, it is not appropriate to create BNG provision within these areas. This is because to do so would result in ‘islands’ of habitat sporadically located within working arable fields, with reduced value for connectivity, difficulties in on-going management and adverse effects on farming businesses post construction.
- 1.2.6. It is not currently possible to compulsorily acquire land for the purposes of BNG. Land required for BNG must be voluntarily acquired.
- 1.2.7. Outside of the BNG provision, the Applicant has committed to the creation of additional woodland planting mitigation areas, for which compulsory acquisition powers can be used, within the Newbuild Infrastructure Boundary (see Woodland and Individual Tree Mitigation of Section 9.10 of Chapter 9 – Biodiversity **[REP4-041]**), which are not being counted towards the target of 1% BNG. Furthermore, the DCO Proposed Development has entered into the Great Crested Newt District Level Licensing (DLL) scheme, which provides financial contributions towards the creation of ponds within the borough of Cheshire West and Chester, the provision of which far exceeds ponds lost through construction. These ponds are targeted in strategic opportunity areas, which ensure the favourable conservation status of Great Crested Newts is maintained and enhanced, providing wider biodiversity and environmental benefits. Ponds associated with DLL are not included in any measurement towards the BNG target, despite latest Natural England (NE) guidance stating

protected species mitigation/compensation can be used as part of the mix of net gain. Therefore, these ponds are likely to create a higher net gain in Priority Habitat than will be reported by the Applicant.

1.2.8. Whilst the Applicant's work to secure net gains of 1% is ongoing, the absence of mandatory net gain for NSIPs to date means the wider habitat banking and offsetting market has not yet matured. Therefore, there are challenges associated with the sourcing of sites and schemes that are suitably robust to evidence the desired net gains for Priority Habitats.

1.2.9. The Applicant is in discussion with CWCC regarding the purchase of units within their programme of BNG schemes. Technical and commercial discussion to secure this has now significantly progressed following Deadlines 3 and 4, and a draft agreement has been submitted with first round discussions subsequently held. During this discussion CWCC have confirmed they are able to provide BNG provision for all 4 relevant priority habitats:

- Native Species Rich Hedgerow with trees – the Applicant is working with CWCC with the objective of providing funding for a CWCC hedgerow creation scheme.
- Lowland Mixed Deciduous Woodland. Locations have been identified. An “in principle” agreement has been reached with CWCC to deliver the required woodland units and discussions are ongoing to finalise the technical details of how the woodland units will be delivered over the required timeframes.
- Ponds (priority habitat). Locations have been identified to deliver part of the requirement, with the remaining unit requirements agreed to be delivered as part of a CWCC pond creation strategy to be funded by the DCO Proposed Development.
- Coastal Floodplain Grazing Marsh. Locations have been identified to provide wetland habitat enhancements, with further discussion progressing with CWCC and Natural England regarding the suitable habitat interventions which can be achieved which balance complying with BNG targets for the scheme, good practice principles, and delivering the best outcomes for nature. These interventions may not be like-for-like in nature, with further discussion of proposed enhancement approaches currently being sought with CWCC and Natural England.

1.2.10. The Applicant is in discussion and has sent a draft agreement to FCC, and whilst a scheme is still to be formalised, FCC has identified to the Applicant that 2 out of the 3 required priority habitats could be provided by FCC on its sites or through supplementing one of its programmes, with Lowland Mixed Deciduous Woodland being sought through a separate agreement. Further information is summarised below:

- Native Species Rich Hedgerow with trees. Locations are to be determined and provision secured through agreement with FCC. Options to identify suitable organisations to deliver long-term management are currently being

explored with discussions on going with the North-Wales Wildlife Trust (NWWT) and Groundworks.

- Ponds (priority habitat) – Options to deliver ponds in two locations, including provision secured through agreement with FCC.
- Lowland Mixed Deciduous Woodland – The Applicant is engaged in discussion with landowners and trusts regarding this remaining habitat within Wales. Provisional locations have been identified in and around the Ewloe-Northop Hall area, details of which are being explored with a view to confirming these sites for delivery of BNG. On-going discussions are also being held with suitable organisations to deliver long-term management as above.

1.2.11. The combination of the programme of work with FCC and private landowners / wildlife trusts would deliver a net benefit for biodiversity within Wales.

1.2.12. It is acknowledged that the legislative and policy landscape in Wales differs from England. Therefore, whilst the BNG assessment has remained consistent between both countries, the specific means to securing net gains in biodiversity are being discussed, having regard to relevant local stakeholder engagement. For Wales, the particular forms of gain or benefit to be provided in each case are being developed to seek to deliver the most impactful benefits for biodiversity that the DCO Proposed Development can contribute towards. Where there are demonstrable net benefits to biodiversity, and these are supporting local stakeholders' wider strategic ambitions, compensation that is qualitative rather than quantitative may be explored, where the net benefits are anticipated to outweigh those through an approach to achieving net gain which is consistent with England.

