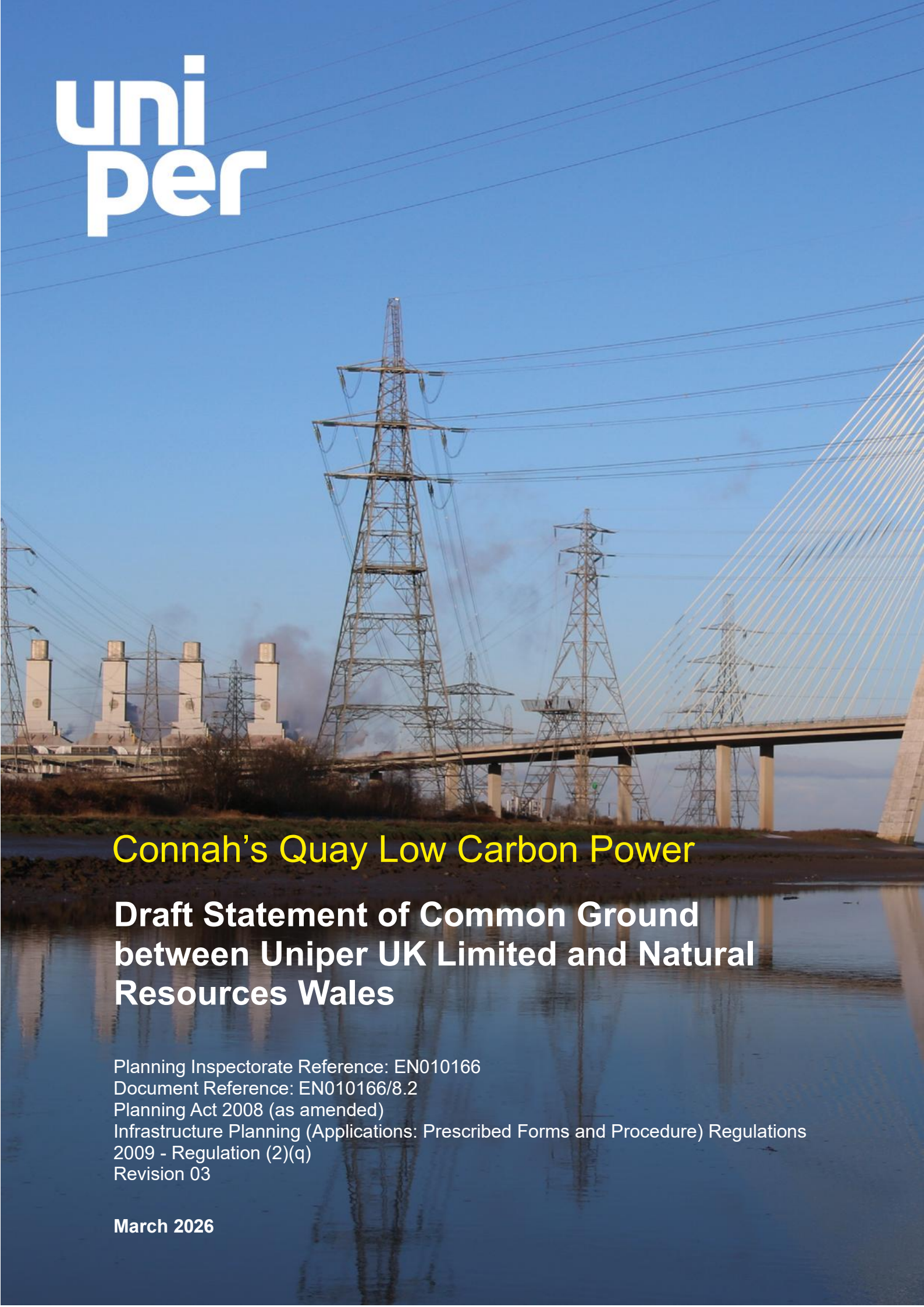

Connah's Quay Low Carbon Power

Draft Statement of Common Ground between Uniper UK Limited and Natural Resources Wales

Planning Inspectorate Reference: EN010166
Document Reference: EN010166/8.2
Planning Act 2008 (as amended)
Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation (2)(q)
Revision 03

March 2026

Prepared for:
Uniper UK Limited

Prepared by:
AECOM Limited

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1. Introduction

1.1 Purpose of this Document

1.1.1 This Draft Statement of Common Ground (SoCG) has been prepared by Uniper UK Limited (hereafter referred to as the 'Applicant') to support an application (the Application) to be made to the Secretary of State (SoS) for Energy Security and Net Zero (DESNZ). The Application was accepted for examination on the 28th August 2025 and the Examination commenced on 13th January 2026.

1.1.2 The Applicant is seeking a Development Consent Order (DCO) under section 37 of the Planning Act 2008 for the construction, operation (including maintenance) and decommissioning of a proposed low carbon Combined Cycle Gas Turbine (CCGT) Generating Plant fitted with Carbon Capture Plant (CCP) (the 'Connah's Quay Low Carbon Power (CQLCP) Abated Generating Station') and supporting infrastructure (collectively 'the Proposed Development') on land at, and in the vicinity of, the existing Connah's Quay Power Station (Kelsterton Road, Connah's Quay, Flintshire, CH6 5SJ), North Wales (the 'Proposed Development Site').

1.1.3 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available on the Planning Inspectorate's website at: Connah's Quay Low Carbon Power Project | National Infrastructure Planning

1.1.4 SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination. This SoCG has been produced to confirm to the Examining Authority (ExA) where agreement has been reached between the parties and where matters are under discussion or where agreement has not been reached. The SoCG will be progressed during the pre-examination and examination periods to reach a final position between the Parties and to clarify if any issues remain unresolved. This draft SoCG will be revised and updated as appropriate and/or required by the ExA at relevant examination deadlines.

1.2 Parties to this Statement of Common Ground

1.2.1 This SoCG has been prepared between (1) the Applicant and (2) Natural Resources Wales (NRW) (jointly referred to as the Parties).

The Applicant

1.2.2 The Applicant is a UK-based company, wholly owned by Uniper SE (Uniper) through Uniper Holding GmbH. Uniper is a European energy company with global reach and activities in more than 40 countries. With approximately 7,500 employees, the company makes an important contribution to security of supply in Europe, particularly in its core markets of Germany, the UK, Sweden and the Netherlands. In the UK, Uniper owns and operates a flexible generation portfolio of power stations, a fast-cycle gas storage facility and two high-pressure gas pipelines, from Theddlethorpe to Killingholme and from Blyborough to Cottam.

1.2.3 Uniper is committed to investing around €8 billion (~£6.9 billion) in growth and transformation projects by the early 2030s and aims to be carbon-neutral by 2040. To achieve this, the company is transforming its power plants and facilities and investing in flexible, dispatchable power generation units. Uniper is one of Europe's largest operators of hydropower plants and is helping further expand solar and wind power, which are essential for a more sustainable and secure future. Uniper is gradually adding renewable and low-carbon gases such as biomethane to its gas portfolio and is developing a hydrogen portfolio with the aim of a long-term transition. The company plans to offset any remaining CO2 emissions by high-quality CO2-offsets.

Natural Resources Wales

1.2.4 Natural Resources Wales (NRW) is a Welsh Government-sponsored body, established to ensure the sustainable management of natural resources in Wales. NRW is a prescribed consultee in respect of DCO applications in Wales that are likely to affect land, water, the environment, and protected sites and species. The Applicant has consulted NRW throughout the development of the Proposed Development.

1.2.5 NRW's role covers various topics, including:

- managing the risk of flooding from main rivers, reservoirs, and the sea;
- regulating major industry and waste;
- management and remediation of certain aspects of contaminated land;
- protection of water quality and water resources;
- fisheries management and regulation;
- Inland river, estuary and harbour navigation; and
- Exercising statutory duties relating to conservation, biodiversity, and ecology.

1.3 Status of this Statement of Common Ground

1.3.1 This version of the SoCG has been updated as agreed with NRW to update column four of **Table 2** to replace the position provided in their Relevant Representation **[RR-027]** with the position provided in the their Written Representation **[REP1-073]**. Column five has subsequently been updated to capture any responses to the Written Representation by the Applicant submitted at Deadline 2 **[REP2-019]**. The status of the majority of matters remain as included at the Deadline 3 with the exception of reference NRW 3.7 in Table 2.

1.4 The Proposed Development

1.4.1 The CQLCP Abated Generating Station would comprise up to two CCGT with CCP units (and supporting infrastructure) achieving a net electrical output capacity of more than 350 megawatts (MW; referred to as MWe for electrical output) and up to a likely maximum of 1,380 MWe (with CCP operational) onto the national electricity transmission network.

1.4.2 Through a carbon dioxide (CO_2) pipeline, comprising existing and new elements the Proposed Development would make use of CO_2 transport and storage networks owned and operated by Liverpool Bay CCS Limited, currently under development as part of the HyNet Carbon Dioxide Pipeline project (referred to as the 'HyNet CO_2 Pipeline Project'), that will transport CO_2 captured from existing and new industries in North Wales and North-West England, for offshore storage. The captured CO_2 will be permanently stored in depleted offshore gas reservoirs in Liverpool Bay.

1.4.3 For the purposes of the electrical connection, National Grid Electricity Transmission plc (NGET), which builds and maintains the electricity transmission network in England and Wales, is responsible for the operation and maintenance of the existing 400 kV NGET Substation.

1.4.4 A description of the Proposed Development, including details of maximum parameters, is set out in **Chapter 4: The Proposed Development** of the **Environmental Statement** (**ES**) (**EN010166/APP/6.2.4**). At this stage in the development, the design of the Proposed Development incorporates a necessary degree of flexibility to allow for ongoing design development.

1.5 Terminology

1.5.1 Section 3 summarises the issues that are 'agreed', 'not agreed' or are 'under discussion'.

1.5.2 These terms are used as follows:

a. "Agreed" indicates where the issue has been resolved;

b. "Under discussion" indicates where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties; and

c. "Not Agreed" indicates a final position where the Parties have agreed to disagree.

2. Record of Engagement

2.1.1 A summary of all meetings and correspondence that have taken place between the Parties in relation to the Application is outlined in Table 1. This includes email correspondence between the Parties to discuss sharing of information, arrangement of meetings and where appropriate to comment on draft documentation. Table 1 reflects the key meetings and emails of note.

Table 1: Record of Engagement

Date	Form of Correspondence	Key topics discussed and key outcomes
General		
22/03/2024	Email (to NRW Development Planning Advice Service)	An email to advise that a Discretionary Planning Advice Application is being prepared and that advice would be sought from NRW in relation to the following topics: • Geology and Soils; • Flood Consequence Assessment; • Water Resources and Water Framework Directive; • Terrestrial Ecology; • Marine Ecology; • Marine Licence; • Net Benefits for Biodiversity (NBB); • Habitats Regulations Assessment (HRA); • Noise; and • Air Quality.
17/04/2024	Email (from NRW's Development Planning Advisor)	An email responding to the Applicant's request for a Discretionary Advice Service (DAS), providing a quote and terms and conditions. Advice was also given on where to obtain the data required for various surveys and assessments.
06/08/2025	Email	The Applicant provided Natural Resources Wales with a copy of the Report to Inform Habitats Regulations Assessment and associated

Date	Form of Correspondence	Key topics discussed and key outcomes
		documents and the Hydraulic Modelling Report prior to publication on the Planning Inspectorate's Connah's Quay Low Carbon Power website
26/9/2025	Email	The Applicant provided NRW with copies of confidential ecological reports.
19/11/2025	Meeting (Microsoft Teams with NRW and the Applicant)	Meeting to discuss initial feedback from NRW on the Report to Inform Habitats Regulations Assessment.
23/11/2025	Relevant Representation	NRW's **Relevant Representation [RR-027]** was shared with the Applicant ahead of publication on the Planning Inspectorate's Connah's Quay Low Carbon Power website.
19/01/2026	Email	The Applicant provided NRW with the latest information from the surveys at Gronant Fields
27/01/2026	Email	The Applicant provided NRW with copies of relevant Deadline 1 submission documents
28/01/2026	Email	NRW provided the Applicant with a copy of their Deadline 1 submission.
04/02/2026	Meeting (Microsoft Teams with NRW and the Applicant)	An initial meeting to discuss the matters raised by NRW in submissions made at Deadline 1.
10/02/2026	Email	NRW provided the Applicant with a copy of their Deadline 2 submission.
10/02/2026	Email	The Applicant provided NRW with copies of relevant Deadline 2 submission documents
12/02/2026	Email	The Applicant shared draft management measures prepared by FCC for Wepre

Date	Form of Correspondence	Key topics discussed and key outcomes
		Park in support of the draft Section 106 Agreement.
23/02/2026	Email	The Applicant shared the draft Section 106 Agreement for comment.
24/02/2026	Meeting (Microsoft Teams with NRW and the Applicant)	A meeting to further discuss a number of technical matters raised by NRW in submissions made at Deadline 1 and Deadline 2 and to discuss the update to the SoCG at Deadline 3.
24/02/2026	Email	NRW provided a number of potential locations where contribution could be made to aid the successful management of saltmarsh (subject to landowner discussion)
27/02/2026	Email	NRW provided comments on the draft management measures prepared by FCC for Wepre Park.
24/03/2026	Meeting (Microsoft Teams with NRW and the Applicant)	A meeting was held to discuss the upcoming Deadline 4 submission and to run through the SoCG.
Terrestrial and Marine Ecology		
01/07/2024	Meeting (Microsoft Teams with NRW and Applicant Marine Ecology Advisors)	A meeting to discuss the marine ecology surveys and physical processes work that will be taking place.
18/07/2024	Meeting (Microsoft Teams with NRW's and Applicant's terrestrial and marine ecological advisors)	A meeting to discuss and agree ecology survey scope and engage on ecological matters related to the Proposed Development. This related to both terrestrial and aquatic ecology, and marine ecology.
12/12/2024	Meeting (Microsoft Teams with NRW and Applicant's Marine Ecology, Coastal Processes and Fisheries Advisors)	A meeting to provide an update to project programme, changes to the works taking place in the Water Connection Corridor and

