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## **Connah's Quay Low Carbon Power**

# **Applicant's Written Summary of Oral Submissions at Issue Specific Hearing 3 and response to Action Points**

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# 1. Written summary of the Applicant's Oral Submissions at Issue Specific Hearing 3

## 1.1 Introduction

- 1.1.1 This section of the document summarises the oral submissions made by Uniper UK Limited (the Applicant) at Issue Specific Hearing 3 (ISH3) which took place in a blended format at the Village Hotel, Chester and on Microsoft Teams on 17 March 2026.
- 1.1.2 In what follows, the Applicant's submissions on the points raised broadly follow the Agenda for the ISH3, which was published on the Planning Inspectorate's website on 10 March 2026 [EV4-001]. Where the comment is a post-hearing note submitted by the Applicant, this is indicated.
- 1.1.3 The Applicant, which is promoting the Connah's Quay Low Carbon Power project (the Proposed Development), was represented by Mr James Strachan KC of 39 Essex Chambers, instructed by Herbert Smith Freehills Kramer LLP. He also introduced Dr Garry Gray, Technical Director from Aecom dealing with air quality matters (member of the Institute of Air Quality Management); Dr Steve Griffiths, air quality expert for the Applicant; Dr James Riley, the habitat regulation assessment (HRA) Lead at Aecom (member of Member of the Chartered Institute of Ecology and Environmental Management and a Chartered Environmentalist); Ms Laura McKechnie flood risk expert at Aecom; Mr Roger Brandwood, Project Manager for the Applicant; Ms Cathy Owens, land drainage expert at Aecom; Guy Walker-Springett, physical processes expert at Aecom; and Richard Moore, hydraulic modelling expert at Aecom. Dr Steve Griffiths of the Applicant and Mr Neal Gates, ornithologist at Aecom also made representations related to air quality and ecology respectively.

## 1.2 Agenda Item 1: Welcome and Introductions

- 1.2.1 The ExA welcomed attendees to ISH3 and provided introductory remarks about how the hearing would be conducted. This included an explanation of how the Welsh translation services would be available to those who needed it.
- 1.2.2 Mr Strachan KC introduced the Applicant's attendees who would be speaking on air quality and ecology matters (set out in paragraph 1.1.3 above).
- 1.2.3 Other speakers who introduced themselves include:
- Ms Charlie Pope, senior planning officer for Flintshire County Council (FCC), who also introduced Ms Emma Broad, the County Ecologist and Mr Tim Hibbert, Planning Officer for FCC;

- Mr Simon Roberts from the Royal Society for the Protection of Birds (RSPB), who noted that he was in attendance to answer any questions which may arise;
- Mr Chris Jones, lead development planning advisor at Natural Resources Wales (NRW), who also introduced Matthew Eppington, Air Quality lead; Heather Lewis, Saltmarsh lead; Saskia Bloor, Ornithologist; and Neil Smith, Designated Sites lead for NRW; and
- Andrew Whitehead, Principal Officer from Natural England (NE), who confirmed that he was attending in an observational capacity.

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

- 1.3.1 The ExA explained that the purpose of the ISH3 was to cover Air Quality, Ecology and Water Environment and Flood Risk matters.
- 1.3.2 The ExA confirmed that he had recently received documents, which were requested to be shared on screen during the hearings, but confirmed that it would not be possible to share these new documents on screen as part of the hearings in order to be fair to all participants. The ExA noted that any new information could be referred to orally and then submitted at a later deadline.
- 1.3.3 Mr Strachan KC queried the extent to which existing examination documents could be referred to and the ExA requested that not too many documents be shared on screen or be cross referred to due to accessibility requirements and the need to facilitate those who may have dialled in to the hearing.

## 1.4 Agenda Item 3: Air Quality

### *Item 3.1*

- 1.4.1 The ExA noted the proposed changes contained within the original Change Notification and recently received Change Application. Given that the proposal is to lower the Heat Recovery Steam Generator (HRSG) and Carbon Capture Plant (CCP) Absorber stack heights, the ExA requested a simple explanation on how this reduction would have an impact on local air quality.
- 1.4.2 Dr Gray clarified the change is not just a change in release heights from the stacks. This reassessment also takes into account developments in detailed design and changes to the site layout as the two Front-End Engineering Design (FEED) contractors are refining the layout of the stacks. There is also additional consideration of retention of heat, which means the material retains greater height when it originally comes out of the stacks. One temporary source of ammonia has also now been removed to reduce the total nitrogen deposition impacts of the Proposed Development. Altogether, these give very similar answers to those before the Change Application. There are a few pollutants which have gone up slightly, of a very low magnitude and some other changes, which are numerically different but still have the same effect. The only other difference that might be seen is that the worst result might be experienced in a different meteorological year and that

has changed the visual appearance of some of the figures but, on receptors close to the Order limits, the impact is still close to the Order limits and that the effect will remain unchanged.

