

## **STATEMENT OF COMMON GROUND WITH FLINTSHIRE COUNTY COUNCIL**

### **HyNet Carbon Dioxide Pipeline DCO**

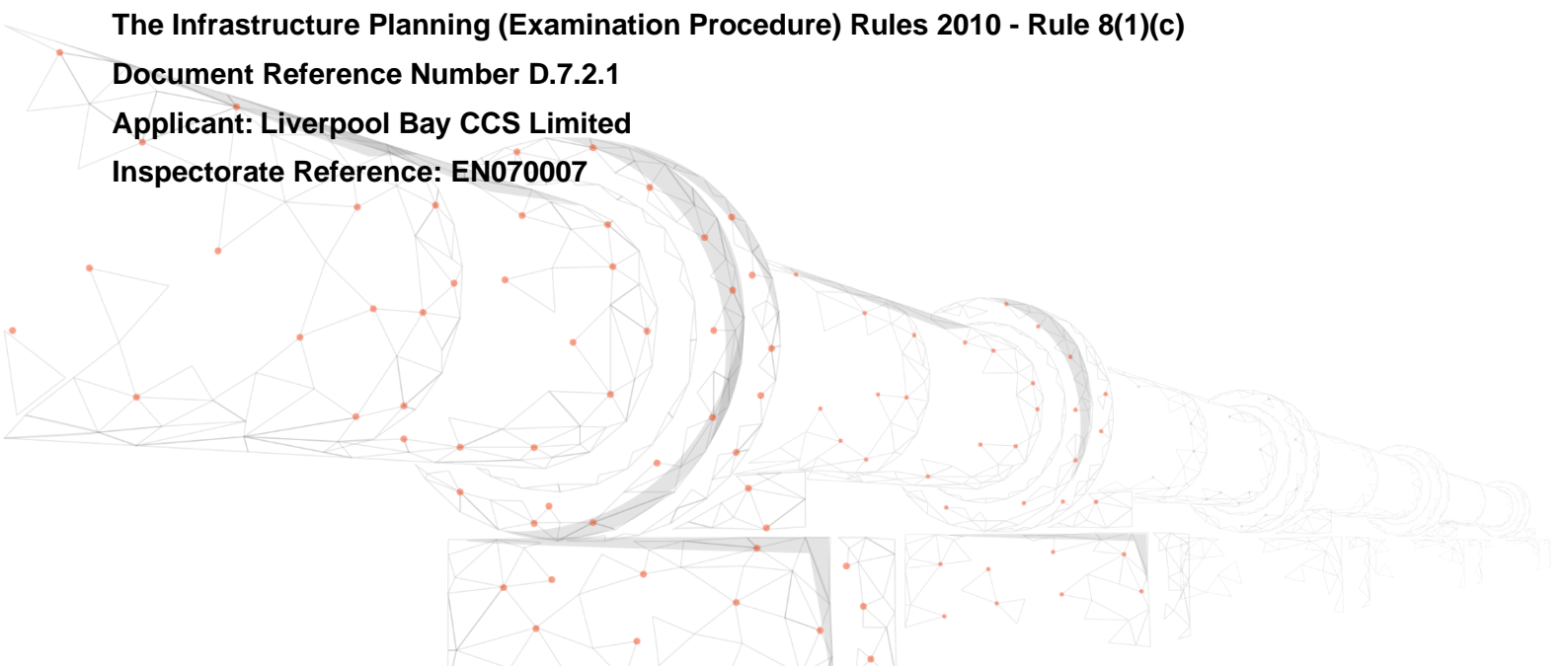
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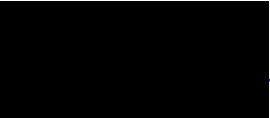
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<b>E</b>	August 2023	Deadline 6a Updates	HD	AV	AH
<b>F</b>	September 2023	Deadline 7 updates	HD	AV	AH

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**STATEMENT OF COMMON GROUND**

**This Statement of Common Ground has been prepared and agreed by (1) Liverpool Bay CCS Limited and (2) Flintshire County Council**

**Signe**  .....

**Martin Currie**

**Director**

**on behalf of Liverpool Bay CCS Limited**

**Date: 5 September 2023**

**Signed** 

**Andrew Farrow**

**Chief Officer, Planning, Environment and Economy**

**on behalf of Flintshire County Council**

**Date:** *5th September 2023.*

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# 1. INTRODUCTION

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## 1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This Statement of Common Ground (SoCG) has been prepared by Liverpool Bay CCS Limited (the Applicant) and Flintshire County Council (FCC).
- 1.1.2. For the purpose of this SoCG, the Applicant and FCC will jointly be referred to as the 'Parties'.
- 1.1.3. The purpose of this SoCG is to set out the agreement that has been reached between the Parties in respect of a number of matters related to the Development Consent Order (DCO) Proposed Development. It also lists any points on which discussions are ongoing. SoCGs are an established means in the DCO planning process of allowing all Parties to identify and focus on specific issues that may need to be addressed during the examination.
- 1.1.4. **Chapter 2** of this SoCG records the consultation undertaken with FCC by the Applicant. **Chapter 3** of this SoCG sets out the areas of agreement in relation to the above matters, and any areas of ongoing discussion between the Parties.

## 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 detail of the project and the DCO Proposed Development can be found in the main DCO documentation. The DCO Proposed Development and this SoCG relate to the onshore CO<sub>2</sub> pipeline element of HyNet only. Other elements of HyNet are subject to separate consenting processes and are not addressed here.
- 1.2.2. The DCO Proposed Development impacts FCC as a local planning authority (LPA) and in respect of its land interests.
- 1.2.3. The Applicant has identified the following plots in which FCC hold an interest:

Plot Reference	Nature	Land Qualifier
12-16	Freeholder	
12-17	Freeholder	
12-18	Freeholder	
12-19	Freeholder	
13-06	Public right of way	in respect of public right of way no. 309/10/30
13-10	Public right of way	in respect of public right of way no. 309/10/30
13-11	Public right of way	in respect of public right of way no. 309/10/30

<b>13-12</b>	Public right of way	in respect of public right of way no. 309/10/30
<b>13-13</b>	Public right of way	in respect of public right of way no. 309/10/30
<b>13-15</b>	Public right of way	in respect of public right of way no. 309/8/10
<b>13-17</b>	Public right of way	in respect of public right of way no. 309/8/10
<b>13-18</b>	Public right of way	in respect of public right of way no. 309/8/10
<b>13-19</b>	Freeholder	
<b>14-02</b>	Public right of way	in respect of public right of way no. 309/8/10
<b>14-03</b>	Public right of way	in respect of public right of ways nos. 309/8/10 and 309/10/10
<b>14-04</b>	Public right of way	in respect of public right of way no. 309/2/50
<b>14-08</b>	Public right of way	in respect of public right of way no. 307/2/10
<b>14-11</b>	Public right of way	in respect of public right of way no. 307/2/10
<b>14-23</b>	Freeholder	
<b>14-24</b>	Occupier	
<b>14-25</b>	Freeholder	
<b>14-27</b>	Freeholder	
<b>15-03</b>	Freeholder	
<b>15-04</b>	Public right of way	in respect of public rights of way nos. 303/55/10, 303/54/10, 308/1/20, 303/56/10
<b>15-11</b>	Freeholder	
<b>15-13</b>	Public right of way	in respect of public right of way no. 308/4/10
<b>15-14</b>	Public right of way	in respect of public right of way no. 308/4/10
<b>16-08</b>	Freeholder	
<b>16-10</b>	Freeholder	
<b>16-12</b>	Freeholder	
<b>16-12</b>	Public right of way	in respect of public right of way no. 308/5/10
<b>16-13</b>	Freeholder	
<b>16-14</b>	Freeholder	
<b>16-14</b>	Freeholder	in respect of subsoil up to half-width of highway
<b>16-15</b>	Freeholder	
<b>16-18</b>	Freeholder	

<b>16-19</b>	Freeholder	
<b>16-20</b>	Public right of way	in respect of public right of way no. 303/32/10
<b>16-21</b>	Freeholder	
<b>16-23</b>	Freeholder	
<b>16-24</b>	Freeholder	
<b>16-25</b>	Freeholder	
<b>16-26</b>	Rights	in respect of rights granted by a Conveyance dated 25 June 1974
<b>16-27</b>	Rights	in respect of rights granted by a conveyance dated 25 June 1974
<b>17-01</b>	Public right of way	in respect of public right of way no. 303/30/20
<b>17-03</b>	Public right of way	in respect of public right of way no. 303/34/10
<b>17-04</b>	Public right of way	
<b>17-06</b>	Public right of way	in respect of public right of way no. 303/34/10
<b>17-07</b>	Freeholder	
<b>17-08</b>	Public right of way	in respect of public right of way no. 303/31/10
<b>17-10</b>	Freeholder	
<b>17-11</b>	Public right of way	in respect of public right of way no. 303/31/10
<b>17-12</b>	Public right of way	in respect of public right of way no. 303/31/10
<b>17-13</b>	Public right of way	in respect of public rights of way nos. 303/25/10 and 303/26/10
<b>17-17</b>	Public right of way	in respect of public rights of way nos. 303/25/10 and 303/26/10
<b>17-18</b>	Public right of way	in respect of public right of way no. 303/26/10
<b>17-24</b>	Public right of way	in respect of public right of way no. 303/25/20
<b>17-25</b>	Public right of way	in respect of public right of way no. 303/25/20
<b>17-34</b>	Public right of way	in respect of public right of way no. 303/25/20
<b>17-39</b>	Public right of way	in respect of public right of way no. 303/25/20

<b>17-40</b>	Freeholder	
<b>17-40</b>	Public right of way	in respect of public rights of way nos. 303/22/10, 303/24/10 and 303/25/20
<b>17-42</b>	Public right of way	in respect of public rights of way nos. 303/22/10, 303/24/10 and 303/24A/10
<b>17-43</b>	Public right of way	in respect of public right of way no. 303/22/10
<b>17-44</b>	Public right of way	in respect of public rights of way nos. 303/22/10, 303/24/10 and 303/24A/10
<b>18-01</b>	Public right of way	in respect of public rights of way nos. 303/22/10, 303/24/10 and 303/24A/10
<b>18-02</b>	Freeholder	
<b>18-10</b>	Public right of way	in respect of public right of way no. 303/18/30
<b>18-11</b>	Public right of way	in respect of public right of way no. 303/18/30
<b>18-13</b>	Public right of way	in respect of public right of way no. 303/18/30 and 303/20/10
<b>18-14</b>	Public right of way	in respect of public right of way no. 303/18/30 and 303/20/10
<b>18-16</b>	Freeholder	
<b>18-17</b>	Freeholder	
<b>18-18</b>	Public right of way	in respect of public right of way no. 303/21/10
<b>18-19</b>	Freeholder	
<b>18-20</b>	Public right of way	in respect of public right of way no. 303/143/10
<b>18-21</b>	Public right of way	in respect of public right of way no. 303/143/10
<b>18-24</b>	Freeholder	
<b>18-26</b>	Public right of way	in respect of public right of way no. 303/141/10
<b>18-27</b>	Freeholder	
<b>18-27</b>	Public right of way	in respect of public right of way no. 303/141/10
<b>18-32</b>	Freeholder	
<b>19-02</b>	Freeholder	
<b>19-03</b>	Freeholder	



