



## Connah's Quay Low Carbon Power

# Applicant's Written Summary of Oral Submissions at Issue Specific Hearing 2 and response to Action Points

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# 1. Written summary of the Applicant's Oral Submissions at Issue Specific Hearing 2

## 1.1 Introduction

- 1.1.1 This section of the document summarises the oral submissions made by Uniper UK Limited (the Applicant) at Issue Specific Hearing 2 (ISH2) which took place in a blended format at the Village Hotel, Chester and on Microsoft Teams on 14 January 2026.
- 1.1.2 In what follows, the Applicant's submissions on the points raised broadly follow the Agenda for the ISH2, which was published on the Planning Inspectorate's website on 6 January 2026 [EV3-001]. Where the comment is a post-hearing note submitted by the Applicant, this is indicated.
- 1.1.3 The Applicant, which is promoting the Connah's Quay Low Carbon Power project (the Proposed Development), was represented by [REDACTED] of 39 Essex Chambers, instructed by [REDACTED] Freehills Kramer LLP. He also introduced [REDACTED], the HRA Lead (member of Member of the Chartered Institute of Ecology and Environmental Management and a Chartered Environmentalist) and [REDACTED], Ecology Lead (full member of the Chartered Institute of Ecology and Environmental Management, BSc (Hons) and MSc). Also available were [REDACTED], Lead Ornithologist; [REDACTED], Air Quality Lead; and [REDACTED], Environmental Impact Assessment (EIA) Lead. On Traffic and Transport the Applicant was represented by [REDACTED], Lead Transport expert (BSc (Hons) Civil Engineering, Chartered Member of the Institute of Logistics and Transport (CMILT)).

## 1.2 Agenda Item 1: Welcome and Introductions

- 1.2.1 The ExA welcomed attendees to ISH2 and provided introductory remarks about how the hearing would be conducted.
- 1.2.2 [REDACTED] introduced the Applicant's attendees (set out above) and explained that specific qualifications would be provided subsequently in writing by the Applicant.
- 1.2.3 *Post hearing note: please see the Applicant's response to Action Point 1 set out in Table 2.1 below for the full list of speaker qualifications.*
- 1.2.4 [REDACTED], of Flintshire County Council (FCC) introduced herself, as well as [REDACTED], County Ecologist; [REDACTED], Public Rights of Way (PRoW) Officer; and [REDACTED], Highways Development Control Manager.
- 1.2.5 From Natural Resources Wales (NRW), [REDACTED] and [REDACTED] confirmed their attendance.
- 1.2.6 [REDACTED] confirmed his attendance on behalf of the Deeside Naturalists Society (DNS).

## 1.3 Agenda Item 2: Purpose of the Issue Specific Hearing

- 1.3.1 The ExA explained that the purpose of this ISH2 is to cover Ecology and Traffic and Transport matters.
- 1.3.2 In particular, with regards to Ecology the ExA explained he would like to consider:
- The proposed development's impact on existing habitats and designated sites, and the mitigation proposed;
  - These impacts and mitigation with regards to specific sites and species at these sites; and
  - The provision of new habitats and how these and the existing sites will be managed in the future.
- 1.3.3 And with regards to Traffic and Transport the ExA explained he would like to consider:
- The potential impacts on the local community and wider road network from the proposed development including the planned movement of abnormal indivisible loads (AILs);
  - Any disturbance or disruption to public rights of way during the proposed development; and
  - Any associated risks to other transport arrangements for marine or aviation travel.

## 1.4 Agenda Item 3: Ecology

### Item 3.1

- 1.4.1 [REDACTED] summarised the impacts of the Application on designated sites, taking first the impact pathways and then the impact on each designated site. He referred to the **Report to Inform Habitats Regulations Assessment (RIHRA) [APP-253]**. He explained that designated sites are shown on **Environmental Statement (ES) Figure 11.1 [APP-124]**. [REDACTED] stated that the RIHRA considers all designated sites in England and Wales alone and in combination.
- 1.4.2 [REDACTED] continued that some limited loss would occur within species-poor grass-dominated saltmarsh (SM28 *Elytrigia repens* dominated grassland) of Dee Estuary Special Protection Area (SPA)/Special Area of Conservation (SAC)/Ramsar site simply as a result of the works for the Proposed Surface Water Outfall.
- 1.4.3 [REDACTED] explained that there will only be a maximum 650 meters squared (m<sup>2</sup>) temporary land take during construction (this being the area within the Order limits) but less than 5 m<sup>2</sup> of permanent habitat land take during operation.
- 1.4.4 [REDACTED] noted that NRW asked in its Relevant Representation about saltmarsh clearance in the Water Connection Corridor. The Applicant can confirm there would be none. There will only be loss in the new outfall area.

██████ confirmed there is also no erosion loss associated with use of the new outfall, and the 5m<sup>2</sup> is direct footprint losses.

- 1.4.5 ██████ stated that the overall conclusion is that there will be no Adverse Effect on the Integrity (AEoI) on any of these protected sites because of: a) the commitment to extend the existing management of Connah Quay Conservation Areas; and b) in any event, and in addition, the delivery of 1,300 m<sup>2</sup> managed retreat to allow existing saltmarsh west of the existing Connah's Quay Power Station to be retained in the face of rising sea levels that will otherwise result in that loss.
- 1.4.6 ██████ explained that, within this area, the saltmarshes are a dynamic system. As sea levels rise, the area of saltmarsh would normally retreat in line but it cannot do this because of existing defenses, which is called coastal squeeze. The Applicant is seeking to address this by retreating the defences in land, which means the saltmarsh can persist and perhaps expand. This managed retreat of defences is mitigation rather than compensation because it is not creating a net new area of saltmarsh but is restoring natural coastal processes to allow preservation of an area of existing saltmarsh that would otherwise be lost to sea level rise, thus ensuring no net loss (and in fact a significant gain of habitat). The Applicant is not creating this new saltmarsh, it is introducing natural coastal processes to the location. There will be a framework strategy to be submitted to the examination detailing how this will be monitored to ensure the conditions are as they should be to allow the saltmarsh retreat.
- 1.4.7 ██████ stated that, notwithstanding and without prejudice to this, **Notice of a proposed without prejudice HRA derogation in Wales [PDA-003]** was submitted at Procedural Deadline A so that, if the ExA or Secretary of State determines this is compensation, there is the information available to allow for steps to be followed showing no alternatives and Imperative Reasons of Overriding Public Interest (IRoPI).
- 1.4.8 With regards to providing details relating to the reinstatement of the temporary saltmarsh loss, ██████ explained that the Applicant will develop a Saltmarsh Method Statement in the **Framework Construction Environmental Management Plan (CEMP) [APP-246]**, to be agreed with NRW.
- 1.4.9 The ExA noted the likelihood of holding a further Issue Specific Hearing on ecology.
- 1.4.10 The ExA clarified the outfall is for surface water and requested confirmation as to why this needs to be in the Dee Estuary and why it could not be at another discharge point within the site boundary, which then flows naturally to the estuary. The ExA also queried whether there are existing policies in place covering the shoreline management being proposed by the Applicant and wanted to confirm that there would be no double counting.
- 1.4.11 ██████ confirmed, on the second point, the area in question is not currently proposed for managed realignment as part of the Shoreline Management Plan. The Applicant is proposing to pull the line back and this is not a level of detail the Shoreline Management Plan includes. The Applicant is aware of the need to avoid double counting, but this is not in this location as the existing policy is simply to 'hold the line'. The Applicant will continue to



defend the site, but will be pulling back the shoreline itself too, which is the mitigation.

