

HyNet North West

APPLICANT'S COMMENTS ON RESPONSES TO EXA'S SECOND WRITTEN QUESTIONS

HyNet Carbon Dioxide Pipeline DCO

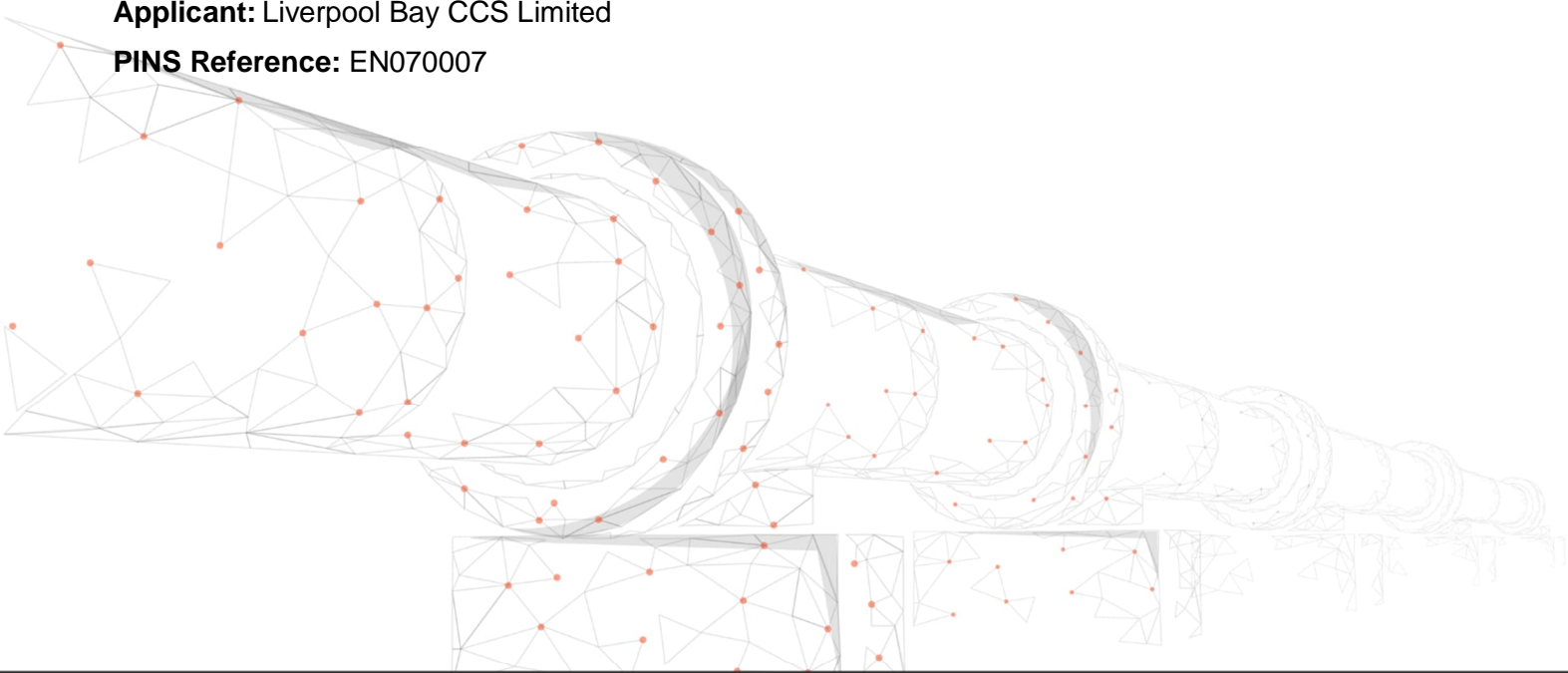
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1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared on behalf of Liverpool Bay CCS Limited ('the Applicant') and relates to an application ('the Application') for a Development Consent Order (DCO) that has been submitted to the Secretary of State (SoS) for Energy Security & Net Zero (ESNZ) under Section 37 of the Planning Act 2008 ('the PA 2008'). The Application relates to the carbon dioxide (CO₂) pipeline which constitutes the DCO Proposed Development.
- 1.1.2. This Deadline 6 document provides the Applicant's Comments on the Responses to the Examining Authority's (ExA) Second Written Questions (WQs) submitted by Interested Parties other than the Applicant to Deadline 5.

1.2. THE DCO PROPOSED DEVELOPMENT

- 1.2.1. HyNet (the Project) is an innovative low carbon hydrogen and carbon capture, transport and storage project that will unlock a low carbon economy for the North West of England and North Wales and put the region at the forefront of the UK's drive to Net-Zero. The details of the project can be found in the main DCO documentation.
- 1.2.2. A full description of the DCO Proposed Development is detailed in Chapter 3 of the consolidated Environmental Statement (ES) **[REP4-029]**, submitted at Deadline 4. On the 12 July 2023, the ExA accepted the Applicant's Change Request 3, subsequently the description of the development will be updated in accordance with Change Request 3 Environmental Technical Note **[CR3-019]**, towards the end of the Examination.

2. APPLICANT'S RESPONSE

- 2.1.1. This chapter provides the Applicant's Comments on the Responses to the ExA's Second Written Questions.

Table 2.1 – Applicant's Comments on Submission Received from Canal & River Trust at Deadline 5 [REP5-028]

Reference	IP Submission	Applicant's Response
<p>Q2.18.1</p>	<p>The Canal & River Trust does not have any record of Invasive Species, such as Japanese Knotweed in relation to plot 8-03 or 9-06. That does not mean that some may not be present, especially outside the immediate canal corridor. It would be advisable for the applicant/contractor to undertake a walkover survey prior to works commencing.</p> <p>This could be combined with the ecological survey prior to works commencing. It may be necessary to survey for invasive species at this stage to form a baseline and then follow this up with a further survey prior to works commencing to account for any spreading or new growth from the original survey to the commencement of works (which could be a number of years). It would certainly be appropriate to survey for invasive species prior to works commencing on site. It would however be important that the survey is undertaken during the growing season.</p> <p>A mechanism for the updated survey, removal and safe disposal of invasive species should be incorporated into the requirements of the DCO. This could be through expanding requirement 12 – ecological survey, to also include survey for invasive species and their removal and safe disposal.</p>	<p>The Applicant acknowledges that the occurrence of invasive non-native species across the DCO Proposed Development could change from the baseline survey results, with species likely to spread naturally in the absence of management/treatment. The Applicant can confirm that pre-commencement walkover surveys will be completed prior to works commencing, in line with the OCEMP item D-BD-005 [REP4-237] and will take into account the final route alignment and detailed design of the DCO Proposed Development, including a relevant zone of influence. The Outline Biosecurity Management Plan (OBMP) [REP5-020], submitted at Deadline 5, identifies the requirement for updated surveys, consideration of appropriate permits and waste carrier notices (as required), alongside mitigation and management measures during construction in relation to invasive non-native species. This includes consideration and requirements associated with the treatment/management and safe disposal of species such as Japanese Knotweed. The OBMP will be further developed at the detailed design stage and in response to the finalised pipeline alignment and will be a live document throughout construction that can be updated in response to changes in baseline conditions.</p>
<p>Q2.19.6</p>	<p><u>Article 21 (Authority to Survey and Investigate Land)</u></p> <p>Within our Submission for Deadline One on the Trusts Relevant Representations (dated 6th April), the Trust set out its objects to article 21 in terms of the power to survey and investigate land. Notwithstanding subparagraph 21(3) which requires notice to be served on the Trust at least 14 days before entry onto our land for carrying out of such surveys or investigation we have concerns in terms of how such works would be carried out. This was exacerbated by the lack of protective provisions for the Trust and our requirement to safeguard our assets and interests. The Trust and applicant have now been negotiating protective provisions for the Trust.</p> <p>In practice we would have concerns that only notice is required, as opposed to consent being required to carry out such surveys or investigations on our land. This could be problematic for the Trust, if for example, the applicant were to leave apparatus which interferes with our undertakings, closes our navigation or makes trial holes which could undermine the structural integrity of our assets.</p> <p>Through the protective provisions for the Trust, we are seeking to disapply this provision in relation to the Trust land and for our consent to be required.</p>	<p>The Applicant is continuing to engage with the Trust on Protective Provisions.</p>

Reference	IP Submission	Applicant's Response
	<p><u>Article 31 (Acquisition of Subsoil and Airspace)</u></p> <p>Within our Submission for Deadline One on the Trusts Relevant Representations (dated 6th April), the Trust set out that the power seeks to compulsorily acquire rights in relation to subsoil or airspace. Given the pipe will be underground and underneath the canal it is unclear why airspace rights are required in terms of the Trust's assets. For the reasons as set out above the Trust objects to this power relating to our land interests as such powers could prevent the Trust from carrying out our statutory duties or interfere with our ability to meet our statutory obligations.</p> <p>Through the protective provisions for the Trust, we are seeking to disapply this provision in relation to the Trust land and for our consent to be required.</p>	
	<p><u>Article 34 (Temporary Use of land for carrying out the authorised development)</u></p> <p>Within our Submission for Deadline One on the Trusts Relevant Representations (dated 6th April) the Trust objected to this power to temporarily acquire Trust owned land. Any use or occupation of our land should be subject to the separate agreement of the Trust.</p> <p>The Trust would also want to be consulted on the details for the restoration of our land following the completion of works.</p> <p>Through the protective provisions for the Trust, we are seeking to disapply this provision in relation to the Trust land and for our consent to be required.</p> <p>The protective provisions for the Trust should hopefully address these concerns.</p>	

Table 2.2 – Applicant's Comments on Submission Received from Cheshire West and Chester Council (CWCC) at Deadline 5 [REP5-030]

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
3.	Air Quality and Emissions			
Q2.3.1	<p><i>Mitigation/management</i></p> <p>Flintshire County Council (FCC)/ CWCC/ IPs</p>	<p>What existing management mechanisms/ practices would be in place at a local level to report an air quality issue (such as odour or dust) if a problem did arise from the Development Consent Order (DCO) development during construction or operation reported by a member of the public?</p>	<p>The Council has a reporting function by phone or email details of which can be found on the Council's website.</p>	<p>The Applicant notes CWCC's response and will develop a detailed Stakeholder Communications Plan for the construction phase, under Requirement 5 of the DCO [CR3-008]. This will include details of how information will be conveyed to the public and how members of the public will be able to report an issue, raise a concern or ask a question. Members of the public will be able to make contact via phone or email. There will be a named phone contact publicised in case of emergencies. An Outline Stakeholder Communications Plan was submitted at Deadline 5 [REP5-023].</p>

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
Q2.3.2	Mitigation/ management FCC/ CWCC/ IPs	Does the Council have a clear timeframe as to how quickly local air quality issues raised by a member of the public concerning issues such as odour abatement would be acknowledged and responded to, should that transpire? If so, please explain the end-to end-- process. If there are existing corporate Enforcement policies in place, please detail the nature of those including all commitments to how complaints would be managed.	The Council's Environmental Protection Service attempts to acknowledge and start investigations to all complaints raised, including air quality, within 5 working days. Due to the complexities with dealing and responding to air quality issues and with no way of dictating how long investigations will take place a clear timeframe for responding to air quality issues raised by a member of public. Please find appended to tis response the Council's corporate Enforcement Policy.	The Applicant has no further comments on this matter at this time.
Q2.3.3	Mitigation/ management Applicant/ IPs	Having regard to both operation and construction phases does the Applicant propose any active management channels/ mechanisms to support any future local complaint management scenarios related to the proposed infrastructure? Would there be any active management channel in place for the DCO development which members of the public would be able to contact directly? For example, if any member of the public needed to report an issue. If so, what would the contactable management provision comprise of? What assurances can the Applicant provide through formal mechanisms within the DCO to ensure that there would be adequate day to day management safeguards to deal with any public complaint issue/ concern should it arise during construction or operation? The question would also extend to managing any landscaping provision to be undertaken.	For the construction phase the Council would expect any final CEMP to include proposals for the active management of complaints received from members of the public. The Council would expect the Applicant to take proactive steps to inform local residents of their procedures and provide contact details in an accessible way via web and letter drop. Night-time working will require enhanced procedures including the means to contact site during out of hours work. Procedures for investigating and responding to complaints should be set out clearly at the time a complaint is made as well as advising residents to contact the local authority in the event that they are unsatisfied with the outcome. For the operational Phase the Council do not see that the Project is likely to generate complaints. Depending on the nature of the complaint it may or may not be a matter for the Council.	Please refer to Q2.3.1 above. The Applicant can confirm that out of hours contact will be maintained via the Applicant's security team who can escalate issues raised out of normal working hours.
4.	Biodiversity, Ecology and Natural Environment			
Q2.4.1	Surveys Applicant/ CWCC/ FCC/ Natural England (NE)/ Natural Resources	The absence of ecological surveys beyond the order boundary limits for barn owls and badgers are referred to by CWCC in their detailed correspondence received at Deadline 2 and it has highlighted concerns of incomplete surveys in respect of Bats and Barn Owls. As such CWCC consider the assessments of importance levels and value/ sensitivity of receptors are taken to be as being based on incomplete data sets. In addition, it	Please note that the Council's Response to comments on the WR Addendum at DL1A has been submitted at Deadline 4 [REP4-277] and gives a summary of the position on survey data in paragraphs 2.2, 2.3, 2.4 and 2.5. In summary, more confidence has been given to survey data, due to information presented during a meeting held on 22/05/23 between the Council and the Applicant.	In respect of surveys and extent, the Applicant has acknowledged best practice guidelines when completing surveys and, where deviations from guidance have taken place, these have been justified. Given the broadly short term, temporary, and localised nature of impacts from the DCO Proposed Development and acknowledging that the final construction corridor will require a reduced corridor within the bounds of Order Limits, the suite and extent of surveys undertaken are proportionate to the potential

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
	Wales (NRW)/ IPs	<p>notes the need for clarifications in respect of surveys of other identified receptors. The ExA would ask:</p> <ul style="list-style-type: none"> i. CWCC clarify which specific locational receptors it is referring to? ii. Whether CWCC take the view that all the information it has referred to is in fact necessary to inform a decision, or is it instead considered to be desirable in nature? iii. What are the specific reasons for any further surveys/ data being a necessary requirement of the Applicant? iv. What recommended distances (relative to the DCO area) for species specific ecological survey or additional data would need to be factored, bearing in mind any local or national best practice or professional expertise available to the Council? Provide clear reference to the source or ecological expertise involved. <p>Does CWCC wish to add any ecological information it has knowledge of to the examination record with these above issues in mind?</p>	<p>The Council understand that assurances, as to the percentage of completed surveys, are to be submitted to the examination at a later deadline.</p> <p>Please see specific responses to questions of the ExA given below.</p> <ul style="list-style-type: none"> i) Concerns regarding receptors are not specific to location, as the incomplete data meant that it could not be ascertained which areas had less than the required number of surveys to make robust conclusions. ii) This depends on how much of the surveys have been completed; if it is the majority of surveys that have been carried out, with only a small proportion missing, as confirmed by the Applicant verbally, then the Council would be satisfied, and the remaining surveys would be desirable rather than strictly needed. <p>The information the Applicant will provide at a later deadline is aiming to provide clarification that the majority of surveys have been carried out and therefore confidence can be had in the survey results.</p> <ul style="list-style-type: none"> iii) To have confidence in survey results and subsequent impacts and mitigation. iv) This varies depending on the extent of the DCO area, as in some areas it will be large enough to have taken standard survey distances into account, but in some areas it may not be. <p>Standard survey areas for Barn owls are usually 100m from the area of impact, which is the area needed so as not to have an impact on breeding Barn owls. See CIEEM Barn Owl Survey Methodology and Techniques for use in Ecological Assessment Appendix II Barn Owl Disturbance and Protection Zones. Barn Owl Survey Methodology and Techniques for use in Ecological Assessment CIEEM.</p> <p>For Bats, it will depend on the hedgerow and tree quality in the specific locations. Section 8.2.4.1 of the Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edition) also states this. Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edition) CIEEM</p> <ul style="list-style-type: none"> v) No ecological information to add. 	<p>impacts of construction. The Applicant has additionally 'assumed presence' of receptors beyond the Order Limits, in line with a precautionary approach. The Applicant has subsequently developed robust mitigation measures and principles, in cognisance of the above, ensuring that these will safeguard receptors during construction and can be applied irrespective of the detailed design. The Applicant has agreed with CWCC the inclusion of the percentage survey completion table as an Annex to the CWCC SoCG [REP2-027], as updated and submitted at Deadline 6.</p>

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
Q2.4.2	<p><i>Surveys</i></p> <p>CWCC and IPs</p>	<p>CWCC</p> <p>CWCC notes further surveys were presented to the Examination on 3 March 2023 by the Applicant and accepted by the ExA, as part of the Applicant's Section (s) 51 advice response, on 14 March 2023. Some of these documents were subsequently superseded by documents that replace the originals due to a publishing error. These were accepted into the examination by the ExA on 20 March 2023. The replacement documents have a '*' next to the Examination Library document reference number in the list set out below.</p> <p>These surveys were contained in: Chapter 9 – Biodiversity [AS-025]; Bat Activity Survey Report [AS057]*; Bats Activity Survey Report Annex G Part 2 [AS029]; Bats and Hedgerows Assessment [AS-031], [AS-033], [AS-035] to [AS-038] and [AS-059]*; Riparian Mammal Survey Report [AS-039]; and an Outline Construction Environmental Management Plan (CEMP) [AS-055].</p> <p>CWCC indicated additional time is needed to properly address this environmental information. The ExA would ask how much additional time is being sought or whether CWCC is able to clarify its views on the content of the above documents at this stage? If so, please give your comments.</p> <p>IPs</p> <p>All IPs are invited to comment</p>	<p>The documents have been reviewed and responses given in the Council's Response to comments on the WR Addendum at DL1A, submitted at Deadline 4 [REP4-277] which gives a summary of the position on survey data in paragraphs 2.2 and 2.4.</p> <p>In summary, more confidence has been given to survey data, due to information presented during a meeting held on 22/05/23 between the Council and the Applicant.</p> <p>The Council understand that assurances, as to the percentage of completed surveys, are to be submitted to the examination at a later deadline.</p>	<p>The Applicant has agreed with CWCC the inclusion of the percentage survey completion table as an Annex to the CWCC SoCG [REP2-027], as updated and submitted at Deadline 6.</p> <p>The Applicant has no further comment on this matter at this time.</p>
Q2.4.4	<p><i>Survey/ mitigation</i></p> <p>Applicant/ CWCC/ FCC/ NE/ NRW/ IPs</p>	<p>The Applicant indicates updated surveys will take place at detailed design stage and mitigation is sufficient to safeguard or otherwise mitigate identified receptors within the Order Limits and beyond. But how is it clear mitigation would be effective without full survey information being available to first inform this?</p> <p>Do IPs find the Applicant's position appropriate?</p>	<p>The Council's response to comments on the WR Addendum at DL1A submitted at Deadline 4 [REP4- 277] gives a summary of the position on survey data in paragraphs 2.2, 2.3, 2.4 and 2.5.</p> <p>In summary, more confidence has been given to survey data, due to information presented during a meeting held on 22/05/23 between the Council and the Applicant.</p> <p>The Council understand that assurances, as to the percentage of completed surveys, are to be submitted to the examination at a later deadline, to satisfy the Council that the majority of surveys have been undertaken, with only a small proportion remaining, thereby giving enough</p>	<p>The Applicant has no further comment on this matter at this time.</p>

