

## APPLICANT'S RESPONSES TO THE EXAMINING AUTHORITY'S SECOND WRITTEN QUESTIONS (EXQ2)

HyNet Carbon Dioxide Pipeline DCO

**Planning Act 2008**

**The Infrastructure Planning (Examination Procedure) Rules 2010 Rule 8(1)(b)**

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# 1. INTRODUCTION

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## 1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared on behalf of Liverpool Bay CCS Limited ('the Applicant') and relates to an application ('the Application') for a Development Consent Order (DCO) that has been submitted to the Secretary of State (SoS) for Energy Security & Net Zero (ESNZ) under Section 37 of the Planning Act 2008 ('the PA 2008'). The Application relates to the carbon dioxide (CO<sub>2</sub>) pipeline which constitutes the DCO Proposed Development.
- 1.1.2. This document provides the Applicant's response to the Examining Authority's (ExA) Second Written Questions (EXQ2) **[PD-023]**.

## 1.2. THE DCO PROPOSED DEVELOPMENT

- 1.2.1. HyNet (the Project) is an innovative low carbon hydrogen and carbon capture, transport and storage project that will unlock a low carbon economy for the North West of England and North Wales and put the region at the forefront of the UK's drive to Net-Zero. The details of the project can be found in the main DCO documentation.
- 1.2.2. A full description of the DCO Proposed Development is detailed in **Chapter 3 – Description of the DCO Proposed Development** of the consolidated Environmental Statement (ES), submitted at Deadline 4 **[REP4-029]**.
- 1.2.3. The Applicant submitted its Intention to Submit a Change Request (3) on 20 June 2023 **[REP4-270]** and submitted Change Request 3, along with an Environmental Technical Note on 04 July 2023 at Deadline 5. The ExA has until 01 August 2023 to determine whether to accept Change Request 3 into the Examination.

## **2. APPLICANT'S RESPONSE**

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2.1.1. This section provides the Applicant's response to the Applicant's Responses to ExQ2. Each table relates to a section of WQs as numbered in EXQ2 **[PD-022]**.

**Table 2.1 – General and Cross Topic Questions**

Reference	Question to	Question	Applicant's Response
Q2.1.1	<i>Information</i> 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.	<p>As outlined in the Change Request documentation, the Applicant is of the view that the Change Requests submitted can be accommodated within the timetable as set out in the Rule 8 letter.</p> <p>The hearings scheduled for week commencing 07 August 2023 and the ExQ3 scheduled for 15 August 2023 are both after the close of the consultation period for both submitted Change Requests, and as such the ExA and all IPs would have had enough time to consider the documentation and raise any outstanding issues at the hearings and ExQ3 (in the case of the ExA).</p> <p>It is the Applicant's view that Change Request 3, submitted at Deadline 5, does not require consultation. The deadline for the ExA's decision on whether to accept Change Request 3 is 01 August 2023; therefore, if accepted by the ExA, the ExA and IPs can ask any questions at the hearings and the ExA has the opportunity to seek further clarifications at ExQ3 as discussed above.</p>
Q2.1.2	<i>Negotiations/ Conflict resolution</i> Applicant	The concerns of the Council, Peel NRE and Encirc concerning the potential impacts on Protos Plastics Park, delivery of the railway line that formed part of the overarching planning permission (14/02277/S73) and the potential expansion of the Encirc Glass Manufacturing Facility are noted, including potential loss/sterilisation of part of a strategic site and/ or safeguarded site(s). The ExA would urge the Applicant to resolve the concerns of the relevant IPs as a priority and provide an update to the ExA in regard to what is being done to address these matters and how they are to be resolved within the remaining Examination period.	<p>The Applicant is currently engaged in detailed technical and commercial discussions with both Peel NRE <b>[REP4-248]</b> and Encirc Limited <b>[REP2-033]</b>.</p> <p>The Applicant is aware of the complex nature of the Protos Plastics Park proposals and its adjacent land areas.</p> <p>The Applicant notes that both Peel NRE (and their current and prospective tenants) and Encirc Limited have development plans based on the presence the Applicant's infrastructure and all parties are motivated to reach an agreement as to how all parties can co-exist.</p> <p>The Applicant notes that some of the Compulsory Acquisition (CA) and Temporary Possession (TP) modifications proposed in CR3 <b>[REP4-270]</b> reflect both the ongoing discussions between the Applicant and the parties, and the Applicant's willingness to resolve the key issues and concerns of the other key IPs.</p>
Q2.1.3	<i>Clarification</i> Applicant	Figure 17.4 (Construction Access) [CR1-092] is unclear in regard to AG1 CTR1, which appears to be obscured by the red line Order boundary. Please review and amend, if required.	<p>AG1 CTR1 runs along Pool Lane to the junction with Grinsome Road and along Ash Road to the rail bridge at the entrance to Encirc. The construction traffic route is then off public highway within the Order Limits. The blue line denoting AG1 CTR1 in Figure 17.4 (Construction Access) <b>[REP4-227]</b> is erroneously shown along Grinsome Road. This will be amended prior to the end of Examination.</p> <p>AG1 CTR1 is also erroneously labelled in Figure 17.4 (Construction Access) <b>[REP4-227]</b>, the label should read 'AGI CTR1'. This will be amended prior to the end of the Examination.</p>
Q2.1.4	<i>Clarification</i>	Peel NRE references "Future Planned Infrastructure" in its submissions. Can it elaborate on what this means? (e.g. Is it referring to an existing allocation in the	The Applicant would refer the ExA to the current position captured in the following Statements of Common Ground (SoCG's):

Reference	Question to	Question	Applicant's Response
	Peel NRE/ Cheshire West and Chester Council (CWCC)	adopted Development Plan, or other development proposal(s) it is referring to). The Applicant in its 'Response to Written Representations' [REP2-041] at paragraph 2.11.15 states it is "engaging with the IP to secure details of this infrastructure to ensure the separate developments can co-exist." Has such engagement with IPs including Peel NRE and CWCC occurred? If so, what was the outcome?	<ul style="list-style-type: none"> <li>• Peel NRE Limited SoCG [REP4-248] – refer to Table 2-1 (Record of Engagement) and Table 3-6 (Committed Developments – Protos 4 site and adjacent developments). The Applicant notes this SoCG has had significant updates at each deadline to date.</li> <li>• CWCC SoCG [REP2-027] – refer to Table 2-1 (Record of Engagement) and Table 3-15 (Economic Impact – Protos)</li> </ul>
Q2.1.5	<i>Conflict resolution</i> Applicant	Peel NRE is maintaining an objection with regard to the Applicant's Assessment of Cumulative Effects (Environmental Statement (ES) Chapter 19 [APP-071]). How is the Applicant resolving/ addressing these concerns?	The Applicant would like to refer the ExA to the Peel SoCG [REP4-248]. In order to address this objection, the Applicant has committed to update the ES with the cumulative effects impacted by Peel NRE. Once completed Peel NRE will review, with the aim to remove their objection. Therefore, until this process is completed, Peel NRE has maintained their objection.

Table 2.2 - Assessment of Alternatives

Reference	Question to	Question	Applicant's Response
Q2.2.1	Applicant/ Welsh Government/ IPs	<p>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: -</p> <ul style="list-style-type: none"> <li>• the route does not pass close to residential areas and therefore less likely to have an impact;</li> <li>• the route is through open countryside and easily accessible for construction from the A548;</li> <li>• the alternative route is around 7.2km shorter which would lead to significant cost savings; and</li> <li>• a shorter route minimises interference with the rights of private landowners.</li> </ul> <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?</p>	<p>The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 state:</p> <p><i>"14.—(1) An application for an order granting development consent for EIA development must be accompanied by an environmental statement.</i></p> <p><i>(2) An environmental statement is a statement which includes at least—</i></p> <p>...</p> <p><i>(d) a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment."</i></p> <p>This requirement is reiterated in the Planning Inspectorate's Advice Note Seven, which states <i>"The Planning Inspectorate considers that a good ES is one that ... explains the reasonable alternatives considered and the reasons for the chosen option taking into account the effects of the Proposed Development on the environment."</i></p> <p>The routing suggested by Mr Gibbons [AS-064] in analogous to the Northern strategic Corridor described in the Assessment of Alternatives presented in ES 2022 Chapter 4 [APP-056]. The strategic corridor routing exercise (for all options) was limited to desktop investigations using publicly available resources such as:</p> <ul style="list-style-type: none"> <li>• Utility search records;</li> <li>• Historic landfill records;</li> <li>• Aerial photography (I.e. Google Earth);</li> <li>• Environmental designations (e.g. SSSI, SAC, SPA, Ramsar, Ancient woodlands and Flood zones); and</li> <li>• British Geological Survey information (BGS Geoindex).</li> </ul> <p>This provided a sufficient level of information for the route selection exercise. It is unrealistic to undertake further detailed surveys (such as intrusive Ground Investigation) along all strategic corridor options as the cost and time required would be prohibitive to project development.</p> <p>Following the review of available data in 2021, the Applicant considered that the Northern Corridor was not the preferred route and did not take it forward into Statutory consultation. By extension, the route proposed by Mr Gibbons would not qualify as a 'reasonable alternative' as many of the same considerations apply to his submission that applied to the Northern Strategic corridor. The Applicant has set out the main reasons for the selecting the pipeline route, taking into account the effects of the development on the environment in Chapter 4 Consideration of Alternatives of the 2022 Environmental Statement [REP4-031] and considers that</p>



Reference	Question to	Question	Applicant's Response
			<p>the approach taken complies with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and Advice Note Seven.</p> <p>The Applicant notes that it is not necessary for it to identify the “best” development proposal – but to indicate the main reasons for the option chosen, taking into account the effects of the development on the environment. This requires that a justification should be provided as to why the Proposed Development is appropriate and acceptable in comparison to other potential options, and that an appropriate balance between environmental effects and commercial, technical and economic effects and implications has been reached. NPS EN-1 specifically provides that alternatives may be discounted where they are not commercially viable or physically suitable (paragraph 4.4.3). The ExA has summarised in the question various factors weighing against the discounted route.</p> <p>The High Court found in THE KING (on the application of) AQUIND LIMITED and SECRETARY OF STATE FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY [2023] EWHC 98 (Admin) that the analysis of route choice and rejection of alternatives was a complex one not driven by one factor alone. In the case of the pipeline corridors, length and the resultant impact on landowners was only one factor in the determination and it is entirely appropriate, as demonstrated in Aquind, for the various competing factors to be balanced in determining which options were taken forward.</p>
		<p>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?</p>	<p>The combination of utility constraints and geotechnical risk was considered to carry too much uncertainty to take forward the Northern Corridor.</p> <p>This trenchless crossing location represents the most challenging of the three River Dee crossing points investigated at Stage 1 Strategic corridor appraisals. In addition to the challenges of working in the vicinity of known landfill and SSSI areas; there is limited flexibility and multiple existing features / utilities which will make the crossing difficult.</p> <p>These assets include:</p> <ul style="list-style-type: none"> <li>a. British Aerospace Engineering (BAE) jetty,</li> <li>b. Tata Steel facility,</li> <li>c. Western Link underground HV power cables (National Grid)</li> <li>d. Overhead 400kV transmission lines and towers (National Grid),</li> </ul> <p>These assets effectively sterilise the land in this crossing point, making a suitable trenchless crossing difficult to locate. In addition to these challenges the ground is known to be difficult and will likely contain running sands, making the crossing a significant construction risk.</p>

Reference	Question to	Question	Applicant's Response
		iii. What depth of tunnelling is the Applicant referring (as a rough indication/ estimate)?	<p>The Applicant has not undertaken the detailed investigations needed to determine the requisite Dee crossing depth on the Northern Corridor.</p> <p>By inspection, the crossing would need to be ~420m long to avoid electrical infrastructure.</p> <p>The crossing of the River Dee in its proposed location is up to 35m deep.</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>The power station in question is Connahs Quay power station. (operated by Uniper).</p> <p>Access to the power station may be severely restricted and this is critical to the safe operation of the power station.</p> <p>There is a restricted construction corridor between the railway line and the access road to Connah's Quay Power Station.</p> <p>The Applicant's desktop assessment considered routing along the existing main access road into Connah's Quay's substation, which would require approximately 800m of street works along the access road. It is not thought that trenchless techniques would significantly reduce the disruption along this section of road and so significant lengths of closure or one way running would be required.</p> <p>This would require the co-operation of the plant operators (currently Uniper) who would likely have raised objections on safety grounds as these access routes are the Emergency access routes required for the power station. Routing the pipeline along this corridor and associated restrictions to access tracks would therefore cause considerable disruption to the operation of the plant, potentially resulting in serious detriment during construction (as the plant may not be able to operate on demand as it is designed to do).</p>
		v. Were any technical alternatives considered allowing the power station to remain in use?	<p>Trenchless construction down the access road was not thought practical, the most appropriate method of construction was considered to be open trenching.</p> <p>As a high-level desktop routing exercise, the aggregate number of apparent risks to the delivery of the pipeline were sufficient to down-select the Northern Corridor.</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>Quantitative ecological assessment of routes was not undertaken until stage 2 of the routing assessment.</p> <p>Following the review of available data in 2021, the Applicant considered that the Northern Corridor was not the preferred route and did not take it forward into Statutory consultation. By extension, the route proposed by Mr Gibbons would not qualify as a 'reasonable alternative' as many of the same considerations apply to his submission that applied to the Northern Strategic corridor.</p>

Reference	Question to	Question	Applicant's Response
		<p>vii. Does the Applicant agree/ disagree that the current scheme has a greater interference on land ownership rights than the alternative discounted? Please state reasoning.</p> <p><b>IPs</b></p> <p>Are invited to make comments, if appropriate.</p>	<p>As a longer pipeline, the proposed route is inherently likely to impact a greater number of landowners. However, Individual landowners are not affected to a greater extent as each landowner only owns land along a discrete section of pipeline. The Applicant does not agree that the current DCO Proposed Development has a 'greater interference' on landowners' rights than the discounted alternative as the approach to acquisition would be the same regardless, it would affect different landowners rather than no landowners. The Applicant notes that it is required to minimise the impact of compulsory powers on landowners within its scheme (for example by not acquiring the freehold where rights would be sufficient). It is not required to promote the route which affects the lowest number of APs. The Applicant submits that the test to be applied in determining whether to grant such rights is whether the interference is minimised within the scheme promoted, and whether such powers are justified by the public benefits of that scheme, not to carry out a comparative exercise between different hypothetical schemes.</p>

**Table 2.3: Air Quality and Emissions**

Reference	Question to	Question	Applicant's Response
Q2.3.1	<i>Mitigation/ management</i> Flintshire County Council (FCC)/ CWCC/ IPs	What existing management mechanisms/ practices would be in place at a local level to report an air quality issue (such as odour or dust) if a problem did arise from the Development Consent Order (DCO) development during construction or operation reported by a member of the public?	
Q2.3.2	<i>Mitigation/ management</i> FCC/ CWCC/ IPs	Does the Council have a clear timeframe as to how quickly local air quality issues raised by a member of the public concerning issues such as odour abatement would be acknowledged and responded to, should that transpire? If so, please explain the end-to-end-- process. If there are existing corporate Enforcement policies in place, please detail the nature of those including all commitments to how complaints would be managed.	
Q2.3.3	<i>Mitigation/ management</i> Applicant/ IPs	Having regard to both operation and construction phases does the Applicant propose any active management channels/ mechanisms to support any future local complaint management scenarios related to the proposed infrastructure? Would there be any active management channel in place for the DCO development which members of the public would be able to contact directly? For example, if any member of the public needed to report an issue. If so, what would the contactable management provision comprise of? What assurances can the Applicant provide through formal mechanisms within the DCO to ensure that 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.	The Applicant will develop a detailed Stakeholder Communications Plan for the construction phase, under Requirement 5 of the dDCO <b>[REP4-008]</b> . This will include details of how information will be conveyed to the public and how members of the public will be able to report an issue, raise a concern or ask a question. Members of the public will be able to make contact via phone or email. There will be a named phone contact publicised in case of emergencies. An Outline Stakeholder Communications Plan (document reference: <b>D.7.45</b> ) is submitted at Deadline 5.

