



**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 2-14 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 2-14 – Applicant's Comments on Flintshire County Council (FCC)- Deadline 4 Submission – [REP4-285]

Action Point Number	Action	FCC Response	Applicant's Response	FCC Response at DL6
<i>Issue Specific Hearing 1 (ISH1)</i>				
ISH1-AP1	To consider, and keep under constant review, whether any further developments subject to planning permission need to be declared for cumulative impact consideration purposes and to update the Examining Authority. Ongoing throughout the Examination.	<p>Planning permission reference FUL/000097/23 for 'Formation of enclosure to screen HGV Trailers' at 2 Sisters Food Group, Glendale Avenue, Sandycroft CH5 2QP was granted on 14th March 2023. This approved development would affect works no. 34A for temporary construction access.</p> <p>Planning permission reference FUL/000111/22 was approved for 'Retrospective construction of a slurry tower with cover' at Newbridge Farm, Holywell Road, Ewloe, Deeside CH5 3BS. This retrospective permission would affect Works No.41 and 42 of the proposed development. The developer is aware of this permission and it is subject to one of the changes proposed in Change Request No1.</p> <p>Planning application reference: FUL/000472/23 for the erection of 5no. holiday Pods has been submitted. The application is currently being consulted upon and is under consideration. FCC are in the process of determining the application and the applicant has been made aware of the application.</p> <p>FCC confirms that the Examining Authority and the applicant will be notified of any further planning permissions that maybe granted throughout the Examination.</p>	<p>In accordance with the criteria for selection of developments for consideration in the Inter-Project Effects Assessment, outlined in Chapter 19 of the ES [REP4-062], FUL/000097/23, FUL/000111/22 and FUL/000472/23 are not of a nature or scale to meet the criteria for consideration of assessment in the long-list of Other Developments.</p> <p>The Applicant was aware of, and, through the SOGC [REP4-262], is in discussion with 2 Sisters Food Group who made application FUL/000097/23. Furthermore, in response to FUL/000111/22 the Applicant has amended the Order Limits in Change Request 1 as described in its notification letter [AS-060].</p>	Noted
ISH1-AP3	Undertake a further review of community benefit/ cultural benefits possible relative to law, as well as national and local policy in England and Wales, in tandem with item 2.	<p>FCC has stated in previous representations [RR-035] and [REP1-077] that the applicant should provide a community benefit fund for those communities affected by the proposed development. Whilst it is acknowledged that there is no legal mechanism for the applicant to provide such a fund, it is voluntarily possible, as is the case in the various projects in North Wales that have been consented under the DCO regime.</p> <p>FCC notes the applicant's response to ExA1 [REP1-044] and that they confirm that the applicant is preparing a voluntary Community Benefit Fund proposal for the benefit of</p>	<p>The Applicant notes that the community benefit proposal is <b>voluntary</b> and outside of the DCO process. It is accordingly not appropriate to set that out here.</p> <p>The ExA requested a review of policy against the application. That application does not include the community benefit proposal but rather the inherent benefits of the proposal. That review has been set out in (document reference: <b>D.7.49</b>). The Applicant cannot claim policy compliance or support for the application from a <b>voluntary</b> fund outside the DCO and therefore does not consider the submission by FCC, which is predicated on the fund being necessary to make the development</p>	FCC has no further comments

