

STATEMENT OF COMMON GROUND WITH NATURAL RESOURCES WALES

HyNet Carbon Dioxide Pipeline DCO

Planning Act 2008

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

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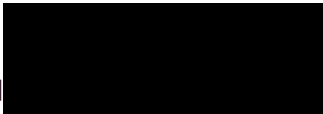
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STATEMENT OF COMMON GROUND

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

Signed 

Martin Currie

Director

on behalf of Liverpool Bay CCS Limited

Date: 5 September 2023

Signed 

Peter Jordan

Development Planning Manager

on behalf of Natural Resources Wales

Date: 05 September 2023

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1. INTRODUCTION

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 Natural Resources Wales (NRW).
- 1.1.2. For the purpose of this SoCG, the Applicant and NRW will be referred to as the 'Parties'.
- 1.1.3. The purpose of this SoCG is to set out the matters of agreement and matters that are not agreed between the Parties in respect of NRW's submission to the Development Consent Order (DCO) Examination. It also lists any matters not yet agreed on for which discussions are ongoing.
- 1.1.4. **Chapter 2** of this SoCG records the consultation undertaken with NRW 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 CO₂ pipeline element of HyNet only. Other elements of HyNet are subject to separate consenting processes and are not addressed here.
- 1.2.2. NRW's role in the DCO Examination is as a Statutory Party under the Planning Act 2008 and Infrastructure Planning (Interested Parties) Regulations 2015 and an 'interested party' under s102(1) of the Planning Act 2008. In addition, NRW exercises functions under distinct legislation including (but not limited to) the Environmental Permitting (England and Wales) Regulations 2016 (as amended) and the Marine and Coastal Access Act 2009.
- 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 SoCG, 'Agreed' and 'Not Agreed' indicates a final position, and 'Under Discussion' indicates where these points are not yet agreed and will be the subject of on-going discussion wherever possible to resolve or refine, the extent of disagreement between the Parties. 'Not for Agreement' indicates where an item is included for information only and not for discussion between the parties.

2. RECORD OF ENGAGEMENT

- 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
03/02/2021	Microsoft Teams meeting with NRW and the 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) were presented for discussion and/or comment.</p> <p>Subsequent meetings were proposed to specifically discuss survey approaches for Great Crested Newt (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 Regulations 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.</p>
23/02/2021	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Detailed biodiversity survey approach • Potential for draft survey approach and methodology for bats and hedgerows <p>Discussions and Outcomes</p> <p>A meeting was held to discuss detailed survey approach and methodology for GCN and bats, in response to the meeting held on 3 February 2021.</p> <p>Topics discussed related to Habitat Suitability Index (HSI) scoring, the survey extents, survey techniques (for example, use of eDNA) and the use of the rapid risk assessment tool. Utilisation of District Level Licensing (DLL) for GCN was tabled for use, along with potential mitigation options.</p> <p>A draft survey approach and methodology for bats and hedgerows was presented, discussed and provided to each organisation for comment following the meeting.</p>
26/05/2021	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • 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, in response to the meeting on 23 February 2021. 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 were discussed.</p> <p>Further details on the static detector sampling strategy were provided and concerns raised were discussed further. The use of aerial tree climbing inspections as an alternative supplementary approach to dusk emergence/dawn re-entry surveys was also agreed for trees.</p>
18/06/2021	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Amended survey methodology for bats and hedgerows.

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Discussions and Outcomes</p> <p>The amended survey methodology and approach for bats, particularly in respect of hedgerow severance, was presented 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>NRW agreed to provide both NRW examples and guidance in relation to presenting an assessment of conservation status.</p>
19/11/2021	Microsoft Teams meeting with NRW and the 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 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. Potential mitigation measures were also tabled.</p> <p>A number of concerns were raised by NRW and Flintshire County Council (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 blowouts/frac outs from HDD; and decommissioning. These concerns were addressed by the Applicant during the meeting including confirmation that appropriate licences would be applied for. The Applicant noted that the DCO application would detail methodology and mitigation in relation to the concerns raised.</p> <p>Following the meeting, NRW provided their written response, recommending the ‘Survey Approach’ methodology be taken forward, in relation to the River Dee surveys.</p>
09/12/2021 – 17/12/2022	Email correspondence between the Applicant and NRW	<p>Key Topics</p> <p>Landscape and Visual – Proposed viewpoints for assessment: An email was issued on 9th December 2021 outlining the selection of proposed viewpoints along with a viewpoint location plan and baseline photography. The email also highlighted the viewpoints that had been removed from those set out at EIA Scoping stage as a result of design changes.</p> <p>The selection of viewpoints included those with views incorporating the Shropshire Union Canal and River Dee. It was suggested that up to six of the proposed viewpoints will be represented by photomontages.</p> <p>Discussions and Outcomes</p> <p>NRW responded on the 17/12/21. NRW re-iterated their stance from the EIA Scoping stage stating that “we consider that the scale of development and distance from the Area of Outstanding Natural Beauty (AONB) would avoid significant visual effects being experienced from within this Designated Landscape. However, we advised that the scope of the landscape and visual impact assessment and location of viewpoints are discussed with the relevant Local Planning Authority’s Landscape Officer/representative. We therefore advise that you consult the relevant Local Planning Authorities regarding these proposed viewpoints, photomontages and baseline photographs”.</p>
07/02/2022	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Proposed survey approach regarding hydromorphology and aquatic ecology • Watercourses and Water Framework Directive (WFD) water bodies • Groundwater WFD water bodies • WFD screening and scoping methodology

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Discussions and Outcomes</p> <p>Consideration to be given to small non-reportable water bodies as they form part of the WFD water body catchment.</p> <p>The DCO Proposed Development cannot hinder future restoration and the installation of the pipeline needs to allow capacity for watercourse restoration or for watercourses to naturally recover from modification. These principles should be used in the design of the DCO Proposed Development. The Applicant contacted the Lead Local Flood Authority (LLFA) to discuss ordinary watercourses and potential restoration.</p> <p>It was discussed that Block Valve Stations (BVS) are not to be located near watercourses and drainage will be to ground – therefore no new outfalls are required. However, the drainage design has been amended since this meeting and the new approach (which requires new outfalls) has been agreed with NRW. During the operational phase, no net loss to biodiversity is the target and it has been assumed that there is no mitigation for the trenchless crossings due to recovery of any impacts within 2 years.</p> <p>Cycle 2 River Basin Management Plans (RBMPs) will need to be used but 2021 classification data should be used including a comparison to Cycle 2 data.</p>
24/02/2022	Email correspondence between the Applicant and NRW	<p>Key Topics</p> <ul style="list-style-type: none"> • WFD screening and scoping methodology • WFD methodology • Flood risk at watercourse crossings <p>Discussions and Outcomes</p> <p>NRW provided clarification on the WFD screening process and conclusions. Additionally, NRW confirmed an approach to reaching an agreement regarding the WFD screening and scoping outcomes.</p> <p>NRW confirmed the requirement to include an assessment of WFD protected areas.</p> <p>Clarification from the Applicant that there will be one WFD compliance assessment undertaken for the DCO Proposed Development application covering both England and Wales.</p> <p>Request from NRW for WFD screening out of Dee Carboniferous Coal Measures water body to be reconsidered. It was agreed that following further assessment this water body would be screened into the WFD compliance assessment.</p>
07/03/2022	Email correspondence between the Applicant and NRW	<p>Key Topics</p> <ul style="list-style-type: none"> • Flood risk to the DCO Proposed Development <p>Discussions and Outcomes</p> <p>General response from NRW's first point of contact data distribution team. Recommendation for engagement with FCC as the determining Sustainable Drainage System Approval Body.</p> <p>Data distribution team provided links to all the freely available data on the NRW website.</p>
14/03/2022	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Flood Consequences Assessment (FCA) for the DCO Proposed Development • Wepre Brook

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<ul style="list-style-type: none"> • Above Ground Installations (AGI) and BVS Sites • Assessment Methodology • Mitigation <p>Discussions and Outcomes</p> <p><i>Wepre Brook/Alltami Brook crossing</i></p> <p>NRW confirmed that a 600 mm freeboard of the 100 year plus climate change scenario is required and the model should be extended to cover the Wepre Brook/Alltami Brook above ground pipeline crossing. As this is an ordinary watercourse, the LLFA should be consulted. NRW would like to see, and possibly review, the hydraulic model due to the high profile nature of the DCO Proposed Development. The LLFA would also need to review this.</p> <p>NRW confirmed that it will be the LLFA to advise on any set criteria for how the pipeline or its foundations either side of the riverbank should be set, and any erosion control or anti-scour measures required.</p> <p><i>General Requirements</i></p> <p>Open cut crossings on a main river will need a bespoke Flood Risk Activity Permit (FRAP). NRW states that the FRAP application would need to demonstrate, through a suitable method statement, that flood risk can be managed adequately during the construction phase when temporary works are in place. The River Dee crossing will require a marine licence.</p> <p>Whilst the Flood Consequences Assessment (FCA) only covers permanent works, the FCA needs to acknowledge the need for generic mitigation measures for managing flows during the construction phase as this would then need to be referred to further within the Construction Environmental Management Plan (CEMP).</p> <p>NRW raised concerns on the Preliminary Environmental Information Report (PEIR) about the fact that some temporary compounds/construction areas are located within areas at flood risk/floodplains and also the need to ensure that ongoing access to their flood defence assets is maintained during the construction phase.</p> <p>The parties confirm it is acceptable to assume in the FCA that the risk to the buried pipeline from the various sources of flooding (e.g. tidal, fluvial, groundwater reservoir etc) would be negligible as long as sites within flood risk areas are acknowledged. It is acceptable to have one FCA to take account of the whole DCO Proposed Development.</p> <p>The parties confirm it is acceptable that the Surface Water Management and Drainage Strategy do not form part of the FCA report as long as reference is made to the Surface Water Management and Drainage Strategy in the FCA report. The FCA is not required to be written in both English and Welsh.</p>
17/03/2022	Email correspondence between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Phase 1 Land and Soils Baseline Report <p>Discussions and Outcomes</p> <p>NRW requested the Phase 1 Land and Soils Baseline Report during their review of the PEIR during the pre-application stage. However, considering its large size and the fact it wasn't available as a final draft until five days before the consultation deadline NRW were unable to provide comments and informed the Applicant about this.</p>
06/04/2022	Email correspondence between the Applicant and NRW	<p>Key Topics</p> <ul style="list-style-type: none"> • Key aquatic receptors and potential invasive non-native aquatic species.

