

DRAFT STATEMENT OF COMMON GROUND WITH NATURAL ENGLAND

HyNet Carbon Dioxide Pipeline DCO

Planning Act 2008

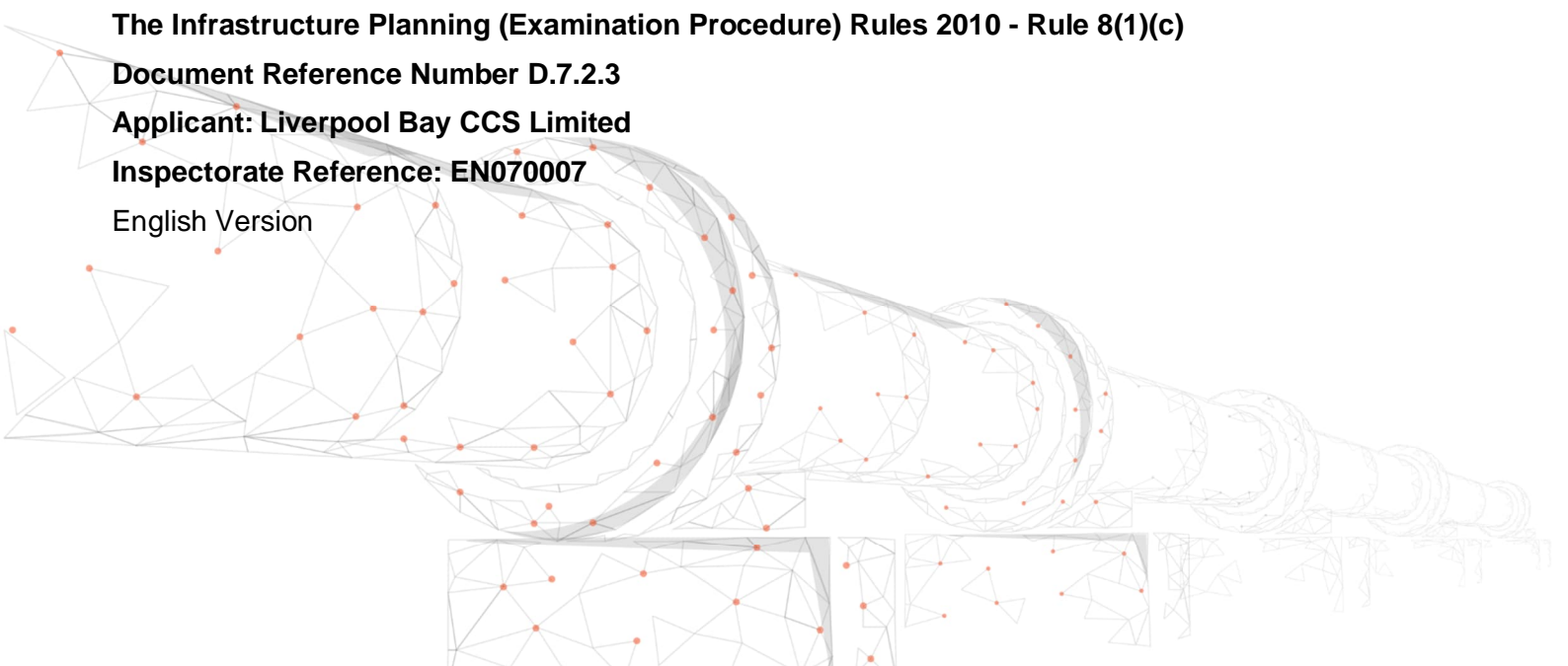
The Infrastructure Planning (Examination Procedure) Rules 2010 - Rule 8(1)(c)

Document Reference Number D.7.2.3

Applicant: Liverpool Bay CCS Limited

Inspectorate Reference: EN070007

English Version



REVISION: D

DATE: September 2023

DOCUMENT OWNER: WSP UK Ltd

PUBLIC

QUALITY CONTROL

| | | | | | |
|---------------------------|----------------|--------------------|---------------|--------------|-----------------|
| Document Reference | D.7.2.3 | | | | |
| Document Owner | WSP | | | | |
| Revision | Date | Comments | Author | Check | Approver |
| A | April 2023 | Deadline 1 updates | CP | AV | AH |
| B | June 2023 | Deadline 4 updates | CP | AV | AH |
| C | July 2023 | Deadline 6 updates | CP | AV | AH |
| D | September 2023 | Deadline 7 updates | CP | AV | AH |

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Liverpool Bay CCS Limited and (2) Natural England

Signed

[NAME]

[POSITION]

on behalf of Liverpool Bay CCS Limited

Date: **[DATE]**

Signed

[NAME]

[POSITION]

on behalf of Natural England

Date: **[DATE]**

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1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This draft Statement of Common Ground (SoCG) has been prepared by Liverpool Bay CCS Limited (the Applicant) and Natural England (NE).
- 1.1.2. For the purpose of this draft SoCG, the Applicant and NE will jointly be referred to as the 'Parties'.
- 1.1.3. The purpose of this draft 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 Development Consent Order (DCO) planning process of allowing all Parties to identify and so focus on specific issues that may need to be addressed during the examination.
- 1.1.4. **Chapter 2** of this draft SoCG records the consultation undertaken with NE by the Applicant. **Chapter 3** of this draft 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 CO₂ 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 (DCO) impacts NE primarily as a statutory environmental body.
- 1.2.3. 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 draft 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.