		<p>communities along the pipeline route in England and Wales. This would be in addition to the current community-based projects located near to the Point of Ayr Terminal.</p> <p>The ExA has requested that the applicant and the local authority undertake a further review of community benefit, including cultural benefit.</p> <p>PPW11 states with regards to Community Benefit that (para 5.9.24) "The Welsh Government supports renewable and low carbon energy projects which provide proportionate benefit to the host community, or Wales as a whole". Para 5.9.26 goes on to state that "<i>Some benefits can be justified as mitigation of development impacts through the planning process</i>". <i>In addition, developers may offer benefits not directly related to the planning process.</i>"</p> <p>PPW11 para 5.9.28 goes on to state that the Welsh Government supports the principle of securing financial contributions for host communities through voluntary arrangements. FCC notes that PPW states that such arrangements must no impact on the decision-making process, and should not be treated as a material consideration, unless it meets the tests set out in Circular 13/97: Planning Obligations. One of the well-being goals in the Well-being of Future Generations (Wales) Act 2015 relates to the cultural well-being of Wales. A large proportion of the application area transects areas of secondary and primary coal. Furthermore, the Point of Ayr Terminal where, subject to planning permission, carbon dioxide would be captured and compressed is sited at the location of a former colliery. Therefore, the area has a strong cultural heritage in the coal mining industry. It is considered that, a Community Benefit Fund which promoted the cultural heritage of the coal mining industry would contribute towards the objectives of one of the well-being goals of the Well-being of Future Generations (Wales) Act 2015 to help to preserve the legacy of the former coal mining communities.</p> <p>As PPW no longer requires Local Authorities to safeguard coal resources, the safeguarding areas as set out in the constraints plan of the adopted</p>	<p>acceptable in planning terms rather than voluntary, is applicable.</p>	
--	--	--	---	--

		<p>Local Development Plan does not include areas underlain by coal resources. Therefore, FCC does not have an objection to the proposed pipeline on minerals safeguarding grounds.</p> <p>It would be appropriate and fitting if the developer's community benefit fund focused on providing information, and interpretation relating to the cultural and industrial heritage linked to the former coal mining in the area (including in a bilingual format) which has historical importance to the application area. This would like to the Well-being goals of the Well-being and future generations (Wales) Act 2015 by promoting heritage and the Welsh Language.</p> <p>Another sector which the community benefit fund could provide grant funding for could include a skills and innovation fund to support low carbon/zero carbon energy such as investment into green hydrogen projects and funding local college/university courses to provide training in low/zero carbon technologies.</p> <p>FCC have provided the ExA in their response to the ExAQ1 [REP1-077] some examples of large infrastructure projects that have associated community benefit funds such as the Gwynt y Mor and Burbo Bank offshore windfarm projects.</p>		
ISH1-AP4	<p>Highlight any outstanding technical points concerning: 1. Derogation issues raised by NRW; 2. suitability of riparian enhancement for additional areas raised by all parties; and 3. Any flood risk management details not addressed at the Hearing.</p>	<p>With respects to Point 1 and 2, FCC would respectfully request to defer a response to DL5 if at all possible, please.</p> <p>With respects to Point 3 of this AP, FCC does have concerns with regards to how the applicant will engage within the Sustainable Urban Drainage Approval Board (SAB) approval process with regards to temporary and permanent hard standing areas such as construction compounds and tracks. FCC are unable to find a statement from the applicant confirming that they would fully comply with the Council's SAB Approval Process. FCC would like to receive confirmation from the applicant that, should consent be granted, they will fully comply with the FCC SAB approval process by submitted the necessary documentation and paying the requisite fee. At present, there is insufficient detail with regards to what is proposed for temporary and permanent works</p>	<p>The Applicant will review the comments on Point 1 and 2 once submitted. The Applicant is also submitting a Without Prejudice WFD Derogation case for Alltami Brook Crossing report (document reference: <b>D.7.38</b>) and a Hydrogeological Impact Assessment report (document reference: <b>D.7.36</b>), at Deadline 5, to provide further information regarding WFD compliance and the need for a derogation case.</p> <p>In relation to Point 3, the Applicant will fully comply with the FCC SAB approval process by submitting the necessary documentation and paying the requisite fee.</p> <p>The Applicant reiterates its request that FCC consider 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.</p>	<p>FCC would respectfully defer to NRW with regards to points 1 and 2 as this is within their remit.</p> <p>With regards to the SAB approval process, a pre-application SAB application form should be submitted for each individual location, alongside the appropriate supporting documentation. A specific SAB file would be then created for each site and the applicant can be advised accordingly. I am advised that currently there is no charge for pre-application advice.</p> <p>The form can be accessed by:  <a href="https://www.flintshire.gov.uk/en/PDFFiles/Planning/SuDS/SuDS-Application-for-Pre-Application-Advice.pdf">https://www.flintshire.gov.uk/en/PDFFiles/Planning/SuDS/SuDS-Application-for-Pre-Application-Advice.pdf</a></p>

