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23 December 2025

Dear [REDACTED],

DOCUMENT REFERENCE: 9.1

**EN010166 – APPLICATION BY UNIPER UK LIMITED FOR AN ORDER GRANTING
DEVELOPMENT CONSENT FOR THE CONNAH'S QUAY LOW CARBON POWER
PROJECT**

**APPLICANT'S RESPONSE TO PROCEDURAL DEADLINE A (30 DECEMBER 2025) &
PROCEDURAL DECISION DEADLINE (30 DECEMBER 2025)**

I write on behalf of the Applicant, Uniper UK Limited, in response to the Examining Authority's (ExA's) letter 'The Infrastructure Planning (Examination) Rules 2010 – Rules 6, 9 and 13' (the Rule 6 letter) dated 9 December 2025 [PD-008], and the ExA's Procedural Decision dated 25 November 2025 [PD-006].

The Applicant's written submissions in respect of Procedural Deadline A and the Procedural Decision dated 25 November 2025 are set out below.

**Notification of wish to speak at the Preliminary Meeting (PM), Issue Specific Hearing 1
(ISH1) and Issue Specific Hearing 2 (ISH2) – (Annex D, Item 1)**

The Applicant will participate in-person at the PM, ISH1 and ISH2. It is anticipated that the following representatives of the Applicant may need to speak:

Likely speakers at the PM:

- [REDACTED] KC, 39 Essex Chambers

Likely speakers at the ISH1:

- [REDACTED] KC, 39 Essex Chambers
- [REDACTED], Herbert Smith Freehills Kramer LLP
- [REDACTED], Herbert Smith Freehills Kramer LLP
- [REDACTED], AECOM
- [REDACTED], Uniper
- [REDACTED], Uniper

Likely speakers at the ISH2:

- [REDACTED] KC, 39 Essex Chambers
- [REDACTED], AECOM
- [REDACTED], AECOM (HRA)
- [REDACTED], AECOM (Ecology)
- [REDACTED], AECOM (Ornithology)
- [REDACTED], AECOM (Marine Ecology)
- [REDACTED], AECOM (Air Quality)
- [REDACTED], AECOM (Traffic and Transport)

It is anticipated that the following representatives of the Applicant will also attend the PM, ISH1 and ISH2, but are unlikely to speak:

- [REDACTED] Uniper
- [REDACTED], AECOM
- [REDACTED], Copper
- [REDACTED], DWD
- [REDACTED], DWD

Draft Examination Timetable (Annex D – Applicant's updated documents for Deadlines 1, 3, 4, 5 & 6)

The various deadlines noted above request that the Applicant submit updated versions of specified documents. This is noted, however, for the avoidance of doubt, the Applicant intends to only submit an updated version of a document included in this list where it is relevant or necessary to do so.

Draft Examination Timetable (Annex D, Item 13)

The Applicant notes that further Issue Specific Hearings (ISH) and Compulsory Acquisition Hearing 2 (CAH2), if required, are proposed to be reserved for the week commencing 27 April 2026.

Owing to scheduling conflicts for key members of the Applicant's team, the Applicant would respectfully request that the ExA considers re-scheduling the ISH and the CAH2 to the week commencing 4 May 2026.

This would enable key members of the Applicant's team to be in attendance.

Draft Examination Timetable (Annex D, Item 14)

The Applicant notes that Deadline 6 is proposed to be 26 May 2026.

The Applicant would respectfully request if Deadline 6 could be moved to the end of that week i.e. 29 May 2026. This would still allow over one week between the final deadline and the formal close of the examination.

Suggested locations for site inspections

The Applicant will provide a draft itinerary for the Accompanied Site Inspection (ASI) at Deadline 1.

Statements of Common Ground (Annex F, Item 2)

The Applicant notes that the ExA has requested Statements of Common Ground (SoCG) with six additional parties.

The Applicant confirms that it intends to prepare draft SoCG documents with the following parties:

- National Highways;
- Natural England; and
- Airbus (Hawarden Airport).

The Applicant wishes to clarify that the draft SoCG with Scottish Power [APP-287] referred to in the examination library covers SP Energy Networks. The Applicant will continue to engage with SP Energy Networks and record the position of engagement within the SoCG with Scottish Power.

Having regard to the Relevant Representation submitted by Public Health Wales [RR-033], which confirms that Public Health Wales' previous queries throughout the consultation process have been addressed by the material provided in the DCO application, the Applicant does not consider that a SoCG with Public Health Wales is required.

Having regard to the general nature of the content of the Relevant Representation submitted by the Maritime and Coastguard Agency [RR-044], it is also considered that a SoCG with this party is not required.

Procedural Decision dated 25 November 2025

In response to the ExA's Procedural Decision dated 25 November 2025 [PD-006], the Applicant has prepared a 'without prejudice' Stage 3 derogation case, which accompanies this letter (Document Reference 9.2).

As set out in the Applicant's letter dated 11 December 2025 [AS-001], the Applicant's position remains that a Stage 3 derogation case is not necessary in respect of the Proposed Development for the reasons set out below. Furthermore, in line with the Planning Inspectorate's Section 51 advice (Box 30) [PD-003], the Applicant's expectation was that any further investigation of the need or otherwise for a Stage 3 derogation case would have taken place early in the Examination. Nonetheless the Applicant now provides the requested documentation in this submission on a 'without prejudice' basis.