**Table 2.4: Biodiversity, Ecology and Natural Environment**

Reference	Question to	Question	Applicant's Response
Q2.4.1	Surveys Applicant/ CWCC/ FCC/ Natural England (NE)/ Natural Resources Wales (NRW)/ IPs	<p>The absence of ecological surveys beyond the order boundary limits for barn owls and badgers are referred to by CWCC in their detailed correspondence received at Deadline 2 and it has highlighted concerns of incomplete surveys in respect of Bats and Barn Owls. As such CWCC consider the assessments of importance levels and value/ sensitivity of receptors are taken to be as being based on incomplete data sets. In addition, it notes the need for clarifications in respect of surveys of other identified receptors. The ExA would ask:</p> <p>i. CWCC clarify which specific locational receptors it is referring to?</p>	
		<p>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?</p>	
		<p>iii. What are the specific reasons for any further surveys/ data being a necessary requirement of the Applicant?</p>	<p>The Applicant has further engaged with CWCC through both written responses to queries at Deadline 3 (within the Applicant's Response to Chester West and Chester Council's Written Representation Addendum (Biodiversity) <b>[REP3-038]</b>) and meetings as captured within the Statement of Common Ground with CWCC <b>[REP2-027]</b>, and as submitted at Deadline 5, to clarify the extent of surveys completed, within and beyond the Order Limits for receptors. It is the Applicant's understanding that following this further information CWCC is content with the approach to survey, assessment and development of mitigation.</p>
		<p>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.</p>	<p>Given the broadly short term, temporary, and localised impacts of the DCO Proposed Development, the Applicant has applied a proportionate approach to survey effort. As a minimum, the Applicant has undertaken a suite of surveys for both habitats and fauna within the entirety of the Order Limits (less refused land access in discrete locations for certain secondary surveys). Whilst recognising that the final working corridor to facilitate construction will require a smaller footprint located within the Order Limits, surveys for select receptors have been undertaken beyond the Order Limits, with results presented within the respective appendices supporting Chapter 9 Biodiversity <b>[REP4-041]</b>. All surveys have been completed in cognisance of relevant best practice guidelines for respective receptors.</p> <p>The Applicant has further engaged with CWCC through both written responses to queries at Deadline 3 (within the Applicant's Response to Chester West and Chester Council's Written Representation Addendum (Biodiversity) <b>[REP3-038]</b>) and meetings as captured within the Statement of Common Ground with CWCC <b>[REP2-027]</b>, and as submitted at Deadline 5, to clarify the extent of surveys completed, within and beyond the Order Limits for receptors. It is the Applicant's understanding that following this further information CWCC is content with the</p>

Reference	Question to	Question	Applicant's Response
			approach and extent of surveys and assessments completed and development of mitigation.
		v. Does CWCC wish to add any ecological information it has knowledge of to the examination record with these above issues in mind?	
Q2.4.2	Surveys CWCC and IPs	<p><b>CWCC</b></p> <p>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.</p> <p>These surveys were contained in: Chapter 9 – Biodiversity [AS-025]; Bat Activity Survey Report [AS-057]*; Bats Activity Survey Report Annex G Part 2 [AS-029]; Bats and Hedgerows Assessment [AS-031], [AS-033], [AS-035] to [AS-038] and [AS-059]*; Riparian Mammal Survey Report [AS-039]; and an Outline Construction Environmental Management Plan (CEMP) [AS-055].</p> <p>CWCC indicated additional time is needed to properly address this environmental information. The ExA would ask how much additional time is being sought or whether CWCC is able to clarify its views on the content of the above documents at this stage? If so, please give your comments.</p> <p><b>IPs</b></p> <p>All IPs are invited to comment.</p>	
Q2.4.3	Survey data Applicant	<p>The response to the CWCC [REP-042] infers that data has been collected beyond order limits, but it is not clear where this is and seems to refer to the previously larger draft DCO Order Limits at pre-application stage rather than a measured survey strategy relating to species ranges and standard survey distances considered for relevant species. The Applicant is requested to provide clarification and/ or make provision for further ecological information to be submitted on this matter.</p> <p>Secondly, features potentially impacted outside the DCO boundary are referred to as constituting indirect impacts. But 'indirect' impacts may not be the correct term applicable. Can the Applicant clarify which features outside the DCO boundary are properly accounted for and indicate the minimum distance thresholds, the technical expertise and ecological guidance it is basing its rationale and conclusions on?</p>	Where considered required and proportionate, survey data has been recorded beyond the Order Limits for some receptors, such as badger, barn owl and riparian mammals, and is presented where available within Chapter 9 Biodiversity of the ES [REP4-041] and its associated appendices. Only where considered proportionate to the impacts of the DCO Proposed Development and consideration of potential impact pathways upon individual receptors have surveys beyond the Order Limits been undertaken. Appropriate survey buffers were considered and implemented for each relevant receptor (as presented within Table 9.3 of Chapter 9 Biodiversity [REP4-041]), following consideration of potential direct and indirect impacts and effects upon each receptor within and beyond the Order Limits during construction of the DCO Proposed Development. As a minimum the entirety of the Order Limits was subject to survey (unless due to restricted land access). Survey guidelines and best practice for individual receptors have been consulted, considered, and

Reference	Question to	Question	Applicant's Response
			<p>referenced throughout Chapter 9 and its associated appendices; where deviations from guidance have occurred, these have been explained. The Applicant can confirm that all surveys to support the DCO Application and through examination have been completed and no further ecological surveys are to be undertaken or further information submitted.</p> <p>Direct impacts to receptors, whilst avoided where possible, will be restricted to within the Order Limits alone and further reduced upon confirmation of the detailed design of the DCO Proposed Development and implementation of a (worst-case) 32m construction working corridor. As such, the assessment of baseline survey data accrued within the Order Limits represents a very much worst-case scenario that will be reduced through implementation of a smaller construction working corridor, thereby reducing the potential extents of direct and indirect effects. The Applicant has additionally applied a principle of 'assumed presence' of receptors beyond the Order Limits (in the absence of detailed design), both during the consideration of impacts and effects as well as the development of mitigation principles and measures. The Applicant believes that extent and coverage of surveys and the mitigation measures and principles derived thereafter are robust and appropriate for the predominantly short term, temporary, and localised impacts and effects of the DCO Proposed Development.</p> <p>Disturbance thresholds vary between individual receptors, variance within individual receptors (e.g. differing types of badger sett or bat roost), and in response to differing stimuli. For example, item D-BD-040 (within the OCEMP [REP4-237] under Requirement 5 of the dDCO [REP4-008]) in relation to barn owl, details minimum protection zones that should be considered in response to differing disturbance stimuli. Disturbance thresholds also vary between receptors (i.e. not all receptors are susceptible to disturbance/impacts to the same degree/level). Therefore, technical expertise and knowledge of individual receptor lifecycles along with consideration of construction techniques, methods, and proposed timing of works has been considered when recommending appropriate buffers and the development of mitigation measures and principles. This has also taken into account best practice guidelines, where available. It should also be noted that the consideration of mitigation measures to ameliorate potential indirect effects will be further assessed during construction by the appointed Ecological Clerk of Works (ECoW) (or appointed ecologist), to ensure receptors are safeguarded in line with the mitigation measures and principles detailed within the OCEMP [REP4-237] under Requirement 5 of the dDCO [REP4-008].</p> <p>Mitigation measures and principles have been devised which aim to protect and retain existing sensitive receptors where possible, such as bat roosts (item D-</p>

Reference	Question to	Question	Applicant's Response
			<p>BD-024 and D-BD-025). Further measures have been secured to minimise indirect impacts and effects through implementing management plans for noise, vibration, and dust (D-NV-001, D-BD-057, D-AQ-004), and lighting recommendations to reduce disturbance on nocturnal and crepuscular fauna (D-BD-015) as captured within the OCEMP [REP4-237] under Requirement 5 of the dDCO [REP4-008]</p> <p>The Applicant has engaged further with CWCC in advance of Deadline 5 and believes that CWCC are now satisfied with the Applicant's approach to survey effort and extent, as well as the proposed mitigation measures and principles, following requested clarifications (as captured within the SoCG [REP2-027], and as submitted at Deadline 5, and evidenced within CWCC's responses within [REP4-277]).</p>
Q2.4.4	<p><i>Survey/ mitigation Applicant/ CWCC/ FCC/ NE/ NRW/ IPs</i></p>	<p>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?</p> <p>Do IPs find the Applicant's position appropriate?</p>	<p>The Applicant has sought to obtain baseline survey data, as a minimum, across the Order Limits but has also completed surveys beyond the Order Limits, where proportionate to do so. These results have informed the Environmental Statement (ES) and the development of mitigation principles and mitigation measures to safeguard and mitigate receptors as required, based on a reasonable worst-case scenario. The Applicant has 'assumed presence' of receptors beyond the Order Limits during the development of mitigation principles and measures and developed these in a manner that will ensure that any receptors beyond the Order Limits would also be adequately safeguarded. The Applicant's approach to mitigation is such that whilst specific in some respects, measures have been 'generalised', acknowledging the absence of a fixed design, whilst still providing sufficient prescription to ensure receptors are safeguarded and/or mitigated during construction.</p> <p>The Applicant has provisioned, via items D-BD-001, D-BD-005 and D-BD-006 of the OCEMP [REP4-237] under Requirement 5 of the dDCO [REP4-008], the completion of pre-construction surveys to update baseline results, as required, and in response to the detailed design of the DCO Proposed Development, including completion of surveys encompassing a relevant zone of influence. These will provide necessary updated baseline data to inform, for example, protected species license applications and where mitigation measures, as currently provided for within the OCEMP [REP4-237], will be required. As the mitigation principles and measures provisioned within the OCEMP [REP4-237] are based on a reasonable worst case and that of 'assumed presence', they are considered robust and expected to be effective and applicable regardless of the outcome of pre-construction surveys.</p>
Q2.4.5	<p><i>Likely Significant</i></p>	<p>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)</p>	



Reference	Question to	Question	Applicant's Response
	<i>Effects (LSE) to protected fauna</i> CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	and subsequently mitigated if needed? If not, please state why not outlining the 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?	
Q2.4.6	<i>Biodiversity Enhancement/ Biodiversity Net Gain (BNG)</i> CWCC/ FCC/ NE/ NRW/ Woodland Trust/ Welsh Government/ IPs	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:  - Identification of landowners for BNG for Welsh Woodland. - Confirmation of English and Welsh sites for other required habitat offsets. - Initial data check of baseline via a desktop study. - Review and checking of third-party survey data. - Agree format of legal agreements to secure ongoing management of BNG. - Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management.  Do IPs feel the above draft intentions are extensive enough?	
		Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion?	
		What else could be done to maximise ecological enhancements or BNG proposals?	
Q2.4.7	<i>Biodiversity Enhancement/ BNG Applicant/</i> CWCC/ FCC/ NE/ NRW/ Welsh Government/ Woodland Trust/ IPs	(i) 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:  - biodiversity action plans; - green infrastructure strategies; - catchment management plans; - biodiversity opportunity areas; and - local nature partnership documentation.	The Applicant acknowledges the role of nature markets including guidance published by the UK Government.  As part of the Draft BNG Strategy Update submitted at Deadline 2 [REP2-042], the Applicant provided details on how engagement with both CWCC and FCC have been on-going regarding any potential markets which could be utilised to achieve BNG/BNB targets. This has included, but not limited to, investigating the suitability of habitat improvement projects within the Cheshire West and Chester area which are looking to bank and sell biodiversity units to interested developers. Currently, these potential sites are prioritised within the CWCC Ecological Network (associated with Local Plan Part 2 Policy DM44). However, these nature markets are nascent within both CWCC and FCC, consistent with much of the national picture within both England and Wales, and therefore the

Reference	Question to	Question	Applicant's Response
		<p>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.</p> <p>(ii) What scope is there for nature markets to be used to deliver biodiversity enhancement?</p>	<p>implementation of these is not yet clearly guided within National policies, guidance, and other documentation.</p> <p>The nascency of these markets is also exemplified by the lack of responsible bodies for Conservation Covenants, which are as of now not known to be in use within either local authority boundary. Furthermore, the register for off-site biodiversity gain sites (also termed the off-site register to be provided by Natural England) is not yet developed and therefore it is inappropriate to expect any offsets associated with the DCO Proposed Development to be documented through this.</p> <p>Despite the uncertainty around BNG and wider nature markets in both England and Wales, the Applicant is continuing to engage with both LPAs and other potential habitat management bodies with a view to securing bespoke offsets which can be managed and maintained for 30 years. Details of these offset locations will be provided and run through the Biodiversity Metric as and when they are subject to necessary confirmation from all parties involved.</p> <p>Further consideration of the BNG strategy in relation to nature markets and biodiversity enhancement is provided within the BNG Strategy Update document <b>[REP3-034]</b> submitted at Deadline 5.</p>
		<p>(iii) Would IPs want to assist such proposals in any active engagement with the Applicant?</p>	
		<p>(iv) Has the Applicant considered such an approach, in tandem with the range of nature strategies mentioned by IPs in responding to the ExA's first written questions?</p>	<p>The Applicant has actively engaged with IPs throughout the entire BNG offsetting strategy process and has been in particular discussions with CWCC, FCC and various habitat management organisations with a view to finding suitable bodies to assist with the delivery of biodiversity gains in a way which reflects and supports local nature strategies, policies, and achieves the best outcomes for biodiversity with this in mind.</p>
		<p>(v) 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).</p>	<p>The Applicant has explored available and viable options in order to secure the offsets it requires, including a review of potential nature markets and habitat banking (see response to (i) above). As discussed within its response to Q1.4.4 of the Applicant's Response to ExA's ExQ1 <b>[REP1-044]</b> and cited within paragraph 1.2.6 of the Biodiversity Net Gain Strategy <b>[REP3-034]</b>, the absence of mandatory net gain to date means that habitat banking and offsetting markets are in their infancy and not yet matured. As such, sourcing of sites and opportunities to utilise such markets aren't readily available for the DCO Proposed Development. Despite this, the Applicant has made good progress in identifying suitable offset site locations through discussions with relevant</p>