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2. RECORD OF ENGAGEMENT

- 2.1.1. This Chapter provides a summary of the engagement to date between NE and the Applicant in relation to the Proposed Development.

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Table 2.1 – Record of Engagement in relation to the DCO Proposed Development

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|----------|---|--|
| 03/02/21 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Biodiversity survey approach • Subsequent meetings <p>Discussions and Outcomes</p> <p>The proposed survey approaches and methodologies for surveying aquatic and terrestrial receptors (for example, fish, birds, bats, etc.) was presented for discussion.</p> <p>As a result, subsequent meetings were tabled to specifically discuss survey approaches for Great Crested Newts (GCN) and bats, primarily the assessment of commuting/foraging routes associated with hedgerows. Additionally, separate meetings were agreed to discuss Biodiversity Net Gain (BNG) and Habitats Regulation Assessment (HRA) considerations.</p> <p>The approach to bird surveys, both wintering and breeding was discussed with follow-up discussions to be held pending survey results. Ongoing discussions around this matter.</p> |
| 23/02/21 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Detailed biodiversity survey approach • A draft survey approach and methodology (bats and hedgerows) <p>Discussions and Outcomes</p> <p>A meeting was held to discuss detailed survey approach and methodology for GCN and bats.</p> <p>Topics discussed related to Habitat Suitability Index (HSI) scoring, the survey extents, survey techniques (for example, use of environmental DNA) and the use of the rapid risk assessment tool. Utilisation of District Level Licensing (DLL) for GCN was tabled for use in England, along with potential mitigation options for GCN in areas where DLL is not possible.</p> <p>A draft survey approach and methodology for bats and hedgerows was presented, discussed and provided to NE for comment following the meeting.</p> |
| 26/05/21 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • The proposed survey approach for bats and hedgerows. • Further details on the static detector sampling strategy. <p>Discussions and Outcomes</p> <p>A meeting was held to discuss the proposed survey approach and methodology for bats and hedgerows.</p> <p>Mitigation options, including use of artificial hedgerows; sensitive timings for works; Horizontal Directional Drilling (HDD) for critical hedgerows; standard shrub sizes and providing additional roosting opportunities was discussed.</p> <p>Further details on the static detector sampling strategy were provided and concerns raised regarding the comparison element and characterisation method for activity levels was further discussed. The use of aerial tree climbing</p> |

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|------------|---|---|
| | | inspections as an alternative supplementary approach to dusk emergence/dawn re-entry surveys was also agreed for trees. |
| 18/06/21 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> The amended survey methodology <p>Discussions and Outcomes</p> <p>The amended survey methodology and approach for bats, particularly in respect of hedgerow severance, was tabled and discussed. This included the use of static detectors to enable a comparison between good and excellent hedgerows, and not to determine the foraging / commuting use of hedgerows by bats.</p> <p>The Applicant agreed to update and re-issue the survey methodology to NE for comment. The amended survey methodology was still under discussion.</p> |
| 25/10/2021 | Microsoft Teams meeting with NE, Welsh Government and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Agricultural Land Classification (ALC) Survey. <p>Discussions and Outcomes</p> <p>The methodology for the ALC was discussed and agreed.</p> |
| 19/11/21 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Assessment of the aquatic receptors associated with the River Dee. <p>Discussions and Outcomes</p> <p>The meeting was to discuss the approach to survey methodology 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 discussed.</p> |
| 21/12/2021 | Email conversation between NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Information on the proposed viewpoints for the landscape and visual assessment (LVIA). <p>Discussions and Outcomes</p> <p>No comments from NE on the proposed viewpoint plans or photos.</p> |
| 26/01/2022 | Microsoft Teams meeting with NE, CWCC and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Discuss the GCN District Licensing for England <p>Discussions and Outcomes</p> <p>The methodology for the GCN District Licensing for England was discussed and agreed.</p> |
| 24/02/2022 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> |