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
			information on which to base conclusions and allow updated surveys later in the detailed design stage.	
Q2.4.5	<i>Likely Significant Effects (LSE) to protected fauna</i> CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	Does CWCC/ IPs agree that the direct/ indirect affects arising to protected fauna from the pipeline route could either be managed/ avoided (where it is possible) and subsequently mitigated if needed? If not, please state why not outlining the specific areas of disagreement. What formal mechanisms could be applied to ensure that direct/ indirect effects arising from any survey absence or ecological data shortcoming is properly managed/ accounted for through the DCO?	Subject to survey completion confirmation to be received at a later deadline, the Council accepts that indirect/direct effects to protected fauna can be managed/mitigated. Formal reporting and monitoring mechanisms can be secured within the LEMP, as well as reporting to the statutory body for protected species.	The Applicant can confirm that the LEMP, to be prepared at the detailed design stage in accordance with Requirement 11 of the dDCO [CR3-008] , will provide necessary information on reporting and monitoring mechanisms and requirements. These will additionally take into account the requirements of any protected species licensing that is required to facilitate construction of the DCO Proposed Development.
		The Applicant's 'Draft BNG Strategy Update' received at Deadline 2 [REP2-042] states that they are seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5. As part of that intended programme, the Applicant has indicated this would comprise the following: <ul style="list-style-type: none"> • Identification of landowners for BNG for Welsh Woodland. • Confirmation of English and Welsh sites for other required habitat offsets. - Initial data check of baseline via a desktop study. • Review and checking of third-party survey data. • Agree format of legal agreements to secure ongoing management of BNG. • Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management. • Do IPs feel the above draft intentions are extensive enough? Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion? What else could be done to maximise ecological enhancements or BNG proposals?	Further detail on BNG site provision has been given in updated BNG Strategy document: Liverpool Bay CCS Limited Deadline 3 Submission - D.7.23 HyNet CO ₂ Biodiversity Net Gain Strategy Update [REP3-035] There are no further strategies that are known at this time.	The Applicant has no further comment on this matter at this time.

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
Q2.4.7	<i>Biodiversity Enhancement/ BNG</i> Applicant/ CWCC/ FCC/ NE/ NRW/ Welsh Government/ Woodland Trust/ IPs	<p>Nature markets referred to in UK Government guidance could provide a realistic channel for making further improvements that benefit nature. Local planning authorities can assist with such proposals by formulating/ providing:</p> <ul style="list-style-type: none"> • biodiversity action plans; • green infrastructure strategies; • catchment management plans; • biodiversity opportunity areas; and • local nature partnership documentation. <p>Any proposal would also need a secure relevant land by legal agreement managing the habitat for at least 30 years. This could be achieved through a planning obligation (s.106) or a conservation covenant with a responsible body. The land could be subsequently registered as a biodiversity gain site from November 2023. Current guidance outlines that the biodiversity units could be allocated to a development before or after they are registered.</p> <p>What scope is there for nature markets to be used to deliver biodiversity enhancement?</p> <p>Would IPs want to assist such proposals in any active engagement with the Applicant?</p> <p>Has the Applicant considered such an approach, in tandem with the range of nature strategies mentioned by IPs in responding to the ExA's first written questions?</p> <p>The ExA requests that full consideration of emerging/ developing nature markets be given in the draft BNG Strategy (as an additional last resort option), alongside it being broadened to incorporate an ecological enhancement strategy given the specific terminology used in wider Welsh and English environmental law/ policy applicable to the scheme (including s.6 of the Welsh duty).</p>	<p>As the Council is discussing what makes up only part of the HyNet Carbon BNG solution on its land, an overall view on whether last resort nature markets may need to be accessed to achieve full BNG, is more appropriately directed to the Applicant.</p> <p>Currently, the Council is working within its Ecological Network to deliver BNG with the Applicant. The Council would be happy to work with the Applicant to inform them of the developing Local Nature Recovery Strategy and how they can input/deliver BNG if required. However, this is not expected for most LPA's to be formulated until approximately 18 months from now. It is also noted that secondary legislation and DEFRA guidance for the Environment Act, which is expected to give further detail on such matters, is not yet released.</p> <p>In addition, an agreement to be entered into pursuant to Section 111 of the Local Government Act 1972 is in negotiation between the parties and is considered the best way to secure off-site BNG with the Council.</p> <p>The Council is also likely to register its land on the BNG Register when appropriate.</p> <p>Other parties are expected to input into this response.</p>	<p>The Applicant notes the response from CWCC and concurs that discussions are on-going regarding how to contribute towards the CWCC Ecological Network (associated with Local Plan Part 2 Policy DM44) through funding habitat creation and enhancement as detailed within the BNG Strategy [REP5-012] (an updated version is submitted at Deadline 6).</p> <p>The Applicant welcomes the opportunity to input to the developing LNRS but also acknowledges its nascency. In the interim, it is considered that aligning the Applicant's BNG Strategy to the Ecological Network is the most appropriate approach to ensuring strategic habitat networks are appropriately considered, and any BNG offsetting is future-proofed with respect to strategic locations within the borough.</p>
Q2.4.9	<i>Trees</i> Applicant/ CWCC/	<p>A 'Trees and Woodland Strategy Toolkit' has been published during 2023 with the aim to equip Local Authorities so they can plan, create or update their own Trees and Woodland Strategies and harness</p>	<p>The Council acknowledges the advice.</p>	<p>The Applicant has no further comment on this matter at this time.</p>

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
	FCC/ NE/ NRW/ IPs	<p>the long-term benefits that trees can bring to local communities.</p> <p>All relevant Councils are requested to acknowledge the advice now issued.</p> <p>All parties within the Examination are invited to make use of all best practice provision and reference currently available.</p> <p>Do relevant Councils have any plans or potential aspirations to formulate such strategies in the coming fiscal periods, in light of the Examination matters for discussion or otherwise?</p>	<p>The Council has a Tree and Woodland Strategy and intends to review and update this when time and resources allow.</p> <p>When this is undertaken, recent guidance provided by the Tree Council will be used as a basis for review and republication.</p>	
5.	Climate Change			
Q2.5.1	<p><i>Mitigation/ Design</i></p> <p>Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust /IPs</p>	<p>The new tree and landscaping provision anticipated in the DCO scheme could be more robust in the safeguards available against any climatic or environmental condition changes triggering future failure.</p> <p>The Applicant is requested to thoroughly review this element of the scheme provision with the aim to lengthen replacement periods along with a tighter future management provision which is formally secured. The aim of the approach is to ensure all replacement and new planting is effective as possible, with the highest environmental outcomes possible realistically achieved.</p> <p>The point would also be applicable to any off-site landscaping element yet to be tabled but indicated as being subject to ongoing discussion.</p>	<p>The Council has no objection to the inclusion of a more robust landscaping provision including lengthened replacement periods.</p>	<p>The Applicant has no further comments on this matter at this time.</p>
Q2.5.2	<p><i>Mitigation/ Design</i></p> <p>Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust/ IPs</p>	<p>What provision/ commitments can be made for fast growing trees? And if so, how could that be formally committed to and secured?</p> <p>How can new planting species selection be conducive in dealing with both climate change pressures and reinforcing native wildlife?</p> <p>Are the public organisations involved in the Examination able to provide further recommendations towards species/ resilience</p>	<p>The Council has no objection to proposal for including for some fast-growing tree species within areas where this is suitable i.e. structure planting. Please note that all tree planting should all be native species.</p> <p>Consideration should be given to future maintenance as the faster-growing species may require thinning out within a 5/10/15 year period to achieve the desired tree cover establishment.</p>	<p>The Applicant notes that CWCC has no objection to the inclusion of further fast-growing species and can confirm that species generally considered to be native will be specified. The Applicant would refer CWCC to the Applicants Responses to Examining Authority's Second Written Questions [REP5-025].</p> <p>The Applicant confirms that the detailed LEMP (secured by Requirement 11 of the DCO [CR3-008]) will have specific provision to manage faster growing species</p>

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
		matters with locational specific advice in mind? If so, your comments are invited.	The Council would be happy to work with the applicant's landscape representative in agreeing the tree planting species and schedules.	including monitoring and periodic reviews which will identify requirements including thinning operations. The Applicant would welcome the opportunity to discuss tree and landscape provision further at the detailed design stage.
6.				
Q2.6.4	<i>Clarification</i> Applicant/ CWCC	Pursuant to Q2.6.3 above, the ExA would ask the Applicant/ CWCC to confirm whether they are aware of any submission(s)/ application(s), planning or otherwise, formally submitted for the above-mentioned solar scheme. This includes any submissions not yet formally registered (i.e. 'Invalid'). In the event of such a submission/ application(s) having been lodged please provide, where possible/ relevant: I. the submission/ planning application reference number issued by the LPA; II. a description of the type of application and the development; and III. a copy of the decision/ opinion issued by the LPA.	The Council confirms that, at the time of this response at Deadline 5, the only formal submission(s) or application(s) valid or otherwise for a solar development at the land identified in 'Appendix 1' of the Rostons representation [REP1-079] relates to a request for a Screening Opinion made to the Council under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, reference no. 22/04248/SCR and submitted to the Council on 09.11.2022. 22/04248/SCR relates to the "Request for Screening Opinion for proposed solar farm development and energy battery storage system on land north of the M56 and east of Thornton Green Lane (B5132)". At the time of this response the Council has not yet adopted a Screening Opinion. Should there be any subsequent applications / submissions received by the Council or determinations made by the Council at this site during the Examination, the Council would be happy to provide an update.	The Applicant has no further comments on this matter at this time.
7.		Cultural Heritage and the Historic Environment		
Q2.7.1	<i>Information</i> Applicant/ CWCC/ FCC	It is highlighted in paragraph 2.3 of [REP1-061], that any further requirement for mitigation to be directed by further Heritage Impact Assessments is not specified within the Outline LEMP or the Register of Environmental Actions and Commitments [REP2017], nor directly provided for in the wording of the draft DCO Requirements. For this reason, the CWCC position remains that further heritage assessments including appropriate mitigation should be provided for within the Outline CEMP or specifically required within the DCO	The Council refers the ExA to its response in respect heritage matters within paragraphs 2.2.25 - 2.2.36 of the Councils response to the Applicants comments on LIR [REP3-044] and paragraph 2.2.3 of the Council's response to the Applicants comment on the WR [REP3- 042]. Following further clarifications by the Applicant the Council is satisfied that adequate mitigation would be secured by the final LEMP and REAC without the need for further, individual, heritage assessments. The Council considers that adequate mitigation is able to be provided to ensure no harm to identified heritage	The Applicant notes the response and has no further comment.

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
		<p>Requirements. The Applicant's view on such an approach is sought?</p> <p>CWCC</p> <p>Can CWCC provide any information to the Examination on the specific heritage assets involved including any relevant appraisals or risk surveys within its administrative area?</p> <p>Does CWCC have Heritage/ Conservation Officer advice it can refer to the Examination for the benefit of dealing with this issue?</p> <p>Does the Council have an independent working party, or similar, to which heritage advice can be procured and fed into the Examination?</p> <p>Can the Council clarify its own views on the cultural and heritage implications of the proposal including on the Shropshire and Union Canal?</p> <p>Please specify any requests for specific mitigation such as additional landscaping or any other measures not already accounted for.</p> <p>FCC/ CWCC</p> <p>Would cultural appreciation enhancements to be embedded within the scheme design be appropriate? For example, public information display/ notices close to public rights of way linked to any heritage assets potentially impacted by the scheme, or linked to a local cultural/ heritage trail or similar?</p>	<p>assets and therefore does not hold any outstanding concerns in respect above ground heritage.</p>	
10.	Flood Risk, Hydrology, Water Resources and Contamination			
Q2.10.3	<p><i>Drainage/ Water environment</i></p> <p>Environment Agency (EA)/ NRW/ United Utilities Water (UUW) FCC/ CWCC/ IPs</p>	<p>The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs would be submitted to and approved by the relevant planning</p>	<p>Schedule 3 of the Flood and Water Management Act 2010, which is due to come into force through secondary legislation (Regulations) in early 2024, may have implications on the proposed drainage strategies for this Project.</p> <p>However, in the instance infiltration has been discounted via testing in line with BRE 365, then an above ground attenuation basin / pond and restricted surface water run-off rate at Greenfield rate into a watercourse will likely be</p>	<p>The Applicant has no further comments on this matter at this time.</p>

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
		<p>authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority.</p> <p>Do IPs have any comments on that approach bearing in mind policy/ legislative changes which could be implemented?</p> <p>Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not?</p>	<p>satisfactory and therefore likely meet the demands of Schedule 3.</p> <p>Confirmation of this can only be given once the Council in its capacity as Lead Local Flood Authority understands how Schedule 3 will function in practice.</p> <p>The Council does not currently raise any objections to the proposed treatment methods, as stated within the outline drainage strategy.</p>	
Q2.10.4	<i>Drainage/ Water environment</i> EA/ NRW/ UUW/ FCC/ CWCC/ IPs	<p>The Applicant indicates the current drainage proposal follows the Simple Index Approach suggested by The SuDS Manual CIRIA C753 in order to evaluate the water quality. The scheme is referred to as being designed so the total pollution mitigation index has exceeded the pollution hazard index. The Applicant has also provided details in the submitted Outline Surface Water Drainage Strategy [CR1-111].</p> <p>Is the approach indicated adequate given any existing uncertainties in gauging surface and ground water conditions?</p>	<p>Given the indicative depths of the proposed attenuation ponds, the Council does not currently envisage any high localised groundwater tables having significant impacts on the proposal. Any areas with high groundwater tables will need to be appropriately mitigated through design, accounting for the groundwater whilst offering an appropriate level of freeboard. The outline drainage strategy confirms groundwater monitoring will take place to obtain accurate, long term groundwater data levels.</p>	The Applicant has no further comments on this matter at this time.
15.	Planning Policy			
Q2.15.2	<i>National Strategy</i> Applicant/ FCC/ NRW/ EA/ IPs	<p>The ExA acknowledges that on 10 January 2023 the UK Government published the 'Sustainable Drainage Systems Review' and have accepted the recommendation to make SuDS mandatory for new developments in England and will progress with the implementation phase. The Government has indicated it will devise regulations and processes for the creation of SuDS systems through the implementation of Schedule 3 to the Flood and Water Management Act 2010. Implementation of the new approach is expected during 2024 and therefore any outcomes/ implications to the DCO development should be addressed at this point.</p> <p>The overarching aim is to reduce the risk of surface water flooding, pollution and help alleviate the pressures on traditional drainage and sewerage systems, reducing the overall amount of water that</p>	<p>There is still limited information regarding how Schedule 3 will function in practice. However, the Council is satisfied with the principles behind the design for the drainage strategies and would currently raise no objections. At detailed design, the Applicant will be required to demonstrate the outfalls are sustainable and have appropriate connectivity.</p>	The Applicant has no further comments on this matter at this time.

Reference	Question to	Examining Authority Question	CWCC Response to Question	Applicant's Response
		ends up in the sewers and storm overflow discharges. The ExA asks would new drainage mitigation, relevant to the DCO scheme and its future management, be in line or made in line with the policy/ legislative changes to be implemented? Explain your reasoning why either way.		
19.	Draft Development Consent Order			
Q2.19.1	<i>Local Government Act 1972, s.111</i> Applicant/ FCC/ CWCC	Does the Applicant/ FCC/ CWCC/ IPs anticipate utilising mechanisms available under s.111 of the Local Government Act 1972 within the DCO? (i.e., to secure off-site provision, or any other requirement applicable?)	The Council is currently in negotiations with the Applicant to secure a financial contribution to secure off-site BNG mitigation through a deed to be entered into under section 111 of the Local Government Act 1972 (as amended). The Council is awaiting a revised draft from the Applicant following discussions between the parties.	The Applicant can confirm that discussions with CWCC regarding finalising an appropriate agreement are ongoing. An updated BNG Strategy [REP5-012] has been submitted at Deadline 6.