		<p>Furthermore, the application lacks detail with regards to Ordinary Water Course Consents. As the applicant has not yet finalised the detailed design for the pipeline at this stage, FCC do not have the evidence to fully understand and assess the impacts of the proposed pipeline, and associated works would have on the watercourses.</p> <p>The impacts cannot be assessed as a principle due to the fact that the exact line of the pipeline, and how it would cross the ordinary water courses is not yet known.</p> <p>The Council therefore cannot accept the disapplication of the provisions relating to Ordinary Watercourse Consent (as envisaged by Article 8(c) of the draft Development Consent Order) [REP3-005] without protective provisions being in place. FCC as LLFA have submitted a separate document to address ISH1- AP4 point 3 in relation to comments from the Lead Local Flood Authority. Please cross reference to Appendix 1.</p>		
ISH1-AP5	Submit copies of relevant policies/ strategies, discussed at the Hearing, as relevant to the Proposed Development	<p>The update of Planning Policy Wales (PPW) was reference in ISH1 as a consultation. Welsh Government has recently undertaken a consultation of PPW with regards to a targeted policy changes on Net benefit for biodiversity and ecosystem resilience.</p> <p>Welsh Government have confirmed that this update of PPW will not be published until Autumn 2023 therefore it is likely that this will be published after the Examination has closed.</p>	The Applicant has no further comments on this matter.	Noted
<i>Issue Specific Hearing 2 (ISH2)</i>				
ISH2-AP4	Article 11(3) concerning restoration and being satisfied in regard to any streets that has been temporarily altered under this article. FCC advised under the Street Works Act it would have a two-year period where FCC could notify the applicant or the person who has conducted the work of a defect and they would have to remediate it.	FCC is in discussion with the applicant as stated but rather than revising the current provisions in Article 11(3) consideration is being given by both parties to including the need for reinstatement in the protective provisions for local highway authorities set out in Schedule 10 Part 7 of the DCO. The Council continues to seek a 24-month period in accordance with the specification for reinstatements in Flintshire (being THE SPECIFICATION FOR THE REINSTATEMENT OF OPENINGS IN HIGHWAYS 2nd Edition 2006). This is required under a street works licence (Section 72 New Roads and Street Works Act 1991. The street authority may by notice	The Applicant understands that this point is now resolved as the principle of this has been agreed to be included in the Protective Provisions.	<p>FCC has reviewed the latest draft of the DCO (Revision G) and notes that there does not appear to be any changes made to the protective provisions with regards to an agreed guarantee period.</p> <p>Therefore, FCC would reserve right to comment when the protective provisions have been updated.</p>