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|------------|--|---|
| | | <ul style="list-style-type: none"> • Survey results to date • Survey plan • Design stage avoidance measures • Construction and survey mitigation principles and approaches <p>Discussions and Outcomes</p> <p>The Newbuild Infrastructure Boundary was presented and discussed. Survey results to date were presented, as were the survey requirements for 2022. Design Stage avoidance measures were described, including micro-siting around sensitive receptors and appropriate root protection zones to be developed for trees and hedgerows.</p> <p>It was agreed that an Ecological Clerk of Works is to be present during the construction phase. It was also agreed that extant data will be utilised as part of the assessment presented in the ES.</p> <p>It was agreed that a precautionary working method statement will be prepared for each species, which will be adhered to during the Construction Stage and will detail triggers for when and where licencing is required.</p> |
| 07/07/2022 | Microsoft Teams meeting with NE, NRW and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Provide an update on survey results and mitigation plans • The approach for submission of survey data post DCO submission <p>Discussions and Outcomes</p> <p>Updates on ecological surveys and the proposal for further surveys post DCO submission, alongside mitigation principles and approach were discussed and agreed. The Applicant will provide monthly updates to NE regarding the DCO Proposed Development and mitigation and will re-engage with NE to discuss BNG.</p> |
| 12/07/2022 | Email conversation between NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Provide an update on the LVIA due to changes to the design outlined in the Preliminary Environmental Information Report (PEIR) <p>Discussions and Outcomes</p> <p>NE provided no further comments on the proposed update to the LVIA assessment and therefore their stance on agreement to approach is retained.</p> |
| 14/07/2022 | Email conversation between NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Provide the completed ALC Survey report to NE and the Welsh Government <p>Discussions and Outcomes</p> <p>No further comments were provided or given regarding the completed ALC Survey report.</p> |
| 26/07/2022 | Microsoft Teams meeting with NE, NRW and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Approach for achieving BNG |

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|------------|--|---|
| | | <p>Discussions and Outcomes</p> <p>The BNG approach and methodology was discussed, along with offsetting requirements. This included the sources of habitat data, and a tailored approach to the post-development assessment.</p> <p>NE noted no requirement for Nationally Significant Infrastructure Projects (NSIPs) to deliver mandatory net gain to 10% until 2025 and NE are pleased to see a net gain proposal for this project.</p> <p>NE noted that offsetting proposals align with good practice and pleased to see proposals sought within local authority boundaries.</p> |
| 17/11/2022 | Microsoft Teams meeting with NE, NRW and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Update on ecology surveys and mitigation • Provide an update on project design parameters due to changes to the design • Review survey requirements for 2023 <p>Discussions and Outcomes</p> <p>Hedgerow width removal was discussed and has increased to a maximum of 15m, which is a change from 10m previously identified.</p> <p>Trenchless crossing at the River Dee was discussed and will now be at a depth of a minimum of 15m.</p> <p>Mitigation was discussed and required to offset woodland, irreplaceable habitats and individual trees was detailed, along with the total amount of mitigation area that has currently been identified within England.</p> <p>Survey requirements for 2023 were discussed, and include bat dusk and dawn activity surveys, static monitoring surveys and crossing point surveys for hedgerows. The results of these surveys will feed into the Detailed Design Stage to validate the survey findings and specific mitigation prescriptions set out in the ES.</p> |
| 06/12/22 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Discussion on early first draft of the Statement of Common Ground (SoCG). • Update on key milestones of the HyNet DCO application • Feedback on any points that can be agreed or still under discussion. <p>Discussions and Outcomes</p> <p>A review of the baseline, impact assessment methodologies and mitigation. NE advised they require further input before agreeing, particularly regarding endangered species.</p> <p>Viewpoint locations have been agreed, NE still to provide comments on LVIA methodology.</p> <p>Bat survey methodology was discussed, NE to review version 4 methodology again and confirm details at a future meeting.</p> <p>NE confirmed they are happy with the ALC mapping surveys but need to review the CEMP and Peat/Soil management plans.</p> |

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|------------|---|--|
| 30/03/2023 | Microsoft Teams meeting with NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Discussion on Bat and Hedgerow Methodology item. • Draft EPS Licences • Species Specific Impacts Updates • Mitigation • BNG <p>Discussions and Outcomes</p> <p>The Applicant confirmed that bat preliminary bat roost assessment and activity surveys have been undertaken in line with best practice guidelines and that the bats and hedgerows assessment was completed in line with the agreed method developed in consultation with NE. NE advised they will check internally and confirm they are satisfied with the approach..</p> <p>The Applicant confirmed that they are preparing the draft EPS licences for NE review.</p> <p>NE to be provided with a draft of the Relevant Representation to address some of the outstanding concerns regarding Species Specific Impacts.</p> <p>The Parties agreed to arrange a specific BNG topic call to address any outstanding matters or queries.</p> |
| 11/04/23 | Email conversation between NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Follow up correspondence from the meeting on 30/03/23 regarding BNG approach <p>Discussions and Outcomes</p> <p>NE provided confirmation of the BNG approach outlined and provided updates regarding management and monitoring timeframes for retained/reinstated and created habitats, and the exploration of further biodiversity net gain enhancement opportunities beyond the current target of 1%.</p> |
| 05/06/23 | Email conversation between NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • Follow up correspondence from the meeting on 30/03/23 regarding the Applicant's approach to ecology surveys and proposed mitigation. <p>Discussions and Outcomes</p> <p>NE confirmed they have no further queries regarding the methodology document for the bats and hedgerows assessment and that this could be changed to agreed. NE outlined points to be considered by the Applicant and its approach to the bats and hedgerows assessment.</p> <p>NE requested further clarity on roost designated and hibernation roosting potential and survey effort relating to additional trees recorded in December 2022 which would be important for an EPSL application.</p> <p>NE confirmed they are happy with the information provided within the updated HRA and can agree the item.</p> <p>NE confirmed they are happy with the survey buffer incorporated for otter surveys and can now agree the item.</p> |

