



**Flintshire County Council's response to**

**Table 2-2 Applicant's Comments on Submissions Received at Deadline 3 from Flintshire County Council [REP3-047] and also**

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

**Submitted at Deadline 5 – Tuesday 4 July 2023**

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

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
<b>4. Biodiversity, Ecology and Natural Environment</b>							
Q1.4.2	Monitoring FCC	<p><b>IPs</b> Confirm whether you are satisfied with the monitoring measures during construction and post construction described within Section 9.13 of ES - Chapter 9 - Biodiversity [APP-061]. In particular, your comments are invited on the monitoring requirements anticipated during construction detailed within Table 9.13 and within Appendices 9.1 - 9.10 (Volume III), in relation to protected species licencing and the Outline Landscape Ecology Management Plan [APP-229]. As well as the post-construction monitoring proposed to be undertaken in accordance with a Landscape Ecology Management Plan (LEMP) [APP-230] developed at Detailed Design. The LEMP is proposed to be included within the Operations and Maintenance Environment Management Plan (OMEMP), provided post-construction. The ExA acknowledges that this may be covered by a SoCG. If the answer to these questions are being covered by a SoCG please indicate that accordingly.</p>	<p><b>Construction monitoring measures:</b> Table 9.13 of the ES Chapter 9 - Biodiversity [APP-061] with REAC references and OCEMP-Table 6.6: Construction Management and Mitigation summarises REAC references which comprise: Biodiversity BD-001 references the appointment of a Team of Ecological Clerk of Works to support oversee and monitor the Construction Contractor D-BD-002 relates to Permits and EPS licences - Protected species licencing is likely to include additional monitoring in relation to any required mitigation as well as an external auditor. D -BD-003 the appointment of a third party to undertake Environmental compliance audits and regularly report on all parties.</p> <p>FCC is satisfied with the above monitoring measures proposed during construction.</p> <p>An External Auditor is key to ensuring construction works, mitigation and licences adhere to the agreed plans but are only proposed for the duration of construction, and not in the long term during the maintenance and management period for landscape planting.</p>	<p><b>Construction Monitoring Measures</b></p> <p>The Applicant understands FCC's statement to mean that an External Auditor is key during the construction phase, but it is not clear from the comment whether FCC is seeking such provision during the operation and maintenance phase.</p> <p>The Applicant acknowledges the response of FCC in respect of construction monitoring measures. With regards the appointment of an External Auditor during construction, this is captured via item D-BD-003 of the Outline Construction Environmental Management Plan (OCEMP) <b>[REP1-017]</b>.</p> <p><b>LEMP</b> The Applicant refers to its response to Q1.4.2 (page 23) within the Applicant's Response to ExA's ExQ1 <b>[REP1-044]</b> regarding the OLEMP/LEMP and its current and future content. FCC's comments are acknowledged.</p> <p><b>OLEMP</b> Mitigation planting and BNG are separate and distinct concepts with different requirements, and it is inappropriate to conflate these. Habitat planting for mitigation will be maintained for the establishment period to ensure the function is met</p>	<p>To clarify in reference to D-BD-002 in particular GCN EPS licence – this will need to include monitoring and auditing both for construction and the operation and maintenance phase. The details may be specific to the licence but the information needs to be included within the final REAC.</p> <p>It is understood that mitigation and BNG are two separate concepts. The point was that management timescales should be the same ie 30years.</p> <p>It is noted that <i>Paragraph 6.1.2 of the Outline Landscape and Ecological Management Plan [APP-229] notes that, where appropriate, a review will be undertaken of the needs for future maintenance and management of created habitats beyond the establishment/maintenance period.</i></p> <p>What is the incentive for the landowner to maintain the mitigation planting beyond the handover period?</p> <p>And who will enforce this?</p> <p>Will the DCO be able to transfer mitigation land to a third party eg Nature</p>	<p>The Applicant can confirm that details of monitoring and auditing will be included within the GCN EPS licence.</p> <p>Habitat planting for mitigation (including reinstatement of habitats) will be maintained for the establishment period to ensure the function is met then land management will return to the landowner. It is inappropriate for the Applicant to seek to control and restrict a landowner's use of land for 30 years for this form of planting.</p> <p>The Applicant considers that the question needs to differentiate between forms of <b>mitigation</b> planting. Landscape mitigation around surface sites and woodland mitigation planting will be managed by the Applicant as part of the development.</p> <p>Hedgerow reinstatement planting would revert to the landowner post establishment. That is appropriate as these hedgerows as replacement not new and should revert to the existing landowner.</p> <p>Transfer to a body is only likely to be applicable for woodland mitigation planting and would depend on the form of land agreement reached. Where the</p>	Clarification noted

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

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

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		<p>accepted for examination before the specified commencement date would not be required to deliver mandatory BNG under the terms of the Environment Act.</p> <p><b>Applicant</b></p> <p>i) Nevertheless, biodiversity interests and the wider policy/statutory context those interests sit within, both in England and Wales, remain important and relevant considerations whereby significant enhancement could still potentially be secured irrespective of the BNG statutory provision anticipated. Does the Applicant agree? If not say why.</p> <p>ii) Can the Applicant clarify and set out/signpost how it intends to secure BNG significantly above the 1% currently detailed in the examination documentation? Confirm the level of BNG the Applicant is committed to providing as the overall aim. Outside of BNG measurement, can the Applicant set out how it could further boost and achieve meaningful overall</p>	<p>Whether off-site BGG is undertaken on Public or Privately owned land, it is considered that, in order to secure establishment, appropriate long-term management and monitoring, the applicant should enter into a legal agreement that includes provision for a commuted sum to ensure compliance and to confirm that the BMG was being establish to a good standard.</p> <p>Should consent be granted, future proofing woodlands could be secured to some extent by reference to elements of the United Kingdom Woodland Assurance Scheme (UKWAS) which is a comprehensive certification standard for woodland management. The standard includes chapters covering Natural, Historical and the Cultural Environment, and Management Planning including woodland creation. UKWAS certification would mean that the woodlands are being managed in accordance with the best practice.</p> <p>There is concern that the level of BNG will be dependent on landowners' and stakeholders' willingness to offer land for this purpose. Where land is made available there is concern with regards to how long term BNG (30 years) will be secured. There will be a need to adequately incentivise landowners to take part. This should also be</p>	<p>requirement will not apply, under any circumstances, to the DCO Proposed Development.</p> <p>Facilitating BNG</p> <p>Discussions around facilitating the necessary habitat offsetting to achieve biodiversity net gain (BNG) (evidencing this through the biodiversity metric wherever possible) are on-going with Flintshire Countryside Service. The Applicant considers that specific habitat interventions or schemes to facilitate such interventions will be identified, quantified as far as practicable, and outlined within an updated BNG assessment report to be submitted at Deadline 5, however, an update on progress with offset site identification is provided at Deadline 2. This documents the Applicant's interaction with Flintshire Countryside Service as highlighted by FCC (see BNG Strategy Update (document reference: <b>D.7.23</b>) submitted at Deadline 2).</p> <p>As part of these off-site interventions, BNG Good Practice Principles will be adhered to, and underpinned by legal agreements. This includes the requirement of long-term management by suitably qualified or experienced bodies, adhering to a prescribed habitat management plan which will be drafted and agreed during</p>	<p>As 1.4.2 - It is accepted that the applicant will seek to avoid hedgerow loss as reasonably practical.</p> <p>The comment regarding the replacement of the whole hedge was not to remove more hedgerow but to replant the full length of a gappy/poor hedgerow adjoining the DCO</p>	<p>The Applicant notes FCC's comment regarding avoiding hedgerow loss.</p> <p>The Applicant acknowledges FCC's comments regarding planting up of gaps in hedgerows. However, the Applicant, would be required to seek additional agreements with landowners to affect hedgerows beyond those areas directly</p>	<p>Noted, FCC will await detailed design and final BNG proposals and reserve the right to comment at a later stage.</p>

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		<p>biodiversity enhancements?</p> <p>iii) Does the Applicant agree that s106 agreement use involving a commuted sum mechanism to facilitate biodiversity enhancements may be a feasible/ suitable option available?</p> <p>iv) To what extent has peatland, wetland or salt marsh creation/ restoration (or similar) been considered as an enhancement that links to shared interests of climate change risk resilience from flooding and enabling nature based forms of carbon capture. If not, why has it not been considered?</p> <p><b>IPs</b></p> <p>v) Submit your views on seeking biodiversity enhancement/ facilitating BNG, inclusive of any future proofing.</p>	<p>secured by legal agreement in the form of a commuted sum to ensure off-site BNG is provided.</p> <p>The OLEMP [APP-229] (paragraph 3.2.9.) specifies UK seed sourced and grown for native tree/shrub/hedge planting, which is welcomed.</p> <p>The successful reinstatement of removed hedgerows is considered to be a key element in minimising post construction landscape impacts along the sections of underground pipe where AGIs and BVSs are not present.</p> <p>Post construction, as a result of the pipeline construction, if consented, there will be sections of missing hedgerows along the line of the route but no other evidence of the construction as the land would be restored. It is possible that, from certain viewpoints, a number of hedgerows gaps would be visible which would indicate where the line of the pipeline is below ground and it is considered that this will feature as a scar across the countryside. To ensure that this does not take place, once the hedgerows have ben replanted and grown there should be no evidence of the pipe at all.</p> <p>Rather than replacing the gap, where the hedgerow is particularly poor, it would be preferable to replace the whole length of the hedge.</p>	<p>detailed design. Discussions are ongoing around who will manage these habitats in the long-term and suitable payment structures will be agreed to ensure this ongoing dedicated management is fully costed to ensure compliance. The Applicant considers this a vital and fundamental principle associated with evidencing BNG.</p> <p>As detailed within the response at row 2.12.9 in the Applicant's Response to the Relevant Representations [REP1-043], the Applicant will continue to seek to avoid hedgerow loss as much as reasonably practical during the detailed design stage of the DCO Proposed Development. Additionally, measures have been included within the Outline CEMP [REP1-017 and CR1-119], for the planting of any areas of hedgerow removed to facilitate construction. The Applicant considers it disproportionate to remove extended lengths of established hedgerow, including poor hedgerows, as this would increase impacts on established linear habitats unnecessarily and could have implications on their use by protected and/or notable species (for example bats). The Applicant has provisioned micro-siting of the pipeline through existing gaps in hedgerows, as captured within item D-BD-009 of the OCEMP [REP1-017 and</p>	<p>rather than just the pipeline location.</p> <p>This would depend on landowner agreement but could contribute to the BNG requirement for new hedgerow.</p> <p>Disappointing that hedgerow translocation considered too onerous especially for those hedgerows important for bats.</p> <p>Management of the soil and the associated seed bank (relevant to established ancient hedgerows) needs to be included within the LEMP if not already.</p>	<p>impacted by construction (i.e. those that fall within the construction working corridor), which would be disproportionate in the context of the localised impacts of construction. Any additional planting of gaps would also require consideration of management over the establishment period, as a minimum. To qualify for consideration as part of any BNG strategy any agreement would require the Applicant to secure access to land for management of hedgerows over a 30-year period. This would place an unnecessary inconvenience on the landowner, as well as the Applicant who would require access to be agreed to larger areas of land than would otherwise be necessary. Given the number of hedgerows located within the Order Limits and adjoining the DCO Proposed Development (beyond those included within the construction working width) this would likely result in a not insignificant financial outlay. The Applicant therefore feels it is disproportionate to seek to plant up gaps in hedgerows outwith those impacted within the construction working width by construction.</p> <p>In respect of hedgerow translocation, the Applicant refers FCC to its response to</p>	

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			<p>These longer sections of replanted hedge would make replacing just the gaps less of a repeating pattern in the countryside and mask the pipe's route, reducing visual sensitivity.</p> <p>In addition to hedge planting, the option for Hedgerow translocation especially for established ancient hedgerows and those identified as having good bat activity needs to be explored. This has been successfully achieved on other gas pipeline and road schemes within Wales, particularly in Carmarthenshire in South Wales.</p> <p>The maintenance for replacement hedgerows of the OLEMP [APP-229] (para 4.3.17) requires more detailed consideration as the height of new hedges should not be cut in the first five years if it is intended lay them. Hedge laying should be undertaken in accordance with the 'Midland Style' which is best suited to newly planted hedgerows. This detail can be agreed with the LPA during the consideration of the detailed LEMP as part of the approval of the requirements as required.</p>	<p><b>CR1-119].</b> The metric incentivises adherence to the mitigation hierarchy. Only those sections of hedgerow needing to be removed to facilitate construction are being considered, as per the mitigation hierarchy, which aligns with the BNG Good Practice Principles. Removal of additional lengths of hedgerow would also require extending management, monitoring and maintenance, placing additional burden and obstacles upon the Applicant unnecessarily. With regards hedgerow translocation, given the constraints of the Order Limits and the landscape through which the DCO Proposed Development covers, the Applicant considers that it is not proportionate or appropriate to employ translocation of hedgerows for the small sections of hedgerow that will be removed.</p>		<p>Q1.4.3 within Applicant's Comments on Responses to ExA's First Written Questions <b>[REP2-038]</b>. In addition, it should be recognised that the Order Limits are not representative of the final construction working width. The Applicant will develop a detailed design and route and apply a construction working width of 32m within the Order Limits. Through this, the Applicant will further reduce its impact upon land and landowners accordingly. To effect hedgerow translocation would likely require the Applicant to increase the size of the construction working width, which the Applicant considers inappropriate and disproportionate given appropriate mitigation and reinstatement of hedgerows has been provisioned within the mitigation measures and principles as presented within the Outline Construction Environmental Management Plan <b>[REP2-021]</b>.</p> <p>The Applicant can confirm that the LEMP <b>[APP-229]</b>, secured by Requirement 11 of the dDCO <b>[REP3-005 and CR2-008]</b>, will include details of the management of the soil and seed bank where appropriate.</p>	

