

HyNet North West

APPLICANT'S COMMENTS ON SUBMISSIONS RECEIVED AT DEADLINE 6 & DEADLINE 6A

HyNet Carbon Dioxide Pipeline DCO

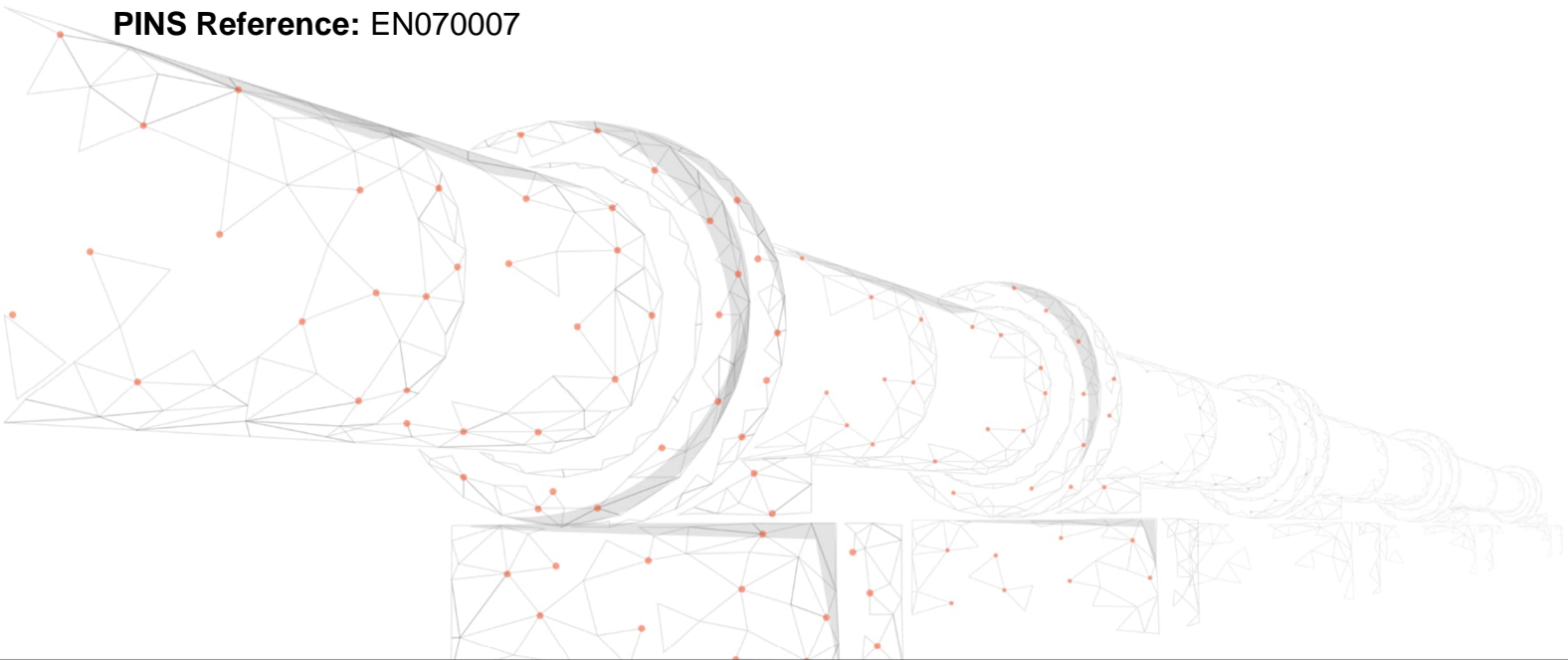
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1. INTRODUCTION

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 (DESNZ) 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 document provides the Applicant's response to Written Submissions submitted at Examination Deadline 6 and 6A.

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 Examining Authority (ExA) accepted the Applicant's Change Request 3, subsequently the description of the development has been updated in accordance with Change Request 3 Environmental Technical Note **[CR3-019]**. The Applicant has submitted a further consolidated ES at Deadline 7 which contains the concluding description of the DCO Proposed Development.

2. APPLICANT'S RESPONSE

- 2.1.1. This chapter provides the Applicant's comments on submissions received at Deadline 6 and Deadline 6A.
- 2.1.2. The Applicant has not responded to the following submissions made at Deadline 6 and Deadline 6A, as no substantive comments were made by the Interested Party (IP) that require further comment from the Applicant at this time:
- Flintshire County Council – Comments on Table 2.15 of [REP5-015] **[REP6-043]**
 - National Highways – Cover Letter **[REP6-046]**
 - National Highways - Appendix 1 Comments on Applicant's comments on Protective Provisions **[REP6-047]**
 - National Highways - Appendix 2 - National Highways Form of Protective Provisions **[REP6-047]**
 - Cheshire West and Chester Council – Cover Letter **[REP6A-018]**
 - National Highways – Cover Letter **[REP6A-023]**
 - Stephens Scown on behalf of Stephen Oultram and Catherine Oultram **[REP6-052]**
- 2.1.3. The Applicant has responded to the Deadline 6 Submission from Natural Resource Wales at Deadline 6A **[REP6A-018]**.

Table 2.1 – Applicant's Comments on Submission Received at Deadline 6 from Canal & River Trust – Cover Letter [REP6-038]

Reference	IP Submission	Applicant's Response
2.1.1	<p>Statement of Common Ground (SoCGs)</p> <p>The Trust and the applicant had a virtual meeting on 7th July 2023 to discuss the SoCG and further good progress was made with a number of matters relating to the Construction Environment Management Plan, Landscape Environment Management Plan and Construction Traffic Management Plan being agreed between parties. The main outstanding matters within the SoCG are linked to the protective provisions for the Canal & River Trust, in particular in relation to the surface water drainage and land rights and reaching agreement. It is understood that the applicant will be sharing an updated SoCG with the Canal & River Trust, as part of their DL6 submissions.</p> <p>The Trust is keen to work with the applicant to find common ground on the outstanding matters.</p>	<p>The Applicant concurs with the position set out in this response from the Trust and will continue to engage with the Trust on the Statement of Common Ground (SoCG) [REP6-013], Protective Provisions and reaching a voluntary agreement on land acquisition.</p> <p>The Applicant considers that good progress on protective provisions has been made, however these will not be completed until the voluntary land agreement is finalised.</p>
2.1.2	<p>Protective Provisions for the Trust</p> <p>The Trust received a response to the draft protective provisions on 27th June 2023 and we are currently considering the suggested revisions and comments. Further discussion with the applicant on the protective provision for the trust were held as part of our virtual meeting on 7th July 2023, whereby a number of matters within the protective provisions were discussed and agreed. Following that meeting, the Trust intent to formally respond to the applicant on the outstanding matters shortly. The Trust is keen to work with the applicant to agree the outstanding matters.</p>	<p>The Applicant has continued to engage with the Trust to agree protective provisions. At Deadline 7 the Applicant has agreed the protective provisions with the exception of compulsory purchase, for which the Applicant seeks to conclude a voluntary land agreement.</p>
2.1.3	<p>Compulsory Acquisition</p> <p>Both the Trust and the applicant are keen to get this matter resolved and reach a voluntary agreement in relation to the land rights sought. The applicant provided a revised offer and terms to the Trust on 5th July 2023, these are being negotiated further by the Trust.</p> <p>The Trust is keen to move forward quickly and is confident terms can be agreed prior to the final draft Order being submitted for the close of the Examination.</p>	
2.1.4	<p>Trust response to Deadline Five matters</p> <p>The Trust have reviewed the various relevant DL5 submissions of the applicant which relate to the Trust's interests. On the basis of the positive ongoing discussions regarding protective provisions and a voluntary land rights agreement, the Trust has no specific comments to make on these at this stage.</p>	<p>The Applicant has no further comments on this matter, at this time.</p>

Table 2.2 – Applicant’s Comments on Submission Received at Deadline 6 from Cheshire West and Cheshire Council (CWCC) – Cover Letter [REP6-039]


Reference	IP Submission	Applicant’s Response
Drainage		
2.2.1	<p>Further to the Applicant’s response to ISH2-AP5 (Table 2.3 [REP5-015]), the Council has reviewed the Outline Surface Water Management and Monitoring Plan (OSWMMP) (Document reference: D.7.43) [REP5-021] submitted at Deadline 5. A detailed review is provided within the Councils attached submission (Table 1.3 of the Councils Response to comments made at Deadline 5 - ISH2-AP5). The Council consider there is a lack of specific detail in the OSWMMP in respect the potential impacts from temporary works within and directly upon ordinary watercourses, and as a result the Council is not currently able to support the disapplication of section 23 of the Land Drainage Act 1991 without further measures in place.</p> <p>The Council would therefore reiterate its comments made at Deadline 5 (paragraph 2.3.14 [REP5-031]) that due to a lack of detail, which would appear is not able to be provided at this stage, the Council would either need protective provisions for surface water drainage or for the disapplication of section 23 of the Land Drainage Act 1991 to be removed from Article 8(c) of the draft DCO.</p> <p>To address this issue, the Council will be sending a draft set of protective provisions for the Applicant to review.</p>	<p>The Applicant and CWCC have agreed the terms of Protective Provisions for the protection of the Council as drainage authority.</p>
Biodiversity - Surveys		
2.2.2	<p>As is highlighted within paragraph 2.2 of the Council’s Written Representation Addendum at Deadline 1A [REP1A-004] incomplete biodiversity surveys have been provided in support of the application. Following meetings between the Council and the Applicant on 22 May 2023 and 13 June 2023, and in view of the percentage survey completion table to be appended to the SoCG, the Council is able to consider the matter of biodiversity survey completion to be adequately addressed. Further detail of the Council’s position on biodiversity surveys can be viewed within Table 1.2 of the attached Cheshire West and Chester Council’s response to Deadline 5 submissions.</p>	<p>The Applicant can confirm that following discussions and agreement with CWCC on the cited dates, the Biodiversity Survey Percentage Completion table for Cheshire West and Chester region has been appended to the SoCG with CWCC (Appendix A) and submitted at Deadline 6 [REP6-019]. The Applicant acknowledges CWCC’s position on biodiversity survey completion and its responses provided within Table 1.2 of its Deadline 6 Submission [REP6-040] and has no further comments at this time.</p>
Biodiversity Net Gain		
2.2.3	<p>The Council notes the Biodiversity Net Gain Strategy Update submitted at Deadline 5 [REP5- 013]. The Council is advised by the Applicant to expect further updates on this document at Deadline 6, and as such the Council therefore reserves its position to make further comment at a later deadline.</p> <p>In addition, the Council is awaiting a revised draft s111 Agreement from the Applicant to secure a financial contribution towards BNG.</p>	<p>The Applicant can confirm that a Biodiversity Net Gain Strategy Update was submitted at Deadline 6 [REP6-033].</p> <p>A revised draft of the S111 Agreement was issued by the Applicant to CWCC on 20 July 2023, and is currently reviewing a revised draft received from CWCC on 1 September 2023, with a view to finalising an Agreement before the end of the Examination. Additionally, it is anticipated</p>

Reference	IP Submission	Applicant's Response
		that an updated BNG Strategy will be submitted at Deadline 7, capturing any further developments made following continued discussion with CWCC and the Applicant.
Highways (Protective Provisions)		
2.2.4	The Council is liaising with the Applicant with regards to the protective provisions currently included within the draft DCO and is awaiting receipt of a Planning Performance Agreement to address the practical requirements of the highway authority.	A draft Planning Performance Agreement was issued by the Applicant to CWCC on 18 July 2023.

Table 2.3 - Applicant's Comments on Cheshire West and Chester Council's (the Council) Response to the Applicant's Comments on Table 2.1 [REP5-015] - Cheshire West and Chester Council's Deadline 4 Submission - Cover Letter [REP4-274] Table 1.1 [REP6-040]

Reference	IP Submission	Applicant's Response at Deadline 5	Council's Response at Deadline 6	Applicant's Response at Deadline 7
Draft DCO Requirement 13 – Construction Hours				
2.3.1	With respect to the exceptions set out in Requirement 13(4), as was outlined at the ISH2 hearing, the Applicant is to further clarify its definition of “start-up and shut-down operations”. The Council welcomes this and would highlight the importance of providing such a definition within the wording of Requirement 13. The Council suggests that the Outline Construction Environmental Management Plan (OCEMP) is amended to further define “start-up and shutdown operations” and, in addition, require the provision of further site-specific protective measures within the Noise and Vibration management Plan to be provided within the final CEMP. These protective measures should clearly exclude any intrusive activities / works which would result in unacceptable impacts to amenity at any specific location and should provide any necessary additional site-specific controls / mitigation.	Additional drafting was proposed in revision G of the dDCO at Deadline 4. The Applicant awaits the Council's comments on that.	The Council refers the Applicant to paragraph 2.3.44 of its response to comments (Table 2-6) on its Written Representation made at Deadline 5 [REP5-031].	The Applicant notes that the Council stated in row 2.3.44 of its Written Representation made at Deadline 5 [REP5-031] <i>“In the absence of specific out of hours working mitigation to be approved under schemes the Council highlights the importance for tight definitions of any works or operations allowed outside the construction hours and for this reason the provided definition of “start-up and shut-down activities” under provision 13(5) of the draft DCO [REP4- 007] is not considered acceptable as it would allow activities including deliveries, unloading and unspecified general preparation work all which, if uncontrolled, have the potential to result in discernible impacts to sensitive receptors including residential properties and caravans.”</i> In response the Applicant stated at Deadline 6 [REP6-035] <i>“The Applicant also notes that it does not agree that specific schemes are needed as this implies that there are no specific controls, already in place. This statement is incorrect and not accepted by the Applicant. The CEMP and importantly the noise and vibration management plans, as secured by Requirement 5 of the dDCO [CR3-008], do have to be approved for all works.”</i> This remains the Applicant's position.
2.3.2	With respect to the exception set out in Requirement 13(3)(a) the Council would also ask for further clarification by the Applicant of what is meant by <i>“trenchless construction techniques which cannot be interrupted”</i> , including the type of operation(s), their likelihood, frequency and duration etc. It is noted that an attempt to define this is provided in paragraph 2.2.1 the OCEMP [REP2-	Chapter 3 [REP4-029] provides, in paragraph 3.6.110, information relating to the duration of the works at trenchless crossings. It states that the duration of 24 hour working at the majority of trenchless crossings is not likely to exceed a period of days, though the longer crossings in difficult ground conditions are expected to last up to four weeks. This is expected to be for seven trenchless crossing, at six	In order for the Council to better understand which activity/activities are proposed to be excluded from Requirement 13.3(a), it is requested that further detail / clarification of the process of trenchless crossing including equipment used and the likely resulting noise sources etc is provided.	The Applicant can confirm that only actual ‘drilling’ stage of a trenchless crossing is to be undertaken over a 24h period. All site setup, entrance and exit pit excavation it to be undertaken in normal working hours. The details of noise generated at night can be found in paragraph 15.5.20 Chapter 15 Noise and Vibration of the Environmental Statement (ES) [REP4-053]. Results are described in Paragraph

Reference	IP Submission	Applicant's Response at Deadline 5	Council's Response at Deadline 6	Applicant's Response at Deadline 7
	<p>021], however, this is not considered to provide sufficient information to establish the potential for amenity impacts which may need further / additional controls.</p>	<p>specific crossing locations, as highlighted in Appendix 3.1 Table of Trenchless Crossings of the ES [REP4-070].</p> <p>Information to establish the potential for noise and vibration significant effects related to trenchless construction techniques is presented in Chapter 15 [REP4-053].</p> <p>Residual effects related to noise from trenchless activities during evening and night-time are presented in Table 15.32 and Table 15.33 of Chapter 15 [REP4-053].</p> <p>Paragraph 15.10.2 of Chapter 15 [REP4-053] states that trenchless installation activities during evening and night-time, at locations where the period exceeds the duration defined in paragraph 15.5.56 of the same chapter, will require careful consideration to include secondary mitigation including measures such as acoustic enclosures for ancillary equipment which is kept above ground for the whole duration of the activity. It is also stated that the production of a Noise and Vibration Management Plan and agreement with the Local Authorities is included in Requirement of the Draft DCO [REP4-008].</p>	<p>Considering paragraphs 3.6.55-3.6.56 of the Environmental Statement – Description of the DCO Proposed Development [REP4-029], identify activities such as the excavation of entrance and exit pits which presumably can be undertaken in the daytime and do not need to be done at night. The Council wishes to clarify which aspect of trenchless crossing construction has to be done at night and that they are proposing to exclude via requirement 13.3(a).</p>	<p>15.11.5 along with values in Table 15.33. Source noise levels used in the noise prediction are shown in Table 2 of Appendix 15.2 [REP4-148].</p>
<p>2.3.3</p>	<p>Whilst the Council accepts that certain operations including continuous drilling will be required as part of the Project, the Council's concerns lie where such continuous operations occur in very close proximity to residential uses and in particular residential caravans. This issue is particularly highlighted where an established traveller site lies immediately adjacent to the order limits and the trenchless crossing of the A5117.</p>	<p>Paragraph 15.10.4 of Chapter 15 [REP4-053] states that the construction programme will seek to minimise the duration of high noise generating construction activities, as far as practicably possible. Where construction activities near sensitive areas are expected to affect residents with a magnitude of medium and high and exceed the durations of 10 or more days or nights in any 15 consecutive days or nights, or a total number of days</p>	<p>In view of the Outline Noise and Vibration Management Plan (paragraph 4.6.6) submitted at Deadline 5 [REP5-017] the Council consider that adequate mitigation would be provided for occupants of caravans. However, as noted at paragraph 2.2.3 above, further clarifications are still required as to the specific out of hours operations relating to trenchless crossing works.</p>	<p>As stated in row 2.3.2 above, the Applicant can confirm that only actual 'drilling' stage of a trenchless crossing is to be undertaken over a 24-hour period.</p> <p>All site setup, entrance and exit pit excavation it to be undertaken in normal working hours.</p> <p>A list of the plant alongside the associated source noise levels used in the noise prediction are shown in Table 2 of Appendix 15.2 [REP4-148].</p>

Reference	IP Submission	Applicant's Response at Deadline 5	Council's Response at Deadline 6	Applicant's Response at Deadline 7
	 <p>Works Plan dwg no. EN07007-D.2.4-WSP-Sheet 3 [REP2-005]. Aerial map with DCO overlay.</p>	<p>exceeding 40 in any 6 consecutive months, then a set of enhanced mitigation measures will be discussed and agreed with the Local Authority.</p> <p>Temporary re-housing will be also considered through consultation with the Local Authority for specific locations where other mitigation measures do not provide sufficient attenuation to prevent sleep disturbance during activities in the night-time period.</p> <p>The Outline Noise and Vibration Management Plan set the principles which will be followed by the Contractor during detailed design and the entire construction period. It states that a Section 61 application will be submitted in advance of the trenchless activities in close proximity to sensitive receptors and exceeding 10 or more days or nights in any 15 consecutive days or nights, or a total number of days exceeding 40 in any 6 consecutive months.</p> <p>This will give the Local Planning Authority an opportunity to approve the consent. In addition, noise monitoring locations will be agreed with the Local Authority including a management plan with actions for the Contractor when the agreed trigger noise levels are exceeded.</p>		<p>It should be noted that Chapter 15 [REP4-053] presents a worst-case assessment for the trenchless crossing activities. The assessment assumes that items of plant shown in Table 2 of Appendix 15.2 [REP4-148] are located at both ends of the crossing, entry and exit pits. This represents a worst-case scenario as it is most likely that all noisy equipment will be located near the entry pit. Also, a worst-case assessment has been undertaken to assume that trenchless crossing activities will occur simultaneously leading to potential for cumulative effects at some properties within close proximity to more than one trenchless crossing. In practice, each trenchless crossing activity will occur independently. Therefore, the number of properties shown in this chapter subject to adverse effects during night-time are a worst-case scenario.</p>
2.3.4	<p>The criteria for when mitigation including re-homing for significant noise impacts will occur is set out in paragraphs 15.10.3, 15.5.30 and 15.5.56 of Chapter 15 of the Environmental statement [APP-067]. Whilst this is accepted as appropriate for housing, it is not accepted for caravans. Without further clarification and consideration of the scale, type and likelihood of</p>	<p>Residual effects related to noise from trenchless activities during evening and night-time are presented in Table 15.32 and Table 15.33 of Chapter 15 of the ES [REP4-053]. It can be seen from the table that potential significant effects are located in sections 4 and 5 of the DCO Proposed Development.</p>	<p>Please see paragraph 2.2.4 above.</p>	<p>Please see paragraph 2.3.3 above.</p>

Reference	IP Submission	Applicant's Response at Deadline 5	Council's Response at Deadline 6	Applicant's Response at Deadline 7
	uninterruptible trenchless operations and consideration for any specific mitigation, including appropriate criteria for this, and potentially other sensitive locations, the Council remains concerned in respect the current wording of Requirement 13.	Refer to the row below for further details.		
2.3.5	To address the above, the Council suggests that the OCEMP further define uninterruptible trenchless operations and specify the need for a "Special Cases" statement, or similar, to be provided as part of the noise and vibration management plan, as part of the final CEMP, and that this is referenced in the definition of "trenchless construction techniques which cannot be interrupted" under Requirement 13. The "Special Cases" statement should include the requirement for the identification of any buildings and/or their occupants which may not be adequately protected by the thresholds set out in Para. 15.5.30/15.5.56 of Chapter 15 of the Environmental Statement [APP-067], including people dwelling in caravans, and should include and site-specific noise trigger levels and/or alternative noise control measures.	<p>The Applicant confirms that the Outline Noise and Vibration Management Plan (document reference: D.7.39), as submitted at Deadline 5, includes a requirement for the Construction Contractor during the preparation of the detailed Noise and Vibration Management Plan and any Section 61 application to identify any buildings and/or their occupants which may not be adequately protected by the significance criteria in Chapter 15 [REP4-053]. As part of this process, the Construction Contractor will agree with the Local Planning Authority suitable criteria for temporary re-housing in accordance with guidance in BS5228-1 Annex E (Informative).</p> <p>The Applicant will arrange a meeting with the Local Planning Authority to make sure the concerns are addressed.</p>	Please see paragraphs 2.2.3 and 2.2.4 above.	Please see paragraph 2.3.3 above.