Reference	Question to	Question	Applicant's Response
			<p>stakeholders and parties, primarily including CWCC and FCC, to achieve the 1% gains in Priority Habitats the Applicant is targeting.</p> <p>In respect of reference to enhancements, their inclusion is inherent within the approach to achieving the 1% gains in Priority Habitats within Flintshire and Cheshire respectively and has been referenced as such within the strategy (see paragraph 1.2.3 of <b>[REP3-034]</b>). The Applicant has, and continues to be, in discussions with CWCC and FCC with a view to agreeing offset site locations, whether that be for creation of habitats or enhancement of existing habitats. In either scenario it can be considered that either route aligns with the Section 6 Duty of the Environment (Wales) Act (2016) as seeking to "...maintain and enhance biodiversity..." and "...promote the resilience of ecosystems", and the approach accords with relevant policy drivers within England.</p> <p>Further consideration of the BNG strategy in relation to nature markets and biodiversity enhancement is provided within the BNG Strategy Update document <b>[REP3-034]</b> submitted at Deadline 5.</p>
Q2.4.8	<p><i>Trees</i></p> <p>Applicant/ CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs</p>	<p>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.</p> <p>How does the Applicant justify this approach from an ecological/ habitat management perspective given there are also further survey requirements which may be triggered?</p>	<p>In the absence of a detailed design and definitive extents of hedgerow and tree loss, the Applicant has applied a reasonable worst-case scenario across the DCO Proposed Development. The worst-case scenario has been applied following the implementation of embedded mitigation, as detailed within Section 2.6 of <b>[REP4-118]</b>, Chapter 9 of the ES <b>[REP4-041]</b> and the REAC <b>[REP4-235]</b>, which includes the avoidance of woodland, trees and hedgerows where possible. The reasonable worst-case scenario assumes that all trees (with the exception of retained woodland groups) within the 32m construction corridor are at risk of removal, as shown within <b>[REP4-118]</b> However, the Applicant will continue to seek to retain trees, woodland and hedgerows where possible during the development of the detailed design (as provisioned for within the OCEMP <b>[REP4-237]</b>). With regard to hedgerows, those likely to be impacted are more easily identified given those perpendicular to the route corridor can reasonably be assumed to be impacted. However, the Applicant has sought to restrict the volume of hedgerow loss required through items within the OCEMP <b>[REP4-237]</b>, including for example D-BD-009, D-BD-012 and D-BD-013. Appropriate mitigation measures for impacts and losses of both hedgerows and trees have been appropriately provisioned for within the OCEMP <b>[REP4-237]</b> (see items D-BD-032, D-BD-033 and D-BD-063 in particular).</p> <p>For any reinstated or created habitats (hedgerows and tree planting), the OLEMP <b>[APP-229]</b> provides a high-level approach to ecological and habitat management, which will be implemented through the detailed LEMP, secured within Requirement 11 of the dDCO <b>[REP4-008]</b>. The OLEMP currently identifies a variety of habitat management prescriptions which are applicable to</p>

Reference	Question to	Question	Applicant's Response
			<p>the DCO Proposed Development to ensure that retained and newly created habitats are safeguarded, managed, and maintained for a minimum time period, to ensure establishment. The Applicant can confirm that no further surveys are to be completed to inform the ES at this stage. Where necessary prior to construction, any pre-commencement walkover surveys would be completed, in line with OCEMP item D-BD-005 <b>[REP4-237]</b>. Following detailed design, updated ecological / habitat management prescriptions appropriate to the final detailed design will be incorporated within the detailed LEMP.</p>
		<p>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?</p>	<p>The Applicant, in the absence of a fixed design, has applied a reasonable worst-case scenario which is considered proportionate and appropriate to consider the likely impacts and effects of the DCO Proposed Development and development of appropriate mitigation measures and principles thereafter. This approach is consistent with that taken on other large infrastructure projects and is a recognised standard approach in DCOs. This approach applies across a number of potential impacts where a reasonable worst case has to be established, which case can vary by topic. That means the 'overall' worst case assumed by looking at each individual worst case cannot realistically happen as the worst case for one impact is not always the same as the worst case for another. This approach is well-precedented in DCOs being used across topics and impacts and has been determined to be robust and acceptable in numerous other projects using corridor approaches including pipelines and buried electrical cables which used a similar corridor approach as well as other infrastructure.</p> <p>The Applicant has, through early design actions and embedded design measures, sought to avoid constraints and sensitivities across the landscape and within the Order Limits, either through exclusion or sympathetic construction methods being applied (for example the use of trenchless crossing techniques to avoid direct felling of ancient woodland within the Order Limits). Through the review of existing ecological records in tandem with the completion of ecological surveys across the Order Limits (as a minimum), the Applicant has accrued a comprehensive baseline identifying protected and/or notable species that <i>could</i> be impacted by construction. The development of mitigation measures in the context of these results has resulted in mitigation measures and principles that can be applied irrespective of the final detailed design, to safeguard and ameliorate the impacts of construction.</p> <p>Whilst recognising that BNG is not mandatory for NSIPs, the approach to the BNG assessment has utilised the results of the habitat surveys and identification of priority habitats across the entirety of the Order Limits. As per the methodology presented within the Biodiversity Net Gain Assessment <b>[REP3-022]</b>, paragraph 2.4.17 explains the approach to achieving a proportionate</p>

Reference	Question to	Question	Applicant's Response
			assessment of habitat losses and associated unit loss to determine habitat unit requirements to achieve offset targets.
		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]?	<p>Chapter 9 Biodiversity <b>[REP4-041]</b> does not list all individual tree and hedgerow features which are considered to be at risk of removal. Table 9.11 is presented on the basis of the reasonable worst-case scenario of losses and impacts assumed to woodlands and hedgerows, given their status as Habitats of Principal Importance (HPI).</p> <p>As per a standard approach to assessing impacts to individual trees, an impact assessment of individual trees and groups of trees considered to be at risk of removal (within the scenario-based assessment of losses) are detailed within the Appendix 9.11 Arboricultural Impact Assessment <b>[REP4-118]</b>. Where individual trees have been identified with other conservation value, for example the presence of or potential to support protected and/or notable species, these have been presented within Table 9.11 of Chapter 9 <b>[REP4-041]</b> accordingly (for example see Bats – Roosts within Table 9.11).</p> <p>Not all trees within the Order Limits are considered by the Applicant to be at risk of direct impacts or removal. The full extent of removals and impacts is reliant on a detailed design construction corridor to be known.</p>
Q2.4.9	Trees Applicant/ CWCC/ FCC/ NE/ NRW/ IPs	<p>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.</p> <p>All relevant Councils are requested to acknowledge the advice now issued.</p>	
		All parties within the Examination are invited to make use of all best practice provision and reference currently available.	The Applicant acknowledges the release of the Trees and Woodland Strategy Toolkit, and as the ExA has alluded to itself, its primary purpose is to help Local Authorities develop their own strategies. In respect of its own assessment and development of mitigation, the Applicant has utilised available best practice guidance and methods to complete its assessment and secure the provision of appropriate mitigation. This mitigation is aligned with respective ecological and biodiversity policies and strategies within the respective council borders (for example, the Ecological Network (DM44) within CWCC and adherence to policy STR13 within Flintshire).
		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?	

Reference	Question to	Question	Applicant's Response
Q2.4.10	<i>European Protected Species (EPS) Licence</i> Applicant	The ExA notes a draft EPS licence application is to be provided to NRW during the Examination for comment. When is this to be provided to NRW and is a copy to be entered into the Examination? If so, when? If not, the ExA requests it be notified, at the same time, of the provision of the draft EPS licence application to NRW, if prior to the close of the Examination.	The Applicant has prepared separate draft protected species licenses for required species, which have been submitted to both NE and NRW prior to Deadline 5. The Applicant is not proposing to enter these draft licenses into the Examination. However, the Applicant is proposing that discussions and agreement in respect of the licenses will be captured within the respective SoCGs for each party. The Applicant confirms that it will notify the ExA when draft licenses have been submitted to NE and NRW for their consideration.
Q2.4.11	<i>Letter of no impediment</i> Applicant	Does the Applicant intend to submit the 'letter of no impediment' it is seeking from the relevant statutory bodies (i.e., NE/ NRW) into the Examination prior to its close? If so, please set out the timescales from seeking it to when its likely to be submitted.	The Applicant can confirm it intends to submit Letters of No Impediment into the Examination prior to its close. It is currently anticipated that these will be submitted by Deadline 7.
Q2.4.12	<i>Marine Licence (ML) Application</i> Applicant/ NRW	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.	Please see the Cover Letter for Deadline 5 for the latest position (document reference <b>D.7.1.9</b> ).

**Table 2.5: Climate Change**

Reference	Question to	Question	Applicant's Response
Q2.5.1	<i>Mitigation/ Design</i> Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust /IPs	<p>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.</p> <p>The Applicant is requested to thoroughly review this element of the scheme provision with the aim to lengthen replacement periods along with a tighter future management provision which is formally secured. The aim of the approach is to ensure all replacement and new planting is effective as possible, with the highest environmental outcomes possible realistically achieved.</p> <p>The point would also be applicable to any off-site landscaping element yet to be tabled but indicated as being subject to ongoing discussion.</p>	<p>Successful establishment of new landscaping provision will be dependent on a range of factors including construction management, landscape design and specification, establishment and management. A summary of how these factors will result in a successful landscape scheme which contributes to a high standard of environmental outcomes is set out below:</p> <p><u>Construction Management</u></p> <p>Appropriate soil management will be ensured as set out in the Outline Soil Management Plan <b>[REP4-240]</b> and in the detailed Soil Management Plan which is a requirement of the Construction Environmental Management Plan secured by Requirement 5 of the dDCO. These measures are intended to ensure soil to be re-used for the landscape scheme retains its structure and fertility which is a vital early-stage measure towards securing successful establishment and long-term maturity of soft landscape elements. This factor is particularly relevant in terms of future climate resilience where drier summers are currently predicted and the ability of the soil to absorb and retain water will be of critical importance.</p> <p><u>Specification</u></p> <p>The specification principles in relation to prevailing site-specific conditions and climate change are set out in response to Q2.5.2 below.</p> <p><u>Management</u></p> <p>The management regime as set out in the Outline Landscape and Ecological Management Plan (OLEMP) <b>[APP-229]</b> allows for a 5-year establishment maintenance period for all landscape elements, primarily including; hedgerows, grassland and native shrub planting and a 10-year period for native tree and woodland planting. The Applicant considers that these time periods are appropriate and sufficient to achieve the objective of establishing these landscape elements within the landscape. Beyond this period the focus changes from establishment to ongoing management and the OLEMP allows for a review to be undertaken in relation to the prevailing conditions, issues, and requirements.</p>
Q2.5.2	<i>Mitigation/ Design</i> Applicant/ CWCC/ FCC/ NRW/ NE/	<p>What provision/ commitments can be made for fast growing trees? And if so, how could that be formally committed to and secured?</p>	<p>The DCO Proposed Development indicative species mixes are set out within the BVS and AGI Landscape Layout Plans document <b>[CR1-008]</b>. These lists have primarily been drawn up to ensure planting schemes integrate with the prevailing landscape character and provide visual assimilation. It is recognised, however, that it is desirable for this assimilation to occur within a relatively short time period. To help achieve this the lists includes a number of fast-growing species including: Hazel (<i>Corylus</i> sp.), Willow (<i>Salix</i> sp.) and Poplar (<i>Populus</i> sp.). The</p>

Reference	Question to	Question	Applicant's Response
	Woodland Trust/ IPs		<p>Applicant will update commitment D-CR-011 within the OCEMP <b>[REP4-237]</b>, as follows:</p> <p><i>'Consideration will be made for the potential effects of climate change, through careful selection of species for proposed planting, including fast growing trees, and the management of new and existing planting.'</i></p> <p>In addition, it should be noted that larger planting stock, up to selected standards (330-350cm in height) has been included within the indicative species mix to be used where it is important for planting to have some initial impact.</p>
		How can new planting species selection be conducive in dealing with both climate change pressures and reinforcing native wildlife?	<p>Species have been selected which are known to be resilient and well adapted to the current prevailing and anticipated future climatic conditions and which are generally considered to be native to the United Kingdom as set out in the BVS and AGI Landscape Layout Plans <b>[CR1-008]</b> The OCEMP <b>[REP4-237]</b> also contains a commitment to select species with consideration of the potential effects of climate change, (D-CR-011). Following selection, the planting of native or naturalised species in-keeping with the landscape profile will provide foraging, commuting, and sheltering resources for a range of wildlife. This will help to support populations of a variety of species including (but not limited to) bats, birds, and terrestrial mammals. The Applicant has provisioned mitigation measures and principles within the OCEMP <b>[REP4-237]</b>, specifically to ensure that connectivity of habitats is re-established post construction. For example, the reinstatement of hedgerows severed to facilitate construction; reinstatement of riparian habitats at watercourse crossings, and reinstatement of aquatic habitats post construction.</p> <p>There is uncertainty regarding how trees and woodland will respond to future climate change (with reference to Managing England's woodlands in a climate emergency, Forestry Commission (2020)). However, it is generally anticipated that winters will become wetter, summers drier and with more intense summer droughts and rainfall events. General guidance includes planting a wider range of species because of the uncertainties relating to climate change and woodland management (with reference to Forest Resilience Guide 2 Improving the tree species diversity of Welsh woodlands, Natural Resources Wales, (March 2017)). A diverse range of species have been chosen which at this stage are considered to be able to become established and thrive in relation to these anticipated conditions given that the management approach described in the Outline Landscape and Ecological Management Plan <b>[APP-229]</b> is implemented.</p> <p>It should be noted that to maximise resilience and ecological enhancement, species need to be chosen in accordance with the prevailing and anticipated site-specific microclimate, soil conditions and biodiversity aims at the detailed design stage.</p>



Reference	Question to	Question	Applicant's Response
		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.	