Table 2.3 – Applicant's Comments on Submission Received from Environment Agency at Deadline 5 [REP5-033]

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
10.	Flood Risk, Hydrology, Water Resources and Contamination			
Q2.10.3	<i>Drainage and Water</i> Environment Agency (EA) / NRW / United Utilities Water (UW) / FCC / CECC / IPs	The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs would be submitted to and approved by the relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority. <ul style="list-style-type: none"> Do Ips have any comments on that approach bearing in mind policy/ legislative changes which could be implemented? Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the 	The EA welcome the intention to secure the detailed drainage design strategy for the AGIs and BVSs through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005], where this relates to the EA's focus and remit in terms of pollution prevention and Flood Risk Activity Permits (FRAPs) where necessitated. The EA raised in their Deadline 1 submission [REP1-062], under 'Outline Surface Water Drainage Strategy [APP-241]', where surface water drainage proposals include infiltration, this should be informed by a suitable ground investigation / assessment to establish ground conditions and, where remediation is required, it is demonstrated that infiltration to ground does not pose an unacceptable risk to 'controlled waters'. We are aware the applicant has included infiltration trenches as part of the drainage strategy for the proposed Above Ground Infrastructure (AGIs) / Block Valve Stations (BVSs) to facilitate the pipeline scheme, where it has also been recognised this component provides a level of treatment prior to discharge.	The Applicant can confirm that the Simple Index Approach (SIA) suggested by The SuDS Manual CIRIA C753 is used in the Outline Surface Water Drainage Strategy [CR3-017] to evaluate the water quality. According to the Pollution Hazard Indices for Different Land Use Classifications table in CIRIA C753, total suspended solids (TSS) (0.5), metals (0.4) and hydrocarbons (0.4) have been used for the DCO Proposed Development for calculation of Pollution hazard index. Without considering the infiltration trench, the total SuDS Mitigation Index from the proposed filter drainage channel* and detention pond** has already exceeded the Pollution hazard index, hence the proposed surface water drainage design satisfies the pollution control requirements. * TSS (0.7), metals (0.6) and hydrocarbons (0.7) ** TSS (0.5), metals (0.5) and hydrocarbons (0.6)

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
		<p>pollution control, amenity, and biodiversity requirements? If not, please state why not?</p>	<p>As additional information on ground conditions (and remedial requirements where necessary) is anticipated at the detailed design stage (including additional ground investigation; assessment; and remediation where required), the EA are unable to confirm whether the proposed SuDS treatment methods implied within the Outline Surface Water Drainage Strategy [CR1-111] satisfy pollution control requirements at this time. In the instance there is uncertainty on whether ground conditions are suitable for infiltration and / or effectual remediation has occurred to ensure there is no remaining potential risk of contaminants being mobilized, alternative SuDS / methods (i.e. lining of components) may be required. Therefore, we would request draft DCO requirement 8 removes specific reference to the outline surface water drainage strategy.</p> <p>The applicant should be aware that where SuDS elements such as filter drains or attenuation basins proposed to drain catchments that may be subject to contamination, such as roadways or hardstanding, that these structures should be lined in order to prevent the discharge of potentially contaminated surface water to ground / groundwater. This is particularly relevant for the proposals at the Stanlow AGI.</p>	<p>With regards to proposed filter drains and ponds, the Applicant can confirm they will be lined.</p> <p>The Applicant has discussed the request to remove the outline surface water drainage strategy from Requirement 8 following receipt of the Deadline 5 submission. The Applicant understands that the EA concern relates to wording which is considered too definitive as to the particulars of details of the design ahead of further site investigation being completed. The Applicant did not intend these descriptions to be read as definitive, they were intended to show how drainage could be provided for each site in accordance with the hierarchy and standards and demonstrate how the worst case options had been allowed for in the Order Limits should preferable options not be feasible. The Applicant is revisiting the strategy wording to seek to resolve the EA's concern.</p>
<p>Q2.10.4</p>	<p><i>Drainage / Water Environment</i> EA / NRW / UUW / FCC / CWCC / IPs</p>	<ul style="list-style-type: none"> The Applicant indicates the current drainage proposal follows the Simple Index Approach suggested by The SuDS Manual CIRIA C753 in order to evaluate the water quality. The scheme is referred to as being designed so the total pollution mitigation index has exceeded the pollution hazard index. The Applicant has also provided details in the submitted Outline Surface Water Drainage Strategy [CR1-111]. Is the approach indicated adequate given any existing uncertainties in gauging surface and ground water conditions? 	<p>The EA has no concerns with the proposed approach to assess water quality requirements for the surface water drainage scheme in accordance with the guidance provided in The SuDS Manual (CIRIA C753).</p> <p>We would refer to our response in Q2.10.3 with regards to understanding the relevant SuDS components that will be appropriate as part of the surface water drainage strategy at the detailed design stage.</p> <p>The EA would advise where contaminated runoff is to discharge to surface water or to ground, an Environmental Permit, under the Environmental Permitting (England and Wales) Regulations 2016, will be required.</p>	<p>Please refer to the Applicant's response to Q2.10.3 above in relation to the relevant SuDS components.</p> <p>In relation to an Environmental Permit, the Applicant can confirm that it will be applied for at the appropriate time as set out in the Other Consents and Licences document [REP4-020].</p>
<p>15.</p>	<p>Planning Policy</p>			

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
Q2.15.1	National Strategy Applicant / FCC / NRW / EA / IPs	<p>The ExA acknowledges that on 10 January 2023 the UK Government published the 'Sustainable Drainage Systems Review' and have accepted the recommendation to make SuDS mandatory for new developments in England and will progress with the implementation phase. The Government has indicated it will devise regulations and processes for the creation of SuDS systems through the implementation of Schedule 3 to the Flood and Water Management Act 2010. Implementation of the new approach is expected during 2024 and therefore any outcomes/ implications to the DCO development should be addressed at this point.</p> <ul style="list-style-type: none"> The overarching aim is to reduce the risk of surface water flooding, pollution and help alleviate the pressures on traditional drainage and sewerage systems, reducing the overall amount of water that ends up in the sewers and storm overflow discharges. The ExA asks would new drainage mitigation, relevant to the DCO scheme and its future management, be in line or made in line with the policy / legislative changes to be implemented? Explain your reasoning why either way 	<p>From the EA's perspective, at this time the implementation of Schedule 3 to the Flood and Water Management Act 2010 will still require the applicant to:</p> <ul style="list-style-type: none"> Apply for a Flood Risk Activity Permit (FRAP) from the EA, where required, for new outfalls facilitating the discharge of SuDS systems to 'main river' watercourses. Apply for an Environmental Permit from the EA if the discharge from the SuDS system to ground or surface water is contaminated. <p>The 'Sustainable Drainage Systems Review' recognises that compliance with the Environmental Permitting (England and Wales) Regulations 2016, as a separate regulatory regime, is still applicable. Therefore, we are satisfied that any new drainage mitigation within the EA's focus and remit can be managed in line with the implementation of the new approach.</p>	<p>The Applicant notes the response. The appropriate additional consents will be applied for at the appropriate time as set out in the Other Consents and Licences document [REP4-020].</p>
Issue Topic 18.	Waste Management			
Q2.18.1	Applicant / EA / NRW / NE / Canal and River Trust / IPs	<p>Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with invasive plant species during construction which constitute a 'Controlled Waste' should they be found and need to be removed / disposed. (i.e., 'Japanese Knotweed' affected soil would amount to a Controlled Waste).</p> <p>What formal mechanisms within the DCO would be in place to deal with invasive plants such as Japanese Knotweed should that be identified at any stage.</p>	<p>The EA has the following guidance and recommendations on invasive non-native species (INNS) as requested by the ExA. We note the applicant is intending to produce a Bio-Security Management Plan, prior to construction, to manage invasive nonnative species (INNS) where identified.</p> <p>We would expect the applicant to adhere to the following management and biosecurity guidance to significantly reduce the risk of spreading invasive INNS, including Japanese Knotweed:</p> <ol style="list-style-type: none"> https://www.gov.uk/guidance/prevent-the-spread-of-harmfulinvasive-and-non-native-plants 	<p>The Applicant submitted an Outline Biosecurity Management Plan (OBMP) [REP5-020] at Deadline 5, which includes information regarding species identification and management measures from a range of available resources/websites including the GOV.UK and nonnativespecies.org, which have been referenced within the OBMP. Information relating to the safe and legal transport and disposal of Japanese Knotweed has been included within the OBMP. The Applicant can additionally confirm that pre-construction surveys encompassing the final pipeline route and an appropriate zone of influence will be completed ahead of construction commencement. These will encompass a</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
		<p>Is survey work to investigate the presence of invasive plant species needed at this stage? If not, state why not.</p> <p>Do additional specific requirements / commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species? If not, state why not.</p>	<p>2. https://www.gov.uk/guidance/prevent-japanese-knotweed-from-spreading</p> <p>3. Management » NNSS (nonnativespecies.org)</p> <p>4. Biosecurity and pathways » NNSS (nonnativespecies.org)</p> <p>The gov.uk website (2.) above includes information on methods of disposal for Japanese Knotweed. In addition to recognising the different methods of disposal, we advise the applicant acknowledges that there may be requirements under the Environmental Permitting (England and Wales) Regulations 2016 when considering the disposal of INNS.</p> <p>Ecological surveys must identify any INNS species on land and in water within the DCO development boundary. The EA are satisfied that it is not necessary to require such survey work / detailed information as part of the Examination process and can therefore, be provided as part of the Bio-Security Management Plan as recognised in the applicant's OCEMP [REP4-238] and Register of Environmental Actions and Commitments (REAC) [REP4-235] (ES ref. D-BD-041 and D-BD-042).</p> <p>We would recommend the applicant utilises the information provided in the websites above to inform the Biosecurity Management Plan for the proposed scheme and establishing any additional requirements / commitments for INNS management at this stage.</p>	<p>range of species and receptors and will include a search for invasive non-native species.</p>

Table 2.4 – Applicant's Comments on Submission Received from Eversheds Sutherland LLP on behalf of Encirc Ltd at Deadline 5 [REP5-034]

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
Q2.1.1	Applicant/ Interested Parties (IPs)	Given the change requests submitted by the Applicant [CR1-001] and [CR2-016] have been consulted upon and/ or are currently undergoing statutory consultation, and assuming all formal consultation provision has been declared and verified as being met for the Change Requests, the ExA would ask whether if further Hearing(s) or ExA written questions, beyond those already programmed in the Examination timetable, would be required as pertinent avenues to address any remaining Examination matters. Applicant/ IP comment is invited if considered appropriate.	<p>As set out in Encirc's response to DL4, at the Hearings on 8th June 2023, it was agreed that the Applicant would insert Protective Provisions in favour of Encirc. The Applicant and Encirc have since exchanged draft Protective Provisions and are in the early stages of discussions surrounding these.</p> <p>Encirc is hopeful that the Protective Provisions will lead to a way in which the Project can be implemented whilst protecting the operation of the Encirc facility, maintaining the required access to the Encirc Site, and ensuring that Encirc's future development plans can be brought forward. However, if an agreement cannot be reached between the parties in respect of the Protective Provisions, or the changes to the rights of access made through the applicant's Change Request 3 do not address Encirc's concerns, then additional Hearings sessions may be required to find a solution.</p>	<p>The Applicant continues to engage with Encirc on proposed Protective Provisions and is awaiting feedback on the proposals to address Encirc's points.</p> <p>The Applicant shares Encirc's view regarding Protective Provisions providing a way to progress ensure the Applicant's plans can co-exist with Encirc's operational business and their development plans.</p>
Q2.1.2	Applicant	The concerns of the Council, Peel NRE and Encirc concerning the potential impacts on Protos Plastics Park, delivery of the railway line that formed part of the overarching planning permission (14/02277/S73) and the potential expansion of the Encirc Glass Manufacturing Facility are noted, including potential loss/ sterilisation of part of a strategic site and/ or safeguarded site(s). The ExA would urge the Applicant to resolve the concerns of the relevant IPs as a priority and provide an update to the ExA in regard to what is being done to address these matters and how they are to be resolved within the remaining Examination period."	<p>Encirc held discussions with the Applicant on 23 June 2023 to discuss changes that could be made to protect the operation of its facility and ensure that Encirc's future development plans can be brought forward. It is understood following these discussions that the Applicant will submit a Change Request 3. Encirc will review and comment on whether these changes address the concerns that were raised on behalf of Encirc at the Hearings session on 8th June 2023, as summarised in Encirc's response to DL4.</p> <p>Encirc has requested that rights of access over plot 1-21 are downgraded to temporary in order to safeguard the future development of an enhanced rail facility, which will be located approximately 300m along the existing rail lines. This new facility will include new rail sidings and an intermodal area. It is important that the applicant confirms that their land interest/temporary access right will not prejudice the implementation of this rail enhancement scheme. Following the meeting between Encirc and the Applicant on 23 June 2023, the rights of access over 1-21 remains subject to further</p>	<p>The Applicant submitted Change Request 3 at Deadline 5 and it was accepted by the ExA on 12 July 2023. The Applicant can confirm the changes have been made in line with Encirc's requirements (Change 4).</p> <p>The Applicant has informed Encirc, that rights of access are required over 1-21 have not been included in Change Request 3, as there is uncertainty over the accessibility of the route to the future easement contained in Plot 1-22 routed via 1-06, and the Applicant plans to use a field gate currently in the northwest corner of 1-21, to ensure access is achievable and to minimise impact. Noting Encirc's concerns on this further land use and rights, the Applicant is seeking to include the downgrading of this land under protective provisions, subject to a suitable alternative means of access rights being given to the Applicant. The Applicant is awaiting feedback on the proposals included in draft Protective Provision to address this specific point raised by Encirc.</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
			discussion between the parties. Until a solution is agreed, whether it be through Protective Provisions or by downgrading 1-21 to temporary rights of access, Encirc's objection still stands.	

Table 2.5 – Applicant's Comments on Submission Received from Flintshire County Council at Deadline 5 [REP5-035]

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
Q2.1.1	<i>Information</i> Applicant/ Interested Parties (IP)	Given the change requests submitted by the Applicant [CR1-001] and [CR2-016] have been consulted upon and/ or are currently undergoing statutory consultation, and assuming all formal consultation provision has been declared and verified as being met for the Change Requests, the ExA would ask whether if further Hearing(s) or ExA written questions, beyond those already programmed in the Examination timetable, would be required as pertinent avenues to address any remaining Examination matters. Applicant/ IP comment is invited if considered appropriate.	FCC would not require any further hearing(s) or ExA questions on the change requests [CR1-001] or [CR2-016] beyond those already programmed in the Examination timetable. Outstanding matters can be dealt with via written reps, further questions from the ExA, and or further discussions with the applicant. With regards to CR1, Change 2, the pipe's proximity to the slurry store and the ancient woodland has been addressed insofar as FCC is concerned and as stated in FCC's RR to CR1. Updated ecological surveys to confirm baseline surveys are proposed and detailed within the REAC. Due to the proximity of the woodland the 'zone of influence for surveys' (primarily for badgers) will need to extend beyond the DCO boundary into the woodland.	The Applicant can confirm that pre-construction surveys encompassing the final Carbon Dioxide Pipeline route alignment and an appropriate zone of influence, as required, will be completed as provisioned for by the OCEMP [CR3-008] (D-BD-005 and D-BD-006) as secured by Requirement 5 of the DCO [REP4-007].
Q2.3.3	<i>Mitigation/ management</i> Applicant/ IPs	Having regard to both operation and construction phases does the Applicant propose any active management channels/mechanisms to support any future local complaint management scenarios related to the proposed infrastructure? Would there be any active management channel in place for the DCO development which members of the public would be able to contact directly? For example, if any member of the public needed to report an issue. If so, what would the contactable management provision comprise of? What assurances can the Applicant provide through formal mechanisms within the DCO to ensure that there would be adequate day to day management safeguards to deal with any public complaint issue/ concern should it arise during	<ul style="list-style-type: none"> FCC have not seen any final management proposals of mitigation as yet, but we have requested this and would also expect to be aware of the single point of contact from applicants' management team. FCC Pollution Control Team will be contactable between normal core hours. We do not have an out of hours service within the Team, but service manager is contactable if available out of hours as a nature of goodwill. 	The Applicant acknowledges the response from FCC. The Applicant submitted an Outline Stakeholder Communication Plan [REP5-023], at Deadline 5, which details the approach to the complaints procedure. This plan will be developed into a Detailed Stakeholder Communications Plan by the Applicant, which will set out stakeholder communication requirements for the DCO Proposed Development in accordance with Requirement 5(2)(l) of the draft DCO [CR3-008].