Table 2.4 - Applicant's Comments on Submission Received at Deadline 6 from Environment Agency [REP6-041]

Reference	EA Reference	IP Submission	Applicant's Response
2.4.1	1.	<p>The EA's stance remains that we would request the detailed design for watercourse crossings is provided through the DCO process (i.e. DCO Requirement) to ensure the design / pipeline depth is informed by relevant environmental assessment work. Whilst we welcome the recognition Flood Risk Activity Permits (FRAP) will be sought where necessary, this process intends to manage activities where there are potential impacts on flood risk. We note the applicant intends to undertake additional site investigation work and assessment to establish ground conditions which will inform appropriate pipeline design / depths for watercourse crossings which will need to be considered at the detailed design stage in addition to FRAP requirements.</p>	<p>The Applicant will progress with detailed design for watercourse crossings following DCO consent, as is standard practice. This will take into account relevant environmental assessment work. The Applicant will not be undertaking detailed design during the DCO Examination process. Where necessary, further ground investigation data will be collected following consent, which will be used to inform the detailed design, which includes detailed design of watercourse crossings.</p> <p>The crown of the pipeline will be at least 1.2m below watercourse bed level to ensure that the pipeline will not become exposed by fluvial processes. The Applicant has several commitments relating to the pipeline beneath watercourses including D-WR-050 of the OSWMMP [REP5-021] and D-WR-055, D-BD-019 of the OCEMP [REP6-008], secured by Requirement 5 of the dDCO [CR3-008].</p> <p>Flood Risk Activity Permits will be submitted for any works that may impact upon watercourses (see line 26 of the Other Consents and Licences document [REP4-020]).</p>
2.4.2	2.	<p>We agree that additional site investigation / assessment works are required to be undertaken to inform the detailed design stage and such ground investigation (and assessment) work will inform relevant commitments as outlined in the Outline Construction Environmental Management Plan (OCEMP). However, we advise that there is recognition that amendments / additions may be necessitated within the detailed CEMP following on from the forthcoming ground investigation / assessment work, and potential remedial requirements where necessary.</p>	<p>The Applicant can clarify that the results of ground investigation work will be used to inform the detailed design and any associated and relevant commitments within the OCEMP [REP6-008] or detailed CEMP at that time, depending upon the status of the live document.</p>
2.4.3	3.	<p>The EA's stance remains that areas of known contamination identified at this time, where it has been acknowledged additional site investigation and assessment work is to be undertaken, should be managed under an amendment to DCO Requirement 9 or separate DCO Requirement if necessary in consultation with the EA with regards to the protection of 'controlled waters' (and local authority for matters relating to human health) [REP4-279]. Such information will be utilised to inform elements of the detailed CEMP (and proposed development at the detailed design stage), however, the EA advise a DCO Requirement is the suitable mechanism to ensure the risk of contamination is appropriately managed in areas where contamination has been found and is potentially present.</p> <p>The EA would request approval is sought by the applicant on the additional site investigation / assessment work to be undertaken, and where necessitated, remediation strategy(s) and validation plan(s) prior to the commencement of development. The EA's (and local authority's) approval</p>	<p>The Applicant has submitted a technical report (document reference: D.7.61) to the EA and into the Examination at Deadline 7 in relation to this matter along with further narrative on works undertaken to date. In addition, Requirement 9 in the draft DCO has been updated in response to the EA's comments and submitted at Deadline 7.</p>

Reference	EA Reference	IP Submission	Applicant's Response
		<p>should be obtained for subsequent verification report(s) to demonstrate any remedial works required have been successful. The Land Contamination Risk Management (LCRM) guidance provided under the EA's Deadline 4 submission [REP4-279] identifies that land contamination can harm drinking water supplies, groundwater and surface water. Therefore, it is integral the risk of contamination to 'controlled waters', in consultation with the EA, is managed effectively.</p> <p>Therefore, our comments under [REP4-279] remain valid and we strongly advise a DCO Requirement, in line with the LCRM guidance provided, is included to address this matter.</p>	

Table 2.5 - Applicant's Comments on Submission Received at Deadline 6 from Flintshire County Council- Response To Table 2-14 of [REP5-015] – Deadline 5 Submission - D.7.37 Applicant's Comments On Submissions Received At Deadline 4 [REP6-042]

Action Point Number	Action	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
Issue Specific Hearing 1 (ISH1)					
ISH1-AP4	Highlight any outstanding technical points concerning: 1. Derogation issues raised by NRW; 2. suitability of riparian enhancement for additional areas raised by all parties; and 3. Any flood risk management details not addressed at the Hearing.	<p>With respects to Point 1 and 2, FCC would respectfully request to defer a response to DL5 if at all possible, please.</p> <p>With respects to Point 3 of this AP, FCC does have concerns with regards to how the applicant will engage within the Sustainable Urban Drainage Approval Board (SAB) approval process with regards to temporary and permanent hard standing areas such as construction compounds and tracks. FCC are unable to find a statement from the applicant confirming that they would fully comply with the Council's SAB Approval Process. FCC would like to receive confirmation from the applicant that, should consent be granted, they will fully comply with the FCC SAB approval process by submitted the necessary documentation and paying the requisite fee. At present, there is insufficient detail with regards to what is proposed for temporary and permanent works</p> <p>Furthermore, the application lacks detail with regards to Ordinary Water Course Consents. As the applicant has not yet finalised the detailed design for the pipeline at this stage, FCC do not have the evidence to fully understand and assess the</p>	<p>The Applicant will review the comments on Point 1 and 2 once submitted. The Applicant is also submitting a Without Prejudice WFD Derogation case for Alltami Brook Crossing report (document reference: D.7.38) and a Hydrogeological Impact Assessment report (document reference: D.7.36), at Deadline 5, to provide further information regarding WFD compliance and the need for a derogation case.</p> <p>In relation to Point 3, the Applicant will fully comply with the FCC SAB approval process by submitting the necessary documentation and paying the requisite fee.</p> <p>The Applicant reiterates its request that FCC consider the outline plans and sub-plans under the requirements and advise what if any further information if any the detailed plans to be produced would need to include.</p>	<p>FCC would respectfully defer to NRW with regards to points 1 and 2 as this is within their remit.</p> <p>With regards to the SAB approval process, a pre-application SAB application form should be submitted for each individual location, alongside the appropriate supporting documentation. A specific SAB file would be then created for each site and the applicant can be advised accordingly. I am advised that currently there is no charge for pre-application advice.</p> <p>The form can be accessed by: https://www.flintshire.gov.uk/en/PDFFiles/Planning/SuDS/SuDS-Application-for-Pre-Application-Advice.pdf</p>	The Applicant has no further comments on this matter at this time.

Action Point Number	Action	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
		<p>impacts of the proposed pipeline, and associated works would have on the watercourses.</p> <p>The impacts cannot be assessed as a principle due to the fact that the exact line of the pipeline, and how it would cross the ordinary water courses is not yet known.</p> <p>The Council therefore cannot accept the disapplication of the provisions relating to Ordinary Watercourse Consent (as envisaged by Article 8(c) of the draft Development Consent Order) [REP3-005] without protective provisions being in place. FCC as LLFA have submitted a separate document to address ISH1-AP4 point 3 in relation to comments from the Lead Local Flood Authority. Please cross reference to Appendix 1.</p>			
Issue Specific Hearing 2 (ISH2)					
ISH2-AP4	<p>Article 11(3) concerning restoration and being satisfied in regard to any streets that has been temporarily altered under this article. FCC advised under the Street Works Act it would have a two-year period where FCC could notify the applicant or the person who has conducted the work of a defect and they would have to remediate it.</p>	<p>FCC is in discussion with the applicant as stated but rather than revising the current provisions in Article 11(3) consideration is being given by both parties to including the need for reinstatement in the protective provisions for local highway authorities set out in Schedule 10 Part 7 of the DCO. The Council continues to seek a 24-month period in accordance with the specification for reinstatements in Flintshire (being THE SPECIFICATION FOR THE</p>	<p>The Applicant understands that this point is now resolved as the principle of this has been agreed to be included in the Protective Provisions.</p>	<p>FCC has reviewed the latest draft of the DCO (Revision G) and notes that there does not appear to be any changes made to the protective provisions with regards to an agreed guarantee period.</p> <p>Therefore, FCC would reserve right to comment when the protective provisions have been updated.</p>	<p>The Applicant has provided revised Protective Provisions to FCC which address their concerns, and incorporated these into the DCO.</p>

Action Point Number	Action	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
	FCC advised it has been in discussion with the Applicant over revising the provisions in Article 11(3) with a view to ensuring a 24- month period is specified. FCC and Applicant to keep the ExA advised of its progress with negotiations in this regard starting at DL4.	REINSTATEMENT OF OPENINGS IN HIGHWAYS 2nd Edition 2006). This is required under a street works licence (Section 72 New Roads and Street Works Act 1991. The street authority may by notice require an undertaker who has failed to comply with his duties under this Part with respect to reinstatement to carry out the necessary remedial works) and FCC takes the view that it should also apply where such work is carried out pursuant to the DCO.			
ISH2-AP12	To review Rs 21 (Applications made under this R) and 24 (Further Information) with regard to cross referenced Rs and timescales, as previous revisions have cross-referenced different Rs and caused some confusion. Applicant/ CWCC/ FCC to review and revert back to the ExA at DL4.	FCC assume that the ExA is asking the review of timescales in requirement 22 (rather than 21) and 24. An increase from 42 days to 56 days to determine the applicants made under requirements is welcomed. Concern however is expressed in relation to the current wording with regards to seeking a written consent to extend the time periods to determine. If the discharging authority requests a longer period of time and the undertaker does not agree to any such request, the application would be affectively deemed to be consented. FCC therefore does not agree to the current wording. FCC still maintain that a request for further information within 10 days (Requirement 24(2) and (3)) is unreasonable and additional time is required. FCC would continue to question the need for this requirement all together. FCC would	The Applicant's further submissions on this point are set out in the SoCG with Natural England [REP4-246] , part 3, paragraph 2.29.	FCC have reviewed the SoCG with Natural England [REP4-246] , as indicated in the applicant's response at DL5. However, FCC has been unable to locate this reference of Part 3, paragraph 2.29 to be able to make further comment. FCC maintains the view as set out at DL4 in [REP4-285]	The Applicant in response to ISH2-AP12 at Deadline 5 in Table 2.14 erroneously referred in the Applicant's Comments on Submission Received at Deadline 4 [REP5-015] to the SoCG with Natural England [REP4-246] . The Applicant's response to ISH2-AP12 is in Part 3, Paragraph 2.29 of the Written Summaries made at any hearing held during the week commencing 5 June 2023 [REP5-264] and has no further comments on this matter at this time.

Action Point Number	Action	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
		<p>question if there is a need for this requirement. It adds additional pressure to the process when the Local Authority are already very under resourced, as are statutory consultees. FCC are aware of the pressures that the applicant and developer will have, however, FCC consider this requirement is an unnecessary burden on the local authority. However, if the ExA deem this requirement essential, additional time should be considered, and alternative wording is required to ensure that the undertaker does allow reasonable requests for time extensions, and to ensure that any refusals of requests for additional time does not lead to deemed approvals.</p>			

Table 2.6 - Applicant's Comments on Submission Received at Deadline 6 from Flintshire County Council - FCC's comments on Table 2-17 – Applicant's Comments on Flintshire County Council (FCC)- Deadline 4 Submission – Appendix 1 [REP4-288] [REP6-044]

Previous Reference	FCC Ref	FCC Response	Applicant's Response	FCC Response at DL6	Applicant's Response
Lead Local Flood Authority (LLFA) Land Drainage Consent Provisions					
2.6.1	1.4	<p>Document D.6.3.18.5 FCA Part 1 Rev A Table 1 Watercourse Crossings [APP-168] on Page 17 states there are 12 Ordinary Watercourse crossing/intersection points within Flintshire. It may be suggested that following further site investigation and excavation works as the scheme progresses, further culverted ordinary watercourses may be discovered. There are several significant ordinary watercourse crossings within the proposals that possess known areas of surface water flood risk associated. It is considered that there is insufficient information within FRA, surface water drainage strategy or the D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) [APP-228] evidenced at this time to fully understand and assess the impacts that the pipeline and associated works would have on the watercourse both for temporary and permanent works.</p>	<p>The Applicant has submitted an Outline Surface Water Management and Monitoring Plan (OSWMMP) (document reference: D.7.43), which provides recommendations and guidance to the Construction Contractor on the requirements and measures to manage surface water quality, volumetric control, discharge locations and flood risk from temporary works such as construction compounds.</p> <p>In addition, the OSWMMP also provides preliminary guidance for working near watercourses and the management of flood risk during the construction phases from known areas of flooding from surface water flooding, fluvial and tidal flooding.</p> <p>The Flood Consequences Assessment [REP4-180] assesses the risk of flooding to the permanent works only, and the OSWMMP outlines the mitigation measures to be adopted by the Construction Contractor for the temporary works to prevent</p>	<p>FCC notes the information submitted in relation to this matter as detailed in the column to the left. However, FCC will still require the information requested at DL4 in Document Ref [REP4-288] under points 2.16.5- 2.16.17 below to fully assess the impact and risks of the works on the intersections of ordinary watercourse.</p> <p>At present FCC do not have sufficient information to fully understand and assess the impacts that the pipeline and associated works would have on the watercourse both for temporary and permanent works.</p>	<p>The Applicant can confirm that the documentation referred to is available in the Examination library under the following references:</p> <ul style="list-style-type: none"> • Outline Groundwater Management and Monitoring Plan [REP5-019] • Outline Surface Water Management and Monitoring Plan [REP5-021] • Outline Dewatering Management Plan [REP5-022] <p>As the references show, these were all submitted at Deadline 5 as the Applicant had advised they would be. The Applicant continues to request that FCC review these and is disappointed that the Deadline 6 submission states that these have not been provided.</p> <p>In a further attempt to resolve this issue, the Applicant is proposing to extend the protective provisions sought by CWCC on drainage details to also cover FCC.</p>

Previous Reference	FCC Ref	FCC Response	Applicant's Response	FCC Response at DL6	Applicant's Response
			<p>impacts on flood risk and watercourses.</p> <p>The Construction Contractor will also provide their Risk Assessment and Method Statements for the detection and prevention of impacts on buried utilities (charted and uncharted) before the construction phases to ensure that there is no impact (on assets such as culverts).</p>		
2.6.2	1.5	<p>In order to fully assess the impact and risks of the works on the intersections of ordinary watercourse, FCC would request the below detail be provided where practically possible. The below is a summary of what FCC as LLFA would typically request as part of any land drainage consent application.</p>	<p>The information requested by FCC would be provided as part of the FRAP / consenting regime for crossing, or working on, over, or near, watercourses. Such information will be progressed at detailed design.</p>	<p>It is FCC's understanding that the FRAP consenting regime is a matter for NRW in relation to main river crossings. The ordinary water course consenting process is a matter for the Local Authority. Therefore, confirmation is required that the applicant will be seeking ordinary water course consent for the ordinary water crossing points along the proposed pipeline route.</p> <p>The latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] seeks to remove the requirement for land drainage consent. Article 8 (c) of the draft DCO seeks to disapply the provisions of Sections 23 and Section 30 of the Land Drainage Act 1991.</p> <p>FCC objects to the disapplication of this legislation as at present</p>	<p>Disapplication of ordinary watercourse consents has been in the draft DCO [CR3-008] since application and is not a new amendment in Revision G.</p> <p>This disapplication is entirely in keeping with the ethos and objectives of the Planning Act 2008.</p> <p>The documentation referred to is available in the Examination library under the references:</p> <ul style="list-style-type: none"> • Outline Groundwater Management and Monitoring Plan [REP5-019] • Outline Surface Water Management and Monitoring Plan [REP5-021] • Outline Dewatering Management Plan [REP5-022] <p>As the references show, these were all submitted at Deadline 5 as the Applicant had advised they would be. The Applicant continues to request that FCC review these and is disappointed that the Deadline 6 submission states that these have not been provided when that is clearly incorrect.</p> <p>In a further attempt to resolve this issue, the Applicant is proposing to extend the protective provisions sought by CWCC on drainage details to also cover FCC.</p>

Previous Reference	FCC Ref	FCC Response	Applicant's Response	FCC Response at DL6	Applicant's Response
				FCC have not been provided with the documentation detailed in points 2.16.6 -2.16.17. Therefore, FCC maintain the position that FCC is not able to fully assess the impacts and risks of the works on the intersections of ordinary watercourses affected by the proposal.	
2.6.3		Location of the Proposed Works: FCC need to be able to easily identify where the proposed works will be carried out. The applicant should give details of; The location of the site; The name of the watercourse (if named); The National Grid Reference (12 figures)	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.4		Description and purpose of the proposed works.	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.5		Plans and Sections: The proposals shall include in-depth drawings and plans, showing Ordnance Datum Newlyn (the height above sea level).	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.6		Location Plan: This must be at an appropriate scale and be based on an Ordnance Survey map. It must clearly show the general location of the site where the proposed work will be carried out and include general features and street names. It must also identify the watercourse or other bodies of water in the surrounding area.	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.7		Site Plan (general arrangement): A plan of the site showing: The existing site (including any watercourse), the proposals, the position of any structures which may influence local river hydraulics (including bridges, pipes and ducts, ways of crossing the watercourse, culverts and screens, embankments, walls, outfalls and so on), and existing fish passes or structures intended to allow fish to pass upstream and	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.

Previous Reference	FCC Ref	FCC Response	Applicant's Response	FCC Response at DL6	Applicant's Response
		downstream. The plan should be drawn to an appropriate scale, which must be clearly stated.			
2.6.8		Cross Sections: Where works encroach into any watercourse, you should provide cross sections both upstream and downstream of the proposed works. Cross sections should be drawn as if looking downstream on the watercourse and should include details of existing and proposed features and water levels.	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.9		Longitudinal sections: Longitudinal sections taken along the centre line of the watercourse are needed. These must show the existing and proposed features including water levels, bed levels and structures. They should extend both upstream and downstream of the proposed work.	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.10		Detailed drawings: These are to show details of the existing and proposed features such as the following; The materials to be used for any structures, the location of any proposed service pipes or cables which may affect the future maintenance of the watercourse, details of any tree, shrub, hedgerow, pond or wetland area that may be affected by the proposed works, details of any planting or seeding, dams and weirs. (FCC need a plan showing the extent of the water impounded (held back) under normal and flood conditions to assess the possible effect on land next to the river. The plan must also show any land drains to be affected.)	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.11		Construction details: Separate consents are required for the permanent works and any temporary works that do not form part of the permanent works. Temporary works could include, for example, cofferdams (watertight enclosures) across a watercourse, or temporary diversions of water while work is carried out. For	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.

Previous Reference	FCC Ref	FCC Response	Applicant's Response	FCC Response at DL6	Applicant's Response
		any temporary work, FCC need to know how it is proposed to carry out the work. A "method statement" should be provided that includes details of the specific measures to be taken to keep disruption to a minimum and reduce any unwanted effects while the work is being carried out. <i>FCC understands that over pumping where possible is suggested, can the developer confirm what the alternatives would be if this method is not feasible? Can the developer also confirm that application will be made for SAB approval where required?</i>			
2.6.12		A Risk Assessment should be included for all activities pertinent to both temporary and permanent works.	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.
2.6.13	1.6	Until the necessary information has been provided, FCC request appropriate protective provisions to safeguard our position as the statutory regulator for ordinary watercourses under the Flood and Water Management Act 2010.	Refer to row 2.16.5 above.	Refer to row 2.16.5 above.	Refer to row 2.6.1 & 2.6.2 above.

Table 2.7 - Applicant's Comments on Submission Received at Deadline 6 from Flintshire County Council - FCC's comments on Table 2-18 – Applicant's Comments on Flintshire County Council (FCC)- Deadline 4 Submission - Written summaries of oral submissions made at any Hearings held during the week commencing 5 June 2023 (ISH2) [REP4-289] [REP6-045]

Previous Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
	2.	Agenda Item 2 – Articles and Schedules of the Draft DCO			
2.7.1	2.1	FCC confirmed that there are some concerns with regards to the application and modification of legislative provisions at Article 8(c) of the draft DCO with regards to the land drainage requirement provisions.	The Applicant acknowledges the response from FCC but reiterates its request that FCC considers the outline plans and sub-plans under the requirements and advise what if any further information if any the detailed plans to be produced would need to include.	The draft DCO seeks to remove the requirement for land drainage consent. Article 8 (c) of the draft DCO seeks to disapply the provisions of Sections 23 and Section 30 of the Land Drainage Act 1991. FCC objects to the disapplication of this legislation as at present FCC have not been provided with the documentation detailed in [REP4-288] . Therefore, FCC maintain the position that FCC is not able to fully assess the impacts and risks of the works on the intersections of ordinary watercourses.	The documentation referred to is available in the Examination library under references: <ul style="list-style-type: none"> • Outline Groundwater Management and Monitoring Plan [REP5-019] • Outline Surface Water Management and Monitoring Plan [REP5-021] • Outline Dewatering Management Plan [REP5-022] As the references show, these were all submitted at Deadline 5 as the Applicant had advised they would be. The Applicant continues to request that FCC review these. In a further attempt to resolve this issue, the Applicant is proposing to extend the protective provisions sought by CWCC on drainage details to also cover FCC.
2.7.2	2.3	With regards to Article 11, FCC have raised concerns with the applicant over Article 11(3) with regards to the restoration to reasonable satisfaction concerning streets that have been altered by the development. Under the Street Works Act there is a period of two years where the Local Highway Authority could notify the person/applicant who has carried out the works of a defect and the applicant would have to remediate it. FCC have been in discussions with the applicant with regards to this period, and revising those provisions. The applicant is proposing a 12 month period. FCC	The Applicant has confirmed that the defect period of 2 months is agreed and understands this to resolve the concern.	FCC would not agree to a period of two months and therefore this matter does not resolve our concerns. To reiterate, FCC require a defect period of 2 years. The latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] has not been amended with respects to the Protection Provisions so therefore, FCC will reserve the right to comment on this matter when a subsequent revision has been submitted and when the	The defect period agreed is 24 months, 2 months is a typographical error. The Applicant notes that 24 months was advised to FCC in an email and it would therefore have been helpful if they could have raised this with the Applicant who would have happily clarified. The Applicant and FCC have reached agreement on the Protective Provisions in relation to the Council's role as local highways authority, subject to FCC's review and approval of proposed amendments following comments from CWCC.

Previous Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
		would not at present accept this Article in its current wording.		protective provisions have been updated. FCC were of the opinion that a 2 year defect period had been agreed in ongoing discussions with the Local Highway Authority and the applicant.	
2.7.3	2.4	In relation to Article 19, FCC maintain concerns with regards to the disapplication of the requirement to submit a consent to the Local Authority for altering an Ordinary Watercourse. FCC would like to be assured that all documentation that would be required for an ordinary watercourse consent be provided as part of this requirement as it does not appear to be detailed in the draft development consent order or specified in the requirements specifically.	The Applicant notes that the outline sub-plans for the outline CEMP were only submitted and made available for review by the Council at Deadline 5 so there has not yet been an opportunity for the Council to advise if they are now satisfied.	The latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] seeks to remove the requirement for land drainage consent. Article 8 (c) of the draft DCO seeks to disapply the provisions of Sections 23 and Section 30 of the Land Drainage Act 1991. FCC objects to the disapplication of this legislation as at present FCC have not been provided with the documentation detailed in [REP4-288] . Therefore, FCC maintain the position that FCC is not able to fully assess the impacts and risks of the works on the intersections of ordinary watercourses affected by the proposal.	This has been in the draft DCO [CR3-008] since application and is not a new amendment. This disapplication is entirely in keeping with the ethos and objectives of the Planning Act 2008. The documentation referred to is available in the Examination library under references: <ul style="list-style-type: none"> • Outline Groundwater Management and Monitoring Plan [REP5-019] • Outline Surface Water Management and Monitoring Plan [REP5-021] • Outline Dewatering Management Plan [REP5-022] As the references show, these were all submitted at Deadline 5 as the Applicant had advised they would be. The Applicant continues to request that FCC review these. In a further attempt to resolve this issue, the Applicant is proposing to extend the protective provisions sought by CWCC on drainage details to also cover FCC.
2.7.4	2.5	With regards to Protective Provisions set out in Schedule 10, Part 7 with regards to the Protective Provisions for the Local Highway Authority, FCC confirmed that the Local Highway Authority and the applicant would be meeting to discuss these protective provisions.	The Applicant and the Councils held a call focused on highways and protective provisions on 14 June. Discussion on the wording of that is ongoing.	Noted, it is understood that a meeting took place, and that FCC / Local Highways Authority are in discussions with the applicant on the wording of the Protective Provisions.	The Applicant and FCC have reached agreement on the Protective Provisions in relation to the Council's role as local highways authority, subject to FCC's review and approval of proposed amendments following comments from CWCC.