- 1.4.12 [REDACTED] (NRW) noted that he had observed the Preliminary Meeting and Issue Specific Hearing 1 through the external link and so had noted the ExA's comments.
- 1.4.13 [REDACTED] (Natural England (NE)) claimed that the **RIHRA [APP-253]** as currently written does conclude AEol for the loss of saltmarsh habitat. He suggested that the quantification of 5 m<sup>2</sup> area of permanent loss only comes out in the derogation paper. In the RIHRA the area of saltmarsh loss is only stated as being a temporary loss of 650 m<sup>2</sup>.
- 1.4.14 [REDACTED] confirmed that permanent loss is discussed in the **RIHRA [APP-253]**. The RIHRA states that the temporary loss is 650m<sup>2</sup> and that the permanent loss will be very small. The specific figure of 5m<sup>2</sup> of permanent loss is not expressly stated in the RIHRA, but this figure is stated elsewhere in the Application. However, the impact from both permanent and temporary loss is addressed in the RIHRA.
- 1.4.15 On the ExA's first point, [REDACTED] explained that the rationale for why the outfall discharges into the Dee rather than directly into the site is set out in the 'no alternative' section of the derogation report (**Notice of a proposed without prejudice HRA derogation in Wales [PDA-003]**).
- 1.4.16 The ExA noted the justification being in the derogation case, rather than the **RIHRA [APP-253]** and queried whether that was an argument that there should be a derogation case.
- 1.4.17 [REDACTED] confirmed that the **RIHRA [APP-253]** already identifies that with the outfall in its proposed location, and with mitigation proposed, there is no AEol, and there is, therefore, no need to set out alternatives and so this is not an argument that there should be a derogation case. It was only without prejudice to this, and it were ultimately concluded that this is compensation, that the derogation case goes on to consider the relevant statutory requirements, and the 'no alternatives' which is why that analysis is set out in that report. There is no requirement to consider alternatives unless it is concluded that is one providing compensation.
- 1.4.18 [REDACTED] noted that section 4.1 of the derogation (**Notice of a proposed without prejudice HRA derogation in Wales [PDA-003]**) considers a number of different alternatives and why they are not considered viable for the engineering solution required. This considered other outfall locations, some of which would still have other effects on the protected sites.
- 1.4.19 [REDACTED] continued to discuss the impact pathway of loss of functionally linked land. Under this scheme, the construction laydown area and permanent extension works will result in loss of 26 ha of grassland which is functionally linked to the SPA due to use by Curlew. Land to mitigate that loss has been discussed with NRW and is set out in paragraphs 10.2.19 to 10.2.23 of the **RIHRA [APP-253]** and is a case of enhancing an area of land called Gronant Fields, which is an area that does not currently support Curlews, and to manage this to increase use by Curlews. The **Curlew Mitigation Strategy [APP-254]** sets out details of management of that area,

although the Applicant notes further information has been requested by NRW, which is being provided.

- 1.4.20 [REDACTED] explained that the Applicant notes that NE had suggested this might be compensation rather than mitigation. The Applicant firmly considers that measures to address the loss of functionally linked land is mitigation rather than compensation. There is a lot of precedent for this approach, for example, the Sea Link DCO currently under examination, the East Yorkshire Solar Farm Order 2025, the A122 (Lower Thames Crossing) Development Consent Order 2025, and the Sunnica Energy Farm Order 2024. There is also local planning precedent such as the Solent Wader and Brent Goose Strategy that 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. The reason this is mitigation is because the AEoI is a theoretical reduction in Curlew populations within the SPA itself due to a reduction in foraging and roosting opportunities in the wider landscape on functionally linked land. Provision of alternative functionally linked land for Curlew so that they continue to have such foraging and roosting opportunities is avoiding, or mitigation, of a notional effect, so that such effect does not happen, rather than compensation.
- 1.4.21 [REDACTED] noted that NRW commented in its **Relevant Representation [RR-027]** that this could be argued to be mitigation. Nonetheless, the Applicant has without prejudice included this impact in the derogation report (**Notice of a proposed without prejudice HRA derogation in Wales [PDA-003]**) if, contrary to the Applicant's position, this were determined to be compensation, notwithstanding that there is a lot of precedent for the approach followed by the Applicant.
- 1.4.22 [REDACTED] noted that NE had raised an issue as to in-combination assessment. A meeting was held in December 2025 with NE to talk through these impacts and, within this, the Applicant explained the position to NE. The main point is that the legislative requirement for an in-combination assessment is to consider potential for harm to a designated site alone or in combination. If one is identified alone, there is then no requirement to consider in combination.
- 1.4.23 [REDACTED] (DNS) referred to Gronant Fields being 20 miles from the site. His understanding is that Curlew currently wintering on the fields to be taken by the power station will not necessarily go 20 miles to do feeding. He stated that it was a shame that land opposite the estuary was not used as the Curlew are not necessarily going to use Gronant Fields.
- 1.4.24 [REDACTED] (DNS) stated that the fields in question are important for other birds too. Curlews are the primary importance. The DNS are concerned that the compensatory habitat is a long distance from Connah's Quay. He said that wintering Curlews are very site faithful and tend to return to same site year after year. The concern is that this compensatory habitat alone is insufficient. DNS have proposed a number of compensatory matters including ash lagoons, which Curlews use for grazing at the moment, and



reducing some of the tree planting schemes close to feeding areas. The laydown area will be restored to Curlew habitat. He considered it important habitat was not planted too close. He stated that whilst the DNS is broadly supportive of the compensatory habitat as being suitable, it is not familiar with this being regarded as mitigation as it is so far from the site. [REDACTED] is supportive of all proposals at Gronant Fields and works that can improve invertebrates in those fields will help. He stated that if a site were more nearby, that would have been better.