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
		construction or operation? The question would also extend to managing any landscaping provision to be undertaken.		
Q2.4.1	<i>Surveys</i> Applicant/ CWCC/ FCC/ Natural England (NE)/ Natural Resources Wales (NRW)/ IPs	<p>The absence of ecological surveys beyond the order boundary limits for barn owls and badgers are referred to by CWCC in their detailed correspondence received at Deadline 2 and it has highlighted concerns of incomplete surveys in respect of Bats and Barn Owls. As such CWCC consider the assessments of importance levels and value/ sensitivity of receptors are taken to be as being based on incomplete data sets. In addition, it notes the need for clarifications in respect of surveys of other identified receptors. The ExA would ask:</p> <ol style="list-style-type: none"> i. CWCC clarify which specific locational receptors it is referring to? ii. Whether CWCC take the view that all the information it has referred to is in fact necessary to inform a decision, or is it instead considered to be desirable in nature? iii. What are the specific reasons for any further surveys/ data being a necessary requirement of the Applicant? iv. What recommended distances (relative to the DCO area) for species specific ecological survey or additional data would need to be factored, bearing in mind any local or national best practice or professional expertise available to the Council? Provide clear reference to the source or ecological expertise involved. v. Does CWCC wish to add any ecological information it has knowledge of to the examination record with these above issues in mind? 	<ul style="list-style-type: none"> • FCC accept the ecological surveys as undertaken to best practice with appropriate buffers. However, Appendix 9.1 Habitats and Designated Sites Survey Report references that a wider survey area than the DCO was covered due to earlier iterations of the route but not specified on any plan. This would be useful. • NRW have referenced a 100m buffer for barn owls – this is particularly relevant to the Mancot/Sandycroft area where there are known successful breeding roosts. Details of Local recorders can be provided to the applicant if required. 	<p>Appendix 9.1 Habitats and Designated Sites Survey Report [REP4-091] shows the results of the Phase 1 habitat surveys completed within the Newbuild Infrastructure Boundary. However, where NVC surveys were completed, as shown within Figure 9.1.4 NVC Survey Results, a wider survey area than the DCO Order Limits is shown, where the habitat type was mapped in full for each particular NVC habitat type.</p> <p>Survey data has been recorded beyond the Order Limits for some receptors. Where this is beneficial to the assessment this has been presented within Chapter 9 Biodiversity of the ES [REP4-041] and its associated appendices (see Appendix 9.5 Badger Survey Report and its associated figures [REP4-104] for example). Barn owl were recorded within the Mancot/Sandycroft area [REP4-110], with surveys and assessments completed beyond the Order Limits in this area to understand the use of the landscape by barn owl. Appropriate mitigation principles and measures have been developed to safeguard identified receptors within and beyond the Order Limits.</p>
Q2.4.2	<i>Surveys</i> CWCC and IPs	<p>CWCC</p> <ul style="list-style-type: none"> • CWCC notes further surveys were presented to the Examination on 3 March 2023 by the Applicant and accepted by the ExA, as part of the Applicant's Section (s) 51 advice response, on 14 March 2023. Some of these documents were subsequently superseded by documents that replace the originals due to a publishing error. These were accepted into 	<p>At the time of submission for DL5, FCC were still in the process of reviewing the DL4 submission. Furthermore, some confidential species surveys had not been provided in sufficient time to read and respond to these documents.</p> <p>FCC respectfully request to defer the response on this question at a subsequent deadline.</p>	<p>The Applicant has provided clarification to both FCC and CWCC regarding the submission of updated documents at Deadline 4. There was no material change to the supporting appendices to Chapter 9 Biodiversity [REP4-041] at Deadline 4. However, due to a request for a consolidated ES by the ExA, the full suite of documentation was uploaded regardless of whether changes to documents were made. The</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
		<p>the examination by the ExA on 20 March 2023. The replacement documents have a '*' next to the Examination Library document reference number in the list set These surveys were contained in: Chapter 9 – Biodiversity [AS-025]; Bat Activity Survey Report [AS-057]*; Bats Activity Survey Report Annex G Part 2 [AS-029]; Bats and Hedgerows Assessment [AS-031], [AS-033], [AS-035] to [AS-038] and [AS-059]*; Riparian Mammal Survey Report [AS-039]; and an Outline Construction Environmental Management Plan (CEMP) [AS-055]. CWCC indicated additional time is needed to properly address this environmental information. The ExA would ask how much additional time is being sought or whether CWCC is able to clarify its views on the content of the above documents at this stage? If so, please give your comments.</p> <p>IPs - All IPs are invited to comment.</p>		<p>confidential appendices that FCC is referring to are the badger [REP4-104] and barn owl [REP4-110] appendices. These documents were amended and resubmitted into the Examination at Deadline 2 but have not been altered again since that deadline.</p>
Q2.4.4	Survey/ mitigation Applicant/ CWCC/ FCC/ NE/ NRW/ IPs	<ul style="list-style-type: none"> The Applicant indicates updated surveys will take place at detailed design stage and mitigation is sufficient to safeguard or otherwise mitigate identified receptors within the Order Limits and beyond. But how is it clear mitigation would be effective without full survey information being available to first inform this? Do IPs find the Applicant's position appropriate? 	<ul style="list-style-type: none"> The time lag between an Environmental Statement being produced and the implementation of a development means that there is always the need for updated surveys prior to the works starting and the closer to the commencement of works, the more accurate, the survey results. It is anticipated that the majority of species issues will remain the same, but the scale of the proposal means change is inevitable. The detailed design stage is the best time to update the surveys and relevant mitigation based on the existing REAC, OCEMP and species licences. The 'shadow' species licences are proposed now therefore a worst-case scenario needs to be incorporated. The time needed to undertake any follow up surveys and finalise mitigation and relevant licences needs to be realistic and take species activity into account. Inclusion of a timetable setting out the most appropriate months/seasons to survey within the OCEMP would be a helpful summary. 	<p>The Applicant has provisioned for pre-commencement surveys prior to construction, as detailed within the OCEMP [REP4-237], as secured by Requirement 5 of the DCO [CR3-008] and believes that the mitigation measures and principles it has developed to date are sufficiently robust and appropriate to safeguard receptors irrespective of future survey results. As alluded to in FCC's response, the need for alterations in mitigation approach would be assessed in response to pre-construction survey results.</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
Q2.4.5	Likely Significant Effects (LSE) to protected fauna CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	<ul style="list-style-type: none"> Does CWCC/ IPs agree that the direct/ indirect affects arising to protected fauna from the pipeline route could either be managed/ avoided (where it is possible) and subsequently mitigated if needed? If not, please state why not outlining the specific areas of disagreement. <p>What formal mechanisms could be applied to ensure that direct/ indirect effects arising from any survey absence or ecological data shortcoming is properly managed/ accounted for through the DCO?</p>	<ul style="list-style-type: none"> As per response to Q2.4.4, the key to avoiding impacts will be ensuring ecological compliance with the agreed mitigation measures. The REAC references a team of Ecological Clerk of Works to oversee the construction D-BD-001 as well as appointment of a third party to undertake compliance audits D-BD-003. 	The Applicant has no further comment on this matter at this time.
Q2.4.6	Biodiversity Enhancement/ Biodiversity Net Gain (BNG) CWCC/ FCC/ NE/ NRW/ Woodland Trust/ Welsh Government/ IPs	<p>The Applicant's 'Draft BNG Strategy Update' received at Deadline 2 [REP2-042] states that they are seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5. As part of that intended programme, the Applicant has indicated this would comprise the following:</p> <ul style="list-style-type: none"> Identification of landowners for BNG for Welsh Woodland. Confirmation of English and Welsh sites for other required habitat offsets. Initial data check of baseline via a desktop study. Review and checking of third-party survey data. Agree format of legal agreements to secure ongoing management of BNG. Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management. <ul style="list-style-type: none"> Do IPs feel the above draft intentions are extensive enough? Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion? What else could be done to maximise ecological enhancements or BNG proposals? 	<ul style="list-style-type: none"> There is good engagement regarding BNG proposals with Flintshire Countryside Service, but the metric is very specific and does not include wider opportunities for species. Further options to maximise ecological enhancements will be via species licences and the relevant mitigation. Community benefits should also include local biodiversity benefits. <p>Current examples include those submitted to support the Awel y Môr Windfarm DCO application. The following documents can be viewed on the infrastructure website for the Awel y Môr Offshore Wind DCO application and will be provided in pdf format for the ExA: https://infrastructure.planninginspectorate.gov.uk/wpcontent/ipc/uploads/projects/EN010112/EN010112-000504-Awel%20y%20Mor%20Offshore%20Wind%20Farm%20-%20Bilingual%20Examination%20Library.pdf <i>REP7-026: Outline Landscape and Ecology Management Plan</i> <i>REP8-016: Schedule of Mitigation and Monitoring</i> <i>REP8-049: NRW Statement of Common Ground</i></p>	<p>The Applicant has provisioned for the consideration of enhancement opportunities during the development of the detailed design of the DCO Proposed Development, as captured within item D-BD-066 of the Outline Construction Environmental Management Plan (OCEMP) [REP4-235], secured by Requirement 5 of the dDCO [CR3-008]. The Applicant also acknowledges FCC's comments regarding the potential for enhancement opportunities to be secured through protected species licensing, where these are required.</p> <p>The Applicant notes FCC's comment about community benefit and re-iterates that its community benefit proposal is voluntary and proposed entirely outside of the planning process, is not being secured as a planning obligation and it is not seeking consideration of that in the planning balance.</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
Q2.4.8	Trees Applicant/ CWCC/FCC/ NE/ NRW/ Woodland Trust/ IPs	<ul style="list-style-type: none"> It is noted by the ExA that in the absence of a finalised detailed design, definitive extents of hedgerow and tree losses, across the Order Limits, cannot be confirmed. How does the Applicant justify this approach from an ecological/ habitat management perspective given there are also further survey requirements which may be triggered? How can the ExA reasonably rely upon the worst-case scenario information within the ES? Or the other related ecological impact information and supporting BNG calculations provided without a detailed design and the full effects of the development being first established? Are all trees and hedges within the Order Limits considered to be at risk of direct impacts or removal now detailed within Table 9.11 LSEs during the construction stage within Chapter 9 - Biodiversity [AS-025]? 	One query FCC would like to raise, if by micro siting the pipeline, hedgerow impacts are reduced from the "worst case scenario" will the BNG calculations be amended and enhancements reduced?	Whilst the Applicant will be running the BNG assessment upon confirmation of the detailed design of the DCO Proposed Development, to understand the impacts of the final design, it is not anticipated that the BNG offset requirements will change materially from those currently presented. The offset requirements being discussed with FCC currently will be secured regardless any reduction in hedgerow impact realised following detailed design. Reduction in impacts would therefore lead to an overall increase in the relative proportion of BNG delivered.
Q2.5.1	Mitigation/ Design Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust /IPs	<ul style="list-style-type: none"> The new tree and landscaping provision anticipated in the DCO scheme could be more robust in the safeguards available against any climatic or environmental condition changes triggering future failure. The Applicant is requested to thoroughly review this element of the scheme provision with the aim to lengthen replacement periods along with a tighter future management provision which is formally secured. The aim of the approach is to ensure all replacement and new planting is effective as possible, with the highest environmental outcomes possible realistically achieved. The point would also be applicable to any off-site landscaping element yet to be tabled but indicated as being subject to ongoing discussion. 	See response to Q2.5.2 below.	Please see response to Q2.5.2 below.
Q2.5.2	Mitigation/ Design Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust/ IPs	<ul style="list-style-type: none"> What provision/ commitments can be made for fast growing trees? And if so, how could that be formally committed to and secured? How can new planting species selection be conducive in dealing with both climate change pressures and reinforcing native wildlife? 	Comprehensive maintenance and aftercare are considered to be vital to successful establishment, using suitably robust landscaping maintenance contracts. Dieback and failure of new hedge and tree planting is primarily due to inadequate soil moisture during the growing season. Mulching or herbicide	The Applicant agrees with the position of FCC regarding the importance of maintenance and after care. These matters are addressed in Q.2.5.2 in the Applicant's Response to Examining Authority's Second Written Questions [REP5-028]. The Applicant also notes the importance of appropriate soil management, landscape

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
		<ul style="list-style-type: none"> Are the public organisations involved in the Examination able to provide further recommendations towards species/ resilience matters with locational specific advice in mind? If so, your comments are invited. 	<p>treatment is considered necessary to maintaining soil moisture and ensuring rapid root growth and establishment of new planting, that in later years, will be tolerant of drier conditions.</p> <p>It is recommended that standard sized trees are watered regardless of the weather conditions as reactive aftercare leads to delays in addressing drought conditions. Robust fencing suitable for sheep and cattle will be required to exclude livestock from new planting and ensure survival. Optimum growth rates can be achieved through appropriate species (and provenance) selection for the site characteristics and anticipated climatic conditions.</p> <p>FCC would support the applicant adopting an assisted migration approach to tree planting. Please refer to the Forestry Commission's Managing England's woodlands in a climate emergency https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/872285/Climate_Change_Full_Guide.pdf and Natural England's Guidance on dealing with the changing distribution of tree species</p> <p>Examples of native species from the south of Wales and England appropriate for planting in Flintshire could include small leaved lime, common beech, hornbeam and field maple.</p> <p>Other locally native (or naturalised) species tolerant of drier summers and milder/wetter winters will also be suitable and include hawthorn, blackthorn and hazel. FCC would welcome further discussions in relation to new tree and landscape provision with the applicant at the relevant time.</p>	<p>specification and plant handling towards successful plant establishment. The OLEMP [APP-229] prescribes the use of bark mulch for weed suppression and moisture conservation in tree and shrub planting areas.</p> <p>The OLEMP also [APP-229] sets out an overview of watering measures which include maintenance prescriptions for watering the range of proposed landscape elements including standard trees. The outline prescriptions include a fortnightly watering schedule from April to the end of September. The final maintenance arrangements will be agreed at detailed design stage and incorporated into the detailed LEMP. The Applicant can confirm that appropriate measures will be specified to protect new planting from livestock.</p> <p>The Applicant has set out the approach to tree planting in Q.2.5.2 in the Applicant's Response to Examining Authority's Second Written Questions [REP5-028], including reference to the Forestry Commission guidance. The final proposals for woodland planting and management will be provided at detailed design stage for agreement with the local authority.</p> <p>Small leaved lime, common beech and field maple are specified in the Indicative Species Mixes – Landscape Layouts [CR1-008]. Hornbeam is not currently specified but will be considered as part of the detailed design and specification process.</p> <p>Hawthorn, blackthorn and hazel are all currently specified [CR1-008]. The Applicant would welcome the opportunity to discuss tree and landscape provision further at the detailed design stage.</p>
Q2.7.1	Information Applicant/ CWCC / FCC	<ul style="list-style-type: none"> It is highlighted in paragraph 2.3 of [REP1- 061], that any further requirement for mitigation to be directed by further Heritage Impact Assessments is not specified within the Outline LEMP or the Register of Environmental Actions and Commitments [REP2-017], nor directly provided for in the wording of the draft DCO Requirements. For this reason, the CWCC position remains that further heritage assessments including appropriate 	<p>FCC would welcome cultural appreciation enhancements particularly those that promote the Welsh language. The DCO application area has a long history in industrial heritage particularly associated with industry that has developed along the River Dee and in association with coal mining. There may also be archaeological interest that is found within the DCO boundary which could be promoted.</p>	<p>The Applicant acknowledges the response from FCC with regard to cultural enhancements and would direct to the submitted Applicant's Response to Action Point ISH1-AP3 [REP5-026]. This document considers the community and cultural benefits which will be delivered by the DCO Proposed Development.</p> <p>The Applicant re-iterates that its voluntary community benefit proposal is proposed entirely outside of the planning process, is not being secured as a planning</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
		<p>mitigation should be provided for within the OCEMP or required within the DCO Requirements. The Applicant's view on such an approach is sought?</p> <p>CWCC</p> <ul style="list-style-type: none"> • Can CWCC provide any information to the Examination on the specific heritage assets involved including any relevant appraisals or risk surveys within its area? • Does CWCC have Conservation Officer advice it can refer to the Examination for the benefit of dealing with this issue? • Does the Council have an independent working party, or similar, to which heritage advice can be procured and fed into the Examination? • Can the Council clarify its own views on the cultural and heritage implications of the proposal including on the Shropshire and Union Canal? • Please specify any requests for specific mitigation such as additional landscaping or any other measures not already accounted for. <p>FCC/ CWCC</p> <ul style="list-style-type: none"> • Would cultural appreciation enhancements to be embedded within the scheme design be appropriate? For example, public information display/ notices close to public rights of way linked to any heritage assets potentially impacted by the scheme, or linked to a local cultural/ heritage trail or similar? 	<p>Any public information display/ interpretation information should be provided bilingually in both English and Welsh</p>	<p>obligation and it is not seeking consideration of that in the planning balance.</p>
<p>Q2.7.2</p>	<p><i>Information</i> FCC</p>	<ul style="list-style-type: none"> • Is FCC able to provide any information to the Examination on the specific heritage and cultural assets affected by the scheme within its administrative area including any appraisals or risk surveys undertaken? • Does the FCC have Heritage/ Conservation Officer advice it can refer to the Examination for the benefit of dealing with heritage issues? 	<p>Please refer to response to Q2.7.1. FCC would respectfully request the deferral of the response to this question and Q2.7.1 to DL6.</p>	<p>Please refer to the Applicant's response to Q.2.7.1 above.</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
		<ul style="list-style-type: none"> Would cultural appreciation enhancements be embedded within the scheme design be appropriate? EG public information notices close to public rights of way linked to any heritage assets potentially impacted by the scheme, or linked to a local cultural/ heritage trail or similar? Can the Council further clarify its own views on the cultural and heritage implications of the proposal. Including any requests for mitigation not presently being considered such as landscaping or any other measure should it be deemed appropriate. 		
Q2.10.3	Drainage/ Water environment Environment Agency (EA)/ NRW/ United Utilities Water (UUW) FCC/ CWCC/ IPs	<ul style="list-style-type: none"> The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs would be submitted to and approved by the relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority. Do IPs have any comments on that approach bearing in mind policy/ legislative changes which could be implemented? Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not? 	<p>Having reviewed the drawings it appears the construction area of each installation exceeds 100m³, so we would expect a SAB application to be submitted for each location.</p> <p>From a high level assessment of each installation, the majority of installations propose permeable surfacing/filter drains with open pond/detention basin storage structures, with restricted discharges. These should satisfy the requirements for pollution control, amenity and biodiversity requirements. It is noted that in all cases the drainage/treatment of flows from proposed access roads appears to have been considered, FCC would expect these to be included in any proposed SAB applications.</p>	<p>The Applicant notes that there is no legal requirement to obtain a SAB for the temporary construction compounds, as previously agreed with FCC.</p> <p>The Applicant considers that majority of the surfaces in compounds and construction access tracks will not be sealed surfaces and infiltration will be maintained. The management of water during construction will be controlled through the OCEMP [REP4-237], secured by Requirement 5 of the dDCO [CR3-008], and its associated relevant outline management plans.</p>
Q2.11.12	Information Applicant/ NRW/ FCC	<ul style="list-style-type: none"> Can the Applicant confirm the duration of the road diversions that would be located within 200m of the Deeside and Buckley Newt Sites SAC and the anticipated vehicle movements along these diversions. <p>NRW/ FCC</p> <ul style="list-style-type: none"> Are NRW/ FCC content that air quality impacts from these diversions do not require assessing? 	<p>The Deeside and Buckley Newt Sites SAC is primarily designated for GCN and air pollution is not a significant threat.</p> <p>The potential impact would be in relation to the Oak woodland at Wepre Park which is Annex I habitat, present within the SAC as a qualifying feature but not a primary reason for site selection. Vulnerability to air quality would be relevant to other ancient woodland sites in proximity to the diversion.</p>	<p>Please refer to the Applicant's response to Q2.11.12 within Responses to Examining Authority's Second Written Questions [REP5-025] submitted at Deadline 5. Traffic volumes would not be in excess of expected normal daily variation whilst temporary and short-term diversions are in place; as such, proposed diversions are unlikely to result in a significant effect on air quality.</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
			<p>The proposed diversion is already well used so unless significant additional vehicle numbers are predicted, air quality impacts are probably minimal, but would be worth ruling out.</p>	
<p>Q2.15.1</p>	<p>National Policy Applicant/ FCC/ CWCC/ IPs</p>	<ul style="list-style-type: none"> In relation to National Planning Policy for England and Wales. Planning for new energy infrastructure: revisions to National Policy Statements (NPS) is likely to be considered relevant. See Planning for new energy infrastructure: review of energy National Policy Statements. This includes consultation on the Draft overarching NPS EN-1; Draft NPS for Renewable Energy Infrastructure EN-3; Draft NPS for Gas Supply Infrastructure and Gas and Oil Pipelines EN-4; HRA of the energy NPS review; as well as Appraisal of Sustainability: Main Report. Does the Applicant or any IPs wish to make comment on implications of the consultation to the Examination including the decision making status of the draft documents referred to? Additionally: - Targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience (incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure) consultation is being considered by the Welsh Government. Are there any comments on the implications of that, in relation to the likely ecological outcomes expected of this current DCO scheme? 	<p>FCC notes that the consultation ends on 23 June 2023 and has no information as to when the revised policy is to be formally adopted by Government. It provides a direction of travel in terms of likely future policy and guidance at national (UK) level.</p> <p>It is noted in EN-4 regarding pipelines there is statement in para 2.2.2 'These are not a statement of government policy but are included to provide the Secretary of State and others with background information on the criteria that applicants may consider when choosing a site'.</p> <p>The consultation of Planning Policy Wales WG ended on 31st May 2023 and FCC is not aware of any indicated timescales for when a revised version of PPW will be issued, other than it is likely to be published in the Autumn of 2023 which is therefore likely to be after the Examination of this application.</p> <p>The consultation referenced a Chief Planning Officer which provided further guidance on the application of the Environment (Wales) Action Section 6 duty https://www.gov.wales/sites/default/files/publications/2019-11/securing-biodiversityenhancements.pdf dated 23/10/19.</p> <p>The letter references the duty on local planning authorities to secure biodiversity enhancements as part of planning applications, unless other significant material planning considerations indicate otherwise.</p> <p>This was followed up by a further Chief Planning Officer letter on 20/12/22 https://www.gov.wales/sites/default/files/publications/2022-12/cop15-biodiversity-deep-dive-section6-duty-and-the-planning-system.pdf which referenced the forthcoming changes to PPW.</p> <p>The revisions to PPW11 proposed in the consultation sought to provide guidance to local planning authorities and others on how to achieve net benefit but the lack of</p>	<p>The Applicant is aware of the status of consultation with regards to the National Policy Statements and Planning Policy Wales. With regards to the draft NPS the Applicant would refer to the National Policy Statement Tracker [REP2-034] which considers compliance against draft NPS EN-1 and EN-4.</p> <p>As the draft PPW is not adopted to date, Planning Policy Wales – Edition 11, Adopted February 2021 has been considered within the DCO Proposed Development submission.</p> <p>The Applicant will continue to monitor its status until the end of the examination and will provide updates if required.</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
			a prescriptive 'metric' or accepted methodology with which to do this, is a weakness pointed out in the consultation response of FCC and others.	
Q2.17.1	2 Sisters Food Group Applicant/ 2 Sisters Food Group/ Welsh Government (as Highway Authority)/ FCC/ IPs	<ul style="list-style-type: none"> 2 Sisters Food Group have detailed parking issues in representations received to the Examination. Could the applicant please confirm its proposals to resolve parking problems caused by the development/ the exacerbation of existing parking problems? What would be the effects to the business if these issues cannot be satisfactorily resolved? <p>What avoidance/ mitigation measures can be adopted? FCC/ IPs</p> <ul style="list-style-type: none"> Is any 'public' parking facility/ land available for use as a feasible option? 	FCC can confirm that there are no public parking facilities or publicly available land for use as a feasible option in close proximity to the 2 Sisters Food Group.	The Applicant is in commercial discussions regarding the impact of the development on 2SFG's car park and would like to refer to the Applicant's Response to the Examining Authority's Second Written Questions [REP5-025] . This is confirmed in the 2SFG SoCG issued at Deadline 3 in which point 2SFG 3.5.4 pertaining to this point has been logged as "Agreed".
Q2.18.1	Applicant/ EA/ NRW/ NE/ Canal and River Trust/ IPs	<ul style="list-style-type: none"> Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with invasive plant species during construction which constitute a 'Controlled Waste' should they be found and need to be removed/ disposed. (i.e., 'Japanese Knotweed' affected soil would amount to a Controlled Waste). <p>What formal mechanisms within the DCO would be in place to deal with invasive plants such as Japanese Knotweed should that be identified at any stage.</p> <p>Is survey work to investigate the presence of invasive plant species needed at this stage? If not, state why not.</p> <p>Do additional specific requirements/ commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species? If not, state why not.</p>	<p>[REP4-091] Appendix 9.1 Habitats and Designated Sites now includes location details of INNS relevant to the DCO.</p> <p>With regards to Flintshire, clusters of Japanese knotweed have been recorded within a hedgerow adjacent to an arable field between Sealand Road and RDee. Other records also exist for this locality.</p> <p>REAC D-BD-041 and D-BD -042 reference the production of a biosecurity method statement and options for treatment and removal within the construction corridor which is welcomed.</p> <p>But treatment of INNS within the DCO corridor would be beneficial to the wider environment and considered a biodiversity enhancement?</p>	The Applicant has prepared an Outline Biosecurity Management Plan (OBMP) which was submitted at Deadline 5 [REP5-020] . This will be further developed at the detailed design stage alongside the CEMP. The Applicant has identified the presence of Invasive Non-Native Species (INNS) incidentally whilst completing surveys to support the preparation of the ES. Figure 7.42 within the OBMP [REP5-020] illustrates general locations of INNS recorded (either through survey, desk study or through correspondence) which includes Japanese knotweed located between the River Dee and Sealand Road. This is presented on sheets 11 and 12. The Applicant will address INNS where appropriate, in response to the detailed design of the DCO Proposed Development.
Q2.19.1	Local Government Act 1972, s.111 Applicant/ FCC/ CWCC	<ul style="list-style-type: none"> Does the Applicant/ FCC/ CWCC/ IPs anticipate utilising mechanisms available under s.111 of the Local Government Act 1972 within the DCO? (i.e., to secure off-site provision, or any other requirement applicable?) 	FCC are aware of the draft Heads of Terms proposed under s111 of the Local Government Act 1972 but question why they are not willing to enter into a section 106 agreement?	The Applicant notes that FCC has not set out why or on what basis it considers a s106 Agreement is justified and necessary and how that would align with the Community Infrastructure Levy Regulations. The Applicant notes that there is no specification of what