- 1.4.3 The ExA summarised that the change is not just lowering the stacks but also changing what comes out of the stacks, and this is meaning that the results are the same or lower.
- 1.4.4 Dr Gray confirmed that all results, bar one, are lower.
- 1.4.5 The ExA queried why this was not done previously.
- 1.4.6 Dr Gray confirmed that the process works so that that the initial assessment was done on a conservative approach based on the maximum amount of pollution, in the absence of further detailed design information, and then as design progresses, this is reduced down to what might actually happen based on more up to date information.
- 1.4.7 The ExA noted that more heat would be allowed in the plume to allow this plume to be carried higher and Dr Gray confirmed this is correct.
- 1.4.8 The ExA invited comments from NRW or FCC. None was provided.
- 1.4.9 The ExA noted the **Design Principles Document [CR1-109]** specifies a height of the stacks but queried what the risk is that the stacks may end up even lower than that.
- 1.4.10 Dr Gray confirmed that the modelling also includes the presence of structures, which change the wind flow pattern within the site which have potential to draw the flow downwards. The presence of these other structures is the main thing that drives the height of release. This will be considered by NRW in the Environmental Permit application. It is a physical limitation of a site with lots of structures on it.
- 1.4.11 Mr Strachan KC also confirmed that Requirement 3 of Schedule 2 to the **Draft Development Consent Order (DCO) (EN010166/APP/3.1)** requires the height to be at a level where the environmental effects will be no worse than those identified within Chapter 8 of the Environmental Statement (ES). This potential for the stack heights to be lower is subject to the in-principle restriction to ensure there would be no worse environmental effect.
- 1.4.12 Mr Strachan KC noted that Dr Gray confirmed a number of changes coming out of the stacks and introduced Dr Steve Griffiths in order to clarify the position in relation to an increase in temperature.
- 1.4.13 Dr Griffiths clarified that whilst reheating will be introduced to the PCC stacks, this was also done prior to the Change Application. One of the main reasons for the change is that the volume flow rates decrease considerably (as part of the Change Application), based on updated information from the FEED contractor. It is really a reduction in amount of pollutant mass that is the driver, rather than any change in temperature. The gram per second rate has reduced following further engagement with FEED contractors. This is a key factor, in addition to removing ammonia, that allowed a reduction in the heights of the HRSG stacks.

- 1.4.14 The ExA summarised that HRSG is a secondary recovery from the stack to give more input into the system. Because you are taking less stuff up the stack and also keeping it a little hotter so the plume rises a bit more.
- 1.4.15 The ExA queried if that means you are getting less secondary electricity generation out of that stage of the plant. Mr Brandwood stated that the Applicant can confirm in writing, but this is largely based on design evolution (rather than being a reactive matter).
- 1.4.16 The ExA queried, if the first element of the CCGT is becoming more efficient, this means that you get less out of second process.
- 1.4.17 Mr Strachan KC confirmed that the increase in heat is not part of the Change Application modelling.
- 1.4.18 *Post hearing note: The Applicant has provided a response in writing to Action Point 1 on this point.*

### **Item 3.2**

- 1.4.19 The ExA noted that there is a lowering of nitrogen dioxide and amine levels on most adjacent residential receptors.
- 1.4.20 Dr Gray confirmed that the majority of the reason for this is due to the answer provided under agenda Item 3.1. For some of the pollutants, those concentrations are extremely low and so the figures have not really changed.
- 1.4.21 The ExA wanted to understand why the plume distribution of emitted particles results in a tailing off effect. It was explained in written question responses that this was due to the historical wind direction.
- 1.4.22 Dr Gray explained that the wind direction makes a difference depending on the averaging time for the results. The higher number of hours that occur when the wind blows in a north-west direction tends to result in a longer shape to the isopleths, simply because there are more opportunities for different types of meteorological condition to occur when wind blows that way. Whereas the wind rarely blows from a north easterly direction, there is less potential for different types of meteorological condition to occur. There is one small part of the isopleth plots for hourly mean amine concentrations which sticks out but this is almost definitely due to building downwash due to the way the structures are aligned on site. To contextualise, the standard for the amine concentrations is 400 micrograms per cubic metre and the discussion here relates to values which are around 0.1.
- 1.4.23 The ExA queried why we are only seeing this for amines.
- 1.4.24 Dr Gray responded that the amines are a lower magnitude of concentration. The others are a higher concentration. The higher concentration masks the results from the amine results.
- 1.4.25 The ExA queried why the tailing off in the isopleth plots is not shown in both wind directions because the ExA would expect a small tail in the south-west direction too.
- 1.4.26 Dr Gray confirmed nitrogen deposition values are annual means, rather than amines which are hourly maximums.

- 1.4.27 The ExA queried if there is a scenario where there is a particularly bad day that could be experienced with a dominant north easterly wind.
- 1.4.28 Dr Gray confirmed: firstly, the short term impacts have been reported for nitrogen dioxide so the higher values reported for shorter impacts are already below this; and secondly, if it is exceptionally cold, the emissions will not reach the ground and will pass above.

### *Item 3.3*

- 1.4.29 The ExA noted revisions in the Change Application have led to a slight decrease in loading of pollutants but a slight shift and increase in a few categories and an update to the distribution of designated sites which are most affected. Acknowledging this is low, the ExA requested the Applicant briefly clarify the designated sites still being affected, what the changes are and the likely significance in change in deposition at those sites.
- 1.4.30 Dr Riley confirmed that the pattern, whilst the numbers have changed very slightly, is essentially the same as before. There are no sites which have become significant that were not before. The main sites are Deeside Buckley Newts SAC and Dee Estuary SAC. In both cases the impacts have come down slightly. The most significant is Deeside & Buckley Newts SAC/Connah's Quay Ponds and Woodlands SSSI because the in combination ammonia impact has now dropped below the '1% of the critical level' threshold (the mathematical threshold for significant impacts). This means the mitigation solution is entirely nitrogen deposition oriented. In addition to that, in its **Written Representation [REP1-073]**, NRW pointed out that there are no ammonia-sensitive lichen or bryophyte species remaining in Wepre Park. The Applicant had assumed such species were present and used a low critical level. However, if it is just vegetation, the sensitivity is less and so the critical level is three times as high (3 micrograms per cubic metre). This threshold is not exceeded.
- 1.4.31 The ExA moved focus back to the Dee Estuary SAC. Whilst acknowledging the magnitude of impact is low, his concern is that the affected area of the SAC is big. The ExA requested an explanation of the scale of the impact on that very large designated site.
- 1.4.32 Dr Riley noted that the ExA was correct that the magnitude is very small and the contribution is just over the 1% critical load threshold but the physical area is large (several hundred hectares). The worst case impact would be that nitrogen deposition acts as a form of fertilisation, which promotes less desirable more competitive plants. This means you may get an increase in certain grasses etc. Nitrogen deposition is not the only thing that brings this about but if managing the site well, this can be prevented. The general role of nitrogen deposition is that you could get a shift to slightly more competitive species which you do not want to see. The habitat is not lost, there is just a decline in quality. Generally, a lot of nitrogen is required for this to happen. The Proposed Development contribution is a very small amount. This is a very small amount over a large area. Research has indicated that in areas with high nitrogen deposition adding more will have a little effect generally because nitrogen is already in excess in the system. In terms of the additional amount of nitrogen we are talking about, the effect that would be

seen is perhaps a movement to more grass species. This has been concluded as an Adverse Effect on Integrity (AEoI) that requires mitigation.