Date	Form of Correspondence	Key topics discussed and key outcomes
		the anticipated environmental impact pathways.
29/01/2025	Meeting (Microsoft Teams with NRW and Applicant's Marine Ecology Advisors)	A meeting covering: • a Water Connection Corridor design update; • an update on surveys and hydraulic modelling; • the anticipated environmental impact pathways; and • the requirement for marine licensing.
05/03/2025	Meeting (Microsoft Teams with NRW's and Applicant's Ecology and Conservation Advisors)	A meeting covering: • a review of Statutory Consultation comments; • the progress of ecology surveys; • outline of surveys proposed in 2025; • detail of planned GCN mitigation strategy and licence approach; • update on potential mitigation sites for loss of Functionally Linked Land; and • the approach to Abnormal Indivisible Loads (AIL)
08/05/2025	Meeting (Microsoft Teams with NRW's and Applicant's Ecology and Conservation Advisors)	A meeting was held to present the ornithology results in detail and further discuss the options for mitigation for the Functionally Linked Land. It was agreed that the methodology for the assessment of noise impacts on birds should accord with the Waterbird Disturbance Mitigation Toolkit (Ref 1). An update was provided on impacts to saltmarsh.
02/06/2025	Meeting (Microsoft Teams with NRW's and Applicant's Ecology and Conservation Advisors)	A meeting was held to present the findings of the Air Quality assessment. An update was provided on impacts to

Date	Form of Correspondence	Key topics discussed and key outcomes
		saltmarsh as a result of the works at the surface water outfall area. High level discussion of statement of common ground.
07/07/2025	Meeting (Microsoft Teams with NRW's and Applicant's Ecology and Conservation Advisors)	A meeting was held to discuss air quality impacts on Statutory Designated Sites Dee Estuary/ Aber Dyfrdwy SAC / SPA / Ramsar site, and Deeside and Buckley Newt Sites SAC, as well as offsite mitigation for the loss of Functionally Linked Land.
19/09/2025	Email	NRW provided the Applicant with initial feedback on the **Report to Inform Habitats Regulations Assessment [APP-253]**.
19/11/2025	Meeting (Microsoft Teams with NRW's and Applicant's Ecology and Conservation Advisors)	A meeting was held to discuss Gronant Fields, bird surveys and discuss NRW's Relevant Representations.
Water Environment and Flood Risk		
12/04/2024	Email (to NRW Development and Flood Risk Advisor)	An email requesting various information such as information on landfills, ground investigation reports, potential or known contaminated land.
07/05/2024	Meeting (Microsoft Teams with NRW Flood Risk Advisors and Applicant)	A meeting to introduce the Proposed Development and discuss the approach to hydraulic modelling.
04/09/2024	Email (to NRW Flood Risk Advisors)	Submission of Hydraulic Modelling method statement to NRW for comment.
03/10/2025	Email (from NRW Flood Risk Advisors)	Feedback was provided on the Hydraulic Modelling method statement.
20/11/2024	Email (to NRW Development and Flood Risk Advisor)	Email to discuss the Outline Surface Water Drainage Strategy and discharge of surface water into the River Dee.

Date	Form of Correspondence	Key topics discussed and key outcomes
26/02/2025	Meeting (Microsoft Teams with NRW and Applicant's Flood Risk Advisors)	A meeting was held to discuss the completed hydraulic modelling and outputs.
28/03/2025	Email from NRW's Development Planning Advisor	An email from NRW to the Applicant responding to a query on freeboard requirements.
08/05/2025	Email (from NRW's Development Planning Advisor)	Feedback was provided from NRW on the hydraulic modelling and outputs.
21/05/2025	Meeting (Microsoft Teams with NRW and Applicant's Flood Risk Advisors)	A meeting was held as an initial discussion on NRW's hydraulic model review comments.
29/07/2025	Meeting (Microsoft Teams with NRW and Applicant's Flood Risk Advisors)	A meeting was held to discuss the updated hydraulic modelling and outputs following feedback from NRW
Geology and Ground Conditions		
15/02/2024	Letter via email (to NRW Development Planning Advisor)	A letter sent via email requesting data to inform the geology and ground conditions assessment.
04/11/2024	Meeting (with NRW Conservation Advisor, NRW Lead Specialist Adviser Wellbeing, Health and Safety, the Applicant's Ground Engineering advisors)	A meeting was held to discuss the proposed Ground Investigations and confirmation of scope, as well as Section 28 assent for the proposed groundwater investigations.

2.1.2 The Applicant and NRW have regular meetings arranged throughout the examination to progress matters within this SoCG.

3. Areas of Discussion between the Parties

3.1.1 Table 2 below details the areas of discussion and matters that are agreed, under discussion and not agreed between the Parties.

Table 2: Areas of Discussion with NRW

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
1.0 Terrestrial Ecology							
3.6	Atmospheric pollution of the Dee Estuary SAC/SSSI saltmarsh during operation	**Report to inform Habitats Regulations Assessment [APP-253]** **Chapter 11: Terrestrial and Aquatic Ecology [APP-049]**	The ES Air Quality assessment (Appendix 8-D) and Report to Inform Habitats Regulations Assessment (RIHRA) identify potential Likely Significant Effects (LSE) for nitrogen deposition (Ndep) on the Dee Estuary SAC Annex I saltmarsh features (Atlantic salt meadows Glauco-Puccinellietalia maritimae, and Salicornia and other annuals colonising mud and sand) and the Dee Estuary SSSI saltmarsh feature. The RIHRA calculates the affected area to be 445ha in-combination and 245ha for the Proposed Development alone (of 2,566.3ha of SAC saltmarsh); representing 17% and 10% of saltmarsh, respectively. The River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid SAC and Afon Dyfrdwy (River Dee) SSSI also support areas of saltmarsh. Saltmarsh is an independent qualifying feature of the Afon Dyfrdwy (River Dee) SSSI. Bupleurum tenuissimum, slender hare's-ear, is also present at a number of locations along the Welsh bank of the Dee to the south of the application site. This species is listed in the Dee Estuary SAC conservation objectives as a Notable Species and is an Environment (Wales) Act Section 7 priority species. With the widespread, albeit low level, predicted exceedance of the critical load for saltmarsh, Likely Significant Effects cannot be ruled out for the Annex I Atlantic salt meadows habitat within the Dee Estuary / Aber Dyfrdwy SAC / SPA / Ramsar site or impacts to the saltmarsh feature of the Dee Estuary SSSI and Afon Dyfrdwy (River Dee) SSSI. There is a high proportion of upper saltmarsh and areas of transition to terrestrial habitat, both of which are more sensitive to nitrogen	It is acknowledged that NRW have key concerns relating to atmospheric pollution of the saltmarsh in the Dee Estuary SAC / SSSI, although they welcome the updated Conservation Areas Management Plan. It should be noted that the conclusions of the **RIHRA [APP-253]** are based on precautionary modelling that may overestimate actual deposition such that actual deposition due to the Proposed Development may be even smaller than forecast. Precautionary assumptions include an assumption of two trains operating at full-load for every hour of the year, assuming that emissions would be at levels set in the Large Combustion Plants Best Available Techniques Reference Document (LCP BREF) or specified by the Front-End Engineering Design (FEED) contractor (whereas in practice a level of headroom would be built in for compliance purposes), assuming that there is no depletion of the plume concentrations with distance due to deposition processes, and basing the assessment on the worst-case meteorological year. An area of 0.12 hectares (ha) is considered by the Applicant to be adequate for mitigating the effects of nitrogen deposition on the species composition of at least 245 ha of affected saltmarsh because although the affected area is large the botanical effect on the saltmarsh will be relatively subtle (e.g. a small shift in plant species composition possibly favouring more competitive species) that may not arise in practice due to other influences such as existing management, existing high background nitrogen deposition rates, and tidal inundation limiting the ability of more competitive species to increase in abundance. In contrast, while the area of saltmarsh being identified for mitigation is small, it would enable	This issue will be discussed further following NRW's review of the updated information provided within the Change Application.	Under discussion	

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			deposition, within the predicted area of exceedance. The main threat of nitrogen deposition to coastal saltmarsh communities within the Dee is likely to be the spread of coarse nitrophilous grasses, primarily sea couch and common couch, at the expense of other more diverse saltmarsh plant communities or the transitional saltmarsh margins. These are naturally occurring plant communities, but they can be invasive and generally form dense, single species stands of vegetation where other plant species are outcompeted. The high proportion of upper marsh in the upper Dee estuary where the proposal is located is particularly vulnerable to the spread of such coarse nitrophilous grasses. The terrestrial saltmarsh transitions are also vulnerable to the spread of tall grasses due to nitrogen deposition. Deterioration of the Annex I Atlantic salt meadows habitat would likely be permanent as the diversity of plant species would be expected to decline. The sea couch and common couch plant communities are listed in British Plant Communities, Volume 5 (by Rodwell, ed., 2000) as SM24 Elymus pycnanthus saltmarsh community (sea couch, the scientific name has now changed to Elymus athericus) and SM28 Elymus repens salt-marsh community (common couch). The following SAC conservation objectives are relevant to this matter: • the proportions of individual Atlantic salt meadow vegetation communities within the site are maintained. • the zonation of Atlantic salt meadow vegetation communities and their transitions to fresh water and terrestrial vegetation are maintained. • the relative abundance of the typical species of the Atlantic salt meadow vegetation communities is maintained.	an entire area of saltmarsh to persist that would otherwise be lost to coastal squeeze. This will be true even though the 0.12 ha area will also be subjected to atmospheric nitrogen deposition. In a meeting on the 19 November 2025, NRW agreed to identify any habitat improvements required to saltmarsh in the Dee Estuary to which the Applicant could contribute as additional mitigation. The Applicant is willing to give consideration to such proposals. In addition, during the meeting on the 19 November 2025, the possibility of a monitoring project, co-locating ecological saltmarsh condition monitoring with air quality monitoring (concentration and deposition) was discussed. This monitoring project would aim to provide evidence to better understand the actual impacts from atmospheric nitrogen emitted from the site and surrounding Deeside industry on the special features of the Dee Estuary SAC and more widely. Further discussion between the Applicant and NRW will be held on this matter and will be recorded in a future revision of the NRW SoCG.			

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			• the abundance of the notable species of the Atlantic salt meadow vegetation communities is maintained. Based on the current **RIHRA (APP-253)**, we acknowledge that the exceedance would be small and at the lower end of the critical load (CLo) for the most sensitive type of saltmarsh (upper) but considering the current exceedance of background Ndep CLo already at this location, and size of the area affected, we welcome that mitigation is proposed. However, we do not consider the proposed measures to be adequate, for the following reasons: • we do not consider the continuation of the management agreement for the 26ha of currently managed land following decommissioning of the old power station to be bespoke new mitigation for this impact. The extant management agreement is a legal requirement of the Section 36 consent for the existing Connah's Quay Power Station and was established to serve a wider conservation purpose at the site. This would be replaced by an updated version following decommissioning of the old power station in any case, as an embedded design measure, and we would expect this regardless of the identified air quality impact to the saltmarsh. • we understand that the managed realignment of 0.13ha (1,300m2) of land (previously 0.12ha), potentially creating new saltmarsh of this equivalent area is primarily proposed to offset the loss of up to 650m² of saltmarsh for the new surface water outfall. We do not consider an area of 0.13ha to be adequate for mitigating the effects of nitrogen deposition on the species composition of at least 245ha of affected saltmarsh (445ha in-combination). Furthermore, it is not clear whether the newly created saltmarsh would also suffer from similar atmospheric impacts as predicted elsewhere.				

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			We therefore advise that satisfactory alternative mitigation/compensation measures should be proposed to address this impact and would welcome further engagement with the Applicant regarding this.				
3.7	Atmospheric pollution of the Deeside and Buckley Newt Sites SAC/ Connah's Quay Ponds and Woodlands SSSI oak woodland qualifying habitats during operation	**Report to inform Habitats Regulations Assessment [APP-253]** **Chapter 11: Terrestrial and Aquatic Ecology [APP-049**]	The ES Air Quality assessment and RIHRA show that in-combination ammonia and nitrogen deposition would exceed the 1% Process Contribution (PC) of Critical Levels/Loads (Cle/CLo) thresholds within the Deeside and Buckley Newt Sites SAC, which also includes the Connah's Quay Ponds and Woodlands SSSI. The corresponding background Cle/CLo are already exceeded at this site and an additional area of approximately 31% of the Annex I oak woodland habitat of the SAC/SSSI (Old sessile oak woods with Ilex and Blechnum in the British Isles) would be affected by the new exceedance. Increased nitrogen deposition could lead to a prevalence of nitrogen-loving vegetation, such as bramble, cleavers, and nettles. This could alter species composition in a way which impacts negatively on the SAC/SSSI woodland features. We consider that the sensitive lower plant features of the Annex I oakwoods habitat at this site have already been lost due to historic air pollution. The site will since likely have been recolonised by relatively mobile, nitrogen tolerant epiphytic bryophytes and lichens. Even if relevant background concentrations were to reduce below the critical level, it is unlikely that the sensitive rare bryophyte species, which are a key feature of old sessile oak woods, would naturally recover in this	The Applicant acknowledges that in the opinion of NRW the sensitive lower plant features of the Annex 1 oakwoods habitat have already been lost and would be unlikely to recolonise even if pollutant concentrations and deposition rates were restored. In which case, the appropriate ammonia critical level would be 3 µgm-3 rather than 1 µgm-3. The higher critical level is not forecast to be exceeded. The Applicant therefore agrees with NRW's comment at paragraph 2.1.24 of its Written Representation. Therefore, the main role of ammonia is as a source of nitrogen which is captured through consideration of the nitrogen deposition rate and related mitigation. There would therefore be no requirement to consider ammonia in atmosphere as per the comment at paragraph 2.1.23 of the Written Representation. Regarding the value of tree screening (paragraph 2.1.24) due to the nature of the emissions (i.e. from a tall exhaust stack) it is considered that additional tree planting between the Proposed Development and the Special Area of Conservation (SAC) would have no benefit on nitrogen deposition at the SAC. A costed draft management agreement with FCC to deliver the necessary nitrogen	NRW have provided some comments on the management provisions included within the Deed of Development Consent Obligations and these are being considered by the Applicant and Flintshire County Council. NRW have also confirmed they are also content that the Deed of Development Consent is a suitable mechanism to secure the identified mitigation.	Agreed	Resolved

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			location. Examples of these species are now generally found further west, and it is not expected that they would be able to repopulate in the Connah's Quay vicinity. Furthermore, the only reference to "Lower" plants in the Core Management Plan for the Deeside and Buckley Newt Sites SAC is in the "Vision for the site" which states "There will be abundant dead and dying trees throughout the woodland providing habitat for invertebrates, fungi and lower plants". Nevertheless, that is not to say that further atmospheric pollution impacts on the oak woodland feature of the SAC and SSSI, regardless of how small, should be considered acceptable. The Applicant claims that process-orientated mitigation to reduce emissions is not feasible and therefore proposes habitat management to counter the effects of the nitrogen deposition. Facilitation of habitat management is intended to directly mitigate potential changes in ground flora due to elevated levels of atmospheric nitrogen by physically removing nitrogen-loving vegetation to promote/restore desired species composition, in line with the designated feature and conservation objectives. This would be achieved by funding local practitioners already engaged in woodland management at the site to enable them to maintain and enhance the condition and resilience of the woodland features. Depending on the level of funding this could be a proportionate strategy. However, confirmation of the further details should be submitted in writing to clarify the exact proposals and provide assurance that these could be secured within the DCO and implemented effectively. The mitigation management should continue for as long as the impact is anticipated.	deposition mitigation has been produced and will be shared with NRW.			