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|------------|---|---|
| | | NE advised they are broadly happy with the mitigation measures set out in the ES |
| 19/06/2023 | Email conversation between NE and the Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Query from the Applicant to NE querying the potential to utilise a precautionary working method statement in place of a draft protected species licence for badger, given potential for indirect disturbance effects upon two setts. <p>Discussions and Outcomes</p> <p>The Applicant provided the details of two badger setts identified within the Order Limits with the potential to be subject to indirect disturbance effects during construction of DCO Proposed Development. The Applicant queried whether a precautionary working method statement would be sufficient to mitigation any potential effects or whether NE required a draft protected species licence would be required for their review and comment. The Applicant confirmed that preconstruction surveys would be completed and the needs for licensing would be considered in response to the detailed design.</p> |
| 05/07/2023 | Email conversation between NE and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Follow up correspondence regarding the Applicant's approach to bat surveys, roost designation, survey methodology and results. <p>Discussions and Outcomes</p> <p>NE welcomed that satellite roosts will be considered as per the BCT guidelines and that to date, no satellite roosts have been recorded.</p> <p>NE welcomed the consideration of potential hibernation roosts in the planning of tree felling and the inclusion of further surveys where necessary.</p> <p>NE welcomed the clarification provided with regards to hedgerows in close proximity to roads.</p> <p>NE welcomed the clarification with regards to static detector survey methodology and approach to sound analysis.</p> <p>NE welcomed that with regards to hedgerows, were Annex II species are recorded, this will influence mitigation design.</p> |
| 11/07/2023 | Microsoft Teams meeting with NE, CWCC and Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Follow up meeting to discuss progress regarding BNG approach <p>Discussions and Outcomes</p> <p>A discussion was held regarding the suitable offset site within Cheshire which has been identified through engagement with CWCC, which has recent UKHab field surveys and condition assessments that has informed a metric and BNG report. The report classes the identified offset site as 'Other swamp', which translates to 'Fen' habitat within the metric. However, the site is identified on the DEFRA MAGIC map as Coastal Floodplain Grazing Marsh (CFGM) habitat. A discussion was held where the Applicant discussed the proposed approach options to a) continue to use this habitat type ('Fen') and enhance to from moderate to good condition, or, b) amend the baseline habitat given its existing categorisation as CFGM on the DEFRA MAGIC.</p> |

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|------------|---|--|
| | | <p>CWCC confirmed that the ecology report for the site will be reviewed to confirm condition assessment, habitat type and determine areas suitable for enhancement.</p> <p>NE confirmed they were broadly receptive with this approach and request additional justification around the suitability of CFGM habitat within the Order Limits for wader/wintering bird species. NE to provide clarification on the current text relating to CFGM within BM4.0 User Guide.</p> |
| 07/08/2023 | Email conversation between NE and the Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Follow up correspondence regarding the Applicant's query sent on the 19/06/2023, regarding the need for a draft badger licence or potential applicability of a precautionary working method statement <p>Discussions and Outcomes</p> <p>NE confirmed that they are happy with the proposal of using a working method statement for the two identified setts (outlier setts), on the premise that the sett channels do not lie in the direction of the works and that sett entrances should be checked daily to ensure no debris is present blocking the sett entrances.</p> |
| 10/08/2023 | Email conversation between NE and the Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> NE comments on the draft bat licence documentation <p>Discussions and Outcomes</p> <p>NE provided comment on the Masterplan and Surveys and required clarification on the mitigation and compensation. The Applicant addressed all concerns and issued an updated Masterplan figure to NE for comment.</p> |
| 10/08/2023 | Microsoft Teams Meeting with NE and the Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Discussion regarding NE comments on the draft GCN and water vole licence documentation <p>Discussions and Outcomes</p> <p>The Applicant provided further clarification to NE with regards to mitigation proposals and receptor sites for GCN, and water vole licensable and non-licensable methods. NE confirmed over email on 14 August 2023 which amendments were required for the draft licence or at the time of the formal licence application.</p> |
| 21/08/2023 | Email correspondence between NE and the Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> Discussion regarding barn owl methodology and mitigation measures <p>Discussions and Outcomes</p> <p>NE provided comment on the barn owl methodology and mitigation measures. NE noted they are supportive of the measures and provided additional comments for the Applicant to consider. These included the potential use of a trail camera on a nest location prior to exclusion works and details of compensatory barn owl box specifications,</p> |
| 31/08/2023 | Email correspondence between NE and the Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> NE comments on the draft bat licence documentation Applicant's response to NE comments on barn owl methodology and mitigation measures received 21/08/2023 |