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Q1.4.5	BNG/ Biodiversity Enhancement  FCC	<p>Section 6 under Part 1 of the Environment (Wales) Act 2016 introduced an enhanced biodiversity and resilience of ecosystems duty (the S6 duty) for public authorities in the exercise of functions in relation to Wales. It requires that public authorities must seek to maintain and enhance biodiversity so far as consistent with the proper exercise of their functions and in so doing promote the resilience of ecosystems. Section 7 of the Act entails biodiversity lists and duty to take steps to maintain and enhance biodiversity. It is noted by the ExA that the Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types of habitat(s) included in any list published under Section 42 and encourage others to take such steps.</p> <p><b>Applicant</b></p> <p>i) Signpost in the examination documentation how the above duty would be complied with?</p> <p>ii) The BNG Assessment submitted indicates compliance with the above statutory provision is being pursued during the Examination, in part, through engagement using</p>	<p>Please refer to response at Q1.4.3 above and with regards to Biodiversity and resilience of ecosystems there is a cross reference and links to Wildlife corridor as per response at Q1.4.17 and Q1.11.7.</p> <p><u>Offsite compensation scenarios</u></p> <p>These should be agreed with public and private landowners prior to consent, or at the very least prior to commencement of development. BNG should be undertaken prior to commencement of development or integrated with DCO mitigation.</p> <p>For example, BNG could be provided in part by hedgerow restoration and replacement for the full length of hedge rather, than just the DCO development width as raised above within Q1.4.3.</p> <p>Other linear schemes within Wales have required legal agreements to be entered into that include the provision for appropriate funding administered as grants to landowners.</p> <p>Funding can be costed for agreed BNG but will need to include mechanisms for instigating the grants.</p> <p>Grant schemes are successful where there is a project officer who can undertake the landowner liaison and subsequent monitoring of the schemes.</p>	<p>The Applicant refers FCC to the responses provided for Q1.4.3 (page 24), Q1.4.17 (page 41) and Q1.4.7 (page 32) in the Applicant's Response to ExA's ExQ1 <b>[REP1-044]</b> submitted at Deadline 1.</p> <p><u>Offsite compensation scenarios</u></p> <p>The Applicant intends to agree habitat compensation to achieve a net gain in biodiversity. This will involve specific habitat interventions or schemes to facilitate such interventions which will be identified, quantified as far as practicable, and outlined within an updated BNG assessment report to be submitted at Deadline 5, with an updated assessment associated with impacts occurring within the Order Limits to be provided at Deadline 3 and an update to the BNG Strategy Update Document submitted at Deadline 2 (document reference: <b>D.7.23</b>).</p> <p>The Applicant considers that any habitat interventions to achieve a BNG will be secured through a suitable agreement(s) to ensure successful compliance.</p> <p><u>Cross cutting options available to boost BNG/ biodiversity enhancement</u></p> <p>The Applicant refers to its response to Q1.4.5 (iii) (page 30) in the Applicant's</p>	<p>Consideration should be given to Replanting/restoring the full length of a poor/'gappy' hedgerow adjoining the DCO rather than just the pipeline location.</p> <p>This would depend on landowner agreement but could contribute to the BNG requirement for new hedgerow and complement Flintshire Countryside Service proposals.</p>	<p>The Applicant refers FCC to its response to Q1.4.3 above.</p>	<p>Noted, FCC will await detailed design and final BNG proposals and reserve the right to comment at a later stage.</p>



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		<p>the off-site compensation scenarios. However, if such an approach is to be utilised how will this be delivered to ensure both legal compliance and robust long-term management?</p> <p>iii) Has the Applicant scoped cross-cutting options available to boost BNG/ biodiversity enhancement with respect to its own scheme in combination with the strategic ecological challenges facing statutory consultees in both England and Wales?</p> <p>iv) The ExA considers that off-site BNG proposals should be more thoroughly explored and encourages early endeavours to achieve off-site BNG and a significantly greater overall value. The ExA requests the Applicant's views of realistically achieving meaningful off-site BNG (for a minimum of 30 years and formally registered) and the net level anticipated after development.</p> <p>v) The Applicant is advised to take a</p>	<p>Such schemes can be delivered via the local authority or another body such as the local Wildlife Trust, (North Wales Wildlife Trust in Flintshire) the Woodland Trust, Farming and Wildlife Advisory Group or related farm advisory group.</p> <p>Potentially, if the projects fit in with the proposed Sustainable Farming Scheme in Wales then there will be long term commitment to their success.</p> <p>Hedgerows are likely to be protected from grazing for the life of the associated fences.</p> <p>As for the LEMP proposals, there is a need for the External Auditor to be retained or a separate organisation (eg Woodland Trust, North Wales Wildlife Trust etc) commissioned to ensure the security of the long term management. At present, it is understood that the External Auditor would only be present during the construction phase of the project.</p> <p>Other mitigation/compensation schemes in Flintshire tend to be associated with the Great Crested Newt. The most successful schemes are those where the site is handed over or are leased long term to a "Nature Conservation Body" with adequate funding.</p>	<p>Response to ExA's ExQ1 [REP1-044] in respect of cross-cutting options.</p> <p>In respect of hedgerows, the Applicant refers to the response provided within Q1.4.3 above in respect of hedgerow translocation and restoration of full lengths of hedgerow.</p>			

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		<p>flexible approach to BNG/ meaningful biodiversity enhancement delivery options. This extends to delivery of net gain on both publicly and privately owned land covering green or blue infrastructure features (including new: woodland, wetland creation, seagrass meadow establishment/ restoration, and saltmarsh establishment/ restoration).</p> <p>vi) The ExA invites such options to be further explored with relevant consultees and landowners as a means to boost overall BNG levels. In that regard the ExA seeks a timetable to be submitted setting out the discussions taking place with relevant landowners/ strategic bodies having regard to local ecological initiatives (either in place or which could be developed) in the vicinity which may be able to be boosted.</p> <p>vii) It is noted by the ExA that the Joint Nature Conservation Committee (JNCC)</p>	<p><u>Cross cutting options available to boost BNG/ biodiversity enhancement</u></p> <p>Enhancing connectivity and Ecosystem resilience by hedgerow translocation to retain hedgerow soils and seed banks and local plants; where translocation not appropriate, the restoration of full lengths of hedgerow should be provided rather than just the DCO width. Link to other mitigation requirements relating to WFD and GCN as stated in previous questions.</p> <p>Proposed tree and hedgerow planting will provide additional benefits such as carbon capture.</p>				

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		<p>is the public body that advises the UK Government and devolved administrations on UK-wide and international nature conservation. It includes members from the nature conservation bodies for England, Scotland, Wales and Northern Ireland and independent members appointed by the Secretary of State (SoS) for the Environment, Food and Rural Affairs. JNCC provide a shared scientific nature conservation service for the UK - the mechanism for the UK Government and devolved administrations to pool their resources to obtain evidence and advice on nature conservation and natural capital. Has the advice of JNCC been considered? If not, state why and indicate whether the Applicant is able to procure such advice during the Examination.</p> <p><b>IPs</b> viii) Any comments, responding to questions i) to vii) above are welcome.</p>					

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Q1.4.8	Great Crested Newts FCC	<p>The ExA notes the content of Appendix 9.2 Great Crested Newt Survey Report – Part's 1-4 [APP094]; [APP-095]; [APP-096]; and [APP-097].</p> <p><b>Applicant</b></p> <p>i) Clarify and detail whether you believe there is adequate baseline survey information to confirm or discount the potential presence of Great Crested Newts (GCN) as a relevant consideration in all parts of the pipeline route.</p> <p>ii) Confirm/ signpost the details of migration where the GCN would be traveling to/ from?</p> <p>iii) Can the Applicant provide further details as to what mitigation measures would be included if GCNs not already anticipated by relevant survey are subsequently found?</p> <p>iv) Can the Applicant also clarify if there is a need for a separate GCN mitigation plan?</p> <p>• <b>IPs:</b> Are there any comments/ concerns you wish to raise with respect to the above matters?</p>	<p>Flintshire is a recognised "hotspot" for Great Crested Newts (GCN) with Supplementary Planning Guidance 8a for GCN Mitigation Requirements.</p> <p><a href="https://www.flintshire.gov.uk/en/PDFFiles/Planning/SPG8a-Great-Crested-Newt-Mitigation-Requirements.pdf">https://www.flintshire.gov.uk/en/PDFFiles/Planning/SPG8a-Great-Crested-Newt-Mitigation-Requirements.pdf</a></p> <p>The GCN surveys undertaken provide an adequate baseline; GCN have been previously recorded in a number of the ponds surveyed, so presence is assumed.</p> <p>As stated in the REAC all species-specific mitigation and predicted impacts would be captured under an European Protected Species mitigation licence subject to agreement with NRW but to date it is understood that no discussions have been undertaken.</p> <p>Since, GCN have been recorded in close proximity to the DCO boundary from Ewloe to Flint including the Deeside and Buckley Newt Sites SAC, the majority of the pipeline within Flintshire has the potential to impact GCN terrestrial habitats. As a result, it is anticipated that additional mitigation measures would be required as part of the NRW licence application. These might include restoration or creation of ponds and terrestrial habitat enhancement,</p>	<p>The Applicant acknowledges FCC's comments regarding the adequacy of baseline survey information accrued.</p> <p>The Applicant can confirm that it is preparing a draft European Protected Species (EPS) licence to be provided to NRW for their review and comment with a view to securing a Letter of No Impediment from NRW (LoNI). The Applicant can additionally confirm that it has already held discussions with NRW regarding appropriate mitigation and licensing requirements and that NRW have provided further guidance and thoughts on the matter, as evidenced within Table 2-1 Record of Engagement in Relation to the DCO Proposed Development, in particular meetings 02/02/2023 and 09/03/2023 of the SoCG with Natural Resources Wales [REP1-023]. As detailed within Table 3-3 – Issues Related to the Proposed Development – Ecology - NRW 3.3.11 of the SoCG [REP1-023], the Applicant and NRW have discussed the need and means of capturing a conservation/mitigation plan for GCN. The approach to this has been agreed within NRW, particularly acknowledging that in the absence of a detailed design for the DCO Proposed Development, there is a requirement for a degree of generality about the licence at this time.</p>	<p>Noted FCC are aware that "shadow licences" will be produced. It would be useful to have sight of them when available.</p>	<p>The Applicant can confirm that shadow licences for Wales will be submitted to NRW, these include shadow licences for GCN, bats, and badger. The Applicant can provide sight of the shadow licenses to FCC.</p>	<p>Noted FCC will await submission of shadow licences and reserve the right to comment at a later stage</p>

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
			<p>additional tree and shrub planting.</p> <p>A separate GCN mitigation plan would assist the licensing process.</p>	<p>The Applicant will continue to engage with NRW in respect of the draft EPS licence for GCN with a view to agreeing its content and approach, acknowledging the final application at the detailed design stage will require further refinements. Future discussions and agreements will be captured within updates to the SoCG with NRW <b>[REP1-023]</b>.</p>			
Q1.4.17	Wildlife Corridors  FCC	<p><b>Applicant</b> At the ExA's Unaccompanied Site Inspections [EV-003] and [EV-004] the probable existence of 'informal' wildlife corridors within nearby surrounding areas was observed which could be potentially used by a wide variety of species.</p> <p>i) Clarify how the effect of the proposed development on potential informal wildlife corridors has been considered.</p> <p>ii) Explain the extent of integration of any ecological enhancements/mitigation with existing informal wildlife corridors and how those elements are to be secured through the DCO.</p> <p>iii) Explain what scope is available within the overall engineering and new landscaping works proposed by</p>	<p>FCC would agree the integration of the construction of the proposed DCO development with the adjacent habitats and wildlife corridors is important.</p> <p>This point is also relevant to the Council's response to Q1.4.5 'Biodiversity enhancement and Ecosystem Resilience'</p> <p>The option for hedgerow translocation especially for established ancient hedgerows and those identified as having good bat activity needs to be explored. This has been successfully achieved on other gas pipeline and road schemes within Wales and avoids the need for replanting as referred to above.</p> <p>It is understood that details are to be provided regarding maintaining hedgerow connectivity for bats such as lesser horseshoes at the design stage. This would be provided in the detailed LEMP a the discharge of requirements stage.</p>	<p>The Applicant refers FCC to its response to Q1.4.17 (ii) (pages 41 &amp; 42) within the Applicant's Response to ExA's ExQ1 <b>[REP1-044]</b> in respect of the interactions of the DCO Proposed Development, mitigation, and wider landscape/habitats.</p> <p>In respect of hedgerow translocation, the Applicant refers FCC to its responses to Q1.4.3 and Q1.4.4 above.</p> <p>The Applicant refers FCC to its responses to Q1.4.1 (iii) (page 41) and Q1.4.19 (iii) (page 45) within the Applicant's Response to ExA's ExQ1 <b>[REP1-044]</b> and can confirm that the means/design of faux hedgerow sections for maintaining connectivity during construction will be confirmed at the detailed design stage.</p>	Please refer to response at Q1.4.3	Refer to the Applicant's response within Q1.4.3.	Noted, FCC will await detailed design and final BNG proposals and reserve the right to comment at a later stage