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			<p>A Possible option to enable off site mitigation relevant to the 'shadow' species licences, which are awaited and therefore FCC reserve the position to comment at a later date as and when the 'shadow' species licences are available.</p>	<p>land FCC considers would be bound – at this stage the Applicant has not acquired the pipeline route and in any case the BNG land is outside of the Order Limits. Much of the BNG land is within the ownership or control of FCC and binding that by s106 would appear to the Applicant to be undesirable. The Applicant's position on s106 is that it is not necessary or justified for securing the BNG provision. The Applicant is proposing a contractual mechanism working with the Council. The Applicant will make a single payment to cover the establishment works and maintenance for the required period and there is no ongoing obligation on the Applicant which requires to be secured by s106 or which could be enforced by the Council against the developer. Rather the ongoing obligations will be on the Council where they are obligated to deliver the sites. Having a s106 binding the Applicant where the Council is the delivery body is unnecessary and in effect a legal nullity as it would require the Council to enforce the s106 against itself. The long term obligations will be effected by a maintenance contractor. Much of the land proposed for BNG is held by the Councils and where a management company is to be appointed that will need to be done in agreement with the Council as landowner.</p>
Q2.20.3	Clarification Applicant/ FCC	<ul style="list-style-type: none"> If the three BVS located in FCCs jurisdiction fall to be considered as 'Authorised Development' within this DCO, why has planning permission been sought from FCC (Application Reference FUL/000231/23)? <p>The ExA would ask the Applicant and FCC whether it is appropriate to consider the BVS under both the Planning Act 2008 and the Town and Country Planning Act 1990. Please give the reasoning for your answer?</p>	<p>FCC did not request planning permission to be sought for these sites. They were submitted by the applicant and we are obligated to consider these applications under the under the Town and Country Planning Act 1990. The Developer has submitted the applications to FCC because WG has stated that they believe that the Block Valve Stations to be associated development as referred to in para 1.4.2 of Developer's Planning Statement [APP-048].</p> <p>FCC however consider that the BVS's are an essential part of the proposed pipeline. As stated in our response to ExA1 Q1.19.1 [REP1-077] FCC agree with the applicant's view that the BVS's and AGI's are not considered to be 'associated development' because it is considered that they would fall within the definition of a pipeline in Section 65 of the Pipe-lines Act 1962. Should Consent be granted, these BVS would be considered to be 'authorised development' it would seem most appropriate for these to be considered only under the</p>	<p>The Applicant considers that the BVSs to be constructed on the existing pipeline form part of the pipeline, are part of the Nationally Significant Infrastructure Project and should be consented through the DCO. However, during pre-application consultation, the Welsh Government advised that they did not agree and objected to the inclusion of these BVSs in the application. The Applicant takes the views of Welsh Government seriously, and while it does not agree with those views, it does accept that it is possible that the Welsh Government position could be preferred by the Secretary of State (SoS). However, the SoS will not make a decision on this issue until he determines whether the DCO itself should be granted.</p> <p>If the Welsh Government position is preferred by SoS then the BVSs will need planning permission under the Town and Country Planning Act. However, the Applicant intends to deliver this development quickly in order to meet the UK Government's commitment to deploy</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
			<p>Planning Act 2008 and unnecessary to have two determining authorities. Furthermore, FCC have concerns relating to future obligations and complications in having two separate consenting regimes for operations that are intrinsically linked. We would welcome the view of the Examining Authority on this issue given there is still the opportunity for the applicant to withdraw this application made under the Town and Country Planning Act 1990.</p> <p>Should the applicant wish FCC to proceed with a determination of the BVS made under the Town and Country Planning Act 1990 then if a resolution is reached by FCC to grant planning permission prior to the determination of the DCO, FCC would wait to issue any decision until a decision had been made by the Secretary of State with regards to the DCO application, to avoid the potential for two consents being granted. This approach has been discussed with the applicant.</p>	<p>carbon capture and storage in two industrial clusters by the mid-2020s. Therefore, the Applicant has applied under both processes in case the SoS decides not to include these BVSs within the DCO. This parallel approach will prevent any delay in being able to take investment decisions and start works by ensuring that all the required permissions have already been applied for when the DCO determination is issued. This was discussed with both the Welsh Government and Flintshire County Council during pre-application consultation.</p> <p>The Applicant agrees with FCC's position that, should FCC resolve to grant planning permission for the BVSs before the determination of the DCO, FCC should wait to issue any decision until a decision has been made by SoS with regards to the DCO application to avoid the potential for two consents being granted.</p>
Q2.20.5	Clarification FCC	<ul style="list-style-type: none"> [RR-054] refers to a refusal of planning, reference 061368, being appealed; whilst FCC advised of a potential appeal against its refusal of planning against reference 062820. Can FCC advise whether either refusal's have been appealed? If so, please confirm the status of the appeal(s). If no appeal(s) have been lodged, have the timescales for appeal on these decisions now lapsed? 	<p>FCC can confirm that planning reference 061368 was refused on 22 September 2022 and has not received any notification of appeal.</p> <p>FCC's LIR [REP1A-005] states at paragraph 4.4 Reference: 062820 - 1 Liverpool Road, CH5 3AR; 'Erection of 130no. Dwellings'. This application has now been refused (26th October 2022).</p> <p>FCC can confirm that no appeal has been lodge for either of these refused applications to date pursuant to Section 78 of the Town and Country Planning Act 1990 and the timescales for any such appeal have now lapsed.</p>	The Applicant has no further comments on this matter at this time.

Table 2.6 – Applicant's Comments on Submission Received from Natural England at Deadline 5 [REP5-043]

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
Q2.4.4	<i>Survey/ mitigation</i> Applicant/ CWCC/	The Applicant indicates updated surveys will take place at detailed design stage and mitigation is sufficient to safeguard or otherwise mitigate identified receptors within the Order Limits and beyond. But how is it clear mitigation would be effective without full survey information being available to first inform this?	Natural England is satisfied with the applicant's proposals to undertake further surveys at the detailed design stage.	The Applicant notes that Natural England is satisfied with the Applicant's approach.

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
	FCC/ NE/ NRW/ IPs	Do IPs find the Applicant's position appropriate?		
Q2.4.5	<i>Likely Significant Effects (LSE) to protected fauna</i> CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	Does CWCC/ IPs agree that the direct/ indirect affects arising to protected fauna from the pipeline route could either be managed/ avoided (where it is possible) and subsequently mitigated if needed? If not, please state why not outlining the specific areas of disagreement. What formal mechanisms could be applied to ensure that direct/ indirect effects arising from any survey absence or ecological data shortcoming is properly managed/ accounted for through the DCO?	Natural England considers that any effects from the scheme can be avoided/reduced or mitigated.	The Applicant notes that Natural England is satisfied with the Applicant's approach.
Q2.4.6	<i>Biodiversity Enhancement/ Biodiversity Net Gain (BNG)</i> CWCC/ FCC/ NE/ NRW/ Woodland Trust/ Welsh Government/ IPs	The Applicant's 'Draft BNG Strategy Update' received at Deadline 2 [REP2-042] states that they are seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5. As part of that intended programme, the Applicant has indicated this would comprise the following: <ul style="list-style-type: none"> • Identification of landowners for BNG for Welsh Woodland. • Confirmation of English and Welsh sites for other required habitat offsets. • Initial data check of baseline via a desktop study. • Review and checking of third-party survey data. • Agree format of legal agreements to secure ongoing management of BNG. • Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management. Do IPs feel the above draft intentions are extensive enough? Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion? What else could be done to maximise ecological enhancements or BNG proposals?	The draft intentions in the strategy update appear to be adequate. Assuming the review/check of 'third party survey data' refers to reviewing recent baseline surveys of off-site gain sites undertaken by landowners/other ecologists. Note that the long-term management of sites should cover at least 30 years and include details of monitoring as well as management, and also details of remedial actions/contingencies e.g. for any failures to meet objectives/targets of the management. Other local nature strategies which may present potential opportunities and that BNG and ecological enhancements should align with include; Cheshire West and Chester ecological network, Cheshire and Warrington Natural Capital Audit and Investment Plan, Cheshire West and Chester Wildflower and Grasslands Strategy, Cheshire West and Chester Parks and Green Space Strategy. The Natural Course Ecological Network Tool can also be used to highlight strategic opportunities to create lowland wetland and woodland habitats.	The Applicant acknowledges that Natural England considers the draft intentions as set out within the BNG Strategy Update [REP5-012] appear adequate and can confirm that review of third party survey data refers to the checking of baseline habitat data and associated metrics / reporting for any identified offset site. In all cases, to the best of the Applicant's knowledge, this data has been gathered by suitably experienced ecologists. The Applicant acknowledges the request in relation to long-term management and can confirm that all habitats associated with the BNG Strategy relating to offsetting will be managed for 30 years. These will be secured through a suitable agreement and will be underpinned by Habitat Management and Monitoring Plans (HMMP), or equivalent. These will be drawn up by the offset provider in consultation with the relevant local authority, with input from the Applicant where required. Within these, the Applicant agrees that contingency measures (often referred to as adaptive management) should be included. Discussions have been ongoing with CWCC around local nature strategies and the Ecological Network has been prioritised for BNG delivery in line with input from CWCC.

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
<p>Q2.4.7</p>	<p><i>Biodiversity Enhancement/ BNG</i> Applicant/ CWCC/ FCC/ NE/ NRW/ Welsh Government/ Woodland Trust/ IPs</p>	<p>Nature markets referred to in UK Government guidance could provide a realistic channel for making further improvements that benefit nature. Local planning authorities can assist with such proposals by formulating/ providing:</p> <ul style="list-style-type: none"> • biodiversity action plans; • green infrastructure strategies; • catchment management plans; • biodiversity opportunity areas; and • local nature partnership documentation. <p>Any proposal would also need a secure relevant land by legal agreement managing the habitat for at least 30 years. This could be achieved through a planning obligation (s.106) or a conservation covenant with a responsible body. The land could be subsequently registered as a biodiversity gain site from November 2023. Current guidance outlines that the biodiversity units could be allocated to a development before or after they are registered.</p> <p>What scope is there for nature markets to be used to deliver biodiversity enhancement?</p> <p>Would IPs want to assist such proposals in any active engagement with the Applicant?</p> <p>Has the Applicant considered such an approach, in tandem with the range of nature strategies mentioned by IPs in responding to the ExA's first written questions?</p> <p>The ExA requests that full consideration of emerging/ developing nature markets be given in the draft BNG Strategy (as an additional last resort option), alongside it being broadened to incorporate an ecological enhancement strategy given the specific terminology used in wider Welsh and English environmental law/ policy applicable to the scheme (including s.6 of the Welsh duty).</p>	<p>'Nature markets' referred to here would include established nature markets, such as the UK Woodland Carbon Code, UK Peatland Code and Nutrient Credits, and also potentially emerging nature markets (some funded by NEIRF), such as the Rivers Trust Water Stewardship/Replenishment project.</p>	<p>The Applicant has undertaken a review of nature markets in its most recent BNG Strategy Update [REP5-012]. It considers that reasonable steps have been made to engage in relevant markets. Whilst the UK Woodland Carbon Code, UK Peatland Code and Nutrient Credit markets are more mature, these were not assessed as appropriate to explore further for achieving the Applicant's BNG requirements.</p> <p>The Applicant considers that by engaging with CWCC around its Ecological Network and emerging BNG initiatives, the Applicant is engaging with the most appropriate local biodiversity market.</p>
<p>Q2.5.2</p>	<p><i>Mitigation/ Design</i> Applicant/ CWCC/</p>	<p>What provision/ commitments can be made for fast growing trees? And if so, how could that be formally committed to and secured?</p>	<p>Natural England has no specific comments to make with regards to planting. We advise reference is made to existing Tree and Woodland Strategies and consideration of the Mersey Forest Plan.</p>	<p>The Applicant can confirm that relevant guidance, strategies and plans have informed the development of landscape proposals.</p>

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
	FCC/ NRW/ NE/ Woodland Trust/ IPs	<p>How can new planting species selection be conducive in dealing with both climate change pressures and reinforcing native wildlife?</p> <p>Are the public organisations involved in the Examination able to provide further recommendations towards species/ resilience matters with locational specific advice in mind? If so, your comments are invited.</p>		
Q2.11.1	<i>European sites</i> NE/ NRW/ IPs	<p>The locations of European sites identified by the Applicant relative to the Proposed Development are depicted on Annex A Figure 9.1.1, Sheets 1, 2 and 3 of ES Appendix 9.1 [CR1-054].</p> <p>NE in its Deadline 1 response [REP1-070] mentions additional European sites lie within 10km of the application site and suggest the Habitats Regulations Assessment (HRA) Report could be amended for clarity. Please amend this document accordingly and submit at the next Deadline.</p>	Natural England acknowledges this question and welcomes the HRA being updated in line with our previous advice.	The Applicant has no further comments on this matter at this time.
Q2.11.5	<i>LSE</i> NE	On which qualifying features of which sites do NE consider a LSE could arise from noise disturbance.	<p>In Natural England's previous advice we had concerns regarding noise disturbance impacts to birds associated with the Dee Estuary SPA/Ramsar, and Mersey Estuary SPA/Ramsar, with LSE for redshank due to the proximity of the development to the areas of where significant numbers of redshank were found during the wintering bird surveys.</p> <p>We note that the LSE screening and Appropriate Assessment of the HRA have now been updated (Version C, dated May 2023) with regards to noise disturbance, and suitable mitigation has been included to limit disturbance to birds whilst works are undertaken on the River Dee crossing. Natural England is satisfied that this addresses our previous comments.</p>	The Applicant has no further comments on this matter at this time.