| Date | Form of Correspondence | Key Topics Discussed and Key Outcomes |
|------------|---|---|
| | | <p>Discussions and Outcomes</p> <p>NE confirmed via email that the draft bat licence documentation has been agreed. NE provided the Applicant with a copy of the Letter of No Impediment (LONI) with caveats.</p> <p>The Applicant provided notes and comment on points raised by NE regarding barn owl methodology and mitigation measures, providing clarity over the Applicant's proposed approach and the mitigation measures it has included within its assessment.</p> |
| 04/09/2023 | Email correspondence between NE and the Applicant | <p>Key Topics</p> <ul style="list-style-type: none"> • NE clarification on outstanding SoCG items <p>Discussions and Outcomes</p> <p>NE provided confirmation that they are happy for outstanding Biodiversity items within the SoCG to be moved to 'Agreed' on the basis of the information and clarifications received to date.</p> |

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3. ISSUES

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 NE are as follows:

- Engagement, ES & Other Application Documents;
- Landscape and Visual;
- Biodiversity; and
- Land and Soils.

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Table 3.1 – Engagement, ES & Other Application Documents

| Ref. | Description of Matter | Current Position | Status |
|------------------------------------|-----------------------------|---|--------|
| Engagement | | | |
| NE 3.1.1 | Engagement | <p>The Parties agree that engagement was ongoing during 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 NE’s views.</p> <p>NE has been formally consulted on the application as required by the Planning Act 2008.</p> | Agreed |
| ES | | | |
| NE 3.1.2 | ES | <p>The Parties agree that the study area as set out in the ES is appropriate.</p> <p>The Parties agree that the baselines as set out in the ES are appropriate.</p> <p>The Parties agree that the impact assessment methodologies used in the ES are appropriate.</p> <p>The Parties agree that the mitigation proposed in the ES is appropriate.</p> <p>NE considers that appropriate regard has been had to its proposals in the cumulative assessment having regard to the level of information available.</p> <p>NE concurs with the conclusions of the ES.</p> | Agreed |
| Other application documents | | | |
| NE 3.1.3 | Other application documents | NE agrees that its interests are correctly reflected in the Book of Reference [CR3-013]. | Agreed |

Table 3.2 – Issues related to the DCO Proposed Development - Landscape and Visual

| Ref. | Description of Matter | Current Position | Status |
|----------|-----------------------|--|--------|
| NE 3.2.1 | LVIA Viewpoints | NE agreed with proposed viewpoint locations to be used within the DCO ES as presented in LVIA Chapter 12 [REP4-047]. | Agreed |
| NE 3.2.2 | LVIA - Methodology | The LVIA Methodology as set out in DCO ES LVIA Chapter 12 [REP4-047] was formulated utilising best practice from NE and the approach was shared with NE providing no further comments. | Agreed |

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Table 3.3 – Issues related to the DCO Proposed Development - Biodiversity

| Ref. | Description of Matter | Current Position | Status |
|-----------------|--|---|--------|
| NE 3.3.1 | Bat and Hedgerow Methodology | <p>NE’s response on the bats and hedgerows survey methodology (Version 2) were noted. The Parties agreed to the revised bats and hedgerow survey methodology approach.</p> <p>The Applicant provided the updated bats and hedgerow survey methodology to NE. NE provided further comments on the bats and hedgerow survey methodology (Version 4).</p> <p>NE sought further clarification on the bat and hedgerow assessment including discount parameters, static detector survey methodology and results, and field survey methodology. The Applicant is engaging further with NE on this matter.</p> <p>Following email correspondence between the Applicant and NE dated 5th June 2023, NE confirmed they have no further queries, and this item is now agreed.</p> | Agreed |
| NE 3.3.2 | Bat Activity Survey | <p>NE acknowledge that bat surveys have been carried out during the 2021 and 2022 survey period, and that more are planned. Best practice guidelines are broadly followed; however, NE seeks further clarity to aid future European Protected Species License applications. The Applicant is engaging further with the NE to determine the principle and requirement for any additional permits.</p> <p>NE seeks clarification on roost designation, survey methodology and results and further survey information. The Applicant is engaging further with NE to discuss bat activity surveys.</p> <p>Following email correspondence between the Applicant and NE dated 5th July 2023, NE confirmed they have no further queries, and this item is now agreed.</p> | Agreed |
| NE 3.3.3 | Species Specific Impacts – Barn Owl | <p>NE will provide comments on the use of barn owl exclusion measures.</p> <p>NE provided comment on barn owl exclusion measures as well as general mitigation items, in relation to barn owl, included within the OCEMP on the 21st August 2023. The Applicant provided comments to NE’s points via email on 31st August 2023. Following the Applicant’s responses, NE confirmed via email correspondence on the 4th September 2023 they have no further queries, and this item is now Agreed.</p> | Agreed |
| NE 3.3.4 | Species Specific Impacts – Wintering Birds | <p>NE advise further information is required within the HRA to explain the reduced bird survey effort and if sufficient additional data is available to enable a robust assessment of impacts to wintering birds. The Applicant confirms that two surveys per month were completed between March 2021 and March 2022 for Transect 2. Single site visits were undertaken between December 2020 and February 2021 for Transect 2, providing some additional survey data.</p> <p>The approach to the surveys is considered proportionate in the context of the DCO Proposed Development and the short term, temporary and localised works arising from construction. Transect 2 (along the River Dee) was subject to the most survey coverage given the potential for SPA qualifying species and its connectivity to the Dee Estuary SPA, with surveys completed at differing tidal states to ensure representative results. Given the volume of field survey results accrued across the survey period (2020 to 2022), the Applicant considers this sufficient to inform the HRA and its conclusions.</p> <p>NE have concerns over the conclusions for the Mersey Estuary SPA/Ramsar and Dee Estuary SPA/Ramsar regarding noise disturbance to wintering birds and seek additional detail regarding expected noise levels during</p> | Agreed |

