Ein cyf/Our ref: CAS-304739-Q5G0
Eich cyf/Your ref: EN010166

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21/04/2026

Dear Sir/Madam,

PROPOSED CONNAH'S QUAY LOW CARBON POWER

PROJECT PLANNING INSPECTORATE REFERENCE: EN010166

INTERESTED PARTY REFERENCE NUMBER: [redacted]

RE: NATURAL RESOURCES WALES' WRITTEN SUBMISSION FOR DEADLINE 5

This letter comprises the following submission from NRW:

- Comments on the updated Report to Inform Habitats Regulations Assessment – see Annex A
- Comments on the updated Notice of a proposed without prejudice HRA derogation in Wales document – see Annex B
- Comments on the updated Curlew Mitigation Strategy – see Annex C
- Comments on the Applicant's response to Deadline 3 submissions – see Annex D
- Comments on the updated Appendix 8-C Air Quality Traffic Emissions Assessment – see Annex E
- Comments on the Legal Submissions on Mitigation versus Compensation – see Annex F

The comments provided in this submission comprise NRW's response as a Statutory Party under the Planning Act 2008 and Infrastructure Planning (Interested Parties) Regulations 2015 and as an 'interested party' under s102(1) of the Planning Act 2008. In addition to being an interested party under the Planning Act 2008, NRW exercises functions under legislation as detailed in the cover letter of NRW's Deadline 1 Written Representations [REP1-073].

Our comments are made without prejudice to any further comments we may wish to make in relation to this application and examination whether in relation to the Environmental Statement (ES) and associated documents, provisions of the draft Development Consent

Order ('DCO') and its Requirements, or other evidence and documents provided by the Applicant, the Examining Body or other interested parties.

NRW remains committed to further engagement with the Applicant and Examining Authority throughout the DCO Examination.

Please do not hesitate to contact me at northplanning@cyfoethnaturiolcymru.gov.uk should you require further advice or information regarding these representations.

Yours faithfully,

[redacted]
Cynghorydd Arbenigol Arweiniol - Cynllunio Datblygu / Lead Specialist Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales

ANNEX A – NRW COMMENTS ON THE UPDATED REPORT TO INFORM HABITATS REGULATIONS ASSESSMENT

NRW has reviewed the updated "Report to Inform Habitats Regulations Assessment" (RIHRA) [REP4-055], version 02, by AECOM, dated March 2026 and provides the following advice in relation to Key Concerns 1 – 3 as documented in our Written Representation [REP1-073]. We remain committed to ongoing engagement with the Applicant throughout the DCO examination to discuss potential solutions to address our concerns.

NRW Key Concern 1: Atmospheric pollution of Dee Estuary / Aber Dyfrdwy SAC / SPA / Ramsar site

1. We continue to disagree with the Applicant's opinion that the outline proposals to address the loss of saltmarsh habitat associated with the new surface water outfall will "*also offset any subtle qualitative botanical changes that may arise across the wider saltmarsh in the Dee Estuary as a result of nitrogen deposition (for example, minor shifts towards more competitive grass species) during operation of the Proposed Development*." (updated paragraph 10.3.12)

2. As outlined in our WR [REP1-073], the impact of additional Nitrogen deposition (N-dep) is likely to have a botanical effect on the saltmarsh species composition, such as the spread of nitrophilous species including the coarse grasses *Elytrigia atherica* and *Elytrigia repens* which often grow into dense single species stands of vegetation, outcompeting the majority of other species. The effect on the Atlantic salt meadows would be the loss of smaller and less tolerant plant species which contribute to the biodiversity and hence condition of the Dee Estuary SAC / SPA/ Ramsar site.

3. We note the Applicant's assertion that such botanical effects are "likely to be relatively subtle." However, we maintain that there is insufficient evidence provided to support their conclusion and as such reasonable scientific doubt exists as to the likely magnitude of change.

