

FLINTSHIRE COUNTY COUNCIL

REPORT TO: PLANNING COMMITTEE

DATE: 10 JANUARY 2024

REPORT BY: CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)

SUBJECT: RETENTION AND USE OF EXISTING STRUCTURES, PLANT AND ANCILLARY DEVELOPMENT (INCLUDING ACCESS ROADWAY AND LANDSCAPING) FORMING THE POINT OF AYR GAS TERMINAL FOR THE TRANSPORT OF CARBON DIOXIDE AND THE DEMOLITION/REMOVAL OF REDUNDANT STRUCTURES AT THE TERMINAL; CONSTRUCTION AND USE OF NEW INFRASTRUCTURE REQUIRED FOR CARBON DIOXIDE SERVICE AT THE POINT OF AYR GAS TERMINAL; RETENTION AND USE OF THE EXISTING 20 INCH DIAMETER GAS PIPELINE, CONDENSATE PIPES AND ASSOCIATED CABLES FROM THE POINT OF AYR GAS TERMINAL TO THE MEAN LOW WATER SPRING MARK FOR THE TRANSPORT OF CARBON DIOXIDE AND ASSOCIATED ACTIVITIES; REMOVAL OF THE SHUT DOWN VALVE COMPOUND ASSOCIATED WITH THE EXISTING 20 INCH DIAMETER GAS PIPELINE FROM THE POINT OF AYR GAS TERMINAL TO THE MEAN LOW WATER SPRING MARK AND APPROPRIATE RESTORATION/REMEDICATION; CONSTRUCTION AND USE OF TWO 33KV ELECTRICITY AND FIBRE OPTIC CONNECTIONS FROM POINT OF AYR GAS TERMINAL TO THE MEAN LOW WATER SPRING MARK; AND CONSTRUCTION AND USE OF TWO KIOSKS AND ASSOCIATED FENCED COMPOUNDS LOCATED ON THE LINE OF THE PROPOSED 33KV ELECTRICITY AND FIBRE OPTIC CONNECTIONS.

APPLICATION NUMBER: FUL/000246/23

APPLICANT: LIVERPOOL BAY CCS LIMITED

SITE: **POINT OF AYR COLLIERY, FFYNNONGROYW,
HOLYWELL**

**APPLICATION
VALID DATE:** **14 MARCH 2023**

LOCAL MEMBERS: **CLLR G BANKS
CLLR G MADDISON**

**TOWN/COMMUNITY
COUNCIL:** **LLANASA COMMUNITY COUNCIL**

**REASON FOR
COMMITTEE:
DELEGATION** **SITE EXCEEDS SIZE OF SCHEME OF**

SITE VISIT: **NO**

1.0 SUMMARY

- 1.01 This full application is for the retention and use of existing structures, plant and ancillary development (including access roadway and landscaping) forming the existing Point of Ayr gas terminal for the transport of carbon dioxide and the demolition/removal of redundant structures at the terminal; construction and use of new infrastructure; retention and use of the existing 20 inch diameter gas pipeline and associated cables; appropriate restoration/remediation; construction and use of two 33kv electricity and fibre optic connections; and construction and use of two kiosks and associated fenced compounds. The site is located at Point of Ayr Colliery, Ffynngroyw, Holywell.
- 1.02 This application is integral to the wider 'HyNet North West Carbon Dioxide Pipeline' project being progressed by Liverpool Bay CCS (Carbon Capture Storage) Limited (the Developer). The project is to construct and install a new carbon dioxide pipeline between Ince, near Stanlow, (Cheshire) and Flint, and repurpose an existing natural gas pipeline between Flint and Talacre (the 'Connah's Quay to Point of Ayr Pipeline') before reaching this application site at Point of Ayr. The carbon dioxide pipeline aspect is deemed a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008 and is currently under consideration by the Planning Inspectorate. The decision relating to these wider elements of the development is due in December 2023 and at the time of writing is yet to be published.
- 1.03 The laying of the cables from the Point of Ayr Terminal to the Mean Low Water Springs (MLWS) mark is assessed in this application. The construction and operation of the cables seawards from the Mean High

Water Springs (MHWS) mark through the marine environment will be covered by a separate Marine Licence application made to Natural Resources Wales (NRW). The offshore license for the storage of CO2 is determined by the North Sea Transition Authority (formally the Oil and Gas Authority).

- 1.04 This application is accompanied by an Environmental Statement (ES) that is deemed in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (EIA). The Environmental Statement considered the likely significant environmental effects resulting from the construction, operation (including maintenance) and decommissioning phases of the Point of Ayr Terminal and foreshore works.
- 1.05 A pre-application consultation was undertaken by the Applicant and the feedback received has been described in the Pre-Application Consultation Report which accompanies the application documents.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING: -

- 2.01 The application is recommended for approval subject to the conditions outlined below and a Section 106 Legal Agreement which secures financial contributions totalling £41,000 per annum with contributions being made toward; the activity centre operation costs; activity centre guide; events delivery; ranger support; ranger vehicle and biodiversity enhancement related works.
- 2.02 Conditions:

Time limit for commencement

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Written notification of the date of commencement of any works on the site deemed to begin the development shall be sent to the Local Planning Authority within seven days of such commencement.

