



APPLICATION BY LIVERPOOL BAY CCS LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE HYNET CARBON DIOXIDE PIPELINE

**APPLICATION REF EN070007
PIBLINELL CARBON DEUOCSID HYNET / HYNET CARBON DIOXIDE PIPELINE**

**FLINTSHIRE COUNTY COUNCIL'S RESPONSE TO TABLE 2-18 OF [REP5-015] – DEADLINE 5 SUBMISSION - D.7.37 APPLICANT'S COMMENTS ON
SUBMISSIONS RECEIVED AT DEADLINE 4**

SUBMITTED AT DEADLINE 6 – TUESDAY 18 JULY 2023

Please find in the column on the Right FCC's comments on Table 2-18 – Applicant's Comments on Flintshire County Council (FCC)- Deadline 4 Submission - Written summaries of oral submissions made at any Hearings held during the week commencing 5 June 2023 (ISH2) [REP4-289]

Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at DL6
	2.	Agenda Item 2 – Articles and Schedules of the Draft DCO		
2.18.1	2.1	FCC confirmed that there are some concerns with regards to the application and modification of legislative provisions at Article 8(c) of the draft DCO with regards to the land drainage requirement provisions.	The Applicant acknowledges the response from FCC but reiterates its request that FCC considers the outline plans and sub-plans under the requirements and advise what if any further information if any the detailed plans to be produced would need to include.	The draft DCO seeks to remove the requirement for land drainage consent. Article 8 (c) of the draft DCO seeks to disapply the provisions of Sections 23 and Section 30 of the Land Drainage Act 1991. FCC objects to the disapplication of this legislation as at present FCC have not been provided with the documentation detailed in [REP4-288]. Therefore, FCC maintain the position that FCC is not able to fully assess the impacts and risks of the works on the intersections of ordinary watercourses.
2.18.2	2.2	With regards to Article 10, FCC confirmed that there is no street permit scheme in Flintshire County Council.	The Applicant acknowledges the response from FCC and considers no further response is required.	Noted
2.18.3	2.3	With regards to Article 11, FCC have raised concerns with the applicant over Article 11(3) with regards to the restoration to reasonable satisfaction concerning streets that have been altered by the development. Under the Street Works Act there is a period of two years where the Local Highway Authority could notify the person/applicant who has carried out the works of a defect and the applicant would have to remediate it. FCC have been in discussions with the applicant with regards to this period, and revising those provisions. The applicant is proposing a 12 month period. FCC would not at present accept this Article in its current wording.	The Applicant has confirmed that the defect period of 2 months is agreed and understands this to resolve the concern.	FCC would not agree to a period of two months and therefore this matter does not resolve our concerns. To reiterate, FCC require a defect period of 2 years. The latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] has not been amended with respects to the Protection Provisions so therefore, FCC will reserve the right to comment on this matter when a subsequent revision has been submitted and when the protective provisions have been updated. FCC were of the opinion that a 2 year defect period had been agreed in ongoing discussions with the Local Highway Authority and the applicant.
2.18.4	2.4	In relation to Article 19, FCC maintain concerns with regards to the disapplication of the requirement to submit a consent to the Local Authority for altering an Ordinary Watercourse. FCC would like to be assured that all documentation that would be required for an ordinary watercourse consent be provided as part of this requirement as it does not appear to be detailed in the draft development consent order or specified in the requirements specifically.	The Applicant notes that the outline sub-plans for the outline CEMP were only submitted and made available for review by the Council at Deadline 5 so there has not yet been an opportunity for the Council to advise if they are now satisfied.	The latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] seeks to remove the requirement for land drainage consent. Article 8 (c) of the draft DCO seeks to disapply the provisions of Sections 23 and Section 30 of the Land Drainage Act 1991. FCC objects to the disapplication of this legislation as at present FCC have not been provided with the documentation detailed in [REP4-288]. Therefore, FCC maintain the position that FCC is not able to fully assess the impacts and risks of the works on the intersections of ordinary watercourses affected by the proposal.
2.18.5	2.5	With regards to Protective Provisions set out in Schedule 10, Part 7 with regards to the Protective Provisions for the Local Highway Authority, FCC confirmed that the Local Highway Authority and	The Applicant and the Councils held a call focused on highways and protective provisions on 14 June. Discussion on the wording of that is ongoing.	Noted, it is understood that a meeting took place, and that FCC / Local Highways Authority are in discussions with the applicant on the wording of the Protective Provisions.