- 1.4.25 The ExA noted comments in terms of Gronant Fields, and queried the status of existing wildlife habitat populations at Gronant Fields, and whether they will be displaced by the Curlews that then go there. Additionally, the ExA queried how the Curlews would be aware of and move to the new field provided for them.
- 1.4.26 [REDACTED] explained that the requirement for mitigation is in relation to the Curlew population for the SPA, not the population that happen to be at Connah's Quay or Gronant Fields. The outcome is no net loss of habitat around the SPA itself. Gronant Fields is an appropriate area to use for the target of aiding population of Curlews within the SPA itself. That said, with regard to recommendations made regarding ash lagoons etc., the Applicant would respond in writing as to how this has been considered.
- 1.4.27 *Post hearing note: Please see the Applicant's response to Action Point 2 set out in Table 2.1 below.*
- 1.4.28 On the issue regarding compensation and likelihood of Curlews in Gronant Fields, [REDACTED] stated that all these birds move around within and between these European sites. This is about ensuring the SPA, as a whole, supports the migrating birds.
- 1.4.29 [REDACTED] confirmed that the Gronant Fields enhancement will not affect other wildlife, it will diversify the habitat and will be designed in such a way to ensure existing interest is not negatively impacted. There is considerable capacity at Gronant Fields to improve capacity for Curlews.
- 1.4.30 The ExA noted a key part of this early hearing is the recommendation that the ExA will need to make regarding whether what is being suggested is mitigation or compensation. The ExA requested guidance from NE and NRW on this matter and requested any views on the derogation too.
- 1.4.31 With regard to the preceding topic for saltmarsh, [REDACTED] gave a further reference to the derogation report (**Notice of a proposed without prejudice HRA derogation in Wales [PDA-003]**), where at paragraph 4.1.24, explains that the Applicant is looking at the design as it stands now. As part of that it explains that it has not been able to demonstrate so far that there is any viable different drainage strategy, but there is continued work to determine if there are other options available. This is not a closed door but the Applicant needs to assess and has assessed a realistic worst case scenario.
- 1.4.32 FCC suggested that there are five areas of concern to it based on the assessment so far and FCC intends to engage with the Applicant on this before the publication of the Local Impact Report. FCC stated these were:

- Uncertainty regarding ecological baseline – clarification regarding survey gaps and deviation from guidance and best practice.
  - Consideration of temporary and permanent impacts. Nine years has the potential to destroy species lifecycle requirements. Nine years plus should be permanent and not temporary loss.
  - In terms of habitat loss against future baseline, FCC will seek clarification on what is being lost and the amount being lost, and will seek clarification on inconsistencies identified, including saltmarsh.
  - Impacts, mitigation and compensation of designated sites. Further detail will be sought on methods to be used in designated sites and proposals for mitigation and compensation.
  - Application of Net Benefit for Biodiversity (NBB) and alignment with the step-wise approach. FCC has concerns over alignment with the step-wise approach and how that has been justified.
- 1.4.33 [REDACTED] noted FCC's comments but that there is continuing engagement with FCC and the Applicant invited FCC (through the ExA) to let it know of any concerns and the sooner the Applicant is made aware of any concerns, the sooner these can be responded to.
- 1.4.34 [REDACTED] continued and discussed noise and visual disturbance (pages 66 and 66 of the **RIHRA [APP-253]**) in relation to birds using the SPA, as well as disturbance of otter. In summary, a 70 decibel (dB) threshold for noise disturbance was agreed with NRW, as all affected areas are in Wales. But the Applicant had then applied an even more robust 60 dB threshold, which is considerably lower than that which has been regarded as necessary by NRW. This reflects what the Applicant has previously agreed with NE on other DCO projects and so has been applied here on a precautionary basis.
- 1.4.35 [REDACTED] stated that paragraphs 10.2.12 and 10.2.17 of the **RIHRA [APP-253]** conclude that an AEoI during construction can be avoided with: a) acoustic fencing between the Proposed Development and the Dee Estuary; b) with works within the SPA/Ramsar site being programmed outside the wintering season; and c) best practicable means to control noise, for example shrouds on piling.
- 1.4.36 [REDACTED] explained that, regarding operational noise, levels do not exceed 60 dB, even without mitigation.
- 1.4.37 [REDACTED] stated that an acoustic fence would provide a visual screen as well as a vegetation bund providing screening. During operation, there would be a 250m separation to the west and 30m to the north. A **Lighting Strategy [APP-278]** also sets out controls on directional lighting and controls.
- 1.4.38 [REDACTED] noted that NE had raised concerns about otter, but this may have been a misunderstanding about what was proposed in the Water Connection Corridor. Divers will be for safety only. There are no otters resting areas within 300m of the Water Connection Corridor. Mitigation measures will protect that species.
- 1.4.39 The ExA queried the screening and visual impact on local residents and what the acoustic screening would look like. [REDACTED] confirmed this is

normally a 2 to 3m high fence, together with an existing vegetated bund and there would also be directional lighting as confirmed in the Lighting Strategy.

- 1.4.40 [REDACTED] (DNS) queried what difference a 2-3m fence would make in terms of visual or noise disturbance when the building will be massively higher than the fence. He stated that there arguably needs to be something much greater.
- 1.4.41 [REDACTED] (DNS) considered that the Dee Estuary is important right the way through the year and that, whilst the peak number of Curlews in the Dee Estuary occurs in August, there can be an impact at any time of year. He said that a lot of these birds return in July, August and September and there are a lot that move through on Spring Passage. DNS is concerned about impact, in reality, during construction because the construction will be close to saltmarsh and mudflats used by a lot of these birds and there is a concern that the noise, as construction gets higher and higher, will impact the birds. DNS consider it is a moderate or major adverse impact but are not yet understanding how this impact has been mitigated by what has been proposed. DNS suggest there should, on commencement, be a watching brief to identify disturbance events, which may be unpredictable, and then mitigate rapidly for them.
- 1.4.42 The ExA noted that there is a fantastic habitat reserve on the site, which has been preserved by the original coal fired power station and agreements in place with the DNS etc. The ExA would like the Applicant to make use of DNS evidence and expertise because this is invaluable as the Applicant has an expert group of expert ornithologists on its doorstep.
- 1.4.43 [REDACTED] noted that, regarding HRA, the site is designated for wintering birds, which is why there has been the focus there. In terms of the role of fencing, the noise modelling has modelled compound set up, piling etc., which are the lower and noisiest elements, and those closest to the birds resting on the foreshore, rather than up on the buildings themselves.
- 1.4.44 [REDACTED] queried what was said with regard to the pile driving. She stated that the document states that there would be drilling rather than piling, however the Applicant keeps going back to pile driving. She stated that this is what residents have been anxious about.
- 1.4.45 [REDACTED] of Rockcliffe Lane, stated that she had been blinded by the science put forward today but is concerned about loss of saltmarshes – noting when it's done it's done and when it's gone it's gone.
- 1.4.46 The ExA noted the focus today has been on ecology but that further issue specific hearings will likely take place on noise and vibration issues.
- 1.4.47 The ExA requested that explanations be given in laymen's terms and that documents not be referenced.
- 1.4.48 [REDACTED] went on to talk about atmospheric pollution. With regard to construction, there would be no AEoI and there is no need for mitigation.
- 1.4.49 [REDACTED] stated that, in terms of operational impacts, there is forecast to be potential for an AEoI in the absence of mitigation, for Dee Estuary SAC/SPA/Ramsar and Deeside & Buckley Newts SAC. This is a very small increase on the current background level of deposition. The ecological

impact might not arise at all but what you might get is a shift from certain species to other species. With regard to impacts on the Dee Estuary SAC and Ramsar site, the Applicant is already allowing managed retreat. Because that managed retreat is far larger than required, it is also identified as being suitable to offset a small botanical effect. For operational impacts on the Dee Estuary, the **RIHRA [APP-253]** considers the 1,300m<sup>2</sup> managed retreat area for saltmarsh would not only address the impact of the aforementioned direct habitat loss but would also offset the small nitrogen deposition impact by allowing an area of saltmarsh to persist that would otherwise be lost entirely to sea level rise. This is being discussed with NRW.