<b>19-04</b>	Public right of way	in respect of public rights of way no.s 414/39/10 and 414/39A/10
<b>19-04a</b>	Public right of way	in respect of public rights of way no.s 414/39/10 and 414/39A/10
<b>19-04c</b>	Public right of way	in respect of public rights of way no.s 414/39/10 and 414/39A/10
<b>19-04d</b>	Public right of way	in respect of public rights of way no.s 414/39/10 and 414/39A/10
<b>19-11</b>	Occupier	
<b>19-12</b>	Freeholder	
<b>19-13</b>	Rights	in respect of rights granted by a Conveyance dated 29 December 1926
<b>20-03</b>	Occupier	
<b>20-04</b>	Rights	in respect of rights granted by a Conveyance dated 29 December 1926
<b>20-05</b>	Occupier	
<b>20-06</b>	Freeholder	
<b>20-16</b>	Freeholder	
<b>20-17</b>	Freeholder	
<b>20-17</b>	Public right of way	in respect of public right of way no. 414/4/10
<b>20-18</b>	Public right of way	in respect of public right of way no. 414/4/10
<b>20-19</b>	Public right of way	in respect of public right of way no. 414/4/10
<b>20-19b</b>	Freeholder	
<b>20-20</b>	Public right of way	in respect of public right of way no. 414/4/10
<b>20-21</b>	Freeholder	
<b>20-27</b>	Freeholder	
<b>20-29</b>	Public right of way	in respect of public right of way no. 414/2/10
<b>21-02</b>	Public right of way	in respect of public right of way no. 414/1/30
<b>21-04</b>	Freeholder	

<b>21-06</b>	Public right of way	in respect of rights of way nos 404/68/10 and 404/70/30
<b>22-01</b>	Public right of way	in respect of public right of way no. 404/68/10
<b>22-02</b>	Public right of way	in respect of public right of way no. 404/68/10
<b>22-04</b>	Freeholder	
<b>22-07</b>	Public right of way	in respect of public right of way no. 404/66/20
<b>22-08</b>	Public right of way	in respect of public right of way no. 404/66/20
<b>22-09</b>	Public right of way	in respect of public right of way no. 404/66/20
<b>22-10</b>	Public right of way	in respect of public right of way no. 404/66/20
<b>25-05</b>	Public right of way	in respect of public right of way no. 404/39/30
<b>25-09</b>	Freeholder	
<b>28-02</b>	Freeholder	
<b>29-01</b>	Freeholder	

- 1.2.4. A full description of the DCO Proposed Development is detailed in Chapter 3 of the consolidated Environmental Statement (ES) [REP4-029], submitted at Deadline 4. On the 12 July 2023, the ExA accepted the Applicant's Change Request 3, subsequently the description of the development has been updated in accordance with Change Request 3 Environmental Technical Note **[CR3-019]**. The Applicant has submitted a further consolidated Environmental Statement (ES) at Deadline 7 which contains the concluding description of the DCO Proposed Development.

### 1.3. TERMINOLOGY

- 1.3.1. In the Issues tables in **Chapter 3** of this SoCG, 'Agreed' and 'Not Agreed' indicates a final position, and 'Under Discussion' indicates where these points will be the subject of on-going discussion wherever possible to resolve or refine, the extent of disagreement between the Parties.

## **2. RECORD OF ENGAGEMENT**

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- 2.1.1. This chapter provides a summary of the engagement undertaken to date between the Parties in relation to the DCO Proposed Development.

**Table 2-1 – Record of Engagement in relation to the DCO Proposed Development**

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
07/04/2021	Joint Local Planning Authority (LPA) meeting between FCC, Cheshire West and Chester Council (CWCC) and the Applicant	<p><b>Key Topics</b></p> <p>The Applicant gave a presentation on the CO<sub>2</sub> pipeline to introduce FCC and CWCC to the DCO Proposed Development, the project team, the DCO process, and elements of the project that would be subject to a Town and Country Planning (TCPA) application.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant agreed to share a Schedule of Meetings and a Standing Agenda.</p> <p>LPAs agreed to provide key contacts to the Applicant.</p>
27/04/2021	LPA meeting between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussion regarding process, information requests, programme update and non-statutory consultation.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant agreed to confirm updated programme dates.</p>
12/05/2021	Meeting between FCC transport team and the Applicant	<p><b>Key Topics</b></p> <p>Introduction to the DCO Proposed Development from a traffic and transport perspective.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant will follow up on survey locations and dates.</p>
26/05/2021	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Continued discussion on Freedom of Information (FoI) requests, programme update and changes to key dates, and non-statutory consultation (dates and details).</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant agreed to provide an update to FCC on any discussions with ecologists.</p>
27/05/2021	Joint meeting between Cheshire Archaeology, Clwyd Powys Archaeological Trust (CPAT), Historic England, Cadw and the Applicant	<p><b>Key Topics</b></p> <ul style="list-style-type: none"> <li>• Scope and assessment strategy for the cultural heritage assessments for the DCO.</li> <li>• Scope and strategy for geophysical survey.</li> </ul> <p><b>Discussions and Outcomes</b></p> <ul style="list-style-type: none"> <li>• The wider study area for designated assets was requested for Welsh sections of the project (3km).</li> <li>• Palaeoenvironmental potential particularly in Gowy river valley (confirmed that palaeoenvironmental potential is scoped into the assessment).</li> <li>• It was agreed that it will not be assumed that negative results on the geophysical survey means an absence of archaeological remains.</li> </ul>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
30/06/2021	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Update regarding non-statutory consultation and updated GIS shapefile.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC agreed to provide details of Awel y Môr development for information.</p>
22/07/2021	Joint LPA meeting between FCC/CWCC ecologists and the Applicant's ecologists	<p><b>Key Topics</b></p> <p>Discussion on the approach to baseline surveys, Biodiversity Net Gain (BNG) and mitigation considerations.</p> <p><b>Discussions and Outcomes</b></p> <p>The scope of the BNG assessment and approach was agreed. In addition, FCC noted that the biodiversity metric toolkit is not used in Wales but recognises that the planned use of BM3.0 should be sufficient for Wales.</p>
28/07/2021	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Update on non-statutory consultation following its closure, discussion of EIA Scoping Opinion [REP4-067] from the Planning Inspectorate ('the Inspectorate') and next steps, and SoCG (including explanation of process and provision of examples).</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant agreed to send feedback report summarising non-statutory consultation to FCC once drafted.</p> <p>Parties agreed that further meetings would be held with FCC environmental specialists in relation to follow-up actions from the EIA Scoping Opinion [REP4-067].</p>
25/08/2021	Meeting between FCC and the Applicant to discuss Ewloe housing allocation in Emerging Flintshire Local Development Plan and overlap with pipeline route within the DCO	<p><b>Key Topics</b></p> <p>FCC had raised an issue regarding an overlap between the DCO Proposed Development boundary (as set out in the EIA Scoping Opinion [REP4-067]) and a residential allocation for a housing allocation and traveller site contained in the emerging Local Plan that is undergoing examination. FCC were of the view that if route option I for the River Dee crossing was taken forward it could reduce the housing numbers the allocation is planned to deliver. There was also an issue raised over the impact on the potential access for Welsh Government road improvements over the A494 bridge if option I was taken forward.</p> <p>The Applicant advised that the pipeline route was still undergoing design appraisal, but that current analysis appeared more favourable for the southern option (G) for selection. The scoping boundary was also up to 100m wide in places so there is opportunity to narrow down and aim to avoid the allocation.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC to provide feedback in their EIA Scoping Opinion to the Inspectorate.</p> <p>The Applicant agreed to factor the allocation into route options appraisal work and provide an update when available.</p>
08/09/2021	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Continued discussions relating to route options (Options I and G), and updates on Design Freeze 2 and associated environmental meetings.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant to provide update on constructability report exercise in relation to route options.</p> <p>Applicant to feed back any relevant outcomes of Design Freeze 2 to FCC ahead of next meeting.</p> <p>Applicant agreed to provide FCC with a copy of the note on formal position on EIA strategy, once prepared.</p>
29/09/2021	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions on the progress of the Statement of Community Consultation (SoCC) and non-statutory consultation report, design update, updates on ground investigation work and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant to circulate the SoCC and non-statutory consultation report when these are drafted.</p> <p>Applicant informed FCC that further engagement with FCC council officers to inform the Preliminary Environmental Information Report (PEIR) and statutory consultation will be sought.</p> <p>Applicant informed FCC that geotechnical investigations are starting in early October 2021 and this work will start in Flint and progress west to east from October to December 2021.</p> <p>Applicant informed FCC that they are monitoring planning applications and are undertaking a review of the Energy National Policy Statement (NPS) which is out for consultation.</p> <p>Applicant informed FCC that they are also looking at any speculative applications which fall outside of Local Plan allocations. FCC to check if there are relevant applications to pass on.</p>
03/11/2021	Meeting between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussion on the progress of the SoCC, updates on Design Freeze 2, update on timescales for statutory consultation, a planning and environment update, and discussions on the consenting strategy.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant explained that Design Freeze 2 took place in October 2021 and 'fixed' the red line boundary for the DCO Proposed Development.</p> <p>Applicant explained that statutory consultation is now due to start in early February 2022 for a 6-week period.</p> <p>Applicant noted that the draft SoCC has been issued for LPA review and comment.</p> <p>Applicant noted that a briefing note to Flintshire LDP Planning Inspector on Ewloe housing allocation was issued.</p>
19/11/2021	Meeting between Natural Resources Wales (NRW), Natural England, FCC and the Applicant	<p><b>Key Topics</b></p> <p>Assessment of the aquatic receptors associated with the River Dee.</p> <p><b>Discussions and Outcomes</b></p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>The meeting sought to discuss and seek opinion on the approach to survey and assessment of aquatic receptors associated with the River Dee. Two potential options were presented; 'Do Nothing Approach', using desk-study information alone, and a 'Survey Approach' utilising appropriate surveys and methods. Potential mitigation measures were also tabled.</p> <p>A number of issues were raised by NRW and FCC including the presence of otter along the River Dee; timing of drilling in regard to fish movement; appropriate licences for survey work such as sediment grabs; potential maintenance requirements; impacts associated with Horizontal Directional Drilling (HDD); and decommissioning. These issues were addressed by the Applicant during the meeting including confirmation that appropriate licences would be applied for. The Applicant noted that the DCO Proposed Development application would detail methodology and mitigation in relation to the issues raised.</p>
<b>29/11/2021– 08/12/2021</b>	Email exchange between FCC Planners and the Applicant	<p><b>Key Topics</b></p> <p>Discussions regarding the Mineral Resource Assessment (MRA) and mineral resources within the FCC boundary.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC confirmed in email dated 08/12/2021 that an MRA is required.</p>
<b>08/12/2021</b>	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions on the progress of the SoCC, update on statutory consultation and a planning and environment update. The Applicant updated FCC on conversations with Welsh Government and the approach to consenting.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC that a meeting on the DCO Proposed Development, consenting strategy and statutory consultation took place with the Inspectorate.</p> <p>Applicant informed FCC that a meeting has taken place on the approach to aquatic surveys on the River Dee with NRW and Natural England.</p> <p>Applicant informed FCC that they are speaking with Welsh Government regarding the consenting strategy.</p>
<b>26/01/2022</b>	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions on the progress of the SoCC, programme, and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC that the s42 and s47 consultations will run from 9 February to 22 March 2022.</p> <p>Applicant noted that the consultation boundary overlapped with a corner of the Ewloe FCC housing allocation. This corner of land relates entirely to construction, access and laydown works – it is not land associated with the pipeline.</p> <p>Applicant informed FCC that the PEIR is being prepared for Statutory Consultation in February 2022.</p> <p>Applicant informed FCC that meetings with the LPAs on ground investigations and ecology would take place soon.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		The Applicant informed FCC that the position was that the Block Valve Stations (BVS) in FCC will be included in the DCO Proposed Development application and twin-tracked as part of a TCPA application. Legal advice on the consenting strategy has confirmed this approach and the consenting strategy has been sent to Welsh Government.
24/02/2022	Meeting between FCC Planners and the Applicant	<p><b>Key Topics</b></p> <p>Discussions regarding Phase 1 contamination baseline and geotechnical investigation.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC were satisfied with the Phase 1 and had no further questions. FCC was satisfied with the scope of the ground investigation.</p>
<p>28/02/22 (subsequent emails sent on 8/04/22, 22/04/22, 10/06/22)</p> <p>02/08/22</p>	Email correspondence between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussion regarding flood risk to the DCO Proposed Development.</p> <p><b>Discussions and Outcomes</b></p> <p>General response from FCC's Pre-Application Advice department on 28/02/22 notifying that FCC is currently experiencing a high demand of planning applications and they could not respond at the time.</p> <p>Subsequent emails were sent to follow up. FCC responded on 13/06/22 to discuss the reasons for no response and discuss an alternative option.</p> <p>FCC responded on 02/08/22 to establish a point of contact and to arrange a meeting to discuss outstanding matters and an overview of the project. FCC accepted the need to provide a response by 12/08/22. A Teams meeting was set up for 05/08/22.</p>
01/03/22	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions on the progress of the Statutory Consultation, programme, and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC of the progress of the Statutory Consultation and the types of responses being received.</p> <p>FCC will consult with the Welsh Language Team in the Council on the need for application documents to be submitted in Welsh. A Welsh Language Impact Statement would be beneficial.</p> <p>FCC to send any information from Council Officers/Local Members who have been consulted on the Statutory Consultation to the Applicant via the HyNet Hub website.</p>
29/03/22	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions on the progress of the Statutory Consultation, programme, and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC of the response to the Statutory Consultation, which ended on 22 March 2022. The Applicant informed FCC that they are currently reviewing all consultation responses received and their implications for design.</p>



Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>FCC informed the Applicant that a Welsh Language Assessment is not mandatory for the DCO Proposed Development application. However, FCC advised looking at guidance in Welsh Government Technical Advice Notes (TANs). FCC agreed to send the Applicant an example of a Welsh Impact Assessment.</p> <p>The Applicant has undertaken a review of potential Special Category Land (SCL) with some areas highlighted on a precautionary basis as used by the public for recreation purposes. There does not appear to be a register of parks/open spaces publicly available for Flintshire. FCC agreed to ask their estates team the position of the parcels in question.</p> <p>Some of the SCL land was within areas classed as 'green barriers' in the Flintshire Local Plan (Adopted UDP (2011) and emerging LP). FCC agreed to provide a statement commenting on this, highlighting whether there is a conflict with the development and this policy.</p> <p>The Applicant informed FCC that the EIA and preparation of ES documentation for the DCO Proposed Development application will begin in April 2022.</p> <p>The Applicant informed FCC of key meetings which have taken place/will take place with NRW, the LPAs and others.</p>
04/04/2022	Meeting between FCC transport team and the Applicant	<p><b>Key Topics</b></p> <p>Confirmed timescales for statutory consultation period, timescales for finalisation of preliminary design, traffic survey locations, construction traffic routes.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant to provide scoping note, share road crossing locations and proposed diversion routes.</p>
27/04/22	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on proposed targeted consultation, programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC about the proposed targeted consultation and agreed to send more information including on the extent of the proposed changes.</p> <p>FCC were in general support of the targeted consultation approach but will review when further information is sent.</p>
25/05/22	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on proposed targeted consultation, programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC agreed to the proposed targeted consultation strategy.</p> <p>The Applicant agreed to send more information regarding the construction compound at Deeside Lane (Wood Farm Compound (Project HQ)) to FCC.</p> <p>FCC agreed with the precautionary approach to some areas given survey access issues.</p>
30/05/2022	Meeting between FCC and the Applicant	<p><b>Key Topics</b></p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Discussions regarding the DCO Proposed Development and design update, crossing update, PRow diversions and the transport assessment scope.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant will issue the Transport Assessment Scoping Request as well as other information and schedule an additional session.</p>
15/06/2022	Meeting between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions regarding road closures and diversions.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant requested, and FCC provided, a sketch of preferred road diversions.</p>
22/06/2022	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on consenting strategy, targeted consultation, programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC regarding the position on the consenting strategy.</p> <p>Applicant informed FCC regarding the proposed targeted consultation and agreed to send a shapefile of changes.</p>
28/06/2022	Meeting between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions regarding the impacts to PRow.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant to confirm understanding of DCO powers to close/divert PRows.</p>
12/07/2022	Email exchange between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Applicant provided an update on the Landscape and Visual Impact Assessment (LVIA) assessment due to changes to the design outlined in the PEIR.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC agreed to review changes to LVIA assessment.</p>
14/07/2022	Meeting between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Provided an update on survey results and mitigation plans.</p> <p>The approach for submission of survey data post DCO submission.</p> <p><b>Discussions and Outcomes</b></p> <p>Updates on ecology surveys and the proposal for further surveys post DCO submission, alongside mitigation principles and approach were discussed and agreed upon. A discussion was held regarding cross-border approach to mitigation, which FCC had no major issues with provided the approach would be well-balanced and local policy plans</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>were taken into account. The Applicant will provide monthly updates to FCC regarding the DCO Proposed Development and mitigation, which was welcomed by FCC. The Applicant will re-engage to discuss BNG.</p>
19/07/2022	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on proposed targeted consultation, programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC of the consultation responses and additional targeted consultation extension.</p> <p>Applicant informed FCC that there were methodology updates from the PEIR to inform a worst-case scenario approach within the EIA.</p> <p>Applicant explained that a number of documents would be outlined at submission stage with detailed versions provided post-submission. This would include the Construction Environment Management Plans, multiple location phase/specific management plans, Archaeological Mitigation Strategy/Written Scheme of Investigation, Landscape and Ecology Management Plan (LEMP), Worker Travel Plan, Traffic Management Plan and an Operation and Maintenance Environmental Management Plan. These detailed versions would be submitted to the LPAs for approval prior to the commencement of works.</p>
21/07/2022	Joint meeting between FCC/CWCC and the Applicant.	<p><b>Key Topics</b></p> <p>Discussions regarding the approach to BNG.</p> <p><b>Discussions and Outcomes</b></p> <p>The BNG approach and methodology was discussed. This included the sources of habitat data and a tailored approach to the post development assessment. FCC noted that the approach was logical. A discussion was held around offset requirements and the Applicant confirmed that early engagement with landowners is progressing.</p>
27/07/2022	Meeting between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions regarding the approach to Air Quality assessment.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC confirmed to be happy with the approach of the Air Quality assessment. No issues raised from either party.</p>
05/08/2022	Meeting between Lead Local Flood Authority (LLFA) (FCC) and the Applicant	<p><b>Key Topics</b></p> <p>The Applicant provided an introduction to the project from a water resources and flood risk point of view.</p> <p><b>Discussions and Outcomes</b></p> <p>A Flood Risk Activity Permit (FRAP) would need to be submitted for the proposed Wepre Brook Crossing. If there is to be a hydraulic model, then FCC would need to review this.</p> <p>The FCA would need to acknowledge the need for generic mitigation measures for the buried pipeline and the Above Ground Installation (AGI)/ BVS compounds.</p> <p>FCC stated there is a need for the Applicant to provide criteria on how the pipeline or its foundations on either side of Alltami Brook should be set and any erosion control or anti-scour measures.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		FCC accepted the need to provide a response to the previous flood risk enquiries as soon as possible.
17/08/2022	Meeting between FCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussion on surface water drainage and targeted consultation changes.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant to provide follow up questions to FCC drainage contact.</p> <p>FCC confirmed it is happy with approach.</p>
17/08/2022	Email/Letter from the Applicant to FCC	<p><b>Key Topics</b></p> <p>The Applicant provided an explanation of the reasoning for scoping out agricultural land from the construction and decommissioning stages of the EIA process.</p> <p><b>Discussions and Outcomes</b></p> <p>Awaiting FCCs review and request for a follow-up meeting.</p>
18/08/2022	Meeting between CWCC, Cadw, CPAT, FCC, Royal Commission of Ancient and Historical Monuments and the Applicant	<p><b>Key Topics</b></p> <p>Update on status of application and archaeological fieldwork.</p> <p><b>Discussions and Outcomes</b></p> <p>Discussions were held about lack of trenching pre-submission and guidance from the Welsh planning guide was provided for further discussion on the pre-determination evaluation process.</p>
06/09/2022	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on proposed targeted consultation, programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant informed FCC of the consultation responses.</p> <p>Applicant explained that a precautionary approach has been applied where land access has been restricted.</p>
06/09/2022	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion regarding DCO overview, Draft DCO schedule 1, draft requirements and procedure to discharge requirements, Access and Rights of Way plans, road diversions and Other Consents and Licences.</p> <p><b>Discussions and Outcomes</b></p> <p>Follow up meeting to be arranged.</p>
19/10/2022	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant noted that the Inspectorate requested the raw data of consultation responses, and this has been provided.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Discussion on the key LPA inputs expected during the Acceptance and Pre-Examination periods.</p> <p>Applicant explained that it aims to secure BNG on priority habitats and would be keen to discuss with the LPAs. Applicant also explained that a common position will be created across the DCO Proposed Development to deliver BNG, despite the difference in regimes across England and Wales.</p>
02/11/2022	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>Discussions regarding the powers in the DCO of relevance to LPAs and how these relate to the DCO Plans.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant agreed that it can look at revising the Draft DCO wording for discharging requirements as discussed (further discussion to be held).</p> <p>The Applicant agreed to share the SoCG outlines in November 2022 with LPAs.</p> <p>The Applicant and FCC agreed that a call ahead of the Preliminary Meeting to discuss the Draft DCO would be useful.</p>
14/11/2022	Email exchange between Clwyd-Powys Archaeological Trust (CPAT) (as advisors to FCC) and the Applicant	<p><b>Key Topics</b></p> <p>Discussion regarding targeted trial trenching</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant informed CPAT that the targeted archaeological trenching will be undertaken to allow the results to be submitted as part of the Examination. CPAT acknowledged this. Discussion was also had regarding the mitigation strategy. CPAT sought clarity that the Applicant is not proposing a rolling watching brief in areas where trial trenches (undertaken post-Consent if successful) are blank, and stated that they would expect to see this.</p>
08/12/2022 – 15/12/2022	Email correspondence with CPAT (advisors to FCC)	<p><b>Key Topics</b></p> <p>Archaeological written scheme of investigation (WSI) for the phase 1 trial trenching</p> <p><b>Discussions and Outcomes</b></p> <p>Comments were made on the WSI and the text was amended or clarified accordingly. Reissued version was accepted.</p>
08/12/2022	Meeting between FCC and CWCC Ecologists and the Applicant	<p><b>Key Topics</b></p> <p>Discussion on proposed updated Ecology surveys.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant provided a progress update on ecological surveys conducted post submission and survey requirements for 2023.</p>
09/12/2022	Meeting between FCC PRoW Officer and the Applicant	<p><b>Key Topics</b></p> <p>B5129 Chester Road East and Brookside (near Northop Hall) footpaths adjacent to carriageways that require temporary closure.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p><b>Discussions and Outcomes</b></p> <p>FCC content that footpaths adjacent to carriageways can be temporarily closed and that pedestrians can follow the prescribed vehicular diversion route unless a convenient localised alternative can be provided (as is the case for B5129 Chester Road East).</p>
14/12/2022	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC stated that the Inspectors report on the emerging FCC Local Development Plan is due ahead of Christmas. Therefore, by Spring 2023, there could be a new Adopted Local Plan in FCC.</p>
18/01/2023	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant informed FCC that ES updates to include additional ecology surveys is currently underway and being prepared for an ES addendum.</p>
24/01/2023	Meeting between FCC Countryside Manager and Ecologist and the Applicant	<p><b>Key Topics</b></p> <p>Delivery of BNG for hedges, riverine habitats, ponds and woodland.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC agreed to consider what options were available for delivery of BNG in Flintshire in partnership with FCC.</p>
26/01/2023 – 27/01/2023	Email correspondence with FCC (CPAT)	<p><b>Key Topics</b></p> <p>Overarching archaeological written scheme of investigation (OAWSI).</p> <p><b>Discussions and Outcomes</b></p> <p>Clarification was requested on a few points which was provided and accepted.</p>
30/01/23	Email correspondence with FCC (CPAT)	<p><b>Key Topics</b></p> <p>Requirement for rolling archaeological watching brief during the construction phase.</p> <p><b>Discussions and Outcomes</b></p> <p>Clarified that areas where trenching is not possible would be subject to archaeological work (either watching brief or strip, map and sample) during the mitigation phase. CPAT confirmed they were satisfied with this approach.</p>
08/02/2023	Joint LPA meeting between North Wales Councils Regional Planning Service (NWCREPS) and the Applicant	<p><b>Key Topics</b></p> <p>Introductory discussion on HyNet Project, Emergency Planning and HSE engagement to date. Requirements under PSR96 Part III Reg 25 for Emergency plans in case of major accidents and related notification of Local Authorities by UK HSE do not, currently, apply for the DCO Proposed Development.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p><b>Discussions and Outcomes</b></p> <p>The Applicant agreed to share presentation slides with NWCREPS and confirm whether further technical information could be shared. NWCREPS requested the Applicant to share GIS shapefiles of all pipelines in future for better understanding. The Applicant will undertake appropriate engagement with the relevant Local Authority Emergency Response Services to share project information and support the development of emergency response planning requirements.</p>
09/02/2023 – 03/03/2023	Email correspondence with FCC (CPAT)	<p><b>Key Topics</b></p> <p>Evaluation trench results and trench signoff for the Phase 1 archaeological trial trenching located within Flintshire (trenches 30 to 81).</p> <p><b>Discussions and Outcomes</b></p> <p>The results of some of the trenches have been flagged for consideration in the mitigation strategy.</p>
15/02/2023	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC would like to progress discussions on a Community Benefit Fund. The Applicant explained that this is being actively looked at.</p>
02/03/2023	Meeting with CWCC/FCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on the draft examination timetable dates in the Inspectorate’s Rule 6 letter.</p> <p><b>Discussions and Outcomes</b></p> <p>The parties discussed potential changes to the timetable. CWCC/FCC noted that w/c 30<sup>th</sup> May is school holidays so changing Hearings dates to this week is not advised.</p>
07/03/2023	Meeting between FCC Countryside Manager and Ecologist and the Applicant	<p><b>Key Topics</b></p> <p>Delivery of BNG for hedges, riverine habitats, ponds and woodland.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC identified they did not have woodland readily available and provided contacts for suitable charitable trusts / organisations the Applicant could approach to progress. FCC identified opportunities for other habitat types to be delivered through FCC projects.</p>
22/03/2023	Meeting between CWCC/FCC and the Applicant	<p><b>Key Topics</b></p> <p>Meeting to discuss the DCO Proposed Development Change Request.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant shared the description of the proposed change, total number, affected documents and environmental impact summary with FCC.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
23/03/2023	Email from CPAT to the Applicant	<p><b>Key Topics</b></p> <p>Email on the Applicant's proposed archaeological watching brief.</p> <p><b>Discussions and Outcomes</b></p> <p>Clarification from CPAT that they are expecting an archaeological watching brief to be maintained on all new initial ground reduction to formation level outside the areas examined by the trenching to date and outside the areas covered by the 2% sample post consent.</p>
19/04/2023	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC noted that the Local Impact Report (LIR) went through Cabinet with minor comments and requires final approval by Deadline 1A. FCC advised that comments on section 51 ecology surveys were factored into their response.</p>
26/04/2023	Email from CPAT	<p><b>Key Topics</b></p> <p>Email on the Applicant's proposed archaeological watching brief.</p> <p><b>Discussions and Outcomes</b></p> <p>CPAT reiterated their request for an archaeological watching brief across the DCO Proposed Development.</p>
03/05/2023	Meeting with FCC and the Applicant	<p><b>Key Topics</b></p> <p>Meeting to discuss FCC's Local Impact Report comments on the draft DCO wording.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant and FCC discussed the LIR comments and the reasoning behind the relevant DCO Article/Requirement. Following the meeting, further updates were provided to Table 3-12 of this SoCG outlining the latest position. The Applicant agreed to set up a separate meeting with FCC Highways on protective provisions, and also update the FCC drainage lead in relation to the SAB and temporary drainage.</p>
24/05/2023	Joint LPA meeting between FCC/CWCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on programme and a planning and environment update.</p> <p><b>Discussions and Outcomes</b></p> <p>Discussed briefings between the Applicant and members which went ahead on 16 May (webinar) and 17 May (face-to-face).</p> <p>Discussed the proposed 2 changes the Applicant is seeking as part of Change Request 2 submitted on 26<sup>th</sup> May 2023. No comments received at the meeting from FCC.</p>
01/06/2023 - 06/06/2023	Email Correspondence with FCC (CPAT)	<p><b>Key Topics</b></p>



Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Provided the draft evaluation report for the recently completed Phase I archaeological evaluation for comment and/or approval.</p> <p><b>Discussions and Outcomes</b></p> <p>No comments or requests for changes were made by CPAT.</p>
<p><b>05/06/2023 – 12/06/2023</b></p>	<p>Meeting on 05 June 2023 and subsequent email correspondence with FCC and the Applicant</p>	<p><b>Key Topics</b></p> <p>A discussion was held regarding the area of ancient woodland which abuts the Order Limits boundary in proximity to New Bridge Farm, off Holywell Road.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant proposed the approach and justification to construction in this area and minor encroachment of intrusive works within a potential root protection area that extends into the arable field. FCC agreed that the mitigation measures already prescribed within the OCEMP are appropriate and construction would be unlikely to result in detrimental impacts to ancient woodland.</p>
<p><b>14/06/2023</b></p>	<p>Meeting to discuss Street Works/Highways and Protective Provisions with FCC/CWCC and the Applicant</p>	<p><b>Key Topics</b></p> <p>Street Works/Highways and Protective Provisions</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant to set out a draft process for notification agreement in a side agreement. Councils to provide comments on draft Protective Provisions.</p>
<p><b>21/06/2023</b></p>	<p>Meeting with CWCC / FCC Highways Officers</p>	<p><b>Key Topics</b></p> <p>Discussion on OCTMP and construction traffic routing</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant sent OCTMP link to CWCC officer who still needs to review. Request from FCC officer to hold site visit to discuss areas of concern.</p>
<p><b>21/06/2023</b></p>	<p>Joint LPA meeting between CWCC/ FCC and the Applicant</p>	<p><b>Key Topics</b></p> <p>A discussion on programme and a planning and environment update, as well as Change Request 3.</p> <p><b>Discussions and Outcomes</b></p> <p>Applicant shared latest proposals for Change Request 3. Applicant to share latest draft SoCG's for submission at Deadline 5 (4 July).</p>
<p><b>28/06/23</b></p>	<p>Meeting with CPAT (FCC) and the Applicant</p>	<p><b>Key Topics</b></p> <p>Requirement for archaeological watching brief</p> <p><b>Discussions and Outcomes</b></p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		Agreed that areas will only require archaeological watching brief where the proposed Phase 2 trenching is not possible. If areas are evaluated and found not to contain archaeological remains, no further archaeological work will be required.
18/07/2023	Email correspondence between the Applicant and FCC	<p><b>Key Topics</b></p> <p>Clarification regarding the planning application at New Bridge Farm for the existing slurry tank.</p> <p><b>Discussions and Outcomes</b></p> <p>FCC confirmed their preference is for the slurry tank to remain in situ given it has only recently received planning permission.</p>
28/07/2023	Meeting with FCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on outstanding items within the SoCG relating to Biodiversity.</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant discussed the mitigation approach across Flintshire. The Applicant noted that sufficient land for mitigation tree planting is encompassed within the Environmental Mitigation Areas in Flintshire and there is no longer a requirement for a cross-border approach to accommodate mitigation tree planting.</p>
02/08/2023	Meeting with FCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on outstanding items within the SoCG</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant shared the SoCG on screen and discussed the outstanding items still listed as 'under discussion'. The Applicant agreed to share a draft with FCC (in particular to review item FCC 3.10.11 on Bridleway No 8) with the intention to submit the SoCG for Deadline 6a (8 August 2023).</p>
23/08/2023	Meeting with FCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on outstanding items within the SoCG</p> <p><b>Discussions and Outcomes</b></p> <p>The Applicant shared the SoCG on screen and discussed the outstanding items. It was agreed to differ discussion on 3.1.7 (Other documents) and 3.6.2 (BNG) until W/C 29<sup>th</sup> August wherein both parties can engage with their respective land and legal teams.</p> <p>It was agreed to remove 3.12.14 on CA and merge with 3.1.7.</p> <p>Updated holding text has been added to a number of the items in anticipation of the close of examination.</p>
31/08/2023	Meeting with FCC and the Applicant	<p><b>Key Topics</b></p> <p>A discussion on outstanding items within the SoCG</p> <p><b>Discussions and Outcomes</b></p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>The Applicant shared the SoCG on screen. The Applicant agreed to provide further details on the BNG target to cover the section 111 agreement (with s106 attached) so that FCC have an enforceable mechanism for Welsh woodland. The Applicant will confirm the timescales for the draft Protective Provisions and will also send over text shared with CWCC in relation to discharge of DCO requirements.</p>