Development Phases

2. The operator shall notify the Local Planning Authority of the date of the material start of each phase of development in writing at least 5 working days prior to each phase. The phases of development shall comprise:
 - i) Demolition (“Demolition” is defined as site clearance and the demolition/removal of redundant plant, machinery, services and buildings at the terminal and associated works.
 - ii) Construction;

- iii) Operational (“Operational” is defined as the point when CO2 is first received for offshore storage); and
- iv) Decommissioning and Restoration.

Restriction on the life of the development

- 3. The operations hereby permitted shall cease at the site within 25 years from the date of the commencement of the Operational phase or by 2053, whichever the earlier. The dates of final cessation of operations and completion of restoration in accordance with Condition 25 shall be notified in writing to the Local Planning Authority within one week of the said dates.

Compliance with the approved plans

- 4. Development at the site shall take place in accordance with the following plans and documents except where they are modified by the conditions on this decision notice.

The plans and documents comprising the Application are:

- Application Form
- Planning And Design & Access Statement (document Reference T.3.3) March 2023
- Environmental Statement (Volume 1): Non-Technical Summary
- Environmental Statement (Volume 2): Main Text
- Environmental Statement (Volume 3): Supporting Technical Appendices
- Environmental Statement (Volume 4): Supporting Figures and Plans
- 70070865-T.2.1-SLP-Sheet 1 Location Plan Sheet A
- 70070865-T.2.1-SLP-Sheet 2 Location Plan Sheet B
- 70070865-T.2.1-SLP-Sheet 3 Location Plan Sheet C
- 70070865-T.2.2-LAY-Sheet 1 Existing Site Plan
- 70070865-T.2.2-LAY-Sheet 2 Removed Items Layout
- 70070865-T.2.2-LAY-Sheet 3 Proposed Layout
- 70070865-T.2.2-EL-Sheet 1 Existing & Proposed Site Elevations
- 70070865-T.2.2-EL-Sheet 2 Removed Items Elevations
- 70070865-T.2.2-CX-Sheet 1 Proposed Cross-Sectional Elevations
- 70070865-T.2.2-LAY-Sheet 4 PoA Landscape Layout
- 70070865-T.2.3-LAY-Sheet 1 Existing Foreshore Works Site Plan - Sheet A
- 70070865-T.2.3-LAY-Sheet 2 Existing Foreshore Works Site Plan - Sheet B
- 70070865-T.2.3-LAY-Sheet 3 Existing Foreshore Works Site Plan - Sheet C
- 70070865-T.2.3-LAY-Sheet 4 Existing Foreshore Works Site Plan - Sheet D
- 70070865-T.2.3-LAY-Sheet 5 Existing Foreshore Works Site Plan - Sheet E

- 70070865-T.2.3-LAY-Sheet 6 Proposed Foreshore Works Site Plan - Sheet A
- 70070865-T.2.3-LAY-Sheet 7 Proposed Foreshore Works Site Plan - Sheet B
- 70070865-T.2.3-LAY-Sheet 8 Proposed Foreshore Works Site Plan - Sheet C
- 70070865-T.2.3-LAY-Sheet 9 Proposed Foreshore Works Site Plan - Sheet D
- 70070865-T.2.3-LAY-Sheet 10 Proposed Foreshore Works Site Plan - Sheet E
- 70070865-T.2.3-EL-Sheet 1 Proposed Foreshore Works Indicative Cable Trench Cross Section
- 70070865-T.2.3-CX-Sheet 1 Point of Ayr Terminal Submarine Cable Junction Box Compound Plan and Elevations
- 70070865-T.2.3-LAY-Sheet 11 Foreshore Works Landscape Layout
- 70070865-T.2.6-LAY-Sheet 6 Indicative Plant Species

Construction Traffic Management Plan (CTMP)

5. No development within the Demolition or Construction phases shall take place until a Construction Traffic Management Plan (CTMP) addressing that phase of the development has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

The approved CTMP shall be adhered to and implemented strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Full Worker Travel Plan

6. Within 6 months of the commencement of the Operational Phase a Full Worker Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.

The approved Full Worker Travel Plan shall be adhered to and implemented strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Arboricultural Method Statement (AMS)

7. No development within the Demolition or Construction phases shall take place until an updated Arboricultural Method Statement (AMS) for that phase of development has been submitted to and approved in writing by the Local Planning Authority. The AMS shall adopt a precautionary approach to tree protection and include:

- (a) arboricultural monitoring;
- (b) tree protection fencing; and

(c) temporary hard surfaces in RPAs.