- 1.4.50 With regard to Deeside and Buckley News SAC, [REDACTED] stated that this is a well-managed site and, effectively, the Applicant is going to be giving FCC financial assistance to increase management of that site to improve reliance of that site. There is a draft document in existence between the parties on this and this will be making its way into the public domain. NRW did suggest this might be compensation. However, following a discussion with NRW in November it has been confirmed this is not compensation because the AEoI would be the botanical effects, not the nitrogen deposition, which is the impact. The potential of this arising could be countered by increasing management to ensure habitat stays open. It is an extension of the existing management measure.
- 1.4.51 The ExA queried if the lowering of the stack heights would potentially increase deposition rates to impact the mitigation proposed.
- 1.4.52 The ExA further noted that the baseload is already high, and queried if this is something the Applicant can seek to improve anyway.
- 1.4.53 [REDACTED] explained, regarding stack heights, that these have been modelled and the change does not materially change the assessment.
- 1.4.54 In terms of the existing power station and rates being high already, [REDACTED] explained that the nitrogen deposition rates across most UK European sites are already high, due to agriculture and roads etc. [REDACTED] confirmed that the baseline model includes the existing facility so the Applicant has quantified the existing stacks and have done the same calculations for each phase to define full set up. There is not an enormous difference.
- 1.4.55 [REDACTED] confirmed that mitigation is being proposed to respond to the contribution of the proposed project.
- 1.4.56 [REDACTED] explained that **ES Chapter 11: Terrestrial and Aquatic Ecology [APP-049]** presents an assessment of likely significant effects of the Proposed Development on terrestrial and aquatic ecology. The assessment considers the effects of construction, operation and eventual decommissioning of the Proposed Development on relevant nature conservation designations, habitats and species.
- 1.4.57 [REDACTED] stated that the following additional ecology features have been assessed within **ES Chapter 11: Terrestrial and Aquatic Ecology [APP-049]** (in addition to those covered by Dr Riley): habitats (woodland, grassland, hedgerows, Open Mosaic Habitat), badger, breeding birds (including barn owl), reptiles, bats (roosting and foraging/commuting), water vole, otter, terrestrial and aquatic invertebrates and fish.

- 1.4.58 [REDACTED] noted that Sites of Special Scientific Interest not covered within the **RIHRA [APP-253]** have been considered and assessed within **ES Chapter 11: Terrestrial and Aquatic Ecology [APP-049]** and there are no likely significant effects on Sites of Special Scientific Interest within the Study Area as a result of the Proposed Development.
- 1.4.59 [REDACTED] stated that the assessment concluded that there are no residual significant effects on assessed terrestrial and aquatic ecology features through embedded and additional mitigation measures with the exception of Open Mosaic Habitat, which will be lost within the Construction and Indicative Enhancement Area, which is assessed as a significant adverse effect (moderate adverse, significant), in the short term for construction only, reducing to no significant adverse effect (neutral, not significant) in the medium to long term, 2 years post construction. The terrestrial invertebrate community associated with the Open Mosaic Habitat, assessed as being significant adverse effects (moderate, adverse, significant) in the short term, reducing to no significant adverse effect (neutral, not significant) in the medium to long term, 2 years post construction. This would be achieved through reinstatement of the Construction and Indicative Enhancement Area in accordance with the **Outline Landscape and Ecological Management Plan (LEMP) [APP-250]**.
- 1.4.60 [REDACTED], FCC County Ecologist, noted that she has picked up on some points related to baseline and what she considered to some inconsistency, which clarity is requested on. There is an issue with the difference between temporary and permanent habitat loss. She contended that a lot of species will be lost within the temporary nine-year period because these cannot be recovered within a lifespan. She said there is an issue with functionally linked land because there is a loss on site or immediately adjacent to the site and this is being provided further afield. She referred to the Gronant Fields site as being within the unified peat map of Wales and is unsuitable for tree planting and hedgerow restoration. FCC consider any tree loss should be mitigated within the County. There are particular planning policies related to no net loss within planning and this should be compensated within the areas of the development. FCC would not want to lose canopy cover. Generally, some of the habitat enhancement proposed around the site may be at odds with the more important conservation objectives.
- 1.4.61 The ExA queried where the Open Mosaic Habitat is located.
- 1.4.62 [REDACTED] confirmed that Open Mosaic Habitat has only been mapped in the Construction and Indicative Enhancement Area, not to the west of the proposed power station (within the Main Development Area).

### *Item 3.2*

- 1.4.63 The ExA and all attendees confirmed that key points had already been covered under Agenda Item 3.1.

### *Item 3.3*

- 1.4.64 The ExA queried how the mitigations fit in relation to the NBB plan and wider strategic objectives. The ExA wants to avoid double counting.
- 1.4.65 [REDACTED] confirmed the Green Infrastructure Statement focusses on habitat creation being undertaken by the Applicant for the Application. The focus is

on the Outline LEMP and the only exclusion to that is the changes as part of the proposed Change Notification where there is realignment of the indicative landscape plan to be consistent with the consented Hynet project, this is excluded from the Application so as to avoid double counting.

1.4.66 [REDACTED] noted that land at Gronant Fields is split into two strategies, Curlew Mitigation and NBB. The total areas is 56 ha, 26 of this will be used for the Curlew Mitigation Strategy and the remainder will be used for terrestrial enhancement. There is no outline landscape plan of this area as yet.

1.4.67 [REDACTED] explained that the other interface is the Conservation Areas Management Plan under the s36 consent for the existing Connah's Quay Power Station. That arrangement is due to end upon the cessation of the existing operation of the existing Connah's Quay Power Station. The Applicant will continue this once it falls away under the s36 consent.

1.4.68 The ExA queried who will look after these sites once created.

1.4.69 [REDACTED] confirmed that the Applicant owns the land at Gronant Fields and will enter into a management plan for this habitat and can confirm the duration of this.

1.4.70 *Post hearing note: The land would be managed for 80 years (this being the standard HRA definition of 'in perpetuity') or until the Proposed Development is decommissioned, whichever is the sooner. Please see Applicant's response to Action Point 7 regarding responsibility for the maintenance related to the existing Connah's Quay Power Station.*

1.4.71 [REDACTED] (DNS) noted that the SPA does include reference to passage redshank which would be autumn passage because the specific part of the Estuary we are referring to would have 3,000 red shank. There is year-round use by non-breeding birds.

1.4.72 [REDACTED] confirmed there is reference to passage red shank. This extends the season by a month each way. The Applicant will consider whether to amend the wording to match the breeding period rather than wintering period.

1.4.73 *Post hearing note: please see the Applicant's response to Action Point 6 included in Table 2.1 below.*

## 1.5 Agenda Item 4: Traffic and Transport

### Item 4.1

1.5.1 [REDACTED] noted the assessments that have been undertaken for traffic and transport. He explained that the first document prepared was a Transport Assessment, and noted the construction traffic is understood to be much higher than operational traffic. Therefore, the Applicant has assessed effects associated with temporary construction traffic and permanent operational traffic. The assessment is presented in **ES Chapter 10: Traffic and Transport [APP-048]**. Using the numbers derived, a percentage impact has been arrived at. Looking at each link, the Applicant has assigned an input using industry standard exercises and methodologies. Also, as part of this, the Applicant has secured a Construction Traffic Management Plan (CTMP) and Construction Worker Management Plan (CWMP). These cover seeking to reduce single occupancy vehicles and management of HGVs etc.