## 1.5 Agenda Item 4: Ecology

### Item 4.1

- 1.5.1 The ExA wanted to understand the impacts on European sites and whether the proposed measures amount to mitigation or compensation.
- 1.5.2 The ExA summarised that there is alignment on the designated sites, that there are no new sites identified and that there is no dispute about the impact pathways. The ExA noted that the sites are designated for a wide range of qualifying features. The ExA is not clear on whether all qualifying features have been covered. For example, consideration has been given to Curlews but not other Dee Estuary SPA species. It needs to be confirmed whether this is because other species are not affected or have just not been assessed.
- 1.5.3 Dr Riley explained that the Applicant has assessed impacts on all features of affected designated sites, this includes all relevant sites. The main features assessed are the habitats in question. The only habitat being affected is saltmarsh habitat. The conclusion is that there will not be effects on other elements of the SAC because the Proposed Development is not affecting those (but they have been considered). Because of the nature of works in the Water Connection Corridor (WCC) and because no underwater works are present in the corridor, there is no mechanism to impede fish passage. The Applicant has also explicitly considered otter species, related to their passage through the River Dee, as they can move around the SAC, and the Proposed Development is not impeding the ability of otters to use that area. That is a high-level look at the Dee Estuary SAC impacts. It basically comes down to the impacts on saltmarsh habitat.
- 1.5.4 Dr Riley noted that Ramsar has features that are both SPA and SAC but there are not any features that are not already in the SAC or SPA. He continued, regarding the Dee Estuary SPA, that this is designated for a long list of non-breeding birds and also several breeding birds. The assessment then looks at what is actually being affected. The breeding areas for Terns are not affected by the Proposed Development. Then looking at wintering and passage birds and at disturbance, the Applicant has treated the SPA boundary as the sensitive receptor. Noise modelling has determined whether this will exceed the disturbance threshold. An agreed 70dB limit was confirmed with NRW but the Applicant applied a 60 dB limit so as to be very precautionary. Because of the barrier created, all birds are protected due to this limit. The other impact that is looked at relates to Functionally Linked Land (FLL). This is when it becomes relevant for Curlews. All of the data goes back decades. In NRW's **Responses to the ExA's first written questions [REP3-062]**, they confirm that they are happy to use the 1% criteria for FLL. The only birds where the 1% figure is satisfied is in respect of Curlews. That is why only Curlew mitigation is proposed in relation to the FLL.

- 1.5.5 The ExA returned to the Dee Estuary SPA. The ExA understands that noise disturbance for the whole site will be mitigated by controls on the Proposed Development site.
- 1.5.6 Dr Riley confirmed that the 1% of the population threshold is only used for FLL. Qualifying birds within the SPA boundary are protected irrespective of the number of birds present and the boundary of the SPA is the relevant feature to protect as if noise levels at the SPA boundary are acceptable, all birds within the SPA will be protected.
- 1.5.7 The ExA noted that there are a number of qualifying features, the Applicant has evidenced it is seeking to reduce noise impacts into the SPA, but queried where the ExA can see that any of the other activities from the Proposed Development would not have an AEoI of those qualifying features. The ExA wants to ensure no qualifying features have gone under the radar.
- 1.5.8 Dr Riley noted the **Report to Inform Habitat Regulations Assessment (RIHRA) [CR1-105]** goes through all features, identifies them in appendices and then the body of the report. For the SPA features present in and in the surrounds of the SPA, either they can be disturbed or their habitat can be affected. The **RIHRA [CR1-105]** includes discussion of disturbance, water quality impacts etc, and discusses what is being done to ensure impacts will not arise. If no water quality impacts arise on the habitats within the SPA, there will not be a water quality impact on birds; likewise if noise levels in the SPA are acceptable then all the birds are protected. If there is habitat loss for the outfall, this has an implication for all SPA birds and so the Applicant is addressing this through managed realignment, to ensure that the habitat will not be lost. By protecting the habitat, you are protecting the birds. The only exception relates to disturbance. This is not repeated for every bird because it would be repeating the same thing over and over but the summary table does set this out.
- 1.5.9 The ExA noted that it has to be clear to the ExA that an Appropriate Assessment has been carried out. The ExA does not have an explanation of all qualifying features, impacts and how this has been satisfied.
- 1.5.10 Dr Riley stated that he is not aware that there are other bird species of concern, acknowledging that NRW want to see the raw desk study data that has been collected, but this can be made clear in the **RIHRA (EN010166/APP/6.12)** to make the position more explicit. Years ago, PINS used to require a matrix setting this out; it is no longer required but can be done here if of benefit.
- 1.5.11 The ExA noted this would be helpful.
- 1.5.12 *Post hearing note: please see the Applicant's response to Action Point 2 and updated **RIHRA (EN010166/APP/6.12)** submitted at Deadline 4.*
- 1.5.13 Ms Broad, of FCC, pointed out that some of the species of bird discussed are protected in their own right through Schedule 1 of the Wildlife and Countryside Act 1981.
- 1.5.14 The ExA is aware of this but is fairly comfortable with the Environmental Impact Assessment (EIA) side of the Application. This will come into the

planning balance. The ExA noted that the discussion therefore is more focused on the HRA component.