The approved AMS shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Construction Environment Management Plan (CEMP)

8. No development within the Demolition or Construction phases shall commence until a construction environment management plan (CEMP) addressing that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall refer to the submitted Register of Environmental Actions and Commitments (REAC document reference T.5.3) and the Outline Construction Management Plan (OCMP document reference T.5.1) and include, where relevant to that phase:

- any site-specific method statements required;
- corrective action and contingency plan procedures; management plans namely:
 - Demolition Management Plan;
 - Dust Management Plan;
 - Flood Action Plan;
 - Groundwater Management and Monitoring Plan;
 - Intertidal INNS Management Plan
 - Lighting Management Plan
 - Materials Management Plan;
 - Noise and Vibration Management Plan;
 - Sediment Management Plan;
 - Odour Management Plan
 - Soil Management Plan;
 - Stakeholder Communications Plan;
 - Surface Water Management and Monitoring Plan;
 - Terrestrial INNS Management Plan and
 - Worker Travel Plan.

The CEMP shall include all ecological and landscaping recommendations set out in the submitted Environmental Statement relating to the Construction or Demolition phase being undertaken, providing a detailed programme of work and detailed specifications. It shall include:

- (a) risk assessment of potentially damaging activities;
- (b) a programme and methodology for any pre-demolition/pre-construction surveys required for protected species;
- (c) full details of ecological and landscape mitigation measures during demolition and construction phases, including method statements and conservation plans as required for protected and priority species, and for habitat protection;

- (d) summary information (including annotated plans and schedules) should be provided to give an overview of requirements as well as detailed timetables and method statements and specifications to be adhered to;
- (e) details of landscape and ecological compliance monitoring.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Landscape and Ecological Management Plan (LEMP)

9. Prior to the commencement of the Operational Phase a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include all ecological and landscaping recommendations set out in the submitted Environmental Statement relating to the area of the development hereby approved, providing a detailed phased programme of work and detailed specifications. It shall include:
 - (a) full details of ecological and landscape mitigation measures during the operational stage including method statements as required for protected and priority species and details of all habitat protection, creation enhancement and management;
 - (b) summary information (including annotated plans and schedules) should be provided to give an overview of requirements as well as detailed timetables and method statements and specifications to be adhered;
 - (c) details of landscape and ecological compliance monitoring and include any required measures to improve outcomes based on an agreed set of indicators for measuring net benefit;

The LEMP shall include Biodiversity Enhancement Scheme relating to the areas shown on Drawing No 70070865-APP- ES-5.2 - Sheet 1 drawing title 'Post-Development Habitat Map Sheet 1'. The scheme shall include details relating to the following broad management approaches which shall be applied for lifetime of the development:

- (d) the proposed native planting including the following details;
 - i. the location, species, numbers and timing of the planting of shrubs within the site;
 - ii. the methods of planting, protection, maintenance and of shrubs within the site.
- (e) Methodology to remove invasive species as far as practicable.
- (f) Methodology of the breaking up of concrete to allow for vegetation to colonise over a larger overall extent of the habitat.

The approved LEMP shall be adhered to and implemented strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Operation and Maintenance Environment Management Plan (OMEMP)

10. Prior to commencement of the Operational phase an Operation and Maintenance Environment Management Plan (OMEMP) shall be submitted to and approved in writing by the Local Planning Authority. The OMEMP shall refer to the submitted Register of Environmental Actions and Commitments (REAC):

The approved OMEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Archaeological Mitigation Scheme

11. No development within the Construction phase shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority.

The archaeological programme of work will be undertaken and completed in accordance with the relevant Standards and Guidance provided by the Chartered Institute for Archaeologists.

Land Affected by Contamination

12. No development within the Demolition or Construction phases in a specific parcel of land known to be / suspected of contamination, shall take place until the following components of a scheme to deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority addressing that phase of development..

- (a) a preliminary risk assessment which has identified:
 - all previous uses potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways, and receptors
 - potentially unacceptable risks arising from contamination at the site
- (b) site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- (c) The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

- (d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action.

The remediation strategy and its relevant components shall be carried out in accordance with the approved details.

Contamination Verification Report

- 13. Prior to the Operational phase a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Long-term Monitoring Plan (Contamination)

- 14. Prior to the Operational phase a long term monitoring plan of pollutant linkages, maintenance, and arrangements for contingency action, as identified in the verification plan shall be submitted and approved in writing by the Local Planning Authority. The long-term monitoring plan should include:
 - (a) Details of the methods and triggers for action to be undertaken;
 - (b) Timescales for the long-term monitoring and curtailment mechanisms e.g., a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required;
 - (c) Timescales for submission of monitoring reports to the LPA e.g., annually;
 - (d) Details of any necessary contingency and remedial actions and timescales for actions;
 - (e) Details confirming that the contingency and remedial actions have been carried out

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Unsuspected Contamination

- 15. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Surface Water Drainage

16. No infiltration of surface water drainage into the ground at the Site is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

The development shall be carried out in accordance with the approved details.