### **3. ISSUES**

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3.1.1. This chapter sets out the areas of agreement in relation to specific issues relating to the DCO Proposed Development, and any areas of ongoing discussion between the Parties. The topics discussed between the Applicant and FCC are as follows:

- Engagement, ES & Other Application documents;
- Adequacy of Consultation;
- Planning Policy;
- Needs Case for the DCO Proposed Development;
- Cultural Heritage;
- Biodiversity;
- Land and Soils;
- Landscape and Visual;
- Noise and Vibration;
- Traffic and Transport;
- Water Resources and Flood Risk;
- Issues related to the draft DCO; and
- Other Consents, Licences and Permits required outside the draft DCO

**Table 3-1 – Engagement, ES & Other Application Documents**

Ref.	Description of Matter	Current Position	Status
<b>Engagement</b>			
FCC 3.1.1	Engagement	The Parties agree that engagement has been ongoing in the pre-application period (as set out in the record of engagement) and the Applicant has sought to bring forward a design which has had regard to FCC's views.  FCC has been formally consulted on the application as required by the Planning Act 2008 (PA2008).	Agreed
<b>ES</b>			
FCC 3.1.2	Environmental Statement (ES)	The Parties agree that the study area as set out in the ES is appropriate.	Agreed
FCC 3.1.3		The Parties agree that the baselines as set out in the ES are appropriate.	Agreed
FCC 3.1.4		The Parties agree that the impact assessment methodologies used in the ES are appropriate.	Agreed
FCC 3.1.5		FCC considers that appropriate regard has been had to its proposals in the cumulative assessment having regard to the level of information available.	Agreed
FCC 3.1.6		The Parties are engaging in ongoing discussions with respect to the content and conclusions of the ES.  The Parties agree on this point subject to any outstanding items still listed as 'under discussion' in the tables below.	Agreed
<b>Other Application Documents</b>			
FCC 3.1.7	Other application documents	The Applicant and FCC are still engaging with regard to confirming that FCC's interests are correctly reflected in the Book of Reference (BoR) <b>[CR3-013]</b> . The Applicant will provide an update on this at Deadline 8 if required.	Agreed

**Table 3-2 – Adequacy of Consultation**

Ref.	Description of Matter	Current Position	Status
FCC 3.2.1	Adequacy of Consultation	FCC confirmed in the Adequacy of Consultation response on 17th October 2022, that it is satisfied that consultation has been carried out in accordance with the requirements of paragraphs 42, 47 and 48 of the PA2008.	Agreed

**Table 3-3 – Planning Policy**

Ref.	Description of Matter	Current Position	Status
FCC 3.3.1	Role of National Policy Statements (NPSs)	The application for development consent will be decided under Section 105 of the PA2008. While NPSs may not have effect in relation to projects determined under section 105, matters incorporated within them are nonetheless likely to constitute important and relevant considerations.	Agreed

Ref.	Description of Matter	Current Position	Status
		<p>The following national policy documents are therefore agreed to be both important and relevant to the Secretary of State for the purposes of determining the Application:</p> <ul style="list-style-type: none"> <li>• Overarching National Policy Statement for Energy (NPS EN-1) (July 2011);</li> <li>• Draft Overarching National Policy Statement for Energy (Draft NPS EN-1) (March 2023);</li> <li>• National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (NPS EN-4) (July 2011);</li> <li>• Draft National Policy Statement for Natural Gas Supply Infrastructure and Gas and Oil Pipelines (Draft NPS EN-4) (March 2023).</li> </ul> <p>It is an agreed view that FCC local planning policy is a relevant and important consideration pursuant to section 105 of the PA2008.</p>	
<b>FCC3.3.2</b>	Local Planning Policy	<p>The important and relevant local planning policy in FCC is:</p> <ul style="list-style-type: none"> <li>• Adopted Flintshire Local Development Plan (LDP)</li> </ul> <p>FCC have raised in their Relevant Representation that the submitted application and associated Planning Statement identifies the Flintshire Unitary Development Plan (UDP) as the adopted development plan for Flintshire County Council. Following the examination of the Flintshire LDP, the LDP was subsequently adopted on 24 January 2023.</p> <p>The Applicant confirms the Planning Statement <b>[REP4-022]</b> has been updated to reflect this and removed reference to the UDP.</p>	Agreed
<b>FCC3.3.3</b>	Welsh Planning Policy	<p>The important and relevant Welsh National Planning Policy in FCC is:</p> <ul style="list-style-type: none"> <li>• National Development Framework - Future Wales: The National Plan 2040;</li> <li>• Planning Policy Wales (PPW) 11 with Technical Advice Notes (TANs)</li> </ul>	Agreed
<b>FCC3.3.4</b>	A55 Red Route	<p>The Roads Review Panel recently released their report and recommendations to the Welsh Government, one of which related to the removal of the proposed A55 'Red Route' as a new road scheme. The Welsh Government has yet to finalise its response to the Panel's recommendations, as there are ongoing considerations following a notice of motion. The red route is safeguarded under <b>Policy PC10: New Transport Schemes</b> in the Flintshire LDP.</p> <p>The Applicant has asked FCC whether there are any plans to remove this safeguarded status or what the impact of the Welsh Government decision will be on the Local Plan policy. FCC has confirmed that the Flintshire LDP was adopted prior to the panel's report being published, and the Red Route is therefore referenced within Policy PC10 New Transport Schemes, under criterion i., and is shown on the proposals maps as a protected route. Until such a time as the Welsh Government publish their formal response to the Road Review Panel Report, the position must be assumed to be as set out in the LDP and it cannot be said at present that there will not be any potential conflict between the Hynet proposals and this road scheme.</p>	Agreed
<b>FCC.3.3.5</b>	LDP Policy EN11 Green Wedges	<p>The Planning Statement originally submitted by the Applicant <b>[APP-048]</b> stated that the Order Limits did not conflict with any land designated as 'green wedge'. This was included by the Applicant in error and upon further assessment the Order Limits transect a number of designated Green Wedges. Subsequently, the Planning Statement has been updated to include an assessment against EN-11.</p>	Agreed

Ref.	Description of Matter	Current Position	Status
		The Applicant has since updated Chapter 5 of the Planning Statement [REP4-022] to ensure that the impact of the proposed DCO Proposed Development upon the Green Wedge in Flintshire has been assessed and provided a case for 'very exceptional circumstances'. This update was submitted at Deadline 4.	

**Table 3-4 – Needs Case for the DCO Proposed Development**

Ref.	Description of Matter	Current Position	Status
<b>FCC 3.4.1</b>	Need for the DCO Proposed Development	FCC agrees that the DCO Proposed Development is necessary, supported and justified in policy terms.	Agreed
<b>FCC 3.4.2</b>	Wider benefits	<p>The Needs Case for DCO Proposed Development [APP-049] sets out the wider benefits of the DCO Proposed Development in terms of job creation. It also sets out the wider economic, environmental and social benefits of the Project.</p> <p>FCC agrees that the benefits of the DCO Proposed Development outweigh the impacts and as such the DCO Proposed Development is acceptable and should be consented.</p> <p>FCC provided the following responses in their LIR [REP1A-005] in support of the benefits of the DCO Proposed Development:</p> <p>Section 10.10 - 'From a carbon reduction perspective, the Council are supportive of the proposal due to the anticipated carbon emissions savings that would be prevented from entering the atmosphere. As such, the HyNet project would contribute to carbon reduction and, in turn aid the UK in its target to be net zero carbon by 2050'.</p> <p>Section 10.13 and 10.14 – 'A significant proportion of the area covered by the HyNet network is largely industrial, currently emitting large amounts of carbon emissions, and if a proportion of this can be captured this would be beneficial, not just for the immediate areas in which the Hydrogen production plant is proposed in Cheshire, but also for Flintshire and beyond. Furthermore, should the DCO application for a carbon dioxide pipeline be consented, this would provide opportunities in the future (subject to separate consenting) for large CO<sub>2</sub> emitting industries to capture their carbon and connect and 'tie-in' to the proposed HyNet CO<sub>2</sub> pipeline for offshore storage. The project therefore would contribute to the reduction of CO<sub>2</sub> in the atmosphere and would make a significant contribution to the national and local effort to alleviate the climate change emergency. The Council agree that the proposal would deliver clear and substantial benefits on a local, regional and national level.'</p>	Agreed