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			It is not clear whether tree screening e.g. with poplar, to further reduce nitrogen/ammonia impacts at the site has been considered by the Applicant. We therefore advise that this should be considered in addition to the proposed funding for woodland management. The proposed mitigation for nitrogen deposition does not address the potential impacts of the very slight exceedance over 1% (1.1%) of the ammonia critical level. Direct air concentrations of ammonia can impact lower plants, including lichens and bryophytes. We therefore advise that details of mitigation measures to address the slight ammonia exceedance should be submitted. A Critical Level of 3µg/m³ (for protection of higher plants, including forest ground flora) may be appropriate for assessing ammonia impacts at the Deeside and Buckley Newt Sites SAC/Connah's Quay Ponds and Woodlands SSSI in this case, rather than 1µg/m³ if the site had a diverse and important bryophyte/lichen component. We would be willing to discuss this further with the Applicant.				
3.8	Shotton Lagoons and Reedbeds SSSI	**Chapter 11: Terrestrial and Aquatic Ecology [APP-049]**	The ES (Chapter 11) reports a marginal exceedance of nutrient nitrogen deposition at this site's receptor (OE29). Chapter 11's assessment of impact dismisses this result based on the non-sensitive nature of the common tern breeding habitat at this site. Paragraph 11.6.154 goes on to state that the common terns are the only designated feature of this site sensitive to air quality. However, this is incorrect as the SSSI is also notified for its reedswamp vegetation (Phragmites australis reedbed), which is sensitive to ammonia at 3µg CLe and nutrient nitrogen at 10-20 kgN/ha/yr CLo. Although air quality impacts on this feature have not been assessed, we advise that these would	The comment about *Phragmites australis* reedbed is noted and The Applicant agrees with the conclusion that the air quality impacts can be considered insignificant, for the reasons stated by NRW.	This matter is agreed between the parties.	Agreed	Resolved

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			be <1% CLo and hence can be considered insignificant.				
3.9	Direct loss of/damage to the saltmarsh qualifying habitat of the Dee Estuary SAC/SSSI during construction/demolition	**Report to inform Habitats Regulations Assessment [APP-253]** **Chapter 11: Terrestrial and Aquatic Ecology [APP-049]**	The proposals involve the construction of a new permanent outfall structure for surface water drainage discharge (the 'Proposed Surface Water Outfall') adjacent to the Existing Surface Water Outfall. The Proposed Surface Water Outfall is located within the Dee Estuary SAC, SPA, Ramsar site and SSSI in an area confirmed as Annex I saltmarsh habitat (Atlantic salt meadows, Glauco-Puccinellietalia maritimae), a qualifying feature of the Dee Estuary SAC. Saltmarsh is also a qualifying feature of the Dee Estuary SSSI. Paragraph 11.3.19 of the ES, Chapter 11 estimates a <5m2 area of permanent loss of saltmarsh habitat due to the Proposed Surface Water Outfall headwall extension. Paragraphs 11.6.11 and 11.6.19 of the ES, Chapter 11 refer to an approximately 650m² of temporary saltmarsh habitat loss during construction of the Proposed Surface Water Outfall. No information has been submitted regarding the discharge volumes of the Surface Water Outfall. Chapter 4.5, Table 6 of the Framework Construction Environmental Management Plan states "the location, position and orientation of a new drainage outfall would be carefully determined and informed by a hydromorphological survey to minimise any adverse local impacts on river processes. Appropriate micro-siting of the outfall would minimise loss of bank habitat, the need for bed scour or hard bank protection and minimise localised flow disturbance or disruption to sediment transport processes." However, information about the predicted discharge volumes from the new surface water outfall is required to fully understand any potential scour impact on the saltmarsh habitat. The conservation objective for the "Atlantic salt meadow" feature of the Dee Estuary SAC is to	As per the Applicant's response to Natural England's Relevant Representation comment (Ref. No. NE29) and as detailed in paragraph 10.2.2 of the **RIHRA [APP-253]**, no scour losses are expected. The erosion assessment was a qualitative assessment made by a coastal process specialist, as modelling was not considered necessary. The conclusion is based on the fact (as noted in paragraph 10.2.2 of the **RIHRA [APP-253]**) that velocities are not high enough to cause scour erosion around the new outfall. The Applicant undertook a walkover survey on 23 January 2026 to validate this position. The findings of this are reported at Deadline 2 in the **Geomorphological Walkover Survey Report [xxx]** which conclude scour erosion associated with the proposed surface water outfall would not occur. The Applicant notes NRW's clarification of its position regarding whether the managed retreat would be mitigation or compensation. In response to the Procedural Decision **[PD-006]** dated 25 November 2025, the Applicant prepared and submitted a Notice of a proposed without prejudice **Habitats Regulations Assessment (HRA) derogation in Wales [PDA 003]**. Within the derogation notice, information is provided to show the Applicant has considered and can demonstrate that there are no alternative and less damaging solutions to the Proposed Development as proposed, that there are imperative reasons of overriding public interest and that, if not considered mitigation, the necessary compensation measures can be secured. Therefore, the Applicant considers that the necessary information has been provided for the SoS to make a determination for this Application, irrespective of whether the SoS ultimately determines that the managed retreat is mitigation or compensation.	This issue will be discussed further following NRW's review of the **Saltmarsh Creation Strategy (EN010166/APP/9.17)** submitted at Deadline 3. At Deadline 3 NRW have provided the following comments: *NRW welcomes the production of a detailed Saltmarsh Creation Strategy which will take into account the advice given in its Written Representation, and be supported by a new requirement in the draft DCO.* *NRW notes that the managed retreat area would be subject to the same nitrogen deposition as existing saltmarsh in this location.* *NRW welcomes that the Applicant has addressed the points raised in 2.1.44 in the Applicant's Response to Relevant Representations [REP1-062], Ref. No. NRW7 relating to the future removal of the new surface water outfall headwall extension and removal of the existing outfall when redundant, the commitment to carrying out a scarce plant survey, and the provision of a Saltmarsh Method Statement.* *NRW will review the forthcoming detailed Saltmarsh Creation Strategy and provide further comments accordingly.*	Under discussion	

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			maintain it in favourable condition, the achievement of which includes the following condition being met: • the total extent of Atlantic salt meadow vegetation communities within the site is maintained. Although the area of saltmarsh habitat which would be permanently lost to the development is low, there would still be a net loss of this Annex I habitat type. The Applicant proposes offsetting this by enabling managed retreat of the embankment between the power station and Dee Estuary SAC/SPA/Ramsar site/SSSI to create an approximately 1,300m² area for natural migration inland of the saltmarsh, which we consider to be a sufficient area to offset these losses, in principle. We note that the applicant considers this would 'offset' the impact on saltmarsh rather than represent 'compensation' in the context of the Habitats Regulations and considers it as mitigation for HRA purposes. However, the proposed area of new saltmarsh would be located outside of the SAC and hence lack its standard of statutory protection. We have considered case law relating to this matter and offer the following advice. In the European case of T.C Briels and Others v Minister van Infrastructuur en Milieu (C-521/12) the CJEU considered whether a measure for the creation of an area equal to, or greater than the habitat to be lost would be considered as mitigation or compensation. In that judgement it was determined that "the assessment carried out under Article 6(3) of the Habitats Directive cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all scientific doubt as to the effects of the works proposed on the protected site concerned". This judgement also noted that "as a rule, any positive effects of a future creation of a new habitat which is aimed	A saltmarsh creation strategy is being produced which will take into account the advice given in paragraphs 2.1.40 to 2.1.42 of the Written Representation. Note that it was always the intention to lower the ground level in order to create a suitable area for the saltmarsh to retreat into. With regard to whether the newly created saltmarsh would suffer from the significant adverse atmospheric impacts predicted elsewhere in the Dee Estuary (see NRW Key Concern 1), please see the **Applicant's Response to Relevant Representations [REP1-062]**, Ref. No. NRW4. The area of saltmarsh being identified for mitigation would enable an entire area of saltmarsh 200 times larger than the area to be permanently lost to persist that would otherwise be lost to coastal squeeze. This will be true even though the 0.13 ha area will also be subjected to atmospheric nitrogen deposition. The Applicant has addressed points raised in 2.1.44 in the **Applicant's Response to Relevant Representations [REP1-062]**, Ref. No. NRW7.			

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			at compensating for the loss of area and quality of the same habitat type on a protected site, even where the new area will be bigger and of higher quality, are highly difficult to forecast with any degree of certainty and, in any event, will be visible only several years into the future…". Therefore, following the reasoning within the Briels judgment, although, in principle, a measure of utilising replacement land may be considered mitigation in certain limited circumstances, if, in fact, its effectiveness, in terms of ensuring that there will be no adverse effect on the integrity of the site, is not beyond scientific doubt at the point of assessment, then it should be considered as a compensatory measure rather than mitigation. Further, R. (on the application of Lee Valley Regional Park Authority) v Epping Forest DC [2015] EWHC 1571 (Admin), which references the judgement in Briels, highlighted that the creation of alternative habitat to offset loss within a protected site should be treated as compensation rather than mitigation. The fact that the Applicant references other DCO's or local authorities which have treated replacement habitats as mitigation, does not by itself change the legal position as set out above and should not be relied upon to avoid an adverse assessment under Article 6(3) as each DCO application is fact specific and would be considered on its own merits. We therefore acknowledge that such proposals, in principle and in very limited circumstances, could potentially be considered as mitigation for HRA purposes but consider that this would be subject to their effectiveness proving, at the point of assessment, that it is beyond scientific doubt there will be no adverse effect on the SAC. However, it is not currently clear whether this would be the case.				

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			We further acknowledge that the Applicant has referred to the position taken in our Relevant Representations as to such proposals potentially being considered mitigation, however, we wish to highlight that at no point have we agreed that the proposed measures should be considered as mitigation rather than compensation. Further to the above, we consider that reasonable scientific doubt remains over the satisfactory implementation of the saltmarsh habitat regeneration proposals, as explained below and, as set out above, the relevant case law favours these measures being compensatory in nature. Therefore, we are not able to assure the ExA that they could be deemed as mitigation measures and hence they should be considered as compensatory measures. From comparing the proposed managed realignment site with existing and predicted changes to Mean High Water Spring tides, we note that the elevations of the proposed managed realignment site appear too high to support natural inundation of the tide. We therefore welcome the Applicant's proposed investigations to ensure that the ground levels of the managed realignment area are suitable for saltmarsh creation, and ground investigations to rule out contaminated land. Site investigations will need to ensure that the proposed site is in an appropriate location, including consideration of: • Site elevations and position within the tidal range using LiDAR. • Potential contaminated land If the realignment site is confirmed to be too elevated to facilitate natural inundation of the tide, it will need to be demonstrated that the levels can be satisfactorily altered to accommodate this. Alternatively, it may need to be considered whether other opportunities for the managed realignment of coastal defences				

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			have been identified in the relevant Shoreline Management Plan. The Shoreline Management Plan policy at this location (Sub-cell 11A, Policy Unit 5.3) for the lifetime of the proposals is to Hold the Line, but it also notes the potential squeeze of internationally designated intertidal habitat and acknowledges possible localised managed realignment for habitat creation depending on studies undertaken. However, it also notes that any realignment / habitat creation may impact on channel morphology downstream, so this would need appropriate consideration. The Applicant should therefore give full consideration to any potential impacts to the estuary associated with their managed realignment proposals, including flood risk to the railway/other infrastructure (which may need discussion with other parties), as well as the environmental impacts of any potential changes to estuarine morphology. The Applicant should refer to NRW's "Marine and coastal physical processes assessments" (small-scale projects) guidance, available on our website, to assess the potential impact of the managed realignment on physical processes. Further details to assess whether the newly created saltmarsh would suffer from the significant adverse atmospheric impacts predicted elsewhere in the Dee Estuary SAC/SSSI should also be provided. In addition, we advise that further information, as outlined below, should be submitted to allow us to consider these proposals: • a firm commitment to removing the headwall extension to the surface water outfall on the future decommissioning of the new power station and removing the existing, redundant outfall for the old power station. • a scarce plant survey in the area of saltmarsh affected by temporary and permanent habitat loss (an NVC survey is for plant communities rather than individual plants and it is possible				

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			that rare and scarce species nearby could also be within the area affected; in particular, Slender hare's ear Bupleurum tenuissimum is known to be present further upstream within the Dee estuary). • further details relating to the saltmarsh soils or turves to be temporarily stored during construction and the reinstatement methods applied, including the duration of soil storage and return of any turves to the marsh. • details of regular monitoring of saltmarsh recovery within the reinstated areas of temporary loss until those areas have fully recovered as saltmarsh. • regarding monitoring of the saltmarsh creation (ES Chapter 5, para. 5.2.25), initial monitoring should be focused on the establishment and development of the saltmarsh focusing on vegetation establishment and cover, and sediment accretion. The condition of the saltmarsh should be assessed once the saltmarsh has developed. • an outline alternative contingency plan in case the managed realignment site fails to successfully establish as saltmarsh, to ensure that adaptive measures are available to deliver the desired objective. • paragraph 11.6.73 of the ES, Chapter 11 states that a loss of up to 0.06ha (600m2) saltmarsh would occur, whereas 650m2 of temporary loss is referred to in paragraphs 11.6.11 and 11.6.19. The correct area of temporary and permanent saltmarsh loss should be clarified. There should also be a firm commitment (secured by a DCO requirement) for a saltmarsh mitigation and monitoring plan, as per the curlew mitigation and monitoring plan to be secured by Requirement 11, whereby the restoration timescales, targets and monitoring proposals are set out in more detail. Paragraph 3.1.8 of the ES, Appendix 11-C: Botanical Technical Appendix refers to a more extensive NVC survey undertaken in June and				