2. BNG TECHNICAL UPDATE

2.1. SITE IDENTIFICATION – ENGLAND

- 2.1.1. A number of additional meetings with CWCC have taken place (see Table 3-1) in relation to habitat offsetting. The results of these discussions have identified the following sites (below) which are currently being progressed through detailed discussions over implementation. The delivery of BNG at these sites is being collaboratively progressed by both CWCC and the Applicant in more detail, which includes the exact habitat interventions and the areas over which these will occur, details of long term management, and suitable agreements to secure delivery and maintenance. Baseline habitat data for all of these identified sites has now been collated and has been used to confirm the feasibility of these sites. Further detail regarding these sites and/or strategies are provided below::

WOODLAND HABITAT CREATION - ENGLAND

Proposal to Provide BNG Priority Habitat

- 2.1.2. Land around Wervin, near Ashwood Lane (approx. 0.75 km) North West of the Order Limits.

Outline Plan Delivery Mechanism

- 2.1.3. The site has a mix of existing broadleaved woodland (0.95ha) as well as recently planted woodland from arable land. An agreement in principle is in place to purchase the units resulting from enhancing the existing woodland as well as creation of new woodland from arable land.

Management Provision

- 2.1.4. This will be managed by CWCC for 30 years. Details over the exact habitat interventions and locations within the CWCC-owned site are being finalised via the discussion of a commercial agreement. This information will subsequently be entered into the Biodiversity Metric for the DCO Proposed Development.

POND HABITAT CREATION - ENGLAND

Proposal to Provide BNG Priority Habitat

- 2.1.5. Land around Wervin, near Ashwood Lane (approx. 0.75 km) North West of the Order Limits, adjacent to the woodland habitat creation described in 2.1.2 above.

Outline Plan Delivery Mechanism

- 2.1.6. This site has potential for the creation of a small number of ponds, which will become a part of a wider pond habitat creation strategy.

Management Provision

- 2.1.7. This will be managed by CWCC for 30 years. The remaining requirement for ponds would equate to around 10 ponds (each being roughly 200m²). For these, it is proposed that CWCC will set up a borough-wide pond creation and 30-year management strategy which will be funded by the DCO Proposed Development. This strategy will be formalised by CWCC but will involve creation and management of suitable priority pond habitat within the Ecological Network associated with Local Plan (part 2) Policy DM44.

HEDGEROW HABITAT CREATION – ENGLAND

Proposal to Provide BNG Priority Habitat

- 2.1.8. Funding will be secured through a suitable agreement with CWCC who will use the funding on hedgerow creation within the Ecological Network (associated with Local Plan Part 2 Policy DM44) over agreed timeframes.

Outline Plan Delivery Mechanism and Management Provision

- 2.1.9. The hedgerows will be managed and monitored by CWCC for 30 years as part of the agreement. The details of the agreement between the Applicant and CWCC to secure this offsetting is in the process of being finalised. A Hedgerow Strategy will be developed and published by CWCC to provide further details of the scheme.

COASTAL FLOODPLAIN AND GRAZING MARSH ENHANCEMENT - ENGLAND

Proposal to Provide BNG Priority Habitat

- 2.1.10. Land around the Countess of Chester Country Park, North Chester, approximately 0.5km south of the Order Limits

Outline Plan Delivery Mechanism and Management Provision

- 2.1.11. This area contains a mosaic of existing wetland, grassland, scrub, and woodland habitats. Proposals have, independently of the DCO Proposed Development, already been created in draft form for this site for an existing CWCC project, which involves creation and enhancements to wetland and grassland habitats. The Site would be managed and monitored by CWCC directly or an appointed competent third-party. Discussions are on-going regarding the details of which interventions are suitable for the DCO Proposed Development's targets. Liaison has taken place with both CWCC and Natural England and the Applicant is continuing dialogue with these stakeholders to agree a suitable strategy to contribute funding to this site, which balances alignment with BNG good practice principles and optimal gains for biodiversity.

2.2. SITE IDENTIFICATION – WALES

- 2.2.1. A number of meetings with FCC (see Table 3-1) in relation to habitat offsetting have taken place and identified the following sites which are currently at feasibility stage. These are currently being investigated further, including collation of baseline data and discussions around suitable enhancements:

POND HABITAT CREATION - WALES

Proposal to Provide BNG Priority Habitat

- 2.2.2. Field off Wepre Lane, near Ashwood Lane (approx. 0.7 km) North West of the Order Limits.

Outline Plan Delivery Mechanism and Management Provision

- 2.2.3. To be provided by FCC in their Wepre Forest managed area; adjacent to the Wepre Brook ecosystem. The details of the management provision are currently under discussion with FCC.

HEDGEROW HABITAT CREATION - WALES

Proposal to Provide BNG Priority Habitat

- 2.2.4. Land Adjacent to River Dee, Sealand.