It should be noted that the 'without prejudice' Stage 3 derogation case (Document Reference 9.2) does not include consideration of the potential effects of nitrogen deposition on the Deeside and Buckley News Sites Special Area of Conservation (SAC). As identified in paragraph 10.3.19 of the Report to Inform Habitats Regulations Assessment [APP-253] "*The impact of a small increase in nitrogen deposition and ammonia concentrations may never be detected in practice but may result in a slight increase in growth of more competitive ground flora species, requiring slightly more frequent woodland management*". Therefore the mitigation measures proposed are to ensure the negative botanical changes do not arise. Further details on the consideration of mitigation for this effect are provided in paragraphs 10.3.15 to 10.3.20 of the Report to Inform Habitats Regulations Assessment [APP-253].

Justification for provision of a ‘without prejudice’ derogation – loss of functionally linked land

The reason the proposals for creation of habitat as detailed in the Curlew Mitigation Strategy [APP-254] are considered to be mitigation is because the potential Adverse Effect on Integrity (AEOI) would be a possible reduction in curlew populations within the Special Protection Area (SPA) due to a reduction in foraging and roosting opportunities in the wider landscape (i.e. on functionally linked land). The Applicant is therefore avoiding (or mitigating for) the AEOI (a reduction in curlew populations within the SPA) by ensuring there is no net loss of foraging and roosting opportunities on functionally linked land by enhancing other areas already used by curlew to support greater numbers.

The following recently made DCOs all included Habitats Regulations Assessments (HRAs) that also presented measures to address the loss of functionally linked land for SPA birds as mitigation rather than compensation within the legal definition of the Habitats Regulations, which was accepted by the Secretary of State when granting development consent:

- East Yorkshire Solar Farm;
- Lower Thames Crossing;
- Sunnica Energy Farm;
- A303 Stonehenge (Amesbury to Berwick Down); and
- Helios Renewable Energy.

This is not only common in DCO applications. For example, the Solent Wader and Brent Goose Strategy¹ sets out the processes for addressing loss of functionally linked land around the Solent Habitats sites. This is used by all of the Solent local authorities when granting consent. The Solent Wader and Brent Goose Mitigation Guidance (Whitfield, Marceau, and Shavelar, 2024) describes it as ‘offsetting’ (rather than compensation) and derogations are not required for developers to deliver offsetting habitat to address loss of functionally linked land.

Justification for provision of a ‘without prejudice’ derogation – permanent loss of saltmarsh

The managed retreat of existing defences south of the existing Connah’s Quay Power Station are considered mitigation in this case for the reasons set out in paragraph 10.2.10 of the Report to Inform Habitats Regulations Assessment [APP-253] as copied below:

“Setting back the embankment would reduce long-term losses of saltmarsh in the Dee Estuary due to coastal squeeze and thus ensure no net loss of grass dominated SM16 or SM28 saltmarsh in the Dee Estuary by enabling the saltmarsh in the existing area to expand landwards. Provided this is done before the existing area of saltmarsh is lost it would allow the saltmarsh (which would be a naturally shifting community without hard defences) to move naturally inland to a greater extent by managed realignment than the loss due to the new outfall and therefore avoid a net loss. It would therefore not conflict with the conservation objectives regarding extent or proportions. This is considered to offset the impact on saltmarsh rather than represent ‘compensation’ in the context of the Habitats Regulations. With these measures in place, no adverse effect on the integrity of the SAC / SPA / Ramsar site.”

¹ Whitfield, D. and Marceau, T., 2024. Solent Waders and Brent Goose Strategy. Curridge: Hampshire and Isle of Wight Wildlife Trust



Documentation provided

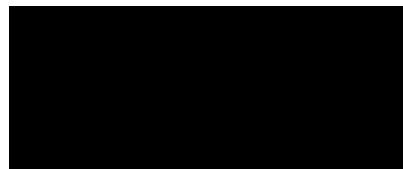
The documents that form this submission comprise:

1. Document Ref. 1.3 – updated Guide to the Application, Rev.02 (yellow highlights indicate updates);
2. Document Ref. 9.1 – this letter; and
3. Document Ref. 9.2 – Notice of a proposed without prejudice Habitats Regulations Assessment (HRA) derogation in Wales
 - o Note: This document notes that an updated Outline Surface Water Drainage Strategy [APP-213] will be provided. The Applicant intends to provide this at Deadline 2.

I would be grateful if you could confirm receipt of this letter and the accompanying documents.

In the meantime, should you have any questions, please do not hesitate to contact [REDACTED] [\[REDACTED\]@dwd-ltd.co.uk](mailto:[REDACTED]@dwd-ltd.co.uk); [REDACTED] [\[REDACTED\]@dwd-ltd.co.uk](mailto:[REDACTED]@dwd-ltd.co.uk); or [\[REDACTED\]@dwd-ltd.co.uk](mailto:[REDACTED]@dwd-ltd.co.uk).

Yours sincerely



Project Manager
Uniper