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			July 2000, however this data was not available at the time of writing. We would be able to supply this if required, along with the results of NRW's 2022 NVC survey.				
3.10	Works in the Water Connection Corridor (WCC)	**Chapter 11: Terrestrial and Aquatic Ecology [APP-049]**	Regarding the works in the Water Connection Corridor (WCC), paragraph 11.3.19 of the ES, Chapter 11 states that works within the saltmarsh for the WCC "would be temporary (three to five months in duration) and all habitat would be restored on completion of the works". However, Section 3.2.2 of the OLEMP appears to contradict this as it states: "The temporary impacts are: • Encroachment and clearance of coastal saltmarsh for proposed works within the Water Connection Corridor;" We sought clarification of this matter in our Relevant Representations (RR-027). We note and welcome the Applicant's verbal confirmation during Issue Specific Hearing 2 (14/01/26) that there would be no loss of saltmarsh habitat from within the WCC. However, we advise that formal clarification of this matter should be provided in writing to the Examination.	It is acknowledged that Paragraph 11.3.19 of **Chapter 11: Terrestrial and Aquatic Ecology [APP-049]** states the following in relation to construction within the Water Connection Corridor: '*For this assessment, it is assumed that all works within the Water Connection Corridor would be completed using hand tools, working areas would be accessed by foot over the saltmarsh and required materials would be brought in by barge. There would be no impacts to the river bed, works would be temporary (three to five months in duration) and all habitat would be restored on completion of the works, noting that the Order limits as shown on **Figure 3-3: Areas Described in the ES [APP-069]** are the maximum extent of land required for the works*.' Correction has been made to Paragraph 3.2.2 of the **Outline LEMP [APP-250]** to remain consistent with Paragraph 11.3.19 of **Chapter 11: Terrestrial and Aquatic Ecology [APP-049]** to clarify the encroachment and clearance of coastal saltmarsh is associated with works in the Surface Water Outfall Area rather than the Water Connection Corridor. The **RIHRA [APP-253]** has not assessed any loss of saltmarsh within the Water Connection Corridor. The Applicant has confirmed that there will be no saltmarsh removal, but it will be traversed on foot. The Applicant will amend the wording in the **Outline LEMP [APP-250]**.	This matter is agreed between the parties. NRW welcomes the Applicant's clarification that there would be no removal of saltmarsh in the Water Connection Corridor and subsequent amendments to the Outline LEMP. NRW therefore have no further concerns regarding this matter.	Agreed	Resolved
3.11	Loss of functionally linked land for Dee Estuary SPA/Ramsar	**Report to inform Habitats Regulations**	The proposals would result in an intermediate to long-term loss of up to 26ha of Functionally Linked Land (FLL) used by the curlew feature of the Dee Estuary SPA, Ramsar site and SSSI within the Main Development Area. Offsetting	The Applicant has discussed the approach for mitigating loss of FLL with NRW on 5 March 2025, 8 May 2025, 2 June 2025, 7 July 2025 and 19 November 2025. It is noted that NRW agree that in principle, the proposals outlined in	The parties continue to discuss the **Curlew Mitigation Strategy [APP-254]** and the management of the Off-Site Delivery Area.	Under discussion	

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	site/SSSI bird features (curlew) during construction, demolition, and/or operation	**Assessment [APP-253]** **Chapter 11: Terrestrial and Aquatic Ecology [APP-049**]	measures, comprising additional land within the SPA/Ramsar site to be secured for favourable dedicated curlew management, are proposed to offset this loss and outlined in the Curlew Mitigation Strategy (CMS) (APP-254). We have discussed this approach with the applicant during the pre-application stage and agree that, in principle, the proposals outlined in the CMS could enable the proposed offsetting land to be managed appropriately to encourage and support curlew feeding and roosting, offsetting the loss of FLL for curlew. We note that the distance of Gronant Fields from the application site is around 21km and confirm that proximity is not, in itself, determinative. Rather, the focus is on providing ecological equivalence and functional connectivity. The replacement habitat must be capable of supporting an equivalent or greater number of overwintering curlew, such that there is no adverse effect on the integrity of the Dee Estuary SPA or its Conservation Objectives. However, as with the saltmarsh creation, we note that the applicant considers the proposals to involve mitigation, instead of compensation. We refer again to European case law (notably Briels v Minister van Infrastructuur en Milieu (C 521/12) and Edal Grace & Peter Sweetman v An Bord Plaenala (C-164/17)). The matter of Grace specifically dealt with the question of a proposed measure being deemed mitigation or compensation when dealing with a project that will impact an SPA. Whilst it is acknowledged that this matter dealt with the availability of an area for a species to forage which fluctuated over the lifetime of a project (in contrast to the present application where a specified area of replacement land has been identified), the judgement nevertheless reinforced the position taken in Briels (as discussed above at para. 2.1.33 that "it is only when it is sufficiently certain	the **Curlew Mitigation Strategy [APP-254]** could enable the proposed land to be managed appropriately to encourage and support curlew feeding and roosting, to mitigate impacts of the Proposed Development on this feature. The Applicant notes that NRW has acknowledged that such proposals could potentially be considered as mitigation for HRA purposes but consider that this would be subject to their effectiveness being certain and the mitigation measures being in place before the commencement of the associated impacts on the affected site. The following DCO applications all have HRAs that present measures to address the loss of FLL for SPA birds as mitigation rather than compensation within the legal definition of the Habitats Regulations: • Sea Link; • East Yorkshire Solar Farm; • Lower Thames Crossing; • Sunnica Energy Farm; • A303 Stonehenge (Amesbury to Berwick Down); • Peartree Hill Solar Farm; and • Helios Renewable Energy. It is not only common in the DCO space; for example, the Solent Wader and Brent Goose Strategy sets out the processes for addressing loss of FLL around the Solent Habitats sites. This is used by all of the Solent local authorities when granting consent. The mitigation guidance describes it as 'offsetting' (rather than compensation) and derogations are not required for developers to deliver offsetting habitat to address loss of FLL. The reason FLL is treated this way, is because the AEOI the Applicant is seeking to address would be a possible reduction in curlew populations within the SPA due to a reduction			

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			that a measure will make an effective contribution to avoiding harm, guaranteeing beyond all reasonable doubt that the project will not adversely affect the integrity of the area, that such a measure may be taken into consideration when the appropriate assessment is carried out". The point regarding the uncertainty of the effectiveness of the proposed measures was further expanded on by the court in Grace where it was stated that "...such uncertainty is the result of the identification of adverse effects, certain or potential, on the integrity of the area concerned as a habitat and foraging area and, therefore, on one of the constitutive characteristics of that area, and of the inclusion in the assessment of the implications of future benefits to be derived from the adoption of measures which, at the time that assessment is made, are only potential, as the measures have not yet been implemented." The court then went further to state that the benefits of such a measure would need to be foreseen with the requisite degree of certainty when a development was approved. Furthermore, in the matters of Royal Society for the Protection of Birds v Secretary of State for Communities and Local Government & others [2014] EWHC 1523 (Admin) and Murphy's Application for Judicial Review, Re, [2017] NICA 51, it was confirmed that FLL must be assessed under the same legal framework as the site itself. This will, therefore, be relevant to the HRA for this application given that the FLL here is situated outside of the SPA. It is further noted that the proposed replacement land at Gronant Fields is already located within the boundary of the Dee Estuary SPA. We do not consider this fact to be determinative by itself but instead revert to the test with regards to certainty as discussed above. It is noted that within the CMS (APP-254), at paragraph 4.3.9, the Applicant states that "the	in foraging and roosting opportunities in the wider landscape. 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 by enhancing other areas already used by curlew to support greater numbers. With regard to Management for 80 years, 80 years is a legal definition given for 'in perpetuity' under the Perpetuities and Accumulations Act 1964, although a longer period of 125 years is given under the Perpetuities and Accumulations Act 2009. Practice has generally led to 80 years becoming the standard definition of 'in perpetuity' for purposes of mitigation measures associated with the Conservation of Habitats and Species Regulations. Whilst, in Wales, the appropriateness of the management period is considered on a case-by-case basis, the Applicant considers the management period in this case to be suitable.			

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			habitat for the Curlew offsetting area will be established prior to commencement of construction works at the areas of the Main Development Area for which offsetting is required, to ensure that the mitigation provision is available prior to any displacement occurring". This is further addressed within the RIHRA which states that Requirement 11 of the draft DCO identifies that a Curlew Mitigation and Monitoring Plan (CMMP) must be developed, and enhancement measures must be in place prior to works commencing. We therefore acknowledge that such proposals, in principle, could potentially be considered as mitigation for HRA purposes but consider that this would be subject to their effectiveness in preventing any adverse effect on the SPA, at the point of assessment, being beyond scientific doubt. Further to the above, we consider that reasonable scientific doubt remains over the satisfactory implementation of the replacement curlew habitat proposals, as explained below. Therefore, we are not able to assure the ExA that the proposals could be deemed as mitigation measures at this stage and hence, following the case law, they should be considered as compensatory measures. Furthermore, paragraph 3.5.5 of the CMS **[APP-254]** states that "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". A reference for this "standard HRA definition" of in perpetuity should be provided. There is no guarantee that curlew would return to the decommissioned brownfield land once the project has ceased to operate, so any mitigation/compensation should be permanent. This could potentially be achieved by a clause in the updated Conservation Areas Management				

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			Plan stating that at the end of the Proposed Development, or if the land is sold, the land should continue to be managed in accordance with the principles of the CMMP and that the new owner should demonstrate that they have the capability and funds to do so.				
3.12	Curlew Mitigation Strategy	**Curlew Mitigation Strategy [APP-254]**	We also advise that the following clarifications and details should be provided for the CMS: 1) Para. 2.4.2: Table 1 does not include historic data, only covers one year, and is likely to be too narrow in the range of months when curlew are found in significant numbers at the site. Historic data held by the applicant and Deeside Naturalists' Society (DNS) should be referred to as these may show a greater range of months when significant numbers of curlew, and possibly other qualifying species, occur within the affected fields (i.e. August, September and October). Historic data may also provide longer-term trends in the numbers of curlew (and other bird features) using the Functionally Linked Land. This may be important when determining the effectiveness of management measures in the proposed offsetting land i.e. historic baseline curlew numbers in offsetting land versus curlew numbers in preferentially managed land. 2) Para. 4.1.1: Groundwater monitoring should be applied at an early stage to determine the characteristics of groundwater changes at the offsetting site and to inform future management of water levels. Water levels should be quantified over a period of time, so that adjustments to management prescriptions can be made. 3) Para. 4.2.4 states that "further surveys will be undertaken during the peak wintering months". We would wish to be consulted on the results of these surveys and would welcome further engagement regarding the development of the Curlew Mitigation and Monitoring Plan. 4) Para. 4.3.2: Regarding reference to the winter period of October – March, curlew may start to arrive earlier in the season (August/September) depending on weather and breeding success. Using grazing animals would allow minimal disturbance towards the end of summer and	The points are addressed in turn. 1) This is noted. The Applicant will continue to engage with the Deeside Naturalists' Society (DNS) and NRW on availability of existing data sets. 2) The Applicant is in the process of commencing groundwater monitoring to inform future management. The Applicant will continue to engage with NRW on groundwater monitoring and provide NRW with any feedback of results. 3) The Applicant is currently undertaking further non-breeding bird surveys of the mitigation area and will continue to engage with NRW on results of these. (4 – 9) These points are noted and the Applicant will continue to engage with NRW on the **Curlew Mitigation Strategy [APP-254]** and submit an updated version of this strategy at an appropriate point during the examination. The Applicant is undertaking further work to address the proposals set out within the Off-Site Net Benefit for Biodiversity (NBB) strategy and acknowledges the potential conflicts between Off-Site NBB compensation, CMS and FLL. The Applicant will consider suitability for CMS when enhancing and creating habitat for off-site NBB compensation and will provide further detail on how such measures will be controlled and managed. Proposals will be developed throughout detailed design collaboratively with ornithological experts and through consultation with NRW, the LPA and other relevant stakeholders. The Applicant welcomes the feedback on the **Curlew Mitigation Strategy [APP-254**] and **Offsite Net Benefit for Biodiversity and**	The parties continue to discuss the **Curlew Mitigation Strategy [APP-254]** and the management of the Off-Site Delivery Area	Under discussion	

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			therefore early-returning curlew would be able to use the land. 5) Para. 4.3.6 states that one of the additional habitat management measures "will be the creation of a network of foot drains which are a common habitat feature deployed to support diverse invertebrate assemblages and create suitable habitat conditions for waders." A reference or example should be provided to support this approach. 6) Para. 4.3.12: "late in the season" should be defined. 7) The applicant has stated that management of the water tables, sward height and taller vegetation in the Secondary Curlew Area (Figure A-3) would provide additional habitat enhancement. Clarity should be provided on whether these areas would be managed on the same schedule of mowing/grazing and to the same standard as the core areas. 8) Figure A-3 indicates two field parcels of curlew feeding areas, presumably based upon one year's data. NRW and WeBS hold historic data for the area that may reveal curlew feeding in other adjacent areas. Impacts on other designated bird species that may be affected by management decisions for curlew should also be assessed. 9) Section 4.4: There is likely to be a need for a longer-term initial monitoring period, e.g. minimum of 10 years. Monitoring should occur for the life of the project, so that management can adapt to changes, and should contribute towards the Dee estuary WeBS count. Details of the monitoring arrangements and the feasibility of access to enable effective monitoring should also be provided. 10) A defined financial allocation should be set aside for management requirements. Oversight of the management plan from the applicant's perspective should be supported by a dedicated officer to enable effective management. The Offsite Net Benefit for Biodiversity and Green Infrastructure Strategy (NBB/GIS) includes habitat management prescriptions for the offsetting land to be acquired as part of the CMS. While we generally concur with these	**Green Infrastructure Strategy [APP-255]** and will continue to engage with NRW to address the points raised in paragraphs 2.1.62 to 2.1.65 of the Written Representation. This will include discussion on the membership of the suggested steering group as well as the indicative landscape design of the off-site delivery area at Gronant Fields and proposed management prescriptions.			