Biosecurity Risk Assessment

17. No development, including site clearance, shall commence until a Biosecurity Risk Assessment, and Method Statement that considers invasive non-native species and specific diseases (e.g., Chytrid) has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to prevent the introduction of and where present control, removal or for the long-term management of invasive species both during construction and operation. The risk assessment shall consider landscaping and other related plans.

The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Piling and foundations

18. No development within the Construction phase shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Protection of Public Sewer System

19. No development shall take place until details of a scheme to protect the structural condition of the public sewer crossing the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed design, construction method statement and risk assessment outlining the measures taken to secure and protect the structural condition and ongoing access of the public sewer. No other development pursuant to this permission shall be carried out until the approved protection measures has been implemented and completed.

The approved scheme shall be adhered to throughout the lifetime of the development and the protection measures shall be retained in perpetuity.

Surface Water Restriction

20. No surface water from any increase in impermeable surfaces within the curtilage of the site shall be allowed to drain directly or indirectly to the public sewerage system.

Hours of working (Construction)

21. The hours of working for site clearance and construction shall be 08:00 to 18:00 hrs Monday to Friday and 08:00 to 13:00 hrs Saturdays. No work to be undertaken on Sundays/Bank holidays.

The above condition does not apply to Horizontal Directional Drilling (HDD) operations.

Hours of working (Operational)

22. The operational hours of the development (including during commissioning) are continuous, 24 hours per day, 365 days per annum.

Noise and Vibration Management Plan

23. No development within any one phase shall commence until submission of a noise and vibration management plan for that phase has been agreed with Local Planning Authority. Submission of this plan shall be at least 28 days prior to intended commencement. This management plan will also include details of proposed noise/vibration monitoring which may be required.

The development shall be carried out in accordance with the approved details.

Restoration Scheme

24. A detailed scheme for the final restoration of the site for nature conservation purposes shall be submitted to the Local Planning Authority for written approval no later than 23 years from the date of commencement of the Operational phase. The scheme shall include details of:

- a) Phasing of the restoration, indicating location, extent and approximate timescale;
- b) The removal, burial or other treatment of plant, structures, buildings, equipment, machinery, scrap and refuse, foundations, roadways, hardstandings, pipework, lagoons, signs and storage mounds except where any of these are required for the purposes of restoration, development and management of the site for nature conservation purposes or to maintain 3rd party access;

- c) In the final phase, the sealing or other treatment as appropriate of the accesses to the site;
- d) Identification of the species or habitat type of flora and fauna for which provision is to be made in the restoration, development and management of the site;
- e) and outline aftercare scheme.

The restoration of the site shall be carried out in accordance with the scheme as submitted under this condition and approved by the Local Planning Authority and in accordance with any subsequent amendments to the scheme that are agreed in writing by the Local Planning Authority.

Decommissioning Environmental Management Plan (DEMP)

25. A detailed scheme for the decommissioning of the site shall be submitted to the Local Planning Authority for written approval no later than six months prior to the planned Decommissioning and Restoration phase. The Decommissioning Environmental Management Plan (DEMP) submitted must include:

- (a) details of any below ground apparatus to be left in situ
- (b) method statements for the decommissioning and dismantlement of above ground infrastructure;
- (c) full details of measures to prevent harm to protected and priority species and habitats to include details of habitat protection and soil management;
- (d) traffic management plan for the decommissioning works; and
- (e) waste management plan for the decommissioning works.

Decommissioning of the authorised development must be implemented in accordance with the approved DEMP.

Early Cessation

26. In the event that the operations hereby approved cease for a period of greater than 12 months (or other period agreed in writing with the Local Planning Authority) prior to the date of expiration (as notified under Condition No.2) a revised restoration scheme shall be submitted in writing no later than 6 months from the end of the aforementioned period for the approval of the Local Planning Authority, and upon written approval, shall be implemented in full.

Aftercare

27. Prior to the implementation of the approved restoration scheme as required by condition 24, a detailed 5-year aftercare scheme for the management and maintenance of the habitats established and of the overall progressive restoration and development for nature

conservation purposes of the site shall be submitted to the Local Planning Authority for approval.

The approved aftercare scheme shall be implemented in full and shall include proposals for:

- a) Replacement of trees and shrubs and areas of vegetation which die, become diseased, or are damaged;
- b) Maintenance of protective measures for young trees, shrubs and vegetation;
- c) Maintenance of means of enclosure;
- d) Maintenance of and installation of drainage and/or means of impoundment of water;
- e) Control of vegetation growth by mowing, cutting or other means as appropriate.
- f) Management and maintenance of calcareous grassland and other habitats
- g) A nature conservation compliance record statement.