Previous Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
				It is noted however that the latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] has not been amended with respects to the Protection Provisions so therefore, FCC will reserve the right to comment on this matter when a subsequent revision has been submitted and when the Protective Provisions have been updated.	
3. Agenda Item 3 – Schedule 2 of the draft DCO – Requirements					
2.7.4	3.1	Requirement 3; Stages of authorised development – FCC confirmed that a definition of a 'stage' would be required.	This has been added in revision G of the dDCO [REP4-008] .	Noted, however 'stage' has not been defined in the Interpretation at Part 1, Article 2.	Stage is only used in the schedule and it is therefore appropriate to define it in that location.
2.7.5	3.2	Requirement 5 (e); Material Management Plan. FCC have maintained the view that the Material Management Plan should include the term 'minerals'. The applicant has assured FCC that an outline Material Management Plan will be provided for comment at a subsequent deadline. FCC reserves the right to comment on this document as and when it is published.	<p>The Applicant notes that in its discussions with FCC it had understood FCC would be content if the plan covered the appropriate minerals grounds. The Applicant considers it unnecessary and disproportionate to change the name of the document in all of the ES and related documents where the scope and content is agreed to be appropriate.</p> <p>The Applicant notes that the outline sub-plans for the outline CEMP were only submitted and made available for review by the Council at Deadline 5 so there has not yet been an opportunity for the Council to advise if they are now satisfied.</p>	<p>FCC has reviewed the Outline Materials Management Plan (MMP) document reference number D.7.32. [REP4-266].</p> <p>FCC would like to be assured that a detailed MMP and other detailed management plans would be submitted for approval to the Local Planning Authority as a part of Requirement 5 prior to each stage of the development.</p>	<p>The Applicant notes that this is precisely what requirement 5 secures and is therefore unclear what further assurance the Council is seeking.</p> <p>Requirement 5 is, in the Applicant's opinion, entirely clear on this point;</p> <p><i>“Construction environmental management plan</i> <i>5.—(1) No stage of the authorised development can commence until a CEMP which includes that stage has been submitted to and approved by the relevant planning authority following consultation with [TBC].</i> <i>(2) The CEMP must be in accordance with the outline construction environment management plan and include management plans, working methods and mitigation measures including—</i> ... <i>(d) material management plan;”</i></p>

Previous Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
2.7.6	3.3	Requirement 8; Surface Water Drainage. FCC have concerns with regards to this requirement and the surface water drainage strategy as at this stage, the applicant cannot provide sufficient detail and that this is a high-level strategy. FCC has concerns that any works required to an ordinary water course would not necessarily be included in the documentation. FCC would like to see more detail with regards to these ordinary water course crossings.	There is no detail at this time as the detailed design has not yet been undertaken. The Applicant has requested that FCC provide a list of the detail it would be seeking at detailed design stage. That list is still awaited.	<p>It is appreciated that there is no detailed design at this stage. FCC has provided details as to what would be required for an application for ordinary watercourse consent as set out in [REP4-288].</p> <p>FCC is concerned, as stated previously that the latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] seeks to remove the requirement for land drainage consent. Article 8 (c) of the draft DCO seeks to disapply the provisions of Sections 23 and Section 30 of the Land Drainage Act 1991.</p> <p>FCC objects to the disapplication of this legislation as at present FCC have not been provided with the documentation detailed in [REP4-288]. Therefore, FCC maintain the position that FCC is not able to fully assess the impacts and risks of the works on the intersections of ordinary watercourses affected by the proposal.</p>	<p>This has been in the draft DCO [CR3-008] since application and is not a new amendment.</p> <p>This disapplication is entirely in keeping with the ethos and objectives of the Planning Act 2008.</p> <p>The documentation referred to is available in the Examination library under references:</p> <ul style="list-style-type: none"> • Outline Groundwater Management and Monitoring Plan [REP5-019] • Outline Surface Water Management and Monitoring Plan [REP5-021] • Outline Dewatering Management Plan [REP5-022] <p>As the references show, these were all submitted at Deadline 5 as the Applicant had advised they would be. The Applicant continues to request that FCC review these.</p> <p>In a further attempt to resolve this issue, the Applicant is proposing to extend the protective provisions sought by CWCC on drainage details to also cover FCC.</p>
2.7.7	3.5	Requirement 16 and 17; Restoration of Land. FCC maintain that a five-year aftercare period should be applied in this requirement as opposed to 12 months.	The Applicant has set out its position on this point in detail in its deadline 4 submissions and refers to [REP4-264] , part 3 at paragraph 2.22 onwards.	FCC notes the applicant's position with regards to this point in paragraph 2.22 onwards of part 3 of [REP4-264] . FCC disagrees to this opinion.	<p>The Applicant again notes that this is not a mineral extraction development and the application of that standard to it is inappropriate.</p> <p>The Applicant notes that the majority of the route to which this would apply is land in agricultural use. To provide for a five-year restoration period, the Applicant</p>

Previous Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
		The concern relates to potential settlement during the years post restoration. An annual aftercare review should also be applied for a period of 5 years to ensure that the land has been restored to the satisfaction of the planning authority, and that the land has been adequately restored.		FCC consider the proposed development, which involves the removal of soils and subsoils, the laying of a pipe, and the subsequent placing of soils to restore the land comparable with mineral extraction which effectively involves the removal of material and the placement of soils for restoration. Both activities could lead to settlement and could lead to the land not being restored satisfactory if there isn't a sufficient period of time applied as an aftercare period and appropriate management prescriptions during that period.	would need to be able to control the landowners' activities on and use of the land throughout that period. Given that this cannot commence until the build is complete, that could result in interference with landowners' use of their own land and their businesses for over 6, possibly 7, years depending on seasonality. The Applicant submits, again, that this is a disproportionate interference with the rights of those affected landowners given the nature of the development proposed.
2.7.8	3.6	Requirement 18; Decommissioning. The same reasoning would apply with regards to post restoration aftercare on above ground sites that are decommissioned in the future.		An aftercare period of five years is likely to be adequate if the affected land is agricultural, based on the guidance provided in Minerals Technical Advice Note 1: Aggregates. https://www.gov.wales/sites/default/files/publications/2018-09/mtan1-aggregates.pdf	The Applicant has put forward and committed to a suite of measures to protect soil and ensure it is properly restored, including a soil management plan. The Council has not presented any case as to why any residual risk after application of those plans is of a magnitude which justifies the considerable interference with landowners that the requirement they are seeking would cause. The Applicant does not accept that any case has been made that this is necessary, and therefore continues to object to the requirement sought as failing to meet the relevant tests.
2.7.9	3.7	Requirement 24; Further information and timescales. FCC maintain that a period of 10 days is too short a time-period when the Local Authority would be reliant on external bodies to respond. This adds additional pressure to the process when the Local Planning Authority.	The Applicant has previously increased from 5 working days to 10 days. The Applicant advised that it did not consider an extension to 21 days would fit with the overall determination period of 56 days, as it would knock the overall determination period out. The Applicant pointed out that Article 22(1) restarts the 56 days clock if further information is requested. The Applicant is aware of	FCC notes the applicant's response however, FCC maintains the response at DL4.	The Applicant also maintains its position as previously set out.

Previous Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
			the Councils' resourcing issues but does require some certainty about time frames being agreed to for discharge of requirements.		
4. Agenda Item 4 – Article 44 of the draft DCO – Certification of Plans					
2.7.10	4.1	FCC considers that all the appendices of the Construction Environmental Management Plan should be listed in Article 44 – Certification of Plans.	The Applicant has added a reference to the CEMP's appendices in its definition and does not consider listing them in article 44 to be necessary.	<p>FCC notes that the definition of CEMP has been changed in the latest version of the draft DCO document reference Number D.3.1 (Revision G (Deadline 4), June 2023) [REP4-008] in Part 1. Article 2, to include reference to the CEMP's appendices.</p> <p>However, Requirement 5 does not refer to the management plans as 'appendices' hence it is not clear if these management plans are the appendices referenced in the definition. Hence it is for this reason that FCC considers that it would be useful to list the management plans in Article 45 – Certification of Plans or ensure that Requirement 5 refers to the management plans as 'appendices' so that the definition relates specifically to them.</p>	<p>The Applicant notes that the OCEMP (which will be a certified document) lists these as appendices in the content, describes them as such in the text and they are labelled as such in the appendices to that document. The Applicant accordingly does not accept that there is any dubiety in the definition and does not agree that these need to be listed in article 45.</p> <p>The OCEMP [REP4-237] examples:</p> <p>Table 6.12 - Construction Management and Mitigation – Noise and Vibration 47 Table 6.13 - Construction Management and Mitigation – Population and Health 49 Table 6.14 - Construction Management and Mitigation – Traffic and Transport 50 Table 6.15 - Construction Management and Mitigation – Water Resources and Flood Risk 53</p> <p>APPENDICES</p> <p>APPENDIX 1 Outline Soil Management Plan</p> <p>APPENDIX 2 Outline Peat Management Plan</p> <p>APPENDIX 3 Outline Public Rights of Way Management Plan</p> <p>APPENDIX 4 Outline Dust Management Plan</p> <p>APPENDIX 5 Outline Materials Management Plan</p> <p>Appendix 5</p> <p>OUTLINE MATERIALS MANAGEMENT PLAN</p>
5. Agenda Item 5 - Consents, licences and other agreements					

Previous Reference	FCC Reference	FCC Response	Applicant's Response	FCC Response at Deadline 6	Applicant's Response at Deadline 7
2.7.12	5.1	FCC confirm that discussions have been taking place between the applicant and FCC's Countryside Services Manager and Ecologist with regards to securing off-site biodiversity enhancements. The legal officer had not been party to the discussions and have not had sight of a draft agreement.	The Applicant confirms that these discussions are ongoing.	Noted, FCC confirms that these discussions are ongoing.	The Applicant can confirm that a draft BNG Agreement has been submitted to FCC for their review. The Applicant awaits FCC's comments and welcomes further discussion with a view to securing an agreed final agreement between the parties in advance of the end of the examination.

Table 2.8 - Applicant's Comments on Submission Received at Deadline 6 from Stephens Scown LLP on behalf of Stephen Oultram and Catherine Oultram [REP6-051]

Reference	Stephens Scown LLP on behalf of Stephen Oultram and Catherine Oultram Reference	IP Submission	Applicant's Response
Response to proposals made in CR3 to reduce land take at Newbridge Farm			
2.8.1	1.	Change Request 3 reduces the temporary land take at my clients' farm (18-08, 18-09 18-12 and partial removal of 18-13). However, the land plans indicate that the part of land retained within the Order Limit at 18-13 and 18-17 and 18-16 will block my clients' access to the remainder of their farm. Parcels 18-16 and 18-17 are included within the Order Limit to provide access. Together they cut off my clients' cow track from the main road. Prior to CR3, the plan was for the developer to have temporary possession of a large amount of land to the northeast (18-13, 18-08, 18-09 and 18-12). Although the cow track wasn't part of the original land take, the loss of access to it had a different impact because the land accessed by it was also to be under the control of the developer. What my clients now face is having the fields back to be able to graze their stock (which they welcome) but they cannot now use the cow track to get that stock to the highway (paragraph 6.4.8 of the CR3 statement of reasons notes that this type of land cannot be shared).	The Applicant acknowledges the comments made and understands the importance of the cow track. The Applicant will ensure access can be maintained over the cow track through accommodation works once the detailed design stage has been reached. Further reference on this topic is made in Section 6.2 of the Ewloe Routing and Mitigation Position Paper submitted by the Applicant at Deadline 6 [REP6-037] . The Applicant will reflect this commitment within the commercial negotiations. The Applicant has met with the IP's agent and has made progress on this matter.
2.8.2	2.	Moving the herd is going to be far harder as a result and will require more staff to maintain safety.	The Applicant refers to the response in 2.8.1 above and confirms that access will be maintained to the cow track.
2.8.3	3.	It appears from the plans that an established hedge will need to be removed, which will have a lasting effect beyond the temporary period of occupation. It is also unclear what impact these works will have on the drainage ditch that will need to be crossed or what works will need to be done to make the cow track suitable for heavy traffic.	The drainage ditch will be temporarily culverted when in use and returned to its former profile after construction is complete. The Applicant will seek to avoid hedgerow loss as much as reasonably practicable during development of the detailed design and also during construction. Where sections of hedgerow are removed to facilitate construction, these will be reinstated post-construction with planting of whips and standard-sized shrubs, as detailed within item D-BD-032 of the OCEMP [REP6-008] , as secured by Requirement 5 of the draft DCO [CR3-008] . Protective fencing will be used, as required, for areas of reinstatement to exclude livestock and allow establishment to take place, as provisioned for by item D-LV-009 within the Outline Construction Environmental Management Plan [REP6-008] , as secured by Requirement 5 of the draft DCO [CR3-008] .

Table 2.9 - Applicant's Comments on Submission Received at Deadline 6 from Turley on behalf of Peel NRE [REP6-050]

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
Layout of the Ince Above Ground Installation			
2.9.1	2.3	There are no concerns with the principle of the Ince AGI element or its general location, however Peel NRE objects to the proposed layout of the Ince AGI.	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] .
2.9.2	2.4	The Ince AGI Landscape Layout (ref. D.2.14-LAY-Sheet 2 Rev B) identifies the location for landscaping/ecological mitigation and a drainage detention pond. It is acknowledged that an updated drainage design has been submitted at Deadline 5 (ref. D.6.5.13 Surface Water Drainage Strategy Rev C), with updated Landscape Layout and AGI Layout to be provided later in the Examination. Whilst this resolves number of the previous issues, the updated location of such features still has the possibility to constrain future planned development across the Affected Land. Peel NRE accordingly objects to the current proposed layout of the Ince AGI.	The Applicant and Peel have continued their discussions. Based on this feedback, the Applicant has modified the Ince AGI Landscape Layout [CR1-008] , which will be submitted at Deadline 7. As a result, Peel have removed their objection on this point (as well as all other objections to the Applicant's Environmental Statement), which has been recorded on Statement of Common Ground with Peel NRE [REP6-031] , submitted at Deadline 7.
2.9.3	2.5	Through conversations between Peel NRE and the Applicant, it is understood the layout of the Ince AGI will be updated to addresses Peel NRE's concerns. This is a welcomed proposal. However, until the updated layout plan is formally submitted, and the Applicant obliged to carry out its proposal in accordance with any amended agreed layout, Peel NRE maintains its objection on this basis, although Peel NRE is confident this objection will be resolved with the Applicant (including through further discussions at detailed design).	
Access			
2.9.4	2.6	The proposed access continues to conflict with the delivery of the approved Protos Plastics Park (CWACC Planning application ref. 21/04076/FUL), and the delivery of the railway line consented as part of the overarching planning permission for Protos (ref. 14/02277/S73), which would constrain the delivery of the developments. In the absence of agreement by the Applicant to an alternative access, Peel NRE objects to the proposed access (as shown on Works Plan ref. D.2.4-WP-Sheet 1 Rev G).	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] . The Applicant has continued its discussions with Peel NRE on this topic. A way to mitigate Peel NRE's concerns have been agreed in principle with in the drafted Protective Provisions. Unfortunately, due to there not being sufficient time left in the examination to resolve the voluntary land option agreement, final Projective Provisions will not be agreed prior to the close of examination. The Applicant and Peel NRE remain committed on agreeing the voluntary land agreement and common Protective Provisions as soon as possible and prior to the submission of the ExA's report to the Secretary of State.
2.9.5	2.7	A plan of the approved Plastics Park masterplan (ref. 20039-FRA-XX-00-DR-A-90-0005 P2) is provided with an overlay of the proposed access route to the Ince AGI and 4 pipeline (shown on plan ref. D.2.4-WP-Sheet 1 Rev G). This is provided at Figure 1. This overlay plan clearly shows the conflict of the Applicant's proposed access with the planned development of the Plastics Park at Protos.	

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
		<p>Figure 1: Proposed Access Conflict</p>	
2.9.6	2.8	<p>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), the access to the Ince AGI as proposed in the Application would constrain the delivery of a key strategic site in CWACCs Local Plan</p>	
2.9.7	2.9	<p>The delivery of the Plastics Park is integral to Protos. It is a unique proposal which would deliver a cluster of recycling and recovery technologies that would enable mixed recyclables and pre-sorted plastics to be sorted, processed and recycled into products which can be re-used in plastics manufacturing all on a single site. Plastics which could not be recycled would be used as feedstock for the plastics to hydrogen facility, providing a circular economy solution to waste plastic in the region</p>	

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
2.9.8	2.10	As set out in Our Waste, Our Resources: A Strategy for England, there is an urgent need for new thinking to tackle avoidable plastic waste. In order to try and help address the issue of plastic waste a Policy Paper was published by the Government in March 2020 for a plastic packaging tax, which took effect from April 2022. This tax will result in a significant demand for recycled plastic feedstock and as such the UK needs to develop significantly more plastics recycling and recovery capacity if it is to try meet the Government's aspirations on recycling and the circular economy. The Protos Plastics Park will help to meet the required plastics recycling and recovery requirements.	
2.9.9	2.11	Additionally, the proposals will create 147 full time equivalent jobs from a range of different employment opportunities with a mix of skilled operatives, technical engineers, administrative staff, and manual works. The construction of the proposal also has the potential to generate c.265 construction phase jobs, and indirect jobs through supply chains ² ² Source: Planning Statement for application 21/04076/FUL.	
2.9.10	2.12	As such, the proposed Protos Plastics Park is a unique proposal set to contribute to the ambitions of the Government, strategic proposals of CWACC, and provide local direct and indirect jobs.	
2.9.11	2.13	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, as set out in the SoCG.	
2.9.12	2.14	It is also noted that construction traffic routes to the Ince AGI would include Ash Road and Grinsome Road via Pool Road, with measures to mitigate effects comprising advanced hazard warning signage along Ash Road is proposed (as set out in the Outline Construction Traffic Management Plan, Annex A, Rev D). It is anticipated that there will be less than 110 Light Good Vehicles (LGVs) and 30 Heavy Good Vehicles (HGVs) on the road network over a day. Further engagement with Peel NRE should be undertaken on the interaction with vehicles (including HGVs and Abnormal Loads) along these routes with measures to reduce delays / restrictions and engagement with Peel NRE and operators to minimise disruption from these vehicle movements.	

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
2.9.13	2.15	At this stage Peel NRE objects in principle to the proposed means of access. An alternative means of access should be identified by the Applicant to avoid conflicting with planned development at Protos. Peel NRE is in discussions with the Applicant regarding an alternative means of access and the parties are also close to reaching agreement via Protective Provisions within the draft DCO which, if agreed, would go some way towards alleviating Peel NRE's concerns.	
Environmental Considerations			
2.9.14	2.17	As part of continuing discussions / agreements, Peel NRE is seeking agreement with the Applicant for ongoing dialogue and approval of details in respect of management plans for landscaping, construction, traffic etc. as part of any implementation of the DCO in order to ensure there is no conflict with Peel's own development proposals at Protos.	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] . The Applicant and Peel have continued their discussions. Based on this feedback, the Applicant has modified the Ince AGI Landscape Layout [CR1-008] , which will be submitted at Deadline 7. As a result, Peel have removed their objection on this point (as well as all other objections to the Applicant's Environmental Statement), which has been recorded on Statement of Common Ground with Peel NRE [REP6-031] , submitted at Deadline 7.
Location and Extents of Ecological Mitigation			
2.9.15	2.18	With relevance to the Ince AGI, no Environmental Mitigation Areas are defined on the Works Plans (D.2.4-WP-Sheet 1 Rev G).	Please refer to the Applicant's response in row 2.9.14.
2.9.16	2.19	The updated Surface Water Drainage Strategy (Rev C) shows a change to the proposed drainage outfall from East Central Drain (to the north) to Elton Ditch 1 (to the east) of the Ince AGI. Within the previous arrangement, ecological mitigation measures were proposed including an area of riparian habitat enhancement along the southern bank of East Central Drain (D.2.14-LAY-Sheet 2 Rev B). It is not clear at this stage whether riparian habitat enhancements are now proposed along Elton Drain 1, at the location of the now proposed outfall. In addition, there will be planting of native triple staggered hedgerow, hedgerow, trees, native shrub planting and species rich grassland around the Ince AGI. The location and extent of such works should be confirmed and discussed with Peel NRE to ensure that these do not prejudice future development ambitions.	Please refer to the Applicant's response in row 2.9.14. Also, the Applicant notes that the riparian planting is proposed along the southern bank of East Central Drain and its location or extent has not altered. This would primarily comprise species rich grassland. Riparian planting is additionally provisioned for along Elton Ditch 1, given the relocation of the outfall to this ditch This would comprise a combination of species rich grassland and scrub planting. The zone of proposed riparian habitat enhancement is shown in Sheet 3 Rev B [CR1-008] . Peel have removed their objection on this point (as well as all other objections to the Applicant's Environmental Statement), which has been recorded on Statement of Common Ground with Peel NRE [REP6-031] , submitted at Deadline 7.
2.9.17	2.20	It is recognised that additional opportunities for biodiversity enhancement are being considered by the Applicant to achieve at least 1% gain in Priority Habitats, including refining / reducing the extent of proposed temporary impacts and delivery	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] .

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
		of further habitats. Following a review of the Biodiversity Net Gain (BNG) Strategy Update (Rev C), it is understood that no land at the Ince AGI is proposed to be used as mitigation land for BNG. Given this, Peel NRE have no further comments on this matter.	The Applicant and Peel have continued their discussions. As a result of these and the details given in the BNG Strategy [REP6-033] submitted at Deadline 6. Peel have removed their objection on this point (as well as all other objections to the Applicant's Environmental Statement), which has been recorded on Statement of Common Ground with Peel NRE [REP6-031] , submitted at Deadline 7.
2.9.18	2.21	Whilst conversations are continuing between Peel NRE and the Applicant, this matter is not yet fully resolved, and Peel NRE therefore objects on the basis that the currently proposed mitigation measures are not fully fixed and agreed and further mitigation requirements are unknown at this stage.	
Impacts on Development Land and Businesses			
2.9.19	2.22	Further discussions in respect to access and land acquisition are being progressed with the Applicant.	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] .
2.9.20	2.23	Within the Written Representations (17 April, 23 May and 4 July 2023), Peel NRE has sought clarity on whether the Pipeline would be classified as a Major Accident Hazard Pipeline by the Pipeline Safety Regulations 1996 and therefore 'generate' a Consultation Zone with associated land use restrictions. There are a number of other pieces of legislation noted within Chapter 13: Major Accidents and Disasters (e.g. The Planning (Hazardous Substances) Regulations 2015 and The Dangerous Substances and Explosive Atmospheres Regulations 2002). The Applicant has subsequently confirmed that currently the HSE have not classified the proposal under the legislation noted above. However, there remains a potential for this to be case – dependent on forthcoming HSE advice - and therefore Consultation Zone separation or 'stand-off' distances may be applied. Such additional land use restrictions also have the potential to prejudice currently consented and future development ambitions at Protos.	The Applicant and Peel have continued their discussions. As a result of these, Peel have removed their objection on this point (as well as all other objections to the Applicant's Environmental Statement), which has been recorded on Statement of Common Ground with Peel NRE [REP6-033] , submitted at Deadline 7.
2.9.21	2.24	Given this, Peel NRE maintains this objection on the basis that there remain potential impacts and mitigation requirements that are not understood at this stage.	
Assessment of Cumulative Effects			
2.9.22	2.25	It is recognised that a number of Other Developments within Protos have been considered as part of the 'inter-project' assessment reported in Chapter 19: Combined and Cumulative Effects. However, there are a number of other extant permissions which have not yet been implemented or are under construction as of Summer 2023 which lie within the land owned by Peel at Protos. These remain as outlined within the Written Representations (17 April 2023). Whilst an update has	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] . The Applicant and Peel have continued their discussions. As a result of these and the updated the Applicant has made to the ES Cumulative Assessment Chapter submitted at Deadline 7. Peel have removed their objection on this point (as well as

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
		been provided at Deadline 4 (D.6.2.19), these additional projects are not yet captured.	all other objections to the Applicant's Environmental Statement), which has been recorded on Statement of Common Ground with Peel NRE [REP6-033], submitted at Deadline 7.
2.9.23	2.26	Due to the proximity and scale of these developments and potential for intra-project effects due to the presence of common sensitive environmental receptors (specifically in respect to landscape and visual, air quality, traffic and transport and biodiversity), Peel NRE objects to the current scope and contents of the cumulative assessment. It is understood that a fully updated cumulative assessment will be prepared as part of an update ES during the examination.	
Easement of the CO₂ Pipeline Corridor			
2.9.24	2.27	The pipeline corridor is proposed to travel north/south along the eastern boundary of the Order limit. The location of the pipeline corridor in the current proposal is an improvement on the location of the pipeline previously proposed in the Section 42 Consultation. However, despite this improvement, the current proposals are still not acceptable to Peel NRE on the basis that the proposed 24.4m corridor around the pipeline for the permanent acquisition of sub-soil (at plots 1-11, 1-12, 1-13, 1-15, 1-18 and 1-19) would cause an unacceptable quantum of land to be restricted from development by way of the proposed restrictive covenants	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035]. The Applicant has continued its discussions with Peel NRE on this topic and is making significant progress in commercial discussions regarding a voluntary land option agreement. Unfortunately, due to there not being sufficient time left in the examination to resolve the voluntary land option agreement, prior to the close of examination. The Applicant and Peel NRE remain committed on agreeing the voluntary land agreement and common Protective Provisions as soon as possible and prior to the submission of the ExA's report to the Secretary of State.
2.9.25	2.28	Notwithstanding Peel NRE's objection on this matter, the Applicant has confirmed that the 24.4m easement corridor and associated restrictive covenants proposed to be involved are necessary for the protection of the pipeline. The Parties are currently in discussions to reach an agreed position on this matter but the position has yet to be agreed and so Peel NRE must maintain its objection in principle to the current proposal on the basis that the restrictive covenants to be imposed on this land will unacceptably constrain the development of the Protos Plastics Park.	
Negotiating Land Agreements			
2.9.26	2.29	The parties have yet to agree a position on the land agreements however progress has been made in regards to the Heads of Terms. However, at this stage, Peel NRE must maintain its objection to the proposed acquisition of land, interests and rights identified within the Land Plans (drawing ref. EN070007-D.2.2-LP-Sheet 1 Rev G).	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035]. Please refer to Applicant's response in row 2.9.24 above.
Protective Provisions			

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
2.9.27	3.1	Peel NRE requests that its protective provisions (a copy of which is appended to the Written Representations dated 4th July 2023) (Protective Provisions) are included in the Order to ensure that its land interests and the planned development of the Protos Plastics Park are sufficiently protected in the carrying out of the authorised development and to ensure that Peel NRE is appropriately consulted at the detailed design stage in respect of the elements of the proposed Order which interface with the Protos Plastics Park.	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] . Please refer to Applicant's response in row 2.9.4 above.
2.9.28	3.2	Peel NRE is in discussions with the Applicant and hopes to seek the agreement of the content of the Protective Provisions with the Applicant prior to the close of the Examination Period. In the event that agreement on the form of Protective Provisions cannot be reached between Peel NRE and the Applicant, Peel NRE would request that the Protective Provisions (in the form appended to the Written Representations dated 4 th July 2023) are included in Schedule 10 of the Order in order to afford Peel NRE the appropriate protection in light of the impacts of the proposed Order on its land interests in the Protos Plastics Park	
Withdrawal of Objections			
2.9.29	4.1	In order for Peel NRE to be in a position to withdraw its objection to the proposed Order, Peel NRE requires confirmation from the Applicant that:	Please refer to Table 2-6 of the Applicant's Response to Deadline 6 Submissions [REP6-035] .