Reference	Question to	Examining Authority Question	EA Response to Question	Applicant's Response
Q2.18.1	Applicant/ EA/ NRW/ NE/ Canal and River Trust/ IPs	<p>Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with invasive plant species during construction which constitute a 'Controlled Waste' should they be found and need to be removed/ disposed. (i.e., 'Japanese Knotweed' affected soil would amount to a Controlled Waste).</p> <p>What formal mechanisms within the DCO would be in place to deal with invasive plants such as Japanese Knotweed should that be identified at any stage.</p> <p>Is survey work to investigate the presence of invasive plant species needed at this stage? If not, state why not.</p> <p>Do additional specific requirements/ commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species? If not, state why not.</p>	Natural England advises the use of the following guidance with regards to managing Japanese Knotweed: How to stop Japanese knotweed from spreading - GOV.UK (www.gov.uk)	The Applicant submitted an Outline Biosecurity Management Plan at Deadline 5 [REP5-020] which has taken into account relevant guidance including that present on the government website in respect of management /treatment/removal of invasive species including Japanese knotweed.

Table 2.7 – Applicant's Comments on Submission Received from Natural Resources Wales at Deadline 5 [REP5-044]

Reference	Question to	Question	NRW Response	Applicant's Response
1. General and Cross Topic Questions				
Q2.1.1	Applicant/ Interested Parties (IP)	Given the change requests submitted by the Applicant [CR1-001] and [CR2-016] have been consulted upon and/ or are currently undergoing statutory consultation, and assuming all formal consultation provision has been declared and verified as being met for the Change Requests, the ExA would ask whether if further Hearing(s) or ExA written questions, beyond those already programmed in the Examination timetable, would be required as pertinent avenues to address any remaining Examination matters. Applicant/ IP comment is invited if considered appropriate.	The Applicant's second change request is currently undergoing consultation, the responses being due on 17 July. NRW has not yet fully considered the proposals and as a result is not presently in a position to confirm this.	The Applicant received NRW's response to the Change Request 2 consultation on 17 July 2013 and has no further comments at this time.
4. Biodiversity, Ecology and Natural Environment				

Reference	Question to	Question	NRW Response	Applicant's Response
Q2.4.4	Applicant/ CWCC/ FCC/ NE/ NRW/ IPs	<ul style="list-style-type: none"> The Applicant indicates updated surveys will take place at detailed design stage and mitigation is sufficient to safeguard or otherwise mitigate identified receptors within the Order Limits and beyond. But how is it clear mitigation would be effective without full survey information being available to first inform this? Do IPs find the Applicant's position appropriate? 	Please refer to NRW's Written Representation (REP1-071) (para. 6.6, 6.7, 6.9 and 6.12) for our detailed comments regarding this matter.	The Applicant has no further comments at this time.
Q2.4.5	CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	<ul style="list-style-type: none"> Does CWCC/ IPs agree that the direct/ indirect affects arising to protected fauna from the pipeline route could either be managed/ avoided (where it is possible) and subsequently mitigated if needed? If not, please state why not outlining the specific areas of disagreement. What formal mechanisms could be applied to ensure that direct/ indirect effects arising from any survey absence or ecological data shortcoming is properly managed/ accounted for through the DCO? 	With regards to the nationally and internationally fully protected species which fall within its remit to advise on NRW agrees that the direct/indirect effects arising from the pipeline route could either be managed/avoided (where possible) and subsequently mitigated if needed.	The Applicant has no further comments at this time.
Q2.4.6	CWCC/ FCC/ NE/ NRW/ Woodland Trust/ Welsh Government/ IPs	<ul style="list-style-type: none"> The Applicant's 'Draft BNG Strategy Update' received at Deadline 2 [REP2-042] states that they are seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5. As part of that intended programme, the Applicant has indicated this would comprise the following: - Identification of landowners for BNG for Welsh Woodland. – Confirmation of English and Welsh sites for other required habitat offsets. - Initial data check of baseline via a desktop study. - Review and checking of third-party survey data. - Agree format of legal agreements to secure ongoing management of BNG. - Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management. Do IPs feel the above draft intentions are extensive enough? Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion? 	NRW notes that habitats are to be offered as offsets for other habitats lost to the proposal. NRW would expect to be consulted insofar as such proposals are relevant to Wales and in respect of any proposed planning obligation or other legal agreements.	<p>The Applicant acknowledges NRW's response. The Applicant is continuing with discussions regarding securing appropriate offset locations with FCC with agreements currently being finalised with FCC. The Applicant is not currently proposing a planning obligation associated with the proposed offset site locations. However, these will be robustly secured and managed and maintained for 30 years.</p> <p>Further details of the BNG offset sites can be found within the BNG Strategy Update [REP5-012] re-submitted at Deadline 6.</p>

Reference	Question to	Question	NRW Response	Applicant's Response
		<ul style="list-style-type: none"> What else could be done to maximise ecological enhancements or BNG proposals? 		
<p>Q2.4.7</p>	<p>Applicant/ CWCC/ FCC/ NE/ NRW/ Welsh Government/ Woodland Trust/ IPs</p>	<ul style="list-style-type: none"> Nature markets referred to in UK Government guidance could provide a realistic channel for making further improvements that benefit nature. Local planning authorities can assist with such proposals by formulating/ providing: - biodiversity action plans; - green infrastructure strategies; - catchment management plans; - biodiversity opportunity areas; and - local nature partnership documentation. Any proposal would also need a secure relevant land by legal agreement managing the habitat for at least 30 years. This could be achieved through a planning obligation (s.106) or a conservation covenant with a responsible body. The land could be subsequently registered as a biodiversity gain site from November 2023. Current guidance outlines that the biodiversity units could be allocated to a development before or after they are registered. What scope is there for nature markets to be used to deliver biodiversity enhancement? Would IPs want to assist such proposals in any active engagement with the Applicant? Has the Applicant considered such an approach, in tandem with the range of nature strategies mentioned by IPs in responding to the ExA's first written questions? The ExA requests that full consideration of emerging/ developing nature markets be given in the draft BNG Strategy (as an additional last resort option), alongside it being broadened to incorporate an ecological enhancement strategy given the specific terminology used in wider Welsh and English environmental law/ policy applicable to the scheme (including s.6 of the Welsh duty). 	<p>NRW considers that the Flintshire Great Crested Newt Conservation Plan, Flintshire Local Biodiversity Action Plan and the Deeside & Buckley Newt Sites Core Management Plan and SSSI Site Management statements could help to inform delivery of biodiversity enhancements.</p> <p>NRW would expect to be consulted insofar as such proposals are relevant to Wales and in respect of any proposed planning obligation or other legal agreements.</p>	<p>The Applicant has engaged extensively with Flintshire County Council regarding the delivery of biodiversity offsets and through this engagement has sought to align itself with relevant county strategies and plans. The Applicant is not currently proposing a planning obligation associated with the proposed offset site locations. However, these will be robustly secured and managed and maintained for 30 years. Further details of the BNG offset sites can be found within the BNG Strategy Update [REP5-012] re-submitted at Deadline 6.</p>

Reference	Question to	Question	NRW Response	Applicant's Response
Q2.4.8	Applicant/ CWCC/ FCC/ NE/ NRW/ Woodland Trust/ IPs	<ul style="list-style-type: none"> It is noted by the ExA that in the absence of a finalised detailed design, definitive extents of hedgerow and tree losses, across the Order Limits, cannot be confirmed. How does the Applicant justify this approach from an ecological/ habitat management perspective given there are also further survey requirements which may be triggered? How can the ExA reasonably rely upon the worst-case scenario information within the ES? Or the other related ecological impact information and supporting BNG calculations provided without a detailed design and the full effects of the development being first established? Are all trees and hedges within the Order Limits considered to be at risk of direct impacts or removal now detailed within Table 9.11 LSEs during the construction stage within Chapter 9 - Biodiversity [AS-025]? 	<p>NRW notes that this question refers to the Applicant's assessment, so they are best placed to answer.</p> <p>From a species licensing perspective, NRW advises that the final confirmed loss of trees/hedgerows will need to be considered appropriately mitigated to ensure no detriment to the maintenance of Favourable Conservation Status of each local species population potentially affected by the proposals.</p>	<p>Please refer to the Applicant's response to Q2.4.8 within Responses to Examining Authority's Second Written Questions [REP5-025].</p> <p>The Applicant can confirm that mitigation measures and principles as prescribed within the Outline Construction Environmental Management Plan (OCEMP) [REP4-237] (secured by Requirement 5 of the dDCO [CR3-008]) and Outline Landscape and Ecological Management Plan [APP-229] (secured by Requirement 11 of the dDCO [CR3-008]), will be applied accordingly in response to confirmation of the detailed design of the DCO Proposed Development, including mitigating any losses of hedgerow/trees required to facilitate construction.</p>
Q2.4.12	Applicant/ NRW	<ul style="list-style-type: none"> It is noted that a ML application was submitted to NRW on 23 May 2023. Please can the Applicant and/ or NRW provide an update regarding progress of the ML Application. 	<p>NRW (Marine Licensing) has received notification from the Applicant (email dated 21/06/23) explaining that it intends to withdraw its Marine Licence application and re-submit it at a later date in order to respond to the advice and guidance provided by NRW regarding the content and form of the application documentation.</p>	<p>The Applicant submitted the Marine Licence (ML) application on 23 May 2023. Natural Resources Wales subsequently requested additional information to be produced for the consultation of the ML application within a 10-day period. The Applicant requested additional time for this request due to the resource required for the Examination. Unfortunately, it was not possible to agree an extension to this deadline, therefore it was agreed between both parties that the Applicant would withdraw the ML application and resubmit at a later date. The Applicant formally withdrew the ML application on 21 June 2023. The Applicant is currently preparing the additional information, and will make an updated ML application, once this is complete. The Applicant will continue to keep the ExA updated on progress.</p>
10. Flood Risk, Hydrology, Water Resources and Contamination				
Q2.10.1	Applicant/ NRW	Accounting for Deadline 2 responses NRW refers to s.165 of the Water Resources Act 1991. NRW is empowered to access land to conduct flood risk	NRW would welcome such clarification. However, it is understood that the Applicant may not be in a position to provide finalised details at this stage. In that event,	The Applicant is seeking to discuss this point further with NRW to resolve the point. The Applicant also refers

Reference	Question to	Question	NRW Response	Applicant's Response
		<p>management works. The provisions of the DCO cannot override these powers and NRW does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991. NRW therefore advises that there should be no physical impediment to access for flood defence assets. Accordingly, NRW consider the DCO should ensure this as a matter of design/ construction.</p> <ul style="list-style-type: none"> Can the design and construction details implied be submitted to the Examination in line with NRW's request? 	<p>NRW's approval must be obtained for the design of the construction compounds where there is any risk of any physical impediment to access. Such approval may be secured either by way of distinct requirement in the draft DCO or by inclusion of a provision to this effect in the CEMP, making clear that construction of the compounds may not take place unless and until NRW has given approval.</p>	<p>NRW to it's Deadline 5 submission REP5-015 at line 2.22.8.</p> <p>The Applicant acknowledges the requirement for NRW to access flood defences. The trenchless crossing of the River Dee will also span the flood defences so there are no direct impacts to these defences. The trenchless crossing pits will be located in accordance with the OCEMP [REP4-237] commitment D-BD-019, as follows:</p> <p>All entry and exit pits for all trenchless crossings will be sited a minimum of 8 m away from any main river bank top (and any defence structure on that watercourse), and 16 m away from any transitional (tidal) waters (and any defence structures on that watercourse). Stand-off distances around watercourses will be implemented prior to the commencement of works and clearly demarcated through the use of physical barriers (fencing, tape or similar). These include:</p> <ul style="list-style-type: none"> A minimum 8 m buffer will be demarcated around non-tidal ordinary or main river watercourses; and A minimum 16 m buffer will be demarcated around tidal watercourses, i.e., the River Dee.
Q2.10.2	Applicant/ NRW	<ul style="list-style-type: none"> NRW have noted that if any of the construction compounds are within 16m of the Hawarden and Northern Embankments of the river Dee main river, they would require an environmental permit (a Flood Risk Activity Permit) under the Environmental Permitting Regulations 2016 for which NRW is the consenting authority. Therefore, the location of compounds would need to be considered in the determination of any such application and subject to NRW's approval. Does the Applicant acknowledge that as a necessary step? How will/ should that be accommodated in the DCO as a formal commitment to be undertaken? 	<p>As acknowledged by the ExA, any construction compounds within 16m of the Hawarden and Northern Embankments of the river Dee main river would require an environmental permit (a Flood Risk Activity Permit) under the Environmental Permitting Regulations 2016 for which NRW is the consenting authority. Therefore, the location of these compounds would need to be considered in the determination of any such application and subject to NRW's approval. This reinforces the need for NRW to be provided with full details of such compounds and the opportunity of approving these.</p> <p>NRW considers that the Applicant should be able to identify whether or not any FRAPs will be needed at this stage.</p>	<p>Where any application for a FRAP is required, full details will be provided to NRW as part of that process. It is unnecessary for the DCO to duplicate that control.</p>
11. Habitats Regulations Assessment				
Q2.11.7	NRW	<ul style="list-style-type: none"> NRW [RR-066] requested mitigation to avoid the main run-time for key fish species to ensure such effects are minimal and sought clarification 	<p>NRW considers the migratory period for sea lamprey to generally fall between April – June (note: this can be water temperature dependent as 12° is a trigger</p>	<p>The Applicant has no further comments on this matter at this time.</p>

Reference	Question to	Question	NRW Response	Applicant's Response
		<p>regarding timeframes for trenchless crossings of the River Dee.</p> <ul style="list-style-type: none"> Can NRW confirm what the 'main run-time' for sea and river lamprey would be? 	<p>temperature, but the above dates encompass the main migration period). River (and brook) lamprey migration occurs between October - March, with spawning occurring in April.</p>	
Q2.11.8	NRW	<ul style="list-style-type: none"> On the basis of the Applicant's response [REP1-042] to NRW's comments in its RR [RR-066] about potential consequences of frac-out, do NRW agree that there would be no LSE on the sea and river lamprey features of the Dee Estuary/ Aber Dyfrdwy Special Area of Conservation (SAC)? 	<p>NRW agrees that there would be no LSE on the sea and river lamprey features of the Dee Estuary / Aber Dyfrdwy Special Area of Conservation (SAC).</p>	<p>The Applicant has no further comments on this matter at this time.</p>
Q2.11.12	Applicant/ NRW/ FCC	<ul style="list-style-type: none"> Can the Applicant confirm the duration of the road diversions that would be located within 200m of the Deeside and Buckley Newt Sites SAC and the anticipated vehicle movements along these diversions. <p>NRW/ FCC</p> <ul style="list-style-type: none"> Are NRW/ FCC content that air quality impacts from these diversions do not require assessing? 	<p>Based on the current proposals, possible changes to air quality arising as a consequence of the proposed road diversions are in this case not considered likely to have significant effects in respect of the conservation objectives for the species (GCN) and habitat (broadleaf woodland) features of the SAC.</p> <p>This view considers the location of the proposal close to both urban areas and proximity of the A55.</p> <p>NRW reserves the right to advise further on receipt of further/more detailed information from the Applicant, as requested by the first part of the question.</p>	<p>The Applicant has no further comments on this matter at this time.</p>
Q2.11.15	NRW	<ul style="list-style-type: none"> In light of the Applicant's response to NRW's concerns set out in their Written Representations and response to ExQ1 [REP1-071] about the GCN surveys undertaken by the Applicant, please can NRW state if they are satisfied that the surveys and proposed mitigation are sufficient and confirm their position of no AEoI on the Deeside and Buckley Newt Sites SAC. 	<p>NRW considers the GCN surveys to be appropriate and proportionate for this proposal.</p> <p>NRW also notes the outline recommendations and proposed principles for mitigation in the ES, OCEMP and the OLEMP. We note that the OLEMP [APP-229] and OCEMP [APP-225] form the basis for a detailed LEMP and CEMP to be produced at detailed design stage, as secured by Schedule 2, Requirements 11 and 5 of the dDCO [APP024].</p> <p>NRW is satisfied with this overall approach. NRW understands that the Applicant intends to submit draft species license application documents into the examination. To date, this has not been done and absent of this further information, NRW is not in a position to advise further in this regard.</p> <p>NRW have previously advised the Applicant that their shadow HRA does not appear to have considered that revised GCN dispersal distances can be over 1.5km</p>	<p>The Applicant has submitted a draft GCN licence to NRW on 4th July 2023, with comments received back from NRW on 6th July 2023. The Applicant is currently reviewing comments received with a view to arranging a meeting with NRW to discuss any points raised and how it proposes to address them. Any discussions and outcomes will be captured within updates to the Statement of Common Ground (SoCG) with NRW [REP3-026].</p> <p>In respect of the HRA, the Applicant can confirm that discussions were held with NRW on the 29th June 2023 and an action taken away by the Applicant to update the HRA to address consideration of increased GCN dispersal distances (over 1.6km). The Applicant discussed its proposed amendments to the HRA with NRW during a meeting on the 12th July 2023, which is captured within the SoCG [REP3-026]. An updated HRA is to be submitted prior to the end of Examination.</p>