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			proposals in principle, this land is designated as part of the Dee Estuary SPA, Ramsar site and SSSI. It should therefore be ensured that the proposed NBB/GIS measures would not conflict with maintaining and enhancing suitable habitat conditions for the bird features of these sites, or the aims of the CMS. Further details should be provided regarding the proposed grassland and woodland measures and how the measures located on land adjacent to that acquired for the CMS would be effectively controlled and managed. We advise that the Applicant considers whether the CMS and CMMP could be developed into a Gronant Fields Environmental Management Plan, which would be either separate to or part of the overarching updated Conservation Areas Management Plan, approved through a section 106 agreement or similar mechanism. As the replacement curlew habitat site is within the Dee Estuary SPA/Ramsar site/SSSI, the management plan may need to be regularised through a section 16 management agreement (Wildlife and Countryside Act) to ensure NRW's future participation as a key stakeholder in management decisions for the life of the programme. In relation to future monitoring, the site has historically been difficult to survey accurately as there is a busy road along the southern boundary and lack of close vantage points. We therefore recommend that consideration is given to the provision of new bird hides and/or screens, and safe access, provided that these would not disturb roosting and feeding birds using the site. We would also encourage the Applicant to engage with local interested parties and expert practitioners in coastal habitat management for birds who have historically been familiar with the area, and establish a steering group for the curlew offsetting site's future management. Actions for the group could include:				

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			• developing a delivery action plan, many aspects of which are already included in the CMS (APP-254), to ensure the land is optimised for curlew and potentially other qualifying species. • once the CMMP is instigated, holding annual meetings with the group to ensure management is directed at optimising conditions for curlew and any other target bird species. • The Offsite Net Benefit for Biodiversity and Green Infrastructure Strategy (APP-255) include habitat management prescriptions for the proposed curlew offsetting site to be acquired as part of the CMS (APP 254). While we generally concur with these proposals in principle, we advise that further details are needed and our main comments are summarised as follows: • 'Grassland enhancement' should be viewed from the perspective of enhancing the land for target bird usage, rather than focusing specifically on grassland species diversity. It is important that the grassland is wet and provides invertebrate prey species for the target bird species; the land is designated as an SPA, Ramsar site and SSSI on this basis. • The grassland enhancement proposed in Figure 2 (Proposed Habitat Enhancement and Creation Measures) appears to require additional procurement of land to facilitate it. Clarification should therefore be provided on the feasibility and security of these measures. • The land is already designated as an SPA, Ramsar site and SSSI to maintain and enhance conditions for bird features. The woodland measures, although potentially useful in terms of screening the site to reduce disturbance to birds, are therefore not considered to be a priority at this site. We would encourage the Applicant to manage the site during spring and summer months, to create breeding habitat for redshank and/or				

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			lapwing where this does not conflict with its principle aims for curlew. Measures applied at this site for other species could potentially contribute to demonstrating achievement of Net Benefit for Biodiversity. We can provide evidence of other bird species likely to benefit from enhanced management based upon previous observations.				
3.13	Noise and visual disturbance of interest features of the Dee Estuary SPA/Ramsar site/SSSI during construction/demolition	**Report to inform Habitats Regulations Assessment [APP-253]** **Chapter 11: Terrestrial and Aquatic Ecology [APP-049]**	Noise modelling and contour maps for 'site enabling works,' 'main civils works,' and 'plant installation works' show the potential for noise levels to exceed 65dB without the use of any mitigation. However, we agree that with the use of suitable mitigation, noise levels will not exceed 60dB within the Dee Estuary SPA / Ramsar site. We note that additional measures to minimise noise are planned and will be finalised at the detailed design stage. Appropriate mitigation measures must be in place to ensure the predicted disturbance will not have an adverse effect on wintering waterbirds associated with the Dee Estuary SPA / Ramsar site. We therefore recommend that further noise modelling should be undertaken once the mitigation measures are finalised. Noise modelling and contour maps for the WCC works show that, even with acoustic fencing, noise levels will reach over 85dB which will cause disturbance to bird features of the Dee Estuary protected sites. We therefore agree with the proposed mitigation for these works to be completed outside of the wintering season. The Surface Water Outfall works are due to take place within the Dee Estuary SPA / Ramsar site and therefore will likely cause disturbance to the wintering wader and wildfowl features of these sites. We therefore agree with the proposed mitigation for these works to take place outside of the wintering season, to avoid this disturbance.	This position is noted by the Applicant. Whilst it is recognised that additional noise mitigation measures will be finalised at the detailed design stage, the provision of the 3 m acoustic fence is secured through the **Framework Construction Environmental Management Plan (CEMP) (EN010166/APP/6.5)**, submitted at Deadline 2, which also notes that consideration will also be given to additional noise controls such as jackets on pneumatic drills, acoustic covers on compressors, shrouds on piling rigs and cranes and temporary barrier or screens. These measures would ensure that noise levels will not exceed 60 decibel (dB) within the Dee Estuary Special Protection Area (SPA) / Ramsar site.	This matter is still subject to discussion between the parties.	Under discussion	

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3.14	Light spillage	**Chapter 11: Terrestrial and Aquatic Ecology [APP-049]**	We note the statement in the RIHRA (para. 10.3.2) that increased light spillage may improve foraging efficiency for some qualifying species and the reference to a paper regarding this. Although, we do not consider a single study of one species (redshank) to provide robust enough evidence to support this statement, we concur with the overall conclusions regarding light spillage.	This is noted and the Applicant understands that no further action is required at this stage. The reference to light spillage possibly improving foraging efficiency for one species was an observation and was not a basis for the actual assessment.	This matter is agreed between the parties.	Agreed	Resolved
3.15	Water quality mitigation	**Report to inform Habitats Regulations Assessment [APP-253]**	Although any proposed (but unspecified) control measures may theoretically provide mitigation for water quality impacts, no information has been provided to suggest these control measures will avoid the effect in the first instance. Therefore, we do not agree that the water quality impact pathway can be screened out at the Test of Likely Significant Effects (TLSE) stage. Since the measures proposed to be committed in a Construction Environmental Management Plan (CEMP) are considered as "measures to reduce or avoid harm", they should not be discounted at TLSE but should be assessed fully in the Appropriate Assessment (AA) stage of the HRA process. We refer to the People Over Wind ruling for context and clarity (People Over Wind and Sweetman v Coillte Teoranta (C-323/17)). We do not consider that the Langton case (CO/2062/2020) regarding badger culling sets an appropriate precedent for screening out a water quality impact pathway for this application. Information on the proposed activities that may be mitigated or avoided and their potential effect on the water quality of the Dee Estuary SAC/SPA/Ramsar site (and potentially the River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid SAC during a big tide or low flows), the impact pathways, and the specific mechanisms for mitigation should therefore be made available for assessment. We consider that the Competent Authority will need this information to undertake their HRA.	The Applicant has taken mitigation measures into account which would be legally required even if no Habitats sites are involved, or which are already in place and operating (e.g. reliance on existing abstraction consents and existing infrastructure). Such measures can be considered during Stage 1: Test of Likely Significant Effects (TLSE). As noted in paragraph 7.2.35 of the **RIHRA [APP-253]** the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 and the Environmental Permitting (England and Wales) Regulations 2016 make it an offence to pollute watercourses, irrespective of whether they are Habitats sites or connect to Habitats sites. The water quality protection measures identified in paragraph 7.2.36 of the **RIHRA [APP-253]** (regarding construction) and 7.3.20 to 7.3.22 (regarding drainage during operation) would therefore be legally required even if there was no designation associated with the Dee Estuary. Following the implementation of these measures it is concluded that there would be no likely significant effect (LSE) associated with changes in water quality of the Dee Estuary SAC / SPA / Ramsar site (and the River Dee and Bala Lake / Afon Dyfrdwy a Llyn Tegid SAC).	The matter is still subject to discussion between the parties. At Deadline 3 NRW have provided the following comments: *We acknowledge the Applicant's position on this matter and recognise their commitment to complying with environmental protection regulations.* *Sections 7.2.29–7.2.34 of the submitted RIHRA [APP-253] identify the potential pathways through which the project could affect protected features.* *The mitigation described in section 7.2.36 provides a sufficient high-level overview of what is intended for the framework CEMP.* *Overall, the summary of both existing and proposed mitigation appears, in principle, to be suitable for avoiding adverse effects. However, full and detailed mitigation measures, whether already in place or proposed, must be provided at the Appropriate Assessment stage (HRA Stage 2).* *Because mitigation (whether existing or proposed) cannot be used to avoid the need for assessment under the HRA, any impact that could potentially be mitigated must still be identified at the TLSE stage (HRA Stage 1) and then assessed in*	Under discussion	

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					detail at Appropriate Assessment (HRA Stage 2). *We emphasise that full details of all mitigation measures, whether already in place or proposed, must be included at the Appropriate Assessment stage.* *We therefore maintain our position on this matter. In order to provide technically robust advice to the Competent Authority and ExA, we advise that the details of the proposed (or established) mitigation activities are presented at Appropriate Assessment so they can be considered as part of the HRA process, regardless of whether or not the actions are already in place.*		
3.16	Water quality impacts to the Dee Estuary SAC/SPA/Ramsar site/SSSI and River Dee and Bala Lake SAC/Afon Dyfrdwy (River Dee) SSSI during construction /decommissioning	**Report to inform Habitats Regulations Assessment [APP-253]**	We do not agree with the RIHRA's conclusion that LSE can be screened out for all features for water quality during the operational phase. The stated integral design makes no reference to the composition of wastewater discharge from the site during operations. The RIHRA states that the current and future practise is to treat sewage on site and discharge with the cooling and process wastewater. In the absence of data regarding for the proposed waste water composition, we consider that there is reasonable scientific doubt that the discharge will have no adverse effect on the features of the Dee Estuary SAC/SPA/Ramsar site (and potentially the River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid SAC during a big tide or low flows). Details of the composition of the proposed foul discharge should therefore be provided for consideration in the Appropriate Assessment stage of the HRA process.	As discussed above, the Applicant considers that mitigation measures can be taken into account during the HRA Screening stage which would be legally required even if no Habitats sites are involved. The water quality protection measures identified in paragraphs 7.3.20 to 7.3.22 of the **RIHRA [APP-253]** (regarding drainage during operation) would therefore be legally required even if there was no designation associated with the Dee Estuary. Regarding foul discharge, the **RIHRA [APP-253]** assumes that a consented discharge has been deemed to be acceptable, otherwise it would have been subject to a Review of Consents process by NRW in line with the Conservation of Habitats and Species Regulations 2017 (as amended).	The matter is still subject to discussion between the parties. As stated above [NRW 13], NRW maintain their position set out within their Relevant Representation **[RR-027]** and **Written Representation [REP1-073]** on this matter.	Under discussion	
3.19	Invasive non-native species mitigation	**Chapter 12: Marine Ecology [APP-050]**	While we agree with the overall approach outlined in ES Chapter 12, paragraphs 12.6.18 – 12.6.21, the mitigation and management measures contained in the 'Marine Invasive	A detailed assessment of marine invasive non-native species (INNS) risks will be undertaken once a contractor is appointed and vessel movements are confirmed. This will allow	This matter is agreed between the parties. NRW are satisfied that the updated **Appendix 12-F: Marine Invasive Non-**	Agreed	Resolved

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		Marine Invasive Non-Native Species Outline Management Plan [APP-209]	Non-Native Species Outline Management Plan' (ES Appendix 12F) and the 'Biosecurity Risk Assessment' (ES Appendix 12E) would not adequately reduce the risks associated with the spread of marine INNS. The following key details are absent from the biosecurity risk assessment document but would have a material difference on the efficacy of the mitigation measures and assessment: • the type and nature of vessels to be used, • duration of the activity, • location and nature of ports previously visited, • INNS status of these ports, and • whether the vessels have had recent antifouling treatment. We therefore advise that a 'detailed biosecurity risk assessment' for the marine element of the works should be submitted for approval, in consultation with NRW, once a suitable contractor is appointed and able to complete the relevant information, prior to any works commencing. This should be secured within the DCO requirements, potentially as part of Requirement 4 (2) b.	inclusion of the vessel type and nature, duration of activity, port history, INNS status of departure ports, and antifouling condition. The assessment will inform an updated Marine INNS Management Plan, which would be prepared prior to the formal submission of the final CEMP, for approval by the relevant authority, prior to any construction-related vessel activity. **Appendix 12-F: Marine Invasive Non-Native Species Management Plan [APP-209]** has been updated to include the additional information listed above at Deadline 1. The updated assessment and management plan will ensure that the biosecurity measures reflect the actual vessels and operations involved and will provide the basis for any mitigation required. Submission of the detailed marine biosecurity risk assessment will be secured and approval obtained in advance of works.	**Native Species Management Plan [REP1-018]** and commitment by the applicant to submit a more detailed plan prior to formal submission of the final CEMP, for approval by NRW, in relation to construction vessel activity, adequately address their concerns related to the risks posed by marine invasive non-native species (INNS).		
3.20	Introduction of invasive non-native species (INNS) impacts to the Dee Estuary SAC/SPA/Ramsar site/SSSI and River Dee and Bala Lake SAC/Afon Dyfrdwy (River Dee) SSSI during operation	**Report to inform Habitats Regulations Assessment [APP-253]**	We note that the INNS impact pathway has been screened out of the RIHRA for the Deeside and Buckley Newt Sites SAC and Halkyn Mountain/Mynydd Helygain SAC. However, this does not appear to have considered biosecurity risks from infectious diseases such as Chytrid. Since the works are within 2km of the Deeside and Buckley Newt Sites SAC, we advise that the HRA should consider such biosecurity risks.	Deeside and Buckley Newt Sites SAC and Halkyn Mountain / Mynydd Helygain SAC are located 1.5 km south and 3.6 km west of the Order limits respectively. Both sites are separated from the works by major barriers. There are no hydrological connections between the works and the designated sites and as Chytrid is spread primarily through contact with the waterborne zoospores the Applicant considers it is reasonable to screen the INNS impact pathway out of the **RIHRA [APP-253]**.	This matter is agreed between the parties. NRW notes that: *An Invasive Species Management Plan (ISMP) survey would be updated prior to construction to determine the current location and extent of plant Invasive Non-Native Species (INNS), and to inform specification of the ISMP. If determined as necessary through this survey and after consideration of other available plant and animal INNS data, an ISMP would be prepared to accompany the final CEMP(s) and would be agreed with relevant stakeholders. This is to be included within the final CEMP(s).*	Agreed	Resolved
3.22	Terrestrial ecology surveys	**Report to inform Habitats**	Overall, we are largely satisfied with the survey and assessment in respect of great crested newts (GCNs), bats, otter, water vole, hazel	This is noted and the Applicant understands that no further action is required at this stage.	This matter is agreed between the parties.	Agreed	Resolved