Reference	Turley on behalf of Peel NRE Reference	IP Submission	Applicant's Response
		<p>the access to the Ince AGI is relocated or renegotiated to avoid conflicting with planned development at Protos.</p> <ul style="list-style-type: none"> • the acquisition of land and rights over the Affected Land (including the extinguishment of any rights) is on terms agreed with Peel NRE. • sufficient protection for the Protos expansion is afforded by the Pipeline scheme to enable the Protos expansion to come forward unhindered. • no works pertinent to the Affected Land shall be carried out without Peel NRE's prior approval of the plans, specification, method statement and programme of works. • full access rights, during both the construction and operation phases, are retained to the Affected Land for the benefit of Peel NRE. • further consideration of the location of drainage infrastructure to avoid conflicting with planned development at Protos. • clarification on any riparian habitat enhancements at Ince AGI • clarification on hazards posed by the Pipeline (noting that this is subject to HSE advice). • updated cumulative assessment, fully considering intra-project effects with consented development within Protos. • updated cumulative assessment, fully considering intra-project effects with consented development within Protos. 	<p>The Applicant and Peel have continued their discussions. As a result of these, Peel have removed their objection on these objections (as well as all other objections to the Applicant's Environmental Statement), which has been recorded on Statement of Common Ground with Peel NRE [REP6-033], submitted at Deadline 7.</p> <p>The Applicant has continued its discussions with Peel NRE on this topic and is making significant progress in commercial discussion regarding a voluntary land option agreement. Unfortunately, due to there not being sufficient time left in the examination to resolve the voluntary land option agreement, prior to the close of examination. The Applicant and Peel NRE remain committed on agreeing the voluntary land agreement and common Protective Provisions as soon as possible and prior to the submission of the ExA's report to the Secretary of State.</p>

Table 2.10 - Applicant's Comments on Submission Received at Deadline 6A from Cllr Simon Eardley [REP6A-020]

Reference	IP Submission	Applicant's Response
Cover Letter		
2.10.1	<p>As the Cheshire West and Chester Borough councillor for several parishes affected by the proposed implementation of the CO2 pipeline scheme, I would like to address the Examination on points relating to: - The impact on residential amenity, including the proximity to housing, regarding the works and the infrastructure to be introduced to the area as a result of this project - The impact on the wider amenity of local businesses and organisations such as education facilities, community facilities etc - Highways considerations and mitigations that are needed - particularly in the context of a rural area / rural communities - Logistical considerations, including traffic congestion - Safety concerns. Cllr Simon Eardley.</p>	<p>The Applicant acknowledges the submission from Cllr Simon Eardley and will respond accordingly.</p>
Submission by Cllr Simon Eardley, Cheshire West and Chester Councillor for the Saughall and Mollington Ward		
2.10.2	<p>I am grateful for the opportunity to make this submission to the examination process around the above project and regret that I am unable to appear in person to make an oral submission as part of it. I write as the Cheshire West and Chester Council elected representative for the Saughall and Mollington Ward which includes the parishes of Backford and District, Lea-by-Backford, Mollington and Saughall & Shotwick Park which are all variously affected by the proposals. The comments below follow from discussions undertaken at various meetings of parish councils in recent months and as far as possible reflect the views expressed by parish councillors either on their own account or that of the residents whom they and I represent. This submission is, however, in my own words on the whole and should be taken as such. They do not reflect the views of Cheshire West and Chester Council as such who have made extensive representations themselves as part of this examination process.</p> <p>Whilst stating that I am grateful for the opportunity to make this submission, I would wish to make the following general observations at the outset which I feel should be put on the record on behalf of the residents I represent in relation to the totality of this process</p>	<p>The Applicant acknowledges the submission from Cllr Simon Eardley and will respond accordingly.</p>
2.10.3	<p>For most people, the planning process is something they encounter on a personal basis in respect of development or other proposals at their own individual properties. Whilst relatively complicated, that process is undertaken in a manner which encourages engagement amongst fellow residents and nearby neighbours and indeed other bodies, such as parish councils. I appreciate the complexity of the proposals before the Examining Authority which are so by their very nature and the extent of this project in terms of its scope and depth. However, for</p>	<p>Five consultations were held on the DCO Proposed Development prior to submission of the DCO Application. A non-statutory consultation was held in Summer 2021, followed up by a statutory consultation in early 2022 and three targeted consultations in Summer 2022.</p> <p>The non-statutory consultation ran for 32 days, from 9 June 2021 to 11 July 2021. The scope of this consultation was to introduce the DCO Proposed Development, including route options, to stakeholders and communities. In particular, the consultation asked for views on two potential</p>

Reference	IP Submission	Applicant's Response
	<p>residents who do not have an expertise or experience in these matters, this whole process is both very complicated and couched in language that is not at all conducive to full understanding and appreciation of the issues raised, some of which will have a direct short- and long-term impact on their residential amenity. I make this point with due respect to the Examining Authority and I accept that it is beyond the remit of you to address it as such.</p> <p>But I did want to place this observation on record as I strongly believe that important projects of this nature should encourage as wider a pool of people as possible to engage with them and I fear that is incredibly challenging unless you have specific expertise and understanding of the terminology employed.</p> <p>Furthermore, and whilst this matter has improved in recent months, I believe there have also been deficiencies in the public information exercises that have been undertaken to raise awareness of the project, its implications, this examination process and the ongoing impact that it will have for many years to come. Whilst it is not unusual for residents to miss communications, I am troubled by the large number of people who have approached me directly with concerns that they 'know very little' about the project, where it will impact, the wider impacts of it on the local environment and in respect of practical considerations such as highways and traffic management. Whilst public awareness events have taken place, some of these haven't always been in locations to aid the greatest accessibility of residents in villages which are directly impacted. For example, at the request of the parish councils listed above, an event with the proponents of this project was held with parish councillors on 23 February 2023 which followed on from an online engagement event in early December 2022 which was restricted to upper tier local authorities and combined mayoral authorities. The willingness of the project leaders to do this subsequent event, which took place at Backford Village Hall (serving the 'five villages' in the immediate local area) was welcomed, but the point remains that this was a valuable means to engage key personnel which was not part of the overall plan for community engagement. A further event was also held on 20 June 2023 and was again welcomed by those able to engage with it. My point here though would be that this has all been at the instigation of the parish councils in the latter example or by me in terms of the initial process. This doesn't feel acceptable and I would urge all future engagement on any aspect of the project to be as robust and comprehensive as possible. This is an imperative as far as I am concerned.</p>	<p>routes for the CO₂ pipeline, with the outcome informing which route would be taken forward into statutory consultation as the preferred route.</p> <p>The statutory consultation ran from 9 February 2022 to 22 March 2022 (41 days). It provided detailed information on the DCO Proposed Development ahead of submission of the application for development consent. A Statement of Community Consultation (SoCC) was prepared for the DCO Proposed Development. In accordance with Section 47(2) of the PA 2008, the Applicant consulted with the relevant local authorities on the content of the SoCC. The statutory public consultation was undertaken in accordance with the final SoCC.</p> <p>Activities to promote the statutory consultation included the following:</p> <ul style="list-style-type: none"> • The Applicant wrote to all Section 42(1)(a) and Section 42(1)(b) stakeholders in accordance with Section 48 of the PA2008. • The Applicant placed notices promoting the consultation in local and national newspapers. • The Applicant contacted all Cheshire West and Chester councillors, Flintshire councillors, parish, town and community councils, MSs and MPs. • The Applicant issued a press release to media organisations local to Wales the North West of England and nationally. • The Applicant distributed an information postcard to every residential and business address in the consultation zone which consisted of buildings within 500m of the DCO Proposed Development. This contained: <ul style="list-style-type: none"> ○ a brief description of their proposals; ○ details on the ways in which recipients can get involved in the consultation; ○ the URL of the HyNet hub online consultation hub; ○ contact details of the project team; ○ the dates and times of events and how to join them; and ○ the deadline for responses. • The Applicant placed the Preliminary Environmental Information Report and other information in four deposit points (libraries) along the route. • Production of a non-technical booklet explaining the HyNet project, the basics of the carbon capture process, the potential pipeline route, the potential benefits locally, regionally, and nationally, and the DCO process. Project updates emailed to all those who had subscribed via the project website. The project website was included on letters and emails sent to stakeholders, information postcards delivered to residents and businesses, posters advertising the consultation, site notices, and newspaper notices. • The project team hosted seven in-person consultation events. • The project team held three online interactive sessions over Zoom. <p>Based on the results of consultation feedback, ongoing work, including surveys and design iterations, resulted in further changes to the DCO Proposed Development. These were consulted upon in three rounds of targeted consultations. 24 changes were identified in the first round, which ran from 17 June 2022 to 19 July 2022, with a further 6 changes in the second round, which ran from 25 June 2022 to 25 July 2022, and 5 final changes in the third round of targeted consultation, which ran from 22 July 2022 to 19 August 2022, a total of 35 changes overall.</p>

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		<p>Further details of the consultations can be found in the HyNet DCO Consultation Report, Chapter 3 (Approach to Consultation and Engagement) [APP-031].</p> <p>Additional engagement following submission of the DCO Application to date has included the following:</p> <ul style="list-style-type: none"> • 23rd February 2023 – Community Council Meeting with the affected communities • 2nd March 2023 – Meeting with the Headteacher and School Manager at St Oswald's School • 20th June 2023 – Public engagement meeting <p>In addition, a future meeting is scheduled for 11 September 2023 which will be a public engagement meeting followed by Parish Council briefing.</p>
2.10.4	<p>The final general observation I would make is that the actual location of the proposed pipeline, despite some refinements in recent months, remains quite broad. It is challenging to make definite observations on this whole application when there is potential for the final route to change considerably. To an extent this is inevitable but it does create the very real possibility of substantial change which may result in unknown implications which interested parties might wish to comment on. How will this be managed going forward?</p> <p>Parish councillors have observed that the current planned route would appear to be overly complicated and of a 'zig zag' nature rather than following what might be considered to be logical routes which could potentially reduce the wider impact in a range of areas, including that of the impact on the environment. Whilst there may be practical reasons why this is not possible, and no doubt the subject of extensive research and modelling, the suggestion has been made, for example, that the route of the pipeline might more conveniently follow that of the Shropshire Union Canal (in broad terms). Whilst not perfect in terms of location, this is an existing, logical and relatively straight 'pathway' from the Ellesmere Port industrial area through to at least part of Section 3 of the proposed route. A reasonable query has been stated as follows: "Why is the proposed pipeline following a tortuous course which brings it to within 1/4 mile of the centre of Mollington village, for example, and nearer than that to a primary school of over 120 children, and also adjacent to residential properties?"</p>	<p>In developing the Newbuild Carbon Dioxide Pipeline route corridor options, the following guiding principles were followed:</p> <ul style="list-style-type: none"> • to avoid, minimise and manage impacts upon the environment and local amenity; • to ensure the transportation of the CO2 is undertaken safely and securely; • to optimise the potential socio-economic benefits within the region; • to be technically viable and constructible with minimum disruption; and • to be cost-effective. <p>This process mirrors accepted industry practice developed by National Gas (formerly National Grid) for the development of linear infrastructure.</p> <p>A full description of routing methodology can be found in the Environmental Statement (VOLUME II) Chapter 4 – Consideration of Alternatives [REP4-032]</p> <p>Following are further consultations which justify the point of creating wider public awareness:</p> <ul style="list-style-type: none"> • 25 May 2021 - presentation at the Climate Emergency Taskforce which Cllr Eardley attended. Post the session, Cllr Eardley got in touch to congratulate us on community engagement to date. • 14 Jul 2021 - responded to points raised following a parish council meeting in Capenhurst brought to our attend by Cllr Eardley. • 14 September 2021 - responded to points raised by Lea-By-Backford Parish Council and Mollington Parish Council. • 9 Nov 2021 - received an email from Cllr Eardley explaining he had given his parish councils an update. We provided slides for him by way of a further update. • 9 December 2021 - Gave a project update at the 'CWAC Tory Group' meeting. • 30 November 2022 - Project update for all councillors within the HyNet region. • 23 February 2023 - HyNet project update to Backford, Lea-By-Backed, Mollington and Saughall councils following an offer to update councils on request. Requested by Cllr Eardley.
2.10.5	<p>Chorlton-by-Backford – use of Chorlton Lane and Little Rake Lane. The lanes in this village are narrow, of a relative low quality and some are subject to severe road surface deterioration issues. The impact of heavy vehicle movements on</p>	<p>Paragraph 3.2.1 of the Outline Construction Traffic Management Plan [REP3-020] establishes the considerations given in identifying the most appropriate construction traffic routes for the DCO Proposed Development.</p>

Reference	IP Submission	Applicant's Response
	<p>these routes is of considerable concern from a safety and accessibility perspective given their nature. In addition, there are regular (circa. 10 per day) heavy vehicle movements by Hoyer oil tankers to the Exolum fuel storage site off Chorlton Lane. Detailed information will be required around how an increase in traffic will be managed and how the inevitable impact on the highway network will be mitigated in respect of road surfaces that are already seriously degraded. Access to the fuel storage site in particular is challenging and subject to particular narrow lanes and limited sight lines on both roads stated here. Assurances around the robustness of any traffic management plan would be appreciated and of considerable interest to those residents most affected.</p>	<p>Included within this document is Table 8 Mitigation Measures. The table includes a measure relating to Highway Condition Surveys, Maintenance and Repair which states that a highway inspection, monitoring and repair strategy, to be deployed during the construction of the DCO Proposed Development, will be agreed in advance with the Local Highways Authorities and included in the final CTMP.</p>
2.10.6	<p><u>Station Road, Backford / Lea-by-Backford. There are several points of concern regarding this road:</u></p> <p>Access from Liverpool Road (A41) at Backford onto Liverpool Road. Please refer to the Appendix 1 images I have also supplied in relation to this comment. This is a very challenging junction to access Lea-by-Backford through to Mollington but will be the main route to reach 'Trenchless Crossing Compound TRS-18 A41 Liverpool Road.' How will this be managed from a safety and vehicle movement perspective? The road incline from Liverpool Road onto Station Road is considerable at this fast paced and dangerous location, particularly for road users seeking to turn left onto Liverpool Road from Lea-by-Backford. The images supplied illustrate the challenging nature of this location. They are taken from approximately 20 metres below the main junction and are intended to show the 'steep' incline. What cannot be illustrated sufficiently here is the difficulty vehicles can have exiting this junction from Station Road to Liverpool Road when turning left with limited sight lines. This is likely to be exacerbated by any increase in vehicle movements from Liverpool Road to Station Road. It would be appreciated if consideration could be given to the introduction of semi-permanent traffic management in this location, i.e. traffic lights to manage vehicle movements, and which might then be left as a permanent and positive legacy from the project to the management of traffic in an identified difficult highways' location.</p>	<p>Paragraph 3.2.1 of the Outline Construction Traffic Management Plan [REP3-020] establishes the considerations given in identifying the most appropriate construction traffic routes for the DCO Proposed Development. Figure 17.4 shows the construction traffic routes proposed for use during the construction of the DCO Proposed Development. Station Road has not been identified as a construction traffic route as a result of site investigation and consultation with Cheshire West and Chester Council highways officers. Wherever possible, construction traffic will use the spread of the pipeline itself to access working areas.</p>
2.10.7	<p>Backford Brook bridge, Station Road. Please refer to the Appendix 2 images I have also supplied in relation to this comment in order to illustrate the nature of the bridge referred to here. Has proper consideration been given to the impact on this small bridge by heavy vehicle movements? The works associated with this project will inevitably increase the movement of such traffic over a relatively weak and narrow point on Station Road which is a concern to all users of this location and especially the residents who live immediately adjacent to the bridge in question. Any deterioration to it could have a significant impact from an environmental, drainage and flooding perspective. It is my assumption that at the</p>	<p>Paragraph 3.2.1 of the Outline Construction Traffic Management Plan [REP3-020] establishes the considerations given in identifying the most appropriate construction traffic routes for the DCO Proposed Development. Figure 17.4 shows the construction traffic routes proposed for use during the construction of the DCO Proposed Development. Station Road has not been identified as a construction traffic route as a result of site investigation and consultation with Cheshire West and Chester Council highways officers.</p>

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	<p>end of the project tests will be undertaken to confirm that the bridge has not been weakened in any way as a result of the additional heavy traffic. Appropriate assurances would be appreciated.</p>	
2.10.8	<p><u>Hours of work.</u></p> <p>Residents have expressed concern regarding the potential detrimental impact of the proposed amendment which will see the operational hours of work extended to include Saturday working. Whilst there may be some logic to this in the hope and aspiration that it will mean the work is expedited more quickly, there is inevitable anxiety that this will add to the disruptive nature of the operations and the amenity of residents which are already to be extensive during the totality of the 'working week'. It has been stated that the villages affected, including the largest, Mollington, are generally quiet at weekends, and any extension of the hours of work to include Saturdays represents a loss of residents' amenities at this time to which they are entitled. Residents regard this as unacceptable and I agree.</p>	<p>The proposed Saturday working hours are consistent with the Cheshire West and Chester Council Detailed Policy DM30 (Noise) within the Local Plan. This is further explained within the Outline Noise and Vibration Management Plan [REP5-017].</p> <p>To maximise productivity within core working hours, the Construction Contractor(s) will require a period of up to one hour before the core working hours for the start-up activities on Saturdays. A noise level threshold specific to this hour has been included in the Outline Noise and Vibration Management Plan [REP5-017].</p>
2.10.9	<p><u>Impact on local businesses and other amenities.</u></p> <p>There is an appreciation that for a project of this nature, there will be some inevitable disruption to the lives of residents and those operating businesses and other services such as education providers. I note the following aspiration in paragraph 17.10.5 (page 31) of the ENVIRONMENTAL STATEMENT (VOLUME II): "Ensure that any impact to local communities and the local economy is reduced as far as reasonably practical." This is welcomed but it must be followed through by action and actual implementation during the construction phase of the works. I note that Grove Road, Mollington is not designated as a 'trenchless crossing' location which is of concern, not least owing to the presence of St Oswald's Church of England Primary School on this road. It has also been raised that, given Grove Road is a key access route into the village of Mollington via Leaby-Backford, what consideration will be given to access for emergency vehicles on a full basis whilst the works are underway? The impact of not following through on the ambition as stated in the above paragraph is a concern. Hours of operation are relevant in this context, particularly in respect of key morning and afternoon peak times for those accessing this large village education facility. A substantial number of pupils are from 'outside the area' so there are already considerable vehicle movements. Cutting off one of the main access routes towards this school (one of three – on one other there are Hynet related works also underway – Station Road) will cause major disruption which will need to be managed thoroughly and robustly in the final traffic management plan for the project.</p>	<p>There is a proposal to close Grove Road for through traffic for a temporary period (up to two weeks), and Station Road has been identified as a diversion route following consultation with Cheshire West and Chester Council. The closure point would allow access to St Oswald's Primary School to be maintained along with access for emergency services.</p> <p>The potential effects on St Oswald's School have been assessed within Chapter 16 Population and Human Health [REP4-055] (paragraphs 16.9.60-16.9.61) whereby a large adverse (significant) effect was identified. In light of this, mitigation measures identified that construction activities that take place outside of St Oswald's School will be scheduled outside of term time where possible, to avoid potential disturbance and traffic delays (D-PH-013 of the OCEMP [REP6-008]). This potential disturbance and mitigation was highlighted to the school during the meeting on 3rd March 2023 (see row 2.13.3 above).</p>
2.10.10	<p><u>Specific resident concern.</u></p>	<p>Paragraph 3.2.1 of the Outline Construction Traffic Management Plan [REP3-020] establishes the considerations given in identifying the most appropriate construction traffic routes for the DCO</p>


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	<p>Please redact the address details if this submission is published in any form. I have been asked to ensure that the following comments are noted within this representation from the residents of [REDACTED] which were relayed to me following the 20 June 2023 engagement meeting with the Applicants referenced above:</p> <p><i>"I attended the "Presentation" at the Hall yesterday where some representatives from Hynet attended. On the basis of the new plans they distributed it would seem that the temporary 'service road' running across the field next to us from Station Road towards the canal, and the pipeline route, will run just a few metres from the boundary of our property. At the start of the road at the Station Road end they seem to be laying down a "pad" that will be approximately 25 metres square which will be used as a turning circle and for vehicles waiting to make the crossing to the pipeline. Naturally I am concerned about the effect this might have on both my property and the area in general e.g. numbers of and sizes of vehicles that may be involved and the length of time the work might take and I wondered if you had any contact within Hynet who might be able to provide such information. It was indicated that they had assessed the area to ensure it was suitable but I'm sure you can appreciate my concern, particularly with regard to school traffic twice a day, lack of pavements on Station Road and the weak bridge near the hall."</i></p> <p>This is just one example of specific residential concern in relation to the impact of the project on their individual residential amenity. Assurances on these points would be welcome as they also speak to other observations made in the body of this representation.</p>	<p>Proposed Development. Figure 17.4 shows the construction traffic routes proposed for use during the construction of the DCO Proposed Development. Station Road has not been identified as a primary construction traffic route as a result of site investigation and consultation with Cheshire West and Chester Council highways officers.</p> <p>The Backford Brook bridge is not designated a weak bridge.</p>
2.10.11	<p><u>Environmental impact of block valve stations.</u></p> <p>A query has been raised as to whether there will be venting as part of the block valve stations at compound locations. Please can clarification be given as to the venting impact assessment on residents that might or might not have taken place in the planning of these block valve stations and what full mitigations might need to be introduced to minimise this impact</p>	<p>The Applicant can confirm there will be no venting at the proposed Block Valve Stations, as documented in Chapter 3 – Description of the DCO Proposed Development of the ES [REP4-029].</p> <p>An assessment of impacts from venting operations at the relevant Above Ground Installations has been presented in Chapter 6 – Air Quality of the ES [REP4-035]. No assessment of venting impacts has been undertaken for the Block Valve Stations as there will be no venting operations occurring at these locations.</p>