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Discussions and Outcomes</p> <p>Comments provided by NRW with regards to the presence of notable fish species and invasive non-native species that have been recorded throughout the Newbuild Infrastructure Boundary.</p>
08/04/2022	Email correspondence between the Applicant and NRW	<p>Key Topics</p> <ul style="list-style-type: none"> • Flood risk to the DCO Proposed Development <p>Discussions and Outcomes</p> <p>Consultation with NRW Development Planning Advice Service to discuss local ground conditions along the pipeline route and whether the pipeline lies within any Critical Drainage Areas. NRW advised that the pipeline does not lie within a Critical Drainage Area and that further liaison with FCC would be needed to confirm local conditions.</p> <p>NRW Development Planning Advice Service advised that the DCO Proposed Development provide further consideration of the ground conditions along the proposed pipeline. Conditions along the route appear quite variable so some areas may require dewatering and others may not. Mitigation will be required in some areas.</p>
08/04/2022	Technical Response from the Applicant to NRW's Comments following the Teams Meeting held on 07/02/2022	<p>Key Topics</p> <ul style="list-style-type: none"> • Fisheries • Carboniferous Limestone Groundwater Body • WFD Compliance Assessment • Dee Carboniferous Coal Measures water body <p>Discussions and Outcomes</p> <p>Regarding fisheries, based on the proposed crossing points (and methods) NRW is content that the relevant water bodies have been screened into the assessment.</p> <p>The impacts to the Clwyd Carboniferous Limestone Groundwater Body will not be assessed as the assessment of BVS (Screening of activities) has been screened out.</p> <p>The impact of the DCO Proposed Development on the delivery of identified mitigation measures and protected sites will be assessed in the WFD compliance assessment.</p> <p>The Dee Carboniferous Coal Measures water body will be screened into the WFD compliance assessment, which will form an appendix to the ES. This will consider the potential impacts to the Gronant Dunes and Talacre Warren Site of Special Scientific Interest (SSSI).</p> <p>The methodology for the Dee Opportunity Catchment was discussed. NRW identified opportunities which will be considered within the WFD compliance assessment.</p> <p>There will be one WFD compliance assessment for the Town and Country Planning Act 1990 (TCPA) application and one WFD compliance assessment for the DCO Application. The latter will cover England and Wales in the same report.</p>
25/05/2022	Microsoft Teams meeting between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Description of Alltami Brook,

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<ul style="list-style-type: none"> • Possible methodologies for crossing Alltami Brook • Mitigation measures for Alltami Brook • Other scheme design elements including Wepre Brook, Little Lead Brook and Broughton Brook. <p>Discussions and Outcomes</p> <p>Several options for the crossing of Alltami Brook were considered. These include: trenchless crossing methods using HDD, culverting the watercourse, creating a pipeline bridge and rerouting the pipeline to avoid the watercourse, or open trench crossing. The open trench method was selected as the optimal crossing type. NRW requested more detail about why other methods had been discounted, specifically the pipeline bridge option.</p> <p>NRW's view was that WFD mitigation measures should be appropriate for the whole life of any structures. In addition, NRW considered that 25 years (being the minimum design life of some elements) is a long enough time period for a potential future restoration project to the planform of the Alltami Brook to be implemented and therefore the DCO Proposed Development should not prevent restoration of the watercourse during the lifespan of the pipeline.</p> <p>NRW to discuss internally the approach to the management of scour and respond to the Applicant.</p> <p>NRW to discuss internally the suitability of the BNG metric for WFD mitigation.</p> <p>NRW would like to be informed why the Alltami Brook crossing point is now a trenched crossing type (rather than a pipeline bridge, as was previously considered as an option).</p>
28/06/2022	Email correspondence between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Alltami Brook pipeline crossing • WFD compliance assessment: Geomorphology, Fisheries, Geoscience, Biodiversity <p>Discussions and Outcomes</p> <p>NRW presented their position and asked for further clarity on each crossing option for the pipeline at Alltami Brook. Comments received from geomorphology, geoscience, biodiversity and fisheries officers included:</p> <p><u>Geomorphology</u></p> <p>NRW's OGN72 considers all irreversible bed modifications and reinforcement as high risk activities and this has prevented such activities in the past being permitted.</p> <p>The discounting of the option for HDD was not satisfactorily justified in the 25/05/2022 meeting.</p> <p>Further justification is requested for why the pipeline route cannot be relocated or bridged across the Alltami Brook.</p> <p>Maintenance responsibilities associated with the pipe bridge option are not considered a suitable reason to discount this option.</p> <p><u>Geoscience</u></p> <p>Further clarification requested on the completion of a Ground Investigation Report (GIR) and a comprehensive options appraisal. A GIR would provide useful information on the nature of the groundwater – surface water interaction at Alltami Brook.</p> <p>Potential risk of loss of drilling fluid to the groundwater and therefore to the brook should be considered with HDD.</p> <p>The use of drilling fluids may require the construction of temporary lagoons.</p>

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		<p>Dewatering may be required for above-ground options. Connectivity between the point of dewatering and the brook should be assessed and include an assessment of local permeability and the influence that the local fracture system may have on the dewatering. Wetter periods of the year should be avoided for the works.</p> <p><u>Biodiversity</u></p> <p>There is an otter record on the Alltami Brook and potential impacts on this species should be assessed.</p> <p>The presence of a pond at The Chequers should be verified and potential impacts to GCN assessed if necessary.</p> <p>Habitats Directive Annex 1 Woodland is present upstream and downstream of the site and is a feature of Deeside and Buckley Newt Sites Special Area of Conservation. Potential impacts on this receptor should be considered.</p> <p><u>Fisheries</u></p> <p>Fisheries concur with the points raised for geomorphology.</p> <p>In-river works should be avoided where possible. The justification provided for discounting the pipe bridge options is not satisfactory.</p> <p>Eel and Brown Trout are present in the Alltami Brook so trenched crossings should consider associated habitat destruction and fish mortalities.</p>
07/07/2022	Microsoft Teams meeting with Natural England (NE), NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Update on ecological survey results and approach to mitigation. • Approach for later submission of survey data <p>Discussions and Outcomes</p> <p>Updates on ecological surveys and the proposal for further ecological surveys, alongside mitigation principles and approach were discussed and agreed upon. The Applicant will provide monthly updates to NRW regarding the proposal and mitigation and will re-engage with NRW to discuss BNG.</p>
14/07/2022	Email correspondence between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Provide an update on the Landscape and Visual Impact Assessment (LVIA) due to changes to the design outlined in the PEIR <p>Discussions and Outcomes</p> <p>NRW responded on 14/07/22 to confirm that they have considered the additional information and have no further comments to make regarding the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty; it was previously agreed that the AONB could be scoped out of the EIA due to the nature of the proposal and its distance from the AONB, and no significant changes were being proposed that would affect this view.</p> <p>NRW advised that the Applicant liaises with the relevant local planning authority regarding any local landscape and visual matters.</p>
19/07/2022	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Discuss Alltami Brook and best method for crossing the watercourse <p>Discussions and Outcomes</p> <p>More detail was provided to NRW as to why the open cut crossing method has been selected for Alltami Brook. Explanation why HDD is not possible, and the Applicant presented their safety concerns over a pipeline bridge method. The scale and impacts of the open cut crossing and auger bore crossing were presented.</p>
26/07/2022	Microsoft Teams meeting with NE, NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Approach for achieving BNG

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		<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. It was noted that the DCO Proposed Development application is seeking to offset loss of priority habitats on land within the same local authority boundary as it was lost from.</p> <p>NRW reiterated that the EIA and ES should consider paragraph 6.4.21 from the Planning Policy Wales step wise approach to maintain and enhance biodiversity. The Applicant confirmed that the BNG assessment contained a mitigation hierarchy.</p>
04/08/2022	Email correspondence between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • River Dee seasonal restrictions <p>Discussions and Outcomes</p> <p>NRW provided advice on the seasonal restrictions for the proposed works associated with the crossing of the River Dee with regard to migratory fish species.</p>
08/08/2022	Email correspondence between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Alltami Brook pipeline crossing • WFD compliance assessment: Geomorphology, Fisheries, Geoscience, Biodiversity <p>Discussions and Outcomes</p> <p>NRW presented their expert judgement and experience of the advantages and disadvantages of each crossing option for the crossing at Alltami Brook. Comments received from geomorphology, geoscience, biodiversity and fisheries officers. Three options were reviewed:</p> <ul style="list-style-type: none"> • Open trench crossing where NRW identified one advantage and seven disadvantages (including; a risk of the river flow being irreparably lost to underground/mines, ensuing pollution downstream and the design would irreparably alter a natural feature); • Auger boring, where NRW identified four advantages and three disadvantages (including; albeit low likelihood, any blowout would irreplaceably crater the river habitat), and • Pipe bridge crossing where NRW identified five advantages and two disadvantages, (including tree and riparian clearance and the need to assess and accommodate potential flood risk).
08/09/2022	Email correspondence between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • EIA methodology used for assessing groundwater impacts <p>Discussions and Outcomes</p> <p>NRW provided advice on the proposed assessment methodology for groundwater described to them. They recommended that the assessment approach (DMRB LA 113) should be supplemented with other assessment ideas/analogues appropriate to the DCO Proposed Development. They also provided a series of bullet points outlining what they advised should be included in the groundwater assessment.</p>
21/09/2022	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Alltami Brook WFD compliance and mitigation <p>Discussions and Outcomes</p>