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		Regulations Assessment [APP-253]	dormouse, and natterjack toad and agree with the conclusions of the ES. We also acknowledge that no protected species licences for the above species are currently likely to be required.				
3.23	Introduction of invasive non-native species (INNS) to the Dee Estuary SAC/ SPA/Ramsar site/SSSI and Deeside and Buckley Newt Sites SAC/Connah's Quay Ponds and Woodlands SSSI during construction/demolition	**Report to inform Habitats Regulations Assessment [APP-253]**	In respect of GCN we advise that the assessments should be based on a 1.6km dispersal distance as opposed to the 250m stated in the submission (note: Section 6.2.3 of Guidelines for the Selection of Biological SSSIs. Part 2: Detailed Guidelines for Habitats and Species Groups: Chapter 18 Reptiles and Amphibians). '*The majority of adult newts remain within about 250 m of their natal pond for most of their lifecycle if habitat conditions are suitable, with longer range dispersal undertaken less frequently (Kupfer et al. 1998; Haubrock et al. 2017; and see overview in Jehle et al. 2011). Generally, areas closer to the breeding pond are of relatively higher value to newts, with certain habitat types and features being more favoured. Great crested newts have been found to disperse across habitats which offer little cover or foraging opportunity, such as hard standing and arable land, in order to reach more distant and higher value habitats. As this species can disperse over 1.6 km between ponds, SSSI boundaries should allow for long distance movements that contribute to maintaining population viability and gene flow and recognise the range of terrestrial habitats used by the species*'.	As a precaution paragraph 7.2.46 of the **RIHRA [APP-253]** does use a 1.6km zone of influence for Habitats sites designated for Great Crested Newt (*Triturus cristatus*) (GCN) as follows: '*However, regarding the Hynet DCO Natural Resources Wales advised the applicant that functionally linked land for the newt populations lay within 1.6 km of the SAC. The areas of suitable habitat within the Proposed Development Site are beyond this distance from the SAC. Therefore, Deeside & Buckley Newt Sites SAC is not discussed further regarding this impact pathway.*' It is noted that Section 6.2.3 GCN (*Triturus cristatus*) of Guidelines for the Selection of Biological SSSIs. Part 2: Detailed Guidelines for Habitats and Species Groups: Chapter 18 Reptiles and Amphibians states:	The matter is still subject to discussion between the parties. At Deadline 3 NRW have provided the following which the Applicant is reviewing: *We are unsure why this is specifically related to INNS/biosecurity as opposed to other possible impacts.* *In respect of INNS/biosecurity 1.6km is appropriate from an assessment perspective.* *However, we still seek clarification that 1.6km has been applied for all impact pathways regarding GCN.*	Under discussion	

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				The impact assessment for GCN has been conducted based on the Proposed Development extent, specifically the Construction and Operation Area (refer to Table 11-7 **Chapter 11: Terrestrial and Aquatic Ecology [APP-049]**). It is acknowledged that the Guidelines quoted above refer to SSSI boundaries allowing for long distance movement to maintain population viability, gene flow and terrestrial habitats used by the species. The GCN assessment has taken into consideration all recent records for amphibians and designated sites relating to amphibians within 2 km of the Construction and Operation Area. Waterbodies up to 500 m were identified and surveyed for GCN (where applicable). Refer to paragraph 3.1.3 and 3.3.1 of **Appendix 11-E: Great Crested Newt Technical Appendix [APP-195]**. This is considered to be a sufficient study area and survey area for GCN and proportionate to the Proposed Development.			
3.26	Mitigation related to Schedule 1 Birds	**Framework Construction Environmental Management Plan [APP-246]**	Where buffer distances are required or need to be considered, reference should be made to Goodship, N.M. and Furness, R.W. (MacArthur Green) Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species. NatureScot Research Report 1283, or alternative published references for species not listed in Goodship & Furness 2022.	The **Framework CEMP [APP-246]** will be updated to include reference to this guidance in the event that a Schedule 1 bird species is found breeding within the Order limits and submitted at Deadline 1.	This matter is agreed between the parties.	Agreed	Resolved
2.0 Marine Ecology							
3.28	Eels and fish	**Chapter 12: Marine Ecology [APP-050]**	We welcome the commitment for eel screen upgrade works to meet current legislative requirements, including The Eels (England and Wales) Regulations 2009, comprising the removal of one existing 3mm screen and the installation of one new 2mm screen on each of the existing 28 intakes. This embedded design measure would be secured via Requirement 4 (CEMP) and any additional permits/licences required for the works to the intake structure.	This is noted and the Applicant understands that no further action is required at this stage.	This matter is agreed between the parties.	Agreed	Resolved

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3.29	Thermal impacts from discharge rates	**Chapter 12: Marine Ecology [APP-050]**	ES, Chapter 12, para. 12.2.16 states: "Furthermore, there is no evidence of any thermal impacts from existing discharge rates" and on that basis thermal impacts from the discharge have been screened out for assessment. We advise that references should be provided to support this statement.	As per Section 12.4 of **Chapter 12: Marine Ecology [APP-050]**, it is considered that the existing baseline environment demonstrates that there is no evidence of any thermal impacts from existing permitted discharge rates.	This matter is agreed between the parties.	Agreed	Resolved
3.30	Water abstraction and discharge	**Chapter 12: Marine Ecology [APP-050]**	ES, Chapter 12, para. 12.2.22 states: "The Applicant proposes to maintain the permitted abstraction and discharge parameters as far as reasonably practicable, e.g. abstraction would continue to be limited to periods around high water in line with the current abstraction licence." We welcome the intention to adhere to the conditions in the current abstraction licence but advise that further clarity is provided on what is meant by 'as far as reasonably practicable', including the circumstances in which there would be deviation to abstracted and discharged parameters. It should also be confirmed that all parameters, if deviations occur, are within the worst-case scenario assessed in Section 12.3.	Water abstraction and discharge would be regulated in operation under the environmental permits for the Proposed Development and the existing Connah's Quay B station. This application and variation, respectively, are being prepared. Whilst no changes to permitted abstraction and discharge parameters are being requested, as these permits are not final there is the potential for parameters to change. As such, the language "as far as reasonably practicable" is used here. As no changes to abstraction and discharge parameters are being requested the expected operation does lie within the worst-case scenario assessed.	This matter is agreed between the parties. NRW welcome the Applicant's confirmation that no changes to the permitted abstraction and discharge rates are being requested as part of the DCO, and will consider any proposed variation in responding to the environmental permit applications once made.	Agreed	Resolved
3.31	Marine designated features	**Chapter 12: Marine Ecology [APP-050]**	ES, Chapter 12, para. 12.4.3: the bullet list of features contains the following errors/omissions: • the Dee SSSI is also designated for European smelt, • the River Dee and Bala Lake SAC is also designated for river/sea lamprey and bullhead, • the River Dee SSSI is designated for salmon, sea lamprey, and European smelt. Brown/sea trout (Salmo trutta) are not a feature of the site but are protected under Section 7 of the Environment (Wales) Act 2015.	The Applicant can confirm that relevant marine designated features have been assessed in **Chapter 12: Marine Ecology [APP-050]**.	This matter is agreed between the parties.	Agreed	Resolved
3.0 Air Quality							
3.32	Environmental Permit	**Consents and Agreements Position Statement [APP-021]**	Based on the information submitted, we consider that the proposed development will require an Environmental Permit ('permit') to operate. Please note, however, that NRW's Permitting Service have not yet received a permit application in respect of the proposed development to date. Therefore, we have carried out a 'high-level' model review of the air quality	We confirm that the Environmental Permit application is being prepared and will be submitted in Q1 2026 to NRW.	This matter is agreed between the parties. NRW has received a permit application which is under separate assessment outside of the DCO. It will be determined to standard regulatory requirements and timescales. Matters noted under the DCO	Agreed	Resolved

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			information submitted in support of the above application. A 'high-level' model review consists of providing advice regarding the general assessment methodology of an air quality assessment (AQA) used and whether the correct guidance regarding key model input parameters has been followed. 2.3.2. We have undertaken a 'high-level' model review in this instance because this approach is considered to provide a suitable balance of offering you greater assurances that the findings of the AQA are reliable. However, this approach		process as potentially relevant to permitting will be considered.		
3.33	Diesel-powered back-up generators and associated pollutants	**Chapter 08: Air Quality [APP-046]**	Our previous advice regarding air quality has been addressed and generally we are satisfied with the AQA submitted. However, please see our following comments. Table 8-2 (Scoping Opinion Responses from the UKHSA), states: "It is recommended that the air quality impacts assessment also include the diesel-powered back-up generators and associated pollutants." The applicant has responded that: "Precise information on the number, size and type of back-up generator(s) has not been confirmed at this stage of the Project. As a reasonable worst-case assumption, the diesel generator(s) would only be used for short periods during testing and in the case of an abnormal event. Their use is, therefore, unlikely to have a significant effect on local air quality." Reasonable evidence of the estimation of possible impact should be provided to support this statement.	The Applicant notes that NRW are satisfied with the air quality assessment submitted. As highlighted in NRW's comment, the Applicant's position is that the diesel generator(s) would only be used for short periods during testing and in the case of an abnormal event. Their use is, therefore, unlikely to have a significant effect on local air quality. The Applicant confirms that evidence of the estimation of possible impact from the back-up generators will be provided during the Environmental Permit application process submitted to NRW in 2026.	This matter is still subject to discussion between the parties.	Under discussion	
3.34	Air quality pollutants	**Report to inform Habitats Regulations Assessment [APP-253]**	It should be ensured that all relevant pollutants (including total amine emissions) that could be emitted from the stacks have been identified and assessed to inform the HRA (in line with published guidance).	There will be an additional assessment undertaken as part of the Change Application, planned to be submitted at Deadline 3, all emissions and associated Environmental Assessment Levels (EAL) will be presented as current at that time.	This issue will be discussed further following NRW's review of the updated information provided within the Change Application.	Under discussion	
4.0 Water Environment and Flood Risk							
3.36	Water Pollution	**Framework Construction**	We note that a Construction Environmental Management Plan (CEMP) would be	Because the CEMP must be in general accordance with the **Framework CEMP [APP-**	This matter is agreed between the parties.	Agreed	Resolved

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		Environmental Management Plan (CEMP) [APP-246]	implemented for the construction stage. The Framework CEMP (EN010166/APP/6.5) outlines the control measures for mitigating water quality impacts, taking into account Guidance for Pollution Prevention (GPP) documents GPP5 and GPP6. This would be developed into a detailed CEMP and supporting documents, secured post-consent as a requirement of the DCO. Section 4.7 of the Framework CEMP states that a Drainage Management Strategy would be developed and provided in the final CEMP(s). We advise that the provision of the drainage management strategy documents to support the CEMP should be included in Requirement 4 or 7 of the DCO.	**246]**, as certified, and this Framework CEMP includes the specific reference to a Construction Drainage Management Strategy needing to be prepared, such Strategy is already sufficiently secured without the need to specifically cross-reference this document within Requirement 4 or 7. The operational drainage design would be implemented early in the construction phase to enable the use of the new outfall. In addition, the specifics of construction drainage are not known. The **Framework CEMP [APP-246]** will be updated to set out more principles to support the development of the Construction Drainage Management Strategy, at Deadline 1. This would include recommendations to consider Sustainable Drainage Management Systems (SuDS), Phased Drainage Implementation, Pollution Prevention Hierarchy, sediment and erosion control measures, inspections and maintenance arrangements, and training for staff on the importance of effective water management practices and methods. However, that said, in the interests of clarity and transparency, the Applicant has included an additional limb under Requirement 4(2) to specifically secure that the CEMP must incorporate a Construction Drainage Management Strategy.	NRW note and welcome that the updated framework CEMP includes a Construction Drainage Management Strategy.		
3.37	Water Framework Directive Assessment	**Appendix 13-B: Water Framework Directive Assessment [APP-211]**	Regarding ES, Appendix 13B (Water Framework Directive Report), on the basis of adherence to the commitments in the CEMP and associated documents, we agree with the conclusions of the Construction Phase Assessment for marine water quality that any impacts can be avoided or mitigated and so are unlikely to have a significant impact on any Water Framework Directive (WFD) quality elements. Likewise for the operational phase, we agree with the assessment of no deterioration in any WFD quality element relating to marine water quality	This is noted and the Applicant understands that no further action is required at this stage.	This matter is agreed between the parties.	Agreed	Resolved