4. The extent of exceedance of N-dep on the Annex I Atlantic salt meadows in-combination with other projects is predicted to be 445ha, and 245ha for the proposals alone. We acknowledge that the predicted exceedance is of a relatively low level of the relevant 1% Critical Load (2.3% in combination, 1.3% alone). However, the impact covers a significant area of the Atlantic salt meadow within the Dee Estuary / Aber Dyfrdwy SAC / SPA / Ramsar site: 22% of the 2045.2ha (JNCC Standard Data Form) of Atlantic salt meadow within the SAC in-combination and 10% due to the proposals alone.

5. Critical Loads are defined as: "*a quantitative estimate of exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge*". The widespread exceedance of the critical load for N-dep means that 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. The broad spatial scale of the additional N-dep for both alone and in-combination assessments should therefore be considered, and an appropriate and precautionary level of compensation should be provided.

6. The Applicant proposes to use the 0.13ha managed realignment (MR) area, which is intended to offset the 650m² area of permanent and temporary saltmarsh loss from the new surface water outfall, to also offset the predicted additional N-dep. However, we do not consider this alone to be adequate for offsetting the potential effects of additional N-dep on the species composition of up to 445ha of saltmarsh (in-combination).

7. We also note that any new saltmarsh created within the MR area would still be subject to the same increased N-dep levels predicted elsewhere across the saltmarsh.

8. Therefore, we continue to advise that further compensatory measures should be provided and justified.

9. We have previously provided three potential locations for saltmarsh enhancement within the Dee estuary to the Applicant for further consideration and would welcome further engagement with them regarding these, along with any other options that they deem may be feasible.

10. In addition, we would highlight:
    - In respect of alternative approaches to addressing potential increases in atmospheric nitrogen deposition, Annex 1 of Natural England's "Atmospheric nitrogen theme plan - IPENSTP013" identifies a range of measures that could, in principle, be explored for application within the wider estuarine system.
    - NRW has recently commissioned work to examine opportunities for the creation of intertidal habitat through the placement of polders. We have notified the Applicant about this.

11. Finally, updated paragraph 10.3.13 still refers to "*positive management of 26 ha of the SAC that would otherwise cease to be managed at all, due to the lapse of the management agreement on decommissioning of the existing power station*". However, this appears to be an error as other references to it have been deleted from the updated RIHRA. As advised in our Written Representation [REP1-073], the extant management agreement is a legal requirement of the Section 36 consent for the existing power station and was established to serve a wider conservation purpose at the site. We welcome that this would be replaced by an updated version following decommissioning of the old power station, as an embedded design measure of the proposals, as we would expect regardless of the identified N-dep impact to the saltmarsh. We have provided comments on the Applicant's current implementation of the extant plan in our Deadline 4 response [REP4-091].

NRW Key Concern 2: Direct habitat loss within Dee Estuary / Aber Dyfrdwy SAC / SPA / Ramsar site

12. An updated Saltmarsh Creation Strategy (EN010166/APP/6.16), including Saltmarsh Implementation and Monitoring Plan, was shared with NRW in March, and our feedback on this was subsequently provided at Deadline 4 [REP4-091].

13. Regarding updated paragraph 10.3.1 relating to direct habitat loss only, whilst we are broadly satisfied with the outline saltmarsh creation approach in principle, there remain practical and evidential uncertainties relating to ground conditions, contamination, implementation, and ecological establishment, for example, which will only be resolved through future work. As a result, we consider that reasonable scientific doubt remains at this stage as to the effectiveness of the measures, such that they cannot yet be relied upon at Appropriate Assessment. Please see our WR [REP1-073] and Annex F of this letter for further details regarding our position on defining mitigation and compensation.

NRW Key Concern 3: Loss of functionally linked land for Dee Estuary / Aber Dyfrdwy SPA / Ramsar site

14. Updated paragraph 10.2.20 states: “using a metric agreed with Natural Resources Wales (namely whether the site supports more than 1% of the SPA population of a given qualifying species) only the use of land within the Order limits by curlew is considered significant. Therefore, only habitat loss for this species requires mitigation.”

15. To clarify, we have agreed with the use of 1% of the SPA population as a factor for assessing functionally linked land, but we have not agreed with the conclusion that curlew are the only species that meets the criteria for functional linkage. We acknowledge and welcome that the Applicant will share further data provided to them by the Deeside Naturalists’ Society (covering January 2023 to December 2025). Until these data are presented, we are unable to comment on whether the use of land within the Order limits by any other species features is considered significant.