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2.10.12	<p><u>Trenchless crossings.</u></p> <p>I understand from the following document that a number of crossings for the pipeline are intended to be 'trenchless': Environmental Statement (Volume III) (planninginspectorate.gov.uk). This is to be welcomed as there are a number of examples in this document which would cause significant disruption if they were not, for example:</p> <ul style="list-style-type: none"> • Work Number 22 – TRS-18 – Prevent disruption to traffic on the A41 Liverpool Road • Work Number 25 – TRS-21 – Prevent disruption to traffic on Station Road (although see comments elsewhere in relation to this road and the compound located off it • Work Number 25 – TRS-22 – Prevent disruption to traffic on Townfield Lane • Work Number 28 – TRS-24 – Prevent disruption to traffic on the A540 (Parkgate Road). • Work Number 28 – TRS-25 – Prevent disruption to traffic on Hermitage Road. <p>Of particular interest is:</p> <ul style="list-style-type: none"> • Work Number: 30 / Reference: TRS-27 / Reason for Crossing – Prevent disruption to traffic on the A548 Sealand Road. <p>This crossing is to be regarded as an imperative for trenchless work but I am given to understand that there could be significant geological challenges owing to the historic course of the River Dee in this location which may cause significant difficulties in the operation of the preferred method of tunnelling. Early knowledge and confirmation of whether the preferred method will be possible is essential here as the impact of any closure of Sealand Road would be significant to the whole greater Chester area, Blacon, Sealand itself and the village of Saughall in my council ward. There is concern that if an overground method of tunnelling were employed, then the implications on traffic management would be extensive and represent major disruption.</p>	<p>Work Number: 30 / Reference: TRS-27 is proposed as a trenchless crossing within the DCO for the specific purpose of preventing disruption to traffic on the A548 Sealand Road.</p> <p>The Applicant is confident that a trenchless crossing is achievable in this location.</p>
	<p>In the context of 'trench works' but in respect of the construction works generally, an assurance that the contractors, as a minimum, return the villages and land affected to the condition that they were in prior to the work commencing would be appreciated. Ideally they should aim to improve the environment after the disruption. Far too often it is the case that contractors carry out work in the villages and fail to complete the remedial work to a satisfactory condition</p>	<p>The requirement to remediate land to an appropriate standard is secured under Requirement 5 (Construction Environmental Management Plan) of the draft DCO [CR3-008].</p>



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2.10.13	Draft DCO Requirement 13 – Construction hours (Draft DCO 2.2.2). I support Cheshire West and Chester Council's wish for further clarification of the Applicant's 7 definition of 'start-up and shut-down operations'. See Table 1.1 of the Council's 'Response to Submissions Made at Deadline 5' (submitted at Deadline 6 – Tuesday 18 July 2023).	The Applicant acknowledges the response from Cllr Simon Eardley and confirms it is engaging with CWCC on this matter.
2.10.14	Draft DCO Requirement 13 – Construction hours (Draft DCO 2.2.3). I support Cheshire West and Chester Council's reiterated wish for a better understanding of which activity / activities are proposed to be excluded from Requirement 13.3(a) in respect of the process of trenchless crossing including equipment used and the likely resulting noise sources etc. Furthermore, as stated by Cheshire West and Chester Council in Table 1.1 of the Council's 'Response to Submissions Made at Deadline 5' (submitted at Deadline 6 – Tuesday 18 July 2023), I support the Council's wish for clarification around which aspects of trenchless crossing construction have to be done at night and that is proposed to be excluded via Requirement 13.3(a). In both this comment and the one above I consider these to be essential matters of detailed clarification in order that the potential for amenity impacts can be adequately assessed and it determined whether or not further / additional controls might be required.	
2.10.15	<p>Environmental impact on trees and hedges. The detail provided in the Applicant's 'ENVIRONMENTAL STATEMENT (VOLUME III) Appendix 9-11 Arboricultural Impact Assessment (Clean)' report is to be welcomed but there remains considerable community concern around the impact on trees in the vicinity of the construction route. Section 3 of the route, which broadly covers the area I am most concerned with in my ward, is detailed extensively in the report after page 34 (tree listings from page 25 to 35). It is challenging to judge the actual and real impact owing to the lack of a definitive route within the overall scope area allowed for the construction. In summary, the report states at paragraph 3.7.6 (page 25) on a 'RAG status' the following:</p> <ul style="list-style-type: none"> • There are 242 trees graded A to U which are identified for removal / partial removal. • There are 656 trees graded A to U at risk but aiming to retain. • There are 516 trees graded A to U to be retained with protection measures. <p>his makes a total of 1414 trees likely to be impacted by these works, although it could be more, or it could be less. The assurances around the potential impact on veteran trees and the protections anticipated (identified as a result of the walkover rather than the desk-based study) are to be welcomed but they must be followed through with the utmost careful attention to detail and be as robust as possible. I am not assured by the phrase 'aiming to retain' which suggests to me a licence in effect to 'aim to retain' but there is no guarantee. This category is by far the</p>	<p>As part of early design commitments, efforts were made by the Applicant to avoid sensitive habitats and features, wherever possible, including veteran trees. The Applicant will seek to minimise tree and hedgerow losses during the development of the detailed design and throughout construction of the DCO Proposed Development, in line with items D-BD-007, D-BD-009, D-BD-010, D-BD-012, D-BD-013, D-BD-014, D-LV-005, D-LV-026 as provisioned for within the OCEMP [REP6-008].</p> <p>The Applicant has conducted an extensive desk-based and field-based assessment exercise to undertake tree features (individual trees and groups of trees) within the Order Limits, subsequently identifying 1414 Arboricultural features. Utilising a reasonable scenario-based assessment (as presented within Annex D – Preliminary Constraints and Impacts Plan of [REP4-118], in the absence of a final pipeline design, the Applicant has assessed that 242 features would require 'Removal/Partial Removal' (as presented within Table 3-18 of [REP4-118]). A further 656 features are 'At Risk Aiming to Retain', with the remaining 516 features 'Retained with Protection Measures'. At the detailed design stage, the number of Arboricultural features that will be impacted will flex in response to the refined Working Corridor for construction, so the numbers in any of the above three categories will change depending on the final route alignment. As such, only a proportion of the 1414 trees identified may be lost. The assessment has adopted a reasonable worst-case approach in creating a notional corridor which does not deliberately avoid tree features, and therefore assessing potential removal of 242 features. It is therefore not anticipated that the number of trees requiring removal would materially increase (indeed it will be a design objective to seek to reduce</p>

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	<p>largest and should the balance of probability be on removal then the overall impact on trees along the proposed route will be very extensive and unwelcome. As a minimum, residents and myself would expect replacement planting to mitigate the impact on a high quality basis. In other words, the 'like for like' replacement of trees removed, accepting that the age, size and condition of them will change.</p> <p>There are strongly expressed views regarding the impact of the construction on hedgerows along the route which may not have the same visual impact or assessment for quality and retention in the report analysis although there is some specific mention in relation to historic native hedgerows worthy of consideration. There is an inevitable acceptance that the impact on hedgerows will be extensive and may be indiscriminate in nature. Assurances that this will not be the case would be welcomed.</p>	<p>that number), but rather that the specific trees and tree features affected would vary depending on the detailed design.</p> <p>The design refinements as set out in Change Request 1, and assessed in the ES addendum [CR1-124], removed the remaining veteran trees from risk of impacts as a result of construction of the DCO Proposed Development. Veteran trees identified across the Order Limits have subsequently been categorised to 'Retained with Protection Measures' (see Appendix 9.11 Arboricultural Impact Assessment [REP4-118] – Annex B Arboricultural Survey Schedule and Annex F for details on exclusion measures such as protective fencing). Specific mitigation measures (developed in response to the detailed design) will be detailed within a site-specific Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) and supervised by an Arboricultural Clerk of Works (ACoW), where necessary.</p> <p>The Applicant has committed to reinstatement of habitats post construction with additional mitigation planting and landscaping proposed for habitats unable to be readily reinstated (e.g. woodland and trees). It is not possible to plant replacement trees directly above the buried pipeline or within 12m either side, due to potential for interference of roots with the pipe. Alternative planting solutions are proposed and will be explored at the detailed design stage but may include the planting of shrub species. To replace felled trees (where these can't be replaced in the location lost) thirteen mitigation areas have been identified for tree planting (as detailed within Figure 3.4 Landscape and Ecological Mitigation Plan [REP4-190]). A tree planting ratio of 3:1 (planted : lost) has been adopted with species to be planted to remain in-keeping with the green infrastructure being enhanced or in line with the wider landscape tree community, comprising native trees of local provenance (as provisioned for by D-BD-063 of the OCEMP [REP6-008]). Mitigation area locations have been selected prioritising connection with existing woodlands to enhance and strengthen existing green infrastructure within the landscape, aligning with local policies and strategies (for example policy DM44 of Cheshire West and Chester Council's Local Plan 2).</p> <p>In respect of hedgerows, the Applicant has undertaken an extensive assessment of hedgerows across the Order Limits and will seek to remove the smallest practicable width of hedgerow possible at each hedgerow crossing. The Applicant has committed to removal of up to a maximum width of 15m of hedgerow (see item D-BD-012 within the REAC [REP6-006]) at hedgerow crossings required to facilitate construction. Where opportunities exist for routing the pipeline or associated construction access through existing gaps in hedgerows, thus avoiding the need to remove vegetation, this will be prioritised (see item D-BD-009 of (OCEMP) [REP6-008]). Hedgerows impacted during construction will be reinstated post construction through planting of whips and shrubs and subject to management to ensure hedgerows re-establish in line with hedgerow sections unimpacted by the DCO Proposed Development.</p>
2.10.16	<p>I am aware of liaison that will take place with the principal highways authority in the area in respect of the pipeline within England, Cheshire West and Chester Council (CWaC), around this specific focus of interest and activity and on an ongoing basis. This work will be of crucial importance in terms of mitigating impact</p>	<p>The Applicant acknowledges the submission from Cllr Simon Eardley and confirms that it is working to develop a robust communications and engagement plan to cover the whole of the construction period and ongoing maintenance. This is outlined within the submitted Outline Stakeholder Engagement Strategy [REP5-023].</p>

Reference	IP Submission	Applicant's Response
	<p>on residential amenity and I cannot stress enough the importance of it. I am assured that CWaC will have an ongoing role to play in terms of signing of traffic management plans. Please can the communications around this be as strong, detailed and robust as possible? Visibility and assurances around the robust nature (i.e. is it sufficiently robust) of the traffic management plan are imperative. Whilst these matters can to a large extent be considered a desk-based exercise, as the borough council representative for the area, I am most anxious to limit as far as possible the actual impact that the works will inevitably bring about or at the very least ensure that residents are fully informed and aware of what they might be and when they might be.</p>	
2.10.16	<p>Finally, I would respectfully reiterate that the impact of this scheme on the parishes of Backford and District, Lea-by-Backford, Mollington and Saughall & Shotwick Park are not inconsiderable. The residential amenity impact is clear and obvious and the inconvenience that will follow from the project will be extensive unless fully and properly managed. There are valid and specific environmental impacts, whilst to a large extent mitigated through appropriate plans and mitigations, which will need to be carefully considered as the project progresses. Whilst the impact on privately owned land for the long term in respect of its value and current use will be compensated appropriately, it is unclear to me whether similar compensation schemes in relation to the immediate and long-term impact on parishes and residents will also follow. Similar projects in the area have contained provision for 'community benefit', such as the Protos Community Benefit Fund, see https://www.protos.co.uk/community?p=community. This makes funds available for local community causes every year. The benefit fund is open to bids for funding from organisations and causes in the parishes of Ince, Elton, Helsby, Frodsham, Thornton-leMoors and Little Stanney. Transport, community buildings, sport, youth, and heritage are among the wide range of causes considered. Consideration for a similar opportunity arising from the HyNet project would be appreciated. Please accept my apologies if this point is not within the remit of the Examining Authority but by capturing it here, I trust that it will be noted by the Applicant and their associates.</p>	<p>The Applicant acknowledges the submission from Cllr Simon Eardley and confirms that it is working to provide a voluntary proposal for a community benefit fund, and the form such a proposal might take. As any funding would be provided on a voluntary basis and not tied to the DCO, the review and approval cycle is not currently following the same timescale as the DCO process. However, the Applicant is happy to continue to engage on this outside of the DCO process, as the proposal develops.</p>

Reference	IP Submission	Applicant's Response
2.10.17	 A photograph of a paved road curving to the right. The road surface has white painted text: 'DOWN' and 'LEFT' on the left side of the road, and 'MUTS' in the center. A white dashed line runs down the center of the road. The road is bordered by green trees and bushes. In the background, a white house is visible on the left, and a blue sign with a white arrow pointing left is on the right. The sky is overcast.	The Applicant acknowledges that these are photographs of Liverpool Road.

Reference	IP Submission	Applicant's Response
		

Reference	IP Submission	Applicant's Response
		
2.10.18		<p>The Applicant acknowledges that these are photographs of Station Road.</p>


Reference	IP Submission	Applicant's Response
		

Table 2.11 - Applicant's Comments on Submission Received at Deadline 6A from the Environment Agency– Cover Letter [REP6A-021]

Ref.	Comment	Applicant's Response
	Contaminated Land Matters	
2.11.1	<p>The EA has raised under previous deadline submissions [REP1-026] [REP3-045] [REP4-279] [REP6-041] the need for additional site investigation and assessment work to provide a comprehensive understanding of the contamination risks / ground conditions within the DCO Order Limits where this has been found to be insufficient to date. Such work will in turn determine requirements for remediation where found to be necessary, ensuring the risks of contamination to 'controlled waters' is managed effectively. Whilst it was raised in our Deadline 1 submission [REP1-026] that the additional site investigation / assessment work should be provided to inform the DCO Examination process, it is noted the applicant has not submitted additional technical information on this matter to date.</p>	<p>The Applicant has had multiple engagements with the EA since Deadline 6A and as a result has submitted a technical report (document reference: D.7.61) to the EA and into the Examination at Deadline 7 in relation to this matter along with further narrative on works undertaken to date. In addition, Requirement 9 in the draft DCO has been updated in response to the EA's comments and submitted at Deadline 7.</p>
2.11.2	<p>The EA welcomes the applicant's intention to manage 'unexpected contamination' under a DCO Requirement (9) [CR3-008]. There is recognition under DCO Requirement 9 [CR3-008] that in the event 'unexpected contamination' is encountered, approval should be sought by the relevant authority for any site investigation / risk assessment work and remediation strategy that would be required. However, additional ground investigation works / assessment required where contamination is known and / or potentially present (and remedial works where necessary although not established at this time), is to be incorporated within the Construction Environmental Management Plan (CEMP) to be submitted under DCO Requirement 5.</p>	
2.14.3	<p>The EA has significant concerns with the approach to address such matters under DCO Requirement 5 (CEMP) and advise whilst the ground investigation / assessment work (and remedial works where necessary) will inform the CEMP and associated management plans for the construction phase, this information is essential to ensuring the land is in a suitable condition for its end use sought through the DCO.</p>	
2.14.4	<p>It is the EA's view that there needs to be a suitable mechanism to secure such additional work, in consultation with the EA from a 'controlled waters' perspective (Local Authority for human health matters), to ensure the risks of contamination posed by the development are managed effectively. We advise formal approval must be sought prior to the commencement of development for any additional site investigation / assessment work; and, where necessary, any remediation strategy(s); validation plan(s); and subsequent verification demonstrating the success of remedial works.</p>	

Ref.	Comment	Applicant's Response
2.11.5	In the absence of sufficient information to address the contaminated land matters raised to date, it is the EA's position that without an appropriate DCO Requirement governing the submission of additional information, as above, we are unable to confirm to the Examining Authority that the risks of contamination to 'controlled waters' will be sufficiently managed through the DCO.	
2.11.6	It is noted under DCO Requirement 3 [CR3-008] that there is an intention for the pipeline to be delivered in 'stages' given the scale of the scheme. Therefore, it is essential prior to the commencement of development that an improved understanding of the site conceptualisation / characterisation, through additional ground investigation / assessment work, is established. This will in turn inform the proposed stages for the development to ensure any stages that may come forward in advance of others will not jeopardise remedial works where required. Once sufficient ground investigation and assessment work has been undertaken to provide adequate site characterisation within the Order Limits, we would be in a position to agree to submissions by 'stage' where it is found remedial works are required.	
DCO Requirement 9: Contaminated Land and Groundwater (Draft)		
2.11.7	9 (1) – The authorised development may not commence in the Order limits until a site investigation and risk assessment of the risk to all receptors that may be affected, including those off-site, has been submitted and approved in writing by the relevant authority, in consultation with the Environment Agency.	The Applicant has had multiple engagements with the EA since Deadline 6A and as a result has submitted a technical report (document reference: D.7.61) to the EA and into the Examination at Deadline 7 in relation to this matter along with further narrative on works undertaken to date. In addition, Requirement 9 in the draft DCO has been updated in response to the EA's comments and submitted at Deadline 7.
2.11.8	(2) Where remediation is found to be necessary based on (1), no stage of the authorised development is to commence for that stage, until an options appraisal and remediation strategy is submitted to and approved in writing by the relevant authority, in consultation with the Environment Agency, giving full details of: (a) remediation measures required to render the land fit for its intended purpose and how they are to be undertaken; and (b) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy under subparagraph (a) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The scheme shall be implemented as approved. Any changes to these components require the written consent of the relevant authority.	
2.11.9	(3) Prior to each stage of the authorised development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to,	

Ref.	Comment	Applicant's Response
	and approved in writing by the relevant authority, in consultation with the Environment Agency. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.	
2.11.10	<p>(4) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the relevant authority), for that stage, shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by the relevant authority, in consultation with the Environment Agency.</p> <p>The remediation strategy shall be implemented as approved.</p>	
2.11.11	The EA advise that DCO Requirement 3 will also need to be revisited to ensure the development of 'stages' for the scheme take into account the results of the site investigation and detailed risk assessment work. Whilst we understand the applicant seeks to only provide a written submission of this information, given this intrinsically links with the management of contaminated land matters, we would advise that approval is sought by the relevant authority, in consultation with the EA, to ensure the proposed extent of stages will not impact any remedial works required based on the site investigation / assessment work required to be undertaken prior to the commencement of any development.	
2.11.12	If there are any queries / further details required on the above, which relate to the EA's concerns on contaminated land matters only at this time, we would welcome an opportunity to provide further clarity in answer to any queries raised through the Examining Authority's Third Written Questions.	

Table 2.12 - Applicant's Comments on Submission Received at Deadline 6A from Eversheds Sutherland on behalf of Encirc Limited– Cover Letter [REP6A-022]

Reference	Eversheds Ref	IP Submission	Applicant's Response
Introduction			
2.12.1	1.1, 1.2 & 1.3	<p>This is an update summary prepared on behalf of Encirc Limited to set out the latest position in relation to the Hynet Carbon Dioxide Pipeline Development Consent Order (“Proposed DCO”) ahead of the upcoming hearings.</p> <p>Currently, there is a draft Statement of Common Ground between the parties (submitted for Deadline 6) which set out the issues between the parties. Further, the parties are currently in the process of negotiating Protective Provisions for the benefit of Encirc to be included in the Proposed DCO alongside heads of terms for the granting of land rights. The negotiations in this regard remain ongoing.</p> <p>The section below sets out some of the major points which remain outstanding.</p>	<p>The Applicant acknowledges the submission by Encirc Limited and welcomes ongoing engagement as documented on the Statement of Common Ground [REP6-026]</p>
Future Development of the Encirc Land			
2.12.2	2.2.1	<p>As has been previously explained, Encirc has development plans for its land included within the Order land.</p> <p>These plans include an automated warehouse, new rail sidings and intermodal area, and hydrogen powered furnace, all of which are either with the local planning authority or well publicised, will include the installation of further railway tracks / sidings to be installed over plots 1-22, 1-21 and 1-06.</p> <p>This development is essential to the future of the Encirc business and Encirc's compliance with its obligations. 2.2.1.4 Encirc needs certainty that these plans will be not prevented or compromised by the Proposed DCO.</p> <p>Encirc is currently awaiting further technical detail and confirmations from the Applicant in this regard (including confirmation of directional drilling below rail lines, depth of drilling, terms of agreements with Network Rail and removal of requirement for construction access to plot 1-21).</p> <p>It is hoped that the Applicant can provide sufficient confirmations which can be secured in the Protective Provisions and land right agreements.</p>	<p>The Applicant acknowledges Encirc's comments and confirms that discussions are ongoing, which aim to address all appropriate confirmations and that these can indeed be accommodated via Protective Provisions and land rights discussions.</p>
Crossing of the Railways			

Reference	Eversheds Ref	IP Submission	Applicant's Response
2.12.3	2.2.2	<p>Encirc have noted that it is important to its business operations and future plans that the pipeline is buried under both sets of train lines in a single trenchless crossing using directional drilling.</p> <p>Further, Encirc has requested that the pipeline be buried to a sufficient depth to ensure it does not compromise the train lines, the carrying out of Encirc's operations and future development.</p> <p>The Applicant is reviewing the possibility of carrying out a single trenchless crossing, covering land plots from 1-18 to 1-25 (including Plots 1-19, 1-20, 1-22, 1-23 and 1-24).</p> <p>Encirc have emphasised to the Applicant the importance of retaining access at all times to and use of the railway for the carrying out of Encirc's business and its future plans for redevelopment in this area. The matters will be dealt with in the protective provisions which are currently being discussed between the parties.</p>	<p>Due to the complex nature of the trenchless crossing, and the interactions with adjacent stakeholders (notably Network Rail and Peel NRE), it will not be possible to confirm the details of the crossing before the end of DCO examination. The Applicant has assessed completing the trenchless crossing in a single crossing as well as two crossings with an intermediate shaft located in Plot 1-22.</p> <p>The Applicant acknowledges the s106 outline of the railway submitted by Cheshire West and Chester following CAH2 [AS-080], which sets out the high-level future plans. The Applicant is in discussion with Encirc on this point and is hopeful that these issues can be accommodated via Protective Provisions and land rights discussions.</p> <p>The Applicant acknowledges the critical nature of Encirc's access requirements and addressing these concerns via land rights discussions.</p>
Plot 1-21			
2.12.4	2.2.3	<p>The Applicant has confirmed that so long as the rail crossing is undertaken in one trenchless crossing, then there is no need for temporary possession to be undertaken of Plot 1-21 during the construction phase.</p> <p>Encirc understands that the Applicant requires only Permanent Access Rights for monitoring and maintenance of the pipeline. Therefore, it is Encirc's understanding that this right could be provided over an alternative route to Plot 1-21 (and hence plot 1- 22) and secured by way of a land rights agreement and the protective provisions.</p> <p>Encirc also requires clarification as to why even operational phase monitoring of the pipeline at plot 1-21 (and 1-22) would be required if no such monitoring access is required along the route either side of this location.</p>	<p>The Applicant refers to the reference 2.15.3 above.</p> <p>The Applicant has confirmed the requirement of the permanent rights to 1-21 on previous occasions; due to the terrain and topography this area is required to ensure future operational access to 1-22. The Applicant's requirement is for operational access to 1-22, if access can be maintained via another route, then temporary possession of 1-21 is required only (in the event an intermediate shaft is required). This discussion is on-going and the Applicant hopes this can be accommodated via Protective Provisions.</p> <p>The Applicant confirms that operational phase monitoring is required to all accessible areas of the pipeline and is not limited to 1-22, and such access has been designed along the entire route.</p>
Traffic Movements			