| Ref. | Description of Matter | Current Position | Status |
|-----------------|---------------------------------------|--|--------|
| | | <p>works in close proximity to SPA birds. The Applicant is engaging further with NE regarding noise disturbance on wintering birds.</p> <p>The crossing of the River Dee is expected to take up to four weeks (paragraph 3.6.101 of Chapter 3 – Description of the DCO Proposed Development [REP4-029]) and is therefore short in duration and any disturbance would be temporary. The Applicant confirms that there is also availability of sufficient alternative habitat resource along the River Dee to accommodate temporarily displaced birds, should this occur. Due to the short-term, temporary nature of disturbance and availability of alternative habitat resource, Likely Significant Effects (LSE) were not concluded.</p> <p>Proposed mitigation for the control of noise emissions would include temporary noise screening methods, acoustic barriers and management, such as hoarding. As detailed within the OCEMP [REP4-237], noise screening methods should achieve a minimum attenuation of 10dB. Following the implementation of mitigation and recognising the short-duration and availability of alternative habitat resource, it is considered that no adverse impact on the integrity of the SPA/Ramsar sites would occur.</p> <p>The Applicant acknowledges NE’s advice to consider high disturbance works including piling and hydraulic breaking causing noise disturbance beyond 300m and any such requirement for high disturbance works would be determined at the Detailed Design Stage and a sensitivity test of the HRA would be undertaken, as described within the OCEMP [REP4-237] which is secured by the Draft DCO [CR3-008]. At the time of writing, the need for piling and hydraulic breaking is not anticipated.</p> <p>NE confirmed via email correspondence dated 5th June 2023, that on review of further information provided within the updated HRA, NE are happy to agree this item.</p> | |
| NE 3.3.5 | Species Specific Impacts - Otter | <p>NE advise that all suitable otter habitat within 200m of the proposed works is surveyed. proposed works should be surveyed by an experienced otter surveyor, and should include a systematic search for spraints, paw prints, otter paths, slides, food remains, holts and places used for shelter.</p> <p>The Applicant confirms that surveys for otter have taken place along watercourses and associated habitat suitable to support otters [REP4-106 and REP4-107]. Surveys have been conducted by appropriately experienced surveyors along watercourses within the Newbuild Infrastructure Boundary and to 150m beyond the boundary, where access allowed. Through this approach a sufficient extent of watercourse and bankside habitat has been surveyed to inform the impact assessment. The Applicant considers the extent of survey appropriate to inform the impact assessment and the appropriate mitigation measures and intends to conduct further surveys of watercourses during pre-construction surveys.</p> <p>Mitigation measures, as presented within the OCEMP [REP4-237] have been included to ensure that upon confirmation of a detailed design stage for the DCO Proposed Development, an appropriate survey effort is applied prior to commencement of construction to update baseline results and, where required, inform the need for further mitigation and/or licensing.</p> <p>NE confirmed via email correspondence dated 5th June 2023, that they have no further comments regarding otter and are happy to agree this item.</p> | Agreed |
| NE 3.3.6 | Species Specific Impacts – Water Vole | NE agree with the Applicant’s proposal for pre-commencement surveys in search of evidence/activity of riparian mammals (namely otter and water vole) in watercourses crossed by the proposed development, and those within | Agreed |