ANNEX B – NRW COMMENTS ON THE UPDATED NOTICE OF A PROPOSED WITHOUT PREJUDICE HRA DEROGATION IN WALES DOCUMENT

NRW has reviewed the updated "Notice of a proposed without prejudice HRA derogation in Wales document" [REP4-079], version 01, by Uniper, dated March 2026 and provides the following advice. We remain committed to ongoing engagement with the Applicant throughout the DCO examination to discuss potential solutions to address our concerns.

NRW Key Concern 1: Atmospheric pollution of Dee Estuary / Aber Dyfrdwy SAC / SPA / Ramsar site

16. We welcome that the Applicant has now included consideration of atmospheric pollution (N-dep) impacts to the Annex I Atlantic salt meadow feature within the updated document. However, we continue to disagree with the extent of the Applicant's proposed measures to offset this, as set out in our Written Representation (WR) [REP1-073] and Annex A above. Our additional comments on the updated document are as follows:

17. Paragraph 5.1.17 states that "*the nitrogen due to the Proposed Development is small (a maximum 0.13 kgN/ha/yr, with most saltmarsh being subjected to smaller quantities), which is only slightly above the level (0.10 kgN/ha/yr) at which it could be dismissed as imperceptible, particularly given that as a precaution the lower critical load for saltmarsh (that applicable to upper saltmarsh) has been applied to the entire affected area. Areas of lower (pioneer) saltmarsh would be affected to a smaller extent.*" The proposals would add additional nitrogen to the N-dep levels at a site that is already in exceedance of the relevant critical load, and it is not possible to rule out an adverse effect with confidence. Furthermore, the development's contribution needs to be fully assessed in-combination with other new developments in the area before a baseline can be established. Therefore, a process contribution of less than 1% would still need to be considered in-combination with other sources, so we consider that this should not automatically be "dismissed as imperceptible".

18. Furthermore, we note that lower 'pioneer' saltmarsh (the 'Salicornia and other annuals colonising mud and sand' Annex I habitat type) has a higher critical load (20-30 kg/ha/yr). However, there is only 107.48ha (JNCC Standard Data Form) of pioneer marsh within the overall Dee Estuary SAC saltmarsh (2045.2ha) and this is scattered both inside and outside the areas of predicted exceedance.

19. Therefore, we have not seen evidence to suggest that the lower critical load should be used solely on a precautionary basis; rather, we consider it to be the appropriate critical load for assessment (please see our further comments on this below).

20. In relation to the predicted botanical change on saltmarsh (para. 5.1.18), the Caporn *et al.*, 2016 study of N-dep did not include saltmarsh as one of the habitat study types, as noted by the Applicant. Therefore, we consider the findings of the report to have limitations, particularly when inferring minimum nitrogen doses which cause changes in species. The report states that further work needs to be undertaken for the gaps in

habitats which are dissimilar to those which were studied. When habitats within the study were considered separately for levels of N-dep at and above the upper end of each habitat-specific critical load, additional increments of long-term nitrogen were associated with further declines in species richness. Over the nitrogen range investigated there was no evidence of a limit at the low end of the range below which negative change does not occur (Caporn et al., 2016).

21. Further evidence (Bobbink et al., 2022, “Review and revision of empirical critical loads of nitrogen for Europe”) also highlights that the low to mid marsh zones can be impacted by accelerated succession caused by critical load exceedance. Where N-dep is over the critical load accelerated succession within the mid to low saltmarsh (within the Atlantic salt meadows habitat type), would likely impact the marsh as the suite of earlier successional species are lost to late successional species resulting in a decline in positive indicator species (Bobbink et al., 2022).

22. Following the publishing of Bobbink et al. (2022), nitrogen critical loads for Atlantic upper-mid and mid-low salt marshes changed from 20-30 kgN/ha/yr to 10-20 kgN/ha/yr. Bobbink refers to two gradient studies as the main evidence for this change. Of note, the Aherne *et al*. study investigated nitrogen impacts using community-level change points, which identify the deposition level at which multiple characteristic plant species begin to decline, and for Atlantic saltmarsh found a z-community change point of 7.8kg N/ha/yr, leading to a recommended empirical critical load range of 5–10kg N/ha/yr. While higher critical loads have been proposed elsewhere and differences may exist between systems such as the Dee estuary and Irish saltmarshes, application of the precautionary principle supports use of the lower end of the widely cited Bobbink et al. range (10 kgN /ha/ yr/).