		the applicant would be meeting to discuss these protective provisions.		It is noted however that the latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] has not been amended with respects to the Protection Provisions so therefore, FCC will reserve the right to comment on this matter when a subsequent revision has been submitted and when the Protective Provisions have been updated.
	3.	Agenda Item 3 – Schedule 2 of the draft DCO – Requirements		
2.18.6	3.1	Requirement 3; Stages of authorised development – FCC confirmed that a definition of a ‘stage’ would be required.	This has been added in revision G of the dDCO [REP4-008] .	Noted, however ‘stage’ has not been defined in the Interpretation at Part 1, Article 2.
2.18.7	3.2	Requirement 5 (e); Material Management Plan. FCC have maintained the view that the Material Management Plan should include the term ‘minerals’. The applicant has assured FCC that an outline Material Management Plan will be provided for comment at a subsequent deadline. FCC reserves the right to comment on this document as and when it is published.	<p>The Applicant notes that in its discussions with FCC it had understood FCC would be content if the plan covered the appropriate minerals grounds. The Applicant considers it unnecessary and disproportionate to change the name of the document in all of the ES and related documents where the scope and content is agreed to be appropriate.</p> <p>The Applicant notes that the outline sub-plans for the outline CEMP were only submitted and made available for review by the Council at Deadline 5 so there has not yet been an opportunity for the Council to advise if they are now satisfied.</p>	<p>FCC has reviewed the Outline Materials Management Plan (MMP) document reference number D.7.32. [REP4-266].</p> <p>FCC would like to be assured that a detailed MMP and other detailed management plans would be submitted for approval to the Local Planning Authority as a part of Requirement 5 prior to each stage of the development.</p>
2.18.8	3.3	Requirement 8; Surface Water Drainage. FCC have concerns with regards to this requirement and the surface water drainage strategy as at this stage, the applicant cannot provide sufficient detail and that this is a high-level strategy. FCC has concerns that any works required to an ordinary water course would not necessarily be included in the documentation. FCC would like to see more detail with regards to these ordinary water course crossings.	There is no detail at this time as the detailed design has not yet been undertaken. The Applicant has requested that FCC provide a list of the detail it would be seeking at detailed design stage. That list is still awaited.	<p>It is appreciated that there is no detailed design at this stage. FCC has provided details as to what would be required for an application for ordinary watercourse consent as set out in [REP4-288].</p> <p>FCC is concerned, as stated previously that the latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] seeks to remove the requirement for land drainage consent. Article 8 (c) of the draft DCO seeks to disapply the provisions of Sections 23 and Section 30 of the Land Drainage Act 1991.</p> <p>FCC objects to the disapplication of this legislation as at present FCC have not been provided with the documentation detailed in [REP4-288]. Therefore, FCC maintain the position that FCC is not able to fully assess the impacts and risks of the works on the intersections of ordinary watercourses affected by the proposal.</p>

2.18.9	3.4	Requirement 9; Contaminated land and ground water. FCC confirmed that the FCC Contaminated Land Officer is happy with the drafting on the requirement.	The Applicant acknowledges the response from FCC and considers no further response is required.	Noted
2.18.10	3.5	Requirement 16 and 17; Restoration of Land. FCC maintain that a five-year aftercare period should be applied in this requirement as opposed to 12 months. The concern relates to potential settlement during the years post restoration. An annual aftercare review should also be applied for a period of 5 years to ensure that the land has been restored to the satisfaction of the planning authority, and that the land has been adequately restored.	The Applicant has set out its position on this point in detail in its deadline 4 submissions and refers to [REP4-264] , part 3 at paragraph 2.22 onwards.	FCC notes the applicant's position with regards to this point in paragraph 2.22 onwards of part 3 of [REP4-264] . FCC disagrees to this opinion. FCC consider the proposed development, which involves the removal of soils and subsoils, the laying of a pipe, and the subsequent placing of soils to restore the land comparable with mineral extraction which effectively involves the removal of material and the placement of soils for restoration. Both activities could lead to settlement and could lead to the land not being restored satisfactory if there isn't a sufficient period of time applied as an aftercare period and appropriate management prescriptions during that period. An aftercare period of five years is likely to be adequate if the affected land is agricultural, based on the guidance provided in Minerals Technical Advice Note 1: Aggregates. https://www.gov.wales/sites/default/files/publications/2018-09/mtan1-aggregates.pdf
2.18.11	3.6	Requirement 18; Decommissioning. The same reasoning would apply with regards to post restoration aftercare on above ground sites that are decommissioned in the future.		
2.18.12	3.7	Requirement 24; Further information and timescales. FCC maintain that a period of 10 days is too short a time-period when the Local Authority would be reliant on external bodies to respond. This adds additional pressure to the process when the Local Planning Authority.	The Applicant has previously increased from 5 working days to 10 days. The Applicant advised that it did not consider an extension to 21 days would fit with the overall determination period of 56 days, as it would knock the overall determination period out. The Applicant pointed out that Article 22(1) restarts the 56 days clock if further information is requested. The Applicant is aware of the Councils' resourcing issues but does require some certainty about time frames being agreed to for discharge of requirements.	FCC notes the applicant's response however, FCC maintains the response at DL4.
	4.	Agenda Item 4 – Article 44 of the draft DCO – Certification of Plans		
2.18.13	4.1	FCC considers that all the appendices of the Construction Environmental Management Plan should be listed in Article 44 – Certification of Plans.	The Applicant has added a reference to the CEMP's appendices in its definition and does not consider listing them in article 44 to be necessary.	FCC notes that the definition of CEMP has been changed in the latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] in Part 1. Article 2, to include reference to the CEMP's appendices. However, Requirement 5 does not refer to the management plans as 'appendices' hence it is not clear if these management plans are the appendices referenced in the definition. Hence it is for this reason that FCC considers that it would be useful to list the management plans in Article 45 – Certification of Plans or ensure that Requirement 5 refers to the management plans as 'appendices' so that the definition relates specifically to them.

	5.	Agenda Item 5 - Consents, licences and other agreements		
2.18.14	5.1	FCC confirm that discussions have been taking place between the applicant and FCC's Countryside Services Manager and Ecologist with regards to securing off-site biodiversity enhancements. The legal officer had not been party to the discussions and have not had sight of a draft agreement.	The Applicant confirms that these discussions are ongoing.	Noted, FCC confirms that these discussions are ongoing.