Outline Plan Delivery Mechanism and Management Provision

- 2.2.5. Creating hedgerows on land owned by FCC. The details of the management provision are currently under discussion with FCC, with the possibility that these areas would be managed by a suitable habitat management company (see Section 1.2.10).. Any management would be for a total of 30 years.
- 2.2.6. The Applicant is currently in negotiatiion regarding identified private land in the vicinity of the pipeline route in Wales, for agreements to secure offsets, with the following currently being considered:

Woodland Habitat Creation - Wales

- 2.2.7. An area of 3.9 ha has been identified adjacent to the existing Order Limits in the Ewloe-Northop Hall area which connects to an existing belt of woodland.

Outline Plan Delivery Mechanism and Management Provision

- 2.2.8. This area is currently species-poor pasture grassland and proposals would involve creation of woodland to meet the minimum 1% net gain target for woodland. This area would be managed by a suitable habitat management company (as defined in Section 1.2.10) for 30 years. The details of the commercial negotiation are being finalised prior to this area being formally included within the BNG assessment.

3. REVIEW OF UK NATURE MARKETS

3.1.1. Notwithstanding the above, the Applicant has undertaken a review of existing information from the UK Government on Nature Markets (**Ref 1-1**). The Applicant has engaged with relevant stakeholders in both England and Wales regarding any knowledge of relevant markets which are advanced enough to be utilised by the DCO Proposed Development. The outcome of discussions to date are summarised for both England (Cheshire West and Chester) and Wales (Flintshire) below:

CHESHIRE WEST AND CHESTER

3.1.2. Through discussions involving both Natural England (NE) and Cheshire West and Chester Council (CWCC), it is apparent that markets within Cheshire West and Chester are in their infancy with respect to Biodiversity Net Gain, which is the predominant compliance nature market referenced within UK Government documentation. This is to be expected given the relevant timescales associated with the Environment Act (2021), which do not mandate BNG for Town and Country Planning Act developments until 2023 and Nationally Significant Infrastructure Projects (NSIPs) until 2025.

3.1.3. The Applicant has identified two sites through liaison with CWCC which are considered to be amongst the most advanced of the council's habitat creation sites and viable offsetting sites. No other nature market operators have been identified which would offer a suitable solution to the required biodiversity units associated with the targets the DCO Proposed Development is seeking to achieve.

3.1.4. The UK Government has stated that it will provide a means of purchasing Statutory Credits for biodiversity where local markets fail to deliver the required service (**Ref 1-2**); however, this is not yet a functioning system due to the on-going transition period associated with the Environment Act. Therefore, nature markets, other than the nascent examples identified through stakeholder engagement, are currently an unviable solution as a last resort option to achieve the project's net gain targets.

3.1.5. The lack of established and viable nature markets within England highlights the challenging environment in which the Applicant is currently navigating BNG delivery, for which there is not yet a mandatory requirement.

FLINTSHIRE

3.1.6. Consultation has been undertaken with both Flintshire County Council (FCC) and Natural Resource Wales (NRW), as well as a number of habitat management organisations, to evaluate the nature markets available within Flintshire. It is apparent that markets in this borough are even more nascent than those of Cheshire West and Chester. This is again to be expected, given the difference in the policy/legislative landscape that does not include imminent mechanisms for compliance markets associated with BNG within Wales. Given

this, the Applicant has undertaken extensive liaison with the above bodies to date to discuss and agree bespoke compensation strategies to achieve the required habitat compensation. Where options for working in partnership with either FCC or NRW have been exhausted, private agreements have been investigated, particularly in respect to woodland creation.

- 3.1.7. A review of suitable schemes has revealed an additional option for woodland creation in Wales, which is currently being explored as a last resort option. This would involve providing funding for the National Forest for Wales and would likely comprise a site outside of Flintshire within the neighbouring council authority of Denbighshire (**Ref 1-3**). Given this option is further away from the DCO Proposed Development route within an adjacent authority boundary, it is considered to remain as a last resort whilst private agreements adjacent (or in closer proximity) to the pipeline route are under commercial negotiation. The Applicant is confident that a suitable strategy falling within Flintshire can be finalised during the examination process.

4. CONSIDERATION OF BROADER ECOLOGICAL ENHANCEMENTS

4.1.1. This section outlines the relevant policy and legislation for both the English and Welsh sides of the DCO Proposed Development, respectively, and evaluates the project's current BNG commitments and wider strategy in light of these.

4.2. CHESHIRE WEST AND CHESTER, ENGLAND

NATIONAL POLICY / LEGISLATION

Environment Act 2021 (Ref 1-4)

4.2.1. The Act requires a minimum of 10% net gain for biodiversity as a condition of planning permission for Town and Country Planning Acts from November 2023, and is anticipated to require an equivalent requirement of 10% net gain for Nationally Significant Infrastructure Projects (NSIPs) from 2025. The 10% net gain requirement is not currently mandatory due to the on-going transition period enacted by the UK Government.