23. The available evidence therefore suggests that a critical load of 10 kgN/ha/yr is appropriate for saltmarsh.

24. We note the existing elevated background N-dep levels at the site (para. 5.1.19-20). According to the APIS historical data for the Dee estuary, background N-dep for short vegetation has been above the recently revised critical load of 10 kgN/ha/yr since records began in 2003. Despite a recent peak between 2016 and 2019, overall N-dep levels have been relatively stable at the site between 2003 and 2021. We advise that existing elevated levels of N-dep should not solely be used to justify additional contributions, as additional N-dep above the critical load may increase the risk of adverse effects. It is also worth noting that any potential future decreases in background N-dep would increase the relative contribution of the proposed development.

25. We acknowledge that it is difficult to quantify with certainty the impact of a modelled >1% N-dep exceedance over an area of 245ha alone (noting the additional greater in-combination effects over 445ha). Considering the high level of uncertainty involved, without firm evidence to suggest to the contrary, we maintain our disagreement with the extent of the Applicant’s proposed measures to offset this impact. Please refer to

our comments above in Annex A and our Written Representation [REP1-073] for further details regarding this.

26. Section 6.9 appears to relate to future monitoring of the proposed creation of new saltmarsh habitat, but no monitoring of potential impacts on existing saltmarsh habitat, particularly in relation to N-dep impacts, has been proposed. However, following a recent meeting with the Applicant we note that they are currently considering potential monitoring of the existing saltmarsh and we would therefore welcome further engagement with them regarding this.

NRW Key Concern 2: Direct habitat loss within Dee Estuary / Aber Dyfrdwy SAC / SPA / Ramsar site

27. An updated Saltmarsh Creation Strategy (EN010166/APP/6.16), including Saltmarsh Implementation and Monitoring Plan, was shared with NRW in March, and our feedback on this was subsequently provided at Deadline 4 [REP4-091].

NRW Key Concern 3: Loss of functionally linked land for Dee Estuary / Aber Dyfrdwy SPA / Ramsar site

28. Paragraph 6.1.7: We note that the document still refers to “80 years as being the standard HRA definition of in perpetuity”, with which we do not agree. Please see our Deadline 4 response for further details about this [REP4-091]. The Applicant has recently confirmed to us that they will be seeking to change this definition. We will therefore provide further comment on receipt of the relevant updated documents.

29. We also acknowledge that the Applicant will share further existing data provided to them by the Deeside Naturalists’ Society (covering January 2023 to December 2025). We look forward to reviewing the results of these surveys and providing further comments.

References:

Aherne, J., Wilkins, C., and Cathcart, H. (2020). Nitrogen-sulphur critical loads: assessment of the impacts of air pollution on habitats (2016-CCRP-MS.43). EPA research report, Wexford, Ireland.

Bobbink R., Loran, C., Tomassen, H. (2022). Review and revision of empirical critical loads of nitrogen for Europe, On behalf of the German Environment Agency.

Caporn, S., Field, C., Payne, R., Dise, N., Britton, A., Emmett, B., Stevens, C. (2016). Assessing the Effects of Small Increments of Atmospheric Nitrogen Deposition (Above the Critical Load) on Semi Natural Habitats of Conservation Importance. Natural England Commissioned Report 210. Natural England.

JNCC Standard data form for sites within the ‘UK national site network of European sites,’ Dee Estuary. Available at: https://jncc.gov.uk/jncc-assets/SAC-N2K/UK0030131.pdf (Accessed: 20 April 2026)

ANNEX C – NRW COMMENTS ON THE UPDATED CURLEW MITIGATION STRATEGY

NRW has reviewed the updated "Curlew Mitigation Strategy" [REP4-057], version 01, by AECOM, dated March 2026 and provides the following advice.