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
		<p>the DCO to enable ecological corridors the earliest chance of re-establishment prior to completion of all works. Also explain how such potential provision could be secured formally. Have novel and innovative nature based approaches been sufficiently explored?</p> <p>iv) What mitigation is proposed to ensure protected species and other species are protected from noise and vibration?</p> <p><b>Ips</b></p> <p>v) Are there any comments/ concerns you wish to raise with respect to the above matters?</p>	FCC's Ecologist is aware that "trees on trolleys" have been used on other schemes which can be wheeled into place at the end of the working day to maintain connectivity. This could be explored for this project.				
<b>10. Flood Risk, Hydrology, Water Resources and Contamination</b>							
Q1.10.4	Flood Risk <b>LLFA</b> <b>SDSAB</b>	<p>• Applicant:</p> <p>i) There is limited information on the groundwater levels at each of the proposed BVS and AGI sites. What groundwater survey information/ monitoring is proposed to understand any potential risk of groundwater flooding to inform the detailed drainage design?</p> <p>ii) The statutory consultation phase highlighted Chester</p>	It is understood that the water Table in the Sandycroft and Pentre areas is generally found at a depth of circa 1.20 – 1.50 Metres and is widespread.	The Applicant notes that, where any dewatering activities are proposed to support construction, then a Dewatering Management Plan (DMP) and Groundwater Management and Monitoring Plan (GWMMP) will be prepared by the Construction Contractor. The GWMMP will consider collection of pre-construction groundwater level data which can be used to inform the risk of groundwater flooding. An Outline Dewatering Management Plan and Outline Groundwater	It is noted that a Dewatering Management Plan and a Groundwater Management and Monitoring Plan will be prepared by the Construction Contractor for appropriate locations. I consider this to be a positive proposal and welcome receipt of the Outline Plans for both activities.	The Applicant acknowledges the response and can confirm that an Outline Dewatering Management Plan and an Outline Groundwater Management and Monitoring Plan will be submitted at Deadline 5.	FCC will consider both the Outline Dewatering and Management Plan the Outline Ground Water Management and Monitoring Plan when submitted at Deadline 5.

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
		<p>Road, Pentre and Leaches Lane Mancot where both internal and external sewer flood risks due to hydraulic incapacity. In addition, the postcode area CH5 3HJ (Blackbrook Avenue, Hawarden) is an identified risk of external flooding. How have those specific risks been factored/mitigated by the scheme?</p> <p>iii) Can the Applicant confirm if a Dewatering Management Plan and a Groundwater Management and Monitoring Plan is able to be submitted to inform the Examination?</p> <p>• Applicant and IPs</p> <p>iv) Significant dewatering is expected adjacent to the River Gowy and the West Central Drain. These are in the Gowy and Ince Marshes WFD surface water bodies. Do IPs have any comments to make on that aspect or any other aspect of the proposal? Can any related ecological benefits be secured in tandem with dealing with flood risk management issues arising?</p>		<p>Management and Monitoring Plan will be submitted prior to the end of Examination.</p> <p>The Applicant notes that, whilst there are noted areas of historical flooding, these are above ground and as the proposed pipeline is buried at those locations, it is unlikely that the proposed pipeline will exacerbate any of the existing flood risk. The proposed pipeline alignment will take into account the alignment and the location of the existing drainage assets, and the design will avoid clashes with these assets.</p>			

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5	
		<b>14. Noise and Vibration</b>						
Q1.14.6	<b>FCC</b>	<ul style="list-style-type: none"> <li>• Having reviewed the methodology and calculations set out in ES Chapter 15 (Noise and Vibration) [APP-067], it would appear that very noisy equipment will be in use at certain locations for approximately 80% of the time. Indeed Paragraph 15.9.4 notes "...some receptors in all sections are likely to experience either a medium or a high adverse noise impact at some point during the construction phase." It also records the magnitude of impact as being considered to be a "significant effect (significant)".</li> <li>• Bearing this in mind the ExA would ask the Relevant Local Authorities (CWCC and FCC) whether they: <ul style="list-style-type: none"> <li>i) consider there to be a potential for complaint resulting from the use of such equipment and/ or the duration of such use of equipment;</li> <li>and ii) have any concerns in regard to Article 9 (Defence to Proceedings in respect of statutory nuisance) as set out in the draft DCO [APP-024].</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>i) Given the predicted noise output for certain locations during the construction phase, there is a high probability and severe likelihood of the FCC receiving complaints from residents.</li> <li>ii) FCC do not agree with the defence to statutory nuisance methodologies that the applicant has proposed. Mitigation is not a defence if any proceedings are brought under the Environmental Protection Act. Clarification is required in respect the defence to proceedings and arbitration in respect of statutory nuisance for noise and its interplay with existing statute. Furthermore, FCC are not clear on construction/operational /decommissioning time frames</li> </ul>	<ul style="list-style-type: none"> <li>i) The Applicant acknowledges that noise complaints from individual receptors are possible when construction works are in proximity. However, due to the linear nature of the construction works, any impacts would be of relatively short duration. Under D-NV-003 of the REAC [REP1-015 and CR1-109], and as secured by the CEMP in Requirement 5 of the dDCO [REP1-004], the Contractor is obliged to nominate a community liaison representative, who would be responsible for managing and responding to complaints in accordance with the Noise and Vibration Management Plan, which will be approved by the Local Authority in the CEMP as committed in D-NV-002 of the REAC [REP1-015 and CR1-109]. Temporary rehousing will also be considered through consultation with the Local Authority, if necessary, in accordance with D-NV-010 of the REAC [REP1-015 and CR1-109].</li> </ul> <p>Allegations of statutory nuisance from construction</p>	FCC are in agreement that the applicant 'may' have a defence to any statutory nuisance complaints by use of Best Practical Means, however the detail of any mitigation to meeting Best Practical Means has not been provided at this time and it will be under discussion when completed final Management Plans are submitted and assessed as part of the Requirements.	The Applicant agrees that the detail of any mitigation to meeting Best Practicable Means will be provided in the Noise and Vibration Management Plan under D-NV-003 of the REAC [REP2-017 and CR1-109], and as secured by the CEMP under Requirement 5 of the dDCO [REP3-005 and CR2-008]. The Applicant can confirm that an Outline Noise and Vibration Management Plan will be submitted at Deadline 5.	Noted. FCC reserve the right to comment on the Outline Noise and Vibration Management Plan after DL5 – FCC will respond at DL6 if necessary	



WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
				works would typically be dealt with using the Control of Pollution Act. Under those circumstances, mitigation (Best Practicable Means (BPM)) is a statutory defence. It is recognised that proceedings can also be brought under the Environmental Protection Act (EPA); however, Article 9 of the draft DCO would also similarly protect the Applicant from proceedings under the EPA based on use of BPM or compliance with the approved CEMP as committed in D-NV-002 of the REAC [REP1-015 and CR1-109]. FCC are required to approve the CEMP secured in Requirement 5 of the dDCO [REP1-004], and so will ultimately have control of the mitigation measure therein.			
<b>16. Socio-economic Effects, Including Population and Human Health</b>							
Q1.16.3	General FCC	<ul style="list-style-type: none"> <li>Scope for a Community Benefit Fund is referenced within the full Relevant Representations received from FCC [RR-034] [RR-035]. They specifically comment <i>“that the construction of the pipeline would cause significant disruption to a number of communities in Flintshire for the duration of construction. Furthermore, should consent be granted, this would result in extending the life of the PoA Terminal</i></li> </ul>	<p><b>HYNET COMMUNITY BENEFIT FUND</b></p> <p>FCC is of the view that HyNet should provide a voluntary community benefit scheme, established and managed by the developer to mitigate against the impacts of the development.</p> <p>The fund could be used to fund projects in the communities affected by the construction of the pipeline and the above ground installations/BVS, and also the development at the Point of Ayr Terminal.</p> <p>Projects that the fund could support include those that</p>	The Applicant would refer to the Applicant's response to ExA's ExQ1 Q1.16.3 (page 112) in the Applicant's Response to ExA's EXQ1 [REP1-044] submitted at Deadline 1.	The applicant's response to ExA's Qu1 is noted in relation to this point and would welcome further information with regards to the details of the proposed voluntary community benefit fund.	The Applicant notes FCC's request and is reviewing the opportunity to provide a voluntary proposal for a community benefit fund, and the form such a proposal might take. As any funding would be provided on a voluntary basis and not tied to the DCO, the review and approval cycle is not currently following the same timescale as the DCO process.	Noted and welcomed.
						However, the Applicant has had some early discussions with some FCC members and is happy to continue to engage on this outside of	

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
		<p><i>which is currently expected to be restored by 2023. However, it is noted that the communities and industry of Flintshire would not benefit from receiving hydrogen until much later in the project as there are no immediate plans to construct a hydrogen pipeline in Flintshire. As such, it is considered reasonable for the developers to commit to providing a community benefit fund for those affected communities”.</i></p> <p>FCC</p> <p>i) Explain what the suggested Community Benefit Fund you describe would be specifically used for?</p> <p>ii) By what formal regulatory mechanism would you be seeking such funding from the Applicant if it is to be pursued?</p> <p>iii) Detail how any policy/statutory test associated to securing the funding requests described would be met.</p> <p>iv) If you have not already done so advise on the full details any CILCS in place for the administrative area or any plans to introduce one.</p> <p>Applicant</p> <p>i) What are your views on the principle of</p>	<p>would either promote the use or invest in the development of the reduction of carbon emissions, skills and research regarding Carbon Capture Storage and green hydrogen production, and de-carbonisation of transport for example. It could also work in partnership with the Ambition North Wales Low Carbon Energy Hydrogen Hub programme as discussed above.</p> <p>Example of this type of developer funding scheme in Flintshire include the Parc Adfer Community Benefit Fund: Which supports local projects that will help or benefit the local environment in some way. There are five main project criteria, one theme includes carbon reduction and also de-carbonisation of transport. More details can be found:</p> <p><a href="https://www.flintshire.gov.uk/en/Resident/Funding-Opportunities/Parc-Adfer-Community-Benefit-Fund.aspx">https://www.flintshire.gov.uk/en/Resident/Funding-Opportunities/Parc-Adfer-Community-Benefit-Fund.aspx</a></p> <p>The Gwynt y Môr Offshore Windfarm Community Fund is also available for communities in coastal areas of Flintshire.</p> <p><a href="https://cvsc.org.uk/en/funding/gwynt-y-mor-community-fund">https://cvsc.org.uk/en/funding/gwynt-y-mor-community-fund</a></p> <p>The Burbo Bank Extension Community Fund is also another example of a large infrastructure project that has</p>			the DCO process, as the proposal develops.	