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			and no likelihood of the prevention of any water quality objectives from being met.				
3.38	Waterbodies within the Study Area	**Figure 13-1 Surface Water Features [App-132]**	The supporting Figure 13-1 (Surface Water Features) does not appear to show all the WFD waterbodies reported in the WFD compliance assessment, only Swinchiard Brook. We therefore advise that an updated plan is submitted which clearly shows all the WFD waterbodies that have been identified in the assessment.	**Figure 13-1: Surface Water Features** [APP-132] will be updated to include the screened out Water Framework Directive (WFD) water bodies, namely Wepre Brook and Nant Sir Roger (Dee Estuary). The updated figure will be submitted to the Examination at Deadline 1.	This matter is agreed between the parties.	Agreed	Resolved
3.39	WFD waterbodies	**Chapter 13: Water Environment and Flood Risk [APP-051]**	We note that there are no longer any works planned in the River Dee, aside from installation of new eel screens and minor repairs to existing inlets. We also note that a surface water outfall is proposed (para. 13.3.9). NRW should be consulted with further details of these works, to assess whether a Flood Risk Activity Permit (FRAP) or Marine Licence is needed, regardless of the requirement for in-channel works. A FRAP may be required for any works in, over, under or within 8m of a fluvial main river (including any defences on that main river), or 16m of a tidal main river (including any defences on that main river), or within a flood plain.	This is noted and the Applicant understands that no further action is required at this stage. The potential requirement for a Flood Risk Activity Permit (FRAP) is identified as item 12 in the **Consents and Agreement Position Statement [APP-021]**.	This matter is agreed between the parties.	Agreed	Resolved
3.41	Flood Consequences Assessment	**Appendix 13-C: Flood Consequences Assessment [APP-212]**	We have previously engaged with the applicant regarding the hydraulic model developed for this proposal during the pre-application stage. In summary, we consider that the model is suitable to use for its intended purpose for this project/site.	This is noted and the Applicant understands that no further action is required at this stage.	This matter is agreed between the parties.	Agreed	Resolved
3.42	Flood Risk	**Chapter 13: Water Environment and Flood Risk [APP-051]**	The Flood Map for Planning identifies the application site to be at risk of flooding and mostly within Flood Zone 3 (Sea). The Repurposed CO2 Connection Corridor and Water Connection Corridor also fall within Flood Zone 3 (Rivers). We acknowledge that there is already a consented power station development at this site and are satisfied that the correct flood risks and flood risk zones relevant to the Proposed Development have been identified within the Flood Consequences Assessment (FCA). However, we advise that greater detail should be provided on the following aspects.	**Appendix 13-F: Hydraulic Modelling Report [APP-215]** also simulated future resilience scenarios using the following tidal events: • 1 in 200 year (0.5% Annual Exceedance Probability (AEP)) plus 2074 95th percentile climate change; • 1 in 1000 year (0.1% AEP) plus 2074 95th percentile climate change; • 1 in 200 year (0.5% AEP) plus 2100 70th percentile climate change; and • 1 in 1000 year (0.1% AEP) plus 2100 70th percentile climate change.	This matter is agreed between the parties. NRW note and accept that the updated Flood Consequences Assessment (dated January 2026) has included the 2100 epoch associated with climate change allowance (CCA) up to 2100. Both the central (70th percentile) and Upper end (95th percentile) estimates have been considered and assessed for both the 1 in 200 year (0.5% AEP) and the 1 in 1000 year (0.1% AEP) events.	Agreed	Resolved

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			We have agreed with the applicant that the relevant design event for the site is the 0.5% (1 in 200 year) AEP tidal event, with allowance for climate change (70th percentile) over the lifetime of the development, including breach analysis where appropriate. We note that the proposed lifetime of the development is 30 years from a construction date in the 2030's, and on that basis, it was agreed that the 2074 climate change epoch would cover the lifetime of the proposed development. It was also agreed that the 2100 epoch would be analysed as a conservative approach to flood risk, as the normal lifetime considered for Highly Vulnerable Development is 100 years. TAN15 (2025) also requires the 95th percentile climate change scenario to be assessed in order to inform mitigation measures, and as a sensitivity test.	The 1 in 200 year (0.5% AEP) 2074 plus 95th percentile scenario shows a maximum increase in flood depth within the channel adjacent to the Main Development Area of +0.11 m when compared to the 70th percentile scenario. The proposed area for permanent development is not shown to be inundated during this event **(Appendix 13-F: Hydraulic Modelling Report [APP-215])**. The 1 in 200 year (0.5% AEP) 2100 plus 70th percentile scenario event shows the proposed area for permanent development not to be flooded within this scenario (**Appendix 13-F: Hydraulic Modelling Report [APP-215]**). An updated **Appendix 13-C: Flood Consequence Assessment** (**EN010166/APP/6.4**) has been submitted at Deadline 1. In relation to the consideration of the breach scenario, it was agreed with NRW in May 2025 that the undefended scenario undertaken as part of the hydraulic modelling represents the worst-case scenario for the Proposed Development. Therefore, no breach analysis was undertaken as part of the hydraulic modelling assessment (**Appendix 13-F: Hydraulic Modelling Report [APP-215]**). For all simulations the model was simulated in the partially undefended scenario (undefended at the Main Development Area, defended throughout the wider model) which removes the private defences and screening mound along the frontage of the existing Connah's Quay Power Station. The flood defences in NRW's received model are based on North Wales Tidal Defence Survey which were added to the model in 2020. It is understood from NRW that the sea defences were surveyed in 2016. The sea defences have been retained from the NRW 2020 River Dee Model on the left and right bank	The 1 in 200 (0.5%) CCA event in 2074 shows that flooding is generally confined to the river channel and no inundation is present for the main development area. NRW note and accept that the updated FCA advises as to why no breach analysis (of flood defences) has been undertaken. NRW note that this was subject to previous discussions and agreement between the Applicant and NRW. There are no NRW maintained flood risk management defences alongside the Main Development Area and therefore the modelling approach (undefended scenario) will provide conservative estimates of flood levels/risk. NRW are therefore satisfied with the Applicant's update.		

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
				of the River Dee upstream of the existing Connah's Quay Power Station site. Defences on the left bank of the River Dee along the boundary of the existing Connah's Quay Power Station site are private defences and there is little information about the current condition, standard of protection or the maintenance / management regime of the defences. The site walkover identified the defences at the existing Connah's Quay Power Station site are generally raised ground along the Dee Estuary frontage with a setback partial gabion wall which has access openings to the existing Connah's Quay Power Station site. Construction information provided by the Applicant shows that the observed gabion wall is an earthwork embankment built as a screening mound with one side having a gabion construction. It was agreed with NRW in May 2025 that the private defences at the existing Connah's Quay Power Station site would be removed from the baseline model to create a partially undefended model and a conservative estimate of flood risk at the Main Development Area.			
3.43	Flood Risk	**Chapter 13: Water Environment and Flood Risk [APP-051]**	We advise that greater detail should be provided on the following aspects: • Although the results of the 2100 epoch and 95th percentile model runs are included in Appendix 13-F (Hydraulic Modelling Report), we advise that these should be presented and summarised in the FCA so that the information is more readily available for decision makers. • As TAN15 requires the breach scenario to be considered as the design event, there should be a description of the existing flood defences and appropriate justification of why a breach/undefended scenario has not been included. • Analysis of flood risk in the 0.1% (1 in 1000 year) scenario (including climate change - central and upper end estimates) should be included in the FCA, as it is a requirement of TAN15.	As noted in response to NRW 40, **Appendix 13-F: Hydraulic Modelling Report [APP-215]**) also simulated future resilience scenarios using the following tidal events: • 1 in 200 year (0.5% AEP) plus 2074 95th percentile climate change; • 1 in 1000 year (0.1% AEP) plus 2074 95th percentile climate change; • 1 in 200 year (0.5% AEP) plus 2100 70th percentile climate change; and • 1 in 1000 year (0.1% AEP) plus 2100 70th percentile climate change. The 1 in 1000 year (0.1% AEP) 2074 plus 70th percentile scenario event shows the proposed area for permanent development to be inundated with floodwater to a maximum flood depth of 0.43 m during this event (**Figure 13F-34 Appendix 13-F: Hydraulic Modelling Report [APP-215]).**	This matter is agreed between the parties. NRW advise that the off-site impacts of land raising shown during the 1 in 1000 (0.1% AEP) 2100 CCA event (70th percentile) some 2km upstream and centered around Wepre Brook are associated with the representation of a culvert on that watercourse and model stability and not due to the land raising.	Agreed	Resolved

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			During our previous hydraulic model review we noted that small areas of flood risk detriment were shown, albeit at a distance from the site: an explanation of these should also form part of the FCA, to address any detriment in terms of flood risk due to the project.	The 1 in 1000 year (0.1% AEP) 2074 plus 95th percentile scenario event shows a maximum increase in flood depth within the channel adjacent to the Main Development Area of +0.17 m when compared to the 70th percentile scenario. There is a small section of the proposed area for permanent development near the frontage that is shown to flood as the maximum water level rises c.0.1 m above the raised ground levels. The area of inundation is small and remains at a depth of less than 0.15 m (**Figure 13F-32 Appendix 13-F: Hydraulic Modelling Report [APP-215]**).			
5.0 Geology and Ground Conditions							
3.44	Materials Management Plan (MMP)	**Chapter 14: Geology and Ground Conditions [APP-052]**	We note that excavated material would be managed in accordance with the appropriate exemption and/or environmental permit or, if applicable, a Materials Management Plan (MMP) will be developed under the Contaminated Land: Applications in Real Environments (CL:AIRE) Definition of Waste: Development Industry Code of Practice by the construction contractor. We note that the extent of 'cut' will not be known until the detailed design and further ground investigations are completed. As all of the identified contaminated land locations are designated as 'cut', a detailed cut-and-fill plan should be produced to outline the nature and extent of existing ground materials/made ground excavations, as this could have a direct influence on the degree to which existing contamination could be mobilised and spread.	A Materials Management Plan (MMP) will be developed (which would typically include a cut-and-fill plan), either as a technical appendix to the final CEMP or as a standalone document. The requirement for the MMP is secured through the **Framework CEMP [APP-246]**.	This matter is agreed between the parties. NRW note that provision of this information would be secured via a requirement of the DCO and therefore will provide further comments when consulted on the submitted details at the discharge of requirement stage.	Agreed	Resolved
3.45	Radii of influence (RoI)	**Chapter 14: Geology and Ground Conditions [APP-052]**	Clarification should also be provided on how the estimated radii of influence (RoI) relate to the designated contaminated land areas. This could be provided in a figure that shows the proposed cut, the RoI layer and the designated contaminated land areas. This would help to identify whether dewatering may be required in a particular contaminated land area and the estimated radius of influence.	The cut-and-fill plan that would be developed as part of the MMP (NRW42) would also identify the designated contaminated land areas (confirmed through detailed site investigations) and the estimated Radius of Influence. Furthermore, the hydrogeological assessment (as discussed in **Chapter 13: Water Environment and Flood Risk [APP-051]**) will be undertaken where excavations or	This matter is agreed between the parties. NRW note that provision of this information would be secured via a requirement of the DCO and therefore will provide further comments when consulted on the submitted details at the discharge of requirement stage.	Agreed	Resolved

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
				dewatering is required in high sensitivity groundwater environments. Potential interactions between excavation, dewatering, and contamination will be considered as part of detailed site investigations and within the dewatering scheme which will be developed prior to construction			
3.46	Assessment of groundwater flows	**Chapter 14: Geology and Ground Conditions [APP-052]**	Until further details on the cut-and-fill, local groundwater conditions and environmental quality of materials being excavated have been fully evaluated/finalised we maintain our previous advice that groundwater flows should be assessed as part of detailed site investigations, including the need to assess for the presence of private water supplies and the degree to which the current groundwater flow regime could be changed by the construction, operation and decommissioning of the proposed infrastructure, as much of it will be built in 'cut'.	This is noted and will be assessed as part of detailed site investigations.	This matter is agreed between the parties.	Agreed	Resolved
3.47	Potential areas of contamination	**Chapter 14: Geology and Ground Conditions [APP-052]**	The Stage 1, Tier 2 Generic Risk Assessment: Soil and Groundwater Report is based on particular boreholes/borehole locations. Further site investigation is proposed (Figure 14.2, Potential Areas of Contamination) and we welcome that this would be completed prior to construction of the Proposed Development. The site investigations would likely be significant in scope given the number of contaminated land locations that are designated as Risk 3, 4 or 5. However, it is unclear how the Risk Assessment: Soil and Groundwater Report is aligned with the Potential Areas of Contamination illustrated in Figure 14.2 as there are some significant geospatial gaps. Clarification should therefore be provided on this as the conclusions of the Risk Assessment may be altered by the subsequent site investigations	The scope of detailed site investigations will be designed to assess any potential areas of contamination that the development may interact with as recorded in **Figure 14-2: Potential areas of contamination [APP-141]**. The 'Risk Assessment: Soil and Groundwater Report' referred to in the representation is understood to be referring to **Appendix 14-F: Stage 1, Tier 2 Generic Risk Assessment: Soil and Groundwater [APP-221]**. The ground investigation undertaken to support this risk assessment was designed to provide a preliminary understanding of baseline groundwater conditions to include general groundwater quality, levels and flow. Subsequent ground investigations will be more detailed and will include an investigation of the areas of potential contamination that may interact with the Proposed Development and would address the geospatial gaps referred to.	This matter is agreed between the parties. NRW note that provision of this information would be secured via a requirement of the DCO and therefore will provide further comments when consulted on the submitted details at the discharge of requirement stage.	Agreed	Resolved
3.48	Operational contamination	**Chapter 14: Geology and Ground**	Operational contamination does not appear to have been included in the surface drainage design. We therefore advise that this is scoped	The Surface Water Drainage Strategy will be produced in general accordance with the **Outline Surface Water Drainage Strategy [APP-213]** and approved by FCC. Pursuant to	This matter is agreed between the parties.	Agreed	Resolved