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		<p>The Applicant presented the conclusions of the WFD compliance assessment. The high level assessment recognises a permanent change to the watercourse, however impacts are not considered by the Applicant to have water body scale effect once mitigation measures have been implemented.</p> <p>Mitigation proposed included: a limit to the working width to 16m at bank top and 4m in channel; bespoke geomorphological assessment to inform detailed design and micro-siting of the crossing; gravel augmentation to offset the potential destruction in spawning habitat, reinstatement of riparian planting; and geomorphological and ecological monitoring of permanent works to identify potential failure and adaptive mitigation to prevent failure from occurring, to be detailed post DCO consent.</p> <p>NRW will review the information submitted with the DCO application and provide further comments. NRW repeated that detailed evidence and assessments on high risk sites/activities should be made available prior to DCO application to ensure compliance with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (“the WFD Regulations 2017”).</p>
17/11/2022	Microsoft Teams meeting with NE, NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Update on ecology surveys and mitigation • Update on project design parameters to reflect design changes • Review survey requirements for 2023 <p>Discussions and Outcomes</p> <p>Hedgerow width removal has increased to a maximum of 15m, which is a change from the 10m previously identified. Trenchless crossing of the River Dee will now be at a minimum depth of 15m. Mitigation 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 Wales. 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 findings of and specific mitigation prescriptions in the ES.</p>
07/12/2022	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • First draft of the Statement of Common Ground (SoCG) <p>Discussion and Outcomes</p> <p>NRW to submit relevant representations by 13th January 2023 and review the first draft of the SoCG by 20th January 2023. Key matters were discussed regarding landscape, ecology, flood risk and drainage, groundwater and WFD compliance.</p>
02/02/2023	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Second draft of the SoCG • NRW Relevant Representation <p>Discussion and Outcomes</p> <p>General discussion regarding the layout of the second draft SOCG and elements that are still under discussion.</p> <p>NRW confirmed that they have submitted their relevant representation to the Examination with key concerns regarding WFD compliance and flood risk management assets. NRW seeks to continue discussions with the Applicant regarding these and other matters raised.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>Discussions on the hearing process and how the Examining Authority (ExA) will determine whether the information provided in the application is suitable or whether further information is needed.</p> <p>Discussion on land plots, NRW to check the Applicant has captured the correct information, protected species mitigation is to be considered with regards to land acquisition.</p> <p>NRW to provide the Applicant with an annotated GCN method statement template to accompany the EPS licence application.</p> <p>NRW advised the details in the FCA addendum are suitable and no further changes are required to the FCA at this stage, although further discussions are needed regarding NRW's concerns about ensuring continued unimpeded access to flood risk management assets and how the wider submission needs to address these concerns.</p> <p>NRW queried the level of GI incorporated for the groundwater assessment. The Applicant advised that further GI and monitoring may be implemented by the main contractor to inform the groundwater assessment but will be dependent on a number of factors, including weather conditions and plant availability.</p> <p>NRW believe there's currently insufficient baseline evidence to support the proposed engineering works at Alltami Brook to satisfy WFD compliance, specifically regarding potential flow loss to groundwater and the impact on watercourses downstream, also that there are currently insufficient details as to why certain crossing options have been ruled out. The Applicant advised these details will be picked up and discussed at a separate meeting.</p>
06/03/2023	Microsoft Teams meeting with NRW, and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Further data required at Alltami Brook <p>Discussion and Outcomes</p> <p>The Applicant discussed specific issues regarding the Relevant Representations raised by NRW relating to the Alltami Brook proposed crossing option. A proposed methodology was presented by the Applicant to undertake a detailed geomorphological assessment of the Alltami Brook, which is a commitment in the Register of Environmental Actions and Commitments [AS-054]. NRW had raised an objection to this detailed assessment being deferred to detailed design in their Relevant Representations and therefore the Applicant proposed to bring forward this assessment to the Examination stage.</p> <p>NRW advised that the proposed geomorphological assessment would not address their groundwater and hydrogeological concerns and that ground investigation and borehole data is required. The Applicant explained that it has not been possible to obtain ground investigation and borehole data due to land access issues during the preparation of the DCO Application and current land access is for non-intrusive surveys only. NRW concluded that the geomorphological assessment is a good idea but needs to be informed by ground investigation. The Applicant reiterates that ground investigation is not feasible during Examination due to the land access issues.</p> <p>NRW would like to see an assessment for decommissioning of the pipeline. The Applicant explained that in line with industry practice, the pipeline would remain in situ to avoid significant environmental issues and disruption caused by the removal of a pipeline. In addition, pipelines may be re-purposed in the future. Should the pipeline be decommissioned, impacts would be the same or similar to the construction-phase impacts depending on the actual future baseline and future legislation, which is unpredictable.</p> <p>The Applicant discussed cumulative impacts on the Wepre Brook water body due to the open cut crossings and a new outfall. Whilst the crossing option on the Alltami Brook is subject to further discussion and potential assessment, the impacts upon the Wepre Brook due to the open cut crossing and new outfall would be construction phase only and therefore no long-term impacts to the Wepre Brook water body.</p> <p>The Applicant outlined the rationale for the open cut crossing on the Alltami Brook.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
09/03/2023	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> Meeting to discuss draft responses to NRW Relevant Representations and SoCG items. <p>Discussion and Outcomes</p> <p>NRW commented on the need to consider securing surface interest to manage, or subsequently transfer management of mitigation woodland, post construction. The Applicant is to provide clarity to NRW on this matter during the Examination.</p> <p>The Applicant confirmed that draft protected species licenses are being prepared and will be provided to NRW for comment and discussion. NRW provided items and advice for the Applicant to consider during the preparation of the various draft licence documents. The Applicant and NRW additionally discussed the context and requirements of a 'GCN Conservation Plan' with the Applicant confirming that the provisions for the safeguarding of GCN during construction and management of habitats for GCN, where applicable, would be detailed. Additional SoCG items were able to be moved to 'Agreed' status.</p>
27/03/2023	Site visit to Alltami Brook with NRW and the Applicant	<p>The Applicant attended a site visit to the Alltami Brook with NRW representatives from Planning, Geomorphology, Hydrology and Groundwater. The Applicant described to NRW the options for the Alltami Brook crossing in the landscape and engineering context. An alternative encased pipe bridge option was presented to NRW.</p> <p>NRW requested an options appraisal assessment report to clearly demonstrate the option design and the decision-making to reach the preferred solution. NRW's Geomorphologist identified their preferred solutions in order of preference as an encased pipe bridge: bottomless-arched culvert, box culvert, with open cut crossing being the least favoured. NRW would also like to see decommissioning of any solution, including the above ground options, at the end of the design life of the pipeline.</p>
11/05/2023	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> Meeting to discuss responses to NRW Representations and SoCG items Brief update on Alltami Brook <p>Discussion and Outcomes</p> <p>The Applicant confirmed they have submitted the Notification of Intention to Submit a Change Request 2 [AS-066] and that this will include an alternative embedded pipe bridge option of crossing the Alltami Brook.</p> <p>The Applicant provides an update on SoCG items "NRW 3.6.1". The status of the matters is retained as 'agreed'.</p> <p>Additional matters (Items "NRW 3.6.2 to 3.6.6") that are not yet agreed are to be retained as 'under discussion' until further information is provided on matters such as Alltami Brook embedded pipe bridge and the additional hydrogeology investigation.</p>
18/05/2023	Email Correspondence between the Applicant and NRW	<p>Key Topics</p> <ul style="list-style-type: none"> Alltami Brook Crossing – Options Appraisal <p>Discussion and Outcomes</p> <p>The Applicant shared an assessment of the crossing options for Alltami Brook to include the provision of additional optionality for the Alltami Brook crossing at Work No. 43, consisting of an alternative option for an embedded pipe bridge. This will act as an alternative to the Applicant's preferred trenched crossing of Alltami Brook (Applicant's reference PS25) (Further expanded on within the Applicants Notification of Intention to Submit a Change Request [AS-066]).</p> <p>The details of this report were further discussed on the 22/05/2023.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		This engagement entry will be further updated for Deadline 4 (20 June 2023).
22/05/2023	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> Alltami Brook Crossing WFD Assessment <p>Discussion and Outcomes</p> <p>The Applicant shared a summary of all the Alltami Brook crossing options including the open cut and embedded pipebridge options with NRW. The hydrogeological preliminary observations and conditions, site observations and historic data were also shared with NRW.</p> <p>The Applicant shared their current position; that the Open Trench option is the preferred solution from an environment, engineering, operations and safety perspective. Next steps for the Applicant to complete a Preliminary Hydrogeological Appraisal and issue to NRW and the Examining Authority to inform the DCO examination.</p> <p>This engagement entry will be further updated to account for NRW for Deadline 4 (20 June 2023).</p>
01/06/2023	Microsoft Teams meeting with NRW (Marine Licensing Team) and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> Marine licence application and request <p>Discussion and Outcomes</p> <p>The Applicant submitted a Marine Licence Application to NRW on 23 May 2023. Following this, the NRW Case Officer sent an email on 26 May 2023 requesting additional information, including a separate Environmental Report and WFD assessment only for the marine licensable works proposed at the River Dee for public consultation purposes. During the meeting, NRW provided further clarification on their request for additional information and asked for submission of information to be provided by 19 June 2023.</p> <p>[Post-meeting note – the Applicant requested additional time for this request due to the resource required for the examination. Unfortunately it was not possible to agree an extension to this deadline; therefore it was agreed between both Parties that the Applicant would withdraw the Marine Licence application and resubmit at a later date. The Applicant formally withdrew the application on 21 June 2023].</p>
05/06/2023	Microsoft Teams meeting with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> Discussion on the Hydrogeological Impact Appraisal <p>Discussions and Outcomes</p> <p>The Applicant presented further evidence in support of their position relating to the hydrogeological conditions (and legacy mining risk) at the Alltami Brook crossing location. NRW advised that they maintained their current position due to the complex geology of the Alltami Brook crossing location.</p>
05/06/2023	Email Correspondence with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> Ancient woodland at New Bridge Farm <p>Discussions and Outcomes</p> <p>The Applicant wished to discuss the implications of the Change Request 1 in respect of the ancient woodland which now abuts the Order Limits at New Bridge Farm, off Holywell road.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		NRW referred the Applicant to its website for standing advice regarding development proposals affecting ancient woodland and advised that they considered this in addition to liaising with the LPA's ecologist, as they do not normally provide development consent advice on matters relating to ancient woodland.
08/06/2023	Email Correspondence with NRW and the Applicant	Following the first Issue Specific Hearing, the Applicant informed NRW that while they considered the trenched crossing of the Alltami Brook to be WFD compliant, they were looking into preparing a derogation case without prejudice. The Applicant therefore asked if NRW could provide them with a copy of NRW's Operational Guidance Notes 73 (Deterioration in water body status) and 77 (Derogation Determination for Water Framework Directive Article 4(7)) to help them to structure a derogation case accordingly. NRW provided OGN 73 and 77 to the Applicant via email on 09 June 2023.
26/06/2023	In-person meeting between the Applicant and NRW at ENI Liverpool Bay Asset office (and remote on Microsoft Teams)	<p>Key Topics</p> <ul style="list-style-type: none"> • Discussion on the Hydrogeological Impact Appraisal • Discussion on WFD derogation paper for Alltami Brook open-cut crossing <p>Discussions and Outcomes</p> <p>The Applicant presented an overview of the Hydrogeological Impact Appraisal (HIA) to NRW, including the preliminary hydrogeological conceptual model of the preferred location of the Alltami Brook crossing, and the main findings/conclusions of the HIA. NRW stated that they would review the HIA document and provide definitive comments following that. NRW provided these comments at Deadline 6 [REP6-049].</p> <p>As initial feedback, NRW advised that their remaining concerns (in addition to the lack of site ground investigation information) were related to the possible differential in erosion rates between the new concrete structure and the surrounding bedrock. NRW also asked for more information on how the grouting of any fractures within the open-cut excavation would be undertaken, including within the walls. These actions were taken away by the Applicant.</p> <p>The Applicant confirmed that a WFD derogation case is being prepared and will be submitted at Deadline 5. The Applicant pointed out that they are of the opinion that the DCO Proposed Development is WFD compliant, and the derogation case is being prepared without prejudice in response to NRW's position regarding the Alltami Brook crossing. The Applicant presented the proposed approach to WFD derogation. NRW informed the Applicant that while they would be happy to listen to any updates/further details regarding the derogation case during the meeting they would not be able to provide comments until they had an opportunity to review the information after the meeting.</p>
29/06/2023	Microsoft Teams meeting between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Discussion and update on an amendment to SoCG item wording (item 3.3.7) removing the need for a technical note in respect of cross border mitigation approach to tree planting. Including additional wording to consider GCN movement near the England/Wales border. • Discussion on land plots and areas not subject to mitigation planting and timescales for long-term management of habitat • Discussion regarding updating the HRA assessment to incorporate acknowledgment of potential dispersal distances <p>Discussions and Outcomes</p> <p>The Applicant recommended adjusting the wording of item 3.3.7 to remove reference to the need for a technical note on cross-border mitigation proposals as this is no longer required in respect of tree planting. The Applicant agreed to amend the wording of item 3.3.7 to include reference to GCN dispersal and the interactions with the Wales/England border, with a view to exploring this further and providing feedback to NRW to allow Agreement of the item.</p> <p>With regards the plot areas, the Applicant agreed to explore the tenure proposals for this area further and feed back to NRW.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>With regards the HRA, the Applicant agreed to amend the HRA to make reference and acknowledge consideration of GCN dispersal distances of up to 1.6km, however, noted to NRW that this would not likely change the assessment conclusions. NRW were broadly in agreement with this note, however, reserved agreement of the item in lieu of seeing the edits to the HRA.</p>
12/07/2023	Microsoft Teams meeting between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Follow up call to discuss items raised and actioned following previous meeting on 29/6/2023. • The Applicant explained how it had addressed consideration of 1.6km dispersal of GCN within the HRA. • Discussion surrounding movement of GCN at the Wales-England border. • Applicant proposed amendment to the SoCG to reflect updated status of draft protected species licensing and submission to NRW for their review to evidence progress. • Discussion with NRW surrounding comments made within NRW’s review of the draft GCN licence method statement. <p>Discussions and Outcomes</p> <p>The Applicant explained to NRW how it has addressed within the HRA, comments made in relation to potential dispersal distances of GCN being approximately 1.6km at their most extreme. The Applicant agreed to provide advance sight of the HRA edits to NRW, with a view to moving the item to ‘Agreed’.</p> <p>The Applicant discussed that whilst ponds located near the Wales border are present, these were surveyed and assessed as ‘likely absent’. The Applicant further explained that in spite of the use of District Level Licensing within England, that any use of habitats by any GCN (e.g. for foraging) would be safeguarded through the mitigation measures and principles provisioned for within the OCEMP. A barrier (Seahill Drain) additionally segregates ponds either side of the border in this location.</p> <p>The Applicant updated the SoCG document to breakdown each draft protected species licence being prepared and its status with NRW for clarity.</p> <p>The Applicant and NRW discussed consideration of fencing within the draft GCN licence application. NRW provided fencing specs to be considered within an amended draft GCN licence document as well as recommendations for providing additional justification of where fencing may or may not be considered alongside provision of pre-works checks of works areas.</p> <p>The Applicant agreed to explore long-term tenure proposals for a dedicated GCN compensation area so that they accord with NRW’s requirements and feed back to NRW.</p>
13/07/2023 – 14/07/2023	Email Correspondence with NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Email correspondence relating to the consideration of 1.6km dispersal of GCN within the HRA which was raised during the previous meeting on 12/07/2023. <p>Discussions and Outcomes</p> <p>The Applicant issued a draft version of the HRA to NRW which incorporated the edits associated with consideration of the 1.6km dispersal of GCN. The Applicant noted that this version of the HRA would be issued to NRW only in order to agree the updated text and agree SoCG item 3.3.14. The Applicant also noted that the HRA would be formally submitted into the Examination at Deadline 7.</p> <p>NRW confirmed agreement of the draft HRA text and SoCG item 3.3.14 via email correspondence to the Applicant on 14/07/2023.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
17/07/23	Microsoft Teams meeting between NRW and the Applicant	<p>Key Topics</p> <p>Discussion with NRW on access through temporary construction sites to flood risk management assets.</p> <p>Discussions and Outcomes</p> <p>The Applicant confirmed that any temporary fencing or other temporary site hoardings will not prevent access at compound 30D, particularly as there are other businesses in the area that require access.</p> <p>The Applicant highlighted that the plan for compound 30D, including the bridleway at point 3E and the visibility splays onto the main highway, includes all elements within the order limit needed for access to the compound and none will be shut.</p> <p>For access to the Hawarden Embankment for compound 31A highlighted the Applicant confirmed they will check to see if NRW's access will need to be included in the protective provisions to confirm the areas will not be fenced off and access will continue to be granted.</p>
04/09/2023	Microsoft Teams meeting between NRW and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Discussion regarding the outstanding comments associated with the draft GCN and bat licence. <p>Discussions and Outcomes</p> <p>A discussion was held regarding the draft bat and GCN licence method statement documents, which the Applicant updated following NRW 's advice. NRW advised they are satisfied with the approach adopted in the method statements. Based on the information provided by the Applicant to date, NRW does not consider there to be an impediment to the grant of a species licence. However, without the submission of a formal application, NRW is unable to provide any binding commitments at this stage as to the subsequent determination of the application and it should be noted that consent may be granted or refused.</p>