- 1.5.15 Dr Riley clarified that Black-tailed Godwits are not breeding on site (within the Order limits).

#### *Item 4.2*

- 1.5.16 The ExA raised the topic of the proposed management of the Deeside and Buckley Newts site, noting that the Applicant was proposing to increase support for mitigation by introducing additional funding for management of the site. The ExA queried whether this is acceptable to FCC and NRW or whether there is ongoing discussion.
- 1.5.17 Dr Riley noted that a legal document has been drawn up and shared with FCC and NRW. Comments about the detail of that have been provided by NRW but the Applicant understands NRW is content with the general principle.
- 1.5.18 Ms Pope confirmed that nothing has been formally agreed as yet; though acknowledged that a draft legal document has been shared but remains under review.
- 1.5.19 Mr Jones confirmed that NRW has reviewed the document and provided comments but is generally satisfied with the principle, subject to those comments.
- 1.5.20 Mr Strachan KC confirmed that the agreement is to be made pursuant to section 106 of the Town and Country Planning Act 1990 but termed a Draft Deed of Development Consent Obligations. The draft was shared with FCC by email on 20 February 2026 and a follow up email was sent on 11 March 2026. The Applicant is not aware of any comments having been received. The intention is to submit the draft at Deadline 4 as requested but it would be preferable if this has been agreed by the other parties.
- 1.5.21 Dr Riley confirmed NRW have made comments on the technical documentation, but not the legal agreement itself.
- 1.5.22 Ms Pope confirmed that FCC has a copy of the document and will chase where they are with reviewing it.
- 1.5.23 The ExA raised the topic of saltmarsh habitat, querying whether the conservation management for the existing saltmarsh in the Applicant's stewardship would be applied to the new managed realignment area and whether what is being done would have a beneficial impact on the designated site.
- 1.5.24 Dr Riley confirmed that management of the new area would be a legal requirement and its efficacy would be subject to monitoring. In terms of what is being proposed, this is not simply a case of extending management of the existing area. Dr Riley explained how saltmarsh develops. The Applicant is removing part of the hard defence and creating a retreat area to connect this to the creek to carry the seeds. This will then naturally develop as saltmarsh, beginning as pioneer saltmarsh that will require little management. It will be a long time before the area being created will develop into 'salt meadow' and

- need to be managed. Management will thus be introduced some way down the line.
- 1.5.25 Mr Jones confirmed that NRW would confirm the position in response to this in writing in follow-up.
- 1.5.26 The ExA queried, in relation to FLL, because the Gronant Fields site is already in the SPA, whether this is already being used as FLL.
- 1.5.27 Dr Riley confirmed it is not. There is a small amount of use by Curlew, which is why it is known to be suitable, but NRW confirmed in its **Responses to the ExA's first written questions [REP3-062]** that this is not currently suitable land and so is not FLL. That is where the benefit comes from restoring it.
- 1.5.28 Mr Jones, of NRW, confirmed that Gronant Fields is not currently FLL.
- 1.5.29 The ExA queried how Gronant Fields will encourage use by Curlew.
- 1.5.30 Dr Riley confirmed that, as set out in the **Curlew Mitigation Strategy [APP-254]**, this will be through adding foot drains, introducing management favourable to Curlews and putting down areas of arable land to grassland. These are known ways to make land attractive to Curlews. Therefore, that is what would be done to make this useful.
- 1.5.31 Mr Neil Gates confirmed that a number of measures would be put in place to make the land more suitable, reducing levels, ensuring the site does not dry out and ensuring moisture for earthworms etc. by managing groundwater on the site.

#### *Item 4.3*

- 1.5.32 The ExA wanted to explore whether the measures are mitigation or compensation. The ExA used an analogy: if Banksy spray painting caused some paint to go into the designated site and the response was to clean it up or put fencing up to prevent the paint spreading, that would be mitigation. If the paint were left there and something else were provided instead, that would be compensation.
- 1.5.33 The ExA confirmed this query mainly relates to FLL rather than the saltmarsh.
- 1.5.34 Dr Riley confirmed that, with regard to FLL, the AEoI to be addressed is the effect on the entire protected feature which is the entire population of the European site, not a local sub-population of it. The conservation objectives applying to Curlew relate to the integrity of the whole SPA. It is not about the population of specific fields or any other location.
- 1.5.35 Dr Riley continued that enhancement of Gronant Fields for Curlew is considered 'mitigation' by the Applicant because the AEoI to be addressed would be a possible reduction in Curlew populations within the SPA (not specifically near the Proposed Development site but regarding the overall Curlew population of 3,000 birds which is distributed around the SPA) due to a reduction in foraging and roosting opportunities in the wider landscape. The Applicant is therefore avoiding (or mitigating for) the AEoI (i.e. 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. There is considerable precedent to this, e.g. Sea Link, East Yorkshire Solar Farm, Lower Thames Crossing, Sunnica Energy Farm. This is routine in the DCO context. Outside of the DCO context, there is the Solent approach, where a mitigation strategy has been devised by all Solent authorities who have worked with NE to address loss of FLL for Solent Waders and Brent Geese. This means that a developer has to deal with this point but it is always deemed as mitigation, rather than compensation.