**Table 3-5 – Cultural Heritage**

Ref.	Description of Matter	Current Position	Status
<b>FCC 3.5.1</b>	Study Area	The study areas adopted by the Applicant in Chapter 8 Cultural Heritage of the ES [REP4-039] assessment are considered to reflect best practice and are proportionate. CPAT (as appointed advisors to FCC) considers that the study areas are appropriate. FCC agrees that the study areas are appropriate.	Agreed

Ref.	Description of Matter	Current Position	Status
FCC 3.5.2	Methodology	The methodology adopted by the Applicant in the Chapter 8 Cultural Heritage of the ES <b>[REP4-039]</b> assessment is considered to reflect best practice and guidance. The methodology is appropriate.	Agreed
FCC 3.5.3	Baseline data sources	The baseline data sources have been collated using desk-based and field-based techniques, through consultation with stakeholders, and are considered to reflect best practice. The scope, coverage, and timing of the surveys <b>[REP4-081, REP4-084 and REP4-085]</b> undertaken to inform the baseline conditions and sensitive receptors are in line with best practice and appropriate to inform the assessment of effects reported in the Cultural Heritage assessment <b>[REP4-039]</b> . The data sources used, and the evaluation undertaken are appropriate and that the baseline assessment is thorough.	Agreed
FCC 3.5.4	Impact assessment	The impact assessment in Chapter 8 Cultural Heritage of the ES <b>[REP4-039]</b> has been undertaken in line with best practice and guidance. The conclusions of the impact assessment are appropriate.	Agreed
FCC 3.5.5	Mitigation	<p>The mitigation strategy outlined in Chapter 8 Cultural Heritage of the ES <b>[REP4-039]</b> and the Outline Archaeological Written Scheme of Investigation (WSI) <b>[APP-223]</b> is in line with best practice and proportionate to the effects of the DCO Proposed Development.</p> <p>The Draft DCO <b>[CR3-008]</b> commits the Applicant to produce a detailed Archaeological WSI based on the Outline Archaeological WSI <b>[APP-223]</b>.</p> <p>The Applicant has undertaken trial trenching in response to additional consultation with CPAT to target the areas containing geophysical anomalies, with a second phase of trenching to be undertaken post-consent. Further engagement will be held.</p> <p>The Applicant has discussed the requirement for archaeological watching brief with CPAT. It is agreed that areas will only require archaeological watching brief where the proposed Phase 2 trenching is not possible. If areas are evaluated and found not to contain archaeological remains, no further archaeological work will be required. It is agreed that areas will only require archaeological watching where evaluation is not possible.</p>	Agreed
FCC 3.5.6	Trenching related to geophysical anomalies	<p>FCC considered that the WSI is largely robust and appropriate. However, any geophysical anomalies would need to be evaluated at the pre-determination stage.</p> <p>The Parties agreed that trenching will be undertaken in February 2023 and the results will be submitted during the examination.</p> <p>A second phase of trenching will be undertaken prior to the start of construction, as detailed in Section 2.3.3 of the Outline Archaeological WSI <b>[APP-223]</b>.</p>	Agreed

**Table 3-6 – Biodiversity**

Ref.	Description of Matter	Current Position	Status
FCC 3.6.1	Mitigation	A cross-border approach to mitigation was discussed during a meeting on 14 July 2022. No issues were raised by FCC on this approach but suggested using local policy plans as a basis for restoring habitats and to provide suitable justification for locations. The Applicant advised that mitigation areas would be identified within the constraints of the Order Limits and would seek to tie in with and improve existing green infrastructure.	Agreed



Ref.	Description of Matter	Current Position	Status
		<p>The Applicant has further explored the need for mitigation in the context of the developed design and has confirmed that sufficient land is encompassed within the Environmental Mitigation Areas within the Order Limits within Wales (as presented within the latest Works Plans <b>[CR3-005]</b> to accommodate mitigation tree planting. As such a cross border approach to mitigation tree planting is now not considered required.</p>	
<b>FCC 3.6.2</b>	Biodiversity Net Gain (BNG) Target	<p>BNG assessment does not address the additional requirements. No detail has been provided on off-site compensation scenarios.</p> <p>The Applicant confirms that they are exploring opportunities for the creation of off-site compensation through liaison with appropriate and suitable landowners, stakeholders and other interested parties with a view to securing agreements. Delivery and compliance of offsets will be clarified through the examination.</p> <p>The Applicant has continued to progress discussions with FCC and other interested parties with a view to securing land for required habitat offsets. These are now at an advanced stage, with proposed offset locations within Wales identified for hedgerows and ponds within the latest Biodiversity Net Gain Strategy <b>[REP6-033]</b>. The Applicant and FCC are in discussions to conclude a S111 agreement to secure creation and maintenance of the hedgerow and pond habitat by FCC.</p> <p>The Applicant is in discussions with a third-party landowner to acquire land in order for the Applicant to deliver woodland habitat. In order to provide an enforceable mechanism to ensure delivery of woodland habitat, the Applicant and FCC are in discussions to conclude a S111 agreement, which would require the parties to enter into a S106 Agreement once the Applicant has acquired land. The S106 Agreement will obligate the Applicant to create the woodland habitat and maintain it for 30 years.</p> <p>The Applicant and FCC are currently concluding discussions and their agreements on Biodiversity Net Gain. Agreement has not been reached prior to Deadline 7. The Applicant will provide an update on this at Deadline 8 if required.</p>	Agreed (subject to s111 agreement being in place)
<b>FCC 3.6.3</b>	Ancient Woodland	<p>The Applicant and Flintshire County Council had a meeting on 05 June 2023 and subsequent email correspondence. It was discussed and agreed that in order to accommodate Design Change Request 1 – Option PS02b, it would be necessary to encroach 2m within a portion of the conservative 15m buffer area from the ancient woodland. It is proposed that no intrusive works will take place inside the 13m buffer area, with only surface access required.</p> <p>This approach was acceptable and agreed with FCC on the basis that the proposed mitigation outlined in the CEMP <b>[REP6-008]</b> is followed and includes an Arboricultural Method Statement (AMS) (Appendix F of the Arboricultural Impact Assessment <b>[REP4-118]</b>), a tree protection plan and attendance by an arboricultural clerk of works during works, where required.</p> <p>The principles of the AMS will be applied to Design Change Request 1 – Option PS02b, which is the only location where the 15m buffer is encroached. Excavation will be restricted to a maximum of 2m within the 15m Root Protection Area (RPA), with surface access required within the remaining 13m RPA area. It is not envisaged at this time that the existing fence, behind which the trees are located, will need to be removed and as such access will be confined to within the existing boundaries of the field. Mitigation will include measures such as fencing, and ground protection (to ensure soils are not compacted and affect the root structure within the RPA) in accordance with BS5837:2012</p> <p>The AMS will be further updated at the detailed design stage, alongside a Tree Protection Plan which will provide greater detail on the approach to be taken in this area, but it will conform with the broad principles contained within the AMS. In addition, construction and site set-up will be supervised and supported by an experienced Arboricultural Clerk of Works to ensure works are completed in accordance with the AMS. Adherence to this approach will be consolidated through requirement 11 of the dDCO <b>[CR3-008]</b>.</p>	Agreed

Ref.	Description of Matter	Current Position	Status
		<p>Following further email correspondence (dated 18 July 2023), FCC confirmed their preference is for the slurry tank to remain in situ given it has only recent received planning permission.</p> <p>Preconstruction surveys to determine any changes in baseline results will be undertaken in advance of construction and in response to the detailed design of the DCO Proposed Development, as provisioned for within, for example, items D-BD-001, D-BD-005, D-BD-006, D-BD-021 of the Outline Construction Environmental Management Plan (OCEMP) <b>[REP6-008]</b>.</p>	

**Table 3-7 – Land & Soils**

Ref.	Description of Matter	Current Position	Status
<b>FCC 3.7.1</b>	Phase I Report	FCC confirmed that the Phase 1 Report was satisfactory during a meeting on 25 January 2022.	Agreed
<b>FCC 3.7.2</b>	Proposed Additional Ground Investigation	FCC confirmed they were satisfied with the proposed additional ground investigations.	Agreed
<b>FCC 3.7.3</b>	Ground Conditions	<p>FCC have raised an issue related to methods used for exploring the ground conditions and have advised that it's likely that alternative methods of exploring the ground conditions at the different points along the route of the pipeline; including the Block Valve Stations.</p> <p>The Applicant has undertaken a ground investigation <b>[REP4-134, REP4-135 and REP4-136]</b> that include boreholes (cable percussive, rotary and window sample), cone penetration tests and trial pits. A range of investigative methods was used to provide the ability to collect a range of samples.</p>	Agreed

**Table 3-8 – Landscape & Visual**

Ref.	Description of Matter	Current Position	Status
<b>FCC 3.8.1</b>	Landscape and Visual Impact Assessment (LVIA)	FCC received an update on the LVIA and associated landscape and visual impacts following changes to the design outlined within the PEIR. The LVIA methodology is therefore agreed.	Agreed
<b>FCC 3.8.2</b>	Viewpoint selection	No direct response from FCC was received following submission of proposed viewpoints and photomontage locations. It is therefore understood that FCC agrees with the approach undertaken within Chapter 12 Landscape and Visual of the ES <b>[REP4-047]</b> .	Agreed

**Table 3-9 – Noise & Vibration**

Ref.	Description of Matter	Current Position	Status
<b>FCC 3.9.1</b>	Baseline Noise Monitoring	The overall approach to the baseline noise monitoring was agreed on 15 September 2021.	Agreed

Ref.	Description of Matter	Current Position	Status
FCC 3.9.2	Construction Noise and Vibration Assessment	The overall approach to the noise and vibration assessment during the construction and decommission phases is in accordance with BS5228, Parts 1&2 (2009) + A1:2014.	Agreed
FCC 3.9.3	Operational Noise Assessment	The overall approach to the noise assessment during the operational phase is in accordance with BS 4142:2014+A1:2019 and is agreed.	Agreed
FCC 3.9.4	Operational Vibration Assessment	The Applicant has scoped out operational vibration assessment from the EIA on the basis that the operation of the new equipment included in the AGIs and BVSs is not expected to give rise to a significant effect at the nearest sensitive receptor in terms of vibration.	Agreed
FCC 3.9.5	TAN11: Noise, Air Quality and Soundscape	FCC has raised that Welsh Government are presently consulting on a draft revision to TAN11 which will be called, 'Noise, Air Quality and Soundscape'. This was last updated in January 2023. The Applicant will monitor this accordingly.  FCC has confirmed that the consultation period for this revision is completed, and further discussion is required to replicate any changes required to be compliant of this revision.	Agreed