4.2.2. Net gain is to be measured by the biodiversity metric published by the Secretary of State. This is the Natural England Biodiversity Metric Calculation Tool. The Act requires that gains must be *"...maintained for at least 30 years after the development is completed."*

Natural Environment and Rural Countryside Act (Ref 1-5)

4.2.3. The Natural Environment and Rural Countryside (NERC) Act (HMSO, 2006) requires public bodies, including local authorities, 'to have regard to the conservation and enhancement of biodiversity in England when carrying out their normal functions'.

4.2.4. Section 40 of the NERC Act 2006: *"A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective."*...the biodiversity objective is, *"...the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England"*. This is referred to as the Biodiversity Duty.

- Section 41 sets out that:
- Paragraph 1. *"The Secretary of State must... publish a list of the living organisms and types of habitat ... of principal importance for the purpose of conserving biodiversity"* based on consultation with Natural England; and
- Paragraph 3a. Every planning authority must *"a) take such steps... to further the conservation of the living organisms and types of habitat included in any list published under this section, or (b) promote the taking by others of such steps"*.

National Planning Policy Framework (Ref 1-6)

- 4.2.5. The National Planning Policy Framework (NPPF) (MHCLG, 2021) refers to conserving and enhancing the natural environment. This requires Local Authorities in England to take measures to:
- Conserve and enhance biodiversity;
 - Protect the habitats of these species from further decline;
 - Protect the species from the adverse effect of development; and
 - Refuse planning permission for development, if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for.
- 4.2.6. Although not currently a legal obligation, the revised NPPF refers to biodiversity and environmental net gains in the following paragraphs:
- Paragraph 118. *“Planning decisions and planning policy should a) encourage multiple benefits from both urban and rural land ... and taking opportunities to achieve net environmental gains - such as developments that would enable new habitat creation.”*
 - Paragraph 170. *“Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.”*
 - Paragraph 174. *“To protect and enhance biodiversity and geodiversity plans should b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”*
 - Paragraph 175. *“When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; ... and d) ... opportunities to incorporate biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.”*

LOCAL POLICY

Cheshire West and Chester Local Plan policies ENV 4 (Ref 1-7) and DM44 (Ref 1-8)

- 4.2.7. In line with Local Plan (Part One) policy ENV 4 and Local Plan (Part Two) Policy DM44, development will be supported where there is no net loss of natural assets and, wherever possible, it delivers net gains within the borough. Policy DM44 states that development should (where there is a likely impact on priority or protected habitats or species):

- *“1. identify the assets of biodiversity/geodiversity value on and within the vicinity of the site;*
- *2. evaluate the value and extent of the assets;*
- *3. assess the likely expected impact of the development on assets of biodiversity/geodiversity value taking into account the mitigation hierarchy;*
- *4. identify the net losses and gains for biodiversity/geodiversity, using a biodiversity metric calculation;*
- *5. identifies the options to enhance the value of the assets and contribute towards the borough's ecological network...”*

4.2.8. Given the relevance to the DCO Proposed Development, the policy also states that *“Development that makes a positive contribution towards the borough's ecological network will be supported. Within the components of the ecological network, as identified on the policies map, proposals should:*

- *11. increase the size, quality or quantity of priority habitat within core areas, corridors or stepping stones;*
- *12. within corridors and stepping stones, improve the connectivity of habitats for the movement of mobile species;*
- *13. in restoration areas, improve the structural connectivity, resilience and function of the network...”*

EVALUATION

4.2.9. The BNG strategy responds proportionately to the existing legislative and policy landscape in England, whereby BNG is not yet a mandatory requirement. The targeting of Priority Habitat to achieve net gains in biodiversity accords with the NERC Act whilst utilising the Biodiversity Metric provides a robust mechanism, noting risk multipliers as outlined above, to achieve a greater extent of Priority Habitat than that which is lost to the Proposed Development.

4.2.10. As outlined above, the route of the DCO Proposed Development has been designed to avoid high value habitats wherever possible, for example by avoiding veteran trees and ancient woodland, as well as specific commitments to avoid existing areas of Priority Habitat where possible. However, it has not been possible to avoid all high value habitats within the Survey Area. Where losses have been unavoidable, habitats are proposed to be reinstated like-for-like within 2 years of their removal. For habitats where this is not possible and for the remaining required compensation, off-site mitigation is being sought to offset the remaining losses on a like-for-like basis where possible or through an appropriate agreed alternative. This adherence to the mitigation hierarchy conforms with policy wording within the NPPF as well as Local Policy within CWCC's Local Plan.