Reference	Question to	Question	NRW Response	Applicant's Response
			<p>(Guidelines for the Selection of Biological SSSIs. Part 2: Detailed Guidelines for Habitats and Species Groups: Chapter 18 Reptiles and Amphibians (jncc.gov.uk)).</p> <p>Following a meeting with the Applicant on 29/06/23 NRW understands that this will be addressed. However, until any further details are provided NRW is currently unable to advise regarding no AEol on the Deeside and Buckley Newt Sites SAC. NRW has another meeting scheduled with the Applicant regarding this matter on 13/07/23.</p>	
15. Planning Policy				
Q2.15.1	Applicant/ FCC/ CWCC/ IPs	<p>In relation to National Planning Policy for England and Wales. Planning for new energy infrastructure: revisions to National Policy Statements (NPS) is likely to be considered relevant. See Planning for new energy infrastructure: review of energy National Policy Statements. This includes consultation on the Draft overarching NPS EN-1; Draft NPS for Renewable Energy Infrastructure EN-3; Draft NPS for Gas Supply Infrastructure and Gas and Oil Pipelines EN-4; HRA of the energy NPS review; as well as Appraisal of Sustainability: Main Report.</p> <ul style="list-style-type: none"> Does the Applicant or any IPs wish to make comment on implications of the consultation to the Examination including the decision-making status of the draft documents referred to? Additionally: - Targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience (incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure) consultation is being considered by the Welsh Government. Are there any comments on the implications of that, in relation to the likely ecological outcomes expected of this current DCO scheme? 	<p>NRW notes that the Welsh Government consultation on targeted policy changes to Planning Policy Wales on net benefit for Biodiversity and Ecosystems Resilience closed on 31 May 2023. NRW advises that specific questions relating to the implementation of national planning policy in Wales are directed to the Welsh Government for comment. However, NRW would expect the proposals to be given appropriate weight in the determination of this application.</p>	<p>The Applicant is aware of the status of consultation with regard to the National Policy Statements and Planning Policy Wales.</p> <p>As these are not adopted to date and fall within the post consultation period, Planning Policy Wales – Edition 11, Adopted February 2021 has been used.</p> <p>The Applicant has provided a response to relevant Welsh policy and legislation with regards to biodiversity enhancement within the BNG Strategy Update [REP5-012] updated at Deadline 5. This makes specific reference to the targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience and how the BNG Strategy responds to this policy including the relevance of proposed changes.</p> <p>The Applicant will continue to monitor its status until the end of the examination and will provide updates if required.</p>
Q2.18.1	Applicant/ EA/ NRW/ NE/ Canal and River Trust/ IPs	<p>Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with invasive plant</p>	<p>From a nature conservation perspective invasive species could impact current conservation status of habitat and species features of interest. NRW therefore advises that invasive species surveys are required to</p>	<p>The Applicant has included information regarding Invasive Non-Native Species (INNS) where these have been recorded and encountered during surveys or otherwise identified through consultation or desk study,</p>

Reference	Question to	Question	NRW Response	Applicant's Response
		<p>species during construction which constitute a 'Controlled Waste' should they be found and need to be removed/ disposed. (i.e., 'Japanese Knotweed' affected soil would amount to a Controlled Waste). What formal mechanisms within the DCO would be in place to deal with invasive plants such as Japanese Knotweed should that be identified at any stage. Is survey work to investigate the presence of invasive plant species needed at this stage? If not, state why not. Do additional specific requirements/ commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species? If not, state why not.</p>	<p>inform the decision-making process. The presence of invasive species/certain diseases e.g., Chytrid should materially inform the detail of construction method statements and proposed landscaping/restoration schemes.</p>	<p>within Chapter 9 Biodiversity [REP4-041] and its supporting appendices (as required). The Applicant can confirm that pre-commencement walkover surveys will be completed prior to works commencing, in line with the OCEMP item D-BD-005 [REP4-237] and will take into account the final route alignment and detailed design of the DCO Proposed Development, including a relevant zone of influence. An Outline Biosecurity Management Plan (OBMP) [REP5-020] was submitted at Deadline 5, which additionally identifies the requirement for updated surveys, consideration of appropriate permits and waste carrier notices (as required), alongside mitigation and management measures to be considered and implemented during construction. The OBMP will be further developed at the detailed design stage and in response to the finalised pipeline alignment and will be a live document throughout construction that can be updated in response to changes in baseline conditions.</p>

19. Draft Development Consent Order

<p>Q2.19.4</p>	<p>Applicant/ NRW</p>	<p>The ExA is aware that the Applicant is seeking to address NRW's concerns by including Protective Provisions within the DCO (see Schedule 10, Part 8 of the draft DCO [REP3-005]) as follows:</p> <p><i>"For the protection of NRW 82. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and NRW... 83. The undertaker will permit access by NRW to its assets and landholdings within the Order Limits, through land of which the undertaker is in occupation during construction, on reasonable request. In particular: - (a) access to the bank and flood defences along the River Dee/ Afon Dyford within the plots shown as 13-20, 13-21, 14-04, 14- 05, 14-06, 14-07, 14-08 on the land plans will, where the undertaker is in occupation of those plots, be made available by the undertaker on request; and (b) access over the plots shown as 14-11, 14-14a, 14-20, 14-21, 14-22 14-23, 14- 24, 14-25, 14-26 and 14-27 on the land plans, will be maintained for NRW, or where interrupted by construction activity, will be made available to NRW on reasonable request. 84. The undertaker will consult</i></p>	<p>NRW refers the ExA to its Deadline 4 response (REP4-291) regarding this matter. These concerns must be addressed and accommodated by the applicant.</p>	<p>The Applicant also refers to its Deadline 4 submissions. The Applicant is seeking to discuss this point further with NRW as it considers that in practice there is no fundamental issue and that this is a drafting point which can be resolved.</p>
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Reference	Question to	Question	NRW Response	Applicant's Response
		<i>NRW during development of detailed design regarding the proposed design in order to ensure that the proposed design would not prevent or unduly restrict NRW in accessing or maintaining any of its assets, including flood defences". NRW submissions at Deadline 2 highlight the concerns to this approach, advising s.165 of the Water Resources Act 1991 empowers it to access land to conduct flood risk management works and that the provisions of the DCO cannot override these powers. NRW states it does not require separate permission under the DCO to exercise its powers under s.165 of the Water Resources Act 1991. The ExA asks how this matter is to be resolved between the parties?</i>		

Table 2.8 – Applicant's Comments on Submission Received from Rostons Limited at Deadline 5 [REP5-045]

Reference	Question to	Examining Authority Question	IP Response to Question	Applicant's Response
Q.2.6.3	<i>Clarification Rostons</i>	Your Deadline 1 submission [REP1-079], made on behalf of Ms Craven-Smith-Milne and Mr Griffith, is noted. The ExA would seek further information in regard to the proposed solar scheme mentioned within the letter. Please could you confirm whether a planning application has been formally made for this proposed solar scheme. In responding, where possible, please supply: i) the planning application reference number issued by the Local Planning Authority (LPA); and ii) a copy of the planning decision issued by the LPA.	As of the 28th June 2023 a full planning application has not been submitted by the developer, however a Pre-planning application and Environmental Impact Assessment have been submitted to Cheshire West & Chester Council planning department. The references are as follows: • EIA Screening-22/04248/SCR; and • Pre-App- 23/01234. Both matters are ongoing.	The Applicant will respond on this matter if a planning application is submitted prior to the end of the Examination.

Table 2.9 – Applicant's Comments on Submission Received from Turley on behalf of Peel NRE - Response to the Examining Authority's Second Written Questions at Deadline 5 [REP5-047]

ExQ2	Question to:	Question:	Peel NRE Response	Applicant's Response
1. General and Cross Topic questions				
Q2.1.1	Information Applicant/ Interested Parties (IP)	Given the change requests submitted by the Applicant [CR1-001] and [CR2-016] have been consulted upon and/ or are currently undergoing statutory consultation, and assuming all formal consultation provision has been declared and verified as being met for the Change	<ul style="list-style-type: none"> Peel NRE has a number of outstanding objections. It is hoped these objections will be resolved through written agreements, and no further Hearings would be required. 	The Applicant is continuing to engage with Peel NRE as set out in the SoCG [REP4-248], updated at Deadline 6.

ExQ2	Question to:	Question:	Peel NRE Response	Applicant's Response
		<p>Requests, the ExA would ask whether if further Hearing(s) or ExA written questions, beyond those already programmed in the Examination timetable, would be required as pertinent avenues to address any remaining Examination matters.</p> <p>Applicant/ IP comment is invited if considered appropriate.</p>	<ul style="list-style-type: none"> Peel NRE does not anticipate that it will have any concerns arising specifically from the change requests although it reserves its position in respect of the proposed additional change request NISCR3. 	
Q2.1.2	Negotiations/ Conflict resolution Applicant	<p>The concerns of the Council, Peel NRE and Encirc concerning the potential impacts on Protos Plastics Park, delivery of the railway line that formed part of the overarching planning permission (14/02277/S73) and the potential expansion of the Encirc Glass Manufacturing Facility are noted, including potential loss/ sterilisation of part of a strategic site and/ or safeguarded site(s). The ExA would urge the Applicant to resolve the concerns of the relevant IPs as a priority and provide an update to the ExA in regard to what is being done to address these matters and how they are to be resolved within the remaining Examination period.</p>	<p>Peel NRE has provided addition information on this matter for DL5 (4 July 2023). This matter remains an overriding concern for Peel NRE and until these matters are resolved, Peel NRE regrets that it will be unable to withdraw its objections to the scheme. Peel NRE is in dialogue with the Applicant regarding the outstanding concerns.</p>	<p>The Applicant is in continued dialogue on this matter with Peel NRE, both in terms of the technical requirements of any railway crossing and the update of Chapter 19 Combined and Cumulative Effects of the ES [REP4-062]. The Applicant has committed to allow Peel NRE time to review this chapter prior to a consolidated version of the ES being produced towards the end of the Examination, to ensure their concerns have been addressed.</p>
Q2.1.4	Clarification Peel NRE/ Cheshire West and Chester Council (CWCC)	<p>Peel NRE references “Future Planned Infrastructure” in its submissions. Can it elaborate on what this means? (e.g. Is it referring to an existing allocation in the adopted Development Plan, or other development proposal(s) it is referring to). The Applicant in its ‘Response to Written Representations’ [REP2-041] at paragraph 2.11.15 states it is “engaging with the IP to secure details of this infrastructure to ensure the separate developments can co-exist.” Has such engagement with IPs including Peel NRE and CWCC occurred? If so, what was the outcome?</p>	<ul style="list-style-type: none"> Peel NRE objects to the proposed access route to the Ince AGI and pipeline (shown on plan ref. EN070007-D.2.4-WP-Sheet 1), which currently conflicts with consented and allocated development within Protos: <ul style="list-style-type: none"> Protos is identified in CWACCs adopted Local Plan as a key strategic site for economic growth and safeguards the land for a multi-modal resource recovery park and energy from waste facility for use in connection with the recycling, recovery and reprocessing of waste materials (Local Plan Part One Policies STRAT 4 and ENV 8; and Local Plan Part Two Policy EP6). As noted in the Written Representations (17 April 2023, 23 May 2023, and 4 July 2023), the access to the Ince AGI as proposed in the Application would constrain the delivery of a key strategic site in CWACCs Local Plan. Planning permission for a Plastics Park has been granted at Protos (ref. 21/04076/FUL). The proposed access to the Ince AGI cuts through the land identified for the Plastics Park and 	<p>The Applicant and Peel NRE are in active discussions regarding the complex access requirements. The Parties have been working together to ensure the developments can co-exist and as such the Parties are agreeing terms in the Protective Provisions to allow this.</p>

ExQ2	Question to:	Question:	Peel NRE Response	Applicant's Response
			<p>would constrain the delivery of this proposal as consented.</p> <ul style="list-style-type: none"> - An alternative means of access should be identified by the Applicant to avoid conflicting with planned development at Protos, and avoid conflicting with the strategic ambitions established by CWACC in their adopted Local Plan; or negotiations should continue with Peel NRE as part of the property terms to reach agreement on the access arrangement. Peel NRE has been in discussions with the Applicant regarding a potential alternative access arrangement that could be facilitated by Peel NRE which would not prejudice to the same extent the Protos development and the parties are hopeful that they will shortly be able to confirm proposed Protective Provisions which would ensure the DCO scheme could still be brought forward but still protect Protos. • In addition, Peel NRE has future ambitions to extend Protos on land beyond the strategic allocation within the Local Plan on land identified for and surrounding the Ince AGI. 	
Q2.1.5	Conflict resolution Applicant	Peel NRE is maintaining an objection with regard to the Applicant's Assessment of Cumulative Effects (Environmental Statement (ES) Chapter 19 [APP-071]). How is the Applicant resolving/ addressing these concerns?	The IP understands that an updated Assessment of Cumulative Effects will be provided later in the Examination process. Once received, the IP will review and provide further commentary (where required).	The Applicant will submit an update to Chapter 19 Cumulative and Combined Effects of the ES [REP4-062] prior to the end of the Examination. The Applicant has committed for Peel to review a draft of this document prior to submission to ensure their concerns addressed.
4. Biodiversity, Ecology and Natural Environment				
Q2.4.6	Biodiversity Enhancement/ Biodiversity Net Gain (BNG) CWCC/ FCC/ NE/ NRW/ Woodland Trust/ Welsh Government/ IPs	<ul style="list-style-type: none"> • The Applicant's 'Draft BNG Strategy Update' received at Deadline 2 [REP2-042] states that they are seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5. As part of that intended programme, the Applicant has indicated this would comprise the following: <ul style="list-style-type: none"> - Identification of landowners for BNG for Welsh Woodland. - Confirmation of English and Welsh sites for other required habitat offsets. 	Peel NRE welcomes the additional proposals within the 'Draft BNG Strategy Update' and it is considered that the draft intentions are sufficiently extensive but as the updated BNG assessment report is yet to be completed, the detail of these outline proposals is unavailable. The IP will review the BNG Assessment Report once available to understand any crossover with land owned by the IP and review opportunities to collaborate on habitat creation proposals. No specific missed opportunities or additional ecological enhancements, which could be added are evident,	<p>The Applicant would like to make clear that the BNG strategy within England has been developed through extensive engagement and consultation with CWCC. The Applicant can confirm it requires neither land nor maintenance support from Peel NRE to deliver its BNG offsets within England.</p> <p>An updated BNG Strategy [REP5-012] issued at Deadline 6 provides plans of the areas confirmed by CWCC for BNG provision within England to allow the Applicant to achieve its BNG targets.</p>

ExQ2	Question to:	Question:	Peel NRE Response	Applicant's Response
		<ul style="list-style-type: none"> – Initial data check of baseline via a desktop study. - Review and checking of third-party survey data. – Agree format of legal agreements to secure ongoing management of BNG. – Undertake final assessment based upon agreed habitat enhancement/ creation interventions and outline long-term management. • Do IPs feel the above draft intentions are extensive enough? • Bearing in mind local nature strategies which have been evidenced at earlier stages are there any potential missed opportunities without further inclusion? • What else could be done to maximise ecological enhancements or BNG proposals? 	<p>though the detail of BNG delivery (and its location) is not yet known and this will provide opportunity for further review and assessment.</p>	
Q2.4.7	Biodiversity Enhancement/ BNG Applicant/ CWCC/ FCC/ NE/ NRW/ Welsh Government/ Woodland Trust/ IPs	<ul style="list-style-type: none"> • Nature markets referred to in UK Government guidance could provide a realistic channel for making further improvements that benefit nature. Local planning authorities can assist with such proposals by formulating/ providing: <ul style="list-style-type: none"> – biodiversity action plans; – green infrastructure strategies; – catchment management plans; – biodiversity opportunity areas; and – local nature partnership documentation. • Any proposal would also need a secure relevant land by legal agreement managing the habitat for at least 30 years. This could be achieved through a planning obligation (s.106) or a conservation covenant with a responsible body. The land could be subsequently registered as a biodiversity gain site from November 2023. Current guidance outlines that the biodiversity units could be allocated to a development before or after they are registered. • What scope is there for nature markets to be used to deliver biodiversity enhancement? 	<p>Peel NRE will review the potential opportunities to collaborate on habitat creation once further detail is known.</p>	<p>Please refer to the response to 2.4.6 above.</p>

ExQ2	Question to:	Question:	Peel NRE Response	Applicant's Response
		<ul style="list-style-type: none"> • Would IPs want to assist such proposals in any active engagement with the Applicant? • Has the Applicant considered such an approach, in tandem with the range of nature strategies mentioned by IPs in responding to the ExA's first written questions? • The ExA requests that full consideration of emerging/ developing nature markets be given in the draft BNG Strategy (as an additional last resort option), alongside it being broadened to incorporate an ecological enhancement strategy given the specific terminology used in wider Welsh and English environmental law/ policy applicable to the scheme (including s.6 of the Welsh duty). 		
5. Climate Change				
Q2.5.1	Mitigation/ Design Applicant/ CWCC/ FCC/ NRW/ NE/ Woodland Trust /IPs	<ul style="list-style-type: none"> • The new tree and landscaping provision anticipated in the DCO scheme could be more robust in the safeguards available against any climatic or environmental condition changes triggering future failure. • The Applicant is requested to thoroughly review this element of the scheme provision with the aim to lengthen replacement periods along with a tighter future management provision which is formally secured. The aim of the approach is to ensure all replacement and new planting is effective as possible, with the highest environmental outcomes possible realistically achieved. • The point would also be applicable to any off-site landscaping element yet to be tabled but indicated as being subject to ongoing discussion 	It is requested that the location and extent of new tree and landscaping provision (which may be increased through the review proposed) is discussed with the IP to ensure that these do not prejudice future development ambitions.	The Applicant has issued Peel NRE links to the AGI Landscape Layout Plans [CR1-008] , to highlight the landscape mitigation strategy to be employed at the proposed Ince site.
8. Design and Layout				
Q2.8.1	Aesthetics Applicant	<ul style="list-style-type: none"> • What scope is available to further improve the aesthetics of the scheme for the above ground aspects of the pipeline route? • Further explain how you have considered good design policy guidance as an important and relevant 	It is requested that the location and extent of new tree and landscaping provision (which may be increased through the review proposed) is discussed with Peel NRE to ensure that these do not prejudice future development ambitions.	Please refer to the response to Q.2.4.6 above.