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
		<p>achieving a Community Benefit Fund having regard to the policy and legislative context it would need to be considered within?</p> <p>ii) The submitted Planning Statement [APP048] references that mitigation is to be provided in accordance with paragraph 5.12.9 of EN-1 which states that the SoS should consider whether mitigation measures are necessary to mitigate any adverse socio-economic impacts of the development. Having regard to all existing adverse socio-economic impact mitigation envisaged and proposed, do you agree there is policy scope to provide an additional broader local community benefit package in line with EN-1?</p> <p>iii) If you are in agreement, how would those elements be formally captured by the proposed DCO?</p>	<p>established a community fund to provide funding for those communities affected by the development. <a href="https://grantscape.org.uk/fund/burbo-bank-extension-community-fund/">https://grantscape.org.uk/fund/burbo-bank-extension-community-fund/</a></p> <p>It is understood that there is no formal regulatory mechanism to seek such funding from the applicant. Furthermore, as stated above in the Council's response to question Q1.1.3, there is no Community Infrastructure Levy Charging Schedule in place in Flintshire.</p> <p>Following the adoption of the LDP on 24/01/23 Flintshire County Council will be reviewing the feasibility of introducing a Community Infrastructure Charging system compared against the continuation of the present s106 based approach. If a CIL were to prove viable it is unlikely to be implemented within the timescales for determining this present development proposal.</p>				
<b>19. Draft Development Consent Order</b>							
Q1.19.13	DCO Articles <b>Relevant Local Authority</b>	<ul style="list-style-type: none"> <li>Article 2 (Interpretation) – Definition of 'Commence'</li> <li>Are the Relevant Local Authorities satisfied as to the list of exceptions within the definition of commencement?</li> </ul>	<p><b>Article 2 (Interpretation) – Definition of 'Commence'</b>. Suggested amendment to the following (<b>in bold blue</b>): <i>"commence" means carry out a material operation, as defined in section 155 of the</i></p>	The Applicant is happy to propose this change in the next revision of the DCO.	Noted and welcomed. The Council reserves its position until the amendment is made in the next iteration of the draft DCO.	The Applicant notes FCC's position and has no further comments at this time.	Noted, FCC have no further comments

WQ Ref	Question to	Question	Interested Party Comment	Applicant's response to Interested Party Comment	FCC Response for DL3	Applicant's Response	FCC Response for DL5
			<p><i>2008 Act (which explains when development begins), comprised in or for the purposes of the authorised development other than site preparation works, remediation works, environmental (including archaeological) surveys and investigation, site, utility or soil survey, erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, the diversion or laying of services or environmental mitigation measures, <b>and any such accesses that may be required in association with the above exclusions</b> and “commencement”, “commenced” and cognate expressions are to be construed accordingly;</i></p>				

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

Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response	Council's Response Deadline 5	
	<b>Part B</b>	<b>Relevant Planning Policies and Guidance</b>					
2.1.10	7	Local Planning Policy	The Applicant acknowledges the submission from FCC and confirms that a full assessment of Local Planning Policy can be found within the Planning Statement Section 3.3.8 and Appendix B <b>[REP1-013]</b> .	Noted for the avoidance of doubt, for former Flintshire Unitary Development Plan no longer forms part of the Development Plan for Flintshire.	The Applicant acknowledges the response from FCC and considers no further response required.	Noted, FCC have no further comments	
	<b>Part C</b>	<b>Assessment Of Impacts</b>					
	<b>10.</b>	<b>Principle of Development/ Climate Change</b>					
	<b>11.</b>	<b>PLANNING ASSESSMENT FOR THE IMPACT ON THE GREEN WEDGE</b>					
2.1.29	11.1.	Paragraph 4.3.62 of the applicant's Planning Statement [APP-048] states that the Order Limits do not conflict with any land designated as 'green wedge'. However, the Council does not agree with this statement. Within the application documents, the applicant has failed to identify that a large proportion of the proposed development would potentially affect a number of green wedges that are designated in the adopted Flintshire LDP under Policy EN11.	<p>The Applicant has further considered the potential impacts upon land designated under policy EN11 as a Green Wedge and clarifies that the land intersects and conflicts with designated Green Wedges.</p> <p>The Applicant has therefore updated the Planning Statement and a full assessment against EN11 can be found in Chapter 5 of the Planning Statement <b>[REP1-013]</b> and Appendix B.</p>	Noted and welcomed however, it is noted that the Applicant's Planning Statements makes very little reference to the policy context set out in PPW with regards to inappropriate development in the green wedge and places a reliance on NPPF which does not apply in Wales.	The Applicant acknowledges the response from FCC and confirms this matter has been resolved. The Applicant has updated the Planning Statement <b>[REP2-015]</b> to consider the relevant policies of the PPW within section 5.2 and 5.3. The updated Planning Statement is submitted at Deadline 4.	Noted, FCC have no further comments	
2.1.41	11.13.	Paragraph 5.2.5 onwards of the applicant's Planning Statement [APP-488] discusses the nature of the elements of the DCO Proposed Development within the Cheshire Green Belt and considers whether these elements should be considered appropriate development in the Green Belt, or whether there is a need for a case for very special circumstances to be made. Whilst the applicant has not identified that the proposal would fall within the Flintshire Green Wedges, it is	<p>The Applicant acknowledges the comments of FCC regarding Green Wedge Policy and confirms this has been incorporated into an updated version of the Planning Statement <b>[REP1-013]</b> and Appendix B.</p> <p>The Applicant notes that the Needs Case for the DCO Proposed Development <b>[APP-049]</b> outlines the environmental, economic and socio-economic benefits the DCO Proposed Development can deliver and therefore forms the case for very special circumstances justifying the impact to the Green Wedge.</p>	<p>Noted and welcomed however, it is noted that the Applicant's Planning Statements makes very little reference to the policy context set out in PPW with regards to inappropriate development in the green wedge and places a reliance on NPPF which does not apply in Wales.</p> <p>Very 'exceptional' circumstances is the term used in PPW as opposed to 'very special circumstances'</p>	See response to row 2.1.29 above.	Noted, FCC have no further comments	

Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response	Council's Response Deadline 5
		considered that the commentary and considerations provided in the Planning Statement in relation to the proposal in the Cheshire Green Belt are transferable and applicable for the consideration of the appropriateness of the proposal in the Flintshire Green Wedge as the features of the development are comparable.				
	<b>12.</b>	<b>ARCHAEOLOGY AND BUILT AND CULTURAL HERITAGE</b>				
2.1.62	12.10.	It is understood that CPAT and the applicant are in agreement with the mitigation suggested in the Environmental Statement, and the agreed outline Archaeological Written Scheme of Investigation [APP-223]. CPAT have confirmed that the outline Written Scheme of Investigation is largely robust and appropriate. This gives the Council and CPAT confidence that the evaluation work already recommended by CPAT, together with additional evaluation and mitigation options suggested by the applicant's consultants, would be adequately address any archaeological impacts arising from the proposals for the proposed DCO development.	While the principles of the mitigation strategy are agreed, the specifics are not yet available and will require further discussion. CPAT has requested an archaeological watching brief on all works during construction, but the Applicant does not believe this is proportionate. Further information can be found in the Applicant's Response to Examining Authority's First Written Questions to Q1.7.1 (page 65) <b>[REP1-044]</b> . Ongoing discussions in relation to this matter are being captured in the FCC Statement of Common Ground (SoCG) <b>[REP1-020]</b> .	For clarity, CPAT and FCC are not asking for a watching brief over the whole works area, but targeted at those ground reduction locations where no trenching evaluation or subsequent mitigation has been agreed.  A watching brief should be maintained and targeted on ground reduction work and not over the whole works areas (easement strip, new access tracks, works compounds, pipe trench) to formation level for areas of the scheme beyond the locations for agreed mitigation arising from evaluation trenching completed at the pre and post consent stages or outside agreed areas of strip/map/excavate (SME) coverage. This is required to identify and mitigate impacts to archaeology which will not have been detected by the geophysics or the limited evaluation trenching of geophysical anomalies. The watching brief should be completed by a suitably qualified archaeological contractor in accordance with an approved WSI.	The Applicant is not clear whether CPAT and FCC are asking for an archaeological watching brief in areas where evaluation trenching has negative results (i.e. no archaeology is located), and is seeking confirmation. As previously discussed in the Applicant's Response to the ExAs First Written Questions <b>[REP1-044]</b> , watching briefs will be considered in some areas where required, such as locations where there is a higher potential for earlier prehistoric remains or where evaluation is not possible. However, if areas have been subject to evaluation trenching and the	For the avoidance of any doubt, and for clarification of both the applicant and the ExA, FCC and CPAT are definitely not requiring a watching brief where evaluation trenching provides negative results and has never taken this position. This is a misunderstanding on the applicant's part.  FCC and CPAT are requesting a watching brief in areas where there has been no prior archaeological trenching evaluation previously.  To confirm, there should be a watching brief, within the parameters already set out by FCC and CPAT. This is considered to be a standard requirement on a linear pipeline corridor proposal.

Ref	LPA Ref	Local Impact Report Statement (Deadline 1A)	Applicant's Response (Deadline 2)	Council's Response/Comments (Deadline 3)	Applicant's Response	Council's Response Deadline 5
					results are negative, it is not proportionate to undertake an archaeological watching brief in these areas.	
2.1.63	12.11.	Conclusion on assessment of impact: o Construction Phase: NEGATIVE o Operational Phase: NEUTRAL	The Applicant acknowledges the position of FCC and has no further comments at this time.	For further clarity, it is considered that the construction impact is not wholly NEGATIVE as there clearly are features which require mitigation as a result of the trenching evaluation completed so far and there would undoubtedly be new features located by the phase 2 trenching, and outside areas where no mitigation has been agreed by the watching brief. The overall impact, with mitigation is likely to be LOW assuming the additional trenching which has yet to be completed does not find any significant archaeology.	The Applicant acknowledges the position of FCC and has no further comments at this time.	Noted, FCC have no further comments
		<b>Deeside and Buckley Newt Sites SAC</b>				
2.1.93	13.30.	The GCN licence is likely to require specific mitigation to benefit the Flintshire GCN population which would be over and above that agreed within the LEMP. The licence requirements would need to be included in details submitted to the LPA as part of the approval of the LEMP.	It is recognised by the Applicant that protected species licensing for GCN is the primary means to safeguard the species during construction. The contents and mitigation of any agreed protected species licence would be reflected within the LEMP [APP-229].	Noted FCC are aware that "shadow licences" will be produced. It would be useful to have sight of them when available.	The Applicant can confirm that shadow licences for Wales will be submitted to NRW, these include shadow licences for GCN, bats, and badger. The Applicant can provide sight of the shadow licenses to FCC.	Noted FCC will await submission of shadow licences and reserve the right to comment at a later stage
		<b>Sessile Oak Woods</b>				
		<b>Habitats</b>				
		Protected Species identified within/adjacent to DCO corridor				
2.1.104	13.41.	<b>Bats; Bat roosts.</b> With regards to the impact of the development on bats and bat roosts there are a limited number of buildings or structures along the pipeline and DCO corridor within Flintshire. One barn; ref B133 is a confirmed day roost which is used by 4 Common	The Applicant can confirm that applications for necessary protected species licenses will be made, with construction only commencing upon receipt of required licenses as detailed within item D-BD-002 of the OCEMP [REP1-017 and CR1-119].	Noted FCC are aware that "shadow licences" will be produced. It would be useful to have sight of them when available	Refer to the Applicant's response within row 2.1.93 above.	Noted FCC will await submission of shadow licences and reserve the right to comment at a later stage

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		pipistrelles and 3 Soprano pipistrelles occurs within the DCO boundary at Aston. Where practicable a 10m buffer will be retained around the confirmed roost, otherwise an NRW license and mitigation will be required.					
	<b>16.</b>	<b>NOISE AND AIR QUALITY – RESIDENTIAL/PUBLIC AMENITY</b>					
2.1.151	16.8.	Whilst the mitigation measures stated within the outline Construction Environmental Management Plan (OCEMP) and Register of Environmental Actions and Commitments (REAC) are noted, the operational and construction hours are unclear. Concerns are raised with regards to out of hours reasonable working time parameters and if there is potential requirement for consent under the Control of Pollution Act.	<p>As provided in Section 2.2 of the Outline CEMP <b>[REP1-017 and CR1-119]</b>, construction core working hours will be 08.00 to 18.00 Monday to Friday (excluding bank holidays) and from 08.00 to 13.00 on Saturdays. To maximise productivity within core working hours, the Construction Contractor(s) will require a period of up to one hour before and up to one hour after core working hours for the start-up and close-down of activities.</p> <p>As stated within Chapter 3 – Description of the DCO Proposed Development <b>[APP-055]</b>, the DCO Proposed Development will operate without the need for any permanent on-site staff. The AGIs and BVSs will generally be operated remotely.</p> <p>As stated in the Other Consents and Licences Document <b>[REP1-011]</b>, the Applicant has included a potential consent under the Control of Pollution Act 1974 (section 61) for any works that could cause noise nuisance. If required, this would be applied for prior to the start of construction (or prior to specific construction activities).</p>	<p>The Council maintains that uncontrolled start up and shut down operations, even with the controls under the CEMP, such as the use of external machinery including generators and start-up and maintenance of heavy machinery and plant have the potential for significant impacts to amenity especially given the Projects proximity to residential receptors.</p> <p>With suitable controls / restrictions the Council would however not be averse to certain out of hours start up and shut down activities.</p> <p>The Council would advise that this issue could be resolved by a further definition for “non-discernible activities” for start-up and shut-down operations and we would specifically say that these should not include certain activities including use /starting up of engines of any external plant or machinery including generators, heavy plant and the use of high level flood lighting.</p>	<p>The Applicant notes that start up and shut down hours are routinely allowed outside the core hours as they include activities such as staff arrival, briefings, toolbox talks, health and safety checks etc.</p> <p>The Applicant is willing to discuss the wording of this to address any concerns regarding the scope of activity allowed but does not agree a scheme is required for the types of activities listed.</p> <p>The OCEMP Section 2.2 Paragraph 2.2.1 <b>[REP2-021]</b> contains the following wording pertaining to start up and close down activities:</p> <p><i>“This will include, but not be limited</i></p>	FCC would accept further discussion on this matter to amend any wording without the need for a scheme	