- 1.5.2 [REDACTED] noted that the Applicant has engaged with FCC as the local highway authority. In terms of the Strategic Road Network (SRN), the site is located near the boundary of England and Wales so there are two trunk road managers: National Highways in England and North and Mid Wales Trunk Road Agent (Wales).
- 1.5.3 [REDACTED] stated that assessment has been undertaken of temporary and permanent impacts. As there is still a detailed design process to be followed, more detail will follow-post consent, which is natural for projects of this scale. The Applicant has used the Rochdale Envelope approach to assess the reasonable worst case approach. There are also two methods of construction: phased and simultaneous. The assessment has looked at simultaneous as this will have more simultaneous traffic. The Applicant has identified a peak of construction period, this is month 36. In every situation, the Applicant has taken the worst probable case for assessment.
- 1.5.4 [REDACTED] stated that whilst considering the temporary effects of construction, a sensitivity test has been included. This aligns a planned maintenance outage of the existing Connah's Quay Power Station with construction of the Proposed Development. During this scenario, perhaps 300 additional people attend the site, and it deals with the possibility that this may occur in month 36. This is unlikely but a reasonable worst case assessment has been done on this basis. The outcome of the assessment is that the impact is low and will only dissipate further. The Applicant has considered Heavy Goods Vehicles (HGV) and Light Goods Vehicles (LGV). In terms of the magnitude of impact, there would be 240 HGVs two way movements a day, with total traffic 1,640 two-way total vehicle movements. This is a peak day, rather than peak hour.
- 1.5.5 [REDACTED] noted that the type of embedded mitigation measures in the travel plan are sensitive to peak hours. There is a 10-hour working day, longer than a typical day, so the 800 vehicles arriving can be spread over 2-3 hours, rather than consolidated in the peak hour, due to shift patterns. The Applicant will endeavor to keep movements outside of the peak hour. This commitment is in the **Framework CTMP [APP-247]**. This Framework is an outline. This will be adopted when the contractor comes on board. This contractor will put in place their own plan and will have the power to select their workforce and where they come from. If the contractors choose to locate the workforce closer to the site, the numbers would only get lower.
- 1.5.6 The ExA queried where the busiest junctions will be at the peak times.
- 1.5.7 [REDACTED] explained it is not typical to do a junction assessment for a temporary assessment. Where effects are permanent, a junction model would be used. As this is temporary, junctions have not been used but links have been used in line with best practice. The biggest change would be on Kelsterton Road, there is then the roundabout at the A548. The difference between the SRN and Local Road Network (LRN) is differences in background traffic.
- 1.5.8 The ExA summarised that the SRN is a busy network anyway so the Proposed Development is not likely to make a big difference. The ExA queried the differences between the five and nine year programme on Kelsterton Road and the difference regarding how an extended working hours programme has been drawn out.

- 1.5.9 [REDACTED] noted that when determining what an impact is, the key visual component is a delay in a queue or time. The assessment determines if drivers will be delayed at a junction or in a queue. HGVs have been kept to the SRN where appropriate. 240 HGVs would not be noticed over the daily fluctuation of traffic. In terms of LGVs, census data has been used to consider the direction workers could travel to or from, the LGVs are based on national statistics. There will be less impacts over many roads but they will converge on Kelsterton Road.
- 1.5.10 The ExA queried how these HGVs would be noticed on the LRN around Kelsterton Roundabout.
- 1.5.11 [REDACTED] offered comparisons. The east west movements are 200 or so at the moment. Looking at comparison with 800 at the peak, you may notice an additional couple of vehicles an hour but not all at once.
- 1.5.12 FCC added that they have considered the assessment and consider the assessment to be robust. FCC highlighted that there is capacity on LRN in terms of movements.
- 1.5.13 The ExA noted that the traffic survey was undertaken in March/April and noted local resident concerns regarding the holiday season. The ExA queried what the holiday season peak might experience in month 36.
- 1.5.14 [REDACTED] noted his experience working all over the country, for example, Devon and Cornwall. There is a seasonality index applied to traffic counts in such areas as this accounts for hotspot locations of that kind. There are no known hotspots for FCC's area or seasonality protocols for FCC's area and the traffic surveys were carried out in a neutral month, based on Government guidance on when to take surveys, i.e. a neutral month, when there is not school holidays etc. At the summer time when there are tourist time movements, people also take time off work and there is a balance that way. It is not a perfect balance but it happens. There was nothing in the Scoping Opinion requiring this sort of seasonality index and FCC also noted they were happy with the assessment in relation to this matter.
- 1.5.15 The ExA queried if anything could be done to improve the HGV movements at the Proposed Development to take loading off the LRN.
- 1.5.16 [REDACTED] noted that for AILs, there is an alternative access being looked at. In terms of the volume, this is not significant but it is possible for contractors to employ apps and GPS tracking so deliveries are on demand. Many developments in technology have allowed real time management of HGVs. There is also the option to start and finish the working day earlier or later.
- 1.5.17 The ExA noted the increase in traffic movements on the local road and queried what the potential risks to local people are and whether a road safety audit could be done.
- 1.5.18 [REDACTED] noted that **ES Chapter 10: Traffic and Transport [APP-048]** does consider these matters, such as severance, pedestrian amenity, fear and intimidation, and highway safety. Link sensitivity at Kelsterton Road is low due to the limited number of residents along the route. The findings for each limb of assessment ranges between minor adverse and negligible. In all the criteria assessed, this comes in as a low result. The Applicant has

assessed this for the full 1,600 vehicles. As the time goes on and vehicles reduce, the numbers will come down.

- 1.5.19 The ExA noted that there is a low density of population at Kelsterton Road but this does not mean the impact is not felt.
- 1.5.20 The ExA noted that reference is made somewhere to a section 278 agreement is being entered into.
- 1.5.21 [REDACTED] explained that there may be a misunderstanding due to the Relevant Representation submitted by the Welsh Government on this. This was not proposed by the Applicant. Article 18 of the draft DCO allows for agreements with street authorities to be entered into as section 278 does not apply for this DCO.

#### *Item 4.2*

- 1.5.22 [REDACTED] stated that the temporary diversion of PRoW 66 will be required to facilitate the construction of the Proposed CO<sub>2</sub> Connection. This diversion may be required for up to nine months and the diversion route in a similar field. There are no other works proposed to other footpaths, including Footpath 28.
- 1.5.23 The ExA queried how popular and well used Footpath 66 is.
- 1.5.24 [REDACTED] confirmed that the Applicant has not got this information. Some PRoWs are just for leisure but the Applicant defers to FCC for detail on this.
- 1.5.25 [REDACTED] for FCC confirmed that Footpath 66 is rural in nature and this is part of an agricultural field. In terms of the nine-month diversion, [REDACTED] confirmed this diversion could only be done under local highway authority powers for a limited time period, not the full nine months. However, FCC have no issue with this diversion.
- 1.5.26 The ExA assumed that this is provided for in the draft DCO and this is one of the reasons this power is sought in the DCO.
- 1.5.27 The ExA noted representations from the DNS regarding access to the works. The ExA would like to access the current route, the temporary route and the permanent route.
- 1.5.28 [REDACTED] confirmed this is a gated access that DNS and NRW can currently utilise. At the moment there is a path that runs from Kelsterton Road to a track along the edge of the estuary providing access to the two hides, one at the west and one close to the existing Connah's Quay Power Station. During construction, the route would be longer, around the outside of the construction perimeter. It would be a temporary path that would connect to the track adjacent to the Estuary. During the operation, this would be a separate dedicated access, similar to the existing access. It would be slightly further north when compared to the existing, outside the operational fence. This would be a more permanent track road that would then connect into the same track on the Estuary.
- 1.5.29 [REDACTED] clarified that the Applicant will be maintaining both the temporary and then the permanent access for the DNS to use. The exact phasing of this is to be decided.