3.00 CONSULTATIONS

3.01 **Local Member Cllr G Banks:** No response at the time of writing.

Local Member Cllr G Maddison: No response at the time of writing.

Llanasa Community Council: No response at the time of writing.

Highways Development Management: Confirmation was requested regarding the location of vehicular access which would be used over the construction phase to serve the centralised compounds. Information relating to the number of construction workers who would be employed and a plan indicating the location, size and layout of the car parks was also required.

Following submission of this information there was no objection to the proposed development subject to pre-commencement conditions relating to a Construction Traffic Management Plan and a Worker Travel Plan.

Highways Rights of Way: No objection. Provides advice regarding any temporary closures and the provision of temporary alternative routes.

Landscape and Tree Protection: No objection to the proposed development subject to the imposition of a conditions that requires the submission of an updated Arboricultural Method Statement and a comprehensive Landscape and Ecological Management Plan (LEMP) which seeks to increase the proportion of evergreen tree species for winter screening. Management should also take into account diseases such as ash dieback and Dutch elm disease which may affect the screening provided.

Ecology: No objection to the proposed development subject to the imposition of conditions that are already outlined in the application documents largely contained within the Construction Environment Management Plans (CEMP) and the submission of a reptile mitigation scheme and a biodiversity enhancement and management scheme.

Comment was provided that the most effective means to protect ecological features and to demonstrate no effect on Dee Estuary Special Protection Area/Special Area of Conservation/Site of Scientific Interest and Ramsar features is timing the works to those months when migratory and wintering waders and wildfowl are not present. Mitigation proposed is to avoid construction works during periods of significant numbers within a disturbance distance of 300m. Construction works between April and August would avoid an impact on the migratory/wintering birds, but construction has not been confirmed for this time period. Given this, a clear hierarchy needs to be set out that which favours non-working solutions to avoiding times with peak counts. Should this be unavoidable, effective screening should be provided.

Community and Business Protection: No objection to the proposed development subject to the imposition of a condition that requires the submission of the remaining aspects of the land contamination assessments.

In terms of noise and vibration and air quality, it will be necessary to secure by condition, the submission of a noise and vibration management plan to be agreed prior to development commencing.

In terms of contaminated land, it will be necessary to secure by condition the submission of the remaining aspects of the land contamination assessments previously completed.

Built Conservation: No objection. Consider that the development would not adversely affect any local heritage asset.

Cyfoeth Naturiol Cymru/Natural Resources Wales (NRW): Further information was requested with regard to Protected Sites, flood risk and Water Framework Directive compliance.

Following negotiation and submission of further information NRW maintained there were still concerns, however were satisfied that these could be overcome by imposing conditions relating to Protected Species, contamination and biosecurity.

Llywodraeth Cymru/Welsh Government: No direction issued. Comments that the applicant is advised to liaise with the North and Mid Wales Trunk Road Agency throughout the construction of new infrastructure to avoid any potential conflicts.

CADW: No objection in regard to the scheduled monuments or registered historic parks and gardens. Comment that the designated historic assets that are located inside 3km of the proposed development are screened by intervening topography, buildings and vegetation.

Clwyd-Powys Archaeological Trust (CPAT): No objection. Agree with the proposed mitigation and suggest condition to facilitate archaeological mitigation in accordance with the application documents and Environmental Statement.

RSPB Cymru: No objection. Provide guidance with regard to RSPB legal interests on the land adjacent and its involvement in the management plan. Request the applicant considers the Welsh Governments policy on Net Benefit for Biodiversity (NBB) and net benefits for nature conservation.

Ramblers Cymru: No objection. Notes the environmental safeguards listed in the Register of Environmental Actions and Commitments (REAC) and that all public paths will be safeguarded, or otherwise temporarily diverted by legal Orders, with clear signing of alternative routes, and that foot access to the Foreshore and Dunes will be maintained as far as possible.

Dwr Cymru/Welsh Water: Further information was requested regarding the proposed development and its proximity to a public sewer. No objection was given following conclusion of investigation works on site that confirmed that the main was diverted back in 1996. The initially proposed condition to address this matter was therefore removed.

SP Energy Networks: No objection. Provide advice regarding the need to work safely around energy infrastructure in the area.

North Wales Fire and Rescue Service: No observations in terms of application access.

4.00 PUBLICITY

- 4.01 Neighbour notifications were sent to 202 adjoining/nearby residential addresses. The application was also publicised by way of 3 site notices in close proximity of the proposed development and a notice published in the press. As a result of these procedures there have been no responses received.

5.0 SITE HISTORY

- 5.01 Planning reference 03/0740/91 (018682): Construction of a gas and oil terminal with associated embankment works, the provision of access roads and temporary construction areas and the change of use of farm buildings to use for community facilities and an exhibition area with

ancillary offices. Referred to the Secretary of State for Wales for determination; Approved February 1993.