- 1.5.36 Dr Riley explained that, put simply, the Applicant is compensating for the loss of land but not for the AEol of the European site. An AEol would be a reduction of Curlew due to lack of high tide land for the birds to use and the Applicant is ensuring this does not arise.
- 1.5.37 Dr Riley noted that the relevant qualifying feature is Curlew. NRW in their D3 response cited one example legal case (the Briels case<sup>1</sup>) but that case does not relate to FLL. That concerned purple moor grass meadow for which an SAC was designated and which was being replaced by entirely recreating it. FLL is always outside of the European site boundaries; it is not protected habitat. Because it is not protected, the approach is that the AEol would be a lack of land outside of the SPA to be used.
- 1.5.38 The ExA noted that the Curlew use the land on site for foraging and queried whether there would be no net impact on Curlew because they would move from roosting and foraging at the site to the alternative site.
- 1.5.39 Dr Riley confirmed that he is not expecting the Curlew to travel from the Proposed Development site to Gronant Fields. The feature is the SPA and Curlews in the SPA. The point is that around the SPA as a whole, there will be lots of land which the Curlews come onto at high tide and they will move around the estuary and between estuaries. This ensures that around the SPA, there is still enough high tide habitat; it is not specifically catering to birds at the Proposed Development site.
- 1.5.40 Dr Riley explained that the existing FLL will be lost but additional land in excess of that lost FLL will be provided.
- 1.5.41 Dr Riley also noted that half of the FLL being lost will be reinstated, as it is only being temporarily lost.
- 1.5.42 The ExA requested a list of the precedents.
- 1.5.43 Mr Strachan KC confirmed that this can be signposted. In terms of mitigation and compensation, the need for compensation only arises assuming there is an AEol of the European site for which compensation is required. If there is no AEol, it is not necessary to then consider compensation. If the measure prevents an AEol on the European site, then compensation is not required. Here, the population is not affected by the Proposed Development because of the replacement FLL. If there were to be an AEol, then it would become necessary to consider the derogation principles such as no alternative.

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<sup>1</sup> T.C. *Briels and Others v Minister van Infrastructuur en Milieu* [2014] (C-521/12).

- 1.5.44 *Post hearing note: please see the Applicant's response to Action Point 3, which provides the precedents for the mitigation approach, as requested.*
- 1.5.45 *Post hearing note: please see the Applicant's response to Action Point 4, which sets out a legal note on the position regarding mitigation and compensation.*
- 1.5.46 Mr Jones, of NRW, clarified that Gronant Fields is not FLL but is part of the SPA.
- 1.5.47 Mr Whitehead explained NE's position is that if Gronant Fields was outside of the SPA, there would not be an issue with this being mitigation because it would be mitigation on land which is not designated. The issue here is that because Gronant Fields is within the SPA, it must be compensation.
- 1.5.48 Dr Riley confirmed that whether this constitutes compensation or mitigation is not determined by whether the activity takes place within or outside of the SPA but whether it ensures no adverse effect on integrity arises. If it does ensure this, then the measure is not compensation irrespective of where it is being delivered.
- 1.5.49 Mr Strachan KC confirmed that you can mitigate by taking action within an SPA. The legal test is the same.

## 1.6 Agenda Item 5: Water environment and flood risk

### Item 5.1

- 1.6.1 Mr Strachan KC introduced the Applicant's experts on Water Quality and Flood Risk (set out in paragraph 1.1.3 above).
- 1.6.2 The ExA wanted to understand the Applicant's position that flood risk is not sensitive to fluvial events but to coastal processes, including events such as tide, wave and wind. The ExA queried the scenarios undertaken for the coastal flood risk assessment.
- 1.6.3 Mr Moore noted that tidal flood risk from the Dee Estuary is the highest risk of flooding. Looking at various scenarios – for each there was a small fluvial inflow from the River Dee to allow an assessment of the River Dee coming from further upstream. The Applicant then ran a 30-year fluvial event on the River Dee combined with a tidal event, all documented within **Appendix 13-F: Hydraulic Modelling Report [APP-215]**. When the model was built, new tidal boundaries took into account surge and extreme water levels.
- 1.6.4 The ExA noted the flood risk assessment covers a still water risk assessment and expressed surprise that, on an open coast environment, a multivariate coastal approach has not been taken. The ExA queried what the freeboard would be on the defence height for those coastal scenarios and what level of protection is afforded to the site.
- 1.6.5 Ms McKechnie confirmed that the site was modelled without any defences.
- 1.6.6 The ExA asked about overtopping.

- 1.6.7 Ms McKechnie confirmed that the Applicant would follow-up in writing on this point.
- 1.6.8 *Post hearing note: please see the Applicant's response to Action Point 5, which clarifies why a still water flood risk assessment was appropriate instead of a coastal assessment and confirms the risks and implications of overtopping.*
- 1.6.9 Mr Jones confirmed that there were no further comments, at this stage, from NRW.
- 1.6.10 The ExA noted that, looking at the still water modelling done, the approach taken is more detailed than the national flood risk assessment. However, the ExA queried if NRW has a comment on the fact that the Applicant considers that flood zone 3 is different from the NRW flood risk map.
- 1.6.11 Ms McKechnie noted the flood map shows the Proposed Development is in flood zone 3 based on an undefended area and climate change. However, if you look at the flood risk coastal erosion map, this incorporates the defences. The model received from NRW does not cover the Proposed Development site and so this site specific model has been extended further down.
- 1.6.12 The ExA noted that the Applicant has modelled for undefended scenarios but queried what happens if defences are breached because this can be worse because the water cannot get back out of the defences. The ExA queried whether an undefended scenario could result in a worse situation.
- 1.6.13 Ms McKechnie confirmed the undefended scenario was agreed with NRW as a worst case compared to a breach scenario. There are gaps in the defences allowing for permeation.
- 1.6.14 Mr Brandwood confirmed that the defences there are primarily as a visual screen, rather than as a flood defence. This is why there are gaps.
- 1.6.15 The ExA noted that this is Critical National Infrastructure (CNI) for the purposes of climate change and queried why the Applicant has used still water scenarios but CNI scenarios have not been used.
- 1.6.16 Ms McKechnie noted the design used was 0.5% AEP 2074 (70<sup>th</sup> percentile) and then looked at future resilience scenarios, these were:
- 0.5% AEP plus 2074 95<sup>th</sup> percentile climate change;
  - 0.1% AEP plus 2074 95<sup>th</sup> percentile climate change;
  - 0.5% AEP plus 2100 70<sup>th</sup> percentile climate change; and
  - 0.1% AEP plus 2100 70<sup>th</sup> percentile climate change.
- 1.6.17 Ms McKechnie explained that, in the 0.5% AEP 2074 (70<sup>th</sup> percentile), there was no inundation of the Proposed Development or operational footprint. In the 0.1% AEP 2074 (95<sup>th</sup> percentile) there was inundation up to 1.5 metres but only in the very north-east corner of the operational footprint. Then, in the worst case scenario of 0.1% AEP 2074 (70<sup>th</sup> percentile) showed inundation up to 0.3m in the Main Development Area. Both these extreme events indicate resilience to future sea level rise and mitigation has been provided for additional resilience. The design life of the Proposed Development is only