30. The compensation/mitigation area (referred to by the Applicant as 'Gronant Fields') already sits within three designated nature conservation sites: the Dee Estuary SSSI, SPA and Ramsar site. These designated sites, specific to Gronant Fields, are notified for:
    - internationally and/or nationally important populations of individual wader and wildfowl bird species
    - migrating birds during spring and particularly autumn passage
    - breeding redshank
    - reedswamp vegetation

31. The particular interest of the land at this location is related to its use by passage and over-wintering waterfowl bird species. The land also supports reedswamp vegetation and has the potential as an area for redshank breeding.

32. Within the context of the notified status of the land and previous management targets, we are suitably assured, in principle, that management of the land can be re-focused to enhance populations of the above bird species and maintain reedbed habitat as appropriate, with an emphasis upon concentrated management for over-wintering curlew in a dedicated area equating to approximately 26 hectares (ha) of the land parcel, as set out in principle in the 'Curlew Mitigation Strategy' (CMS). However, please see our following comments on the updated CMS.

33. We note that the CMS states "*the measures set out in this document are secured via Requirement 11 of the Draft Development Consent Order (DCO) (EN010166/APP/3.1). Requirement 11 identifies that a Curlew Mitigation and Monitoring Plan must be developed in general accordance with this strategy document and the enhancement measures must be in place prior to works commencing within the relevant areas of the Order limits*". Our comments are therefore made on the outline provisions of the CMS. Until the results of the ground works (para. 40) and the feedback from site visits (para. 41) have been established and a management and monitoring plan has been agreed; we reserve comment regarding the detailed measures to be taken.

34. Paragraph 1.1.1 of the CMS states that "*where appropriate, the strategy also considers other qualifying bird species of the Dee Estuary / Aber Dyfrdwy SPA / Ramsar site*." However, little further detail has been provided in the CMS regarding this. We note that the previous paragraph 3.5.7, which stated that "*the remaining 14.8ha of land [would be] used to manage land for other qualifying species as well as curlew*", has now been removed from the CMS. To ensure the CMS considers the overall management focus of the land at Gronant Fields, and the wider SPA and Ramsar site conservation objectives, it should include further consideration of such

measures to enhance the area to encourage greater use of the site by other qualifying bird species.

35. Where compatible with the overall aims to enhance the site for bird species, further consideration of reedswamp management should be included within the CMS or the future Curlew Mitigation and Monitoring Plan (CMMP).

36. We note the proposed additional use of Gronant Fields to achieve green infrastructure / Net Benefit for Biodiversity targets. However, this should not be at the risk of conflicting with the designated aims of this land for curlew and other bird species, as such current targets are likely to be incompatible with the core management objectives for Gronant Fields. We therefore advise that alternative sites should be considered for achieving these targets where such risks are likely.

37. We have previously advised the Applicant to 'characterise' the land at Gronant Fields in terms of its current hydrology and soil characteristics, including invertebrate abundance and distribution, and have provided feedback on their proposed scope of works regarding this. This is important to achieve in the initial stages of the project, to help account for the current limited but regular distribution of semi-resident and passage feeding and roosting birds. We advise that the Applicant should give greater precedence to this in the CMS, as the results of such investigations will have a significant bearing upon the inputs to the CMMP and therefore future management of the land.

38. We have also previously recommended that interested parties and expert bodies are invited to the site to discuss the Applicant's' outline CMS proposals, in order to provide ground-truthed observations and opinions regarding the future management. Again, we consider this a key step towards informing the direction of proposed future management of the land and are currently in discussions with the Applicant about attending such a site visit with them later this month.

39. We advise that confirmation is provided on whether the CMS, and subsequent 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 land 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.

40. Section 2.4 states that surveys were undertaken by Aspect Ecology between April 2022 and February 2023, and by AECOM between November 2023 and October 2024, and that the results from the Aspect Ecology surveys "*indicated that the fields to be used as a laydown area (in the intermediate term, see paragraph 2.4.5) during construction works and to be lost to the permanent footprint of the Proposed Development, could be used by important numbers of the non-breeding Curlew population associated with the Dee Estuary / Aber Dyfrdwy SPA / Ramsar site*."