Reference	Eversheds Ref	IP Submission	Applicant's Response
2.12.5	2.2.4	<p>Encirc remains concerned in relation to the management of road traffic movements around the Encirc Site during the construction stage of the Proposed DCO. This relates to access from Grinsome Road to the proposed Hynet AGI plant from the north and from Ash Road to the pipeline construction (and monitoring) areas from the south.</p> <p>The access roads are used heavily to Encirc and are vital for the operation of its business. The route between the rail terminal and the plant accommodates as a minimum, 80 one-way (160 twoway) HGV movements of sand and cullet per day per week, operation between 7.00am and 3.30pm. The route in in continuous operation during this period. This continuous operation cannot be interrupted.</p> <p>Ash Road (to the south) is maintained at the expense of Encirc and is kept as a free-flowing route by Encirc through mechanisms such as the traffic light phasing under the Ash Road rail bridge. Clarification is required as to the proposed extent of use of Ash Road by the applicant and the extent of construction traffic using Ash Road to access the pipeline route south of the main rial line to the east of Ash Road.</p> <p>A well-developed protocol will be needed to manage the use of the roads and to ensure that the construction process does not prejudice Encirc's ability to carry on its operations.</p>	<p>Appendix 17.7 Construction Traffic Flows [REP4-161] of Chapter 17 Traffic and Transport of the ES Chapter [REP4-057] reports that the construction of the DCO Proposed Development will involve a total of 47 two-way vehicle movements (of which 9 will be HGVs) accessing the works areas via Ash Road per day on average during the Project Peak Month. The same volume and composition of traffic has also been reported to access the works areas via Grinsome Road. This allows the assessment to consider a robust 'worst-case' scenario on two individual links as in practice the reported volume of construction traffic will use either Ash Road or Grinsome Road or a combination of the two.</p> <p>The Applicant acknowledges the response from Encirc and has committed to work with Encirc via a fortnightly construction and traffic scheduling meeting when the project is in Detail Design and During the Applicant's Construction Phase. This has been agreed between the Parties as part of the Protective Provision drafting. Both Parties are working together, to ensure the Applicant's development's impact in minimal to both Encirc's business operation and their future development plans.</p>

Table 2.13 - Applicant's Comments on Submission Received at Deadline 6A from Natural England – [REP6A-025]

Reference	Comment	Applicant's Response
Cover Letter - Natural England updated advice regarding soils and best and most versatile agricultural land		
2.13.1	<p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Natural England has previously provided advice regarding soils and best and most versatile agricultural land and raised several issues within our written representations response dated 17 April 2023. Natural England has since reviewed the updated documentation regarding soils submitted by the applicant and so provide our updated advice within Annex A.</p>	The Applicant acknowledges the response to Natural England.
Annex A Updated advice regarding Soils and Best and Most Versatile Land		
2.13.2	<p>The following advice is based upon Natural England's review of the following documents:</p> <p>D.6.2.11. Chapter 11: Land and Soils (Rev B)</p> <p>Outline Construction Environment Management Plan (OCEMP)</p> <p>Appendix 5: Outline Materials Management Plan (D.7.32.)</p> <p>Appendix 1: Outline Soil Management Plan (D.6.5.4.1.)</p> <p>Appendix 2: Outline Peat Management Plan (D.6.5.4.2.)</p> <p>We understand that, from the updated application documents, of the 339.9 ha of BMV land which will be affected by the proposals during construction, 19.245 ha of this will be lost for the lifetime of the development, reflecting the updated land take figures in Table 11.7 'Hectarage of permanently sealed agricultural land' (19.245 ha).</p> <p>The land take presented in Table 11.12 'Construction Stage assessment of significant effects' (1.37 ha BMV)(Chapter 11 – Land and Soils D.6.2.11) still remains inconsistent with Table 11.7.</p>	The Applicant can confirm that Table 11.12 in Chapter 11 – Land and Soils [REP4-045] has been updated and is consistent with Table 11.7, as submitted at Deadline 7.
Outline Construction Environment Management Plan (OCEMP) Appendix 1: Outline Soil Management Plan (D.6.5.4.1)		
2.13.3	Natural England welcome the commitment to undertake further soil resource surveys on land not surveyed due to access issues and where non agricultural soils are identified, with the information feeding into the detailed SMP (Para 2.2.1 and 2.2.4).	<p>The Applicant acknowledges the responses from Natural England following the most recent updates to the OSMP.</p> <p>The Applicant specifically notes that soil resource plans are a requirement of the detailed SMP where further information will be provided in relation to soil handling and soil type. The Applicant has updated the OLEMP to</p>

Reference	Comment	Applicant's Response
	<p>Natural England welcome the commitment to develop the Soil Resources Plans in line with the Defra Construction Code (Para 4.1.2).</p> <p>The Outline SMP now sets out the clear aim for BMV agricultural land to be returned to its original quality (Section 5.4. and Section 6), with the monitoring of all soil handling activities (Paragraph 1.3.1).</p> <p>Paragraph 2.2.6. has been updated to state that the detailed SMP will distinguish between topsoil, subsoil (upper and lower subsoil, where appropriate), and the basal material.</p> <p>It is acknowledged that the proposed locations of the soil stockpiles will be determined following design finalisation. Sufficient space capable of storing the excavated soil resource should be confirmed. (Paragraph 4.5.2).</p> <p>Paragraph 4.2.3 has been updated to set out that the plastic limit should be determined through the use of the Wetness test as presented in Supplementary Note 4 IQ Soil Guidance.</p> <p>Natural England welcome the inclusion that any required decompaction or remediation activities will be undertaken when the soils are in a suitably dry condition.</p> <p>A soil resource plan could usefully be presented for the topsoil, upper subsoil and lower subsoil to inform soil handling.</p> <p>Soil handling discussed in the Outline LEMP (Paragraph 3.1.3), should make reference to the Outline SMP and the Defra Construction Code of Practice to ensure consistency across the DCO.</p>	<p>reference the OSMP [REP4-240] and Defra Construction Code of Practice which will be submitted at Deadline 7.</p>
Outline Construction Environment Management Plan (OCEMP) Appendix 2: Outline Peat Management Plan (D.6.5.4.2)		
2.13.4	<p>Natural England welcomes the update to the outline Peat Management Plan (PMP) and the commitment to produce a detailed PMP as part of the detailed CEMP. However, development on peat should be avoided as far as practicable.</p> <p>The potential need for a dewatering strategy is now considered in para 4.1.7, however the suitability of the identified peat as a substrate in which to lay the pipeline or create a construction platform requires clarification.</p> <p>Any peat which is excavated will experience carbon losses, via Carbon Dioxide (CO2) due to the exposure to aerobic conditions, these losses cannot be prevented. To minimise these CO2 losses, the exposure of the peat to the air should be minimised and the moisture conditions maintained to keep carbon losses to a minimum, i.e. avoid or minimise disturbance.</p> <p>A key mitigation measure to minimise carbon losses, is to keep the peat in a saturated state. This makes transporting the material in a suitable condition</p>	<p>The Applicant acknowledges the responses from Natural England and notes that Section 4 'Peat Management' of the OPMP [REP4-242] includes expectations to minimise timescales between excavation and backfilling, covering stored peat and the need to keep temporary peat stockpiles wet.</p> <p>Section 4.1.8 has been added to the OPMP [REP4-242] requiring that the final PMP will assess the suitability of identified peat as a substrate during construction.</p>

Reference	Comment	Applicant's Response
	difficult. Furthermore, any excavated peat should be suitably re-used as soon as possible after excavation.	

Table 2.14 - Applicant's Comments on Submission Received at Deadline 6A from Natural Resource Wales [REP6A-024]

Reference	NRW Reference	Comment	Applicant's Response
Cover Letter			
2.14.1	N/A	<p>This letter comprises Natural Resources Wales (NRW)'s response to the following document:</p> <p>i. Water Framework Directive Derogation Case for the Alltami Brook Crossing [REP5- 016] – see Annex A;</p> <p>In addition, NRW's consolidated written representation for Change Requests 1 to 3 is provided in Annex B.</p> <p>This letter comprises Natural Resources Wales (NRW)'s response to the following document: i. Water Framework Directive Derogation Case for the Alltami Brook Crossing [REP5- 016] – see Annex A; In addition, NRW's consolidated written representation for Change Requests 1 to 3 is provided in Annex B.</p> <p>The geology of the Alltami Brook crossing point location is complex and this proposal for excavation of the bedrock beneath Alltami Brook would result in a permanent, physical change to the watercourse. Without any ground investigation information or robust evidence to support the Applicant's position, NRW maintains that there is a risk that excavating bedrock for the proposed Alltami Brook trenched (open-cut) crossing could create a pathway for surface water to be lost underground. Such flow losses may cause long-term deterioration of hydromorphology, water quality and ecological elements downstream.</p>	<p>The Applicant would like to draw attention to the fact that NRW consider the risk of deterioration to the Wepre Brook WFD water body is based upon a hypothetical "worst-case scenario" as they stated in their Written representations and Response to ExA's ExQ1 [REP1-071]. The likelihood of such a hypothetical worst-case scenario is extremely low, consequently, the risk of deterioration of the Wepre Brook WFD water body is also extremely low.</p> <p>In the absence of such a hypothetical worst-case scenario, then it is logical to conclude that the trenched crossing would be WFD compliant. NRW has not stated that the trenched crossing would be non-compliant in any other scenario other than "worst-case".</p> <p>The Applicant has submitted a robust WFD derogation case [REP5-016] to cover the eventuality of a worst-case scenario occurring. This report demonstrates how the Applicant meets the Article 4(7) tests set out within the WFD legislation.</p> <p>The Applicant has repeatedly informed NRW that land access during the preparation of the DCO Application was not granted at this site. Land access to this area remains restricted and the Applicant does not have permission to undertake intrusive surveys. Therefore, ground investigation has not been possible.</p> <p>The Applicant has used extensive existing data to examine the risk of loss of water to ground. The evidence, including that from historic borehole data in close proximity to the proposed crossing point (and which NRW agreed were in sufficient close proximity during a consultation meeting on 26 June 2023 and recorded within the SoCG [REP6A-012-]), indicated an upwards hydraulic gradient. In addition, the Alltami Brook appears to be gaining water within the Order Limits despite there being no tributary contributing flow. This is despite a known fracture running parallel to the Alltami Brook in this location.</p> <p>NRW also corroborate the Applicant's view that fractures within this bedrock are likely to be discontinuous; therefore this does not correspond with their argument that there could be a potential pathway for surface water to be lost underground causing long-term deterioration given that a discontinuous unsaturated fracture has a limited capacity to receive water.</p>
2.14.2	N/A	<p>The Applicant has submitted an alternative crossing option (embedded pipe bridge). NRW has provided advice to the ExA about this [CR2RR-002]. In summary, on the information provided, NRW considers that such an option would not result in deterioration in the status of the affected waterbodies and on that basis, would likely be compliant with the Water Framework Directive and Regulations. On that basis, NRW considers that a derogation under the respective provisions would not be required.</p>	<p>The Applicant agrees that a WFD derogation would not be required for the alternative crossing option (embedded pipe bridge) submitted in their Change Request 2 Relevant Representation [CR2RR-002].</p> <p>The DCO submission is for the trenched crossing. It is for the SoS to determine whether the alternative crossing option is taken forward.</p> <p>The Applicant maintains the view, however, that the preferred trenched option is WFD compliant on the basis of both the evidence presented of a watercourse gaining water, a upwards hydraulic gradient, which therefore prevents the loss of water to ground, the discontinuous nature of the</p>

Reference	NRW Reference	Comment	Applicant's Response
		<p>The Applicant has made clear that, despite NRW's concerns, it would prefer to proceed with the trenched (open-cut) crossing option and has prepared a 'without prejudice' WFD derogation report in support of this. Whereas this report is welcomed, NRW nevertheless remains concerned at the lateness of this submission. Furthermore, despite being labelled as a derogation report the document mixes the Applicant's position about WFD compliance with the WFD derogation information. NRW advises that a WFD derogation report should comprise an objective assessment of the WFD Article 4(7) / Regulation 19 tests.</p> <p>Nevertheless, NRW has reviewed the report and in summary advises that the evidence provided by the Applicant in support is insufficient/inadequate to enable the ExA to conclude that a robust WFD derogation case can be made. On that basis, the ExA should not consent to the DCO based on the Applicant's preferred option. NRW's detailed advice regarding this is provided in Annex A of this letter.</p>	<p>fractures in the bedrock and given that NRW themselves acknowledge that loss of water would be a risk only in a hypothetical worst-case scenario.</p> <p>Under Directives, assessments must be made on a reasoned objective basis and that absolute certainty is not required in the interpretation of Directives.</p> <p>The Applicant asserts that the Without Prejudice WFD Derogation Report [REP5-016] does provide an objective assessment of the WFD Article 4(7) and demonstrates evidence of how the tests are met.</p> <p>The Applicant also reserves the right to assert within the derogation case the belief that the proposed crossing is WFD compliant, and that the derogation case presented is in response to NRW's position on which the Applicant has invested considerable effort to reach common ground, but have not achieved, which has resulted in the derogation case submission.</p> <p>The Applicant disagrees with NRW's statement that the evidence provided is insufficient/inadequate to enable the ExA to conclude that a robust derogation case can be made. NRW pre-DCO submission stated repeatedly that they will not consent to cutting through bedrock. That is their ultimate position and NRW will clearly object regardless. NRW set out in their Written representations and Response to ExA's ExQ1 [REP1-071] the additional evidence they considered necessary to inform a risk assessment of the trenched crossing of Alltami Brook. The Applicant has provided this evidence, yet NRW now seeks even more evidence. NRW is seeking absolute certainty, which is an unreasonable position and something that the Courts have made clear is not required in the interpretation of Directives.</p>
2.14.3	N/A	<p>NRW's advice is provided in response to the information and evidence submitted by the applicant in its WFD Compliance assessment and subsequent case for derogation. Its role is to advise and assist the ExA in its determination of whether the information presented by the Applicant is compliant with the requirements of the WFD and Regulations. As a result, NRW has not undertaken a forensic assessment of matters raised in the Applicant's WFD submissions (for example, references to the consideration by the Courts of the evidential burden, and historic discussion with NRW) and has rather sought to limit its advice to those issues directly material to the issue of WFD compliance. Nevertheless, NRW would reserve the right to comment as necessary on such issues. NRW's advice is given without prejudice to any further comments we may wish to make in relation to this application and examination whether in relation to the ES, provisions of the draft DCO and its Requirements, SoCG or other evidence and documents provided by Liverpool Bay CCS Ltd. and their consultants ('the Applicant'), the Examining Authority or other interested parties.</p>	<p>The Applicant has no further comments on this matter.</p>

ANNEX A: NRW's advice in relation to the Applicant's Water Framework Directive Derogation Case for Alltami Brook Crossing [REP5-016]

Reference	NRW Reference	Comment	Applicant's Response
2.14.4	1.1.1	<p>Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy (Water Framework Directive), Articles 4(7), 4(8) and 4(9) states:</p> <p>Article 4(7) (and Regulation 19 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017) Member States will not be in breach of this Directive when:</p> <ul style="list-style-type: none"> - failure to achieve good groundwater status, good ecological status or, where relevant, good ecological potential or to prevent deterioration in the status of a body of surface water or groundwater is the result of new modifications to the physical characteristics of a surface water body or alterations to the level of bodies of groundwater, or - failure to prevent deterioration from high status to good status of a body of surface water is the result of new sustainable human development activities and all the following conditions are met: <ul style="list-style-type: none"> (a) all practicable steps are taken to mitigate the adverse impact on the status of the body of water; (b) the reasons for those modifications or alterations are specifically set out and explained in the river basin management plan required under Article 13 and the objectives are reviewed every six years; (c) the reasons for those modifications or alterations are of overriding public interest and/or the benefits to the environment and to society of achieving the objectives set out in paragraph 1 are outweighed by the benefits of the new modifications or alterations to human health, to the maintenance of human safety or to sustainable development, and (d) the beneficial objectives served by those modifications or alterations of the water body cannot for reasons of technical feasibility or disproportionate cost be achieved by other means, which are a significantly better environmental option. <p>Article 4(8) (and Regulation 14) When applying paragraphs 3, 4, 5, 6 and 7, (Regs 15-19) a Member State shall ensure that the application does not permanently exclude or compromise the achievement of the objectives of this Directive in other bodies of water within the same river basin district and is consistent with the implementation of other Community environmental legislation.</p> <p>Article 4(9) (and Regulation 14) Steps must be taken to ensure that the application of the new provisions, including the application of paragraphs 3,</p>	<p>The Applicant acknowledges the Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy (Water Framework Directive), Articles 4(7), 4(8) and 4(9). The Applicant responds accordingly to NRW's comments below.</p>

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		<p>4, 5, 6 and 7, (Regs 15-19) guarantees at least the same level of protection as the existing Community legislation.</p> <p>In July 2015, the Court of Justice (ECJ) ruled on authorisation of projects affecting water quality under the WFD 2000, in Bund fur Umwelt und Naturschutz Deutschland (Judgment) [2015] EUECJ C-461/13.</p> <p>The Court held that the Water Framework Directive precludes authorisation of a project where the project may cause a deterioration of the status of the body of water concerned or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the Directive, unless a derogation under Article 4(7) applies.</p> <p>The judgment makes it clear that Article 4(1)(a)(i) does not merely set out a statement of high level objectives for a member state preparing a RBMP, but means that where deterioration cannot be ruled out, and absent of a derogation (i.e., the criteria in Article 4(7) (as transposed by Regulation 19) being satisfied) then consent must be refused.</p> <p>In this application for a Development Consent Order under the Planning Act 2008, the decision as to the application of Reg 19 / Article 4(7) of the Water Framework Directive (WFD) rests with the Secretary of State (SoS). The advice below is provided by NRW to advise the ExA in making its recommendation to the SoS. It considers those matters under Reg 19 / Article 4(7) that fall within NRW's remit. It will be for the ExA, and ultimately the Secretary of State, to decide how much weight to give to this advice in reaching their final judgment.</p> <p>In order to assist the ExA, NRW has sought to provide advice on the implications of the HyNet Carbon Dioxide Pipeline Project on WFD Regulations / Water Framework Directive compliance. Our advice should be considered solely in relation to the specific provisions of the WFD.</p> <p>All references to documents stated in this Annex are given in section 9.</p>	
2.14.5	2.	<p><u>Scope</u></p> <p>NRW's advice on the application of Reg 19 / Article 4(7) is given in the following interpretative context:</p> <p>a) Article 4(7)(a) (Reg 19.3): NRW will assess the adequacy of the mitigation measures proposed in the specific context of the objectives sought to be achieved under the WFD;</p>	The Applicant has no further comments on this matter.

Reference	NRW Reference	Comment	Applicant's Response
		<p>b) Article 4(7) (c) (Reg 19.4a & 4b): NRW will assess both limbs of this test as the Applicant has provided both.</p> <p>c) Article 4(7)(d) (Reg 19.5): It should be noted that there is a divergence in the wording between the respective tests under Reg. 19 / Art. 4(7) (regarding omission of reference to 'environmental' options). NRW's advice is predicated on environmental options. However, it is a matter for the ExA to determine the appropriate approach to take in respect of this test.</p>	
2.14.6	2.1.2	<p><u>Pre-application advice</u></p> <p>NRW has provided advice and guidance to the Applicant during the preapplication stage as to the requirements under WFD, in particular raising concerns about the trenched (open-cut) crossing option at Alltami Brook and stating that detailed evidence should be made available prior to the DCO application to ensure compliance with the Water Framework Directive / Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ("the WFD Regulations 2017"). The pre-application advice provided by NRW was therefore based on the information available at the time. Section 6 of the Water Framework Directive Derogation Case for Alltami Brook Crossing report [REP5-016] explains that details of consultation with NRW are provided within the Statement of Common Ground (SoCG) [currently REP6-028].</p>	<p>During the pre-application advice consultation meetings with NRW regarding the trenched crossing of the Alltami Brook, NRW's primary objection was that they consider cutting through bedrock as irreparable damage. The zone of impact to the watercourse would be limited to 4m of channel length. In addition, the Applicant has committed to reinstated the surface of the Alltami Brook with a bedrock and boulder dressing to mimic the baseline conditions. Therefore, the Applicant considered this commitment to be adequate mitigation to return the stream bed to a condition comparable to baseline. Impacts to bedrock would therefore be constrained to subterranean removal of bedrock and replacement with artificial materials, such as concrete and grouting to create an impermeable seal.</p> <p>The high-pressure grouting with the use of accelerators is an industry standard method for filling voids within bedrock to create an impermeable barrier to water. Therefore, the Applicant considered in its assessment and embedded mitigation that the concerns raised by NRW were robustly mitigated and therefore WFD compliant.</p> <p>The Applicant shared all information used to inform the WFD assessment, including engineering design and options for the crossing of the Alltami Brook, during these pre-application consultation meetings with NRW. Therefore, NRW had all the relevant information provided pre-submission.</p>
2.14.7	2.1.3	<p><u>Advice provided during the DCO Examination</u></p> <p>Following submission of the DCO application on 3 rd October 2022, additional information has been provided by the Applicant during the DCO Examination. Further advice has been submitted by NRW on the WFD Compliance Assessment and the risk of surface water flow loss from Alltami Brook. This can be summarised as follows:</p> <p>a) 02/02/23: NRW advised that there was insufficient baseline evidence to support the proposed engineering works at Alltami Brook to satisfy WFD compliance.</p> <p>b) 06/03/23: NRW advised that the Applicant's proposed geomorphological assessment would be unlikely to address their key concerns about surface water flow loss via the trenched (open-cut) option.</p> <p>c) 27/03/23: An alternative encased pipe bridge option was presented to NRW during a site visit. The Applicant proposed to undertake flow</p>	<p>a) The Applicant has undertaken additional assessment of the hydrogeological conditions of the Alltami Brook catchment to provide additional baseline evidence. The Applicant also informed NRW repeatedly of the land access issues preventing the collection of ground investigation, a matter that is beyond the control of the Applicant.</p> <p>b) the Applicant has not undertaken additional geomorphological assessment based upon NRW's position.</p> <p>c) The Applicant disagrees that NRW welcomed the Applicant undertaking flow monitoring. The Applicant was keen to undertake this work but NRW responded by stating it would not provide conclusive evidence. Consequently, the Applicant did not undertake this monitoring on the basis that NRW would not accept that meaningful conclusions could be drawn.</p> <p>d) The Applicant considers that the embedded mitigation proposed for the trenched crossing of the Alltami Brook results in WFD compliance. NRW is objecting on the grounds of a "worst-case" scenario [REP1-071]. In addition, in their Written representations and Response to ExA's ExQ1 [REP1-071], NRW provides a list of additional information that "should be submitted by the Applicant to inform a</p>