5.02 Planning reference 03/371/93: Approval of conditions 4, 6a, 7, 8, 10, 11(a), 12, 13, 14, 15, 17, 18, 24 and 27. Issued by Clwyd County Council on 9th August 1993.

5.03 Planning reference 0372/93: Installation of pipelines, comprising a 20 inch diameter gas pipeline and two 3 inch diameter methanol pipelines on land and foreshore to low water mark; temporary pipeline construction areas, dune excavation and beach works, restoration and reinstatement and temporary access works. Submitted to Delyn Borough Council in June 1993; Approved October 1993.

6.00 PLANNING POLICIES

6.01 Flintshire Local Development Plan 2015 - 2030

STR2: The Location of Development

STR3: Natural and Built Environment, Green Networks and Infrastructure

STR4: Principles of Sustainable Development, Design and Placemaking

STR5: Transport and Accessibility

STR6: Services, Facilities and Infrastructure

STR7: Economic Development, Enterprise and Employment

STR13: Natural and Built Environment, Green Networks and Infrastructure

STR14: Climate Change and Environmental Protection

PC1: The Relationship of Development to Settlement Boundaries

PC2: General Requirements for Development

PC3: Design

PC4: Sustainability and Resilience of New Development

PC5: Transport and Accessibility

EN2: Green Infrastructure

EN3: Undeveloped Coast and Dee Estuary Corridor

EN4: Landscape Character

EN5: Area of Outstanding Natural Beauty

EN6: Sites of Biodiversity and Geodiversity Importance

EN7: Development Affecting Trees, Woodlands and Hedgerows

EN8: Built Historic Environment and Listed Buildings

EN11: Green Wedges

EN13: Renewable and Low Carbon Energy Development

EN14: Flood Risk

EN15: Water Resources

EN16: Development on or near Landfill Sites or Derelict and Contaminated Land

EN18: Pollution and Nuisance

EN19: Managing Waste Sustainably

Adopted Supplementary Planning Guidance (SPG)

SPG3 Landscaping

SPG4 Trees and Development
SPG6 Listed Buildings
SPG8 Nature Conservation & Development
SPG8a Great Crested Newt Mitigation Requirements
SPG28 Archaeology

National

Planning Policy Wales Edition 11, February 2021

Welsh Government 'Chief Planning Officers' letter dated 11 October 2023 updating Chapter 6 of Planning Policy Wales with regards to Net Benefit for Biodiversity Future Wales – The National Plan 2040 Building Better Places (2020)

TAN 5: Nature Conservation & Planning

TAN 11: Noise

TAN 12: Design

TAN 15: Development and Flood Risk

TAN 18: Transport

TAN 21: Waste

TAN 23: Economic development

7.00 PLANNING APPRAISAL

Location

- 7.01 The site is located adjacent to the village of Talacre within the administrative area of Flintshire County Council. It is accessed from a private road leading off a roundabout on the A548, located 800m to the south of the terminal. Station Road is also accessed from this roundabout and provides access into Talacre as well as providing access to the Foreshore Works area.
- 7.02 There are a number of small settlements located nearby, including Tanlan, Ffynnongroyw, Picton and Gwespyr to the south and Tyn-Y-Morfa to the west. There are a number of recreational facilities nearby, including several caravan parks, activity centres, and the Wales Coastal Path.
- 7.03 The Wales Coast Path runs along the eastern boundary of the Terminal and continues along the foreshore to the north of the Talacre Dune system. Two other public footpaths are located to the south of the Point of Ayr Terminal.
- 7.04 The site is surrounded by a mixture of rural, urban and coastal landscapes. The closest residential properties to the operational areas of the site are on Station Road approximately 60m to the west. To the north of the Point of Ayr Terminal the closest residential properties are approximately 115m from the operational boundary.
- 7.05 The Dee Estuary Site of Special Scientific Interest (SSSI) surrounds the Site and the former Point of Ayr Colliery. The SSSI covers the agricultural

fields to the west of the Terminal which includes part of the Foreshore Works area. The Gronant Dunes and Talacre Warren SSSI is located to the north of Talacre village and also covers part of the Foreshore Works area. The Dee Estuary Special Protection Area (SPA) and Ramsar site cover the same area as the two SSSIs. The Dee Estuary Special Area of Conservation (SAC) covers the Talacre dune system and the foreshore and the estuary located to the east of the Point of Ayr Terminal.

- 7.06 The Natural Resources Wales (NRW) Development Advice Map shows that the Site is located within Flood Zone C1 i.e. an area which benefits from significant flood defences and is shown to be at low risk of flooding from rivers or coastal flooding.
- 7.07 The closest Listed Building to the site is the Grade II Listed Point of Ayr Lighthouse, which is located 90m north of the Foreshore Works area. The site lies within Green Wedge (Policy EN11).