| Ref. | Description of Matter | Current Position | Status |
|----------|----------------------------------|---|--------|
| | | <p>an appropriate buffer of proposed works. NE advise that a licence will be required to cover vegetation clearance as part of displacement method mitigation techniques, as per best practice guidance, where water voles are present.</p> <p>The Applicant confirms that where access has not been possible or surveys have not been able to be completed, a precautionary approach has been applied and presence of water vole assumed. The Applicant is currently preparing draft/ghost licensing (see item 3.3.9 below) which will detail draft proposals for use of the displacement method, taking into account relevant vegetation clearance windows to be adhered to.</p> <p>Following review of the draft protected species licence for water vole, NE are happy that the works will be able to be subject to licensing and confirmed via email correspondence on the 4th September 2023 they are happy to agree this item.</p> | |
| NE 3.3.7 | Mitigation | <p>The Applicant intends to engage further with NE regarding this matter.</p> <p>NE confirmed via email correspondence dated 5th June 2023, that they are broadly happy with the mitigation set out in the ES.</p> | Agreed |
| NE 3.3.8 | Biodiversity Net Gain Assessment | <p>The use of BM3.0 for the BNG assessment was discussed and agreed.</p> <p>No issues were raised in terms of the tailored approach to assessment and the methodology that is used.</p> <p>NE confirmed that consideration of the BNG Good Practice Principles was welcomed. NE advised that BM3.2 is due to be consulted on and released, and for future iterations of the BNG assessment, NE suggested the possibility of BM3.2 being used if available.</p> <p>The Applicant notes that BM4.0 has now been released. The Applicant intends to maintain consistency in the metric used for updates prepared during the Examination so the effect of any changes can be clearly seen. However, future iterations of the BNG calculation following granting of the DCO would be carried out using the metric available at that time.</p> <p>NE advise that the identification of suitable local off-set sites is undertaken in liaison with LPAs and Cheshire Wildlife Trust. NE note any retained/reinstated and created habitats are subject to long term management and monitoring for at least 30 years.</p> <p>The Applicant can confirm that discussions are on-going with local interested parties and landowners, including Cheshire West and Chester Council Local Planning Authority, to achieve suitable and local off-set site locations, with a view to detailing the outcomes of such discussions in future iterations of the Biodiversity Net Gain report.</p> <p>NE sought further clarity on the BNG report which will be addressed in future iterations.</p> <p>NE welcomes a target of 1% biodiversity net gain but would strongly encourage the exploration of further biodiversity enhancement opportunities.</p> <p>NE confirmed via email correspondence on the 4th September 2023 they are happy to agree this item.</p> | Agreed |
| NE 3.3.9 | Licencing and Permits | <p>Draft European Protected Species Licences will be prepared for each relevant species and submitted for agreement with NE in 2023. These would be a single project wide mitigation licence for England for each species.</p> <p>The Applicant has submitted draft protected species licences to NE for their review. Each licence is listed below and the status of each is provided:</p> | Agreed |

| Ref. | Description of Matter | Current Position | Status |
|------------------|--------------------------------|--|--------|
| | | <ul style="list-style-type: none"> • Badger – NE provided confirmation to the Applicant via email on 07 August 2023 confirmed NE are satisfied with the proposal for using precautionary working methods in proximity to two outlier setts, therefore a draft protected species licence for badger is not required. Therefore, with regards to badger, this is considered to be 'Agreed'. • Great Crested Newt – NE provided comments on the draft licence documentation to the Applicant on the 10 August 2023 and in subsequent emails on 14 August 2023. The Applicant has responded to and actioned, where required, NE's comments on the submitted documents, acknowledging caveats and detailed requirements to be provided within a future final licence for the Scheme. The documentation associated with a draft licence for Great Crested Newt is therefore considered to be 'Agreed'. • Water vole – NE provided comments on the draft licence documentation to the Applicant on the 10 August 2023 and in subsequent emails on 14 August 2023. The Applicant has responded to and actioned, where required, NE's comments on the submitted documents, acknowledging caveats and detailed requirements to be provided within a future final licence for the Scheme. The documentation associated with a draft licence for water vole is therefore considered to be 'Agreed'. • Bats – NE provided comments on the draft bat licence to the Applicant on 10 August 2023. The Applicant has addressed NE comments and issued updated Masterplan Figure to NE. NE confirmed via email on 31/08/2023 that NE are satisfied with the draft bat licence documentation and issued the Letter of No Impediment with caveats to the Applicant. The documentation associated with a draft licence for Bats is therefore considered to be 'Agreed'. <p>Following review of the draft protected species licence for bats, great crested newts and water vole, NE were satisfied that the works will be able to be subject to licensing and confirmed via email correspondence on the 4th September 2023 they are happy to agree this item.</p> | |
| NE 3.3.10 | District Level Licencing (DLL) | NE has confirmed that DLL is applicable for the DCO Proposed Development. Any amendments to the Order Limits will require the calculation to be re-run a. Construction works will be overseen by an Ecological Clerk of Works (ECoW) or team of ECoWs. | Agreed |
| NE 3.3.11 | In-combination Effects | NE advises that the in-combination assessment continues to be updated as more information becomes available. The Applicant confirms that as further information becomes available from relevant projects this will be reviewed. If this is considered likely to change the conclusions of the HRA, relevant documents will be updated accordingly. | Agreed |