However, only the results from the AECOM surveys appear to have been presented in ES Technical Appendix 11-D. We acknowledge that the Applicant will submit further existing data that have been provided to them by the Deeside Naturalists' Society (covering January 2023 to December 2025), and we will therefore review these when available.

41. Paragraph 3.1.1 of the CMS states that "*Discussions with Natural Resources Wales (NRW) and Royal Society for the Protection of Birds (RSPB) have identified that the offsetting objective should be to ensure no net loss in Curlew foraging and roosting habitat. This would be achieved by creating and managing wet grassland habitat, alongside the creation of shallow scrapes that would become seasonally inundated and by raising ground water level at appropriate times."* While we generally agree with this statement, we consider that a reduction in curlew numbers in the SPA as a result of the loss of functionally linked land (FLL) would also have a negative impact on the conservation objectives of the SPA, in addition to any net curlew foraging and roosting habitat loss. Therefore, impacts on the net curlew population within the whole estuary site should also be considered in addition to net habitat loss.

42. For paragraph 3.5.5 we maintain our concerns about the Applicant's definition of the term 'in perpetuity' (please see our advice in REP4-091). The affected functionally linked land currently used by curlew is expected to be permanently lost as feeding habitat. Even if the new building works are decommissioned in future, with the land being outside of the protected sites (SSSI/SPA/Ramsar site) it is not currently clear that the land would be suitable again for curlew to use again, and there is currently no management regime proposed to ensure that it would be. Therefore, we consider that this would amount to permanent loss of the FLL, so any mitigation/compensation for this loss should also be permanent. We would therefore expect the land at Gronant Fields to be permanently managed as part of an agreed management strategy by the Applicant, or succession owners, to manage the land as intended within the CMS.

43. We advise that a realistic baseline for historic curlew numbers at Gronant Fields should be established to provide a measure against which the Applicant can quantify future management achievements.

44. Paragraph 4.1.4 of the CMS states that "*The BTO WeBS Five Year (2018 to 2023) Curlew winter peak count for the Gronant Fields site which includes a disjunct land parcel (the combined WeBS count sector is known by BTO as 'Gronant Fields') is 95 individuals (range 53 to 144)*." We note that the WeBS sector is larger than the Gronant Fields site, so we are concerned that an artificially high baseline may be applied against which to assess actual curlew numbers at the site. We hold raw data of bird counts for these fields, which can be made available upon request. Whilst historic records are not continuous throughout the period of recording, they give a better reflection of observations of previous bird count data for Gronant Fields, not only for curlew but also for other qualifying bird species.

45. Paragraphs 4.1.2 and 4.1.3 refer to Figures A-4 and A-5 respectively, but we are unable to locate these figures within the document.

46. Section 5.1: We agree with and welcome the implementation of a Curlew Steering Group. In relation to our involvement with such a group, and any similar groups established through a DCO for this project, we would wish to discuss with the Applicant appropriate recovery measures for the reasonable and proper costs of our officers in respect of their activities.

47. Paragraph 5.3.3 states that "*the implementation of the actions set out in section 5.3.2 will be undertaken prior to the commencement of construction works at the Main Development Area*," which indicates that only the sward height will be implemented before the FLL is lost. For the area to be at optimal condition for curlew, both sward height and wetland features would need to be established prior to the commencement of construction works affecting the FLL. We therefore advise that the full site management measures outlined in the CMS, including the management of wet grassland, should be implemented satisfactorily via Requirement 11 (CMMP) before the commencement of work at the Main Development Area. This advice also applies to Section 5.4 of the CMS.

48. Paragraphs 5.3.4 and 5.3.6: To reduce potential disturbance to species using the site in the autumn months, a limit should be defined and agreed as to how late in the autumn a mechanical cut or mow can take place. As wintering bird species may be present from late September, we would advise October as the final month for mowing to avoid the peak wintering season and reduce disturbance as much as possible, while maintaining an optimum sward height.