4.2.11. By using the Biodiversity Metric to measure net gain, the DCO Proposed Development ensures alignment to the NPPF and Local Policy DM44 which state measurable net gains and use of a metric should be demonstrated

respectively. The Ecological Network (as part of policy DM44), has played a fundamental role in the identification of suitable offset sites, and sites brought forward by CWCC are selected with this in mind. The provision of offsets within the Ecological Network directly evidences a positive contribution to the network, including points 11-13 above. Table 4-2 below demonstrates the amounts of habitats which are being lost within the Ecological Network, reinstated within the network and then compensated (as a last resort) within the network. This table demonstrates the greater extent of habitats which will result from the BNG Strategy, thereby strengthening the Ecological Network in the long-term, noting the commitment for 30 years management and maintenance of these offset habitats to ensure they achieve their target condition and value.

Table 4.1 – Habitats of Principal Importance to be reinstated and created through the DCO Proposed Development in England

Habitat Type	Area/ Length lost (ha/ km)	Area/ Length Reinstated/Created (ha/ km)	Proposed Area/ Length Created off-site (ha/ km)
Lowland mixed deciduous woodland	0.37ha	0.00	2.6 ^h ha
Ponds (Priority habitat)	0.10ha	0.00	0.3ha
Hedgerow priority habitats	2.72km	2.72km	1.0km
Coastal Floodplain and Grazing Marsh (CFGM)	1.10ha	0.71ha	2.6ha

FILNTSHIRE, WALES

NATIONAL LEGISLATION / POLICY

Environment (Wales) Act (Ref 1-9)

4.2.12.

Under Section 6 of the Environment (Wales) Act a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions. Biodiversity is defined as the diversity (variety and abundance) of living organisms, whether at the genetic, species or ecosystem level. In particular, under Section 6(5)a, in complying with the duty a public authority must have regard to the Section 7 biodiversity lists of species and Habitats of Principal Importance (HPI, i.e. Priority Habitats) for Wales.

Planning Policy Wales (Ref 1-10)

- 4.2.13. The Planning Policy Wales Section 6 provides relevant policy for maintaining and enhancing biodiversity, stating that a stepwise approach should be undertaken to ensure resilient ecological networks by firstly avoiding, secondly minimising and only compensating for impacts as a last resort. Where off-site compensation is necessary, it should normally take the form of habitat creation or enhancement with long-term management provision. Consideration should be given to the location of the offsets to balance the benefits of siting them close to the location of impacts vs within strategically significant areas to promote wider ecosystem resilience. Recent ‘targeted policy changes’ (**Ref 1-11**) are at consultation stage and include wording changes to the relevant sections below.
- 4.2.14. Implementing the ‘Section 6 Duty’ is an important consideration when designing offsets. This duty follows the DECCA framework which is outlined below:
- Diversity
 - Extent
 - Condition
 - Connectivity
 - Adaptability to change

LOCAL POLICY

Flintshire Local Development Plan (2015-2030)

- 4.2.15. Strategic Policies – Valuing the Environment sets out policy STR13: Natural and Built Environment, Green Networks and Infrastructure. Alongside this there are detailed policies of relevance including EN2 Green Infrastructure and EN7 Development Affecting Trees, Woodland and Hedgerows.
- 4.2.16. Whilst there is no wording related to ‘measurable’ or ‘net gains’, these policies do promote the enhancement and resilience of existing assets for biodiversity, as well as the ‘net benefit’ for biodiversity where hedges and trees are impacted by development (EN7). It also requires that compensation is utilised where impacts are unavoidable and options to include sensitive amendments to the design are exhausted. To this end, it is considered the local policy is commensurate to the national policy landscape in Wales.

EVALUATION

- 4.2.17. The BNG strategy directly responds to the Environment (Wales) Act by targeting Priority Habitats, and utilises a robust and industry leading methodology to demonstrate quantitative net gains in biodiversity. Through use of the Biodiversity Metric, risk multipliers are factored into compensation requirements to ensure considerably larger extents of habitats are put back compared to that lost. This is demonstrated in Table 4-2 below. Net benefits are considered aligned to BNG Good Practice Principles which go beyond a mere quantitative assessment, in evidencing qualitative principles around the delivery of net gains to ensure they are resilient and deliver optimal outcomes.
- 4.2.18. The design and route of the DCO Proposed Development has been designed to avoid high value habitats wherever possible, for example by avoiding veteran trees and ancient woodland, as well as specific commitments to avoid existing areas of Priority Habitat where possible. However, it has not been possible to avoid all high value habitats within the Survey Area. Where losses have been unavoidable, habitats are proposed to be reinstated like-for-like (or an agreed alternative) within 2 years of their removal. For habitats where this is not possible and for the remaining required compensation, off-site mitigation is being sought to offset the remaining losses, on a like-for-like basis. This demonstrates adherence to the stepwise approach as set out within Planning Policy Wales, as all residual impacts to Priority habitat are now considered small in scale and unavoidable. Measures to avoid impacts through modifying the development have been integrated through the embedded design of the scheme and further commitments to avoid habitats will be implemented, where it is feasible to do so, through the development of the detailed design.
- 4.2.19. The DCO Proposed Development will align with the DECCA framework as set out below:
- **Diversity** – the offsetting BNG strategy proposes to create new hedgerows, woodland and a pond, which includes a diverse range of habitat types offering different ecological functions. Crucially, this is ‘like-for-like’ compensation which replaces small impacts to these habitat types with larger extents of the same habitats. Diversity will be ensured by intelligent design of the pond to ensure it provides varying depths for a variety of niches suitable for different fauna and flora. Diversity in woodland and hedgerow creation will be ensured through planting a species-rich and native range of shrubs and trees in keeping with the landscape, which will provide different niches and grow at varying rates. This will ensure the habitats are more resilient.