**Table 2.6: Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations**

Reference	Question to	Question	Applicant's Response
Q2.6.1	Applicant	<p>The ExA notes that any undeclared option for potential Compulsory Acquisition of land for BNG/ or any further ecological enhancement purpose is likely to be incompatible with the examination timetable currently being worked. This is due to statutory periods invoked. Therefore, it is imperative any mechanism dealing with off-site biodiversity provision is fully addressed as a priority consideration and within the timetable worked too.</p> <p>With this in mind, is the Applicant aware of any further potential Change Requests that would invoke Regulations 5 to 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010?</p>	The Applicant confirms they will not be seeking additional land for BNG creation.
Q2.6.2	<p><i>Strategic Road Network (SRN) - 'highway right' and 'subsoil property rights'</i></p> <p>National Highways Ltd (NH)/ Welsh Government/ North and Mid Wales Traffic Regulation Authority (NMWTRA)</p>	<p>Your attention is drawn to [REP3-033] and Table 2.2, reference 2.2.2.</p> <p>Do NH agree with the premise that at a point in depth NH would cease to be the Highway Authority for the SRN and the subsurface would revert back to the owner, whether that be NH or another 'Affected Person'?</p> <p>Bearing in mind caselaw and in regard to Plots 5-06, 5-09 and 7-05, as shown on the Land Plans [REP2-014], at what depth do NH consider the highway rights (being the road surface, air space and subsoil required for the operation, maintenance and repair of the highway) on each of those plots to cease and sub-soil property rights resume? Please justify your answer.</p> <p>Responses from the IPs listed to the Applicants reply set out in the above-mentioned table, and reference, especially in regard to depth of a 'highway right' and at what point subsoil property rights would occur, are sorted.</p>	
Q2.6.3	Clarification Rostons	<p>Your Deadline 1 submission [REP1-079], made on behalf of Ms Craven-Smith-Milne and Mr Griffith, is noted. The ExA would seek further information in regard to the proposed solar scheme mentioned within the letter. Please could you confirm whether a planning application has been formally made for this proposed solar scheme. In responding, where possible, please supply:</p> <p>i) the planning application reference number issued by the Local Planning Authority (LPA);</p> <p>ii) a copy of the planning decision issued by the LPA.</p>	
Q2.6.4	Clarification Applicant/ CWCC	Pursuant to Q2.6.3 above, the ExA would ask the Applicant/ CWCC to confirm whether they are aware of any submission(s)/ application(s), planning or otherwise, formally submitted for the above-mentioned solar scheme. This includes any submissions not yet formally registered (ie 'Invalid'). In the event of	The Applicant is not aware of a formal planning application being submitted to CWCC at this stage.

Reference	Question to	Question	Applicant's Response
		<p>such a submission/ application(s) having been lodged please provide, where possible/ relevant:</p> <p>i. the submission/ planning application reference number issued by the LPA;</p> <p>ii. a description of the type of application and the development; and</p> <p>iii. a copy of the decision/ opinion issued by the LPA.</p>	
Q2.6.5	<i>Clarification Applicant</i>	The Applicant refers to undertaking Farm Business Assessment(s) but has not indicated if/ when such assessments would be undertaken or whether it is intended to submit such assessment(s) into the Examination. Please clarify.	<p>The Applicant is currently undertaking a number of Farm Business Assessments at the request of specific landowners, or which were deemed necessary in order to help understand any mitigation measures and compensation which may be required.</p> <p>The Applicant does not intend as a general approach to submit such assessments into the examination as they contain sensitive information.</p>
Q2.6.6	<i>Clarification Applicant</i>	The ExA notes the Crown Land Plans [REP3-004] deleted Sheet 2 and gave justification for the deletion of the relevant plots was given in the Applicant's 'Schedule of Changes to the Book of Reference' [REP3-016]. However, the ExA cannot find a similar document justifying the deletion of Sheet 1 from the Crown Land Plans. Please signpost where this explanation can be located in the submitted documentation or explain the deletion of Sheet 1 from the Crown Land Plans.	The deletion of Sheet 1 from the Crown Land Plans occurred as part of the submission of the Crown Land plans <b>[AS-011]</b> in response to s.51 advice <b>[PD-004]</b> . This occurred before the 'Schedule of Changes to the Book of Reference' was submitted <b>[REP2-014 and REP3-016]</b> . The change was also reflected in the Statement of Reasons submitted in response to s.51 advice <b>[AS-022]</b> in which the Crown Land plots were removed from Table 5. These plots were removed from the Crown Land Plans as the Bona Vacantia department provided a disclaimer notice for the interests relating to Northern Bio Power Limited, and it does not claim an interest in the land. As such, it is not considered to be Crown Land, the plots were removed from the Crown Land Plans, and Sheet 1 (having no remaining Crown Land plots) was also removed.

**Table 2.7: Cultural Heritage and the Historic Environment**

Reference	Question to	Question	Applicant's Response
Q2.7.1	Information Applicant/ CWCC / FCC	<p>It is highlighted in paragraph 2.3 of [REP1-061], that any further requirement for mitigation to be directed by further Heritage Impact Assessments is not specified within the Outline LEMP or the Register of Environmental Actions and Commitments [REP2-017], nor directly provided for in the wording of the draft DCO Requirements.</p> <ul style="list-style-type: none"> <li>For this reason, the CWCC position remains that further heritage assessments including appropriate mitigation should be provided for within the Outline CEMP or specifically required within the DCO Requirements. The Applicant's view on such an approach is sought?</li> </ul>	<p>The Applicant refers to the CWCC submission at Deadline 3 [REP3-042] sets out that <i>"in view of the Applicants' further clarification the Council is satisfied with the overall approach in the identification and mitigation any significant effects on heritage assets. In view of the provided detail and in consideration of impacts to identified heritage features during the Projects operation and decommissioning phases sufficient mitigation is considered to be able to be put in place in the form of suitable landscape planting, to be approved within the final LEMP, so as to ensure that no significant impact would result from the Project on identified heritage assets"</i>.</p> <p>The Applicant therefore considers that there is no necessity to add this to the OCEMP or a requirement as the Council has agreed it is already adequately covered.</p>
		<p><b>CWCC</b></p> <p>Can CWCC provide any information to the Examination on the specific heritage assets involved including any relevant appraisals or risk surveys within its administrative area?</p>	
		<p>Does CWCC have Heritage/ Conservation Officer advice it can refer to the Examination for the benefit of dealing with this issue?</p>	
		<p>Does the Council have an independent working party, or similar, to which heritage advice can be procured and fed into the Examination?</p>	
		<p>Can the Council clarify its own views on the cultural and heritage implications of the proposal including on the Shropshire and Union Canal?</p>	
		<p>Please specify any requests for specific mitigation such as additional landscaping or any other measures not already accounted for.</p>	
		<p><b>FCC/ CWCC</b></p> <p>Would cultural appreciation enhancements to be embedded within the scheme design be appropriate? For example, public information display/ notices close to public rights of way linked to any heritage assets potentially impacted by the scheme, or linked to a local cultural/ heritage trail or similar?</p>	
Q2.7.2	Information FCC	Is FCC able to provide any information to the Examination on the specific heritage and cultural assets affected by the scheme within its administrative area including any appraisals or risk surveys undertaken?	

Reference	Question to	Question	Applicant's Response
		<ul style="list-style-type: none"> <li>• Does the FCC have Heritage/ Conservation Officer advice it can refer to the Examination for the benefit of dealing with heritage issues?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Would cultural appreciation enhancements be embedded within the scheme design be appropriate? For example, public information notices close to public rights of way linked to any heritage assets potentially impacted by the scheme, or linked to a local cultural/ heritage trail or similar?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Can the Council further clarify its own views on the cultural and heritage implications of the proposal. Including any requests for mitigation not presently being considered such as landscaping or any other measure should it be deemed appropriate.</li> </ul>	
Q2.7.3	Archaeology Applicant	Historic England recognises the Outline Written Scheme of Investigation to be robust but flags the need for initial evaluation to be carefully designed and targeted. How will the Applicant ensure this occurs.	<p>Targeted trial trenching has been undertaken and the results submitted at Deadline 4 <b>[REP4-267]</b>. This covers the trenches targeted on geophysical anomalies and on the fixed locations (such as the Above Ground Installations and Block Valve Stations), as detailed in Section 2.3.1 of the Outline Archaeological Written Scheme of Investigation <b>[APP-223]</b>.</p> <p>The remainder of the trenches will comprise a 2% sample of the refined 32m wide working width for the construction of the Newbuild Carbon Dioxide Pipeline and will be undertaken following Detailed Design, and will be undertaken within the selected construction corridor. These will be trenches in areas that were seemingly blank on the geophysical survey and therefore do not need to be targeted on specific features. The aim is to allow evaluation of the scheme to identify locations where further mitigation may be needed. The second phase of trenching will also include any trenches not completed during the first phase of evaluation excavation where practicable.</p>
Q2.7.4	Archaeology Applicant	<p>Target trenching regarding archaeology (see [REP1-042] reference 2.35.4) is mentioned. Please confirm whether this has been undertaken. If not, when is it programmed to be done. If undertaken, when are the results to be entered into the Examination?</p> <p>Additionally, the Applicant refers to use of 'either a designated archaeological clerk of works, if required, or a member of the excavation team undertaking twice weekly reviews... to ensure archaeological remains are identified and recorded.' How will the Applicant ensure whoever is appointed is appropriately qualified and how is this to be secured?</p>	<p>The targeted trenching has been undertaken and the results submitted at Deadline 4 <b>[REP4-267]</b>.</p> <p>The project roles and responsibilities are detailed in Section 3.1.2 of the Outline Archaeological Written Scheme of Investigation <b>[APP-223]</b>. Furthermore, Paragraph 3.1.12 contains the following information with regards to the experience of site staff "<i>Staffing. Details on the expertise of the DCO Proposed Development team is also required. The project manager will be a named Member of the Chartered Institute for Archaeologists (MCIfA) who is adequately qualified to manage the required archaeological work or who can demonstrate an equivalent level of competence. The composition and experience of the project team will be described.</i>" The Outline Archaeological Written Scheme of</p>

Reference	Question to	Question	Applicant's Response
			<p>Investigation will be updated to include further information and will be submitted prior to the end of Examination. Requirement 10 of the Draft DCO [REP4-008] states that the DCO Proposed Development must be undertaken in line with the Outline Archaeological Written Scheme of Investigation. Requirement 10 also states the following with regard to the qualifications of the appointed archaeological contractor: “Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute” [REP4-008].</p>
Q2.7.5	Archaeology Applicant	<p>The Applicant's response [REP2-040] to the request of Clwyd Powys Archaeological Trust, for an Archaeological Watching Brief on all works during construction, is noted. However, the ExA would ask it to elaborate on why it does not consider the request to be proportionate.</p>	<p>Please note that following a meeting with Clwyd Powys Archaeological Trust held on 28<sup>th</sup> June 2023, it is agreed that an archaeological watching brief is <b>not</b> required on all works during construction. It is agreed that areas not subject to evaluation during the Phase 2 trenching will require a watching brief or strip, map and sample, within the working construction width.</p> <p>As stated in Section 2.4.1 of the Outline Archaeological Written Scheme of Investigation [APP-223], “The proposed mitigation will be proportionate to the significance of the archaeology, to ensure the significance of each site is recorded or preserved. In areas where no archaeological remains are identified, no further archaeological work will be undertaken.”</p> <p>Given the extent of the evaluation undertaken to date, alongside the proposed second phase of evaluation trenching, the DCO Proposed Development will have been robustly evaluated, and this will lead to the identification of mitigation areas. Any features that may survive but not identified during the various stages of evaluation are unlikely to be of more than low or negligible value, and unlikely to contribute to the regional research questions. For example, isolated pits or post-medieval field ditches will not contribute to the corpus of archaeological knowledge. Therefore, it is not expected that undertaking additional archaeological work in the form of a watching brief will identify significant archaeological remains that warrant the time and investment of an archaeological watching brief of the whole DCO Proposed.</p> <p>This approach is not new, and has been used on other major linear projects, such as the A428 and High Speed 2 (HS2). As explained in the Applicant's Response to the First Written Questions [REP1-044], Q1.7.1, it is currently standard practice in the sector to base archaeological evaluation and mitigation strategies on the archaeological potential of an area, targeting areas of higher risk for developing and maintaining a proportionate response to potential impacts on heritage assets.</p>

**Table 2.8: Design and Layout**

Reference	Question to	Question	Applicant's Response
Q2.8.1	Aesthetics Applicant	What scope is available to further improve the aesthetics of the scheme for the above ground aspects of the pipeline route?	The Applicant's response to the DCO Proposed Development aesthetics is set out below.
		Further explain how you have considered good design policy guidance as an important and relevant consideration. Particularly the concept of achieving 'beauty' referred to within the Framework.	<p>The above ground aspects of the development are primarily comprised of functional industrial elements and in this respect the potential to 'achieve beauty' in accordance with NPPF Para.103 is considered by the Applicant to be limited given the functional, safety and security requirements of the infrastructure.</p> <p>However, within these constraints the following measures have been implemented during the design development process:</p> <ul style="list-style-type: none"> <li>• Reducing the height and overall dimensions of the facilities and the structures as much as reasonably practicable. Overall, the approach has been to design facilities which are of the minimum dimensions to safely fulfill functional requirements.</li> <li>• Lighting columns have been reduced in height from 8m to 5m following comments received in the consultation process as documented in the LVIA <b>[REP4-048]</b>.</li> <li>• As far as practicable, apparatus and infrastructure associated with the facilities have been located underground or within kiosks, reducing the visible presence of infrastructure.</li> <li>• As far as practicable, the above ground facilities have been located to reduce effects on sensitive visual receptors, towards field corners and close to existing areas of vegetation such as hedgerows, woodland and mature tree cover. The purpose of this is to minimise disruption to field patterns and to allow mitigation planting to logically connect with existing field boundaries and hedgerows.</li> <li>• Cut and fill operations have been minimised as far as practicable to reduce landform change and the size of engineered embankments.</li> <li>• The Landscape Layout Plans <b>[CR1-008]</b> have been designed to integrate with the prevailing landscape character and provide mitigation for the adverse effects identified in the LVIA.</li> <li>• Plant species have been chosen which are compatible with existing indigenous planting prevalent in the landscape to provide assimilation. Native woodland, hedgerows and shrub planting, together with areas of species rich grassland will be specified in a full planting schedule which will be progressed (refer to REAC entry D-LV-024, which will be updated within the OLEMP <b>[APP-229]</b> prior to the end of Examination.</li> <li>• Commitment has been made to colour the perimeter fencing, kiosks and lighting columns with a muted green paint chosen to assimilate with natural landscape elements (with the possible exception of Stanlow AGI, which may be grey to match the industrial context). The precise paint finishes will be specified and agreed at detailed design (OCEMP, D-LV-021 and 022 <b>[REP4-237]</b>).</li> </ul>