49. Paragraph 5.5.1: We agree with the extension of monitoring at Gronant Fields. However, the CMS states that monthly visits will be carried out for the first ten years after creation, and paragraph 6.9.5 of the updated Notice of a proposed without prejudice Habitats Regulations Assessment (HRA) derogation in Wales (Tracked), states "*there will be further monitoring throughout the lifetime of the Proposed Development, or for 80 years, whichever is the sooner*". The proposed monitoring programme length should therefore be confirmed.

50. Paragraph 5.5.3 states "*the Gronant Fields site will be subject to long term management based on the results of the first five years of monitoring*." However, we advise that the Gronant Fields site should be subject to long-term management based on the results of the first ten years of monitoring.

ANNEX D – NRW COMMENTS ON THE APPLICANT'S RESPONSE TO DEADLINE 3 SUBMISSIONS

NRW has reviewed Section 2.1, Table 1 of the Applicant's response to Deadline 3 submissions [REP4-081], version 00, by AECOM, dated March 2026 and our comments are as follows. For any specific items not listed below, the Applicant's response is noted, and we have no further comments.

51. Item 1.22: We look forward to reviewing the further existing data provided to the Applicant by the Deeside Naturalists' Society (covering January 2023 to December 2025) when it is available.

52. Item 1.29: We note the preparation of the Saltmarsh Implementation and Monitoring Plan in general accordance with the Saltmarsh Creation Strategy and to be secured via any DCO granted. An updated draft Saltmarsh Creation Strategy (EN010166/APP/6.16), including the Saltmarsh Implementation and Monitoring Plan, was shared with NRW in March, and our comments on this were subsequently provided to the Examination at DL4 [REP4-091].

53. Item 1.31: Please see our comments on the updated Curlew Mitigation Strategy in Annex C above.

54. Item 1.39: We agree that the Shoreline Management Plan allows for managed realignment (MR) within the Hold the Line policy. Our comments regarding the Saltmarsh Creation Strategy and monitoring of wider impacts to the estuary from the proposed MR site were provided in our feedback on the draft Saltmarsh Creation Strategy [REP4-091].

55. Item 1.44: The Applicant has provided their reasons for excluding the following three proposed installations from their in-combination assessment:
    - Deeside Power
    - Knauf Mineral Rock Wool Facility
    - Arrow AD

56. For Deeside Power, the Applicant states "*Deeside Power Station is currently permitted at 927 MWth with unlimited operational hours and the permit application relates to reducing this to 110 MWth with 2000 hours of operation. The current background concentration maps and Air Pollution Information System (APIS) background projection include the impact from this facility at the permitted operation capacity and as such overestimate the future impacts*." Please note that Deeside Power ceased to operate in 2018, therefore previous emissions from Deeside Power may not be included in the current APIS data set for mid-year 2020 (2019-2021).

57. For Knauf Mineral Rock Wool Facility, the Applicant states "*Knauf Rock Mineral Wool Facility has not yet submitted its Environmental Permit application and information relating to its future emissions is not available at this time."* NRW has provided statutory pre-planning application advice on the Knauf Rock Mineral Wool proposal,

including high level advice relating to the potential air quality impacts based on the submitted information. We also understand that the formal planning application has recently been submitted. We therefore advise that you consult the Local Planning Authority (Flintshire County Council) to confirm whether any relevant details are available to inform an in-combination assessment of this proposal.

58. For Arrow AD, the Applicant states "*The combustion of biogas through CHP units from the Arrow AD plant is relatively small in scale and would only be capable of having perceptible impacts within a few hundred meters of the 3m high points of release, within the industrial area. The Environmental Statement for the Arrow AD Plant (planning application reference "05870" at Flintshire County Council) identified negligible impacts within its Air Quality assessment on all receptors (including nature conservation sites).*"

59. NRW received an Environmental Permit Application from Arrow Bio Waste Recycling Facility on 1 April 2025. The application was assessed not to be Duly Made in February 2026. On 17 April 2026 further information was supplied by Arrow Bio Waste Recycling Facility, including an updated Air Quality Assessment. The application is currently not yet Duly Made. The updated Air Quality Assessment is yet to be reviewed by NRW, however the assessment indicates that stack emission parameters and conclusions are different to those quoted by the Applicant above. The Arrow Bio Waste Recycling Facility Air Quality Assessment concludes "*At ecological receptors E3, E9 and E11* (Dee Estuary SAC)*, impacts could not be screened out as insignificant due to exceedances of screening thresholds nitrogen and acid deposition*". We therefore advise the Applicant to include the Arrow Bio Waste Recycling Facility in an updated in-combination assessment.