- **Extent** – the DCO Proposed Development BNG strategy will ensure larger extents of habitats are created compared to those lost. These are to be located in areas to promote connectivity and will ensure that over the long term, resilient ecosystems are expanding within the vicinity of the development. Table 4-2, below sets out the areas of each Priority Habitat type which are likely to be lost during construction compared to the areas which the BNG Strategy commits the Applicant to create off-site.

Table 4-2 – Habitats of Principal Importance to be reinstated and created through the DCO Proposed Development in Wales

Habitat Type	Area/ Length lost (ha/ km)	Area/ Length Reinstated or Created (ha/ km)	Proposed Area/ Length Created off-site (ha/ km)
Ponds (Priority habitat)	0.00ha	0.00	0.01ha
Hedgerow priority habitats	3.93km	4.08km	0.7km
Lowland mixed deciduous woodland	0.93ha	0.00	3.8ha

- **Condition** – The overall strategy for BNG has sought to ensure the condition of habitats both existing and proposed will be adequate to ensure they can function effectively towards ecosystem resilience. The impacts of the DCO Proposed Development will be predominantly short term, localised, and temporary, and commitments to avoid the majority of habitats of high value mean that impacts to habitat condition are mostly avoided. Where losses of Priority Habitat will occur, these have only been treated as reinstated within the Order Limits where it can be reasonably expected that habitat condition relative to the baseline can be achieved following reinstatement. However, where this is not the case, for example where impacts to Priority Woodland habitat occur, appropriate compensation has been identified off-site to ensure it can be placed into long-term management for 30 years, to ensure dedicated management is in place to ensure it reaches a healthy condition. Whilst some mitigation is proposed for hedgerows, off-site compensation has been chosen for hedgerows, ponds and Priority woodland habitat because this is judged to be the optimal strategy to ensure this habitat type promotes ecosystem resilience and enhances biodiversity in the long-term.

- **Connectivity** – functional habitats and ecological networks have been ensured through the identification of offset sites to date. For example, woodland creation in Wales is currently proposed to connect to existing belts of mature woodland, within the Order Limits, which will in turn increase connectivity through the landscape. Hedgerows are being reinstated where the pipeline construction requires severance, to ensure the connectivity is not impacted in the long term. Additional hedgerow and pond creation is also being targeted in areas which promote wider resilience of existing networks and ecosystems. For example, pond creation is targeted adjacent to Wepre Park SAC which is designated for its Great Crested Newt population, of which an additional pond will help to maintain and enhance the range and conservation status of this species in this location.
- **Adaptability to change** – this is proposed to be achieved in the first instance through creation of diverse habitats with varying species and ecological niches. Secondly, this will be achieved through adaptive management over a long term (30 year) period, which can factor in climate change and other external factors to ensure any habitat management responds to these changes and ensure the continued functionality of ecosystems. Monitoring over the 30 year period will ensure that necessary changes in management practices are implemented to ensure that habitats achieve the desired condition.

5. RECORD OF ENGAGEMENT

- 5.1.1. This chapter provides a summary of the engagement undertaken to date between the Applicant and key stakeholders in relation to the BNG strategy for the DCO Proposed Development.

Table 5-1 – Record of Engagement in Relation to BNG / Provision for the DCO Proposed Development

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
24/01/2023	Cheshire West and Cheshire Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • General Project Introduction. • Project Overview – requirement of BNG in England. • Discussion of whether CWCC and their Mersey forest programme could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • Confirmation that CWCC’s programme could support the areas identified in Table 3-2 in [APP-231]. • Discussion of overarching commercial structure to put an English BNG programme in place.
24/01/2023	Flintshire County Council	In person meeting between CWCC and the Applicant, at Wepre Forest Visitor Centre	<p>Key Topics</p> <ul style="list-style-type: none"> • General Project Introduction. • Project Overview – requirement of BNG in Wales. • Discussion of whether FCC and ongoing programmes could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • Discussion of general concepts, including that FCC would be in a position to support the project in Wales. Confirmation that this would be for 3 out of 4 areas identified in Table 3-4 in [APP-231]. • FCC would not be in a position to support the creation of Woodland Priority Habitats.
07/03/23	Flintshire County Council	Teams meeting between FCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • General Project Updates. • Further discussion of FCC concepts to support BNG creation. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • Further discussion regarding FCC being able to support 3 out of 4 areas identified in Table 3-4 in [APP-231]. • Although FCC would not be in a position to support the creation of Woodland Priority Habitats, they directed the Applicant to engage with four trusts that are active in the area: <ul style="list-style-type: none"> – The Woodlands Trust; – The North Wales Wildlife Trust; – Groundwork North Wales; and – The Amphibian and Reptile Conservation Trust,
17/03/23	Cheshire West and Cheshire Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Project Update. • Discussion and follow-up on commercial template. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • CWCC committed to send commercial template for Applicant review. • CWCC and the Applicant agreed to plan a technical specialist meeting.