3. ISSUES

3.1.1. This chapter sets out the matters agreed and not agreed in relation to the following issues relating to the DCO Proposed Development, and any areas of ongoing discussion between the Parties.:

- Engagement, ES & Other Application Documents;
- Landscape and Visual;
- Ecology;
- Drainage and Flood Risk;
- Groundwater;
- WFD Compliance;
- Issues related to the DCO Proposed Development - Draft DCO (including requirements to the draft DCO); and
- Issues related to Other Consents, Licences and Permits Required outside the draft DCO.

Table 3-1 ES and Other Application documents

Ref.	Description of Matter	Current Position	Status
ES			
NRW 3.1.1	ES	<p>The Parties agree that the study area as set out in the ES is appropriate.</p> <p>The Parties broadly agree that the following details of the ES are acceptable:</p> <ul style="list-style-type: none"> • ES Baselines • Impact Assessment Methodologies • Mitigation • Cumulative Assessment • Conclusions <p>However, NRW has raised key concerns with the impact of the DCO Proposed Development upon Alltami Brook in respect of non-compliance with the requirements of the Water Framework Directive (WFD). This is addressed in further detail in Table 3-6 of this SoCG.</p>	Agreed
Other application documents			
NRW 3.1.2	Other application documents	<p>NRW DPAS has confirmed that it does not comment on land acquisition matters in its specific remit as interested party/statutory party for the DCO examination. The Applicant has engaged further with NRW's surveyor (on behalf of NRW acting independently in its land management function) to ensure that NRW's interests are correctly reflected in the Book of Reference [CR3-013].</p>	Not For Agreement

Table 3-2 Issues related to the DCO Proposed Development - Landscape and Visual

Ref.	Description of Matter	Current Position	Status
NRW 3.2.1	Clwydian Range and Dee Valley AONB	NRW agreed through their EIA Scoping Opinion response and subsequent consultation that the Clwydian Range and Dee Valley AONB can be scoped out of LVIA due to the distance from and nature of the DCO Proposed Development.	Agreed
NRW 3.2.2	Updates to LVIA post PEIR design changes	NRW is not in a position to advise regarding local LVIA impacts. The relevant LPAs are better placed to advise on this matter.	Not For Agreement
NRW 3.2.3	Landscape and Ecological Management Plan (LEMP)	NRW advised that the final LEMP should include revised details regarding long-term monitoring and management, with regards to biodiversity (protected species). The Applicant confirms that details regarding long-term monitoring and management will be provided at detailed design.	Agreed

Table 3-3 Issues related to the Proposed Development – Ecology

Ref.	Description of Matter	Current Position	Status
NRW 3.3.1	Survey Requirement, Data Collection and Sources	<p>NRW’s response on the Bats and Hedgerow survey methodology dated 7 May 2021 was noted and addressed during a subsequent meeting on 26 May 2021. This has been incorporated into the survey methodology for the DCO ES as demonstrated in Chapter 9 – Biodiversity (Volume II) of the DCO ES [REP4-041].</p> <p>NRW’s response on the Bats & Hedgerow survey methodology dated 11 June 2021 was noted and addressed during a subsequent meeting on 18 June 2021. This has been incorporated into the survey methodology for the DCO ES as demonstrated in Chapter 9 – Biodiversity (Volume II) of the DCO ES [REP4-041].</p> <p>A revised Bats and Hedgerow survey methodology (version 4) was reissued to NRW on 24 March 2022 for comment which addressed queries raised during previous meetings with regards to the comparison element of static monitoring on Good and Excellent hedgerows.</p> <p>NRW seek further clarification on whether the barn owl survey area included a buffer to consider potential disturbance to breeding barn owls outside of the Newbuild Infrastructure Boundary. The Applicant confirms that Surveys for potential roost/nest features were completed for the entirety of the Newbuild Infrastructure Boundary (where access allowed) but further flags that the Newbuild Infrastructure Boundary has been revised and reduced during the course of design development. As such, surveys have previously been completed beyond the Newbuild Infrastructure Boundary as presented within the DCO Application, as submitted.</p> <p>NRW accepts the use of e-DNA techniques for fish but sought further clarification on why a more thorough electrofishing survey was not completed. The Applicant took into account the safe working practices detailed in the Environment Agency guidance and the British Standard (BS EN 14011:2003) and electric fishing was ruled out for some watercourses for health and safety reasons.</p>	Agreed
NRW 3.3.2	Assessment of Designated Sites	Following a discussion on 19 November 2021, NRW advised that Option 2 (Survey Approach) should be progressed in relation to the River Dee and Bala Lake Special Area of Conservation (SAC) and Intertidal Surveys. This survey approach was agreed with NRW and incorporated in the survey methodology.	Agreed
NRW 3.3.3	Species Specific Impacts	NRW provided comments on the use of barn owl exclusion measures, which were discussed during a meeting on 7 July 2022. The DCO Proposed Development application incorporates the necessary barn owl exclusion measures discussed. This is evidenced in the Barn Owl Survey Report (CONFIDENTIAL) [REP4-110].	Agreed
NRW 3.3.4	Aquatic Species Specific Impacts	NRW provided a response to the Applicant in relation to a data request made by the Applicant regarding the presence of notable fish species and aquatic invasive non-native species throughout the Newbuild Infrastructure Boundary dated 25 April 2022. Information was received and incorporated by the Applicant within section 2.1 Desk Study at Section 2 Methods in Appendix [REP4-114] Aquatic Ecology (Watercourses) Survey Report of the DCO application, with results then presented within paragraph 3.1.17 and Table 5 of the same appendix.	Agreed
NRW 3.3.5	River Dee	NRW raised concern about the risk of a blowout causing a pollution event during a migratory period when a higher concentration of fish is recorded in the Dee Estuary. NRW provided advice on the seasonal restrictions for the proposed works associated with the crossing of the River Dee which was agreed and incorporated into the DCO Proposed Development.	Agreed
NRW 3.3.6	Biodiversity Net Gain Assessment	BNG approach was presented and discussed with NRW. It was agreed with NRW that where access has not been possible to some areas of woodland deemed to be <i>Annex I woodland</i> (e.g., Alltami Brook), these would be included in the assessment under a	Agreed