60. Item 1.45: The additional information supporting the Applicant's conclusion that the existing Surface Water Outfall is not contributing to an ongoing process of saltmarsh erosion is welcomed, alongside comments by the Applicant that "*it should therefore be possible for the proposed Surface Water Outfall to be designed such that any future risk of saltmarsh erosion is reduced to an acceptable level*". We therefore consider this matter to be resolved.

ANNEX E – NRW COMMENTS ON THE UPDATED APPENDIX 8-C AIR QUALITY TRAFFIC EMISSIONS ASSESSMENT

NRW has reviewed the updated Appendix 8-C Air Quality Traffic Emissions assessment [REP4-031], version 01, by AECOM, dated March 2026 and provides the following advice.

61. We note that the Applicant states: "*For acid deposition, impacts exceed 1% of the relevant AQAL at some receptors, although they are all below 100% of the AQAL. As the receptors where predicted impacts are predicted to be above 1% of the AQAL but below 100% are Non-statutory designated sites, impacts can be screened out.*"

62. Therefore, as no statutory designated sites are identified to be affected, we have no further comments on the Applicant's changes to this document.

ANNEX F – NRW COMMENTS ON THE LEGAL SUBMISSIONS ON MITIGATION VERSUS COMPENSATION [REP4-086]

63. NRW notes the Applicant's Legal Submissions on Mitigation versus Compensation [REP4-086]. We broadly agree with the Applicant's summary of the relevant legal principles, including that measures addressing impacts on functionally-linked land are not, in principle, automatically compensatory and may constitute mitigation where they are sufficiently certain and effective. However, we wish to clarify that our position on the proposed curlew measures has not changed from that set out in our Written Representations at Deadline 1 [REP1-073] and subsequent submissions, including our Deadline 4 response [REP4-091]. We have consistently stated that, at present, the proposed measures lack sufficient certainty as to their effectiveness and delivery to be relied upon as mitigation for the purposes of Appropriate Assessment. On that basis, we consider that the measures remain more appropriately characterised as compensatory at this stage of the examination.

64. We also wish to clarify that, contrary to the Applicant's remarks at para. 30 of their Legal Submissions document, we agree that the location of the proposed replacement curlew habitat within the SPA is not by itself determinative of whether the measures constitute mitigation or compensation. As set out previously in our written submissions, our position is that the correct legal test turns on the certainty of effectiveness and implementation of the measures, rather than designation status alone.

65. In relation to the proposed saltmarsh habitat creation, we reiterate our position set out in our previous written submissions that until there is certainty, beyond reasonable scientific doubt, that the measures will prevent an adverse impact on site integrity, these proposed measures more closely resemble compensation than mitigation.

66. We also wish to point out that we do not agree with the Applicant's assertion that losses to part of the saltmarsh habitat can be potentially considered as *de minimis*. We wish to emphasise that while effects which are truly negligible may, in appropriate cases, be screened out at the likely significant effects stage, we have not agreed that the proposed saltmarsh loss falls into that category. Once the assessment proceeds to Appropriate Assessment, the relevant question is whether adverse effects on site integrity can be ruled out beyond reasonable scientific doubt. Our position remains that, at this point in time, this test has not been met.

67. Whilst we acknowledge that the saltmarsh creation proposals bear some differences to the factual circumstances considered in *Briels*, our position, as set out in our previous written representations, remains that, unless there is certainty, beyond reasonable scientific doubt, as to the effectiveness and delivery of the proposed measures, at the point of the Appropriate Assessment, the measures are more appropriately characterised as compensatory in nature at this point in the examination.

68. Finally, we note that at paragraph 35(2) of the Applicant's legal submissions it states that the proposal is to restore natural coastal processes "within the SAC". We do not

consider this to be correct as the proposed managed realignment and saltmarsh creation areas are located outside of the SAC boundary while the impact itself arises within the SAC. We note that this aligns with the circumstances in *Briels.*