- 1.5.30 FCC considered that Footpath 27, as it is shown on the definitive map, is an anomaly, shown to be on the watercourse. It said there is little or no evidence of that footpath. FCC say they have a situation where Footpath 28 on the Applicant's land is a cul-de-sac footpath. They consider there is an opportunity to improve this by continuing Footpath 28 to an existing overbridge. There is no route there at the moment but FCC consider that there is an opportunity there. They said looking at tangible community benefit, this would allow people to avoid the B5129. This was noted in the Scoping Opinion in March 2024. FCC state that they believe this is within the Order limits.
- 1.5.31 The ExA asked the Applicant confirm whether this footpath is within the Order limits and if this is something that can be delivered.
- 1.5.32 [REDACTED] (DNS) expressed that there would be concern if a footpath would lead people to the eastern end of the nature reserve because the DNS do not want people entering the area where birds are resting.
- 1.5.33 [REDACTED] confirmed that the Applicant understands that Footpath 27 is outside the Order limits but would check.
- 1.5.34 *Post hearing note: please see the Applicant's response to Action Point 10 within Table 2.1 below.*

#### *Item 4.3*

- 1.5.35 The ExA queried anticipated routing and frequency of movements and how escort arrangements might work.
- 1.5.36 [REDACTED] confirmed that an AIL is a component that cannot be divided down any further into anything smaller. He noted that the Applicant does not have the full and final design so the exact size and weight of equipment is not currently known. There are anticipated to be up to 30 AIL movements per train.
- 1.5.37 [REDACTED] stated that vehicles could be up to 60m in length and capable of carrying loads much larger than those normally seen on roads. The items are:
- direct contact cooler (DCC);
  - absorber column(s);
  - CO<sub>2</sub> stripper(s);
  - storage tanks; and
  - Heat Recovery Steam Generator (HRSG).
- 1.5.38 [REDACTED] stated that in terms of controls, there is provision for specific movements of this equipment to bring in all stakeholders. This takes many months of planning. In this case the journeys are via the three ports. Equipment will be brought in on water and then transferred to road. There will be temporary works to remove lighting columns and bollards to facilitate movements. A lot of highway equipment may already be equipped to facilitate these loads.
- 1.5.39 The ExA suggested it would be reasonable to move these loads outside of peak traffic and requested confirmation of this.

- 1.5.40 [REDACTED] confirmed that there is a finite window for this and usually outside of normal road user times, i.e. after midnight and before 6am.
- 1.5.41 The ExA queried the access routes to be used.
- 1.5.42 [REDACTED] explained that the alternative access is specifically for emergency use only. This is in a more built up area in Connah's Quay. The comments from FCC on Footpath 27 were to bring the path over the bridge which forms part of this emergency access into the rights of way network. [REDACTED] noted that this access was considered and discounted for AIL deliveries as a result of a railway bridge (at Shotton) with a height restriction.
- 1.5.43 [REDACTED] stated that the Applicant has put forward a design for an access off the A548 only for AIL use and not HGVs. The reason for this is that it would require highway works to create a dedicated slip road. [REDACTED] noted there is a central reservation on the A548 and to allow vehicles to turn right into the site it would need to be temporarily removed. The proposed bellmouth does not include a slip road so there would be a temporary barrier across it when not in use for safety reasons. [REDACTED] clarified that all other vehicles would come in through Kelsterton Road.
- 1.5.44 The ExA querying what an emergency would be.
- 1.5.45 [REDACTED] confirmed it would be used for egress off the site in case of emergency, rather than access.
- 1.5.46 The ExA queried if this access did need to be treated as an exit in an emergency, would there be communication.
- 1.5.47 [REDACTED] confirmed the Applicant would take this away but observed that if there was an emergency there would likely be limited opportunity to communicate in that way.
- 1.5.48 The ExA queried the likelihood of this being used and when and what would be the trigger for using this access.
- 1.5.49 *Post hearing note: please see the Applicant's response to Action Point 11 set out in Table 2.1 below.*
- 1.5.50 The ExA noted that three potential routes have been identified for transporting AILs, which are included within the Order limits. The ExA queried how likely the Applicant is to home in on an option throughout the examination. The ExA noted the Applicant is seeking temporary possession of those routes. The ExA thought this might be slightly unusual as the DCO does not necessarily need to take account of this. The ExA queried if the full extent of the Order limits is needed.
- 1.5.51 [REDACTED] confirmed that it is not anticipated it will be possible to narrow down these options before the close of examination. The works to Connah's Quay North do not allow removal of the need to use other areas.
- 1.5.52 [REDACTED] stated that the Applicant does therefore consider it is appropriate to provide for temporary possession necessary to provide for AIL deliveries. The exercise will depend on future circumstances. The Applicant considers it right that the DCO make provision for that and the idea is that the DCO is the one stop shop for the delivery of this type of infrastructure. It is clearly contemplated that AIL deliveries will be required from different

locations and temporary possession powers allow one to secure that rather than needing to follow separate processes and the timescales for those is necessary and appropriate

- 1.5.53 [REDACTED] noted there is precedent for this approach. It is important that, where there is a potential need to use these AIL routes, the powers are available.
- 1.5.54 The ExA noted it is important that only necessary powers are used once the ports are confirmed. The ExA noted that this approach is precedented.
- 1.5.55 [REDACTED] confirmed that the Applicant will provide more detail on this approach in writing. It is not the case that one port can be used for all the infrastructure.
- 1.5.56 *Post hearing note: please see the Applicant's response to Action Point 13 in Table 2.1 below.*
- 1.5.57 The ExA was interested in FCC's view on this approach and whether this is an overly onerous way to 'keep options open'.
- 1.5.58 The ExA noted that the subsoil of highway is also being acquired and so also wants confirmation of this position.
- 1.5.59 [REDACTED] confirmed that the Applicant would come back in writing on this and noted the important distinction between temporary possession and compulsory acquisition. Where this happens, it is related to land ownership beneath highway.