ExQ2	Question to:	Question:	Peel NRE Response	Applicant's Response
		<p>consideration. Particularly the concept of achieving 'beauty' referred to within the Framework.</p> <ul style="list-style-type: none"> The Applicant is asked to undertake an Applicant led review of all soft and hard landscaping provision (including perimeter fencing style) indicated to date and explore how it can boost and enhance aesthetics as credible options available now rather than left as a subsequent requirement at a later date. Following the Applicant led review undertaken, an indication of the Applicant's detailed commitments to improving aesthetics at this point in time is requested by the ExA to be submitted to the Examination, as a future marker to the design quality which would be worked to also assuming any DCO requirement is subsequently implemented. 		
Q2.10.3	Drainage/ Water Environment Agency (EA)/ NRW/ United Utilities Water (UW) FCC/ CWCC/ IPs	<ul style="list-style-type: none"> The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs would be submitted to and approved by the relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority. Do IPs have any comments on that approach bearing in mind policy/ legislative changes which could be implemented? Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not? 	<ul style="list-style-type: none"> The drainage infrastructure for the Ince AGI is situated to the northwest, adjacent to an existing drain which travels in an east/west direction to the north of the Ince AGI (East Central Drain) (an Environment Agency "main drain"). Peel NRE notes that this infrastructure also needs to incorporate sufficient space for future planned infrastructure within this area and be located to avoid conflict with future development ambitions. On this basis, relocation of the infrastructure to the east of the Ince AGI should be considered. It is requested that the location and extent of drainage infrastructure once finalised (which may be subject to evolution from the indicative plans change due to policy/legislative changes) is discussed with the IP to ensure that these do not prejudice future development ambitions. 	Based on the feedback received on this topic, from Peel NRE and CF Fertilisers, the Applicant has updated its drainage strategy as part of Change Request 3 (see the Outline Surface Water Drainage Strategy [CR3-017]). This was accepted as a change by the ExA on 12 July 2023. The Applicant has highlighted this to Peel NRE and is hopeful this addresses their concerns.
20. Other				
Q2.20.2	Safety Health and Safety	<ul style="list-style-type: none"> No response to ExQ1 Q1.20.2 or Q1.20.3 was received from the HSE and the ExA invites it to respond now. Additionally, the ExA would ask 	Peel NRE also requests clarification on the status of the Pipeline and whether this would generate a consultation zone or other stand-off / separate	The Applicant cannot comment on behalf of HSE. However, the Applicant's understanding is that the CO ₂ pipeline associated with the proposed development is not

ExQ2	Question to:	Question:	Peel NRE Response	Applicant's Response
	Executive (HSE)	whether the HSE intends to designate the proposed development as a Major Accident Hazard Pipeline, or similar designation, which would generate a consultation zone with associated land use restrictions?	distances due to health and safety legislative and regulatory requirements.	designated as a MAHP under PSR 96 and therefore does not generate the potential for any land use planning restrictions

Table 2.10 – Applicant's Comments on Submission Received from United Utilities at Deadline 5 [REP5-049]

ExQ2	Question to:	Question	IP Comments	Applicant's Response
Q2.10.3	Environment Agency (EA)/ NRW/ United Utilities Water (UUW) FCC/ CWCC/ IPs	<p>The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs would be submitted to and approved by the relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority.</p> <ul style="list-style-type: none"> Do IPs have any comments on that approach bearing in mind policy/ legislative changes which could be implemented? Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not? 	<p>In our accordance with our previous consultation responses we identified the need for any water arising from the proposed development to be managed by sustainable means. This continues to be our position. It is imperative that no surface water discharges to the existing public sewer.</p> <p>We have reviewed the outline surface water drainage strategy Rev A (Document Reference Number D.6.5.13) and note that for those above ground installations which are located in England, there is no intention to connect surface water to the public sewer. As previously stated, we request that the applicant confirms that the extent of land covered by the Order would facilitate the necessary rights to allow the applicant to discharge to these alternative receiving bodies.</p> <p>We also note that each of the drainage strategies will be subject to further intrusive site surveys to confirm the topographies, condition of the development sites and feasibility of connections at detailed design stage.</p> <p>We note the Draft Development Consider Order (Document reference D.3.1 Rev G), which includes 'Article 20 Discharge of Water'. This affords the applicant the right to discharge water to a range of receiving bodies including the public sewer. This specifically states (inter alia):</p> <p>'(2) Any dispute arising from the making of connections to or the use of a public sewer or by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).'</p> <p>'(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed</p>	<p>The Applicant has set out a deliverable surface water drainage strategy [CR3-016] which does not require any connections to public sewers. The drainage designs shown are worst case where infiltration is not possible/suitable in the location following further testing and a connection to a watercourse is required.</p> <p>The drafting of requirement 8 in the draft DCO [CR3-008] relates to the above ground sites which will require surface water drainage. No operational drainage connections are needed or proposed for the buried pipeline. Changing requirement 8 to refer to the whole authorised development would make no sense as there is no surface water drainage to be designed or delivered on the buried elements.</p> <p>The construction phase drainage will be controlled through the CEMP and outlines of the sub-plan Outline Surface Water Management and Monitoring Plan [REP5-021] submitted at Deadline 5, secured by requirement 5 of the dDCO [CR3-008].</p>

ExQ2	Question to:	Question	IP Comments	Applicant's Response
			<p>to have granted consent or given approval, as the case may be.'</p> <p>We also note Requirement 8 which states:</p> <p>'8.—(1) No development of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may commence until, for that Work No, a surface water drainage plan for permanent works relevant to that stage, in accordance with the relevant part of the outline surface water drainage strategy has been submitted to and approved by the relevant planning authority or, where applicable, the Environment Agency and/or NRW and/or the Lead Local Flood Authority. (2) The surface water drainage system for each stage must be implemented in accordance with the approved details (3) No discharge of water under article 20 (discharge of water) must be made until details of the location and rate of discharge have been submitted to the relevant planning authority or, where applicable, the Environment Agency and/or Natural Resources Wales and/or the Lead Local Flood Authority.'</p> <p>We also note requirement 22 which states:</p> <p>'22.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval under a requirement, the discharging authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with— (a) where no further information is requested under requirement 24, the day immediately following that on which the application is received by the authority;</p> <p>(b) where further information is requested under requirement 24, the day immediately following that on which further information has been supplied by the undertaker; or</p> <p>(c) such longer period as may be agreed in writing by the undertaker and the relevant authority.</p> <p>(2) In the event that the discharging authority does not determine an application within the period set out in subparagraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.'</p> <p>In addition we note requirement 24:</p> <p>'24.—(1) Where an application has been made under requirement 22 the discharging authority may, subject to</p>	

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			<p>complying with the requirements of this paragraph, request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.</p> <p>(2) If the discharging authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 10 days of receipt of the application, notify the undertaker in writing specifying the further information required.</p> <p>(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 10 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 days of receipt of such a request and in any event within 21 days of receipt of the application.</p> <p>(4) If the discharging authority does not give the notification mentioned in sub-paragraphs (2) or (3) or such longer period as may be agreed in writing by the undertaker and the relevant authority, or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.'</p> <p>In interpretation of the above we note that:</p> <p>“discharging authority” means the body responsible for giving a consent, agreement or approval under this schedule;’</p> <p>We have a range of concerns with the above extracts which are summarised as follows.</p> <p>a) Uuw notes that Requirement 8(1) only specifies a selection of Work Nos., namely Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55. Uuw does not consider it appropriate for Requirement 8 to only relate to parts of the Order. This is because Article 20 grants power to discharge water in relation to the entire Order. Therefore we request that Requirement 8 similarly relates to the entire Order. It should be amended so that it is clear that all proposals for the discharge of water are subject to the controls of an amended Requirement 8, which is considered in more detail below.</p>	

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			<p>b) Requirement 8(3) states no discharge of water shall be made until details have been submitted. This should be revised so that 'submitted to' is replaced with 'submitted to, and approved in writing by,'.</p>	<p>The Applicant notes that requirement 8(1) already requires approval of the drainage design, this addition was made at the request of affected bodies that this information be specifically provided for. This article has no effect on UU given that there is no proposal to connect to their infrastructure and the Applicant does not agree that the change sought is necessary or appropriate.</p>
			<p>c) Article 20 (2) states that any dispute shall be determined as if it were a dispute under s106 of the Water Industry Act 1991. Within England it is pertinent to note that Article 32 of the Flood and Water Management Act 2010, which would amend s106 of the Water Industry Act 1991 via the implementation of Schedule 3) is not yet implemented. Therefore at the current time, the Local Planning Authority, Lead Local Flood Authority and Environment Agency have no role in the consideration of applications under s106 of the Water Industry Act in England. As a result, applications under s106 are solely a matter for determination by the relevant sewerage undertaker. We therefore request that Requirement 8(1) and 8(3) also name the relevant sewerage undertaker as a body responsible for giving approval.</p>	<p>Where a connection was to be made to a UU asset (which is not proposed), their consent would be required under article 20. The provisions of requirement 8 relate to the proposed worst case connections to watercourses for surface water drainage not sewers. The Applicant does not agree that the change sought is necessary or appropriate in the circumstances of this DCO.</p>
			<p>d) The scope of decisions under s106 of the Water Industry Act in England are currently limited to a consideration of the mode of construction and the condition of the proposed drain or sewer. It does not permit the relevant wastewater undertaker to request that the management of surface water is undertaken in accordance with sustainable drainage principles. In particular, the relevant wastewater undertaker in England is not able to:</p> <ul style="list-style-type: none"> i) specify an alternative receiving body that is more preferable than the public sewer for the management of surface water; ii) specify the point of connection; iii) control the rate of discharge; iv) require the drainage to be controlled via a sustainable drainage system; or v) refuse a connection on sustainable drainage grounds. 	

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			<p>On this basis, s106 of the Water Industry Act (insofar as it relates to England) is a wholly inappropriate basis on which applications for the determination of surface water drainage proposals should be solely determined. In effect it would afford the applicant a free right to discharge surface water to public sewer which would be in direct conflict with the aspirations to manage surface water sustainably and to progressively reduce the spills from storm overflows as set out as an obligation in the Environment Act 2021.</p> <p>We therefore request that further thought is given to the drafting of Article 20 and Requirement 8. We request that the relevant wastewater undertaker is afforded power to refuse permission for the connection of surface water to a public sewer, or grant permission for the connection or alteration, subject to such conditions as they think fit, and any such permission may in particular specify the mode, the point of connection, the rate of discharge and the size of any attenuation necessary. Requirement 8 should also be clear that UU Water shall be entitled to refuse any connection where the hierarchy for managing surface water has not been reasonably investigated and / or sustainable drainage has not been incorporated within the proposed surface water drainage to the satisfaction of UU Water.</p> <p>e) We are also concerned that the timescales specified in Requirement 24 are insufficient. In particular 10 days is insufficient time to allow an application to be assessed in detail to determine if additional information is required noting that the determination of additional information would necessitate a detailed review of the application. As such we would request a longer period of time than 10 days for review of the application to determine if additional information is required.</p> <p>f) Within Requirement 8, there is clear scope for confusion in determining who would be the 'discharging authority' and who would be the 'requirement consultee'. This is because it may be necessary to challenge the hierarchy for managing surface water and therefore the receiving body for managing surface water could be subject to change during determination. For example, the discharging authority for connection to a sewer is the wastewater undertaker. However, the discharging authority for connection to an ordinary watercourse is the Lead Local</p>	<p>There are no proposals to discharge to sewers and the Applicant considers that requirement 8 in the draft DCO [CR3-008] is sufficient for the DCO Proposed Development for which consent is sought.</p>

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			<p>Flood Authority and the discharging authority for connection to a main river would be the Environment Agency.</p>	
			<p>In conclusion Article 20 and Requirements 8, 22 and 24 need to be redrafted and therefore we wish to register a position of OBJECTION to the drafting of these elements of the Order as currently worded.</p>	<p>The Applicant would object to any amendment of these articles which are in standard form and apply across the order and not just to UU (and in the facts of this Application, the Applicant does not accept that they would in practice apply to UU). It is not appropriate for this drafting, which applies to numerous other bodies and has been agreed with them to be changed to suit one unaffected party with a particular interest which does not reflect the interests of other parties. Any changes from the standard drafting for a single body should be a matter for Protective Provisions.</p>
			<p>Foul Water</p> <p>Requirement 8 solely relates to the discharge of water. It affords no control over the discharge of foul water. As such, a further requirement should be introduced with affords the wastewater undertaker the power to determine applications for foul water discharge and that such applications should allow the wastewater undertaker to grant permission for the connection or alteration of foul water proposals, subject to such conditions as they think fit, and any such permission may in particular specify the mode, the point of connection, the rate of discharge and the size of any attenuation necessary. This is critical to ensure that any foul water proposals, including any proposals for hazardous materials, are not detrimental to wastewater infrastructure and the local environment. For example, we may not wish to see foul drainage proposals connect with small wastewater treatment works as this could be detrimental to the environment.</p>	<p>No element of the DCO Proposed Development requires foul water connections. No foul water connections are proposed and no consent for such is sought. Accordingly, a requirement is unnecessary and unjustified.</p>
			<p>No Detriment to Watercourses and Associated Outfalls</p> <p>There is nothing which would allow a more detailed assessment of the impact on watercourses within the Requirements. As noted in previous consultation responses, we are concerned that any works to watercourses could have a detrimental impact on our outfalls and therefore any proposals to amend a watercourse must be assessed in detail to ensure no detriment to the outfalls of a wastewater undertaker. We therefore request that a new Requirement is included in the Order which ensures that any works to watercourses first</p>	<p>The impact on watercourses has been assessed in Chapter 18 of the ES [REP4-059]. Further, more details of connections to watercourses are required at the detailed design stage under requirement 8 of the DCO [CR3-008].</p>

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			<p>require detailed approval and that the wastewater undertaker is a consultee in such proposals to ensure that there is no detriment to our outfalls or the hydraulic performance of our sewers.</p> <p>Approval of Levels</p> <p>In the event of any change in land levels along the route of the pipe, there is nothing in the Order which would ensure that this is assessed in detail to understand and manage any impact on flood risk or existing drainage systems. For example, changes in the levels of land can affect the exceedance paths from existing drainage systems, the structural integrity of sewers and the hydraulic performance of our assets. Therefore the applicant should be required to secure approval for the detail of any changes in levels and demonstrate that there is no acceptable impact on flood risk, exceedance paths, hydraulic performance of existing drainage assets or the structural integrity of water and wastewater assets.</p>	<p>The Applicant notes the proposed buried pipeline will be reinstated to existing ground levels and there are no requirements to raise the ground levels along the pipeline route. As such there will be no increase in flood risk or impacts existing United Utilities assets and on flow exceedance paths as a result of the proposed buried pipeline.</p>
Q2.10.4	Drainage/ Water environment EA/ NRW/ UUW/ FCC/ CWCC/ IPs	<ul style="list-style-type: none"> The Applicant indicates the current drainage proposal follows the Simple Index Approach suggested by The SuDS Manual CIRIA C753 in order to evaluate the water quality. The scheme is referred to as being designed so the total pollution mitigation index has exceeded the pollution hazard index. The Applicant has also provided details in the submitted Outline Surface Water Drainage Strategy [CR1-111]. Is the approach indicated adequate given any existing uncertainties in gauging surface and ground water conditions? 	<p>Such matters would ultimately be assessed at the detailed design stage. The need to ensure that any pollution is mitigated and most appropriately managed highlights the need for sufficient provision within the Order via amended Requirements to control and manage the detailed design of both surface water and foul drainage proposals.</p>	<p>It should be noted that no foul drainage is proposed for at the proposed AGIs and BVSs.</p>
Q2.15.2	National Strategy Applicant/ FCC/ NRW/ EA/ IPs	<ul style="list-style-type: none"> The ExA acknowledges that on 10 January 2023 the UK Government published the 'Sustainable Drainage Systems Review' and have accepted the recommendation to make SuDS mandatory for new developments in England and will progress with the implementation phase. The Government has indicated it will devise regulations and processes for the creation of SuDS systems through the implementation of Schedule 3 to the Flood and Water Management Act 2010. Implementation of the new approach is expected during 2024 and therefore any 	<p>We wish to highlight that there have been a number of delays to the implementation of Schedule 3 of the Flood and Water Management Act 2010 in England. As such, Article 20 and Requirements 8, 22 and 24 need to be redrafted to ensure that any control over the management of surface water can be exercised regardless of its implementation. As is noted above, control over the management of surface water is part of the overarching aim of central government to reduce the risk of flooding, pollution and help alleviate pressure on public sewerage systems.</p> <p>We also request that the Order includes an additional requirement regarding the approval of foul water drainage</p>	<p>As above, this is not relevant to or required for the DCO Proposed Development.</p>

ExQ2	Question to:	Question	IP Comments	Applicant's Response
		<p>outcomes/ implications to the DCO development should be addressed at this point.</p> <ul style="list-style-type: none"> • The overarching aim is to reduce the risk of surface water flooding, pollution and help alleviate the pressures on traditional drainage and sewerage systems, reducing the overall amount of water that ends up in the sewers and storm overflow discharges. • The ExA asks would new drainage mitigation, relevant to the DCO scheme and its future management, be in line or made in line with the policy/ legislative changes to be implemented? Explain your reasoning why either way. 	<p>proposals. This is critical to ensure the approach to foul drainage is also controlled and managed.</p>	
<p>Q2.20.1.</p>	<p>Applicant/ Welsh Water (WW)/ IPs</p>	<ul style="list-style-type: none"> • Utility services beneath the DCO area are referenced to include WW pipework. Although there are submissions of minimum depth restrictions to 1.2 metres, as per the Statement of Reasons [REP2-008]. How would such measures ensure access for standard water pipe maintenance or in the event of emergencies, such as water leakage? For the avoidance of any doubt, and assuming the minimum depth restrictions as indicated above, could the parties confirm whether water pipes would be located above or below the Applicant's pipeline? 	<p>This is a matter for consideration by the applicant in liaison with UUW as part of the detailed design of the proposals and emphasises the need for appropriate Protective Provisions, which ensures access to all water and wastewater pipes can be secured for maintenance, repair, replacement, enlargement and any other necessary works.</p>	<p>Protective provisions for water and sewerage undertakers have been included in the draft DCO [CR3-008].</p>