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					<i>to, deliveries, movement to place of work, unloading, maintenance and general preparation works. It will not include the operation of any plant or machinery likely to cause disturbance to local residents or businesses."</i>		
	<b>19.</b>	<b>PUBLIC RIGHTS OF WAY</b>					
2.1.174	19.2.	Generally speaking, it is considered that the applicant has identified all the affected public rights of way that would be affected by the proposal and they propose to making provision for temporary diversions during construction, which is welcomed. The Council's main concerns surround construction compound areas, permanent access tracks at some locations, and we have a significant interest in Deeside Lane and Bridleway No. 9 being identified as being used for the construction access for traffic (works no 30E).	The Applicant acknowledges the response of FCC, with location specific details provided below.	Noted			
		<b>Work No.</b>	<b>Proposal</b>	<b>PROW comments</b>			
		Work No. 30E	Creation and use of a temporary construction access from the A548, within the location shown on Sheets 13 and 14 of the Work Plans, including— (a) improvement of an existing junction	The proposed construction access track is along Public Bridleway No.8 (309/8/10) from its junction with Sealand Road in a southerly direction to the junction with Deeside Lane (309/10/30). The construction access	The Outline PRowMP <b>[REP1-043]</b> , the latest revision of which was submitted at Deadline 1 will be further developed during later stages by the Construction Contractor(s) to form a final PRowMP which will contain the following information to be approved by the relevant authority for each PRow:	Noted	
					The Applicant does not agree or accept that surfacing of the bridleway is necessary or appropriate. The Applicant submits that this is already appropriately surfaced and will only need minor	The comments are noted but FCC does not agree with the applicants stance and maintains its comments as stated at Deadline 3 in <b>[REP3-046]</b> regarding the resurfacing of Bridleway No. 8 and also Deeside Lane (309/10/30). Deeside Lane may be considered to be in a rural area, however the lane	

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		with the public highway; (b) improvement of road surfacing and provision of new hard surfacing; and (c) creation of visibility splays.	<p>track then continues along Deeside Lane to the proposed pipeline construction.</p> <p>Bridleway No. 8 is an unmade track which is not part of the adopted highway network. The Local Authority (LA) is under a duty to maintain it only to a standard for users on foot and on horseback. Deeside Lane has highway status as a public footpath only and the LA is only required to maintain the route up to a footpath standard. Both tracks are currently unsuitable for the proposed usage that would come with this proposal.</p> <p>The LA do not argue with the route being used as a temporary construction access on the basis that it is suitably upgraded to serve the construction traffic that would be using it. We do not feel that it would be suitable to use any type of crushed stone/aggregate for the track as this would generate dust pollution that would</p>	<ul style="list-style-type: none"> <li>Plans (showing the relevant control measures)</li> <li>Length (distance) of the closure</li> <li>Route, length and any surfacing proposals for diversions</li> <li>Details of any gates, stiles, or similar features to be removed and reinstated on any PRow</li> <li>Details of signage to be provided for diversions and</li> <li>The appropriate standards for reinstatement of the PRow</li> </ul> <p>The management for each PRow will be secured in the final PRowWMP to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO [REP1-004].</p> <p>The Applicant notes that Public Bridleway No.8 (309/8/10) is currently used by heavy agricultural vehicles. The Applicant commits to reviewing the condition of the route and</p>	<p>Noted</p> <p>The Council notes the comments. However, while some heavy agricultural vehicles do use Bridleway No. 8, the usage is not considered to be consistent nor regular/frequent. The siting of the compound at this location would subject the Bridleway to usage by larger vehicles (such as HGV's) on a more regular, prolonged, and repetitive basis during the construction of the pipeline at this location. Reinstating the condition of the route on completion of the construction phase of the DCO Proposed Development is not considered satisfactory in light of scale and duration of the proposal, and the length of time that this construction compound would be used for. Therefore, FCC consider that the route should be surface with an appropriate material prior to the commencement of the development of the construction compound in this location at Works no 30E, and prior to the use of the Bridleway for construction vehicles.</p> <p>With specific regard to the construction access track which incorporates Public Bridleway No. 8 &amp; Footpath 309/10/30 (along Deeside Lane), the LPA is still seeking improvements prior to the work commencing. It is considered that the proposal would have a negative impact for both the commercial entities and residential properties on Deeside Lane, such as noise and dust pollution. Addressing the issue of surfacing these routes would alleviate these issues prior to work commencing and would also</p>	<p>repairs and improvements pre and post occupation of the compound.</p> <p>The Applicant is satisfied that the bridleway is suitable for the proposed use and would highlight that it is currently frequently used by HGVs to access the various agricultural and light industrial properties accessed. The Applicant does not agree that their proposed use would be a material intensification of that use, particularly given the temporary nature of the use, which would require surfacing of this route.</p> <p>The Applicant notes that it has not assessed the drainage or landscape or visual impacts of surfacing this track. The Applicant notes that it has adopted an approach of not providing new tarmac surfacing on tracks in</p>	<p>serves as main access to a mix of residential, commercial and agricultural premises along the lane (approximately +20 properties/premises served by 309/10/30). The frequent current use of HGV's (recognised in the applicant's comments) and the current day-to-day traffic from commercial, private and agricultural premises is therefore considered quite significant.</p> <p>FCC consider that this should be secured in the outline PRowWMP and delivered through requirement no. 5 now that point (n) has been included as part of the CEMP, rather than a legal agreement.</p>

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			<p>be detrimental to anybody walking the rights of way and also to the neighbouring properties and businesses. The use of the bridleway and Deeside Lane would also increase potential conflict between walkers and vehicles.</p>	<p>its suitability for construction traffic, but does not currently consider that it is appropriate/necessary to upgrade the condition prior to use. The Applicant commits to reinstating the condition of the route to its original condition (or better) on completion of the construction phase of the DCO Proposed Development.</p>	<p>provide a legacy community benefit for those affected on Deeside Lane.</p> <p>FCC accept this could be delivered through Requirements No.5 now that point (n) has been included as part of the CEMP, rather than a legal agreement.</p>	<p>agricultural areas elsewhere so that these are sympathetic with the rural nature of the landscape.</p>	
			<p>To support the proposal of Bridleway No. 9 and Deeside Lane being utilised as the temporary construction access track we are requesting that the entire route under <b>'Work No. 30E'</b> be upgraded to a tarmac surface. This would be suitable for the construction traffic, limit the dust pollution to walkers and the community and be an improvement for users as part of the legacy of the Hynet project. The details of the specification of this should be agreed as part of the approval of details at that stage in the development. This would mitigate against any negative effect of the development during</p>	<p>The Applicant does not believe a legal agreement is appropriate in this instance and would instead secure the standard of the PRow through final PRowWMP, which will be submitted to and requires approval by the relevant planning authority, as secured in Requirement 5 of the dDCO <b>[REP1-004]</b>.</p>	<p>However, the Outline Construction Environmental Management Plan (OCEMP) Appendix 3 – Outline Public Rights of Way Management <b>[REP1-043]</b> plan needs to be amended to include this point. At present, this document does not refer to this and therefore FCC considers this point should be specifically referenced for the avoidance of any doubt, and to ensure that the specification details can be approved prior to the works in that stage of the proposed development.</p>		
					<p>This would provide certainty that the bridleway would be surfaced in the appropriate materials prior construction traffic using this route.</p>		

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				the use of this track during construction. The Council would welcome the applicant entering into a legal agreement to ensure this section of the right of way network is upgraded to a standard suitable to sustain heavy traffic				
		Work No. 33C	Creation and use of a permanent access from Chester Road East, within the location shown on Sheets 15 and 16 of the Work Plans, including— (a) improvement of an existing junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing	This area is PROW 308/4/10 the proposal is not too concerning as this is already used as a short vehicular access to the adjacent Church and property. The stiles currently in-site should be replaced with kissing gates upon completion of the access track. PROW 308/1 and 308/3 are also affected and would require temporary diversions during the works.	The Applicant acknowledges that PROW 308/1 and 308/3 are affected in the construction phase of the DCO Proposed Development. It is proposed that a temporary diversion would be implemented in this location to avoid the closure of the PROWs (see Figure 17.6 [CR1-094]).  <i>“Details of any gates, stiles, or similar features to be removed and reinstated on any PROW”</i> will be part of the Final PROWMP that will be submitted by the Construction Contractor(s) to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO [REP1-004].	The Council is satisfied these will be addressed by the Construction Contractor(s) for each relevant stage of works.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.	Noted, FCC have no further comments
		Work No. 38B	Creation and use of a temporary construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Work Plans, including— (a)	This would appear to cross PROW 303/26/10. The route would need to be adequately incorporated into any new access. In the DCO this is described as a	The Applicant notes the access at Work No. 38B is permanent. The Applicant has updated the text of Work No. 38B in Schedule 1 of the draft DCO to state “permanent” from Rev B [REP1-004].	The Council welcomes the clarification regarding the wording.  Noted	The Applicant welcomes FCC's confirmation that they are satisfied with this point.	Noted, FCC have no further comments

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			<p>improvement of an existing junction with the public highway; and (b) improvement of road surfacing and provision of new hard surfacing.</p>	<p>temporary access but the work plans state Work No. 38B to be a permanent access. It would be helpful to have this clarified.</p>	<p>During the construction phase, the section of the PRoW does not need to be stopped up and can be managed by traffic management measures.</p> <p>During the operation of the Carbon Dioxide Pipeline, permanent access is required infrequently for operational inspections of the Carbon Dioxide Pipeline, for light duty vehicles within the land located between the Borderlands Railway Line and the A494. Permanent access will also be required for occasional visits associated with maintenance operations of the environmental mitigation land at Work No. 57H.</p> <p>The access in this location is existing and traffic movements currently cross the PRoW without diversions or specific measures. The operational stage of the DCO Proposed Development will not result in a volume of movements greater than that outlined above and as such it is believed that no traffic management/further work to the PRoW to incorporate it into the access will be required.</p> <p>The PRoW will not require permanent modification and will be retained on its current alignment.</p>	<p>Noted</p> <p>The Council is satisfied with this clarification regarding the PRoW at this location.</p>		

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		Work No. 39	Construction of an underground Carbon Dioxide (CO2) pipeline approximately 402 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 38 and Work No. 40.	303/25/20 is in the work area but doesn't appear to be affected. More detail in the construction phase will be required if the pipeline is affecting the route of the footpath.	303/25/20 is in work no.39 and shown as "to be temporarily stopped up with proposed diversion" in Appendix 3 – Outline Public Rights of Way Management Plan <b>[REP1-043]</b> . Figure 17.6 of the ES <b>[CR1-094]</b> incorrectly does not show the PRoW as being affected. An updated Figure 17.6 of the ES will be submitted at Deadline 3, to correct this. 303/25/20 is shown as being affected on Sheet 17 of the Rev C version of D.2.5 Access and Rights of Way Plans - Part 1 <b>[CR1-012]</b> , which was submitted with the Applicant's Change Request. More detail will follow at a later stage. The management for each PRoW will be secured in the final PRoWMP to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO <b>[REP1-004]</b> .	The Council would welcome the chance to view this at Deadline 3 and reserves its position to comment at a later date.  The Council is satisfied that this will be addressed in the final PRoWMP.	The Applicant notes FCC has reserved its position on this point.  The Applicant welcomes FCC's confirmation that they are satisfied with this point.	Noted
		Work No. 40B	The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on the Work Plans, including construction of a	The corner of this proposed site is crossed by PROW 303/24A/10. The route would need to be temporarily closed during its use as a compound area. As the route is a good link towards Ewloe, a temporary	PRoW 303/24A/10 is shown to fall within the construction area required to execute the trenchless crossing under Church Lane. The PRoW will be maintained without any closures or diversions.	The Council is satisfied with the confirmation from the applicant regarding PRoW 303/24A/10.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.	Noted, FCC have no further comments

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			haul road, temporary construction accesses and working areas and laydown areas.	diversion should be provided but this isn't set out on the work plan				
		Work No. 41C	Creation and use of a permanent access from the B5125, within the location shown on Sheet 18 of the Work Plans, including— (a) creation of a new bellmouth junction with the public highway; (b) improvement of road surfacing and provision of new hard surfacing.	This small area marked as a permanent access appears to be directly where we currently have a stile and public footpath sign. The footpath affected 303/143 would need to be protected and stile replaced with a kissing gate following construction.	As stated in the Outline PROWMP <b>[REP1-043]</b> "Details of any gates, stiles, or similar features to be removed and reinstated on any PROW" will be included in the Final PROWMP secured through Requirement 5 of the dDCO <b>[REP1-004]</b> that will be submitted by the Construction Contractor to be signed off by the relevant authority prior to the commencement of the relevant stage of works.	The Council is satisfied that this will be addressed in the final PROWMP	The Applicant welcomes FCC's confirmation that they are satisfied with this point.	Noted, FCC have no further comments
		Work No. 42	Construction of an underground CO2 pipeline approximately 1.8km in length and with an external diameter of 36 inches (914.4 mm) between Work No. 41 and Work No. 43.	The PROW affected by the pipeline in this section are adequately protected with temporary diversions during works. PROW 303/143 runs through the site and no temporary diversion has been shown which suggests it won't be affected during construction clarification is required.	This PROW (Ref: 303/143) is intended to be diverted within the Order Limits, if required, during the construction of the DCO Proposed Development. Figure 17.6 and the dDCO will be updated at Deadline 3 to reflect this.  The management for each PROW will be secured in the final PROWMP to be signed off by the relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO <b>[REP1-004]</b> .	The Council would welcome the chance to view this at Deadline 3.	The Outline Public Rights of Way Management Plan was submitted at Deadline 3 <b>[REP3-028]</b> and has been updated at Deadline 4 The Applicant awaits FCC's response to that document.	Noted. FCC have reviewed the Outline PROWMP and are satisfied with the comments concerning the topics within it  (NB: FCC are in disagreement regarding the surfacing of Deeside Lane & Bridleway No. 8 and if this was secured via the requirements, the Outline PROWMP would need to be updated accordingly.
		Work No. 44	Construction of an underground CO2 pipeline approximately 2.5km in length and with an external	We have concerns related to the compound and surrounding area with regard to PROW 414/4. These	See responses below in relevant sections pertaining to Work Nos 44C, 45 and 46.	The Council is satisfied that this will be addressed in the final PROWMP.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.	Noted, FCC have no further comments