#### **Item 4.4**

- 1.5.60 [REDACTED] noted a few points of guidance that the **Navigational Risk Assessment (NRA) [APP-256]** has followed, including the Port Marine Safety Code and Marine Safety in the Dee Conservancy.
- 1.5.61 [REDACTED] explained that a workshop was held on 27 March 2025, which informed the **NRA [APP-256]**. This workshop was attended by a navigation specialist, an advisor from the Dee Conservancy, the Port of Mostyn Harbour Master and the Harbour Master of Ellesmere Port. It was a workshop to run through all risks and each area of interest. A draft of the NRA was shared with each party, prior to publication of the NRA.
- 1.5.62 [REDACTED] stated that the **Dee Conservancy SoCG [APP-290]** and **Port of Mostyn SoCG [APP-291]** do not cover navigation matters, but could be extended accordingly.
- 1.5.63 The ExA noted this was not necessary.
- 1.5.64 [REDACTED] confirmed that the reason for Requirement 19 in the **draft DCO [APP-019]** and consultation with the Dee Conservancy is due to the interaction with the channel itself.
- 1.5.65 [REDACTED] noted that the presence of workers in the Dee Estuary could create risks and the Applicant would want to ensure that refurbishments are factored into the potential for hazard created by an adjacent barge.
- 1.5.66 [REDACTED] confirmed the intention of the stack height change was to resolve Airbus's concern. There are also controls in the **draft DCO [APP-**



**019]** in Requirements 14 and 15, which relate to the lighting strategy and details of heights and structures (including temporary cranes) and the process of information that may be provided to the Civil Aviation Authority.

- 1.5.67 [REDACTED] noted that the Airbus concern was expressed in relation to the permanent features and this is covered by the change proposed and engagement is continuing.

## **1.6 Agenda Item 5: review of issues, actions arising and next steps**

- 1.6.1 The Applicant confirmed it would follow-up with the action points.

## **1.7 Agenda Item 6: any other business**

- 1.7.1 None raised.

## 2. Applicant's Response to Action Points arising from Issue Specific Hearing 2

2.1.1 The Applicant sets out responses to Action Points arising from ISH2 within Table 2.1.

No.	Action	Response
1	Applicant to provide a list of the qualifications of those people who have given evidence at ISH2 on behalf of the Applicant.	<p>The full name, their role in the project and qualifications, along with relevant experience is provided below.</p> <p><b>██████████ – Habitat Regulations Assessment Lead:</b></p> <p>Member of the Chartered Institute of Ecology and Environmental Management and a Chartered Environmentalist. BSc (Hons) in Biology from York University (1997), an MSc in Crop Protection from Bristol University (1998) and a doctorate in grassland habitat creation from the University of Newcastle-upon-Tyne (2002).</p> <p>██████████ is a Technical Director at AECOM with over 22 years' consultancy experience. He is one of the technical leads of the AECOM UK ecology department and supervises AECOM's Habitats Regulations Assessment business in the UK and Republic of Ireland.</p> <p>██████████ has lectured on HRA at Imperial College London and provided training on HRA to local authorities, Natural England, and the Royal Town Planning Institute. He has provided advice on the HRA process to local authorities via the Planning Advisory Service. He has given evidence at Examination in Public, DCO Examination, Public Inquiry and Consistory Court.</p> <p><b>██████████ – Lead Ecologist:</b></p> <p>Full member of the Chartered Institute of Ecology and Environmental Management, BSc (Hons) and MSc.</p> <p>██████████ is a technical director (ecology) based in the Manchester Office with over 16 years of experience. She has extensive experience in small to large scale projects across the UK in multiple</p>

No.	Action	Response
		<p>disciplines and has a strong background in overseeing delivery of ecology and biodiversity project work, stakeholder management, consultation, project assurance, ecological project management and liaison with statutory bodies. [REDACTED] works closely with other teams in AECOM to ensure engagement at the critical points in project lifecycles at both the project and the client level.</p> <p><b>[REDACTED] – Air Quality Lead:</b></p> <p>PhD MEnvSc MIAQM, Air Quality and Permitting at AECOM, Member of the Institute of Air Quality Management.</p> <p>Responsible for the air quality assessment supporting the DCO, Environmental Permit and Habitat Regulations Assessment.</p> <p><b>[REDACTED] – EIA Lead:</b></p> <p>BA (Hons) Human Geography, MSc Integrated Environmental Studies, Practitioner of the Institute of Sustainability and Environmental Professionals (PISEP), Member of the Institute of Environmental Sciences (MEnvSc), Chartered Environmentalist (CEnv).</p> <p>EIA Lead, responsible for the coordination of the EIA and supporting studies. Led the preparation of a number of environmental deliverables and has an understanding of the environmental issues across the project, proposed mitigation and associated securing mechanisms</p> <p><b>[REDACTED] – Lead Transport Planner:</b></p> <p>BSc (Hons) Civil Engineering, Chartered Member of the Institute of Logistics and Transport (CMILT).</p> <p>[REDACTED] leads the Transport Development Planning team in Cardiff. He has extensive experience of a range of development planning and transportation projects throughout the UK working on both developer and publicly funded schemes. He is a project manager approaching some 25 years of experience in the field of Development Transport Planning. He is retained by a number of South Wales Local Authorities to lead technical support services in the Highway Authority and provide specialist advice. [REDACTED] has authored technical</p>

No.	Action	Response
		<p>guidance, developed Travel Plan and Parking Standards documents for a number of Authorities. As an expert in his discipline, he regularly prepares statements and written representations for formal hearings and appeals.</p>
2	<p>Applicant to comment on DNS's suggested alternative locations for the provision of curlew mitigation.</p>	<p>The Applicant notes the feedback that was provided by the DNS during ISH2. This feedback has been shared with the Applicant as it was the subject of discussion between the Applicant and the DNS in October 2025. A number of the recommendations made fall outside of the Order limits within the extents of the Conservation Areas Management Plan.</p> <p>It is understood here that the DNS are making reference to a request to expand the island in compartment 1. The Conservation Areas Management Plan required under the consent for the existing Connah's Quay Power Station can consider these recommendations. However, for clarity, this is to be agreed between the Applicant (as operator of the existing Connah's Quay Power Station) and NRW. Therefore, it is not possible for the Applicant to commit unilaterally to any DNS proposed changes to management of the nature reserve, and in particular those areas not within the scope of this Application (those being outside the Order limits).</p> <p>For the recommendations made on the Indicative Landscape Plan (Appendix A of the <b>Outline LEMP [APP-250]</b>), it is possible to amend the design and location of the proposed scrapes, however tree planting is proposed within the site as part of the Green Infrastructure Statement and in following the step-wise approach in demonstrating an NBB. The Applicant also notes that FCC indicated they would be providing further commentary on the <b>Green Infrastructure Statement [APP-252]</b>, noting that a key point would be to retain canopy cover within the locality of the site. It is not possible to comment any further at this stage until comments are provided by FCC.</p>
3	<p>Applicant to demonstrate that it has had regard to the</p>	<p>The Applicant has previously obtained monthly wetland bird surveys data for the Connah's Quay Power Station Reserve from the DNS for the period between January 2013 and December 2023.</p>