Proposed Development

- 7.08 The Point of Ayr Terminal currently processes natural gas from the Liverpool Bay offshore fields. The development proposes to modify the Point of Ayr Terminal to enable it to process carbon dioxide instead of natural gas. All works would be contained within the boundary of the existing Point of Ayr Terminal, with the exception of the proposed temporary 'centralised compound' located on the disused former Point of Ayr Colliery, immediately south of the Point of Ayr Terminal.
- 7.09 The modified Point of Ayr Terminal would receive captured carbon dioxide from upstream emitters which would have travelled via the Carbon Dioxide Pipeline. It would then be filtered to remove residual impurities and compressed for transport via the proposed Foreshore Pipeline for safe storage in the offshore Liverpool Bay depleted oil and gas fields.
- 7.10 The Point of Ayr Terminal and Foreshore Works proposed development includes:
- retention and use of existing structures, plant and ancillary development (including access roadway and landscaping) forming the Point of Ayr gas terminal for the transport of carbon dioxide and the demolition/removal of redundant structures at the terminal;
 - construction and use of new infrastructure required for carbon dioxide service at the Point of Ayr gas terminal;
 - retention and use of the existing 20 inch diameter gas pipeline, condensate pipes and associated cables from the Point of Ayr gas terminal to the Mean Low Water Spring mark for the transport of carbon dioxide and associated activities;
 - removal of the Shut Down Valve compound associated with the existing 20inch diameter gas

- construction of pipeline from the Point of Ayr gas terminal to the Mean Low Water Spring mark and appropriate restoration/remediation;
- construction and use of two 33kV electricity and fibre optic connections from Point of Ayr gas terminal to the Mean Low Water Spring mark; and
- construction and use of two kiosks and associated fenced compounds located on the line of the proposed 33kV electricity and fibre optic connections at land west of Station Road, Talacre.

7.11 The centralised compound is proposed to offer ancillary accommodation and support to the works and is located immediately to the south of the Point of Ayr Terminal, on the former Point of Ayr Colliery site (approximately 150,000m²). A separate area for parking facilities is proposed to be located immediately to the west of the compound (approximately 4,400m²). The compound is proposed to include:

- Material laydown areas and yards;
- Warehouse which will be compose a small office, electrical energy; potable and drinking water; drains (and potentially septic tanks);
- Workshops;
- Offices; and
- Workers' welfare facilities.

7.12 Temporary access tracks would provide access from the compound to the local road network.

7.13 The proposed development would see restoration of the site delayed from the currently approved condition whereby the site would cease operations by 2033. Condition 3 on Planning reference 03/0740/91 (018682) refers *"The oil and gas processing operations hereby permitted shall cease within 40 years from the date of this permission unless the prior written permission of the County Planning Authority has been obtained for an extension of this period"*.

7.14 A revised restoration date has been imposed by means of condition which is discussed in detail later.

Main Planning Considerations

7.15 The main planning considerations are:

- principle of the development and need
- economic development implications
- landscape and arboricultural impacts
- ecological impacts
- Net Benefit for Biodiversity
- hydrology and flood risk

- pollution and nuisance including noise and vibration, air quality and contaminated land
- highways impacts (including Public Rights of Way)
- heritage and historic environment impacts
- Restoration
- Section 106 Agreement

Principle of the Development and Need

- 7.16 The principle of the wider HyNet North West development is to reduce carbon dioxide (CO₂) emissions from industry, homes and transport and support economic growth in the North West of England and North Wales. The project is based on the production of low carbon hydrogen. It includes the wider development of a new hydrogen production plant (proposed in Cheshire), hydrogen distribution pipelines, hydrogen storage and the creation of carbon capture and storage infrastructure. Carbon capture and storage prevents carbon dioxide entering the atmosphere by capturing it, compressing it and transporting it for safe, permanent storage. The redevelopment of the Point of Ayr Gas Terminal and the subject of this application is integral to this project.
- 7.17 International, National and Local policy is committed to reducing reliance on carbon emitting development. The Environment (Wales) Act 2016 sets a legal target of reducing greenhouse gas emissions in Wales by at least 80% in 2050. The Act also requires a series of interim targets (for 2020, 2030 and 2040) and carbon budgets. The Welsh Government subsequently in 2019 declared a climate emergency in order to coordinate action nationally and locally to help combat the threats of climate change.
- 7.18 Future Wales, The National Plan 2040 sets out the national development plan context for energy and provides specific policies for heat network and renewable energy development. Sustainable development and decarbonisation are common themes within the plan. It states, *“Future Wales together with Planning Policy Wales will ensure the planning system focuses on delivering a decarbonised and resilient Wales through the places we create, the energy we generate, the natural resources and materials we use and how we live and travel.”*. Policy 17 is clear that the Welsh Government strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet Wales’ future energy needs requiring that *“In determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales’ international commitments”*.
- 7.19 Planning Policy for Wales (11th Edition) para 5.7.7 states that the planning system should *‘optimise the location of new developments to allow for efficient use of resources’*. The Point of Ayr existing development is clearly optimally located given that it already possesses much the infrastructure required to deliver this proposal.