Reference	Question to	Question	Applicant's Response
			<ul style="list-style-type: none"> <li>• Permanent access tracks to the facilities will be surfaced using compacted stone rather than tarmac, which will provide a less urbanising surface more appropriate to the rural setting of most above-ground facilities.</li> <li>• Aggregate surfacing for facilities will be locally sourced to assimilate with local materials and to soften the appearance (OCEMP, D-GG-005 [REP4-237]).</li> <li>• Commitment has been made to locate the pipeline marker posts so as to minimise visual intrusion while maintaining functional requirements (OCEMP, D-LV-010) [REP4-237].</li> </ul>
		<p>The Applicant is asked to undertake an Applicant led review of all soft and hard landscaping provision (including perimeter fencing style) indicated to date and explore how it can boost and enhance aesthetics as credible options available now rather than left as a subsequent requirement at a later date.</p>	<p>Further to the review in the above row, the Applicant has identified the following measures as credible options which can be explored to boost and enhance the aesthetics of the above-ground facilities that form part of the DCO Proposed Development:</p> <ul style="list-style-type: none"> <li>• Install green privacy screening on the outside of the facility fences until landscaping planting becomes established and effectively screens views of the facilities.</li> <li>• Detailed landscaping design to include the specification of groups of whips or standard tree planting to provide immediate visual screening until lower-level planting becomes established and effectively screens views of the facilities.</li> <li>• Use of green roofs on the kiosks within the facilities to better integrate the facilities within the wider landscape (providing the green roofs meet design and maintenance requirements for the safe and reliable operation of the development).</li> <li>• Specification of wood-effect or disruptive pattern material finishes on the permanent structures to better blend the facilities with the surrounding landscape. Select fencing suitable to the location, for example replacement of the chain-link fence design with an alternative perimeter fencing design with less 'visual permeability' (such as palisade fencing) provided that it provides an adequate level of security for the development where it would be preferable or reduce visual clutter in a sensitive location .</li> </ul>
		<p>Following the Applicant led review undertaken, an indication of the Applicant's detailed commitments to improving aesthetics at this point in time is requested by the ExA to be submitted to the Examination, as a future marker to the design quality which would be worked to also assuming any DCO requirement is subsequently implemented.</p>	<p>The Applicant has reviewed the visual aspects of the DCO Proposed Development and has identified that the provision of a landscape strategy drawing as an additional information item which illustrates how on and offsite planting would relate to the wider landscape context, integrate development, contribute to strategic green corridors and provide an overall framework for wider landscape and ecological enhancement could be used to inform ongoing discussions with stakeholders and support the detailed design process.</p> <p>Aesthetics will be fully considered and where practicable opportunities taken to enhance aesthetics at detailed design by means of the elements listed above being consolidated into a design principles guide prepared by the Construction</p>



Reference	Question to	Question	Applicant's Response
			<p>Contractor to be applied by the detailed design team in preparing that design. While safety must remain the overriding factor, the Construction Contractor will appoint a senior member of the design team as a design champion to challenge the team to improve aesthetics where possible within the technical, safety and security requirements when developing the design.</p> <p>The Applicant notes that the external finishes and appearance of the surface sites (including AGIs and BVSs) are required to be approved by the LPA before those elements can be constructed. There is accordingly an opportunity for the LPA to interrogate the opportunities taken by the Applicant to improve aesthetics.</p>
Q2.8.2	<i>Lighting</i> Applicant	Please explain how lighting would be adequately controlled, together with any issues/ concerns resulting from it, during construction and operation?	<p>Construction lighting will be controlled during construction as per Section 3.1 of the OCEMP [REP4-237], and during operation as per the commitments secured in the OMEMP [REP4-258].</p> <p>Operational lighting on AGIs and BVSs will be subject to approval by the LPA under requirement 4. This lighting would only be operated as needed when personnel were on site, which is anticipated to be infrequent. The sites would not be routinely staffed. The Applicant would, in detailed design, seek to ensure lighting impacts are minimised to that necessary for lighting perform its function.</p>

**Table 2.9: Not used**

**Table 2.10: Flood Risk, Hydrology, Water Resources and Contamination**

Reference	Question to	Question	Applicant's Response
Q2.10.1	<i>Flood risk</i> Applicant/ NRW	<p>Accounting for Deadline 2 responses NRW refers to s.165 of the Water Resources Act 1991. NRW is empowered to access land to conduct flood risk management works. The provisions of the DCO cannot override these powers and NRW does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991. NRW therefore advises that there should be no physical impediment to access for flood defence assets. Accordingly, NRW consider the DCO should ensure this as a matter of design/ construction.</p> <p>Can the design and construction details implied be submitted to the Examination in line with NRW's request?</p>	<p>The Applicant acknowledges the requirement for NRW to access flood defences. The trenchless crossing of the River Dee will also span the flood defences so there are no direct impacts to these defences. The trenchless crossing pits will be located in accordance with the OCEMP <b>[REP4-237]</b> commitment D-BD-019, as follows:</p> <p><i>All entry and exit pits for all trenchless crossings will be sited a minimum of 8 m away from any main river bank top (and any defence structure on that watercourse), and 16 m away from any transitional (tidal) waters (and any defence structures on that watercourse).</i></p> <p><i>Stand-off distances around watercourses will be implemented prior to the commencement of works and clearly demarcated through the use of physical barriers (fencing, tape or similar). These include;</i></p> <ul style="list-style-type: none"> <li>• <i>A minimum 8 m buffer will be demarcated around non-tidal ordinary or main river watercourses; and</i></li> <li>• <i>A minimum 16 m buffer will be demarcated around tidal watercourses, i.e., the River Dee.</i></li> </ul> <p><i>With regards the crossing under the River Dee, this will be a minimum depth of at least 15m for Horizontal Directional Drilling or 8m for Micro-tunnelling (distance between the top of the casing and the riverbed).</i></p> <p>A response was provided to this question in Ref. 2.5.2 of the Applicant's Comments on Submissions Received at Deadline 2 <b>[REP3-033]</b>.</p>
Q2.10.2	<i>Flood risk</i> Applicant/ NRW	<p>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.</p> <p>Does the Applicant acknowledge that as a necessary step?</p> <p>How will/ should that be accommodated in the DCO as a formal commitment to be undertaken?</p>	<p>The Applicant acknowledges the relevant permits that would be required and commits to obtaining these in D-GN-001, D-PD-010 and D-BD-002 of the OCEMP <b>[REP4-237]</b>, as required under Requirement 5 of the dDCO <b>[REP4-008]</b>.</p> <p>As set out in the Other Consents and Licenses document <b>[REP4-019]</b>, the Applicant will submit and appropriate application after the DCO is made.</p>
Q2.10.3	<i>Drainage/ Water environment</i> Environment Agency (EA)/ NRW/ United Utilities Water	<p>The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs</p>	

Reference	Question to	Question	Applicant's Response
	(UUW) FCC/ CWCC/ IPs	would be submitted to and approved by the relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority.  Do IPs have any comments on that approach bearing in mind policy/ legislative changes which could be implemented?	
		Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not?	
Q2.10.4	<i>Drainage/ Water environment</i>  EA/ NRW/ UUW/ FCC/ CWCC/ IPs	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].  Is the approach indicated adequate given any existing uncertainties in gauging surface and ground water conditions?	
Q2.10.5	<i>Contamination Applicant</i>	Applicant's response [REP2-037] to the EAs answer at Q1.10.9 [REP1-062] is noted, as is the EAs DL3 response [REP3-045]. The Applicant is asked to explain how it intends to resolve the issues arising regarding 'Contaminated Land Related Matters.'	The Applicant refers the ExA to the responses provided to 'Contaminated Land Matters' in Refs. 2.4.10 to 2.4.12 of the Applicant's Comments on Submissions Received at Deadline 3 <b>[REP4-263]</b> .

**Table 2.11: Habitats Regulations Assessment**

Reference	Question to	Question	Applicant's Response
Q2.11.1	<i>European sites</i> NE/ NRW/ IPs	<p>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].</p> <p>NE in its Deadline 1 response [REP1-070] mentions additional European sites lie within 10km of the application site and suggests the Habitats Regulations Assessment (HRA) Report could be amended for clarity. Please amend this document accordingly and submit at the next Deadline.</p>	<p>The Applicant acknowledges that in Natural England's response to the ExA's First Written Question Q1.11.4 [REP1-070], Natural England highlighted that the Midland Meres and Mosses Phase 1 and Phase 2 Ramsar sites are also located within 10km of the DCO Proposed Development. However, the Applicant also acknowledges that Natural England are satisfied with the sites and features included in the HRA.</p> <p>The Phase 1 and Phase 2 Ramsar sites are approximately 8.6 and 8.9km to the east of the DCO Proposed Development at their closest point, associated with areas of the Ramsar sites at Delamere Forest Park. The Ramsar sites are designated for their habitats and floral assemblage, which includes a number of rare and scarce species.</p> <p>The Ramsar sites are beyond the potential zone of influence of the DCO Proposed Development, and the qualifying habitats/species are not found within the Newbuild Infrastructure Boundary. As such, there are no potential impact pathways that could lead to Likely Significant Effects and the same conclusion can be drawn as for the Alyn Valley Woods/ Coedwigoedd Dyffryn Alun SAC; as detailed in paragraph 5.1.3 of the HRA [REP4-243].</p> <p>The Applicant will update the HRA prior to the end of Examination to capture the Midland Meres and Mosses Phase 1 and Phase 2 Ramsar sites for full transparency.</p>
Q2.11.2	<i>European sites</i> Applicant	<p>NRW confirmed in REP1-071 that it concurred with the sites and features considered in the Applicant's HRA. Para 5.1.1 of the updated HRA Report (HRAR) [REP2-023] reflects the revised distances of the identified European sites from the Proposed Development because of the changes included in Change Request 1. However, not all of these revisions are reflected in the screening matrices contained in HRAR Section 6.3 nor are they consistent with or reflect all of the changes made to Table 2 of the updated ES Appendix 9.1 [CR1-054].</p> <p>Please can the Applicant confirm which figures are correct and which were used to inform the updated HRA.</p>	<p>The Applicant has checked the distances detailed in paragraph 5.1.1 of the updated HRA [REP4-243] against those detailed within the screening matrices in Section 6.3 and can confirm that the values match. The only distance amended in paragraph 5.1.1 response to Change Request 1 was the distance of the Halkyn Mountain/Mynydd Helygain SAC from the Newbuild Infrastructure Boundary (amended from 280m to 248m), which was also updated in the corresponding screening matrix; Table 6.4 – Halkyn Mountain/Mynydd Helygain SAC [REP4-243].</p> <p>With reference to the distance values stated in the updated ES Appendix 9.1 [REP4-091], the only inconsistency with the HRA [REP4-243] is the distance calculated for The Dee Estuary SPA and Ramsar; 1km. The Applicant has reviewed the distances of designated sites from the Newbuild Infrastructure Boundary and confirms that The Dee Estuary SPA and Ramsar is 1.0km to the north of the Newbuild Infrastructure Boundary. The distance will be updated in paragraph 5.1.1 and Tables 6.8 and 6.9 of the HRA prior to the end of Examination to ensure consistency.</p>

Reference	Question to	Question	Applicant's Response
Q2.11.3	LSE Applicant	<p>Para 6.2.12 of the HRAR refers to studies that have 'considered the impacts of noise on birds during the winter period' and implies that levels &gt;56dB can affect waders and &gt;85dbA can affect all waterfowl. However, this is not particularly clear and there is no explicit statement as to what noise levels the Applicant considers could result in a LSE or an Adverse Effect on Integrity (AEol).</p> <p>Furthermore, predicted construction noise levels are shown on ES Figure 15.2 [APP-209] – but there does not appear to be any predicted noise levels around the River Dee crossing. Predicted noise levels generally appear to be a maximum of 75dB LAeq T and Para 6.2.14 assumes that significant disturbance is unlikely beyond a distance of 300m. However, it is not clear whether there is any Functionally Linked Land (FLL) within this 300m buffer and this generalisation has been questioned by NE [RR-065].</p> <p>Bearing the above in mind, can the Applicant:</p> <p>i. Confirm the extent of FLL that it has assumed in its assessment for qualifying features of the Mersey Estuary Special Protection Area (SPA)/ Ramsar and the Dee Estuary SPA/ Ramsar; provision of a figure would be helpful in this regard.</p>	<p>The qualifying species of the Mersey Estuary SPA/Ramsar and The Dee Estuary SPA/Ramsar are primarily ducks and waterbirds. As such, these species are closely linked with estuarine and water (rivers, lakes and pools) environments, which would represent functionally linked habitat. Habitats recorded across the Newbuild Infrastructure Boundary are detailed in Figure 9.1.3 of Appendix 9.1 Habitats and Designated Sites Survey Report <b>[REP4-091]</b>.</p> <p>As detailed in point (a) under the matrices Tables 6.5 (Mersey Estuary SPA), 6.6 (Mersey Estuary Ramsar) and 6.8 (The Dee Estuary SPA) and point (d) under Table 6.9 (The Dee Estuary Ramsar) of the HRA <b>[REP4-243]</b>, "<i>the majority of the Newbuild Infrastructure Boundary comprises arable farmland, poor semi-improved grassland and improved grassland, which are unfavourable habitats for the qualifying bird species ... and therefore not considered functionally linked</i>" to the European Sites.</p> <p>This is supported by the findings of the baseline bird surveys, which recorded the majority of qualifying bird species on Transect 2, along the River Dee (as detailed in paragraph 4.2.8 of the HRA <b>[REP4-243]</b>). Birds recorded along the River Dee during surveys were primarily restricted to the river corridor/channel and mudflats at low tides. Where qualifying species were recorded elsewhere within and around the Newbuild Infrastructure Boundary, they were recorded in much lower numbers and did not exceed the peak counts recorded along Transect 2 (with the exception of shelduck; peak count recorded along Transect 1 although still in numbers less than 1% of the European Site populations).</p> <p>As identified by the baseline bird surveys, the mudflats of the River Dee represent the functionally linked habitat of interest to the HRA.</p>
		ii. Clarify how the extent of FLL has been established?	<p>The extent of functional habitat has been established considering the habitat preferences and lifecycles of the qualifying species of the Mersey Estuary SPA/Ramsar and The Dee Estuary SPA/Ramsar; the presence of habitat suitable to support these species; and the results of the baseline bird surveys completed to inform the ecological impact assessment <b>[REP4-112]</b>.</p>
		iii. Confirm and explain the noise levels that it considers would result in either a LSE or an AEol?	<p>A literature review identified evidence of disturbances to waders and waterfowl at noise levels exceeding 56dB, as detailed in paragraph 6.2.11 of the HRA <b>[REP4-243]</b>. For the purpose of determining the potential for Likely Significant Effects (LSE), 56dB was used as the threshold.</p> <p>When assessing for adverse effects on the integrity of a European Site, it is not appropriate or applicable to consider a noise threshold in isolation. There are a number of other factors that inform this assessment. These include (but may not be limited to) the number of qualifying birds effected, the duration of the noise</p>