30 years. As the site remained largely unaffected during these extreme scenarios the modelling was considered sufficiently precautionary without needing to model H++, which as stated in the climate change guidance, is more often used for infrastructure with a longer design life beyond the end of the century and/or is particularly sensitive to flooding. The approach was all agreed with NRW.

- 1.6.18 The ExA noted that the H++ scenario had not been considered. The ExA noted that only still water had been considered, with no wind or waves, and that a range of AEPs had been used but this does not match the government recommended parameters for critical infrastructure on the coast. The ExA queried the accuracy of the assessment.
- 1.6.19 Mr Jones, of NRW, had nothing to add at this stage.
- 1.6.20 The ExA noted that it is not clear from the assessment where it has been demonstrated that the Proposed Development would not make the flood risk situation worse for others.
- 1.6.21 Ms McKechnie confirmed a proposed scenario was simulated to assess the on-site and off-site impacts of land raising within the operational footprint. This was simulated for the most extreme event modelled (0.1% AEP plus 2100 70th percentile) as this was the only scenario which showed flooding within the operational footprint. Due to the land raising, all flooding was shown to be removed from the operational footprint. Small impacts off-site centered around Wepre Brook (up to +0.05m), likely as a result of model instability.
- 1.6.22 The ExA summarised that land raising was not affecting any other community in and around the Proposed Development site; it may increase depths within watercourses but nothing further.
- 1.6.23 Ms McKechnie confirmed this as correct.

### *Item 5.2*

- 1.6.24 The ExA queried the current risks the site faces, site-specific sensitivity tests undertaken and the risk due to the infill and land-raising nature of the site.
- 1.6.25 Mr Walker-Springett explained that the Applicant has run a spatial data assessment of the coastal shoreline around the Proposed Development site, covering a timescale back to 1945, tracking the position of existing saltmarsh, and has found that the shoreline position has aligned itself in the last 23 years so that there was a portion of shoreline erosion on the down-estuary side of the site and accretion on the up-estuary side of the site, resulting in a two-sided feature since the original power station was built. Mr Walker-Springett noted that a figure had been prepared which could be provided with the written oral submissions. The shoreline appears to be in a semi-equilibrium stage, since 2018, with very little fluctuation. It is a very stable position at present. It changed a lot in the early 20<sup>th</sup> century and has now stabilised and the shoreline is now maintaining itself.
- 1.6.26 *Post hearing note: please see the Applicant's response to Action Point 6, which presents the figure illustrating the above explanation.*
- 1.6.27 The ExA queried if specific investigation related to the infill of site itself.

- 1.6.28 Mr Walker-Springett confirmed not.
- 1.6.29 The ExA noted that existing hard defences will be removed to introduce saltmarsh back into the site and this is contrary to the Shoreline Management Plan (SMP) Policy. The ExA sought clarification in relation to this.
- 1.6.30 Mr Walker-Springett confirmed that the Applicant will respond in writing.
- 1.6.31 *Post-hearing note: please see the Applicant's response to Action Point 7, which clarifies this point.*
- 1.6.32 The ExA queried, when removing defences that have been in place for a long period of time, what the risk is that we will see rapid change at the Construction and Indicative Enhancement Area (C&IEA).
- 1.6.33 Mr Walker-Springett clarified that, in relation to managed realignment, the proposed position for where the saltmarsh is created is set back a great deal from the current location of the existing saltmarsh and set back from the incoming tide and wave regime so there will be limited effects created by this creation zone. It is high up on the tidal scale so there is not a vast amount of tidal still water.

#### *Items 5.3 and 5.4*

- 1.6.34 The ExA noted the Applicant's response to the ExA's written question, confirming the Applicant is not proposing to increase discharge or abstraction, the flows will be balanced through cooling water and purge ponds, and as the use transfers to the Proposed Development, this will be removed from the existing Connah's Quay Power Station. The ExA queried if the current use has had an effect such that a future use should be modified.
- 1.6.35 Mr Brandwood confirmed that the key matter to highlight is that the existing Connah's Quay Power Station has the licence and this is controlled through the existing permit. It is very much the intent and advantage of the Proposed Development that the Applicant intends to continue the arrangement in the same way it is operated today. The Applicant is not requesting any changes to temperatures, flows or parameters. If looking at this from the perspective of the river Dee, then there would be no difference noticed at all. This would be the same as for the life of the existing Connah's Quay Power Station.
- 1.6.36 Mr Brandwood continued that the one caveat to this is the replacement of the existing eel screens and accordingly that is the only material change to the abstraction arrangement to be put in place. The changes that are occurring are happening between the settlement pond and purge pond and how things are connected on the site and how things are managed as part of the Proposed Development.
- 1.6.37 Mr Brandwood summarised there is not much changing in respect of the river Dee.
- 1.6.38 The ExA noted the intake and outtake structures have been going for while a while now and queried if there is a proposal to refurbish those.
- 1.6.39 Mr Brandwood confirmed there are no wholesale proposals; there will be ongoing inspections and inevitably some local repairs but no substantial

replacement. Nothing would be intrusive in any way in terms of the works envisaged. Within the assessment done as part of the Application, method statements were prepared to determine how repairs would be undertaken and separately controlled via a marine licence to be separately obtained for such works. These would be relatively modest activities.