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		<p>monitoring within the Alltami Brook. NRW welcomed this but advised that it would be very difficult to draw any meaningful conclusions from the data.</p> <p>d) 06/06/23: During Issue Specific Hearing 1 the Applicant introduced their intention to belatedly submit a WFD derogation report into the Examination as a result of NRW's outstanding concerns, and notwithstanding NRW's advice at the pre-application stage.</p> <p>e) 18/07/23: NRW submitted its Deadline 6 representation [REP6-049] including its advice on the Applicant's hydrogeological impact appraisal. NRW acknowledged the Applicant's conceptual model for the site of the Alltami Brook crossing. The Applicant affords significant weight to this within their Reg 19 / Article 4(7) WFD derogation case. However, NRW considers that the actual geological site conditions are far more complex than indicated by the conceptual model. NRW does not have confidence in the Applicant's conclusions and maintains its position that there may be deterioration of the Wepre Brook waterbody as a result of the proposed trenched (open-cut) crossing of Alltami Brook.</p>	<p>risk assessment of the proposed Alltami Brook crossing open-cut option so that its viability can be assessed". It is on this basis that the Applicant delayed submitting a WFD derogation case and sought to provide sufficient additional evidence to demonstrate WFD compliance and negate the need for derogation. The Applicant engaged actively with NRW during this process and during in person meetings appeared to be nearing common ground. However, NRW has retained an opposing view in formal submissions.</p> <p>e) The use of conceptual models is commonly employed in the assessment of hydrogeological conditions to inform an Environmental Impact Assessment. NRW agreed that the borehole data used in the Hydrogeological Impact Assessment [REP6-049] are sufficiently close to use to draw conclusions on the groundwater conditions, which indicate upwards water pressure and upwards hydraulic gradient. NRW also concur that fractures are discontinuous in this area, which supports the case presented by the Applicant.</p>
2.14.8	2.1.4 – 2.1.8	<p><u>Water body and elements considered for Regulation 19 / Article 4(7)</u></p> <p>NRW advises that there may be deterioration of the Wepre Brook water body as a result of the Applicant's preferred trenched (open-cut) crossing option of Alltami Brook. Insufficient evidence has been provided to date by the Applicant to support the conclusions of its WFD compliance report.</p> <p>NRW agrees that this activity qualifies for Reg 19 / Article 4(7) by being "a new modification to the physical character of the water body or alteration to the level of groundwater which may jeopardise the attainment of good ecological status, good ecological potential, good groundwater status".</p> <p>The element and water body that may deteriorate as a result of the HyNet Carbon Dioxide Pipeline Project are:</p> <ul style="list-style-type: none"> • The Wepre Brook water body (reference number GB111067056880): - Hydromorphology supporting element. <p>NRW notes that the Applicant does not "anticipate" any downstream impacts to this water body but has not provided robust information to demonstrate that this can be ruled out. To date, insufficient evidence has been presented to determine whether deterioration of the hydromorphological element could result in a deterioration of additional water body elements, e.g., flow, phosphates (reduced dilution) and biology. This could have a consequential impact on the ability to achieve the</p>	<p>The downstream water body is the Dee (N.Wales) (GB531106708200) transitional and heavily modified WFD water body. The size and volume of water within this water body would not be sensitive to the potential loss of some water flow from the Alltami Brook, should the worst-case scenario of loss of flow occur. The Dee water body would still receive flow from the Wepre Brook. It is disproportionate to assume that any loss of flow from the Alltami Brook would have a detrimental impact upon flow, phosphates or biology where the Qmean flow of Alltami Brook, according to NRW, is 0.07m³/s. This is insignificant at the Dee (N. Wales) WFD water body scale.</p> <p>The Applicant maintains the position that no other WFD water bodies need including within the derogation assessment given the small size of the Alltami Brook catchment (6.2km² according to NRW) compared to the large size of the downstream water body catchment (Dee (N. Wales)).</p> <p>There are no upstream WFD water bodies.</p>

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		<p>objective set out for this Water Body in the River Basin Management Plan of good status by 2027.</p> <p>This advice provided by NRW relates to this water body and elements. The ExA/SoS may conclude that further water bodies and/or elements should be included in the scope of Regulation 19 / Article 4(7). Therefore, the Reg 19 / Article 4(7) information may need to be updated by the Applicant following the completion of the ExA / SoS's WFD Compliance Assessment and therefore NRW may provide further advice as considered necessary.</p>	
Article 4(7) (a): 'all practicable steps are taken to mitigate the adverse impact on the status of the body of water' ("Test A")			
2.14.9	3.1	<p><u>Methodology</u></p> <p>NRW has considered the WFD elements which may deteriorate.</p> <p>This advice is informed by the information made available to NRW by the Applicant in their WFD Compliance Assessment report and Article 4(7) report.</p> <p>This advice is based upon the potential impacts of the HyNet Carbon Dioxide Pipeline Project and the mitigation proposed with the objective of minimizing or cancelling the adverse impact on the status of Wepre Brook water body.</p> <p>For the purpose of this test, all practicable steps taken to mitigate are those which are technically feasible, not disproportionately costly, and compatible with the new modification, in line with Common Implementation Strategy (CIS) (2017).</p> <p>Mitigation is considered through the design, construction, maintenance and operational phases of the project.</p> <p>Mitigation must be secured and legally enforceable.</p>	The Applicant has no further comments on this matter.
2.14.10	3.2	<p><u>Mitigation measures for the Wepre Brook water body</u></p> <p>The Applicant has largely provided the mitigation measures information following the template table provided to them by NRW (OGN77, NRW, 2018), with the exception of documenting the potential negative impacts of each mitigation measure. The mitigation measures for Test A are provided in Table 7-2 of the Applicant's Article 4(7) report [REP5-016].</p>	The Applicant considers that the evidence provided is sufficient to inform the derogation case. The Applicant has provided additional evidence regarding the mitigation measures in other control documents submitted in the DCO Application and has not sought to replicate all of this evidence within the derogation case. This list of relevant control document is provided within paragraph 7.7.30 of Without Prejudice Water Framework Directive Derogation Case for Alltami Brook Crossing [REP5-016].

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		Although not clearly referred to in the report, NRW is not aware of any mitigation options that have been omitted by the Applicant and therefore none are recorded here as such.	
2.14.11	3.2.3 – 3.2.4	<p><u>Mitigation measures presented/included by the applicant</u></p> <p>Mitigation measures included by the Applicant in relation to the Wepre Brook water body include:</p> <ul style="list-style-type: none"> a) Micro-siting of the pipeline during detailed design. b) Reducing the working width for the open cut crossing to 16m. c) A pre-works crossing point survey. d) High pressure grouting of any uncovered fractures within the excavated bedrock. e) A Groundwater Management and Monitoring plan. f) A bespoke geomorphology assessment to inform the micro-siting of the crossing location and the detailed design of the permanent works. g) Post-construction geomorphological and ecological monitoring of the permanent works. <p>NRW considers that some of the information provided on route corridor options relates to the wider environmental impact of the proposed pipeline beyond Wepre Brook and is more relevant to Test D, as are the first three rows in Table 7-2 of the derogation report. Because they are therefore not relevant to Test A, they have not been considered by NRW.</p>	The Applicant disagrees that route corridor options and the first three rows in Table 7-2 of Without Prejudice Water Framework Directive Derogation Case for Alltami Brook Crossing [REP5-016] are not relevant to Test A. The information relevant to Test A and Test D is open to interpretation and a judgement was made by the Applicant as to which test information was presented against. In addition, the route corridor options assessment is relevant to the Alltami Brook crossing as it explains the ultimate preferred corridor selection, which results in the need to cross the Alltami Brook in this location.
2.14.12	3.2.5	<p><u>Additional mitigation measures not included but could be considered</u></p> <p>NRW guidance on 'Derogation determination for Water Framework Directive Article 4(7) (OGN77) (current version dated October 2018) advises that, if adverse residual impacts are unavoidable or cannot be reduced further, enhancement measures should be considered to inform Test A. The Applicant has proposed the environmental actions and commitments listed in Table 7.1 to eliminate, reduce and manage both construction and operation impacts of the trenched (open-cut) crossing of Alltami Brook, including positive enhancement measures to offset impacts (D-BD-048 and D-WR-066). However, it is unclear why some of these measures have been omitted from Table 7-2 and Test A. These measures</p>	The Applicant may add the additional REAC commitments D-BD-048b and D-WR-066 to the Test A assessment.

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		would serve to strengthen the argument for this test, where adverse impacts are unavoidable and cannot be reduced further.	
2.14.13	3.2.6 – 3.2.8	<p><u>NRW's conclusions on Test A</u></p> <p>On the basis of the evidence available NRW considers that a reasonable range of mitigation measures have been considered.</p> <p>NRW is satisfied that all mitigation and enhancement measures could be secured by the DCO requirements. However, the nature of the proposed 'monitoring throughout operation' and 'adaptive management' needs to be clearly defined. It is not clear who would be responsible for maintaining the pipeline post-decommissioning, replacing any grout needed to prevent the loss of surface water from Alltami Brook and completing this monitoring in the longterm once the pipeline is no longer operational but the permanent irreversible alterations to bedrock are still in place.</p> <p>Although not clearly evidenced in the Applicant's WFD derogation report, NRW understands that no mitigation measures are identified as technically infeasible or disproportionately costly.</p>	The monitoring through operation will be secured through the Surface Water Management and Monitoring Plan, of which an outline plan has been submitted [REP6A-016].
2.14.14	3.3	<p><u>Summary</u></p> <p>On the basis of the evidence available, and subject to the concerns outlined at para. 3.2.7 above, NRW considers that a reasonable case has been made that all practicable steps will be taken to mitigate the adverse impact on the status of the Wepre Brook water body.</p>	The Applicant has no further comments on this matter.
Article 4(7) (b): 'the reasons for those modifications or alterations are specifically set out and explained in the river basin management plan required under Article 13 and the objectives are reviewed every six years;' ("Test B")			
2.14.15	4.1.1	The reasons for the modifications would need to be reported in the updated Dee River Basin Management Plan due to be published in 2027.	The Applicant has no further comments on this matter.
Article 4(7) (c): 'the reasons for those modifications or alterations are of overriding public interest and/or the benefits to the environment and to society of achieving the objectives set out in paragraph 1 are outweighed by the benefits of the new modifications or alterations to human health, to the maintenance of human safety or to sustainable development'. ("Test C")			
2.14.16	5.1.1	The applicant has provided information for the application of both "limbs" of Test C. Therefore, NRW has considered both limbs in the provision of this advice. However, it should be noted that only one limb of Test C needs to be satisfied.	The Applicant has no further comments on this matter.
2.14.17	5.2	<u>Overriding public interest (Test C, Limb 1)</u>	The Applicant has no further comments on this matter.

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		<p>Overriding public interest in the context of the WFD is interpreted as overriding the objectives of the WFD (CIS, 2017). The overarching aim of the WFD is long-term sustainable water management based on a high level of protection of the aquatic environment. Specific objectives are defined in Article 4(1) which are to achieve good status in all surface and groundwater bodies and to prevent any further deterioration of status.</p> <p>In providing its advice under Reg 19 / Article 4(7)(c) NRW has referred to the European Common Implementation Strategy Guidance (CIS 2009; CIS 2017).</p> <p>CIS (2017) states that it is reasonable to consider the reasons of overriding public interest in a Water Framework Directive context and refers to situations where plans or projects envisaged prove to be indispensable within the framework of:</p> <p>Actions or policies aiming to protect fundamental value for citizens' lives (health, safety, environment);</p> <p>Fundamental policies for the state and the society;</p> <p>Carrying out activities of an economic or social nature, fulfilling specific obligations of public services.</p> <p>The Applicant has provided evidence in their Article 4(7) report [REP5-016] to inform the case for OPI describing the public need for low carbon, secure energy and the suitability of the HyNet Carbon Dioxide Pipeline Project.</p> <p>NRW has considered the Applicant's case which includes:</p> <ul style="list-style-type: none"> - National policies and carbon budgets at both UK and Wales level which make the case for and importance of low carbon, secure energy, e.g.: <p>UK Government policy for energy - Overarching National Policy Statement for Energy EN-1 (Department of Energy and Climate Change (DECC), 2011a). This highlights the need for new energy generation capacity, to provide energy security and to move towards lower carbon electricity generation (while not referencing CCS technology).</p> <p>The Draft NPS EN-1 (2021) reiterates the Government's commitment to design new business models for hydrogen supporting transport and storage infrastructure by 2025. o Welsh Government ambition for net zero energy.</p> <ul style="list-style-type: none"> - Two national pieces of evidence link the need for new technology and the HyNet project: 	

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		<p>HyNet is identified as a project recognised by UK government for progression as Track-1 of its Cluster Sequencing Process (WFD derogation report, para 7.7.48).</p> <p>Welsh Government carbon budget (WFD derogation report, para. 7.7.45). Although the Applicant has not referred to it, NRW has considered Net Zero Wales Carbon Budget 2 (2021-25) (Welsh Government, 2021), which notes that Carbon Capture, Usage and Storage is a feasible option and can be used alongside hydrogen, HyNet presents significant opportunities to businesses across north Wales to decarbonise existing industrial processes.</p>	
2.14.18	5.3	<p><u>Public Participation (Test C, Limb 1)</u></p> <p>CIS (2017) states that 'public participation will contribute considerably in determining overriding public interest'.</p> <p>NRW notes that this aspect does not appear to have been considered in the Test C section of the Applicant's derogation report. The Applicant could further strengthen the case for Test C with consideration of the public participation aspects. For example: - The Planning Act 2008 sets out statutory requirements for pre-application consultation, including public consultation, for Development Consent Orders. The Applicant has submitted a Consultation Report [APP-031] that details the consultation activities undertaken in respect of the DCO application, but this or any specific examples of public support have not been referred to in the section on Test C in their derogation report.</p> <p>It is a matter for the ExA/SoS to determine whether or not public participation in respect of the DCO examination or otherwise has been adequate to satisfy this limb for Test C.</p>	<p>The Without Prejudice WFD Derogation report [REP5-016] is available for public access. In addition, the WFD derogation was specifically discussed at the Issue Specific Hearing held on 9 August 2023 where participants at the hearing were invited to raise any comments or concerns regarding the Alltami Brook crossing and the potential need for derogation.</p>
2.14.19	5.4	<p><u>Benefits comparison (Test C, Limb 2)</u></p> <p>The benefits aspect of this test requires evaluation of the benefits to the environment and society of achieving the objectives of WFD against the benefits of the new modification and whether those benefits would outweigh the benefits to the environment (CIS 2017).</p> <p>NRW guidance (OGN 77) advises applying three stages: • Stage 1: Summarise benefits foregone from failing to achieve environmental objectives of WFD; • Stage 2: Summarise benefits of the project in terms of human health, human safety and/or sustainable development; • Stage 3:</p>	<p>The Applicant considers that sufficient evidence has been presented against Test C, Limb 2.</p> <p>Not that only one of the two tests in Test C need to be met to comply with the Article 4(7) derogation tests and therefore debating the content of Test C, Limb 2 is quite academic.</p>

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		<p>Use weight of evidence approach to evaluate benefits versus benefits foregone using information from Stages 1 and 2.</p> <p>This test should be applied where there may be a deterioration. This is because the test needs to demonstrate that the benefits foregone as a result of deterioration to the water environment/achievement of the WFD objectives, can be outweighed by the benefits of the project in terms of human health/safety and sustainable development.</p> <p>Stage 1 should identify the benefits foregone in the event of loss of water from the brook and the hydromorphology impact, and that water quality and ecology of the Wepre Brook water body is impacted. NRW advises that this should identify and assess the social, environmental and economic benefits that would no longer be provided by the impacted water environment. However, the Applicant's consideration of Stage 1 is limited to reiterating the Applicant's position on compliance and fails to consider benefits foregone.</p> <p>For Stage 2 a qualitative summary is provided by the applicant of the benefits and significance assessment in Table 7.3. No evidence for this assessment is referenced.</p> <p>For Stage 3, benefits comparison, NRW advises that there is insufficient information from Stages 1 and 2 to complete the benefits comparison.</p>	
2.14.20	5.5	<p><u>Summary of Test C, Limb 1</u></p> <p>NRW considers that a reasonable case for Over-riding Public Interest (OPI) has been presented.</p> <p>The evidence provided for OPI could, for further clarification, be linked to the three categories in the CIS framework, namely: • Actions or policies aiming to protect fundamental value for citizens' lives (health, safety, environment); • Fundamental policies for the state and the society; • Carrying out activities of an economic or social nature, fulfilling specific obligations of public services.</p>	<p>The Applicant acknowledges that NRW considers that a reasonable case has been presented. The Applicant considers that the case made is robust and further additions, as suggested by NRW, would not result in a notable change to complying with this test.</p>
2.14.21	5.6	<p><u>Summary of Test C, Limb 2</u></p> <p>NRW does not agree with the Applicant's statement that benefits of the trenched (open-cut) crossing outweigh the potential benefits foregone, as explained at para. 5.4.4 above. As a result, NRW considers the case made for Test C, Limb 2 to be inadequate.</p>	<p>The Applicant notes NRW's position but does not agree. However, only one part of Test C needs to be met and a robust case has been presented against Test C, Limb 1.</p>

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2.14.22	5.7	<p><u>Overall Summary of Test C, Limbs 1 and 2</u></p> <p>NRW considers that a reasonable case for Test C, Limb 1 has been made. However, the case could be further strengthened with evidence around public consultation and support.</p> <p>NRW considers the case made for Test C, Limb 2 to be inadequate due to insufficient evidence being provided.</p>	The Applicant acknowledges NRW's response and has provided further response above to these points made by NRW.
Article 4(7) (d): 'the beneficial objectives served by those modifications or alterations of the water body cannot for reasons of technical feasibility or disproportionate cost be achieved by other means, which are a significantly better environmental option'. ("Test D")			
2.14.23	6.1	<p><u>Significantly better environmental option</u></p> <p>In order to fulfil this test, there must be no significantly better environmental option for achieving the benefits expected from the project/activity, or, if there are other options they should be ruled out as either technically infeasible or disproportionately costly.</p> <p>Benefits should relate to the primary intention of the project/activity, and be considered on a Wales-wide basis: • at different scales and designs, • at alternative locations and operating schemes • at a strategic and project level.</p>	The Applicant has no further comments on this matter.
2.14.24	6.2	<p><u>Strategic level alternatives</u></p> <p>NRW advises that this test should also utilise information gathered for Test C (OGN77, NRW, 2018). No assessment of "other means" for the beneficial objectives to be served by these modifications is undertaken in Test D. NRW advises that no clear case has been made in the Applicant's Article 4(7) report for there being no significantly better environmental strategic alternative.</p> <p>However, NRW notes that some of the national sectoral policies and statements outlined in Test C may provide some support for the development in principle, at a strategic level, and if so, a full assessment of other means may not be required. It is ultimately a matter for the ExA and SoS to determine whether such policies would assist the Applicant in satisfying this requirement.</p>	The Applicant disagrees with NRW's statement that no clear case has been made in the Applicant's Article 4(7) report for there being no significantly better environmental strategic alternative. The Applicant has provided an Alltami Brook Crossing Options Appraisal Report [REP3-039] , which provides the details of the options appraisal. This report clearly demonstrates that there is no significantly better environmental strategic alternative. The alternative option, the embedded pipebridge (which NRW favours) does not constitute a significantly better environmental option due to the
2.14.25	6.3	<p><u>Project level alternatives – the Wepre Brook water body</u></p>	The options appraisal draws upon information already submitted to the Examination, specifically the Alltami Brook Crossing Options Appraisal report [REP3-039] , and this is stated in paragraph 7.7.78, which precedes Table 7.4. It was deemed unnecessary to replicate the content of [REP3-039] , and

Reference	NRW Reference	Comment	Applicant's Response
		<p>The Applicant's Article 4(7) derogation report [REP5-016] outlines alternative options for pipeline route corridors and route alignments (note that this detail is provided for Test A but is not referenced for Test D). This includes an explanation of how the need for the newbuild pipeline corridor to connect to the existing Point of Ayr natural gas pipeline became an integral part of the project infrastructure. The rationale for the pipeline route alignment was based on a range of factors (as outlined in para. 7.7.22 of the report).</p> <p>Four strategic corridors were identified. The Southern Corridor was identified as the preferred option (para. 7.7.1) although both Southern and Core corridors were taken forward to more detailed appraisal, with nine options assessed (paragraphs 7.7.20 - 7.7.21).</p> <p>Two route options were considered to cross the steep gorge section of Alltami Brook. The South Alternative route was chosen due to reduced ecological impacts to residential and ecological receptors.</p> <p>A more detailed comparison was made for different crossing options within the steep gorge section of Alltami Brook, presented in tabular format (Table 7.4). However, there are few references to evidence the options appraisal conclusions, which appear to be based on a qualitative assessment.</p>	<p>instead a cross-reference to the report was made. The key summary points pertinent to the Article 4(7) test d were included in Table 7.4.</p>
2.14.26	6.3.5 – 6.3.7	<p><u>Consideration of significantly better environmental options</u></p> <p>Technical feasibility and environmental considerations have been applied in appraising project level alternative options. However, NRW considers the assessment of environmental considerations between the options has been applied at a high level and is qualitative, hence it lacks adequate detail and evidence to support the analysis. The statements in Table 7.4 are not clearly evidenced. The method for determining disproportionate costs is not transparent e.g., there are generic comparisons (“comparatively low-cost” “considerably higher cost”) but no assessment of disproportionality.</p> <p>The appraisal of options appears to have been applied inconsistently e.g., the long-term, permanent environmental impact of bedrock removal for the trenched (open-cut) crossing is not identified. The benefit provided by the embedded pipe bridge option in removing the risk of surface water flow loss is not acknowledged. Furthermore, the potential long-term loss of water through degradation of the concrete grout within fractured bedrock has not been considered for the trenched (open-cut) crossing, nor has the long-term risk of grout washout from a continuous upward gradient of groundwater pressure (if confirmed to be present).</p>	<p>The options appraisal draws upon information already submitted to the Examination, specifically the Alltami Brook Crossing Options Appraisal report [REP3-039].</p> <p>The Applicant has included mitigation measures to reinstate the bedrock channel of the Alltami Brook. Therefore, any impacts to the bedrock would be below ground level. The surface of the brook would be capped with bedrock and natural channel substrate, such as boulders and gravels to mimic baseline conditions. Therefore, the Applicant disagrees that there would be a long-term, permanent environmental impact of bedrock removal given that it will be reinstated.</p> <p>The Applicant disagrees with NRW's position regarding the degradation of concrete grouting. Any fractures uncovered during excavation would be grouted using high-pressure techniques, thereby completely filling any fracture voids.</p> <p>There appears to be some contradiction from NRW. They argue that the risk is for loss of water, which would require a downwards hydraulic gradient, but they state that the risk of long-term grout washout has not been considered from a “continuous upward gradient of groundwater pressure”. If there is a continuous upward gradient, there is no risk of loss of water flow.</p> <p>The Applicant disagrees with NRW's assertion that the trenched option would result in a permanent change to the bedrock at this location with a long-term impact in perpetuity. The Applicant disagrees</p>

Reference	NRW Reference	Comment	Applicant's Response
		<p>Overall, NRW considers that parts of the project-level options appraisal appear inconsistent. and hence provide erratic results. The Applicant states that “an embedded pipe bridge is not a significantly better environmental option and could not meet the test of being ‘significantly’ better under (d).” However, NRW is unclear as to what evidence this conclusion is based on other than the qualitative high-level options appraisal presented in Table 7.4. In NRW’s view the trenched (open-cut) option would result in a permanent change to the bedrock at this location, and hence a long-term environmental impact in perpetuity, in contrast to the embedded pipe bridge option which would avoid this long-term risk.</p>	<p>due to the proposed reinstatement of the bedrock channel post-construction, whereby a bedrock stream bed would be installed during channel reinstatement.</p> <p>During pre-application discussions with NRW regarding trenchless crossings, NRW voiced no specific concerns of permanent loss of subterranean bedrock. The proposed trenched crossing of Alltami Brook would ultimately result in subterranean loss of bedrock, but retention of a surface bedrock capping for the stream bed.</p> <p>The Applicant submits that robust evidence has been presented against Article 4(7) Test d.</p>
2.14.27	6.4	<p><u>Summary</u></p> <p>NRW considers there is inadequate evidence to agree that a case has been made that the beneficial objectives served by these modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option. The Applicant has presented an alternative crossing option which would not appear to need a derogation and has failed to provide evidence to satisfy NRW that this would not be a significantly better environmental option.</p>	<p>The Applicant has presented an assessment of alternative crossing options for the Alltami Brook in [REP3-039]. This options appraisal clearly discounts the trenchless crossing options on the basis of technical feasibility for the Horizontal directional drilling method, and due to technical feasibility and disproportionate costs for the micro-tunnelling technique. The Applicant has been providing NRW with this information both pre-application and post-submission and has presented the evidence for these conclusions at consultation meetings over the past year, which are recorded within the SoCG [REP6A-012].</p> <p>The steel truss bridge option has safety in design implications, which may be designed out by the embedded pipebridge option, therefore this option is discounted.</p> <p>As previously stated, the Applicant does not agree with NRW that the embedded pipebridge provides a significantly better environmental option. To reiterate, the Applicant concludes that the alternative option, the embedded pipebridge, does not constitute a significantly better environmental option due to:</p> <ul style="list-style-type: none"> - the increase in adverse impacts during both construction and decommissioning of the pipebridge; - the trenched crossing would not require removal post-operation. The decommissioning of the embedded pipebridge would have environmental impacts comparable to the construction phase, but with additional adverse impacts due to vegetation removal required for the enabling works, as explained below; - decommissioning of the pipebridge will require the removal of an area of habitat enhancements, planted in the vicinity of Alltami Brook as part of the DCO Proposed Development. This habitat enhancement area, planted post-construction, would be well-established functioning habitat by the time of decommissioning and therefore an additional environmental impact at decommissioning; - the embedded pipebridge would require the largest land take for both construction and decommissioning activities compared to the other options; and - the embedded pipebridge requires a larger volume of concrete in its construction with concrete having a high carbon cost impact.