Table 3-10 – Traffic & Transport

Ref.	Description of Matter	Current Position	Status
FCC 3.10.1	Definition of Heavy Goods Vehicles (HGV) and Light Goods Vehicles (LGV)	For the purposes of the DCO Proposed Development, an HGV is defined as being in excess of 3.5 tonnes and an LGV is a vehicle weighing less than 3.5 tonnes.	Agreed
FCC 3.10.2	Definition of temporary access	A temporary access location will be designed and constructed to accommodate the most onerous vehicle type and manoeuvre required for construction.	Agreed
FCC 3.10.3	Suitability of survey data	Traffic surveys undertaken in 2021 were agreed as being acceptable based on guidance in National Highways Advice Note dated 30 <sup>th</sup> July 2021 which established that the effects of the Covid-19 Pandemic and their impact on traffic flows could be mitigated by collecting a 14-day sample. Subsequent data in 2022 has been collected for a 7-day period and is considered a representative baseline suitable for assessment purposes.	Agreed
FCC 3.10.4	Principles of construction traffic routing	Construction traffic routes have been identified as being appropriate due to their accessibility to the Strategic Road Network (SRN), their geometry, capacity and where they limit disruption to human receptors and other road users. Where this is difficult to achieve, suitable mitigation measures have been documented in the Outline Construction Traffic Management Plan [REP3-020] with justification detailed.	Agreed
FCC 3.10.5	Construction techniques	Trenchless installation techniques to be used where specified in the crossings register to limit the need for closures of roads.	Agreed
FCC 3.10.6	Scope of assessment – Junction Assessments	No individual junction assessments are required due to the volumes of traffic in peak periods being within agreed thresholds (less than 30 two-way trips during the peak months (August 2024 Project Peak Month)).	Agreed

FCC 3.10.7	EIA assessment conclusions	Chapter 17 Traffic and Transport of the ES <b>[REP4-057]</b> and the further detailed assessment included within the Transport Assessment <b>[REP4-167]</b> enable the conclusion to be drawn that the residual traffic and transport effects of the DCO Proposed Development are not significant.	Agreed
FCC 3.10.8	Diversion (B5129 - Chester Road E)	FCC agreed they have no issues with the principle of diverting pedestrians away from the carriageway, as it means that no temporary lights are necessary.  FCC is comfortable with a proposed pedestrian diversion that runs parallel to the existing carriageway.	Agreed
FCC 3.10.9	Footway Closure (Northop Hall – Chester Road/Brookside)	Given low pedestrian movements in this area, FCC are content that footpaths adjacent to the carriageway can be temporarily closed and that pedestrians can follow the prescribed vehicular diversion route.	Agreed
FCC 3.10.10	Consideration of Flintshire Corridor (A55 Red Route) scheme	Chapter 17 Traffic and Transport of the ES <b>[REP4-057]</b> made reference to the Welsh Government freeze on new road building schemes which was announced in June 2021, pending the outcome of a Roads Review. The chapter indicated that the DCO Proposed Development would be operational prior to commencement of construction of the Flintshire Corridor (Red Route) scheme. This scheme has therefore not been accounted for in the assessment.  The Applicant is aware of the announcement by Welsh Government on 14 <sup>th</sup> February 2023 in response to the completed Roads Review that all new road building schemes will be ceased.  The Applicant considers that the approach to assessment which did not consider the construction traffic associated with or the completion of the Flintshire Corridor scheme was correct and robust.	Agreed
FCC 3.10.11	Bridleway No. 8 (309/8/10) & 309/10/30 (Deeside Lane)	The Applicant is proposing to use Public Bridleway No. 8 (309/8/10) & 309/10/30 (Deeside Lane) as the temporary construction access route from the junction with Sealand Road to the junction with Deeside Lane and continuing along Deeside Lane, as shown as Work No 30 E of the Works Plans <b>[REP4-006]</b> . Bridleway No. 8 & 309/10/30 (Deeside Lane) are unmade tracks which do not form part of the adopted highway network and FCC advised they are under a duty to maintain the bridleway only to a standard for users on foot and horseback and Deeside Lane only to a standard suitable for use on foot. FCC have stated that it is not currently suitable for the usage being proposed by the Applicant (compound and construction traffic access).  FCC has requested that the Applicant upgrade the Bridleway & (309/10/30) Deeside Lane to a tarmac surface to make them suitable for construction traffic. The Applicant does not agree or accept that resurfacing of the Bridleway & 309/10/30 (Deeside Lane) is necessary or appropriate for the construction of the DCO Proposed Development. FCC's and the Applicant's latest positions are provided within the comments on Submissions received at Deadline 5 <b>[REP6-035]</b> .  The Applicant's position is informed by discussions with NRW who have specifically requested that the Bridleway is kept fully open so they can access the River Dee for any maintenance/works and do not agree to any narrowing or closures of the Bridleway.  FCC have powers under the Highways Act to temporarily close Highways (which includes Public Rights of Way) to undertake our statutory duties which include maintenance, repairs and improvements. Where any 3rd party requires access, FCC (or any contractor on our behalf) would always liaise with that party to arrange access around the works or provide suitable alternatives but it certainly would not be a reason to not undertake any improvements on the Bridleway (or any other highway/public right of way for that matter).	Not Agreed

Table 3-11 – Water Resources & Flood Risk

Ref.	Description of Matter	Current Position	Status
FCC 3.11.1	Preliminary Environmental Impact Report	Full FCC response to the PEIR provided as part of the s42 statutory consultation in 2022. FCC comments are noted and have been taken account of in the DCO Proposed Development application.  The Applicant requested the new Flood Map for Planning to review potential conflicts. This has been reviewed and no significant changes in flood risk have been identified.	Agreed

Table 3-12 – Issues related to the DCO Proposed Development - Draft DCO (including requirements to the draft DCO)

Ref.	Description of Matter	Current Position	Status
FCC 3.12.1	Draft DCO Wording (Articles and Requirements)	FCC provided several comments with respect to the proposed wording and appropriateness of its provisions including the principal powers, the content and wording of the suggested requirements and the unrealistic proposed process timescales relating to applications made under the requirements, and the associated fees.  These include but are not limited to the following (Applicant comments also provided in the rows below in italics).	Agreed
FCC 3.12.2	DCO Part 2 - Article 9 (Statutory Nuisance)	Clarification sought in respect of the defence to proceedings and arbitration in respect of statutory nuisance for noise and its interplay with existing statute (DCO Part 2 (Principal Powers) Article 9).  <i>The Applicant would refer FCC to the Explanatory Memorandum [REP4-009] which describes that this provision exists solely to extend the statutory nuisance defences created by s158 of the Planning Act 2008 to actions brought by persons other than the local authority. Article 9 entirely relates to those actions brought by “persons aggrieved”, not the local authority- and therefore has no effect on the local authority’s powers or position. A full explanation of the legal position on this Article has also been provided by email to FCC for their consideration.</i>  The Applicant notes FCC’s Deadline 3 submission - Response to the Applicant’s Comments to FCC’s Final Local Impact Report [REP3-046] that this point can be changed to ‘Agreed’ (ref 2.1.198).	Agreed
FCC 3.12.3	DCO Part 3 – Article 10 (Street Works)	Clarification is sought on whether the proposed DCO is based on legislation that contains powers to “over-ride” other existing statute. Referring specifically to paragraph 3 to 8 of the draft DCO, CWCC submitted that it is not clear whether the draft DCO has the authority to override either the Control of Pollution Act 1974 (COPA) and the Environmental Protection Act 1990 (EPA).  <i>The Applicant notes that, on the point of DCO scope in general, the Planning Act explicitly allows for the disapplication of other legislation. The Applicant however confirms there is no ‘over-ride’ (or disapplication as it would be referred to in the application documents) of the EPA 1990 or COPA 1974. The drafting relates to how controls inter-relate, rather than seeking to displace the existing regime. The Applicant refers to the Other Consents and Licences document [REP4-020] which explains, for example, that the project would intend to seek COPA prior approvals at the correct stage when construction details are known.</i>	Agreed
FCC 3.12.4	DCO Part 4 – Article 19 (Discharge of Water)	FCC requested that it is considered that Article 19 (5) should also include reference to seeking Ordinary Watercourse consent. The Council suggest that the following wording should be considered: “The undertaker must not, in carrying out or maintaining the works pursuant to this article, damage or interfere with the bed or banks or construct any works within any Ordinary Watercourse without obtaining Ordinary Watercourse Consent from Flintshire County Council.	Agreed (subject to protective provision wording updates)