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			diameter of 36 inches (914.4mm) between Work No. 43 - Work No. 47.	concerns are regarding Work Nos 44C, 45 & 46 (see comments below).				
		Work No. 44C	The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Work Plans, including— <ul style="list-style-type: none"> <li>a. office, welfare and security facilities;</li> <li>b. a parking area;</li> <li>c. power supplies and temporary lighting;</li> <li>d. pipe equipment and fittings storage;</li> <li>e. plant storage;</li> <li>f. a fabrication area;</li> <li>g. a plant wheel wash area;</li> <li>h. waste processing and management areas; and</li> </ul> fencing and gating.	The proposed compound is on the line of PROW 414/4. At present this is a field footpath. The footpath needs to be restored back to its previous condition (if not better), following completion of the AGI at this location and the compound no longer being required.	The Applicant commits to reinstating the condition of the PROW 414/4 route to its original condition (or better) on completion of the construction phase of the DCO Proposed Development.  The management for each PROW will be secured in the final PROWMP to be signed off by the relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO <b>[REP1-004]</b> .	The Council is satisfied that this will be addressed in the final PROWMP.	The Applicant welcomes FCC's confirmation that they are satisfied with this point.	Noted, FCC have no further comments
		Work No. 46	The creation and use of a permanent vehicular access to the authorised	This proposed new permanent access would create a junction right on top	Following the acceptance of Change Request 1 by the ExA on 24 April 2023 <b>[PD-016]</b> , this PROW (ref:	The Council welcomes the acceptance of the change request.	The Applicant welcomes FCC's confirmation that	Noted, FCC have no further comments



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		development, from B5125 within the location shown on Sheet 20 of the Works Plans, including— <ul style="list-style-type: none"> <li>a. improvement of road surfacing and provision of new hard surfacing;</li> <li>b. creation of a new bellmouth junction and visibility splays;</li> </ul> installation of utilities.	of where PROW 414/4 meets the junction of B5125. The footpath needs to be adequately incorporated into this junction design with the proposed new vehicular access to ensure pedestrians are not in conflict with vehicles unnecessarily. We would request that the proposed design for the AGI and associated track is reviewed by the PROW team before any progression.	414/4) will no longer be permanently affected by the DCO Proposed Development due to the relocation of the Northop Hall AGI and associated access to the west.  This PROW is still proposed to be diverted during the construction of the DCO Proposed Development. The management for each PROW will be secured in the final PROWMP to be signed off by each relevant authority prior to the commencement of the relevant stage of works, as required by Requirement 5 of the draft DCO <b>[REP1-004]</b> .	The Council is satisfied that this will be addressed in the final PROWMP.	they are satisfied with this point.	
	<b>20.</b>	<b>WATER ENVIRONMENT AND FLOOD RISK</b>					
		<u>Land drainage</u>					
2.1.180	20.5.	The Council has additional duties and powers associated with the management of flood risk under the Land Drainage Act. As Land Drainage Authorities, Ordinary Watercourse consent would be required for any permanent or temporary works that could affect the flow within an ordinary watercourse under their jurisdiction in order to ensure that local flood risk is not increased.	As set out in the Other Consents and Licences document <b>[REP1-011]</b> , the Applicant will submit an appropriate application after the DCO is made.	FCC notes that the approval of the surface water drainage systems by the SuDS Approving Body (SAB) is not listed within <b>[REP1-011]</b>	The Applicant can confirm that this has been added into the Other Consents and Licences document <b>[REP3-017]</b> , as submitted at Deadline 4.	During the course of the examination of this application, FCC has asked whether the Applicant would fully adhere with the Welsh Governments requirements for SAB Approval which is in compliance with the Flood and Water Management Act 2010, Schedule 3.  The Council would expect all fees associated with SAB Approval to be met by the applicant. SAB Approval is undertaken by FCCs specialist Engineering Consultancy and this service is not provided in house. FCC have been	

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						unable to find any reference to SAB compliance in Table 2.2 or anywhere else.  For the avoidance of doubt, SAB Approval would be required for any permanent hardstanding / impermeable areas in excess of 100 M2 in area.	
2.1.182	20.7.	It is noted that the REAC [APP-222] states that consents would be sought from LLFA for works affecting for Ordinary Watercourses.	As set out in Article 8 of the draft DCO <b>[REP1-004]</b> , the requirement for ordinary watercourse consents is disapplied. In line with the ethos and objective of the DCO regime, a separate consent should not be required where this can be addressed through the DCO.	This is noted however, FCC would like to ensure that all documentation that would be required for Ordinary Water Course Consent is provided as part of the Requirements as it does not appear to be detailed in the draft DCO or specified in the requirements specifically.	The Applicant has requested that FCC reviews the outline plans and the strategy secured under the detailed requirements where this detail would be placed and advise what changes it is seeking.	Please refer to FCCs response to ISH1-AP4 <b>[REP4-285]</b> pertinent to Ordinary Watercourse Consent submitted at Deadline 4.  FCC still maintains this position with regards to Ordinary Water Course Consent.	
		Surface Water Drainage:					
2.1.184	20.9.	Schedule 3 of the Flood and Water Management Act 2010 makes sustainable drainage systems (SuDS) a mandatory requirement on all new developments involving more than a single dwelling or a construction area more than 100m <sup>2</sup> .	The Applicant acknowledges the position of FCC and has no further comments at this time.	FCC notes that the approval of the surface water drainage systems by the SuDS Approving Body (SAB) is not listed within <b>[REP1-011]</b>	Refer to row 2.1.180 above.		
2.1.187	20.12.	The DCO application also includes for the provision of temporary hardstanding areas for temporary construction compounds and access routes. It is not clear from the application documents how the Applicant will mitigate any impacts to watercourses, highways, or property as a consequence of any runoff from these temporary hardstanding areas. It is understood that temporary hard standing areas are not usually considered as part of an application for SAB approval. However, on the basis that these temporary		FCC would be interested to learn from the applicant how surface water runoff will be managed from areas of temporary hardstanding as this is not usually considered as part of the SAB approval.  The applicant has not yet provided a response to this point raised.	This will be set out in the details provided in the CEMP, secured by Requirement 5 of the dDCO <b>[REP3-005]</b> , for each stage which will include a surface water drainage strategy for the construction works.	Requirement 5 of the CEMP indicates that both Groundwater and Surface Water Management and Maintenance Plans will have to be submitted to and approved by the LPA which will allow temporary hardstanding areas to be considered.	

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		hardstanding areas are likely to be in excess of 100 M <sup>2</sup> , the length of time that these 'temporary' hardstanding areas maybe considerable, consent via the SAB may be a practical means for consideration and the applicant would be invited to include these areas that are proposed to be 'temporary' as part of the SAB application process. Early contact could also be made with the SAB via a request for pre-application advice.					
	<b>21.</b>	<b>MINERALS SAFEGUARDING</b>					
2.1.195	21.6.	Chapter 14 of the applicant's Environmental Statement [APP-066] refers to the requirement of producing a Material Management Plan (MMP). It confirms that a MMP would be produced by the Construction Contractor(s) as a Requirement of the DCO (as part of requirement 5 of the draft DCO with regards to the production of a CEMP) [APP-024]. This is welcomed to ensure that limited incidental extraction of mineral resource can be managed.	The requirement for a Materials Management Plan is included as a commitment in D-MW-006 of the REAC <b>[REP1-015]</b> , as secured by the CEMP within Requirement 5 of the dDCO <b>[REP1-004]</b> .	<p>The applicant's response is noted. However, FCC still have concerns with regards to ensuring incidental extraction of mineral resource can be managed. The Minerals Resource Assessment (MRA) <b>[APP-131 /132]</b> or the need for any subsequent management plan for the management of minerals does not appear to be not specified / referred to in the draft DCO (Requirement 5), OCEMP <b>[REP1-17]</b> or REAC <b>[REP1-015]</b>.</p> <p>REAC Commitment D-MW-006 <b>[REP1-015]</b> states "<i>The Construction Contractor will implement, and follow guidance within, the Materials Management Plan (MMP) in accordance with the CL:AIRE Definition of Waste: Code of Practice</i>". The Applicant states that this commitment in the MMP would include re-use of 'suitable mineral resources' The Council notes the above REAC commitment D-MW-006 <b>[REP1-015]</b> appears to principally relate to the handling of waste and does not specify the use of incidentally extracted minerals. The use of the word 'mineral' is absent and there is no reference to the recommendations of the MRA in and commitments of the REAC or OCEMP. It is not currently explicit if and how the use of incidentally extracted mineral resources should be undertaken.</p>	<p>The Applicant has discussed this point with FCC and understands that the Council accepts in principle that this can be addressed in the Materials Management Plan (MMP). An Outline MMP will be submitted at Deadline 4 for the Council's review (document reference <b>D.7.32</b>).</p> <p>The Applicant has had regard to the comments from FCC in production of the Outline MMP.</p>	FCC has reviewed document reference <b>D.7.32</b> 'Outline Materials Management Plan' submitted by the applicant at Deadline 4 <b>[REP4-266]</b> . However, FCC notes that the Outline Construction Environmental Management Plan (OCEMP) document reference D.6.5.4 revised and submitted at Deadline 4 <b>[REP4-237]</b> which this outline Material Management Plan is an appendix of and relates to, does not specifically refer to minerals that may be excavated along the proposed DCO order route. <p>The Outline MMP however appears to cover the issues raised at DL3.</p>	

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				<p>The Council also notes that the MRA [APP-131&amp; APP132] is currently only desk based and as such, the Council requests that when ground investigations are undertaken as part of the Project the impacts on the existing MRA should be considered and potential for prior extraction or incidental extraction and re-use of minerals should be considered further in order to safeguard / re-use minerals.</p> <p>To address this, the inclusion of detail of minerals safeguarding in the MMP is supported, the Council would however ask the following clarifications / inclusions are provided in any submitted plan:</p> <ul style="list-style-type: none"> <li>• Clear reference to the findings of the MRA with commitments for any further necessary ground investigations.</li> <li>• A definition of what a 'suitable mineral resources' would represent?</li> <li>• Detail of process should the extracted material not be suitable as it was, but could be screened or sorted then used - clarification of is and how that would that be done?</li> <li>• Where extracted mineral can be re-used, on the site or elsewhere?</li> </ul> <p>It is noted that the Applicant states that an outline MMP will be submitted before the end of Examination.</p> <p>Therefore the Council reserve the right to make further comments relating to minerals safeguarding after reviewing the draft MMP.</p>		