No.	Action	Response
	DNS's evidence.	Further discussion on this data is provided in <b>Appendix 11-D: Ornithology technical Appendix [APP-193]</b> and is summarised in paragraph 4.1.6 and Table 5.
4	Applicant to consider FCC's comments on baseline data.	Once FCC have provided their comments in writing on baseline data, the Applicant will respond at the next appropriate deadline.
5	Applicant to clarify the duration of the proposed curlew mitigation measures pursuant to the Curlew Mitigation Strategy.	As identified in paragraph 3.5.5 of the <b>Curlew Mitigation Strategy [APP-254]</b> , " <i>The land would be managed for 80 years (this being the standard HRA definition of 'in perpetuity') or until the Proposed Development is decommissioned, whichever is the sooner.</i> "
6	Applicant to consider whether to reword "wintering birds" to "non-breeding birds" in the Report to Inform Habitats Regulation Assessment.	The <b>RIHRA [APP-253]</b> refers to a 'sensitive period' rather than the wintering period, and the restriction covers the period September to March which does include the passage season (paragraphs 10.2.11 to 10.2.17). References to wintering birds in ISH2 were in error and not reflective of the assessment undertaken.
7	Applicant to confirm the responsibility for maintenance of the existing power station.	The Applicant is responsible for the management prescribed in the existing Conservation Areas Management Plan.
8	Applicant to comment on the reference in the Welsh	The Welsh Government made reference to a requirement for a section 278 Agreement within its <b>Relevant Representation [RR-048]</b> in which it noted that a section 278 Agreement shall be entered

No.	Action	Response
	Government's Relevant Representation to a section 278 agreement.	into by the Applicant. As noted in the Applicant's response to the Welsh Government's Relevant Representation, where the highway works in question are covered by the powers of the DCO, once made, a section 278 Agreement would not be required and an agreement under Article 18 of the <b>draft DCO [APP-019]</b> may be entered into instead. The <b>draft DCO [APP-019]</b> includes Article 18 (agreements with street authorities) which specifically provides that the undertaker and street authorities may enter into agreements relating to various works on streets. The article provides a list which reflects the model provisions, save that subparagraph (1)(b) has been added to clarify that, as well as providing for the construction of streets (including any structures carrying those streets) an agreement may relate to strengthening, improving, repairing or reconstructing streets (or structures).
9	FCC to include its comments on PRoW within its Local Impact Report at Deadline 2	This is an action for FCC and the Applicant will respond to any points made on this in the Local Impact Report at the appropriate deadline.
10	Applicant to confirm if Footpath 28 is within the Order limits (thus allowing for its improvement).	As shown in Sheet 9 of the <b>Access, Streets, Rights of Way and Rights of Navigation Plans [APP-013]</b> , Footpath 28 is outside of the Order limits.
11	Applicant to confirm what constitutes an emergency for the purposes of the alternative site access (i.e. the trigger) and what is the likelihood of this being used	<p>The existing Connah's Quay Power Station is currently able to use this alternative site access off Kelsterton Road in Connah's Quay town, and it is these rights that the Proposed Development seeks to replicate. The alternative access is not routinely used, and has not been used recently. In the past it has been used where access to the former A station site (the construction and indicative enhancement area, C&amp;IEA) has been restricted by NGET and access provided through this gate, though this is not routine, or recent.</p> <p>This access is the main route used by NGET to access their facilities.</p>



No.	Action	Response
	during the project.	<p>Whilst not defined explicitly, emergencies could include:</p> <ul style="list-style-type: none"> <li>• Site evacuation;</li> <li>• C&amp;IEA evacuation;</li> <li>• Entry of emergency vehicles; and</li> <li>• Blockage of main site access.</li> </ul> <p>By their nature, these circumstances are not common, or considered likely. This is also not an exhaustive list.</p>
12	Applicant to confirm what will be the trigger for deciding which of the AIL routes will be used and whether all three of the port/jetty options will be required.	<p>The Applicant is seeking to utilise a combination of the three port options identified within <b>Chapter 5: Construction Management and Programme [APP-043]</b>. Appendix A of the <b>Framework CTMP [APP-247]</b> demonstrates that, based on current understanding of AILs, all three ports provide a viable option for transportation.</p>
13	Applicant to confirm its approach to land acquisition (i.e. use of temporary possession powers) in relation to the AIL routes, with reference to applicable precedent, including the fact that the Applicant is seeking to acquire rights in subsoil under a highway which affects a large	<p>As noted in the Applicant's response to Action Point 12, there is a need for use of all three ports (namely the port of Mostyn, Connah's Quay North Jetty and Ellesmere Port) to transport AILs for the purposes of the Proposed Development. The Applicant has undergone an exercise to determine the requirements, both at each individual port and the route between the port and the Main Development Area, for transporting these AILs. Through this exercise, it has been determined that certain temporary highway works, as well as works at ports themselves, will be required to facilitate the transport of AILs required for the Proposed Development. To ensure that there is no impediment to the delivery of the Proposed Development, powers have been sought within the <b>draft DCO [APP-019]</b> to allow for both the works and temporary land rights required when undertaking the transport of AILs from the respective ports.</p> <p>The Applicant has only sought such powers where this is anticipated to be required. For example, it has been determined that Ellesmere Port itself, as well as the highway network from the port to the Main</p>

No.	Action	Response
	number of persons.	<p>Development Area, is suitable for the types of AILs that would be delivered via that port without any temporary works being required. Accordingly, no such powers have been sought.</p> <p>The DCO is designed to be a 'one-stop-shop' for all consents and works that might be required to deliver the Proposed Development. Whilst there may be alternative consents and application processes that could be followed by the Applicant post-consent, these have the potential to delay timescales and provide for uncertainty regarding delivery of these AIL components which are vital for the construction of the Proposed Development. Accordingly, the Applicant has taken the practical and precedented approach of including all works and land rights which will be required to deliver these AILs within the DCO applied for.</p> <p>The works required to facilitate the delivery of AILs have been assessed as part of the 'EIA project' for the purposes of the ES and so the Applicant considers it appropriate that they be included within the scope of the works consented by the DCO.</p> <p>It is noted that only temporary possession is sought over these AIL routes. No compulsory acquisition of land or rights is being sought. Whilst there is a high volume of subsoil owners within the Order limits, covering these AIL delivery routes, the subsurface itself is not being compulsorily acquired.</p> <p>As is further explained in the <b>Statement of Reasons [APP-026]</b>, in most cases, the owner of the subsoil below the vertical plane of land forming the highway and deemed to be vested in the highway authority is not formally registered. However, there is a legal presumption that in such cases the owners of the subsoil beneath the highway (and therefore not forming part of the top strata of land, which forms the highway) are the owners of the land or houses on either side of the highway up to the middle of the road (known as the <i>ad medium filum</i> rule).</p> <p>Subsurface owners have been consulted because they have a land interest within the Order limits but it is not anticipated that there will be any impact to their subsurface interests because the relevant owner has no use or enjoyment of that subsoil land and is not prejudiced by the temporary possession to</p>

No.	Action	Response
		<p>be granted over that land necessary for the Proposed Development.</p> <p>The Proposed Development is distinct from a number of other Nationally Significant Infrastructure Projects in terms of the scale of AILs needing to be transported to the Main Development Area and the location of the site where such AILs need to be delivered from and to. Projects which most closely align to the Proposed Development have adopted the approach proposed by the Applicant. For example, the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 includes land required for offloading and transporting AILs within its Order limits and seeks relevant land rights accordingly (see the Land Plans submitted as part of that examination, reference REP6a-043 of that examination library for an illustration of this). Accordingly, there is precedent for this approach.</p>