Reference	Question to	Question	Applicant's Response
			disturbance, the proximity of the noise disturbance, the spatial extent of the noise disturbance, topography, and the availability of alternative resource/habitat to accommodate any displaced birds. All of these factors have informed the Stage 2: Appropriate Assessment detailed within Section 7 of the HRA [REP4-243] and the conclusion that the DCO Proposed Development will not result in an adverse effect on the integrity of the Mersey Estuary SPA/Ramsar and The Dee Estuary SPA/Ramsar.
Q2.11.4	LSE Applicant	Can the Applicant provide further details of expected noise levels from all construction activities (not only at the River Dee crossing), and identify whether any of the noise levels which it considers would result in either LSE or AEol (see question above) would be exceeded on FLL that could be utilised by birds from the Mersey Estuary SPA/ Ramsar and the Dee Estuary SPA/ Ramsar?	As detailed in the Applicant's response above (see response to 2.11.3 (i)), the mudflats of the River Dee represent the functional habitat of interest to the qualifying birds of the European Sites. Noise levels generated during construction in proximity to the River Dee have therefore been assessed within the HRA [REP4-243].
		Can the Applicant confirm whether there are any large amplitude startling components during construction in proximity to these sites?	Whilst there is no definition of 'large amplitude', the Applicant can confirm that it is not anticipated that there will be any construction mechanisms or methodologies that could be considered large amplitude or startling. Regular and standard plant and equipment will be utilised to facilitate the River Dee crossing.
Q2.11.5	LSE NE	On which qualifying features of which sites do NE consider a LSE could arise from noise disturbance.	
Q2.11.6	LSE Applicant	Table 6.10 of the submitted HRAR identifies the potential for LSE resulting from in-combination disturbance effects to bird species from: <ul style="list-style-type: none"> <li>- Mersey Estuary SPA;</li> <li>- Mersey Estuary Ramsar;</li> <li>- Dee Estuary SPA; and</li> <li>- Dee Estuary Ramsar.</li> </ul> The Applicant is asked to confirm to which qualifying features of each site and to which type of disturbance (i.e., visual/ lighting/ noise) this conclusion applies?	Only common tern and redshank were recorded in numbers greater than 1% of the SPA citation/Ramsar Information Sheet or WeBS populations (as detailed in paragraph 4.2.9 of the HRA [REP4-243]). As such, in-combination disturbance effects would only be relevant to these two qualifying species of the SPA and Ramsar sites. Disturbance would be as a result of construction activities and may be as a result of light, noise, vibration, and/or human presence. The Applicant can confirm that all of these disturbance pathways were considered when drawing conclusions of the in-combination assessment.
Q2.11.7	LSE NRW	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. <p>Can NRW confirm what the 'main run-time' for sea and river lamprey would be?</p>	
Q2.11.8	LSE NRW	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	

Reference	Question to	Question	Applicant's Response
		there would be no LSE on the sea and river lamprey features of the Dee Estuary/ Aber Dyfrdwy Special Area of Conservation (SAC)?	
Q2.11.9	LSE Applicant	Can the Applicant confirm whether the conclusion of a LSE for in-combination dust effects is in relation to qualifying fish species only, or also habitats and/ or otter of the River Dee and Bala Lake/ Afon yfrdwy a Lyn Tegis SAC.	A summary of the Stage 1: Screening assessment of LSE, either alone or in combination, is detailed in Table 6.11 of the HRA [REP4-243]. LSE as a result of air quality effects associated with dust deposition for the River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid SAC have been determined for all qualifying features (habitats and species).
Q2.11.10	LSE Applicant	The Applicant is asked to confirm the impact pathway for which it considers there to be a potential LSE to otter of the River Dee and Bala Lake/ Afon Dyfrdwy a Lyn Tegid SAC when considered in combination with Other Developments referenced (Table 6.10 of the HRAR [REP2-023]).	A summary of the Stage 1: Screening assessment of LSE, either alone or in combination, is detailed in Table 6.11 of the HRA [REP4-243]. Cumulative pathways of LSE identified during the Screening assessment in relation to otter of the River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid SAC may occur during construction, if Other Project 21 and the DCO Proposed Development are constructed at the same time (Table 6.10 of the HRA [REP4-243]). In the absence of mitigation, pathways for LSE relate to loss of habitat (including functionally linked habitat) and mortality as a result of entrapment in voids (Table 6.11 of the HRA [REP4-243]).
Q2.11.11	Information Applicant/ IPs	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.	The Applicant can confirm that potential impacts to otter along all watercourses surveyed and where otter field signs were recorded have been considered within the impact assessment presented in the HRA [REP4-243]. Of the additional locations included in paragraph 4.4.7, field signs recorded confirm the presence of otter along these watercourses but there were no resting places (holts or couches) recorded. As such, the impact assessment presented in point (b) under Table 6.2 remains valid. In the absence of mitigation, the potential for Likely Significant Effects to otter relates to the loss of functionally linked habitat along Wepre Brook and the potential entrapment of otter in voids created during construction.
Q2.11.12	Information Applicant/ NRW/ FCC	Can the Applicant confirm the duration of the road diversions that would be located within 200m of the Deeside and Buckley Newt Sites SAC and the anticipated vehicle movements along these diversions. <b>NRW/ FCC</b> Are NRW/ FCC content that air quality impacts from these diversions do not require assessing?	Open trench road crossings will necessitate the closure of roads and implementation of diversion routes. Road closures are anticipated to last a maximum of two weeks. The temporary closure of Pinfold Lane and Shotton Lane would see traffic diverted onto the B5125 Holywell Road (Figure 17-7 Road Diversions [REP4-230]), which is the route closest to the Deeside and Buckley Newt Sites SAC, although this would not be in excess of expected normal daily variation in terms of traffic volumes.



Reference	Question to	Question	Applicant's Response
Q2.11.13	Information Applicant	The Applicant is asked to confirm the approach that was taken to assessment of the waterbodies that were not subject to Habitat Suitability Index assessment for Great Crested Newts (GCN), including the five additional waterbodies scoped in because of the proposed changes (HRAR para 4.3.6) but not subject to survey because they were identified outside of the seasonal survey windows.	<p>In England, where ponds were not subject to HSI assessment and located outside the Red Risk Zone, impacts to these waterbodies will be covered by a District Level Licence (DLL) (measure D-BD-044 of the REAC <b>[REP4-235]</b>. There is no requirement to undertake surveys of waterbodies for a DLL and a licence can be obtained in the absence of survey effort.</p> <p>For waterbodies not subject to HSI assessment located within the Red Risk Zone in England or located in Wales, unless scoped out due to unsuitable environmental conditions (dry) at the time of the survey or separated from the DCO Proposed Development by major barrier to dispersal, a precautionary assessment was applied, and great crested newts were assumed to be present for the purpose of the impact assessment.</p> <p>Paragraph 4.3.6 of the HRA <b>[REP4-243]</b> provides a summary of HSI completion across the entire survey area of the DCO Proposed Development. It should be noted that only a proportion of the 222 waterbodies across the survey area are located in Wales (80 waterbodies) and only a proportion of these waterbodies are within the Deeside and Buckley Newt Sites SAC and Halkyn Mountain/Mynydd Helygain SAC or within approximately 500m of the SACs (and therefore functionally linked and of relevance to the HRA).</p> <p>In relation to the five additional waterbodies scoped in due to the proposed design changes, it should be noted that these are located at the northeast end of the DCO Proposed Development in England and not functionally linked within either of the SACs.</p>
Q2.11.14	Information Applicant	The ExA notes that the draft Statement of Common Ground (SoCG) with NRW <b>[REP1- 023]</b> highlight revised dispersal distances for GCN, as set out in updated 2022 Joint Nature Conservation Committee guidance, do not appear to be reflected in the HRAR, and that this matter is currently under discussion. Please could the Applicant provide an update on this matter, including if/ when the assessment within the HRAR will be updated as a result.	<p>The Applicant held a meeting with NRW on Thursday 29<sup>th</sup> June 2023 to discuss this matter further and obtain further clarity to the comment made by NRW. It was agreed between the Applicant and NRW that further survey is not required in response to NRW's comment. It was also agreed that the HRA <b>[REP4-243]</b> should be updated to consider ponds within 1.6km of the SAC as functionally linked (if not separated by barriers to dispersal), to ensure the HRA reflects and acknowledges the updated 2022 Joint Nature Conservation Committee guidance. This will be updated prior to the end of Examination.</p> <p>Whilst NRW will confirm their position following review of an updated HRA, both the Applicant and NRW were in agreement that the overall conclusion of the HRA is unlikely to change (i.e. no adverse effect to the integrity of the SAC).</p>
Q2.11.15	Information NRW	In light of the Applicant's response to NRW's concerns set out in their Written Representations and response to ExQ1 <b>[REP1-071]</b> about the GCN surveys undertaken by the Applicant, please can NRW state if they are satisfied that the	

Reference	Question to	Question	Applicant's Response
		surveys and proposed mitigation are sufficient and confirm their position of no AEol on the Deeside and Buckley Newt Sites SAC.	
Q2.11.16	Information Applicant	Appendix A of the HRAR [REP2-023] indicated that the Dee Estuary SAC, Dee Estuary SPA and Dee Estuary Ramsar are in favourable condition. Can the Applicant confirm this understanding is correct?	The Applicant confirms that Appendix A does not state that the Dee Estuary SAC, SPA and Ramsar are in favourable condition. Appendix A states that the conservation objective for qualifying features of these sites is to maintain the feature in a favourable condition or that the vision for the feature is for it to be in a favourable conservation status.
		Can the Applicant provide the current conservation status for all remaining sites for which a LSE has been identified?	The current conservation status for each European Site is not known to be publicly available to the Applicant. However, sufficient information relating to the conservation <u>objectives</u> of each of the European Sites is presented in Appendix A of the HRA to inform the assessment completed [REP4-243]. This information is obtained via the Conservation Objectives (England) or Core Management Plan (Wales) documents for each European Site.

**Table 2.12: Not used**

**Table 2.13: Not used**

**Table 2.14: Noise and Vibration**

Reference	Question to	Question	Applicant's Response
Q2.14.1	Survey Applicant	The ExA notes that noise and vibration effects to aquatic life are not supported by an underpinning survey and therefore any assessment or conclusion drawn is currently largely opinion based. Can the Applicant further justify its approach to assessing the full impacts to aquatic life given the implications to protecting ecology?	The Applicant has conducted a range of surveys to assess the presence of sensitive, protected or otherwise notable aquatic receptors within the Order Limits to inform the impact assessment and development of mitigation principles and measures. Noise and vibrational effects upon aquatic receptors have been considered in the context of the survey results obtained and have been assessed accordingly within Chapter 9 Biodiversity <b>[REP4-041]</b> (as supported by appendices 9.9 Aquatic Ecology (watercourses) Survey Report <b>[REP4-114]</b> and 9.10 Aquatic Ecology (Ponds) Survey Report <b>[REP4-115]</b> ). The assessment has been driven by the identification of aquatic species that may be susceptible to noise and vibration impacts, as such, appropriate mitigation measures to safeguard aquatic receptors have been provided within the Outline Construction Environmental Management Plan (OCEMP) <b>[REP4-237]</b> (see example items D-BD-057, D-BD-058, D-BD-061, D-NV-001, D-NV-004). Additionally, as captured within Table 3-6 of the Statement of Common Ground – Environment Agency <b>[REP1-024]</b> , the Environment Agency has confirmed its agreement with the assessment of likely significant effects presented within Chapter 9 Biodiversity <b>[AS-025]</b> (and those elements scoped out).
Q2.14.2	Survey Applicant	Is additional aquatic survey work expected to inform the Examination and, if so, when is it to be formally submitted.	The Applicant is not planning to undertake additional aquatic surveys during the Examination and believes that the survey suite and assessment of aquatic receptors completed to date has been sufficient to inform the impact assessment and development of mitigation. As captured within Table 3-6 of the Statement of Common Ground – Environment Agency <b>[REP1-024]</b> , the Environment Agency is in agreement with the assessment of likely significant effects presented within Chapter 9 Biodiversity <b>[REP4-041]</b> (and those elements scoped out).

**Table 2.15: Planning Policy**

Reference	Question to	Question	Applicant's Response
Q2.15.1	<i>National Policy Applicant/ FCC/ CWCC/ IPs</i>	<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> <p>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?</p>	<p>The Applicant has outlined its position on which matters are important and relevant matters under Section 105 of the Planning Act 2008 in section 3.3 of the Planning Statement <b>[REP4-022]</b>.</p> <p>In section 3.5.5 of the Planning Statement <b>[REP4-022]</b>, the Applicant has set out its position that despite the current adopted suite of NPSs for energy infrastructure likely to constitute primary importance and relevant considerations to SoS decision-making, the Applicant considers that the draft revised NPSs (specifically draft EN-1 and draft EN-4) are still a matter that is important and relevant to the SoS's decision-making on the Application.</p> <p>The Applicant has provided a National Policy Statement Tracker <b>[REP2-034]</b> which is used to set out the Applicant's position on accordance of the DCO Proposed Development with the NPSs. That document contains a full assessment against specific relevant policies contained within the adopted and draft NPSs.</p> <p>The Applicant will update the National Policy Statement Tracker <b>[REP2-034]</b> should any updates be made to these documents during the Examination.</p> <p>Furthermore, if the draft NPSs are adopted during the Examination, they are likely to be of primary importance and relevance to SoS decision-making, replacing the currently adopted NPSs. The Applicant will update the Examination on its view regarding the decision-making status of these documents if this scenario arises, however it is not anticipated to be likely.</p>
		<p>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 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>	<p>The Applicant is aware of the recent consultation on targeted policy changes to Planning Policy Wales which closed on the 31<sup>st</sup> May 2023. The proposed changes to section 6.4 of PPW relate to net benefit for biodiversity and the resilience of ecosystems and have been informed by the draft Annex 1 'Achieving a Net Benefit for Biodiversity – Draft Principles for Planning Applicants'. The Applicant, during the preparation of the DCO, has accorded with the stepwise approach detailed within the Annex 1 document, which broadly aligns with the mitigation hierarchy: avoid; minimise; mitigate; and lastly compensate. In so doing, the Applicant has sought to safeguard biodiversity where possible through embedded and early design measures and will continue to do so through the development of the detailed design of the DCO Proposed Development. The suite of mitigation measures and principles detailed within the OCEMP <b>[REP4-237]</b> have been developed to ensure the protection and safeguarding of protected and/or notable species, habitats, and sites. The Applicant is additionally seeking to provide net benefits for biodiversity, as required under the planning policy, evidencing these through the use the Defra metric. Both mitigation and biodiversity offsets have been considered in light of relevant policy including the</p>