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	22.	<b>GENERAL COMMENTS ON THE DRAFT DCO</b>					
		<i>Part 2</i>					
2.1.198	22.2	Flintshire County Council do not agree with the current words of the provisions as set out in the draft DCO Part 2; Principal Powers, article 9 with regards to 'Defence to proceedings in respect of statutory nuisance'. The current wording of the draft DCO would effectively remove the main control the Local Authority would have under the Environmental Protection Act 1990.	The Applicant refers FCC to the response given on this point to the FCC in the draft SoCG in row 3.12.1 [REP1-020]. A full explanation of the legal position on this article has also been provided by email to FCC for their consideration.	Noted and agreed, this status can be changed in the SOCG Council [REP1-020] from 'Under Discussion' to 'Agreed'	The Applicant notes this response and has updated the SoCG at Deadline 3 [REP3-025].	Noted, FCC have no further comments	
		<i>Part 4</i>					
2.1.201	22.5.	Part 4; Supplemental powers, article 19; Discharge of water. It is considered that Article 19 (5) should also include reference to seeking Ordinary Watercourse consent. The Council suggest that the following wording should be considered: " <i>The undertaker must not, in carrying out or maintaining the works pursuant to this article, damage or interfere with the bed or banks or construct any works within any Ordinary Watercourse without obtaining Ordinary Watercourse Consent from Flintshire County Council.</i> "	This addition would directly conflict with the provisions of article 8 where the requirement for ordinary watercourse consents is disapplied. In line with the ethos and objective of the DCO regime, a separate consent should not be required where this can be addressed through the DCO.	This is noted however, FCC would like to ensure that all documentation that would be required for Ordinary Water Course Consent is provided as part of the Requirements as it does not appear to be detailed in the draft DCO or specified in the requirements specifically.	Please see response to line 2.1.182 above	Please see FCC response to line 2.1.182 above.	
	23.	<b>OBLIGATIONS</b>					
2.1.209	23.3.	Furthermore, as set out in Section 19 above, should Development Consent be granted, to support the proposal of Bridleway 9 and Deeside Lane being utilised as the temporary construction access track, the Council considers it necessary for the entire route under 'Work No. 30E' be upgraded to a tarmac surface.	Please see Applicant's response above in row 2.1.174 in response to FCC's LIR response in paragraph 19.2 [REP1A-005].	The Council notes the comments. However, while some heavy agricultural vehicles do use Bridleway No. 8, the usage is not considered to be consistent nor regular/frequent. The siting of the compound at this location would subject the Bridleway to usage by larger vehicles (such as HGV's) on a more regular, prolonged, and repetitive basis during the construction of the pipeline at this location. Reinstating the condition of the route on completion of the construction phase of the DCO Proposed	The Applicant does not agree or accept that surfacing of the bridleway is necessary or appropriate. The Applicant submits that this is already surfaced and will only need minor repairs and	The comments are noted however, FCC does not agree with the applicant's stance and maintains its comments at Deadline 3 [REP3-046] regarding the resurfacing of Bridleway No. 8 and also Deeside Lane (309/10/30).  Deeside Lane may be considered to be in a rural area, however the lane	

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				<p>Development is not considered satisfactory in light of scale and duration of the proposal, and the length of time that this construction compound would be used for. Therefore, FCC consider that the route should be surface with an appropriate material prior to the commencement of the development of the construction compound in this location at Works no 30E, and prior to the use of the Bridleway for construction vehicles.</p> <p>With specific regard to the construction access track which incorporates Public Bridleway No. 8 &amp; Footpath 309/10/30 (along Deeside Lane), the LPA is still seeking improvements prior to the work commencing. It is considered that the proposal would have a negative impact for both the commercial entities and residential properties on Deeside Lane, such as noise and dust pollution. Addressing the issue of surfacing these routes would alleviate these issues prior to work commencing and would also provide a legacy community benefit for those affected on Deeside Lane.</p> <p>FCC accept this could be delivered through Requirements No.5 now that point (n) has been included as part of the CEMP, rather than a legal agreement.</p> <p>However, the Outline Construction Environmental Management Plan (OCEMP) Appendix 3 – Outline Public Rights of Way Management <b>[REP1-043]</b> plan needs to be amended to include this point. At present, this document does not refer to this and therefore FCC considers this point should be specifically referenced for the avoidance of any doubt, and to ensure that the specification details can be approved prior to the works in that stage of the proposed development.</p>	<p>improvements pre and post occupation of the compound.</p> <p>The Applicant is satisfied that the bridleway is suitable for the proposed use and would highlight that it is currently frequently used by HGVs to access the various agricultural and light industrial properties accessed. The Applicant does not agree that their proposed use would be a material intensification of that use, particularly given the temporary nature of the use, which would require surfacing of this route.</p> <p>The Applicant notes that it has not assessed the drainage or landscape or visual impacts of surfacing this track. The Applicant notes that it has adopted an approach of not providing new tarmac surfacing on tracks in agricultural areas</p>	<p>serves as main access to a mix of residential, commercial and agricultural premises along the lane (approximately +20 properties/premises served by 309/10/30). The frequent current use of HGV's (recognised in the applicant's comments) and the current day-to-day traffic from commercial, private and agricultural premises is therefore considered quite significant.</p> <p>It is considered that this should be secured in the outline PROWMP and delivered through requirement no. 5 now that point (n) has been included as part of the CEMP, rather than a legal agreement.</p>

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				This would provide certainty that the bridleway would be surfaced in the appropriate materials prior construction traffic using this route.	elsewhere so that these are sympathetic with the rural nature of the landscape.			
	24.	<b>COMMENTARY ON APPLICANT'S DRAFT DCO REQUIREMENTS</b>						
		<b>Part/Schedule</b>	<b>Observation</b>	<b>Recommendation</b>				
		1. Interpretation	In the definitions there is no reference of a Decommissioning Environmental Management Plan (DEMP) The Council considers the submission of a DEMP at the appropriate time necessary – see comments later at point 16: Post construction environmental management plans	It is suggested to include within the Requirements the need to submit a Decommissioning Environmental Management Plan (DEMP) therefore please can this be listed in the Interpretation.	This change was made at Deadline 1 – please see tracked version of the dDCO [REP1-005].	The amendment is noted and welcomed however the Council notes that the definition of CEMP on the tracked version of the dDCO [REP1-005] has now been struck through on this version. This will need to be reinstated.	The definition of CEMP has been moved to article 2 rather than the Schedule so the strikethrough is correct as this does not need to be repeated in the Schedule.	Noted, FCC have no further comments
		2: Time limits of 7 days to respond	It is considered that 7 days isn't sufficient to respond.	Having reviewed other DCOs 14 days seems to be standard. Suggested amendment to increase the time limits to 14 days to allow Officers to ensure compliance.	The Applicant notes that the DCO as drafted requires notification within 7 days of commencement occurring, not in advance. The Applicant agrees to amend the provision to notice 14 days in advance.	The Council acknowledges and welcomes the suggested by the Applicant, The Council reserves its position until it has had an opportunity to review the next iteration of the draft DCO.	The Applicant welcomes FCC's confirmation that they are satisfied with this point and notes that FCC has reserved its position.	Noted, FCC have no further comments
		3: Stages	<i>"The authorised development may not commence until a written scheme setting out all stages of the authorised development including a plan indicating when each stage will be constructed has been submitted to</i>	Suggested wording:  No part of the authorised development may commence until a written scheme setting out all stages of the authorised development including a plan indicating when each stage will be	As set out in the Applicant's response to Q1.19.44 (page 138 to 143) in the Applicant's response to ExA's First Written Question [REP1-044], the submission of stages is proposed to give the LPAs visibility of the planned approach to the development. It is intended to assist the LPA in planning their work load by	The Council requires a definition of 'Stage' to be included in this requirement on in the 'interpretation' section of the DCO. It is unclear what the parameters of each stage are and whether each Stage will include specific work numbers. The Council suggests the definition includes this level of detail and if the Stage needs to be amended throughout the Project then the relevant local planning authority is consulted on any change and its consultation response is taken into consideration.	The Applicant has proposed a definition of 'stage' in revision G of the dDCO at Deadline 4.	FCC acknowledges the below amendment to Requirement 1 (Interpretation) of the Draft DCO Rev G [REP4-007] provides a definition of "stage" as to mean <i>"the works and ancillary works, or parts thereof, to be carried out together as a phase of, or in a defined order within, the</i>

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		<p><i>each relevant planning authority.</i>"</p> <p>The requirement does not require the stages scheme to be approved or for the undertaker to undertake the development in accordance with the submitted approved stages.</p>	<p>constructed has been submitted to and approved in writing by each relevant planning authority. The authorised development shall then be undertaken in accordance with the approved stages plan unless approved in writing by each relevant planning authority in accordance with Requirement 17.</p>	<p>giving them warning of when applications would be made. It is not submitted for approval. The development will be carried out with multiple work fronts and with some elements, such as complex trenchless crossings carried out ahead of the main pipeline spread.</p>	<p>For the avoidance of doubt, this requirement should be amended to ensure that the Project is implemented in accordance with submitted (or amended) Stages to ensure that all parties are clear on what is required and by when.</p>		<p><i>construction of the authorised development</i>".</p> <p>FCC note that Requirement 3 has not been amended to require the project to be undertaken in accordance with the stages as submitted.</p> <p>To ensure any subsequent changes made to the stages is reflected in all other approved schemes (CEMP, LEMP etc..) and for the purposes of clarity as to details submitted for approval under the requirements FCC request that Requirement 3 is amended to require the project to be undertaken in accordance with the stages as submitted or amended (and notified to the relevant planning authority).</p>
		<p>4.(1) Scheme Design – Above ground development</p> <p>The requirement only allows for above ground elements to be in "general accordance with the general arrangement plans"</p> <p>This is too vague to enable other assessments / detailed mitigation e.g. Visual and ecological impacts LEMP. Mitigation against worst case scenario may well result in unnecessary mitigation resulting</p>	<p>It is recommended that an additional requirement is included to provide detailed design for approval for all above ground infrastructure on a stage-by-stage basis. Details include the need to see the elevations for example. Can be provided alongside the CEMP and LEMP?</p> <p>Or as a submission with each design stage?</p>	<p>Requirement 4 already secures the need for approval of detailed design for the above ground structures in sub-paragraph (4):</p> <p><i>"(4) Each of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may not be commenced until, for that Work No. the following details have been submitted to and approved by the relevant planning authority:</i></p> <p><i>(a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new</i></p>	<p>Noted</p> <p>The Council acknowledges that mitigation is to be provided for the project based upon the approval and compliance with the commitments of the various management plans of the ES which are to be approved by the relevant requirements of the DCO on a Stage-by-Stage basis.</p> <p>It is however noted that the scheme design is based on works numbers not 'Stages'.</p>	<p>The Applicant has proposed a definition of 'stage' in revision G of the dDCO at Deadline 4.</p>	<p>Noted, revision G now provides a definition of a 'stage'. Requirement 3 now refers to the requirement of a written scheme to be submitted that includes Work No(s) within each stage.</p> <p>FCC has no further comments.</p>



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		<p>other impacts / effects</p> <p>Detailed design would no doubt be required to allow Detailed LEMP or CEMP scheme to be undertaken?</p>	<p><i>permanent buildings and structures...</i></p> <p>The information needed is therefore already being provided and a further requirement is not necessary.</p> <p>The relevant parts of the CEMP and LEMP cannot be finalised until the detailed design is known.</p>	<p>For consistency and to tie the detailed design for above ground installations to that of the final CEMP and LEMP, both which are approved on a Stage basis the Council ask that refence to the submitted / approved 'Stages' is included in the approval of detailed works in this requirement. For this, and subject to wording of requirement 3 (Stages) as referred to above (2.1.211) it is asked that the following wording be used for requirements 4(4) and 4(5).</p> <p><i>"No Stage including works Nos ..... shall commence until details....."</i></p> <p>This would then effectively link the CEMP, LEMP mitigation requirements to the approved detailed design which are on a 'Stage' basis.</p>			
		<p>4.(2) Scheme Design - Changes to above ground development</p>	<p>Question over what the "environmental effects" actually include? There is no definition is provided in Requirement 1 within the interpretation.</p> <p>Importantly clarity is required with regards to who determines if the changes cause materially new environmental effects?</p> <p>And what are the mechanisms for approval?</p>	<p>Suggested that a definition is included or wording amended to provide clarity</p> <p>This is standard wording in DCOs and has been approved repeatedly by the Secretary of State, including in insertions made on their behalf at determination stage. The Applicant notes that for details to be approved, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 apply and when details are submitted for approval the LPA is required to consider if they are within the scope of the ES or if further environmental information is required. For other elements, failure to comply with a DCO is a criminal offence and the undertaker will have to take a view on materiality in that context. Where the relevant LPA</p>	<p>The Council is concerned that this would effectively allow a self-approval mechanism for determining whether or not any changes are material. This same issue has been discussed at length on the A66 Northern Trans-Pennine DCO which is currently in Examination which is due to close on 26 May 2023. If a change is proposed, this change needs to be assessed by the Secretary of State as to whether or not it is material and therefore needs his approval or otherwise.</p> <p>The Council would suggest a similar approach be taken in this Project.</p>	<p>The Applicant does not consider it appropriate that the SoS needs to screen every change for materiality no matter how minor that may be. The Applicant does not consider this to be necessary. The Applicant notes it is normally for the Applicant to determine what form of amendment a change is when determining the appropriate consenting route to make an application, and it is for the Applicant to make the case</p>	<p>FCC consider that the Local Planning Authority should determine if a change is or is not material.</p>