Ref.	Description of Matter	Current Position	Status
		<p><i>The Applicant notes this addition would directly conflict with the provisions of Article 8 where the requirement for ordinary watercourse consents is disapplied. In line with the ethos and objective of the DCO regime, a separate consent should not be required where this can be addressed through the DCO.</i></p> <p>FCC were requested to review the requirements and specifically the need for approval of the surface water drainage design and advise what elements, if any, they consider are not addressed in that.</p> <p>The Applicant would also direct FCC to Table 2-3 of the Applicant's Comments on Submissions Received at Deadline 3 <b>[REP4-263]</b>, in particular the section on 'General Comments on the Draft DCO' – Part 4 (page 47).</p> <p>The Applicant has submitted an Outline Surface Water Management Plan <b>[REP5-021]</b> which provides guidance in relation to the management of flood risk during the construction phases in known areas of flood risk, including fluvial and surface water flood risk areas.</p>	
<b>FCC 3.12.5</b>	DCO Schedule 2: Part 1 – Requirement 5 (CEMP) and Requirement 11 (LEMP)	<p>FCC advises that the Construction Environmental Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP) provisions under requirements 5 and 11 are considered too vague. More clarification of the inclusions for each are needed, and in particular direct reference for mineral safeguarding, the protection and replacement planting of all significant trees and hedgerows (not just ancient woodland), heritage mitigation as well as clear biodiversity considerations including survey reporting and monitoring strategies.</p> <p><i>The Applicant advises these details are secured in the plans as set out in the outline and do not need to be repeated in the requirement itself. A review mechanism is not required as the CEMP will only apply during construction and each plan to the stage/s it is for.</i></p>	Agreed
<b>FCC 3.12.6</b>	DCO Schedule 2: Part 1 - Requirement 11(2)(d)	<p>FCC advised that a definition of “existing features” in requirement 11(2) (d) is needed.</p> <p><i>The Applicant advises this is standard DCO wording and no definition is required as it applies to the individual facts and circumstances, i.e. the features identified in the ES and any pre-commencement surveys.</i></p>	Agreed
<b>FCC 3.12.7</b>	DCO Schedule 2: Part 1 - Requirement 13 (Construction Hours (1-5))	<p>The definition of “emergency” and “non-intrusive” within Schedule 2 requirement 13 (Construction Hours) has been raised. FCC advised the current wording of requirement 13 (3) (c) would appear to allow works outside of the stated construction hours in any eventuality – this is quite open-ended. The proposed exceptions and definitions in relation to the proposed construction working hours are not considered acceptable.</p> <p><i>The Applicant will agree to amend the DCO so that working for what is currently (c) would require approval under a scheme but maintains that allowing 24 hour working for (a), (b) and (d) is necessary and appropriate.</i></p> <p>The Applicant would also direct FCC to Table 2-3 of the Applicant's Comments on Submissions Received at Deadline 3 <b>[REP4-263]</b>, in particular the section on 'Commentary on Applicant's Draft DCO Requirements – 13 Construction Hours (1-5)' (page 53).</p>	Agreed
<b>FCC 3.12.8</b>	DCO Schedule 2: Part 1 - Requirement 15 (Restoration of Land)	<p>FCC advised that Requirement 15 as a whole is not precise or enforceable and does not require the approval of a scheme of restoration and aftercare if required. FCC request to re-word to require full detail of restoration scheme or remove and combine into Requirement 16. Or include more detail in the soil management plan.</p> <p><i>The Applicant advises this requirement is a reserve power to allow the LPA to require restoration in default or where there is an issue. The primary mechanism for controlling restoration is the land agreements which will include for example schedules of condition before possession is taken, the details of restoration, which will in the main be to the former use. Drainage would</i></p>	Not Agreed

Ref.	Description of Matter	Current Position	Status
		<p><i>be reinstated in its former location. Deterioration in land would be a compensatable issue not a planning one. Aftercare of agricultural land once returned to the landowners' use is not appropriate or reasonable as it would not only interfere with the land agreements between the landowner and Applicant but would require the Applicant to control land for longer than necessary, to interfere with the landowners use, to take rights for longer than necessary and it is accordingly disproportionate to move from the control of the landowner to the LPA.</i></p> <p>The Applicant would also direct FCC to Table 2-3 of the Applicant's Comments on Submissions Received at Deadline 3 <b>[REP4-263]</b>, in particular the section on 'Commentary on Applicant's Draft DCO Requirements - 16 Restoration of Land' (page 54).</p>	
<b>FCC 3.12.9</b>	DCO Schedule 2: Part 1 - Requirement 17 (Amendments)	<p>FCC advised on the "42 days" notification period - The current wording is not flexible as there is no ability to agree an extension of time if required. Suggestion to use a standard period for decision of 56 days (8 Weeks). Include provision to agree an extension of time i.e. <i>"within such longer period as may be agreed by the undertaker and the host authorities in writing"</i></p> <p><i>The Applicant is willing to amend the period to 56 days (8 weeks) as requested by FCC. The Applicant is willing to add the flexibility requested to allow agreement of a different period.</i></p>	Agreed
<b>FCC 3.12.10</b>	DCO Schedule 2: Part 2 – Requirement 21 (Further Information)	<p>The proposed 5/21-day notification periods for the request for further information under Requirement 21 (2-4) is not considered acceptable. Request from FCC to amend to longer and reasonable time scale, include the provision for allowing an extension of time for an agreement.</p> <p><i>The Applicant would be willing to add the flexibility requested to agree a longer timescale, and will amend 5 days to 10, but will not agree to extend the 21 day period.</i></p> <p>The Applicant would also direct FCC to Table 2-3 of the Applicant's Comments on Submissions Received at Deadline 3 <b>[REP4-263]</b>, in particular the section on 'Commentary on Applicant's Draft DCO Requirements – Schedule 2 Part 2: Applications made under requirements – 23.2 (2) Further information (page 56).</p>	Not Agreed
<b>FCC 3.12.11</b>	DCO Schedule 12 (Arbitration Rules)	<p>Clarification is sought in relation to Schedule 12 (Arbitration Rules) as the Environmental Protection Act 1990 and Control of Pollution Act 1974 have existing legally defined routes to recourse.</p> <p><i>The Applicant confirms that the arbitration provision relates to disputes under the DCO and does not affect any mechanism under the EPA or COPA.</i></p>	Agreed
<b>FCC 3.12.12</b>	Ground Conditions	<p>FCC suggests that the DCO is amended to allow for a broader scope of exploratory methods to be used to enable the works proposed. Reference is made to Article 21 of the DCO accessing land for the purpose of sampling and to trial holes/pits. The Council consider that this is too restrictive an approach and may not be sufficient to yield the information needed. Whilst it is not expected that there will be a need to drill boreholes, trial pits are generally only to be used for visual inspection of the condition of the ground where appropriate or where there is a known aspect which needs only indicative information. So, for example, to find the edge of a feature, to visually inspect buried wastes or to enable semi-quantitative sampling to be undertaken such as to chase a plume of contamination to allow locations for accurate exploratory methods or sampling to be targeted.</p> <p>The Council would suggest that alternative terminology is used based upon the likely exploratory techniques that the assessment of land contamination to be carried out will rely upon. For example, window/windowless sampling. It is likely that alternative methods of exploring the ground conditions at the different points along the route of the pipeline; including the</p>	Agreed

Ref.	Description of Matter	Current Position	Status
		<p>BVS, will need to be relied upon to enable the samples required to be collected and so there appears to be a conflict between the approach to be taken in terms of assessing and addressing land contamination and the scope of the DCO. For this reason, it is suggested that the DCO is amended to allow for a broader scope of exploratory methods to be used to enable the works proposed. The current wording of the DCO is considered too restrictive.</p> <p><i>The Applicant notes that FCC raised this point in order to prevent the Applicant accidentally constraining this power. The Applicant's interpretation of this Article is that it is not restricted to any specified form of investigation. The ability to make trial holes or pits is expressly set out as being without prejudice to the wider power to survey and investigate and nothing in the Article would preclude (but to the contrary the Article empowers) the forms of investigation cited.</i></p>	
FCC 3.12.13	Street work powers	<p>Within DCO Article 11 (3) of Part 3, Streets it is noted that 'The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article'. However, the Council considers it necessary to also include within the DCO the provisions of Section 72 of the New Roads and Steet Works Act 1991. This would ensure remedial works to be carried out by the developer should there be a subsequent failure in the highway network after restoration.</p> <p><i>The Applicant notes this insertion would not make sense when read together with the provisions of article 12 as section 72 only applies where the duty to reinstate under section 70 is relied upon. In any case, section 72 allows for an investigation to be carried out to ascertain compliance with the need for reinstatement, it does not provide for an ongoing liability for the street where no failure is disclosed when the compliance is ascertained. This is exactly the principle and point already covered by the article – restoration to reasonable satisfaction and acceptable reinstatement being different expressions of the same concept.</i></p> <p>The Applicant understands that it is agreed in principle that this can be adequately dealt with in the Protective Provisions.</p>	Agreed
FCC 3.12.15	Requirements - procedure for discharge	<p>FCC confirm they are satisfied with the approach to discharging requirements as set out within Requirement 22 of the draft DCO [REP4-008]. However, FCC still have some outstanding concerns on the 10-day turnaround proposed for Requirement 24 as they have raised in their previous Examination submissions to the Inspectorate.</p> <p>The Applicant has agreed to amending the wording of Requirement 24(2) to increase the notification period from 10 days to 21 days.</p> <p><i>(2) If the discharging authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.</i></p>	Not Agreed
FCC 3.12.16	Protective provisions	<p>The Applicant and FCC have been engaging on Protective Provisions for the protection of the Council as drainage authority, and as local highways authority.</p> <p>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.</p> <p>The Applicant and FCC have reached agreement on the Protective Provisions in relation to the Council's role as drainage authority, subject to FCC's review and approval of proposed amendments following comments from CWCC.</p>	Not Agreed



**Table 3-13 – Issues related to Other Consents, Licences and Permits required outside the draft DCO**

<b>Ref.</b>	<b>Description of Matter</b>	<b>Current Position</b>	<b>Status</b>
<b>FCC 3.13.1</b>	The Building Regulations 2010 (as amended)	Buildings Regulations Approval would be sought prior to and during the construction phase, if required, as well as post-construction for sign off.  This is required as AGIs and BVSs are classed as buildings.  Full information is contained within the Other Consents and Licenses document (Rev D) <b>[REP4-020]</b>	Agreed
<b>FCC 3.13.2</b>	The Control of Pollution Act 1974 (Section 61)  Construction Noise Consent	Apply for prior to the start of construction (or prior to specific construction activities), if required.  Prior consent for works proposed to potentially cause a noise nuisance to agree working hours, noise levels and further mitigation measures.  Full information is contained within the Other Consents and Licenses document (Rev D) <b>[REP4-020]</b> , submitted at Deadline 4.	Agreed
<b>FCC 3.13.3</b>	The Environmental Permitting (England and Wales) Regulations 2016, Pollution Prevention and Control Act, 1999  Mobile crushing and screening plant permit	To be sought, if required, during construction for the crushing grinding or size reduction, with machinery designed for that purpose of: bricks, tile or concrete or any designated mineral: Screening the produce.  Full information is contained within the Other Consents and Licenses document (Rev D) <b>[REP4-020]</b> , submitted at Deadline 4.	Agreed
<b>FCC 3.13.4</b>	Marine and Coastal Access Act 2010, Marine Licensing (Exempted Activities) (Wales) Order 2011  Marine Licence exemptions	To be sought if required for activities undertaken within a marine licensable area, to be submitted pre-construction and required for pre-construction and construction stages.  Full information is contained within the Other Consents and Licenses document (Rev D) <b>[REP4-020]</b> , submitted at Deadline 4.	Agreed
<b>FCC 3.13.5</b>	The Road Vehicles (Authorisation of Special Types) 2003, or under the Road Traffic Act 1988  Permit for Transport of Abnormal Loads. Road Vehicles (Authorisation of Special Type)	To be sought if required for Highways Operations. No action required at present, applications will be submitted once the DCO has been made and by the appointed contractor, if required.  Full information is contained within the Other Consents and Licenses document (Rev D) <b>[REP4-020]</b> , submitted at Deadline 4.	Agreed