Ref.	Description of Matter	Current Position	Status
		precautionary approach and assumed to be <i>Annex I woodland</i> . No issues were raised in terms of the tailored approach to assessment and the methodology that was used.	
NRW 3.3.7	Mitigation	<p>A cross-border mitigation approach was discussed on 7 July 2022, in respect of the mitigation tree planting requirements. A technical note was proposed to be prepared by the Applicant to support this, however, following further calculations, the Applicant has confirmed that a cross-border approach to mitigation tree planting is no longer required, as such no technical note will be prepared.</p> <p>Separately, NRW requested clarification on the presence of GCN-supporting ponds adjacent to the England-Wales border and whether aquatic habitats in either England or Wales could support terrestrial phase activity of GCN in the adjoining country. During a meeting on 12 July 2023, the Applicant explained that ponds located north of the River Dee, in proximity to the border with England were surveyed and assessed as 'likely absent' of great crested newt. The Applicant explained that consideration of movement of GCN either side of the border, including terrestrial use (e.g. foraging) had been considered and that mitigation measures and principles are appropriate to safeguard great crested newt. Whilst England will be subject to District Level Licensing, and acknowledging that no ponds are to be lost to construction in this area, it is envisaged that where any incidental occurrences of GCN occur (in Wales), these will be moved to a safe location away from the works and protected.</p>	Agreed
NRW 3.3.8	Mitigation – Barn Owl	NRW advise that alternative barn owl nest locations away from the Zone of Influence should be provided. Measures have been included within the Outline Construction Environmental Management Plan (OCEMP) [AS-055] for the provision of alternative nesting locations, where these are required. The need for, and locations of, mitigation nesting locations will be determined at the detailed design stage under guidance of an appropriately barn owl licensed ecologist.	Agreed
NRW 3.3.9	Mitigation - Fish	NRW seeks further information about the time period for which the temporary culverts will be present in the watercourses. The Applicant has ensured that the culvert design will adhere to Environment Agency Fish Pass standards. Acknowledging the potential for temporary culvert to be used, mitigation has been presented within the OCEMP [REP6-008] to address any need for these.	Agreed
NRW 3.3.10	Licensing and Permits	<p>NRW advised that scoping of the draft species licensing information was required and that this included consideration of the current conservation status (CCS) and favourable conservation status (FCS); avoidance, mitigation and compensation measures; ecological compliance audit; tenure of compensation areas and the long term (including tenure management and provision of resources).</p> <p>Draft Protected Species Licences have been submitted to NRW for each relevant species (Badger, GCN, and Bats) in advance of a formal application submission. As agreed during the meeting on 23 February 2022, there will be a single project-wide mitigation licence for Wales for each species.</p> <p>The status of each draft licence is as follows:</p> <ul style="list-style-type: none"> Badger – Submitted to NRW on 04 July 2023. NRW provided comments by way of a reviewed copy of the draft licence documentation to the Applicant on 05 July 2023, with a single comment to be considered regarding Key Performance Indicators. The Applicant recommended that these be developed at the detailed design stage, to which NRW confirmed via email on 06 July 2023 that they would be happy with this approach. The documentation associated with a draft licence for Badger is therefore considered to be 'Agreed'. Great Crested Newt – Submitted to NRW on 04 July 2023. NRW provided advice by way of a reviewed copy of the draft licence documentation to the Applicant on the 06 July 2023. The Applicant considered NRW's comments and provided a revised document to NRW on 01 September 2023. Following a call with NRW on 04 September 2023, NRW advised they are satisfied with the approach adopted in the revised document. Based on the information provided by the applicant to date, NRW does not 	Agreed

Ref.	Description of Matter	Current Position	Status
		<p>consider there to be an impediment to the grant of a species licence. However, without the submission of a formal application, NRW is unable to provide any binding commitments at this stage as to the subsequent determination of the application and it should be noted that consent may be granted or refused.</p> <ul style="list-style-type: none"> Bats – The Applicant provided a copy of the draft bat licence documentation to NRW on 28 July 2023. NRW provided advice by way of a reviewed copy of the draft licence documentation to the Applicant on the 04 August 2023. Following a call with NRW on 04 September 2023, NRW advised they are satisfied with the approach adopted in the revised document. Based on the information provided by the applicant to date, NRW does not consider there to be an impediment to the grant of a species licence. However, without the submission of a formal application, NRW is unable to provide any binding commitments at this stage as to the subsequent determination of the application and it should be noted that consent may be granted or refused. 	
NRW 3.3.11	Great Crested Newt Conservation Plan	NRW advised that the outline provisions for habitat clearance are developed further and set out in a GCN Conservation Plan to be submitted as an Annex to the detailed CEMP to be submitted and approved by the LPA in consultation with NRW.	Agreed
NRW 3.3.12	Invasive Non-Native Species (INNS)	NRW advise that the possibility of Chinese mitten crab transfer during hydrostatic testing should be addressed in the Final Biosecurity Management Plan. The Applicant confirms that a Biosecurity Method Statement will be produced and will address all relevant INNS concerns. The Biosecurity Method Statement will be prepared at the Detailed Design Stage to accompany the Detailed CEMP and will address all relevant Invasive Non-Native Species (INNS) concerns that may be encountered during construction of the DCO Proposed Development.	Agreed
NRW 3.3.13	Mitigation Land Management	<p>NRW advised that they welcome the proposals for woodland planting. However, as informed by current tenure proposals, the plot 19-04, around Alltami Brook, is only proposed for subsurface tenure. NRW advised that plot 19-04 should be changed to surface and sub-surface ownership, but have no objection to plot 19-04 being divided, thereby separating the woodland from other forms of land use.</p> <p>NRW additionally advised of the need to ensure securement and future management of woodland being consistent with the requirements of Article 10 of the Habitats Directive and Regulation 41 of the Conservation of Habitats and Species Regulations 2017 (as amended) in respect of the planned provision and management of “linear or stepping stone (e.g., small woodlands) which are essential for migration, dispersal and genetic exchange of wild species.</p> <p>The Applicant advised NRW that land identified for mitigation will be subject to long term management that will be described within a detailed LEMP, to be developed at the detailed design stage. The LEMP will provide management prescriptions and monitoring of created woodland habitats (at the identified mitigation areas within the Order Limits) to ensure development of the woodland and habitats to the aspired condition which will benefit protected species and biodiversity in general.</p> <p>The tenure situation at land plot 19-04 was assessed by the Applicant for Change Request 2, where the Alltami Brook pipe bridge option was introduced and as such the land plans [CR2-004] were updated to incorporate new plot, 19-04d, which has been designated as ‘Permanent Acquisition of Land’.</p> <p>The Applicant has made the changes requested by NRW as noted above and the item is agreed.</p>	Agreed
NRW 3.3.14	Habitats Regulations Assessment:	NRW advised that the HRA did not appear to have considered GCN noting revised dispersal distances can be over 1.6km and noted reference within the updated reptile and amphibian SSSI selection guidelines: Guidelines for the Selection of Biological SSSIs. Part 2: Detailed Guidelines for Habitats and Species Groups: Chapter 18 Reptiles and Amphibians (jncc.gov.uk).	Agreed

Ref.	Description of Matter	Current Position	Status
	Great Crested Newt	The Applicant has subsequently revised their assessment criteria and conclusions, NRW now concurs with the amended assessment and its conclusions.	