Reference	NRW Reference	Comment	Applicant's Response
			<p>Consequently, the trenched crossing of Alltami Brook, with mitigation in place to both ensure an impermeable seal to prevent the loss of water flow, coupled with riparian enhancements and reinstatement of the channel bed to mimic baseline, is concluded, on reasoned balance, to be the better option in environmental terms, and the pipebridge cannot be considered to be a significantly better environmental option as would be required.</p>
2.14.28	7.	<p><u>Consideration of Article 4(8) and Article 4(9)</u></p> <p>NRW considers, based on its knowledge of the scheme, that the application of Regulation 19 / Article 4(7), subject to appropriate regulatory control, is unlikely to permanently exclude or compromise the achievement of the objectives of this Directive in other bodies of water within the Dee river basin district. The derogation report does not currently signpost the evidence for reaching this decision or name the hydrologically connected water bodies or relevant protected areas.</p> <p>Having considered NRW's advice the decision maker must be satisfied that the application of a derogation under Regulation 19 / Article 4(7) is consistent with the implementation of other Community environmental legislation and guarantees the same level of protection as under existing EU legislation as per Regulation 14 / Articles 4(8) and 4(9).</p>	<p>The downstream WFD water body is the Dee (N.Wales) (GB531106708200) transitional and heavily modified WFD water body. The large scale of this water body, compared with the small catchment size of the Alltami Brook, is highly unlikely to be impacted by any potential hypothetical worst-case scenario of loss of water flow within the Alltami Brook. The volume of water within the Dee water body is vast and therefore the contribution of flow from the Alltami Brook is negligible. Furthermore, even in the event of the hypothetical worst-case scenario postulated by NRW, the Dee water body would still retain water flow from the Wepre Brook water body.</p> <p>Furthermore, NRW state in their response to the Hydrogeological Impact Assessment report [REP6-049] that they consider fracture flow conditions within the bedrock aquifer at the Alltami Brook to be discontinuous. Therefore, their assertion of the risk of loss of flow that would result in deterioration appears flawed. Should there be any hypothetical worst-case scenario loss of water flow due to exposure of unsaturated fractures, once these discontinuous fractures fill with water, flow within the Alltami Brook would return to baseline. Therefore, any impacts would be temporary only and limited to the time taken for the unsaturated fracture to fill with water. It is also highly unlikely that all flow from the Alltami Brook would be lost in such a scenario and only a portion of flow would be lost, dependent upon the aperture size enabling the loss of water flow.</p> <p>The Applicant therefore considers that NRW is being disproportionate in its response.</p>
2.14.29	8.	<p><u>Summary</u></p> <p>In respect of Test A - On the basis of the evidence available, NRW considers that a reasonable case has been made that all practicable steps will be taken to mitigate the adverse impacts on the status of the Wepre Brook water body. However, the Applicant is required to provide further evidence in support to demonstrate and satisfy NRW as to how these will be secured in the long-term, post-decommissioning.</p> <p>In respect of Test B - NRW is satisfied that the reasons for the modifications would need to be reported in the updated Dee River Basin Management Plan due to be published in 2027.</p> <p>In respect of Test C: a) First Limb - NRW considers that, on the basis of the information available, a reasonable case has been made that the reasons for the project are of overriding public interest (Test C, Limb 1), b) Second</p>	<p>Test A: An Outline Surface Water Management and Monitoring Plan has been submitted [REP6A-016]. Further details regarding the long-term monitoring and management of the pipeline will be developed and agreed with NRW at the detailed design stage.</p> <p>Test B: The Applicant acknowledges NRW's response and has no further comment to make.</p> <p>Test C: The Applicant acknowledges that NRW is satisfied with the evidence provided against Test C, Limb1. The Applicant also notes that only one limb of Test C needs to be met to comply with the Article 4(7) tests.</p> <p>The Applicant disagrees with NRW's conclusions regarding Test C, Limb 2, however, only one limb of this Test C needs to be met.</p> <p>Test D: The Applicant disagrees with NRW's conclusion regarding Test D. The Applicant has provided robust evidence that alternative options cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option. The trenchless options are discounted due to technical feasibility (HDD) and due to technical feasibility and disproportionate costs (micro-tunnelling). The embedded pipebridge would have greater</p>

Reference	NRW Reference	Comment	Applicant's Response
		<p>Limb – NRW considers that the case made for benefits comparison (Test C, Limb 2) is inadequate.</p> <p>In respect of Test D - NRW considers there is inadequate evidence to agree that a case has been made that the beneficial objectives served by the proposed modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option.</p> <p>NRW considers that on the basis of the evidence available, the application of Regulation 19 / Article 4(7), subject to appropriate regulatory control, would not permanently exclude or compromise the achievement of the objectives of this Directive in other bodies of water within the same river basin district. Having considered NRW's advice the decision maker must be satisfied that the application of a derogation under Regulation 19 / Article 4(7) is consistent with the implementation of other Community environmental legislation and guarantees the same level of protection as under existing EU legislation as per Regulation 14 / Articles 4(8) and 4(9).</p>	<p>environmental impact during both construction and decommissioning, compared to the trenched option. The Applicant therefore concludes that the embedded pipebridge, whilst a viable alternative option, is not a significantly better environmental option given that the potential worst-case scenario impacts of the trenched crossing may be mitigated to remove the potential adverse effects. Furthermore, the bedrock channel bed would be reinstated post-construction to mimic baseline conditions.</p> <p>The Applicant asserts that robust evidence has been provided to demonstrate that the proposed trenched crossing of the Alltami Brook meets the Article 4(7) derogation tests.</p>
ANNEX B: NATURAL RESOURCES WALES' CONSOLIDATED WRITTEN REPRESENTATIONS FOR CHANGE REQUESTS 1 TO 3			
2.14.30		Change Request 1: NRW has no objection to any of the proposed amendments associated with Change Request 1.	The Applicant has no further comments on this matter at this time.
Change Request 2			
2.14.31	N/A	<p><u>Water Framework Directive (WFD)</u></p> <p>NRW considers that there may be deterioration of Wepre Brook water body as a result of the Applicant's preferred open-cut crossing option within the bedrock below Alltami Brook. This is because there is a risk that excavating bedrock for the proposed Alltami Brook open-cut crossing could create a pathway for surface water to be lost to the ground/contaminated mine workings; this could cause water courses to dry up downstream. However, based on the information submitted in support of Change Request 2 NRW concur with the Applicant's conclusion that the alternative embedded pipe bridge option is WFD compliant. NRW therefore consider that the alternative embedded pipe bridge crossing option would address its concerns regarding the risk of surface water flow loss from the Alltami Brook currently presented by the Applicant's preferred open-cut crossing option, as raised in NRW's Written Representation [REP1-071]. Consequently, NRW does not consider that the derogation provisions under the Water Environment (Water Framework Directive) Regulations 2017</p>	<p>The Applicant maintains their position that the proposed trenched crossing of the Alltami Brook is WFD compliant. In addition, should there be the need to trigger Article 4(7) derogation that the tests have been met.</p> <p>The Applicant acknowledges NRW's position regarding the Change Request 2 alternative option and that it would be WFD compliant and not require derogation.</p> <p>The Applicant reminds NRW that it is for the SoS to determine which option is taken forward for the Alltami Brook crossing. It is not for the Applicant to "elect" to take forward the alternative option.</p>

Reference	NRW Reference	Comment	Applicant's Response
		would need to be engaged in the event that the Applicant elects to proceed with this option. However, should the open-cut crossing option continue to be the Applicant's preferred option NRW's current position would remain the same regarding deterioration of the Wepre Brook water body.	
2.14.32	N/A	<p><u>Access to Flood Risk Management Assets</u></p> <p>With regards to the alternative embedded pipe bridge crossing option at Alltami Brook, NRW advises that the FCA has reached reasonable conclusions based on readily available information. However, NRW concur with the FCA's recommendation to undertake detailed hydraulic modelling at the detailed design stage to quantify flood levels and confirm the design criteria for the embedded pipe bridge option. NRW notes that sub-paragraph (8) of draft DCO Requirement 4 [REP4-008] aims to secure the submission of the relevant detailed design information for approval prior to construction. However, NRW advises that some minor amendments are made to the wording of this requirement.</p> <p>NRW also advises that the construction of the embedded pipe bridge would not require a Flood Risk Activity Permit (FRAP), as the Alltami Brook watercourse is not a designated main river. The works (including any temporary works required to facilitate construction) may require an Ordinary Watercourse Consent (OWC), which would be administered by the Lead Local Flood Authority (LLFA). Furthermore, the final design of the structure should be approved by the LLFA since it would cross an Ordinary Watercourse. NRW therefore advises consultation with the LLFA in this regard. NRW advises that a FRAP would be required for any additional crossings on the Pentre Drain North designated main river.</p>	<p>The Applicant acknowledges NRW's position on draft DCO Requirement 4 and is continuing to engage with NRW on the minor amendments to the wording of this requirement.</p> <p>The Applicant acknowledges NRW's position on the embedded pipe bridge not requiring a Flood Risk Permit. With respect to Ordinary Watercourse Consent, as set out in Article 8 of the draft DCO [CR3-008], the requirement for Ordinary Watercourse Consents is disapplied. In line with the ethos and objective of the DCO regime, a separate consent should not be required where this can be addressed through the DCO.</p>
2.14.33	N/A	Change Request 3: NRW has no comments to make.	The Applicant has no further comments on this matter at this time.
2. NRW's Written Representation for the proposed HyNet Carbon Dioxide pipeline Change Request 1 [AS-074]			
2.14.34	N/A	Thank you for consulting Natural Resources Wales regarding Change Request 1 of the HyNet CO2 pipeline NSIP application. Here are NRW's comments in respect of the same: We note that Proposed Change 13 would remove the Public Right of Way and associated land plots adjacent to the Hawarden Embankment (adjacent to the River Dee main river) and have no objection to this. However, Proposed Change 13 would not remove NRW's concerns about avoiding any physical impediment during the construction phase in light of its statutory Flood Risk Management powers, as the temporary construction compounds adjacent to the River Dee at this	The Applicant acknowledges NRW response regarding Design Change 2 and can confirm that this advice was received through email correspondence between the Applicant and NRW dated 05 June 2023 (see Table 2-1 within the SoCG with NRW [REP6A-012]). Furthermore, the Applicant has liaised with FCC Ecologist on this topic and the matter has been resolved (see Table 3.6 within the SoCG with FCC [REP6A-007]).

Reference	NRW Reference	Comment	Applicant's Response
		<p>location (Work No. 30D - Temporary Logistics and Construction Compound, Work No. 31A - Temporary Logistics and Construction Compound and Work No. 31C – Temporary Working Area) are still proposed. NRW's current concerns relate to these compound locations and associated access routes. In particular, Work No. 30D could affect NRW's access to the Northern Embankment as it uses the road going through the compound to access the embankment. Work No. 31A could affect NRW's access to the Hawarden Embankment, as the compound itself is located very close to the embankment and the access route serving the compound is the only means of accessing this section of the defence. Please see NRW's Written Representation (REP1-071; see paragraphs 3.3 to 3.5), Deadline 2 submission (REP2-053) and Statement of Common Ground with the Applicant [REP3-026, see Items NRW 3.4.3 and 3.4.5] for details of NRW's concerns regarding to access to flood risk management assets. In addition, a request was made by NRW by email dated 5 June for these concerns around this issue to be the subject of discussion in the ISH on environmental matters on 6 June. However, this was not brought to the panels' attention. NRW will nevertheless provide further comments at Deadline 4 and continue to engage with the Applicant regarding this matter with a view to hopefully agree matters and record such agreement in the Statement of Common Ground. Regarding Proposed Change 2 we have advised the Applicant to refer to NRW's website for standing advice on ancient woodland (Natural Resources Wales / Advice to planning authorities considering proposals affecting ancient woodland) and liaise with Flintshire County Council's ecologist regarding this topic and have no further comments. Regarding the other proposed changes, where these could affect environmental interests within Wales, NRW has no new concerns or comments to raise. I would be grateful if you could acknowledge receipt of these comments and confirm that they have been brought to the Examining Authority's attention</p>	
NRW's Written Representation for the proposed HyNet Carbon Dioxide pipeline Change Request 2 [CR2RR-002]			
2.14.35	1	<u>Water Framework Directive</u>	
		<p>NRW raised concerns in its Written Representation [REP1-071] that the Applicant's submitted WFD compliance assessment [APP-165] does not contain sufficient evidence to demonstrate that "potential construction and operation impacts are unlikely to cause a deterioration in the status of quality elements or overall status at the Wepre Brook water body scale with the mitigation within the CEMP, REAC and monitoring measures</p>	<p>The Applicant acknowledges that NRW concur with the conclusions that the embedded pipebridge option would be WFD compliant.</p> <p>As stated above, the Applicant retains its position that the proposed trenched crossing of the Alltami Brook is WFD compliant with the proposed mitigation measures in place to mitigate any adverse impacts.</p>

Reference	NRW Reference	Comment	Applicant's Response
		<p>implemented". Further, in respect of para 5.5.20 there is insufficient evidence to demonstrate that "The DCO Proposed Development therefore would not compromise the ability of the water bodies potentially impacted to achieve Good Ecological Potential/Status."</p> <p>NRW considers that there may be deterioration of Wepre Brook water body, as a result of the proposed open-cut crossing of Alltami Brook. This is because there is a risk that excavating bedrock for the proposed Alltami Brook open-cut crossing could create a pathway for surface water to be lost to the ground/contaminated mine workings; this could cause water courses to dry up downstream. This continues to be NRW's position with the Applicant's preferred open-cut crossing option.</p> <p>However, based on the information submitted in support of Change Request 2 NRW concur with the following statement within Appendix 18.3 Water Framework Directive Assessment Addendum [CR2-019] for the alternative embedded pipe bridge option: "Detailed assessment of the proposed design option PS25 concludes that the Alltami Brook embedded pipe bridge option is WFD compliant" (para. 1.4.13)".</p> <p>NRW therefore considers that the alternative embedded pipe bridge crossing option, would address the concerns regarding the risk of surface water flow loss from the Alltami Brook currently presented by the Applicant's preferred opencut crossing option, as raised in our Written Representation. Consequently, NRW does not consider that the derogation provisions under the Water Environment (Water Framework Directive) Regulations 2017 would need to be engaged in the event that the Applicant elects to proceed with this option. Our detailed comments regarding this are provided below.</p>	
2.14.36	1.1	<p><u>Hydrogeology</u></p> <p>Section 2.1.9 of the 2023 Environmental Statement Addendum Change Request 2 [CR2-017] states the following with regards to the alternative embedded pipe bridge crossing option design: "It is expected that piled foundations will not be required due to the shallow bedrock within the gorge; however, piled foundations for the abutments, as an alternative to standard shallow and direct foundations, could be required depending on the actual soil conditions and the associated mechanical properties. This will need to be further investigated during detailed design".</p> <p>The main difference between the open-cut option versus the embedded pipeline option is largely the nature and extent of construction excavation and whether the operational performance, in terms of the potential for</p>	<p>The Applicant does not consider there to be a potential for significant flow loss from the Alltami Brook to bedrock from either the open-cut option or the pipe-bridge option. The Applicant considers that this concern has been adequately addressed in other documents produced (i.e., Hydrogeological Impact Appraisal [REP5-014]).</p>

Reference	NRW Reference	Comment	Applicant's Response
		<p>integrity loss of a grouted open excavation over time under the open-cut option, could result in some flow loss from the Alltami Brook to the underlying bedrock. This is in direct contrast when considering if the same risk applies to the foundations for the embedded pipeline option, which are not within the Alltami Brook channel bedrock and therefore do not possess a potential for brook flow loss.</p> <p>A review of the proposed foundations [CR2-021] shows that the nature of the proposed excavation appears to be significantly reduced and would not occur within the channel bedrock of Alltami Brook but rather within the adjacent banking; it therefore does not pose a potential risk for surface water flow loss from the brook, as a result of encountering a transmissive fracture(s) for example.</p> <p>NRW acknowledges that the embedded pipe bridge option includes the potential for piles to be required depending on the load-bearing properties of the local bedrock for supporting the bridge, and this would be further investigated during detailed design. However, such piling is considered to be far less intrusive in comparison to the bedrock excavations within the brook channel proposed for the open-cut option (which we note would affect a 4m length of channel).</p> <p>In summary, based on the evidence available, NRW advises that the embedded pipe bridge option does not present a risk in terms of surface water flow loss from Alltami Brook to the underlying bedrock. In contrast, the open-cut option presents a risk for surface water flow loss because bedrock excavation would occur directly within a 4m extent of the brook channel itself as opposed to within the adjacent banking.</p>	
2.14.37	1.2	<p><u>Geomorphology</u></p> <p>From a geomorphological perspective, NRW has no objection to the proposed embedded pipe bridge crossing given the current risk of surface water flow loss associated with the Applicant's preferred open-cut option within the channel bedrock.</p> <p>During temporary works associated with any diversion of the Alltami Brook, NRW advises that sandbags should be replaced with bags of washed gravels (Visqueen wrapped if needed) such that should a bag split only habitatbeneficial gravels would enter the watercourse and not potentially habitatsmothering sands.</p>	<p>The Applicant acknowledges the response from NRW.</p> <p>The methods for the diversion of flow during the temporary works phase will be determined during detailed design and agreed with NRW prior to commencement of works.</p>
<u>Hydrology</u>			

Reference	NRW Reference	Comment	Applicant's Response
2.14.38	1.3	<p>Based on the information submitted, NRW considers that the embedded pipe bridge option would remove the risk of surface water from Alltami Brook being lost to the ground as a result of the pipeline crossing, which could otherwise be caused by the required excavation into the bedrock under the Alltami Brook for the Applicant's preferred open-cut crossing option. In the absence of any ground investigation data from the site to verify the Applicant's assessment conclusions regarding this risk, we consider that the embedded pipe bridge option would enable surface water quantities in the Alltami Brook watercourse to remain protected.</p>	<p>The Applicant refers to its submissions in line 2.14.37 above.</p>
2.14.39	2.	<p><u>Flood Risk</u></p> <p>NRW has reviewed the information submitted in support of Change Request 2 including the ES Addendum Change Request 2 - Appendix B – Technical Appendices Addenda [CR2-019], specifically Appendix 18.5 Flood Consequences Assessment.</p> <p>NRW has previously provided advice on the flood risk design parameters for an alternative embedded pipe bridge crossing over Alltami Brook in our Written Representations (REP1-071, paragraph 3.8), advising that the soffit level of the bridge should be set 300mm above the flood level for the 1% Annual Exceedance Probability (AEP) (1 in 100) event with an allowance for climate change. Whilst this is acknowledged by the Applicant this approach has not yet been adopted due to the absence of any detailed flood modelling data for the Alltami Brook watercourse.</p> <p>Instead, a qualitative approach has been undertaken and the proposal is for the soffit level of the bridge to be set 1500mm above the dry weather flow water level of the watercourse. Based on the justification provided in the FCA (local topography and the culvert upstream controlling flows) NRW considers this to be a reasonable approach.</p> <p>NRW is also satisfied with the suggested maintenance requirements for the structure, from a flood risk perspective, as outlined in Section 2.1.16 of the ES Addendum [CR2-017].</p> <p>The FCA recommends undertaking a hydraulic model for the section of Alltami Brook to confirm the design criteria for the embedded pipe bridge option as part of the detailed design stage (paragraph 1.5.36). Whilst NRW considers the approach taken to be reasonable given the lack of any detailed flood modelling data, we concur that detailed hydraulic modelling should be undertaken at the detailed design stage in order to quantify flood levels. This would ensure that the soffit of the bridge is raised above the</p>	<p>The Applicant has no further comments on this matter.</p>

Reference	NRW Reference	Comment	Applicant's Response
		<p>design flood level and enable the potential impacts on flood risk elsewhere to be fully understood. However, we advise that this could result in further design changes post any DCO consent and some of the parameters shown on the 'Indicative Arrangement' plan [CR2- 021] may need to be amended to reflect the modelling outputs, including the minimum clearance above water levels and the location of the abutments.</p> <p>NRW notes that sub-paragraph (8) of Requirement 4 [REP4-008] aims to provide a suitable mechanism within the DCO to secure the submission of the above detailed design information for approval prior to construction. However, we advise that the following minor amendments are made to the wording of this requirement, as underlined below:</p> <p>"8) Where the crossing of Alltami Brook uses an embedded pipe bridge (Work No. 43E), the details submitted under sub-paragraph (5) must be accompanied by a flood consequences assessment showing the maximum water level reached in a 1 in 100 year event plus 20% climate change scenario. The soffit level of the embedded pipe bridge over the Alltami brook must be set no less than 300 millimetres above that maximum water level. The flood consequences assessment must also demonstrate that the impacts of the proposal on flood risk elsewhere can be managed to an acceptable level".</p> <p>NRW also notes that the Outline Construction Environmental Management Plan [REP4-237] and Register of Environmental Actions and Commitments [REP4-235] include reference to the need for hydraulic modelling (D-WR-076) and for the bridge design to provide a minimum freeboard of 300mm above the 1% AEP event with an allowance for climate change (D-WR-075).</p> <p>However, contrary to paragraph 1.5.18 of the ES Addendum Change Request 2 - Appendix B - Technical Appendices Addenda [CR2-019] and the subsequent wording of D-WR-076, please note that the construction of the embedded pipe bridge would not require a Flood Risk Activity Permit (FRAP), as the Alltami Brook watercourse is not a designated main river. The works (including any temporary works required to facilitate construction) may require an Ordinary Watercourse Consent (OWC), which would be administered by the Lead Local Flood Authority (LLFA). Furthermore, the final design of the structure should be approved by the LLFA since it would cross an Ordinary Watercourse. We therefore advise consultation with the LLFA in this regard.</p>	

Reference	NRW Reference	Comment	Applicant's Response
		In relation to the proposed changes to land plots (Change 2, CR2-016], NRW advises that a FRAP would be required for any additional crossings on Pentre Drain North, as this is a designated main river.	
2.14.40	3.	<u>Protected Species</u> NRW has no objection to either of the two proposed scheme amendments from a protected species conservation perspective.	The Applicant has no further comments on this matter.
2.14.41	4.	<u>Fisheries</u> NRW has no objection to either of the two proposed scheme amendments from a fisheries perspective.	The Applicant has no further comments on this matter.
2.14.42	1.1	<u>NRW's Written Representation for the proposed HyNet Carbon Dioxide pipeline Change Request 3</u> NRW notes the proposed changes sought by Change Request 3 and has no further comment to make.	The Applicant has no further comments on this matter.