Table 3.4 – Issues related to the DCO Proposed Development - Land and Soils

| Ref. | Description of Matter | Current Position | Status |
|-----------------|---|--|------------------|
| NE 3.4.1 | Agricultural Land Survey Methodology and Approach | NE agreed to methodology and approach. | Agreed |
| NE 3.4.2 | Agricultural Land Survey Results | NE reviewed the report and agreed with the general conclusions presented. | Agreed |
| NE 3.4.3 | Loss of Best and Most Versatile (BMV) Agricultural Land | <p>NE advise that the land take figure provided in Table 11.12 - Construction Stage assessment of significant effect does not correspond with Table 11.7 – Hectarage of permanently sealed agricultural land [REP4-045], although NE acknowledge that the area presented in Table 11.7 would not alter the magnitude of impact and overall significance presented in Chapter 11 [REP4-045]. The Applicant will take account of this in a future revision.</p> <p>However, NE advises that Paragraph 11.2.10 should include reference to BMV agricultural land. National planning policy relevant to agricultural land and soils us set out in Paragraph 174 of the National Planning Policy Framework. The Applicant is discussing this matter further with NE.</p> <p>The Applicant confirms that following the completion of the ALC survey [APP-133, APP-134] potential changes to the route were assessed against ALC grades and where reasonably practicable, the route alignment was amended to avoid BMV land. NE acknowledges that soils supporting BMV agricultural land will be avoided as far as practicable but state that it is not clear how the route option or site design has been devised to help minimise this loss of BMV agricultural land nor minimise the disturbance of peat soils.</p> <p>The Applicant has commissioned a Soil Management Plan [REP4-240] (as detailed in the OCEMP) which will mitigate potential disturbances to BMV land (with the exception of the permanent loss area) by providing appropriate direction with regards to procedures required for soil stripping, storage and replacement. Chapter 4 Consideration of Alternatives [REP4-031] of the 2022 ES provides an overview of how key environmental designations and environmental features were fed into the iterative design process.</p> | Under Discussion |
| NE 3.4.4 | Material Management Plan | <p>NE advise that a Soil Resource Plan should feed into this to describe how the applicant intends to manage excavated materials. The Applicant will provide both a Soil Management Plan and Materials Management Plan as part of the detailed CEMP in accordance with the outline [REP4-237]. In line with good practice Soil Management Plan will form part of and provide input into the preparation of the Materials Management Plan.</p> <p>An Outline Materials Management Plan [REP4-266] has been submitted at Deadline 4.</p> | Under Discussion |
| NE 3.4.5 | Soil Management Plan | <p>NE notes that an Outline Soil Management Plan has been prepared and submitted; however, a number of deficiencies have been identified including extending the scope and clarifying points. The Applicant is updating the Outline Soil Management Plan [APP-227] to address these comments.</p> <p>An updated Outline Soil Management Plan [REP4-240] has been submitted at Deadline 4</p> | Under Discussion |
| NE 3.4.6 | Peat Management Plan | <p>NE notes that an Outline Peat Management Plan has been prepared and submitted; however, a number of concerns have been identified including utilising data derived from the ALC. The Applicant is updating the Outline Peat Management Plan [APP-228] to address these comments.</p> <p>An updated Outline Peat Management Plan [REP4-242] has been submitted at Deadline 4.</p> | Under Discussion |

Table 3-5 – Issues related to Other Consents, Licences and Permits Required outside the draft DCO

| Ref. | Description of Matter | Current Position | Status |
|-----------------|---|---|--------|
| NE 3.5.1 | The Conservation of Habitats and Species Regulations 2017, Wildlife and Countryside Act 1981 (Schedule 5,6,8) | <p>To be sought for killing, injuring, or disturbing European Protected Species or damage or destruction to habitat or place of shelter/rest. Submission of draft licences during DCO Examination. Submission of formal EPS licence application prior to construction.</p> <p>Required for currently considered impacts to badger and their setts arising from construction of the DCO Proposed Development.</p> <p>Full information is contained within the Other Consents and Licenses document (Rev D) [REP4-020], submitted at Deadline 4.</p> | Agreed |
| NE 3.5.2 | The Protection of Badgers Act 1992 (as amended) | <p>Required for impacts and/or effects to badger setts, of any type, including disturbance of badger within setts/resting places. Submission of draft licences during DCO Examination. Submission of formal licence application prior to construction.</p> <p>Required for currently considered impacts to badger and their setts arising from construction of the DCO Proposed Development.</p> <p>Full information is contained within the Other Consents and Licenses document (Rev D) [REP4-020], submitted at Deadline 4.</p> | Agreed |
| NE 3.5.3 | Wildlife and Countryside Act 1981 (Schedule 5) | <p>To be sought as water voles and their burrows are protected under the Act from killing, injury, possession, or disturbance when occupying a shelter, and burrows from obstruction or damage. Submission of draft licences during DCO Examination. Submission of formal licence application prior to construction.</p> <p>Required for currently considered impacts to water vole and their burrows arising from construction of the DCO Proposed Development.</p> <p>Full information is contained within the Other Consents and Licenses document (Rev D) [REP4-020], submitted at Deadline 4.</p> | Agreed |