	FCC advised it has been in discussion with the Applicant over revising the provisions in Article 11(3) with a view to ensuring a 24- month period is specified. FCC and Applicant to keep the ExA advised of its progress with negotiations in this regard starting at DL4.	require an undertaker who has failed to comply with his duties under this Part with respect to reinstatement to carry out the necessary remedial works) and FCC takes the view that it should also apply where such work is carried out pursuant to the DCO.		
ISH2-AP9	The ExA asked both CWCC and FCC to comment on the observations made by them concerning R4 containing an element of 'self-approval'. CWCC and FCC both asked to come back to the ExA in writing on this matter, as their appeared to be a discrepancy in the wording of the response provided. CWCC and FCC to clarify their position re R4, in writing, at DL4.	FCC in response [REP3-046] questioned the wording of Requirement 4(2) with regards to the mechanism of approval. FCC confirms that this point should have been raised in relation to Requirement 20 with respects to the amendments to approved details. The latest version (E) of the draft Development Consent Order now includes additional wording (4) to allow for a longer period of time to approve at amendments subject to written consent.  Concern however is expressed in relation to this wording with regards to seeking a written consent from the undertaker to extend the time periods to determine. If the discharging authority requests a longer period of time and the undertaker does not agree to any such request, the application would be affectively deemed to be consented. FCC therefore does not agree to the current wording. Alternative wording is required to ensure that the undertaker does allow reasonable requests for time extensions, and to ensure that any refusals of requests for additional time does not lead to deemed approvals.	The Applicant notes that this is entirely standard wording in DCOs where an element of flexibility to produce the detailed design is required.  The general arrangement plans are, at this stage, indicative pending detailed design. The details of the above ground elements will be submitted to the relevant LPA for approval under the requirements. The Applicant considers that 'general accordance' with the plans for the underground elements is a judgement it is best placed to make as engineering and safety considerations will drive that design which will not have, for example, operational visual impacts.	Noted FCC have no further comments on this matter
ISH2-AP12	To review Rs 21 (Applications made under this R) and 24 (Further Information) with regard to cross referenced Rs and timescales, as previous revisions have cross-referenced different Rs and caused some confusion. Applicant/ CWCC/ FCC to review and revert back to the ExA at DL4.	FCC assume that the ExA is asking the review of timescales in requirement 22 (rather than 21) and 24. An increase from 42 days to 56 days to determine the applicants made under requirements is welcomed. Concern however is expressed in relation to the current wording with regards to seeking a written consent to extend the time periods to determine. If the discharging authority requests a longer period of time and the undertaker does not agree to any such request, the application would be affectively deemed to be consented. FCC therefore does not agree to the current wording. FCC still maintain that a request for further information within 10 days	The Applicant's further submissions on this point are set out in the SoCG with Natural England [REP4-246], part 3, paragraph 2.29.	FCC have reviewed the SoCG with Natural England [REP4-246], as indicated in the applicant's response at DL5. However, FCC has been unable to locate this reference of Part 3, paragraph 2.29 to be able to make further comment.  FCC maintains the view as set out at DL4 in [REP4-285]

		(Requirement 24(2) and (3)) is unreasonable and additional time is required. FCC would continue to question the need for this requirement all together. FCC would question if there is a need for this requirement. It adds additional pressure to the process when the Local Authority are already very under resourced, as are statutory consultees. FCC are aware of the pressures that the applicant and developer will have, however, FCC consider this requirement is an unnecessary burden on the local authority. However, if the ExA deem this requirement essential, additional time should be considered, and alternative wording is required to ensure that the undertaker does allow reasonable requests for time extensions, and to ensure that any refusals of requests for additional time does not lead to deemed approvals.		
ISH2-AP13	With regard to any agreements securing BNG, please could the Applicant and the IPs listed give the ExA a clear explanation as to what has been/ is being agreed between the Applicant and IPs. Additionally, could the Applicant and relevant IPs explain: how such an agreement(s) is to be secured, including what is required; how it relates back to the DCO; and whether or not there is an intention to enter a copy of the completed agreement(s) into the examination as evidence. In the event a copy is not intended to be entered into the Examination, please advise how the Applicant and relevant IPs intend to demonstrate to the ExA an agreement in this regard has been completed between the Applicant and relevant IPs to the satisfaction of all relevant IPs?	A draft deed of agreement made under Section 111 of the Local Government Act 1972 has been drafted by the applicant to endeavour to secure the delivery of off-site biodiversity net gain in relation to the DCO Proposed Development. The draft agreement proposes a biodiversity contribution made by the developer to the Local Authority for maintenance and/or improvements to hedgerow habitats, pond habitat, and rivers habitat creation, management and site maintenance for example. FCC can confirm that we are currently in discussions with the developer with regards to this matter.	The Applicant has no further comments on this matter at this time.	Noted

Other DCO Matters not specifically raised as Action points				
Article 23 – Human Remains	ExA raised a question with FCC with regards to Human Remains	FCC can confirm that there are no further comments with regards to this Article.	The Applicant has no further comments on this matter.	Noted
Page Numbers		FCC notes that the latest version of the draft DCO (Revision E) no longer has page numbers. It would be extremely helpful if the DCO had page numbers	Noted. This will be corrected at a future deadline.	Noted with thanks, this would be extremely helpful for reference purposes.