Table 3-4 Issues related to the DCO Proposed Development – Drainage and Flood Risk

Ref.	Description of Matter	Current Position	Status
NRW 3.4.1	Flood Consequences Assessment	<p>A Flood Consequences Assessment (FCA) has been produced in accordance with TAN15 requirements and in line with the pre-application discussions with NRW. NRW advises that the contents of the FCA are broadly acceptable, but some minor updates are required, including reference to the Flood Map for Planning (FMfP), and the flood risk posed to the site in the event of a breach in the River Dee defences (Hawarden Embankment). The FCA also needs to provide location plans for each proposed crossing point on main rivers, and some design principles that will be followed for the crossings (open cut and trenchless).</p> <p>NRW advises that “The Flood Map for Planning has no official status until it is formally implemented through planning policy in June 2023” but also advises that “it represents the best available information we have on flood risk and Natural Resources Wales will continue to use this to inform our planning advice”.</p> <p>The Applicant has however recently reviewed the DCO Proposed Development as described in Chapter 3 of the 2022 ES [REP4-029] against the new FMfP and there are no changes to flood risk as reported in the FCA [REP4-180]. This has been reported in the addendum to the FCA [REP4-180].</p> <p>The Applicant would also note that the description of the works, including the design and construction principles are provided within Chapter 3 – Description of the DCO Proposed Development. The locations of the proposed watercourse crossings are provided within Figure 18.5.17 Watercourse Crossings (Wales) of Appendix 18.5 Flood Consequences Assessment Part 2 Rev A [REP4-180].</p>	Agreed
NRW 3.4.2	Mitigation Measures	<p>As requested by NRW, the FCA acknowledges the need for generic mitigation measures for managing flows during the construction phase. Any potential flood risk during the construction phase will be managed through the CEMP and FRAPs as appropriate. The Draft DCO [CR3-008] commits the Applicant to produce a consolidated CEMP based on the OCEMP [REP6-008].</p> <p>NRW advises that this approach is acceptable, but the OCEMP needs to be updated to confirm what will happen to any arisings resulting from the excavation works. The OCEMP should also clarify that for the proposed trenchless crossings of tidal watercourses, the entry and exit pits for the trenchless crossings will be located at least 16 metres away from the tidal watercourse and any flood defence structures on that watercourse.</p> <p>The Applicant confirms that Section reference D-BD-019 of the Outline CEMP [REP6-008] has been updated to include ‘16m away from any tidal watercourse and any flood defence structures on that watercourse’ and has been submitted at Deadline 1. The appointed contractor will be responsible for obtaining FRAPs, noting this will include detailed working method statements and information on the management of arisings from excavation works. The Applicant also notes that an Outline Surface Water Management and Monitoring Plan, including an Outline Flood Action Plan has been submitted at Deadline 5 to support the OCEMP [REP5-021].</p> <p>The FCA has undertaken a qualitative assessment of flood risk for the proposed alternative pipe bridge crossing over Alltami Brook and has recommended mitigation measures based on this approach. Whilst NRW considers the assessment of risk and proposed mitigation measures to be reasonable, it concurs that detailed hydraulic modelling should be undertaken at the detailed design stage in order to quantify flood levels and to inform the design of the bridge. This would ensure that the soffit of the bridge is raised above the design flood level and enable the potential impacts on flood risk elsewhere to be fully understood. The applicant has acknowledged the need for detailed hydraulic modelling and has included a commitment (paragraph (8) of Requirement 4 in the draft DCO) for this work to be undertaken.</p> <p>NRW notes that sub-paragraph (8) of Requirement 4 aims to provide a suitable mechanism within the DCO to secure the submission of this detailed design information for approval prior to construction. NRW has asked for minor amendments to be made to the wording of</p>	Agreed

Ref.	Description of Matter	Current Position	Status
		this requirement, as explained in Annex B, paragraph 2.7 of its Deadline 6A response [REP6A-024]. NRW would have no objection to a 40% climate change allowance being applied if work carried out to date has used this scenario	
NRW 3.4.3	NRW Operational Access and Maintenance to Flood Risk Management Assets	<p>NRW has raised concerns relating to the impact of the proposed construction compounds and equipment yards on its access arrangements to flood risk defence assets in, on or around several main rivers including the River Dee and the main river network in Sandycroft/Pentre. The FCA [REP4-180] has assessed the proposed permanent works only, as agreed within the Applicant's consultation meetings with NRW.</p> <p>NRW's position is that access to the FRM assets must be ensured at all times and at all stages of the proposed development. NRW has powers under distinct legislation to enter the land at any time and its concern is to avoid obstruction as a matter of design, to avoid any potential future conflict. NRW does not consider that protective provisions are the appropriate mechanism for this. Rather, NRW's approval of any potentially obstructive works, either in the Construction Traffic Management Plan (CTMP) and/or distinct requirement, would be preferred and most suitable mechanism.</p> <p>Following NRW's advice, the Applicant has amended the OCTMP and OCEMP to include the measures sought by NRW. Wording has now been agreed between the Applicant and NRW (via email dated 1st and 4th September 2023) regarding NRW's access requirements to the Dee flood risk management assets.</p> <p>NRW has also raised concerns about the implications of the 24.4m permanent rights corridor which would place restrictions on land in the vicinity of some important flood risk assets, including the Hawarden and Northern Embankments. NRW requested further information to understand the potential impacts this could have on its maintenance activities and future flood defence improvement schemes. However, NRW is satisfied that the permanent rights corridor will not have any impact on NRW's permissive powers used to maintain and improve flood defence assets.</p> <p>The Applicant confirms that Section reference D-BD-019 of the Outline CEMP [REP6-008] has been updated to include '16m away from any tidal watercourse and any flood defence structures on that watercourse' and has been submitted at Deadline 1.</p> <p>Temporary works within 8m of a fluvial main river or flood defence, or within 16m of a tidal main river or flood defence will require a FRAP from NRW. The appointed contractor will be responsible for obtaining FRAPs, noting this will include working method statements.</p>	Agreed
NRW 3.4.4	Flood Risk Activity Permit	As requested by NRW, a bespoke FRAP will be sought for any permanent or temporary works in, under or over a main river, within 8m of a fluvial main river (including any defences on that main river), and within 16m of a tidal main river (including any defences on that main river) or within a flood plain.. The works authorised under any such consent will be undertaken by the appointed contractor at the appropriate time prior to construction works commencing in areas at flood risk, within the specified limits of flood defences and main rivers.	Agreed
NRW 3.4.5	Flood risk posed to Construction Compounds	<p>NRW advise that the 30D Wood Farm and 31A River Dee centralised compounds are both located within the floodplain of the Tidal River Dee and that the ES should be updated to reflect this with a plan showing the location of the Cathodic Protection cabinet submitted for review. The Applicant acknowledges that the wording in the 2022 ES [REP4-059] is incorrect as the compounds are in areas at risk of flooding. This will be updated in future iterations of Chapter 18 of the 2022 ES [REP4-059].</p> <p>The FCA [REP4-180] only considers permanent works, and not temporary works including compounds. The Cathodic Protection is assessed in the FCA [REP4-180]. The location of the CP Cabinet is explained within Chapter 3 – Description of the DCO Proposed Development of the ES [REP4-029] and will be marked on any future iterations of Figure 3.2 – DCO Proposed Development [REP4-188].</p>	Agreed

Ref.	Description of Matter	Current Position	Status
		The Applicant also notes that an Outline Surface Water Management and Monitoring Plan, including an Outline Flood Action Plan has been submitted at Deadline 5 to support the OCEMP [REP5-021] in relation to temporary works and construction compounds.	
NRW 3.4.6	Drainage Design (Block Valve Stations)	Following the meeting with NRW on the 07/02/2022, the BVS drainage design has been amended and the new approach (which requires new outfalls) has been agreed with NRW.	Agreed

Table 3-5 Issues related to the DCO Proposed Development – Groundwater

Ref.	Description of Matter	Current Position	Status
NRW 3.5.1	Groundwater environmental impact assessment methodology	NRW advised that the groundwater impact assessment needed to go beyond the DMRB LA 113 methodology which should be supplemented with additional assessment ideas/analogues appropriate to the DCO Proposed Development. It is agreed that the methodology used in Chapter 18 – Water Resources and Flood Risk (Volume II) of the DCO ES [REP4-059] is appropriate and includes the required assessments.	Agreed
NRW 3.5.2	Pipeline excavation and groundwater dewatering	<p>NRW seek clarity about whether boreholes drilled to date are located between the proposed pipeline alignment and potential sources of contamination. A ground investigation was undertaken, and boreholes were located along the pipeline route and where possible were located to target identified sources. The Applicant proposed additional ground investigation for selected sections of the proposed pipeline route. Following a review of the conceptual site model additional boreholes/ monitoring wells can be drilled and installed to target potential sources of contamination that required further assessment.</p> <p>During detailed design stage the potential for interaction between excavation dewatering and any potential source of contamination will be considered as part of a Hydrogeological Impact Assessment forming part of the Detailed Dewatering Management Plan (D-WR-035 in the REAC) and abstraction licence application. This information will be secured by Requirement 5 of the DCO [CR3-008].</p>	Agreed
NRW 3.5.3	Quality of groundwater	<p>NRW advise that an acceptable methodology is required to determine the disposal of any pumped groundwater generated from pipeline dewatering activities.</p> <p>It is intended that the Applicant will instruct the contractor to develop a dewatering methodology prior to any works.</p> <p>The Detailed Dewatering Management Plan (D-WR-035 in the REAC) will set out the methodology for the disposal of pumped groundwater generated from pipeline dewatering activities and the dewatering methodology in general. This information will be secured by Requirement 5 of the DCO [CR3-008].</p>	Agreed
NRW 3.5.4	Hydrostatic Testing	<p>NRW advise that a validation process/report for the disposal of any pipeline purge water should be developed.</p> <p>It is intended that the Applicant will instruct a contractor to develop a testing strategy for purge water prior to disposal. A validation report stating the final discharge volume, discharge methods and processes undertaken will be produced by the contractor.</p> <p>Disposal of water from hydrostatic testing to a surface watercourse or to groundwater (i.e. via a soakaway) would potentially require a discharge consent to be obtained from NRW before testing is commenced and water discharged. Once the hydrostatic testing methodology is developed by the appointed contractor during detailed design the appropriate discharge consent (which is a legal requirement) will be sought by the contractor undertaking the works.</p> <p>Additionally, REAC entry D-WR-030 states that, “where practicable, construction works will avoid works on watercourses during high flow events to reduce the risk of fine sediment release and minimise the increase to flood risk from dewatering / hydrostatic testing discharges”. The Detailed Design construction programme will seek to target the construction activities involving watercourses for the drier summer months to reduce this risk, whilst taking into account the window for construction activities in relation to aquatic ecology and, in particular, the fish migratory season”.</p>	Agreed