Reference	Question to	Question	Applicant's Response
			Section 6 duty and the 'DECCA' framework as detailed within Planning Policy Wales, Edition 11. As such, the Applicant is in accordance with the current policies and those changes subject to consultation.
Q2.15.2	<i>National Strategy</i> Applicant/ FCC/ NRW/ EA/ IPs	<p>The ExA acknowledges that on 10 January 2023 the UK Government published the 'Sustainable Drainage Systems Review' and has 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> <p>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.</p> <p>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.</p>	<p>The Applicant acknowledges the response and can confirm that the proposed surface water drainage design is in line with the policy/ legislation.</p> <p>SuDS treatment methods such as filter drain, vortex separator and detention pond have been identified, implemented and optimized to satisfy the pollution control, amenity and biodiversity requirements.</p> <p>Water quality is controlled via proposed SuDS components before discharging into the watercourse/ground.</p> <p>The current drainage proposal has followed Simple Index Approach (SIA) suggested by The SuDS Manual CIRIA C753 to evaluate the water quality. The designed total pollution mitigation index has exceeded the pollution hazard index.</p> <p>Further details can be found in the Outline Surface Water Drainage Strategy <b>[CR1-111]</b>.</p>
Q2.15.3	<i>Local Policy</i> FCC	<p>In relation to the Flintshire Local Development Plan 2015-2030 (adopted January 2023). The ExA requests all policy wording, and supporting text, relevant to this document as listed by the Council in earlier correspondence as applicable to this Proposed Development be formally submitted into the Examination.</p>	
		<p>FCC's 'Environment and Sustainability Policy' is noted as being superseded by 'FCC's Climate Change Strategy.' What is the basis, significance and aims of the strategy? Is it part of the development plan or a separate corporate strategy? Please provide the full details and a copy of the wording into the Examination.</p>	
		<p>The Neighbourhood Plan referred to by FCC as being relevant to the area of land affected by the DCO is requested to be submitted into the Examination.</p> <p>Electronic copies will suffice and are preferred.</p>	
Q2.15.4	<i>Local Policy</i> Applicant	<p>Please signpost the ExA to where in the submitted documentation the Applicant has assessed the proposed developments compliance with the 'Countryside' element of Policy STRAT 9 of the CWCC Local Plan Part 1. If not addressed, please review and address, as required, and enter the assessment of this element into the Examination.</p>	<p>The Applicant has assessed the DCO Proposed Development against Policy STRAT9 (Green Belt and Countryside) of the CWCC Local Plan Part 1 in Table B4 (page 223) of the Planning Statement <b>[REP4-022]</b> submitted at Deadline 4.</p> <p>Furthermore, in Section 5 of Planning Statement <b>[REP4-022]</b> submitted at Deadline 4, a planning assessment for green belt, green wedges and open space</p>

Reference	Question to	Question	Applicant's Response
			concludes that the DCO Proposed Development has demonstrated very special circumstances to allow works within the Green Belt.
Q2.15.5	<i>National and Local Policy</i> Applicant	'Other harms' in the context of Green Belt/ Green wedge policy designations are presented in the Applicant's Planning Statement [REP2-015]. However, an understanding of the balance of the 'other harms' resulting from the proposal against the definitional harm to the Green Belt/ Green wedge appears unclear from the information submitted to date. Please review and address, as appropriate.	<p>The Applicant considers that the Planning Statement submitted at Deadline 4 <b>[REP4-022]</b> further considers the balance of any 'other harms' from the DCO Proposed Development.</p> <p>Given the strategic, linear nature of the DCO Proposed Development, it would therefore not be practicable for the pipeline to avoid the Cheshire West and Chester Green Belt, nor the Green Wedges within Flintshire County.</p> <p>The Applicant would refer to FCC's Response to the Applicant's comments to the Flintshire County Council's Final Local Impact Report <b>[REP3-046]</b> wherein the majority of concerns were resolved.</p> <p>Other harm is limited to the temporary construction effects to facilitate the delivery of the DCO Proposed Development, wherein land would be returned to its former use upon completion, and the permanent siting of above ground facilities within the Green Belt and Green Wedge. An assessment is given within the Planning Statement for the Ince AGI and Aston Hall BVS.</p>



**Table 2.16: Socio-economic Effects, Including Population and Human Health**

Reference	Question to	Question	Applicant's Response
Q2.16.1	Sealand Golf Driving Range Applicant/ Sealand Golf Driving Range/ IPs	<p>Having regard to [REP2-039] and the location of Sealand Golf Driving range/ Sealand Road, it is noted that Deeside Lane allows access to a customer car park.</p> <p>Further explain what would be the likely trade impacts of the construction phase of the development on the Golf Course and how these can be successfully gauged?</p>	<p>The Applicant can confirm that access will be maintained to the customer car park of the Golf Driving range and the functioning of the golf club will be unaffected. Less than 200m of road will be used by both the business and construction traffic. A number of measures to ensure that impacts are not created are set out in the line below.</p> <p>The Applicant notes that Sealand Road provides a route between Chester and the strategic road network and provides access to the farm holdings and industrial units to the south. There is accordingly already HGV traffic routinely using this route and the Applicant does not accept that construction traffic will result in any adverse impact on the business. The Applicant will work with the landowner and appointed contractor prior to and during construction commencement to ensure effective communications with the business. The Applicant will consider measures such as signage on the highway where that would be of assistance.</p>
		<p>Clarify what measures would be undertaken to ensure any vehicle routing or noise disruption is reduced to an acceptable level?</p>	<p>The Outline Construction Traffic Management Plan (OCTMP) [REP3-020] includes within it a description of the access to the Wood Farm Centralised Compound. Paragraph 7.2.28 describes the compound location with access from the A548 Sealand Road, with the compound located on Deeside Lane which forms a loop. Paragraph 7.2.31 outlines some measures as follows:</p> <ul style="list-style-type: none"> <li>• Introduction of one-way system around Deeside Lane with access from southern junction on A548 and egress via northern junction.</li> <li>• Temporary reinforcement of the southern verge on Deeside Lane at the junction with the A548 to allow Low Loaders to overrun.</li> <li>• The one-way system will operate during site hours and potentially could be suspended on evenings and weekends.</li> <li>• Confirm the structural condition of the two land drainage culverts crossed by Deeside Lane. As required implement temporary protection measures to accommodate the design vehicle loading.</li> <li>• Schedule for site deliveries to be undertaken outside of peak morning and evening hours to avoid excessive waiting times for the execution of the right turn on A548 into Deeside Lane.</li> </ul> <p>A comparison has been undertaken of the road traffic basic noise levels for the year 2025 with and without construction. The comparison concludes that there will be no change in noise levels due to additional construction traffic to the existing link ID 7. This is presented in Table 8 of Appendix 15.3 Noise and Vibration Assessment Results [REP4-150]. The link reference is presented in Table 1 of Appendix 17.4 Baseline Traffic Data [REP4-158].</p>

Reference	Question to	Question	Applicant's Response
		How can the ES be taken as accurately measuring any LSEs/indirect effects to the business and its customer base which may well be reliant on tourism/seasonal linked activity?	The Population and Human Health assessment is qualitative, which has been outlined in the assumptions and limitations to the assessment within Chapter 16 (Population and Human Health) paragraphs 16.5.28-16.5.30, of the ES <b>[REP4-055]</b> . It highlights those individual businesses that could be affected by the DCO Proposed Development, considering a reasonable worst case scenario in relation to effects.

**Table 2.17: Transportation and Traffic**

Reference	Question to	Question	Applicant's Response
Q2.17.1	<p><i>2 Sisters Food Group</i></p> <p>Applicant/ 2 Sisters Food Group/ Welsh Government (as Highway Authority)/ FCC/ IPs</p>	<p>2 Sisters Food Group have detailed parking issues in representations received to the Examination. Could the applicant please confirm its proposals to resolve parking problems caused by the development/ the exacerbation of existing parking problems? What would be the effects to the business if these issues cannot be satisfactorily resolved?</p> <p>What avoidance/ mitigation measures can be adopted?</p>	<p>Since the submission of the DCO Application, the Applicant has continued its engagement with the 2 Sisters Food Group (2SFG) regarding access to their site for the construction of the DCO Proposed Development.</p> <p>Following this engagement with 2SFG, the Applicant sought to amend the Order Limits as part of Change Request 2 in two locations at their site to enable greater compatibility between the continued operation of their business and the construction of the DCO Proposed Development.</p> <p>The Applicant's Notification of Intention to Submit a Change Request (2) <b>[AS-066]</b> outlines the benefits to the operation (including parking) of the 2 Sisters Food Group site resulting from these changes.</p> <p>These changes, accepted by the ExA on 02 June 2023 (which at the time of writing are under consultation), have satisfactorily resolved the majority of 2SFG concerns, and satisfied all concerns related to parking. This is reflected in the SoCG submitted at Deadline 4 <b>[REP4-262]</b>, and the Applicant and 2SFG (and their landowner – Amber Real Estate) are continuing to engage regularly and progress commercial discussions.</p>
		<p><b>FCC/ IPs</b></p> <p>Is any 'public' parking facility/ land available for use as a feasible option?</p>	
Q2.17.2	<p><i>Existing Highway Infrastructure/ Road maintenance</i></p> <p>Welsh Government/ NMWTRA</p>	<p>The ExA notes that the Welsh Government/ NMWTRA did not provide a response to ExQ1 Q1.17.4. FCC deferred to the Welsh Government/ NMWTRA in regard to this question and Q1.17.5 (See [PD-013] (Welsh)/ [PD-014] (English)). The Welsh Government/ NMWTRA are asked to respond to these questions.</p>	
Q2.17.3	<p><i>Conflict resolution</i></p> <p>Royal Mail</p>	<p>The Applicant's response to DL1 submissions [REP2-039] and table 2.9 is noted. The ExA would ask Royal Mail whether this response addresses its previous concerns?</p>	


**Table 2.18: Waste Management**

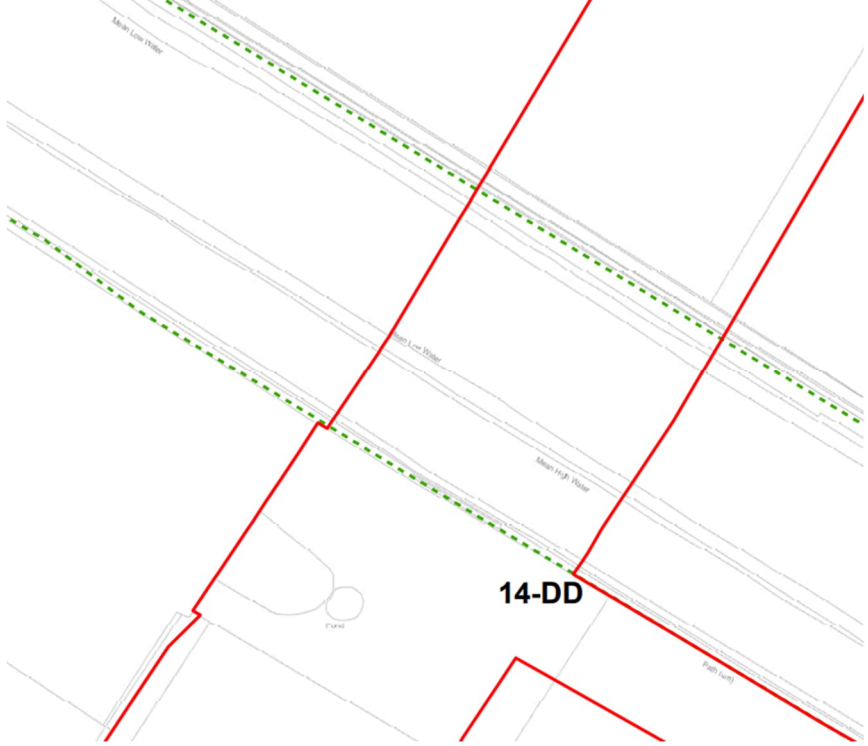
Reference	Question to	Question	Applicant's Response
Q2.18.1	Applicant/ EA/ NRW/ NE/ Canal and River Trust/ IPs	<p>Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with 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>The Applicant has confirmed the presence of Invasive Non-Native Species (INNS) of plant within and beyond the Order Limits as detailed within Section 2 of Appendix 9.1 – Habitats and Designated Sites <b>[REP4-091]</b>.</p> <p>Given the known presence of INNS within and beyond the Order Limits, the Applicant has included mitigation items within the OCEMP <b>[REP4-237]</b> to address this presence and ensure INNS are appropriately managed during construction (see items D-BD-041 and D-BD-042). Whilst treatment, removal, and/or management of INNS will be dealt with on a case-by-case basis in response to the species spread and potential interaction with construction, any measures applied will be undertaken following engagement of an INNS specialist (as required by item D-BD-042 of the OCEMP <b>[REP4-237]</b>, as secured by Requirement 5 of the dDCO <b>[REP4-008]</b>). The Applicant has prepared an Outline Biosecurity Method Statement, submitted at Deadline 5. This includes general measures in respect of INNS, including, in particular for Japanese Knotweed and the need to consider transfer and disposal of INNS wastes by a registered waste carrier to an authorised landfill site or other suitable disposal site in line with the conditions of an environmental permit to transport and dispose of a controlled waste.</p>
		<p>Is survey work to investigate the presence of invasive plant species needed at this stage? If not, state why not.</p>	<p>The Applicant does not consider further survey is required at this stage in respect of Invasive Non-Native Species (INNS). During the Phase 1 habitat survey, INNS were recorded as Target Notes where incidentally observed (this is inclusive of other observations obtained during surveys of other receptors). Target Notes are presented within Annex B and illustrated on Figure 9.1.3 (Annex A) of Appendix 9.1 – Habitats and Designated Sites <b>[REP4-091]</b>. Additionally, within <b>[REP4-091]</b>, INNS are discussed within Section 3.2 under the sub-heading Invasive Species (see from paragraph 3.2.49 onwards). This provides details of records returned during the desk study in respect of INNS presence, as well as summarising the instances of INNS encountered during surveys, as presented within Table 11.</p> <p>The presence of INNS is documented within and beyond the Order Limits, as such mitigation has been included within the OCEMP <b>[REP4-237]</b> to address this presence and ensure INNS are appropriately managed during construction (see items D-BD-041 and D-BD-042). The Applicant has prepared an Outline Biosecurity Method Statement [Document reference D.7.42], submitted at Deadline 5, which additionally incorporates measures in respect of INNS.</p>

Reference	Question to	Question	Applicant's Response
		Do additional specific requirements/ commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species? If not, state why not.	The Applicant does not consider it necessary to include additional specific requirements/commitments specifically for INNS into the DCO. The measures for dealing with INNS during construction are secured through the commitments within the OCEMP [REP4-237], under Requirement 5 of the dDCO [REP4-008].