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					disagrees, its enforcement powers would be available to it.		for the chosen route.	
		5. (2) (a-m) CEMP – Management plans, Working Methods and Mitigation Measures	Specific measures for construction works are missing including plant and equipment detail; night-time noise levels; minerals safeguarding is not specifically referenced in the MMP	<p>Include the following additional measures:</p> <ul style="list-style-type: none"> <li>• Detail of all construction plant and equipment.</li> <li>• Specify noise limits and mitigation (day and night-time).</li> <li>• The Material Management Plans should be renamed to Material and Minerals Management Plan to ensure Minerals Safeguarding (in accordance with outline minerals safeguarding assessment).</li> <li>• Address / mitigate identified risks from contamination.</li> <li>• A mechanism for review should also be included</li> </ul>	<p>These details are secured in the plans as set out in the outline and do not need to be repeated in the requirement itself.</p> <p>A review mechanism is not required as the CEMP will only apply during construction and each plan to the stage/s it is for.</p> <p>A Materials Management Plan is governed by the Definition of Waste Code of Practice and is used to assess if earthworks can be reused. A Materials Management Plan is not associated with the extraction or use of minerals – this is considered in the Mineral Resource Assessment. As such, the Applicant does not agree that the Materials Management Plan should be renamed.</p>	<p>Noted</p> <p>As identified at 2.1.195 above, the Council is not clear how matters of mineral resource management are to be secured in the final CEMP. At this stage, the Council ask that the consideration / inclusion of mineral management be explicit in the final CEMP.</p>	As above, the Applicant considers that this can be addressed in the MMP and is providing an Outline at Deadline 4 (document reference <b>D.7.32</b> ) for review.	<p>FCC consider that a mechanism for review would be useful as a CEMP and accompanying Mineral Management Plans would be submitted for each stage of the development, therefore it is considered that there would be an opportunity for review throughout the implementation of the consent, should it be granted.</p> <p>FCC has reviewed document reference <b>D.7.32</b> 'Outline Materials Management Plan' submitted by the applicant at Deadline 4 [<b>REP4-266</b>] and notes that the management of minerals is now considered in the OMMP which contradicts the applicant's views and response at DL2 where it states that "A Materials Management Plan is not associated the the extraction or use of minerals - this is considered in the Minerals Resource Assessment".</p> <p>The OMMP references the Minerals Resource Assessment (MRA), however, it does not specifically require its findings to be taken into account or undertaken. In this respect the Council ask</p>

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								that the OMMP is amended to directly reference the MRA and should include the requirement to provide copy to Construction Contractors.
		9. Contaminated land and Groundwater	Only addresses unexpected contamination	Include an additional requirement to address mitigate identified Contaminated Land or incorporate into the CEMP (5.(2)) as recommended above	REAC [REP1-015] commitments D-LS-006, D-MW-006 and D-GG-005 refer to the implementation of a Materials and Management Plan, which would include measures and guidance on how to deal with contaminated land and materials (known or unexpected) as secured by the CEMP within Requirement 5 of the DCO [REP1-004]. As such, the Applicant considers that the Materials and Waste assessment has considered the potential for hazardous materials, albeit unquantifiable for inclusion in the quantitative assessment.	The Council notes the inclusion of Requirement 9(5) for verification reporting to be submitted to the relevant planning authority, however it does not require approval.  Amendment is required for the submission of a verification report to be submitted for approval.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference D.7.31).	Noted
		13. Construction Hours (1-5)	The current wording of requirement 13 (3) (c) would appear to allow works outside of the stated construction hours in any eventuality – this is quite open-ended.  The proposed exceptions and definitions in relation to the proposed construction working hours are	Consider more precise wording	The Applicant will agree to amend the DCO so that working for what is currently (c) would require approval under a scheme but maintains that allowing 24 hours working for (a), (b) and (d) is necessary and appropriate.	The amendment is noted however, the Council questions how a scheme for working under 13(3)(c) would be secured / undertaken.  The Council therefore requires the removal of Requirement 13 (3) (c) and would only accept the retention of operations under 13(3) (a), (b) and (d), subject to the noise and vibration management plan, to be approved as part of the final CEMP, including detail of any additional mitigation for of all out of hours working including that for operations identified under these parts.	The Applicant notes that amendments have been made to this requirement at Deadline 3 and further amendments are proposed in the Deadline 4 submissions.	FCC notes that revision G of the draft DCO has removed reference to out of hours working in the event of extreme weather conditions and welcomes the updates in this requirement.  FCC has no further comments at this stage but reserves the right to further comment should this be subsequently changed in future revisions.

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			not considered acceptable.					
		16. Restoration of Land	<p><i>"Subject to article 34 (temporary use of land for carrying out the authorised project)], any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12 months of completion of the authorised project."</i></p> <p><i>"fit for its former use"</i> - not precise or enforceable and would not secure return the higher grades of agricultural land back to their former grading / condition including drainage etc...</p> <p>Requirement 15 as a whole is not precise or enforceable and does not require the approval of a scheme of restoration and aftercare if required.</p>	<p>Re-word to require full detail of restoration scheme or remove and combine into Requirement 16</p> <p>Or include more detail in the soil management plan</p>	<p>This requirement is a reserve power to allow the LPA to require restoration in default or where there is an issue. The primary mechanism for controlling restoration is the land agreements which will include for example schedules of condition before possession is taken, the details of restoration, which will in the main be to the former use. Drainage would be reinstated in its former location. Deterioration in land would be a compensatable issue not a planning one. Aftercare of agricultural land once returned to the landowners' use is not appropriate or reasonable as it would not only interfere with the land agreements between the landowner and Applicant but would require the Applicant to control land for longer than necessary, to interfere with the landowners use, to take rights for longer than necessary and it is accordingly disproportionate to move from the control of the landowner to the LPA.</p>	<p>The Council maintains that the restoration of land and suitable aftercare is a planning matter, land ownership is not. The draft DCO should be re worded to require full details of a restoration scheme, combined within Requirement 16 or include more detail within the soil management plan.</p>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference <b>D.7.31</b>).</p>	<p>FCC note the Applicants position presented within in Paragraphs 2.21 and 2.23 of the Applicants Written Summaries of Oral submissions made at the Issues specific Hearings - Part 3 <b>[REP4-264]</b>.</p> <p>FCC does not agree and maintains the view that provision to secure appropriate aftercare for the appropriate amount of time should be secured through the requirements.</p> <p>It is noted that the revised Outline Soil Management Plan doc ref D.6.5.4.1 <b>[REP4-240]</b> acknowledges in paragraph 6.1.1 that it can take between one to three years for their [soils] structures to stabilise. FCC argues that the applicant's own admission provides further justification for a five-year aftercare period.</p> <p>Furthermore, it is considered that the Local Planning Authority should also verify the successful restoration of the site an successful subsequent aftercare as opposed the applicant's own 'competent soil scientist' which is stated at paragraph 6.1.2 of the revised Outline Soil Management Plan doc ref D.6.5.4.1 <b>[REP4-240]</b>.</p>

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		17: Post construction environmental management plans	Operational Maintenance and management and decommissioning are distinctly separate stages of the project and cannot be easily dealt with together in one scheme?  Does not detail restoration aftercare?	Split into two requirements for the approval of schemes for restoration/aftercare, if necessary, on agricultural land and one for decommissioning.  Include a Decommissioning Environmental Management Plan (DEMP).  As above - Detail of restoration and aftercare needs to be provided for approval can be incorporated here or a detailed scheme approved under Requirement 15.  Need to include wording for scheme to be completed / undertaken in accordance with approved details.	The Applicant has no objection to splitting this into two requirements.  Restoration aftercare from construction is addressed above. Restoration of decommissioning would be covered by the DEMP secured by Requirement 17 of the dDCO [REP1-004].	The Council welcomes splitting this requirement into operational and maintenance environment management (OMEMP) and decommissioning environmental management plan (DEMP). However as is noted above, above, these plans need to include detail of full restoration and aftercare schemes.	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference D.7.31).	FCC note the Applicants position presented within in Paragraphs 2.21 and 2.23 of the Applicants Written Summaries of Oral submissions made at the Issues specific Hearings - Part 3 [REP4-264].  FCC does not agree and maintains the view that provision to secure appropriate aftercare for the appropriate amount of time should be secured through the requirements.  See response above with regards to Requirement 16.
		19. (4) Amendments to approve details	"42 days" notification period  The current wording is not flexible as there is no ability to agree an extension of time if required	Suggestion to use a standard period for decision of 56 days (8 Weeks)  Include provision to agree an extension of time i.e. <i>"within such longer period as may be agreed by the undertaker and the host authorities in writing"</i>	The Applicant is willing to amend the period to 56 days (8 weeks) as requested by FCC.  The Applicant is willing to add the flexibility requested to allow agreement of a different period.	The amendment is noted and welcomed; however, the Council reserves its position until the amendment is made in the next iteration of the draft DCO.	The Applicant welcomes FCC's confirmation that they are satisfied with this point and notes that they reserve their position.	Noted

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		<b>Schedule 2: Part 2: Applications made under requirements</b>						
		<p>23. Multiple relevant authorities</p> <p>Any request for comments on multiple authorities – “21 days”</p> <p>Timescale is short and doesn't allow any agreed extensions of time.</p> <p>This is in effect a pre-app to and between the two authorities – the need for timescales at all is questioned?</p> <p>If a timescale is accepted there should at very least be the ability to agree an extension of time. The current wording is not acceptable.</p>	<p>Remove provision or provide a reasonable extended period of time and ability to agree an extension of time i.e. “within such longer period as may be agreed by the undertaker and the host authorities in writing</p>	<p>The Applicant is willing to add the flexibility requested to allow agreement of a different period.</p>	<p>The Council would welcome the inclusion of flexibility to agree longer timescales, however, a 20 day response time would be an unreasonably short period of time for the Council to be able provide any substantive response.</p>	<p>The Applicant notes that the 20 days period is only to provide comments on the form of proposed applications. The Applicant does not agree that is insufficient.</p>	<p>The Council notes the inclusion in draft DCO revision E <b>[REP3-005]</b> for the ability to agree longer timescales, and on further review the Council is happy to accept the wording of Article 23 as drafted.</p>	
		<p>24. (2) Further Information</p>	<p><i>“(2) If the relevant authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required.</i></p>	<p>Amend to longer and reasonable time scale, include the provision for allowing an extension of time for an agreement.</p>	<p>The Applicant would be willing to add the flexibility requested to agree a longer timescale, and will agree to change 5 days to 10, but will not agree to extend the 21-day period.</p>	<p>This amendment is noted, however the Council would still consider 10 days to be an unreasonably short period of time, especially where detailed responses are required from internal and external consultees. The Council maintain that this either be amended to a more reasonable length of time (e.g. 21 days) or removed in its entirety</p>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference <b>D.7.31</b>).</p>	<p>FCC maintains their position as per Deadline 3 response that it does not support the inclusion of controls in respect to the requests for further Information under Requirement 24 (2-4) of draft DCO revision G <b>[REP4-007]</b>.</p>

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		<p><i>Notification required in 5 business days to specify further information required."</i></p> <p>Even for internal consultees it is not considered reasonable to only allow 5 working days for notification for further information.</p> <p>Notwithstanding the admin time, consultees will need time to fully review the provided material to be able to advise if further information will be required. This is not considered reasonable or acceptable.</p>					
		<p>Article 24 (3) Further Information</p>	<p><i>"(3) If the requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application and must notify the undertaker in writing specifying any further information</i></p>	<p>Amend to longer and reasonable time scale, include the provision for allowing an extension of time for an agreement.</p> <p>Where consultation is needed on a requirement that would be stated in the requirement and known upfront.</p> <p>The Applicant will not agree to remove this wording but would be willing to amend the period to 10 days.</p>	<p>In view of the provisions / time scales and ability to agree extension of time afforded for under Article 21 (8 weeks) the Council questions the need for any restriction on consultation times and requests for additional information.</p> <p>Notwithstanding this point, should the ExA accept the retention of consultation restrictions under this article, in view of the standard 21-day response time for external consultees, it is considered unreasonable to only allow 21 days for the Council to respond to the undertaker for additional information, especially where there is the potential for delays in external consultee responses or where responses are received on day 21. In this respect the Council do not consider it unreasonable to amend this timescale to</p>	<p>The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference <b>D.7.31</b>).</p>	<p>Please refer to comments under Article 24(2)</p>

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		<p><i>requested by the requirement consultee within five business days of receipt of such a request and in any event within 21 days of receipt of the application."</i></p> <p>The timescales stated are unreasonable.</p> <p>Requiring a specified timescale for consultation of external bodies is not considered reasonable or necessary. This can be adequately dealt with under an agreed extension of time under Schedule 2 Part 2 (19(1)).</p>			35 days to allow sufficient time for adequate and meaningful consultation.		
		Article 24(4) Further Information	Remove provision.	The discharging authority has the ability to ask for further information, within the timescales stated, not at any time thereby delaying determination unpredictably and with an impact on delivery of the NSIP project. The Applicant does not agree that this standard wording should be deleted. The Applicant will not agree to remove this wording but would be willing to amend the period to 10 days.	The Council maintains that this provision should be removed, it could be more likely to result in a decision being made with insufficient information which could result in a refusal, particularly given the tight time scale, delaying the delivery of the Project further rather than allowing the local planning authority to work pro-actively with the Applicant	The Applicant does not agree and would refer the Council to its responses to the action points from ISH2 on the dDCO (document reference <b>D.7.31</b> ).	Please refer to comments under Article 24(2)



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		<p>without the prior agreement of the undertaker.”</p> <p>This provision effectively removes the LPA entitlement to request further information if the 5 day timescales are missed. This is unreasonable.</p> <p>If insufficient info has been provided the host authority should have the right to ask for further information as deemed necessary. If this was to remain in place the Host Authority, if missing it's 5 day notice period, would have no choice but to refuse the requirement application – this would be counterproductive.</p>					