Table 3-6 Issues related to the DCO Proposed Development - WFD Compliance

Ref.	Description of Matter	Current Position	Status
NRW 3.6.1	Scope of WFD Compliance Assessment	<p>NRW agrees with the screening of water bodies in the WFD compliance assessment. It is agreed that smaller watercourses within the wider WFD water bodies are assessed.</p> <p>Tributaries of the Dee Transitional water body are assessed using surface water quality elements. NRW agreed that one WFD compliance assessment covering England and Wales is sufficient. However, NRW advise that different guidance may be used in Wales / England.</p> <p>During the meeting on the 11/05/2023, NRW's comments on the WFD compliance assessment (excluding Alltami Brook) were discussed as set out in 2.57.18 in the Applicant's Response to the Relevant Representations [REP1-042] of NRW, and the outcomes summarised as follows:</p> <ul style="list-style-type: none"> • Calculations for works footprint: NRW acknowledge the Applicant's confirmation, the footprint is not actually within the WFD water bodies, plus the DCO Proposed Development is linear and the WFD water bodies are extremely large. NRW understands that most of the impacts would be to upstream water courses and not directly to the Dee (North Wales) water body. Therefore, given the only crossing of the Dee (North Wales) water body is via a trenchless technique NRW concurs with the Applicant that it is not necessary to calculate the area metrics. • Regarding construction impacts, the Applicant confirms that the statement in the WFD compliance assessment relates to the WFD legislation, which does not specifically require construction impacts to be assessed. However, since construction impacts have been assessed the Applicant recognises that the statement is contradictory and agreed with NRW that it can be removed from the WFD compliance assessment at the end of examination as there is no material update to the assessment. • Transboundary water bodies: NRW notes that there is a pipeline crossing in Finchett's Gutter water body, reported as being in England, but the crossing is in the Welsh part of the water body. Finchett's Gutter falls within the remit of the EA for WFD water body reporting. It is a technicality that the crossing point falls across a political boundary. The Applicant has agreed to provide some transboundary wording to add clarity about this in the final submission of the WFD compliance assessment at the end of Examination. • Protected Areas: the scheme is land-based with temporary construction impacts and the Applicant has done a proportionate assessment and it is reasonable to conclude that the scheme will not prevent the achievement of objectives set for Protected Areas. The Applicant confirms that an update will be provided on Protected Areas when the report is updated at the end of Examination. • Nitrates Directive: The Applicant will provide a correction to wording regarding the Nitrates Directive in Wales within the WFD compliance assessment at the end of Examination. • River Basin Management Plans: The Applicant will update the WFD baseline data with information from the most recent River Basin Management Plans (RBMPs) for the final submission at the end of Examination. 	Agreed
NRW 3.6.2	Alltami Brook crossing (Wepre Brook water body)	<p>NRW considers that there may be deterioration of the Wepre Brook water body from the proposed open-cut (trenched) crossing of Alltami Brook. The Applicant is required to provide further information regarding technical solutions available to mitigate the risk the proposal poses to the water body. NRW advises that the requirements of Article 4(7) WFD as transposed by Regulation 19 of the WFD Regulations 2017 must be satisfied.</p> <p>The Applicant has undertaken the WFD compliance assessment in accordance with good practice guidance and in line with the Scoping Opinion received during consultation. Having reviewed the information submitted for the DCO examination NRW advised in its Written</p>	Not Agreed

Ref.	Description of Matter	Current Position	Status
		<p>Representation that there may be deterioration of the Wepre Brook water body. The Applicant has considered the effect of scale and proportionality at the water body level when determining the potential effects of localised impacts. The Applicant intends to engage further with NRW to seek additional evidence that could be provided to support the conclusion that there would be no deterioration of the Wepre Brook water body but does not accept or agree that derogation under Article 4(7) of the WFD is required.</p> <p>NRW provided calculations from Qube software which indicate that the Alltami Brook is contributing approximately 37% of the flow in the Wepre Brook (at SJ 27750 67500). The estimated catchment area at the crossing point (SJ27634 67138) is 6.2km² and the estimated mean flow (Q_{mean}) is 0.07m³/s. The confluence of Alltami Brook with Wepre Brook is approximately 540m downstream of the crossing point. Just downstream of the confluence at SJ 27750 67500 the total catchment area is 16.1km² and the estimated mean flow is 0.19m³/s.</p> <p>The Applicant has produced a without prejudice WFD derogation case in response to NRW's position in relation to the potential loss of water flow from the Alltami Brook and consequent risk of deterioration to the Wepre Brook water body. The approach to WFD derogation without prejudice was presented to and discussed with NRW at a consultation meeting on 26 June 2023. The WFD derogation report was submitted at Deadline 5 [REP5-016]. NRW provided its advice on the WFD derogation report at Deadline 6A [REP6A-024].</p>	
NRW 3.6.3	Alltami Brook crossing (stream flow gauging)	<p>NRW stated that additional information was needed to inform a risk assessment of the proposed Alltami Brook crossing relating to hydrogeological and groundwater conditions as well as the risk of contamination from legacy mining.</p> <p>At a site visit with NRW on 27 March 2023, the Applicant offered to undertake quantitative stream flow gauging of the river stretch at monitoring locations upstream and downstream of the proposed crossing location. NRW welcomed the offer but advised that this was not likely to satisfy its concerns due to the potential margin of error of between 5-10% on any proposed gauging system making it difficult to garner any meaningful conclusions. In addition, NRW stated that the only data that may potentially be conclusive would be that which is collected during a very dry period, and which shows a substantial, consistent difference in the flows between the two gauging locations. In NRW's view, even if an accurate flow measurement was obtained the results would still not address the need for on-site ground investigations given the complex geology in the area, or resolve NRW's concerns regarding the permanent irreversible change to bedrock at the crossing point on the Alltami Brook.</p>	Not Agreed
NRW 3.6.3a	Alltami Brook – Hydrogeological Impact Appraisal	<p>The Applicant has provided NRW with a copy of the bespoke Hydrogeological Impact Appraisal report of the Alltami Brook [REP5-014] and this was discussed in consultation with NRW at a meeting on 26 June 2023. In the Applicant's opinion, the evidence presented within the report indicates an upward hydraulic gradient, and therefore there are no pathways for the loss of water flow from the brook to ground.</p> <p>The Applicant confirms that GI and borehole data will be collected at detailed design to further reduce uncertainty regarding the hydrogeology and groundwater conditions. The Applicant reiterated that land access for intrusive surveys has still not been secured.</p> <p>The Applicant confirmed that records of historical borehole data used to inform the Hydrogeological Impact Appraisal were approximately 100-150m from the proposed crossing of the Alltami Brook. NRW agreed that the borehole data used is sufficiently close to be considered relevant towards informing on site conditions. However, NRW considers that the combination of the complex geology, hydrogeology and tectonic factors that define the local ground model at the proposed crossing point preclude NRW from relying upon the A55 boreholes to a sufficient level of confidence.</p> <p>NRW provided their advice on the Hydrogeological Impact Appraisal at Deadline 6 [REP6-049]. NRW acknowledges that the Applicant has developed a conceptual model for the site of the Alltami Brook crossing. However, NRW consider that the actual geological site conditions are far more complex than indicated by the conceptual model. In NRW's view, this creates uncertainty in the level of reliance that can be</p>	Not Agreed (with the HIA conclusions)

Ref.	Description of Matter	Current Position	Status
		afforded to the conceptual model as a predictive tool. NRW therefore maintains its position that insufficient evidence has been provided to date by the Applicant to support its conclusions on WFD compliance, and that accordingly there may be deterioration of the Wepre Brook waterbody as a result of the proposed open-cut (trenched) crossing of Alltami Brook.	
NRW 3.6.4	Alltami Brook Options Appraisal	<p>NRW advised that a detailed Options Appraisal for the various crossing options should be provided. The Applicant has subsequently provided an assessment of the crossing options for Alltami Brook [REP3-039], submitted at Deadline 3, to include the provision of additional optionality for the Alltami Brook crossing at Work No. 43 [REP2-005], which was updated for Change Request 2, consisting of an alternative option for an embedded pipe bridge.</p> <p>The Applicant presented the Options Appraisal Report to NRW during a consultation meeting on 22 May 2023 and discussed the options with representatives from NRW. NRW welcomed the option for the embedded pipe bridge.</p> <p>NRW notes that the Options Appraisal has been produced and this was also included within the Applicant's WFD derogation report (Table 7.4). NRW provided its advice on this at Deadline 6A [REP6A-024]. NRW maintains its concerns regarding WFD non-compliance of the Applicant's preferred crossing option.</p>	Not Agreed (with the Alltami Brook Options Appraisal conclusions)
NRW 3.6.5	WFD compliance (the WFD Regulations 2017)	<p>The Applicant has concluded that the DCO Proposed Development is WFD compliant assuming adoption of the mitigation measures for Alltami Brook as presented in the WFD compliance assessment.</p> <p>NRW advised that the WFD compliance assessment does not contain sufficient detail or confidence to demonstrate compliance with the WFD/WFD Regulations 2017. There is a lack of evidence to support the proposed Alltami Brook crossing (within the Wepre Brook water body) and there may be deterioration of the Wepre Brook water body due to the potential loss of water flow from Alltami Brook. It is NRW's view that the derogation requirements of Regulation 19 of the WFD Regulations 2017 /Article 4(7) of the WFD should therefore be satisfied for the development to proceed.</p> <p>Having reviewed the information submitted for the DCO examination NRW advised in its Written Representation that there may be deterioration of the Wepre Brook water body.</p> <p>The Applicant has produced a without prejudice WFD derogation case in response to NRW's position in relation to the potential loss of water flow in the Alltami Brook. The approach to WFD derogation without prejudice was presented to and discussed with NRW at a consultation meeting on 26 June 2023. The WFD derogation report was submitted at Deadline 5 [REP5-016]. NRW provided its advice on the WFD derogation report at Deadline 6A [REP6A-024].</p> <p>NRW does not agree that the evidence submitted by the Applicant satisfies the requirement of the WFD / WFD 2017 Regulations in respect of the derogation tests, as explained in its Deadline 6A representation [REP6A-024]. In summary, NRW considers there is inadequate evidence to agree that a case has been made that the beneficial objectives served by these modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option. The Applicant has presented an alternative crossing option which would not appear to need a derogation and has failed to provide evidence to satisfy NRW that this would not be a significantly better environmental option. Therefore, NRW does not agree that consent can be granted on the basis of the Applicant's preferred open-cut (trenched) option.</p>	Not Agreed