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
		Conditions [APP-052]	in, or a robust justification provided if it is deemed not to be required.	Requirement 6 of the **Draft DCO [APP-019]**, no stage of Work No. 1 may become operational until, for that stage, a surface water drainage strategy for works relevant to that stage, in general accordance with the relevant part of the **Outline Surface Water Drainage Strategy [APP-213]**, has been submitted to and approved by the relevant planning authority. A surface drainage design has not yet been completed because a firewater strategy has not yet been developed, and the areas of potential surface water contamination have not been finalised. As mentioned in the **Outline Surface Water Drainage Strategy [APP-213]**, the surface water drainage strategy for firewater and potential contamination areas would be developed in consultation with NRW and FCC post-DCO consent and would be detailed in the Surface Water Drainage Strategy. Only after which, the drainage design would be able to be developed, which would need to be in accordance with the Surface Water Drainage Strategy.	NRW note that provision of this information would be secured via a requirement of the DCO and therefore will provide further comments when consulted on the submitted details at the discharge of requirement stage.		
6.0 Landscape and Visual							
3.49	Landscape character and visual amenity of the Clwydian Range and Dee Valley National Landscape (CRDVNL)	**Chapter 15: Landscape and Visual [APP-053]**	Our landscape advice relates to the landscape character and visual amenity of the Clwydian Range and Dee Valley National Landscape (CRDVNL). This is the name for the legally designated Area of Outstanding Natural Beauty. At its closest point, the Main Development Area is located approximately 10km from the National Landscape boundary. We welcome that our previous advice has been reflected in the ES. However, we advise that higher resolution digital copies of the viewpoint photography should be made available for examination purposes, as the submitted versions suffer from pixelation, which is likely due to having been provided at a lower resolution.	The images have been provided at the highest available resolution and cannot be further enhanced. Any blurring visible when zooming in is due to atmospheric haze and viewing distance, not image quality. Several viewpoints are located kilometres from the Proposed Development, where a loss of clarity is expected. Achieving noticeably higher image quality would require specialist lenses well beyond standard practice. In any event, higher resolution imagery would not materially improve or change the assessment of visual effects, nor is it necessary to understand the visual impacts of the Proposed Development.	At Deadline 3 NRW have provided the following comments which are being considered by the Applicant: *The issue is not entirely attributable to haze and distance. We assumed the lack of sharpness / definition within the photograph resulted from submitting lower-resolution or compressed PDFs. If not, it may result from a photographic issue such as the focus not having been set on the background/distant part of the view (the part that is of greatest interest to the assessment). In any case, our advice is not dependent on clearer images being provided, but the Examining Authority may require them for their assessment and to assist other parties, including the public.*	Under discussion	

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
3.50	Landscape character and visual amenity of the Clwydian Range and Dee Valley National Landscape (CRDVNL)	**Chapter 15: Landscape and Visual [APP-053]**	The Zone of Theoretical Visibility (ZTV) analysis has been prepared for the tallest elements (the absorbers and HRSG stacks at 150m plus 8m Raised Ground Level (i.e. 158m above ordnance datum (AOD)) (Figure 15-8) and for the 'main site structures' modelled at 65m above ground level (Figure 15-7). Based on the ZTVs, we note potential visibility of the development within the CRDVNL would primarily be confined to the ridgeline around and including Moel Famau. This area of potential visibility is captured within the extended LVIA Study Area. Based on the above, and considering the relevant principles (27 – 29) to be secured and applied through the Design Principles Document (Appendix 7.8), we agree with the conclusion of ES Chapter 15, that, although there would be adverse visual effects within the CRDVNL, e.g. at Moel Famau, the effect on the visual amenity of people at this location would not be significant. We also agree that there would be no significant adverse effects on the special qualities of the CRDVNL.	This is noted and the Applicant understands that no further action is required at this stage.	This matter is agreed between the parties.	Agreed	Resolved
7.0 Major Accidents and Disasters							
3.52	Control of Major Accident Hazards (COMAH) Regulations 2015	**Chapter 22: Major Accidents and Disasters [APP-060]**	The Applicant will require an Environmental Permit to operate the proposed installation under the Environmental Permitting Regulations 2016. NRW has already been engaged in providing permit pre-application advice regarding this. Under the Control of Major Accident Hazards (COMAH) Regulations 2015, the Applicant will also be required to notify the COMAH Competent Authority (HSE/NRW) if hazardous substances exceed the thresholds set out in those regulations, which is still to be confirmed. We consider that such a facility is "capable of regulation" under these regimes. However, noting the concerns raised by NRW on other environmental matters, there remain potentially considerable outstanding issues requiring resolution before all necessary consents could	An Environmental Permit application for the Proposed Development and a proposed variation to the permit for the existing Connah's Quay B station will be submitted in Q1 2026. The Applicant is working with our technology providers to investigate the status of the Proposed Development under the Control of Major Accident Hazards (COMAH) Regulations 2015. The Applicant acknowledges that an appropriate COMAH application will need to be made, if required, when it is possible to do so.	This matter is agreed between the parties. The Applicant's position is noted and NRW can confirm that its permitting team has received the EPR application for this proposal and it is currently under consideration. In terms of COMAH, NRW advises that the Applicant does not have to 'apply' as such, because COMAH is not a permitting regime. They will however need to 'notify' the competent authority if they fall under COMAH and comply with the requirements of the regulations. If they are in scope of the Planning (Hazardous Substances) Regulations	Agreed	Resolved

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			be assured, and we encourage the operator to consider these as a matter of priority: • as per NRW's RR paragraphs 2.3.1, 2.3.6, 2.7.1, NRW's input on air quality impact under planning regimes is limited to a "high level" model review, with further scrutiny anticipated as part of any EPR application. Given that the impact of the proposal (including on protected habitats/features) includes considerable air quality dimensions, the determining authority should fully satisfy themselves as to the air impact assessment validity, prior to making their recommendations. We would therefore advise caution over any potential proposal under the DCO to "defer out" impact matters to the EPR, especially given the comments made by NRW on the current level of scrutiny of the model. Key impacts (including potential mitigations/compensations) are contingent on air quality impact, so the scale of that impact must be understood and assured as comprehensively as possible prior to any consenting decision. • Noting previous comments that the facility requires EPR permitting and that NRW have provided EPR pre-application advice but have yet to receive an application, NRW's Industry Regulation function would welcome submission of an EPR application as soon as reasonably practicable, and in accordance with a timeline indicated of the end of January 2026, with the objective of avoiding any potential inconsistency between planning/permitting regimes. • NRW's Industry Regulation function notes the ongoing dialogue between the Planning Inspectorate (PINS), the operator, and other interested parties regarding the impact of the proposal on Designated Sites for Nature Conservation (SAC, SPA, Ramsar site and SSSI). We further note that any EPR consent would also be subject to comparable Habitats Regulations Assessment and its satisfactory conclusion and would therefore welcome work to resolve these issues, as it is likely there will be a high degree of commonality		2025, the Applicant will need to apply to the local planning authority for consent.		

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			between the two regulatory regimes. We note and are informed by the procedural decision by PINS requiring the Applicant, without prejudice, to provide supporting documentation for derogation in respect of project impacts.				
3.55	COMAH Regulations 2015 Domino effects	**Chapter 22: Major Accidents and Disasters [APP-060]** **ES Volume IV Figure 22-1:isted COMAH Sites within 5 KM [APP-167]**	Regarding ES, Chapter 22, Table 22-8, please note that amine solvent may qualify under COMAH dependent on the type of solvent used. Regarding ES, Figure 22-1, please note that in September 2025 the COMAH competent authority received notification of a new lower tier COMAH establishment currently under construction at Weighbridge Road, Deeside Industrial Park, Deeside, Flintshire, CH5 2LL. However, to our knowledge the operator has not yet made an application to the Hazardous Substances Authority.	Amine solvents were included in Table 22-8 in **Chapter 22: Major Accidents and Disasters [APP-060]** and it is recognised that commentary on its COMAH status was not provided as the specific amine solvent to be used was/is unknown. Once the material inventory (including the specific amine solvent) has been confirmed, progress will continue with the COMAH application which will include relevant safety reports which will be required to be drafted as the Proposed Development is likely to be a Lower Tier COMAH establishment. **Chapter 22: Major Accidents and Disasters [APP-060]** includes a general scenario for domino effects from other COMAH establishments. Safety reports which will be included as part of the COMAH application, as mentioned in NRW50, should include domino effects, where any new COMAH establishments are covered.	This matter is agreed between the parties.	Agreed	Resolved
8.0 Draft Development Consent Order							
3.57	Schedules	**Draft DCO [APP-019]**	A.2.1. The Dee Conservancy Harbour Authority's comments concerning navigation and use of the Dee Estuary waterway, and use of land and riverbed owned by the Harbour Authority (NRW), are as follows. A.2.2. Draft DCO Schedule 3, paragraph 1 (m): Regarding the proposed disapplication of the Dee Conservancy Act 1889, parts of this Act remain alive with regards to the ownership of riverbed and foreshore on the Welsh side of the Dee Estuary. The impact of disapplying the 1889 Act in relation to the parts of the DCO application within the Dee Conservancy estate should therefore be assessed and clarified.	The Applicant has been engaging with the Dee Conservancy throughout the pre-application stage and has agreed a form of protective provisions for the benefit of the Dee Conservancy, which are contained within Part 4 of Schedule 13 to the **Draft DCO [APP-019]**. In order to avoid any potential for conflict between the Dee Conservancy Act 1889 and the controls secured by the DCO (through both requirements contained within Schedule 2 and protective provisions contained within Schedule 13), the Applicant has disapplied the Dee Conservancy Act 1889 in respect of the Proposed Development. This does not affect the wider application of the Dee Conservancy Act 1889 but simply ensures that there is no	*This matter is still the subject of discussion between the parties. At Deadline 3 NRW have provided the following which the Applicant is reviewing:* *NRW has agreed a form of protective provisions for the benefit of the Applicant and NRW, in its role as the Statutory Harbour Authority for the Dee Conservancy.* *The Dee Conservancy Harbour Revision (No.2) Order 2023 is the primary legislation, governing the delivery of conservancy, protection, regulation,*	Under discussion	

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			Chapter 3, para. 3.3.31 (APP-041): Existing land uses within the water corridor should include and recognise use of the Dee waterway by commercial fishers. Chapter 5, para. 5.6.22 (APP-043): In a recent Uniper and NRW (Dee Conservancy) meeting it was agreed that the old wooden jetty will be referred to as the Tata Jetty, the five mooring piles next to the Tata Jetty, which are now owned and operated by NRW will be referred to as the Midway Berth, and the wider area will be known as Connah's Quay North Site.	scope for this legislation to inadvertently impact the powers and controls secured through the **Draft DCO [APP-019]**.	*operation, management and improvement of the estuary and its facilities. The Order replaces the Dee Conservancy Act 1899 with respect to safety of navigation operations in the Dee Estuary. However, parts of the Dee Conservancy Act 1899 persist with respect to Dee Conservancy land ownership.* *Based on the agreed provisions in Part 4 Schedule 3 of the draft DCO it is not clear to NRW what conflicts could exist between the Dee Conservancy Act 1889 and the controls secured by the DCO. Therefore it is also not clear why the Applicant has stated that it has disapplied the Dee Conservancy Act 1889 in respect of the Proposed Development.* *NRW would therefore welcome confirmation of what risks the Applicant is trying to mitigate by disapplying the Dee Conservancy Act 1889.*		
3.58	Other consents and licences	**Consents and Agreements Position Statement**	A.3.1. The Consents and Agreement Position Statement (paragraph 1.5.9) includes the following statement regarding the disapplication of specific consents: "The Applicant proposes to use the Draft DCO (EN010166/APP/3.1) to disapply the following prescribed consents. The Applicant has engaged and agreed with Natural Resource Wales to this approach prior to the submission of the application: • the requirement to obtain consent pursuant to section 28E (duties in relation to sites of special scientific interest) of the Wildlife and Countryside Act 1981; • the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991;	Article 9(8) of the **Draft DCO [APP-019]** provides that the Order constitutes a 'reasonable excuse' for the purposes of Section 28P (offences) of the Wildlife and Countryside Act 1981 (WCA 1981). Due to the location of the Proposed Development, there is a high chance that various SSSI assents under the WCA 1981 will be required by the undertaker carrying out works pursuant to the Connah's Quay DCO. To avoid the potential for undue delay to the delivery of the overall Proposed Development associated with such approval processes, it is proposed that, in the same way that operations authorised by planning permission under the Town and Country Planning Act 1990 regime would form a 'reasonable excuse', so should consent granted by the Connah's Quay DCO. This would mean that the making of the DCO removes any need to obtain separate assents for works undertaken pursuant to the DCO.	This matter is still the subject of discussion between the parties.	Under discussion	

Ref	Topic	Relevant Application Document	Summary of NRW Comment within their Written Representation [REP1-073]	Applicant's position at D2 Submission [REP3-057]	Deadline 4 Commentary	Status	Likelihood of Resolution
			• section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1990; and • Regulation 5 (removal of hedgerows) of the Hedgerows Regulations 1997" A.3.2. However, we are not aware of any prior engagement or agreement regarding the above prior to the submission of the application. Furthermore, please note that the latter two matters are not for agreement with NRW and instead should be pursued with the relevant determining authorities. However, we would welcome engagement with the applicant regarding the matters that are relevant to NRW.	This approach is considered appropriate on the basis that the DCO process facilitates an equivalent process to that under section 28I of the WCA 1981.			

References

Ref 1. Solent Waders & Brent Goose Strategy Steering Group (2024). Guidance on Mitigation and Offsetting Requirements [online]. Available at: swbgs-mitigation-guidance-2024.pdf (Accessed 05/12/2025).

Abbreviations

Abbreviation	Term
AIL	Abnormal Indivisible Loads
BAT	Best Available Technique
BESS	Battery Energy Storage System
CCGT	Combined Cycle Gas Turbine
CCP	Carbon Capture Plant
CEMP	Construction Environmental Management Plan
CO_2	Carbon Dioxide
COMAH	Control of Major Accident Hazards
CQLCP	Connah's Quay Low Carbon Power
DAS	Discretionary Advice Service
DESNZ	Department for Energy Security and Net Zero
DCO	Development Consent Order
EA	Environment Agency
ECoW	Ecological Clerk of Works
ES	Environmental Statement
ExA	Examining Authority
FCA	Flood Consequence Assessment
FEED	Front-End Engineering Design
GHG	Greenhouse Gas
HRA	Habitats Regulations Assessment
MA&Ds	Major Accidents and Disasters
MW	Megawatts
MWe	Megawatts for electrical output
NBB	Net Benefits for Biodiversity
NGET	National Grid Electricity Transmission
NO_2	Nitrogen Dioxide
NO_x	Nitrogen Oxide
NRW	Natural Resources Wales
oBSMP	outline Battery Safety Management Plan
PEA	Preliminary Ecological Appraisal
SAC	Special Area of Conservation
SoCG	Statement of Common Ground
SoS	Secretary of State
SPA	Special Protection Area
SSSI	Sites of Special Scientific Interest

Abbreviation	Term
SWMP	Outline Site Waste Management Plan
ZTV	Zone of Theoretical Visibility