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
19/03/23	Cheshire West and Cheshire Council	Email correspondence between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> Standard commercial template document received by the Applicant. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> Commercial discussions initiated (no further comment in this document).
21/03/23	The North Wales Wildlife (NWW Trust)	Teams meeting between the NWW Trust and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> General Project Introduction. Project Overview – requirement of woodland BNG in Wales in particular. Discussion of whether the NWW Trust could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> Confirmation that the NWW Trust would be interested in supporting the project in a maintenance role if suitable land areas were identified via private landowner discussions. Once suitable areas have been identified, the Applicant will approach the NWW Trust again to discuss any proposal.
23/03/23	The Amphibian and Reptile Conservation (ARC Trust)	Teams meeting between the ARC Trust and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> General Project Introduction. Project Overview – requirement of woodland BNG in Wales in particular. Discussion of whether ARC Trust could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> Confirmation that solely woodland habitat was not of primary interest to the ARC Trust (due to their focus on amphibians / reptiles) but could be interested in a forward maintenance role if there was a ‘mosaic’ type habitat setup, which include ponds / river habitat. The Applicant notes this, and will update the ARC Trust if appropriate.
24/03/23	Groundwork North Wales	Teams meeting between Groundwork North Wales and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> General Project Introduction. Project Overview – requirement of woodland BNG in Wales in particular. Discussion of whether Groundwork North Wales could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> Confirmation that Groundwork North Wales would be interested in supporting the project in a maintenance role if suitable land areas were identified via private landowner discussions. Once suitable areas have been identified, the Applicant will approach Groundworks North Wales again to discuss any proposal.
05/04/23	Cheshire West and Cheshire Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> General Project Updates. Technical Specialist Introduction. <p>Discussions and Outcomes</p>

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
			<ul style="list-style-type: none"> • Kick-off meeting to discuss technical areas of interest which could be used for BNG in England. • Overview of process required by the Applicant to support the DCO proposal. • Warning that a potential update in metric, might mean that a new priority habitat would be added to the project requirements; Coastal Floodplain and Grazing Marsh. Discussion held on ideas for suitable locations.
19/04/23	The Woodlands Trust	Teams meeting between the Woodlands Trust and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Held as part of a wider project impact meeting. • Project Overview – requirement of woodland BNG in Wales in particular. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • The Woodland Trust’s estates may be interested in supporting the project in potentially a number of roles. • However, the status of the Woodlands Trust as an objector to the scheme to the scheme may present a barrier. This was to be picked up in communication with the Woodlands Trust’s Real Estate team. • The Applicant committed to follow-up with a project introduction.
26/04/23	The Woodlands Trust	Email correspondence between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • General Project Introduction. • Project Overview – requirement of woodland in Wales in particular. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • The Applicant sent project details to the Woodland Trust for their review. • The Applicant will follow-up and seek a meeting to discuss further.
03/05/23	Flintshire County Council	Teams meeting between Flintshire County Council and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Update on calculations and offsetting requirements • More detailed discussions over parameters of the required offsetting, proposed approach and mechanisms of delivery. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • FCC were to liaise internally and with landowners (where deemed necessary) to identify specific locations for offsetting related to ponds, river and hedgerows.
12/05/23	Cheshire West and Cheshire Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • General Project Updates. • Details of BNG sites for assessment • Update on agreement comment review by the Applicant <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • Sharing of baseline data on site proposed by CWCC • Commitment from the Applicant that, their comments on a commercial agreement will be returned in w/c 22 May 22.