Ref.	Description of Matter	Current Position	Status
NRW 3.6.6	Cumulative effects	<p>NRW raised concerns in its Written Representation that cumulative effects could cause deterioration in WFD water body status due to open-cut (trenched) crossings and temporary culverts. There is also no reference to cumulative effects in the WFD compliance assessment.</p> <p>The Applicant submits that potential impacts would be predominantly temporary in nature during the construction (and subsequent decommissioning of above ground infrastructure) and would be managed through the OCEMP [REP6-008]. Given the temporary nature of potential impacts, cumulative effects are not anticipated and would not result in deterioration in WFD water body status.</p> <p>NRW noted that the channel and banks of open-cut crossings “<i>will be reinstated to mimic baseline conditions as far as practicable</i>” (Table 5.3, ES Appendix 18.3: Water Framework Directive Assessment [REP4-174]). However, without further detail to clarify what the reinstatement works would entail NRW did not consider such assurance to be adequate to rule out deterioration. Section 4.7 of NRW’s OGN 72: “Complying with the Water Framework Directive Regulations 2017: how to assess and appraise projects and activities” states “<i>It is important to consider the in combination and/or cumulative effects of pressures in a water body and the combined impacts of the proposed activity</i>”. Given the expansive extent of the proposals and substantial number of sites requiring reinstatement mitigation (e.g., temporary culverts, open-cut crossings), this could cause a cumulative impact. Although the Applicant has referred to such cumulative effects in Chapter 18 of the ES [REP4-059] no reference to cumulative effects has been made in the WFD compliance assessment [REP4-174], therefore NRW advised that this should be done.</p> <p>During operation, in the Applicant’s view reinstatement of watercourses following the construction phase would not result in deterioration and therefore no cumulative effects are considered. This includes the potential loss of water flow within the Alltami Brook due to the Applicant’s evidence indicating an upwards hydraulic gradient and the high-pressure grouting of any exposed fractures within the excavated trench to lay the pipeline to create an impermeable seal to prevent the loss of water flow.</p> <p>NRW has advised in respect of these conclusions in its Deadline 6 and 6A responses [REP6-049 and REP6A-017]. In summary, NRW advises that there is evidence to suggest that the actual geological site conditions are far more complex than indicated by the Applicant’s conceptual model. Due to the reliance placed on this conceptual model to determine whether or not there may be a deterioration in Water Body status, NRW does not have confidence in the Applicant’s conclusions. Furthermore, NRW considers there is inadequate evidence to agree that a derogation case has been made that the beneficial objectives served by these modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option. The Applicant has presented an alternative crossing option which would not appear to need a derogation and has failed to provide evidence to satisfy NRW that this would not be a significantly better environmental option. Therefore, NRW does not agree that consent can be granted on the basis of the Applicant’s preferred open-cut (trenched) option.</p>	Not Agreed

Table 3-7 - Issues related to Other Consents, Licences and Permits Required outside the draft DCO

Ref.	Description of Matter	Current Position	Status
NRW 3.7.1	Environmental Permitting (England and Wales) Regulations 2016	Would be applied for prior to the start of construction, or prior to specific construction activities, if required.	Agreed

	Bespoke (Waste)	Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	
NRW 3.7.2	Environmental Permitting (England and Wales) Regulations 2016 Standard Rules (Waste)	Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.3	Environmental Permitting (England and Wales) Regulations 2016 Exemptions (Waste)	Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.4	Environmental Permitting (England and Wales) Regulations 2016 Regulatory Position Statement (Waste)	Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.5	The Waste (England and Wales) Regulations 2011 Waste Transfer Notes	Would be applied for prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.6	The Hazardous Waste (England and Wales) Regulations 2005 Waste Consignment Notes	Would be applied for to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.7	The Waste (England and Wales) Regulations 2011 Waste Carriers Licence	Would be applied for prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.8	Hazardous Waste Regulations 2005 (England and Wales) Hazardous Waste Producer Registration	Would be applied for prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.9	The Environmental Permitting (England and Wales) Regulations 2016 Standard Rules (SR2008No27) for Mobile Plant for treatment or soils and contaminated material, substances or products	To be sought for the treatment, waste recovery, mixing, blending, ex-situ treatment of pumped groundwater. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed
NRW 3.7.10	The Environmental Permitting (England and Wales) Regulations 2016	To be sought for the storage and mixing of permitted wastes. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.	Agreed

	Standard Rules (SR2010No5) for Mobile Plant for reclamation, restoration or improvement of land		
NRW 3.7.11	The Environmental Permitting (England and Wales) Regulations 2016, Pollution Prevention and Control Act, 1999 Mobile crushing and screening plant permit	To be sought 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. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.12	The Environmental Permitting (England and Wales) Regulations 2016 A1 Installation permit - bespoke	To be sought for relevant Schedule 1 activities. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.13	The Environmental Permitting (England and Wales) Regulations 2017 A1 Installation permit - standard rules (low impact)	For low impact installation activities. Low impact installations must have containment measures to prevent emissions escaping to surface water, sewer or land, which are maintained at all times; only a low risk of causing offence due to noise and odour – an installation cannot be classified as a low impact installation if noise and odour are noticeable outside the boundary of the site. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.14	The Environmental Permitting (England and Wales) Regulations 2016 Specified generator permit - standard rules (low risk), simple bespoke (low risk) or complex bespoke (high risk)	Cover emissions of SO ₂ , NO _x and dust to air. Applies to generators with a capacity of between 1MWth and 50MWth burning any fuel. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.15	The Conservation of Habitats and Species Regulations 2017, Wildlife and Countryside Act 1981 (Schedule 5,6,8) European Protected Species Licence	To be sought for killing, injuring, or disturbing European Protected Species or damage or destruction to habitat or place of shelter/rest. Applies to the following – bats, otter, great crested newt within England and Wales. Submission of draft licences during DCO Examination. Submission of formal EPS licence application prior to construction. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.16	The Protection of Badgers Act 1992 (as amended) Badgers: licence to interfere with setts for development purposes (A24 and LR24)	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.	Agreed

		<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 updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.</p>	
NRW 3.7.17	<p>Environmental Permitting (England and Wales) Regulations 2016</p> <p>Flood Risk Activity Permit - Bespoke</p>	<p>All temporary and permanent works on or near a main river, on or near a flood defence structure, on or near a sea defence or in a flood plain. Would be applied for prior to the start of construction, or prior to specific construction activities, if required.</p> <p>Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.</p>	Agreed
NRW 3.7.18	<p>Environmental Permitting (England and Wales) Regulations 2016</p> <p>Flood Risk Activity - Exemption</p>	<p>For where there is some level of construction or maintenance of structures, repair, improvement works etc. Would be applied for prior to the start of construction, or prior to specific construction activities, if required.</p> <p>Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.</p>	Agreed
NRW 3.7.19	<p>Environmental Permitting (England and Wales) Regulations 2016</p> <p>Flood Risk Activity Permit - Exclusion</p>	<p>Where there is smaller scale works e.g., works within or on existing structures, signage, fences, works carried out in an emergency. Would be applied for prior to the start of construction, or prior to specific construction activities, if required.</p> <p>Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.</p>	Agreed
NRW 3.7.20	<p>Water Resources Act 1991 (Section 24, 24a), Water Act 2003 (Section 1)</p> <p>Water Abstraction Licence (full)</p>	<p>For most types of water abstraction over 20 cubic metres a day. Would be applied for prior to the start of construction, or prior to specific construction activities, if required.</p> <p>Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.</p>	Agreed
NRW 3.7.21	<p>Water Resources Act 1991 (Section 24, 24a), Water Act 2003 (Section 1)</p> <p>Water Abstraction Licence (transfer)</p>	<p>To move over 20 cubic metres of water a day from one source to another without intervening use. Would be applied for prior to the start of construction, or prior to specific construction activities, if required.</p> <p>Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.</p>	Agreed
NRW 3.7.22	<p>Water Resources Act 1991 (Section 24, 24a), Water Act 2003 (Section 1)</p> <p>Water Abstraction Licence (temporary)</p>	<p>Where there is an abstraction of more than 20 cubic metres of water a day over a period of less than 28 days. Would be applied for prior to the start of construction, or prior to specific construction activities, if required.</p> <p>Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019], submitted at Deadline 4.</p>	Agreed
NRW 3.7.23	<p>Water Resources Act 1991 (Section 25)</p> <p>Water Impoundment Licence</p>	<p>For any construction, alteration, repairs or removal of existing impoundment structures, or constructing culverts, retaining walls, dams, weirs, or temporary diversions during construction work. Would be applied for prior to the start of construction, or prior to specific construction activities, if required.</p>	Agreed

		Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	
NRW 3.7.24	Water Resources Act 1991 (Section 25), Water Abstraction and Impounding (Exemptions) Regulations 2017 Water Impoundment Exemption	To be sought if required, where a public authority that manages or owns waterways or harbours constructs any new impoundment, alters an existing impoundment or obstructs or impedes the flow of inland waters while exercising its powers or undertaking its duties; where the impoundment is authorised by a drought order or drought permit; where the persons doing the works are Crown exempt; where structures and works are authorised by legislation (for example an act of Parliament); where the Environment Agency serves notice requiring impoundment only for the purpose of screening or passage for eels. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.25	Section 28 of the Wildlife and Countryside Act 1981 SSSI Assent	To be sought for construction activities within/affecting SSSIs. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.26	Marine and Coastal Access Act 2009 Marine Licence	To be sought for activities undertaken within a marine licensable area, to be submitted during DCO examination. This is required for the River Dee crossing. The range licensable by Natural Resources Wales is below mean high-water springs and out to 12 nautical miles. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.27	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. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.28	Salmon and Freshwater Fisheries Act 1975 Exemption	To be sought if required for activities being carried out within spawning periods for European eel, lamprey, salmonids and coarse fish species. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.29	Salmon and Freshwater Fisheries Act 1975 Translocation permit	To be sought if required for the translocation of fish and the authorisation to use fishing instruments other than rod and line (FR2). Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed

NRW 3.7.30	Salmon and Freshwater Fisheries Act 1975 Trap or Removal Permit of Non-Native Crayfish (CR1)	To be sought if required for the management (and potential trapping or removal) of non-native crayfish. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.31	Forestry Act 1967 (as amended) Tree felling licence	To be applied for prior to the start of construction (or prior to specific construction activities), if required, for the felling of living trees/hedgerows Full information is contained within the updated Other Consents and Licenses document (Rev D) [REP4-019] , submitted at Deadline 4.	Agreed
NRW 3.7.32	Wildlife and Countryside Act 1981 Schedule 1 Species	Schedule 1 disturbance licence to be sought for where disturbance of any Schedule 1 bird, such as barn owl <i>Tyto alba</i> , may occur. Full information will be provided within an updated Other Consents and Licenses document, which will be submitted at Deadline 7.	Agreed
NRW 3.7.33	The Greenhouse Gas Emissions Trading Scheme Order 2020 UK Emissions Trading Scheme permit	To be applied for prior to the start of construction for activities covered by the UK ETS, including those which result in greenhouse gas emissions, or emissions from installations. Full information will be provided within an updated Other Consents and Licenses document, which will be submitted at Deadline 7.	Agreed
NRW 3.7.34	The Environmental Permitting (England and Wales) Regulations 2016 (Schedule 21) Water discharge permits	To be sought if required for the discharge to surface water or groundwater. Would be applied for prior to the start of construction, or prior to specific construction activities, if required. Full information will be provided within an updated Other Consents and Licenses document, which will be submitted at Deadline 7.	Agreed