## **1.7 Agenda Item 6: Review of issues, actions arising and next steps**

- 1.7.1 The ExA noted some matters promised to be followed up in writing. The ExA requested these be provided.

## **1.8 Agenda Item 7: Any other business**

- 1.8.1 The ExA confirmed that he was content with the Change Consultation as previously proposed and now undertaken.

## 2. Applicant's Response to Action Points arising from Issue Specific Hearing 3

2.1.1 The Applicant sets out responses to Action Points arising from ISH3 within Table 2.1.

No.	Action	Response
1	Clarify whether less secondary electricity generation would be achieved as a result of the additional heat within the HRSG stack or the first element of the CCGT process becoming more efficient.	<p>Increasing the temperature at the HRSG stack would, all else being equal, be an indication that reduced energy recovery from the hot flue gas has occurred and, overall that efficiency is decreased. It is an established element of power plant design that the target temperature at the exhaust point (here the HRSG stack) is a balance between the desire to maximise energy recovery and efficiency and the desire to control corrosion as the temperature is reduced, plus the requirement to ensure the released flue gases disperse adequately into the environment.</p> <p>The situation changes with the temperature of release from the stacks of the carbon capture facility. The flue gas is cooled ahead of entering the carbon capture plant to a temperature optimum for the chemistry of the process. When the treated flue gases then exit the plant there is still a balance between dispersion, corrosion, and efficiency to be met, but in this case, where the gases must be heated to improve their dispersion on release, this energy is taking from elsewhere in the power station cycle. This will reduce efficiency somewhat, but minimising this impact, for example by using low grade heat such as steam condensate, is an element of the detailed process design undertaken by carbon capture technology suppliers.</p>
2	Update the <b>RIHRA [CR1-105]</b> to include details previously found within the PINS matrix, working through all qualifying features, the impacts	An updated version of the <b>RIHRA (EN010166/APP/6.12)</b> has been submitted at Deadline 4 to address this Action Point.

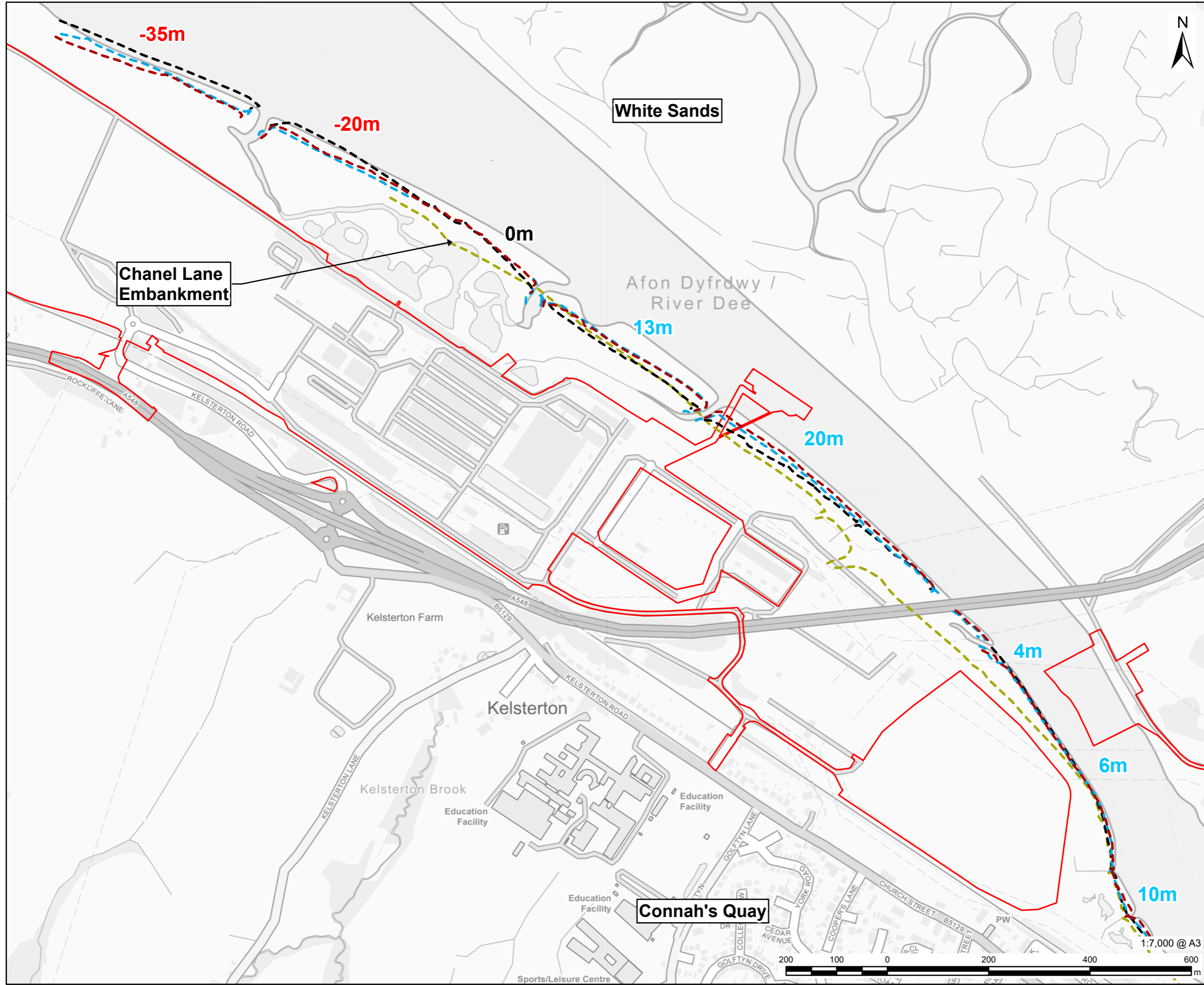
No.	Action	Response
	and how these impacts have been satisfied.	
3	Provide precedents for the approach that the replacement of Functionally Linked Land is mitigation rather than compensation.	<p>The following recently made DCOs all included Habitats Regulations Assessments (HRAs) that also presented measures to address the loss of functionally linked land for SPA birds as mitigation rather than compensation within the legal definition of the Habitats Regulations, which was accepted by the Secretary of State when granting development consent:</p> <ul style="list-style-type: none"> <li>• East Yorkshire Solar Farm;</li> <li>• Lower Thames Crossing;</li> <li>• Sunnica Energy Farm;</li> <li>• A303 Stonehenge (Amesbury to Berwick Down); and</li> <li>• Helios Renewable Energy.</li> </ul> <p>In addition, as noted within ISH3, the Sea Link project, which is currently proceeding through examination has followed the same approach.</p> <p>Outside of the DCO context, there is the Solent approach, where a mitigation strategy has been devised by all Solent local authorities who have worked with NE to address loss of FLL for Solent Waders and Brent Geese. This means that a developer still has to deal with this point within their HRA but it is always deemed as mitigation, rather than compensation<sup>2</sup>.</p>
4	Clarify via a legal submission the legal position regarding mitigation and compensation.	<p>The <b>Applicant's Legal Submissions on Mitigation vs Compensation (EN010166/APP/9.23)</b> has been submitted at Deadline 4 to clarify the position regarding mitigation and compensation within HRAs.</p>
5	Clarify why a still water flood risk assessment was	<p>To inform the hydraulic modelling, new tidal boundary conditions for the model were created to include storm surge (including the impact of wind) and sea level rise to achieve</p>