**Table 2.19: Draft Development Consent Order**

Reference	Question to	Question	Applicant's Response
Q2.19.1	<i>Local Government Act 1972, s.111</i> Applicant/ FCC/ CWCC	Does the Applicant/ FCC/ CWCC/ IPs anticipate utilising mechanisms available under s.111 of the Local Government Act 1972 within the DCO? (i.e., to secure off-site provision, or any other requirement applicable?)	The Applicant has proposed this as a potentially suitable underpinning power for agreements for securing BNG/BNB provision and maintenance only. However, the determination of suitability will be made by the Councils.
Q2.19.2	<i>Off-site Biodiversity Enhancement/ BNG provision</i> Applicant	How would the DCO deal with the off-site BNG/ ecological enhancement provision mentioned by the Applicant if those are to be incorporated during the examination period during its course?  The ExA notes incorporating such changes to the terms of the DCO would be substantial alterations in nature and therefore would encourage early revision and clarification where it is appropriate to do so.  The ExA also notes that the draft DCO would potentially be able to include terms at this stage on a precautionary basis with sufficient opt out or blue pencil clause should BNG/ ecological enhancement details or other similar requirement not able to be formally agreed or need to be up taken using such mechanism.	The Applicant has noted the point and will propose a revision in the DCO to require the approval of the final BNG/BNB details and management plans in line with the strategy prior to commencement. The Applicant considers that it is necessary to tie this to the strategy to provide suitable details to all parties, including the split between England and Wales, the types of habitats to be created and the maintenance and monitoring approach,
Q2.19.3	<i>Off-site Biodiversity Enhancement/ BNG provision</i> Applicant	The applicant is asked to further clarify how off-site provision would be dealt with in the legal provisions available.	The Applicant refers to the updated strategy submitted <b>[REP3-034]</b> along with this response at Deadline 5. In summary, [some habitats will be created and maintained by the Councils under a contractual agreement. Some will be created by the Council but maintained by a contractor at the Applicant's expense and some will be created and maintained by third parties, primarily Trusts. These approaches are site specific as they depend on the land ownership (i.e. Councils or Trusts, or in one case potentially NRW) and are a combination of land agreements and contractual agreements. The options to enter those agreements are under commercial negotiations at this time]
Q2.19.4	<i>Flood Risk Management/ Design</i> Applicant/ NRW	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:  <i>"For the protection of NRW</i>  <i>82. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and NRW...</i>  <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: -</i>	The Applicant refers to its submissions in line 2.5.2 to 2.5.5 of The Applicant's Comments on Submissions Received at Deadline 2 <b>[REP3-033]</b> .  As set out in that response, there is nothing in the dDCO <b>[REP4-008]</b> which seeks, or could be read as seeking, to disapply powers of entry under the Water Resources Act 1991. The right to maintain flood defences under s165 is not unfettered. The Applicant notes that the power of entry to carry out those works is set out in section 170 (s165 is the power to carry out works, section 170 is the power of entry to carry out those works, in terms of the right to access land, section 170 is accordingly the relevant power). All rights of entry to land must be exercised reasonably.  The Applicant suggests that this discussion has become somewhat sidetracked into powers of entry and especially the emergency powers rather than the practicalities of access.

Reference	Question to	Question	Applicant's Response
		<p>(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</p> <p>(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.</p> <p>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”.</p> <p>NRW submissions at Deadline 2 highlight the concerns to this approach, advising s.165 of the Water Resources Act 1991 empowers it to access land to conduct flood risk management works and that the provisions of the DCO cannot override these powers. NRW states it does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991.</p> <p>The ExA asks how this matter is to be resolved between the parties?</p>	<p>The Applicant does not acknowledge that the fencing for construction compounds would be a physical impediment to access to flood defences. The Applicant was making the point that it has legal obligations to meet as well and the existence of a power of entry does not mean that other parties cannot use land as needed. The core of a power of entry is to require access to be given when required, not for a theoretical access across all land to be maintained in a ready state at all times. To submit that it must be ready at all times is to submit that a gate or door can never be locked or that no landowner can fence land- that is not a credible position.</p> <p>The Applicant has no construction compounds located so as to prevent access to flood defences. The compound to the north of the river Dee is separated by two fields and a road. The compound to the south (in green in the excerpt below) is located on the far side of the access from the flood defences and again cannot physically impede access to them. NRW requested a reduction in the order limits in this area which the Applicant actioned specifically to exclude the flood defences on the north side of the blue plots.</p>  <p>The works in the pipeline corridor in this location (pink) will be HDD pits which have been agreed to be at least 16m from the river. The compounds for those will be fenced as excavation is required, however each compound will be narrower than the order limits and set back from the river. NRW will literally be able to go around this fencing. The set back from the river is demonstrated by the lack of need to close rights of way along the flood defences. On both sides of the river, the AROW plans demonstrate that the public rights of way along the flood defences are being maintained open for use.</p>

Reference	Question to	Question	Applicant's Response
			 <p data-bbox="1576 940 2763 1125">The Applicant was asked to provide PPs for access by NRW and sought to do so. Rather than engaging with the Applicant on the drafting and noting that, for example what was sought was a provision that the track shown in blue in the excerpt above would not be blocked, NRW has instead sought a number of unnecessary and unreasonable requirements.</p> <p data-bbox="1576 1142 2742 1213">The Applicant entirely accepts that NRW has powers of entry. Indeed, that is partly why the Applicant submits that the requirements NRW are seeking are unnecessary.</p>
Q2.19.5	<i>Construction and safety</i> Applicant	[RR-077] advises measures proposed in section 6.5 of the Coal Mining Risk Assessment [AS-043] should be included as a Requirement in the DCO. Please signpost where this has been done or advise how such measures are to be secured in the DCO?	The Applicant can confirm that the proposed measures are set out in D-LS-002, D-LS-003 and D-LS-004 of the OCEMP <b>[REP4-237]</b> , as secured by Requirement 5 of the dDCO <b>[REP4-008]</b> .
Q2.19.6	Canal and River Trust	In its representations have raise concerns in regard to Articles 21 (Authority to survey and investigate the land) 31 (Acquisition of subsoil and airspace) and 34 (Temporary use of land for carrying out the authorised development) of the draft DCO. However, it has not elaborated as to what those concerns are. Please could the Canal and River Trust provide a detailed explanation as to what its concerns regarding these Articles are?	



Reference	Question to	Question	Applicant's Response
Q2.19.7	Network Rail Infrastructure Ltd (NR)	<p>In its representations to date has indicated it objects to the powers contained in specific Articles contained in the draft DCO, as they would be authorising the Promoter to compulsory acquire rights in or over land, or temporarily use land, which forms part of NR's operational railway land and which NR relies upon for the carrying out of its statutory undertaking.</p> <p>The Articles of concern are Articles 19 (Discharge of water), 21 (Authority to survey and investigate the land), 22 (Protective work to buildings), 24 (CA of land), 26 (CA of rights and restrictive covenants), 27 Statutory authority to override easements and other rights, 28 (CA of land: minerals), 29 (Private rights), 31 (Acquisition of subsoil or airspace only), 33 (Rights under or over streets), 34 (Temporary use of land for carrying out the authorised development), 35 (Temporary use of land for maintaining the authorised development) and 39 (Felling or lopping of trees and removal of hedgerows).</p> <p>The ExA notes there are ongoing discussions with the Applicant, with a view to agreeing a position acceptable to both parties, but to date concerns raised have not been resolved. Without going into any of the Change Requests, which will be subject to separate consultation/ Hearings (if required), please could the Applicant and NR provide an update in regard to the ongoing discussions between the parties regarding NRs objections to the Articles listed above, including whether any of those objections have been resolved.</p> <p>Should any of NRs objections to the Articles listed above still remain, please could the Applicant/ NR advise what is being done with a view to resolving NRs outstanding objections and when, within the remaining Examination timetable, resolution(s) is/ are likely to be forthcoming?</p>	<p>The Applicant is seeking to resolve outstanding matters in relation to NR's concerns. The latest progress on discussions and engagement to date is captured in the Network Rail SoCG <b>[REP3-036]</b>.</p>

Table 2.20: Other

Reference	Question to	Question	Applicant's Response
Q2.20.1	Applicant/ Welsh Water (WW)/ IPs	Utility services beneath the DCO area are referenced to include WW pipework. Although there are submissions of minimum depth restrictions to 1.2 metres, as per the Statement of Reasons [REP2-008]. How would such measures ensure access for standard water pipe maintenance or in the event of emergencies, such as water leakage?	<p>A minimum separation is generally required between the Applicant's pipeline and third-party utility assets to enable access for maintenance of the Applicant's pipeline. Most third-party asset owners also have their own company specifications for the separation required for maintenance, dependent on the asset size, materials of construction etc.</p> <p>The depth of existing utilities will be a driver of the depth of the Applicant's pipeline in detailed design, with the intention to pass beneath the majority at a mutually agreeable separation distance. The minimum separation required for future maintenance is secured by the requirement to consult with the utility provider on final design proposals as a part of protective provisions.</p>
		For the avoidance of any doubt, and assuming the minimum depth restrictions as indicated above, could the parties confirm whether water pipes would be located above or below the Applicant's pipeline?	<p>Assuming third-party assets are buried at a nominal depth (i.e. 1.2m) or shallower, then the Applicant's pipeline will be installed beneath them.</p> <p>If the third-party assets are buried at significant depths, it may be possible to install the Applicant's pipeline above them whilst maintaining a minimum burial depth of 1.2m. This is often seen in crossings of large diameter gravity sewers.</p>
Q2.20.2	<i>Safety</i> Health and Safety Executive (HSE)	No response to ExQ1 Q1.20.2 or Q1.20.3 was received from the HSE and the ExA invites it to respond now. Additionally, the ExA would ask whether the HSE intends to designate the proposed development as a Major Accident Hazard Pipeline, or similar designation, which would generate a consultation zone with associated land use restrictions?	
Q2.20.3	<i>Clarification</i> Applicant/ FCC	<p>If the three BVS located in FCCs jurisdiction fall to be considered as 'Authorised Development' within this DCO, why has planning permission been sought from FCC (Application Reference FUL/000231/23)?</p> <p>The ExA would ask the Applicant and FCC whether it is appropriate to consider the BVS under both the Planning Act 2008 and the Town and Country Planning Act 1990. Please give the reasoning for your answer?</p>	<p>The Applicant refers to the full explanation of the strategy set out in the ES Chapter 2 The Project [REP4-028] at paragraph 2.2.6 onwards but notes that this was written prior to the Lightsource decision in June 2023 (full reference below), where the High Court clarified that a requirement for development consent did not prevent a planning application under TCPA being made.</p> <p>In summary the Applicant considers that these BVSs properly form part of the pipeline, are part of the NSIP and should be consented through the DCO. However, in the pre-application phase the Welsh Government advised that they did not agree and objected the inclusion of the BVSs in the application. The Applicant considers it reasonable and appropriate that it took the views of Welsh Government seriously, and while it has determined it does not agree with those views, it does accept that it is possible that the Welsh Government position could be preferred by the Secretary of State.</p> <p>As the determination of whether these elements do or do not form part of the NSIP will only be made when the Secretary of State issues a decision, and, as noted, the Applicant intends to deliver this development quickly in order to meet</p>

Reference	Question to	Question	Applicant's Response
			<p>the Government programme, the decision was taken to apply under both processes to cover the eventuality that the Secretary of State determines not to include these BVSs within the DCO. This was discussed with both the Welsh Government and FCC, and Welsh Government were provided with a copy of the consenting strategy setting out the approach now being followed.</p> <p>The Applicant notes that in the current circumstances where there is no precedent decision on the status of such valves in Wales in a DCO and where Welsh Government were clear in their responses to pre-application consultation that they did not concur with the Applicant's view that these form part of the NSIP, the Applicant submits it is sensible and prudent to twin-track this until the decision on the correct consenting route is made. That twin-tracking mitigates the risk of delay in delivery of the project and, therefore, UK Government objectives in relation to the delivery of CCUS infrastructure. Nothing in this approach prejudices the role of either decision maker. The Council has been asked to process the application and is empowered to do so. The Applicant refers in particular to the decision of the High Court in Durham County Council, Hartlepool Borough Council, and the Secretary of State for Levelling up, Housing and Communities v Lightsource SPV 206 Limited and Lightsource Development Services Limited <b>[2023] EWHC 1394 (Admin)</b> which sets out that even if the subject matter of a TCPA planning application could require development consent, that "would not deprive the local planning authority of jurisdiction to grant planning permission". The Applicant notes that aside from the planning route, the sites of the BVSs will remain in the dDCO as the Applicant is seeking powers of compulsory acquisition over those sites.</p>
Q2.20.4	<i>Clarification</i> Applicant	The Applicant's Statement of Commonality for SoCG [REP2-025] includes a letter at Appendix A from the Coal Authority which it purports confirms no SoCG is required. Can the Applicant signpost where within that letter it is confirmed no SoCG is required?	The Applicant has updated Appendix A in the Statement of Commonality <b>[REP4-245]</b> submitted for Deadline 4 to include an email from the Coal Authority on 28 March 2023, confirming they do not think an SoCG is required. The Applicant apologises for erroneously referring to the letter.
Q2.20.5	<i>Clarification</i> FCC	[RR-054] refers to a refusal of planning, reference 061368, being appealed; whilst FCC advised of a potential appeal against its refusal of planning against reference 062820. Can FCC advise whether either refusal's have been appealed? If so, please confirm the status of the appeal(s). If no appeal(s) have been lodged, have the timescales for appeal on these decisions now lapsed?	
Q2.20.6	<i>Bio-security measures</i> Applicant	The Applicant's response to Written Representations [REP1-080] and [REP1-081] is noted. The ExA would ask for clarification from the Applicant as to what bio-security measures would need to be put in place and how is the provision of such measures to be secured through the DCO?	The Outline Bio-security Management Plan (document reference: <b>D.7.42</b> ), has been submitted at Deadline 5 and is secured by Requirement 5 of the dDCO <b>[REP4-008]</b> .

Reference	Question to	Question	Applicant's Response
Q2.20.7	Clarification Applicant	[REP2-041] at reference 2.9.61 refers to the "...Applicant's response in row 1.2.3 c) above", whilst reference 2.9.62 refers to the "...Applicant's response in row 1.2.3 d) above." Is this reference correct? Please clarify, if required.	The references in 2.9.61 and 2.9.62 are erroneous. The correct references are below: <ul style="list-style-type: none"> <li>• Reference 2.9.61 should refer to 2.9.8; and</li> <li>• Reference 2.9.62 should refer to 2.9.10.</li> </ul> The Applicant apologises for the error.
Q2.20.8	Applicant	The ExA noted [RR-001] (2 Sisters Food Group) reference was made in the Applicant's response [REP1-042] in table 2.1 at 2.1.5 and 2.1.7 reference was made to employment of a 'robust project management team' which will include public relations with a view to handling complaints. The Applicant deferred responding to the ExAs request to explain how such a provision is to be secured in the DCO, advising it would respond at DL4?	The Applicant responded to this action from the Hearings of week commencing 05 June 2023 in Applicant's Responses to Action Points from Hearings held week commencing 5 June <b>[REP4-265]</b> .