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
12/05/23	Flintshire County Council	Email received from FCC by the Applicant	Key Topics <ul style="list-style-type: none"> Details of BNG sites for assessment received from FCC
18/05/23	Cheshire West and Chester Council	Teams meeting between CWCC and the Applicant	Key Topics <ul style="list-style-type: none"> Further discussions around BNG sites for assessment Introduction of alternative (plan B) options for offsetting locations Discussions and Outcomes <ul style="list-style-type: none"> Sharing of draft metric associated with Wervin offset site to determine suitability to provide offsetting
01/06/23	Cheshire West and Chester Council	Teams meeting between CWCC and the Applicant	Key Topics <ul style="list-style-type: none"> Further discussions around BNG sites for assessment Discussion around the detailed habitat interventions which can be used to evidence BNG targets Discussions and Outcomes <ul style="list-style-type: none"> Sharing of further data around offset sites.
13/06/23	Cheshire West and Chester Council	Teams meeting between CWCC and the Applicant	Key Topics <ul style="list-style-type: none"> Further discussions around BNG sites for assessment Discussions and Outcomes <ul style="list-style-type: none"> Sharing of further data around offset sites.
16/06/23	North Wales Wildlife Trust (NWWT)	Teams meeting between NWWT and the Applicant	Key Topics <ul style="list-style-type: none"> Discussions around BNG sites requiring management and maintenance in Wales Discussion around the requirements of management and maintenance for specific habitat types. Discussions and Outcomes <ul style="list-style-type: none"> Sharing of information with respect to sites and management requirements.
19/06/23	Groundworks	Teams meeting between Groundworks and the Applicant	Key Topics <ul style="list-style-type: none"> Discussions around BNG sites requiring management and maintenance in Wales Discussion around the requirements of management and maintenance for specific habitat types. Discussions and Outcomes <ul style="list-style-type: none"> Sharing of information with respect to sites and management requirements.
21/06/2023	Cheshire West and Chester Council	Teams meeting between CWCC and the Applicant	Key Topics <ul style="list-style-type: none"> Discussion around the detailed requirements of legal agreements with respect to securing the BNG provision. Discussions and Outcomes <ul style="list-style-type: none"> Sharing of comments and feedback on draft legal agreement.

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
21/06/2023	Cheshire West and Chester Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Discussion around Chester Wetlands project as a means of securing wetland and CGFM BNG provision. • Detailed discussion around the site and its suitability. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • Sharing of draft metric, BNG report and habitat maps for the Chester Wetlands site.
28/06/2023	Natural England	Teams meeting between Natural England and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Update on progress regarding the BNG Strategy • Discussion around BNG best practice and acceptable compensation in light of current legislation, particularly trading rules and delivering the best outcomes for biodiversity. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> • Agreement of a follow on meeting to reconvene on the matters raised, with further details of site specific proposals to be put forward to Natural England for comment on proposed approaches, working in partnership with CWCC.

6. FUTURE PLAN

- 6.1.1. The Applicant has set out in this document a deliverable plan for providing the target BNG in priority habitats. This has included considerable work and detailed discussions with key stakeholders prior to the submission of this BNG Strategy Update at Deadline 5. Given the immaturity of BNG delivery markets and mechanisms, the Applicant and intended delivery bodies are creating new approaches in some cases to securing delivery. That has resulted in commercial negotiation of the various agreements remaining ongoing at Deadline 5. The Applicant is not aware of any in-principle reason why these agreements will not be concluded.
- 6.1.2. As part of this plan, the Applicant is carrying out activities including the following tasks:
- Securing land from landowners identified for BNG for Welsh Woodland, with suitable private voluntary option agreement(s);
 - Progression of legal agreements with CWCC and FCC on BNG Provision and management;
 - Progression of a framework agreement with a suitable habitat management company (as defined in Section 1.2.10) where required;
 - Initial data check of baseline via a desktop study wherever this has not already been undertaken;
 - On-going review and checking of third-party survey and assessment data (completed for most habitats); AND
 - Undertake final assessment based upon agreed habitat enhancement / creation interventions and outline long-term management.

7.

REFERENCES

- **Ref 1-1:** Nature Markets: A framework for scaling up private investment in nature recovery and sustainable farming. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1147397/nature-markets.pdf
- **Ref 1-2:** Biodiversity net gain (BNG). Available at: [Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- **Ref 1-3:** National Forest for Wales. Available at: [National Forest for Wales - GOV.WALES](https://www.gov.uk)
- **Ref 1-4:** Environment Act 2021. Available at: [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- **Ref 1-5:** Natural Environment and Rural Communities Act 2006 available at: [Natural Environment and Rural Communities Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- **Ref 1-6:** National Planning Policy Framework available at: [National Planning Policy Framework - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- **Ref 1-7:** Cheshire West and Chester Local Plan policy ENV 4 available at:
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- **Ref 1-8:** Cheshire West and Chester Local Plan policy DM44 available at:
[REDACTED]
[REDACTED]
https://cheshirewestandchester.objective.co.uk/portal/cwc_ldf/adopted_cwa_c_lp/parttwo_adopted?pointId=s1561545628417#section-s1561545628417
- **Ref 1-9:** Environment Wales Act available at: [Environment \(Wales\) Act 2016 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- **Ref 1-10:** Planning Policy, Wales available at: [Planning Policy Wales - Edition 11 \(gov.wales\)](https://www.gov.wales)
- **Ref 1-11:** Targeted policy changes related to Planning Policy, Wales available at: [Targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience \(incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure\) - GOV.WALES](https://www.gov.wales)