<sup>2</sup> <https://solentwbgs.wordpress.com/wp-content/uploads/2025/04/swbgs-mitigation-guidance-2024.pdf>.

No.	Action	Response
	<p>appropriate instead of a coastal assessment and confirm the risks and implications of overtopping.</p>	<p>the extreme water levels predicted by the Coastal Flood Boundaries (CFB) data (Environment Agency, 2018). TotalTide software (UKHO, 2022) was used to predict the base tidal curve for Hilbre Island (located at the mouth of the Dee Estuary). The sea level rise projections using UKCP18 data sets were obtained from the online tool (UKMO, 2022) for the nearest point in the database at the mouth of the Dee Estuary.</p> <p>On the 17 October 2024, NRW were consulted about the requirement to model wave overtopping. It was confirmed by their Flood Risk Analysis Specialist Advisor via email (included in Appendix A of <b>Appendix 13-F: Hydraulic Modelling Report [APP-215]</b>) that NRW did not hold any wave data/information for the Proposed Development Site or wider Dee Estuary which would be useful to the assessment of the Proposed Development. They stated that they were unaware of historic wave overtopping issues and they do not hold any historic flood outlines relating to wave overtopping. They also confirmed that it is unlikely that wave overtopping is a significant risk at the Proposed Development Site and that overtopping risk (and associated breach) from still water is likely to be the dominant risk. It was confirmed that this information should be sufficient to include in <b>Appendix 13-C Flood Consequence Assessment [REP1-020]</b> to show consideration had been given to wave overtopping.</p>
6	<p>Provide a copy of the figure referred to during Agenda Item 5.2.</p>	<p>Within Agenda item 5.2, Mr Walker-Springett explained that the Applicant has run a spatial data assessment of the coastal shoreline around the Proposed Development Site (specifically the Main Development Area), covering a timescale back to 1945. A figure which illustrates the findings of this data assessment is presented in <b>Appendix A</b>.</p>
7	<p>Clarify how any conflicts between the SMP and the Applicant's proposals</p>	<p>The <b>Applicant's Response to Deadline 3 Submissions (EN010166/APP/9.18)</b>, includes NRW's own response to ExQ1 14.2 which makes reference to the 'headline' SMP</p>

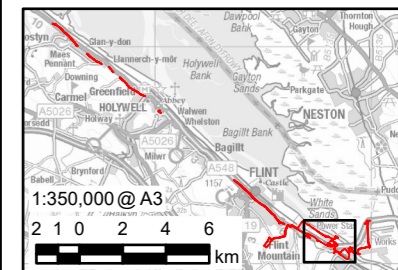
<b>No.</b>	<b>Action</b>	<b>Response</b>
	<p>regarding saltmarsh creation are reconciled.</p>	<p>Policy as being 'Hold the Line'. However, NRW advise that the SMP is also supportive of future studies for localised managed realignment, subject to providing consideration of potential impacts on channel morphology, down-estuary impacts and changes to defence costs. On this basis there is not seen to be a conflict between the coastal management objectives of the SMP Policy and saltmarsh creation through managed realignment as proposed by the Applicant which falls within the category of a localised managed realignment, a concept specifically recognised and supported by the SMP.</p>

# Appendix A: Spatial Data Assessment of the Coastal Shoreline



**LEGEND**

- Order limits
  - Coastline - 2025
  - Coastline - 2018
  - Coastline - 2003
  - Coastline - 1945
- Coastal Shoreline Change 2003 to 2025**
- Erosion → Accretion →



**NOTES**

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**ISSUE PURPOSE**  
Applicant's Written Summary of Oral Submissions ISH3 and Responses to Action Points

**DATE**  
March 2026

**PROJECT NUMBER**  
60768754

**FIGURE TITLE**  
Coastal Change near Connah's Quay since 1945

**FIGURE NUMBER**  
Figure 1

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