- 7.20 Local Policy STR14 in the recently adopted Flintshire Local Development Plan further supports this national approach by encouraging environmentally acceptable renewable and zero/ low carbon energy generation. Whilst the Point of Ayr Terminal and Foreshore Works Proposed Development does not generate energy it does facilitate low carbon energy production and use, and therefore assists in achieving one of the policy aims.
- 7.21 In conclusion it is considered that this proposal, in the re-development of existing infrastructure at the existing Point of Ayr terminal, offers a unique opportunity to achieve these policy aims, targets and objectives.

Economic Development

- 7.22 The Point of Ayr Terminal and Foreshore Works Proposed Development will not create new permanent employment development. However, it would maintain the existing employment opportunities at the terminal. The HyNet Project is understood to generate a significant number of jobs in the wider region and in the green economy. The proposal can also facilitate existing industrial businesses in the region to decarbonise, ensuring their long-term sustainability.
- 7.23 It is considered the proposal would provide some economic development, enterprise and employment benefits and contribute to the delivery of Policy STR7 of the Flintshire Local Development Plan.

Landscape and Arboricultural Impacts

Green Wedge Designation

- 7.24 The site area is located entirely within the Flintshire Local Development Plan's 'green wedge' which is protected by policy EN11.1 Gronant – Talacre – Gwespyr. The site area was included within the green wedge designation on the basis that the site would be returned to greenfield land. The extant planning permission for the site area was conditioned to 40 years of operation from the commencement in 1993 - requiring restoration in 2033. The proposals impact on the openness of the area is therefore an important consideration.
- 7.25 National Policy concludes that renewable energy and engineering operations 'may' be appropriate in green wedge allocations provided operations don't affect openness (PPW11, para 3.77). It also acknowledges that '*the future energy supply mix will depend on a range of established and emerging low carbon technologies, including biomethane and green hydrogen*' (PPW11, para 5.7.1).
- 7.26 Whilst there will still be a degree of harm to the openness of the green wedge, it is necessary to apply the 'very exceptional circumstances' test in PPW and it is evident that the strategic importance of this proposed

development in facilitating low carbon energy, will outweigh any harm to the green wedge. Further to this, the proposal as presented removes some buildings, chimneys and other ancillary equipment, replacing with smaller structures which is considered to be less intrusive. The proposed development is therefore considered to have a lesser impact on the openness of the green wedge than the existing development.

Landscape Impacts

- 7.27 Policy EN4 of the Flintshire Local Development Plan requires that new development should not have a significant negative effect on the landscape's character and appearance, and landscaping and mitigation measures should aim to minimize the impact and, where feasible, improve the landscape. Policy EN3 also seeks to protect the undeveloped coast and the Dee Estuary Corridor.
- 7.28 The site is set within the context of a number of National and Local Landscape Character Areas. The proposed development would avoid significant visual effects being experienced from within the Clwydian Range and Dee Valley - Area of Outstanding Natural Beauty.
- 7.29 The assessment of the proposed development noted moderate effects are confined to the short period of construction. During operational phase the predicted visual effects are considered to be negligible adverse at all viewpoints. As such, it is considered that the proposal would not conflict of the provisions of Policy EN3 and EN4 of the adopted Flintshire Local Development Plan.

Arboricultural Impacts

- 7.30 Policy EN7 of the Flintshire Local Development Plan requires that impact of development on trees is only acceptable where it maximises their retention through sensitive design, and if removal of trees is necessary, suitable replacements are provided elsewhere.
- 7.31 The arboricultural impacts at the proposed development site at Point of Ayr relate to two small areas of tree felling. One area is required to carry out Horizontal Direct Drilling underneath Station Road, the other to site a security cabin. The applicant does not propose landscaping because the existing trees to the south and west of the gas terminal provide screening throughout the year.
- 7.32 The arboricultural impacts are considered to be minor given the scale of development. An Outline Arboricultural Method Statement is contained in Annex D of the Arboricultural Impact Assessment Report which set out the generic principles of safeguarding trees in relation to development. This required to be updated and can be secured by condition.
- 7.33 It has been commented by the Forestry Officer in consultation that the existing screen planting has not been managed effectively and it requires

proactive management and strengthening with evergreen species which should also take into account ash dieback and Dutch elm disease. It necessary to therefore ensure that this is conditioned as part of a Landscape and Ecological Management Plan (LEMP)

- 7.34 It is considered that the proposed development would not have any ongoing significant landscape or visual effects based on the assessment of the existing landscape. This can be mainly attributed to the retention of the existing trees that screen the gas terminal, where the majority of the above ground changes and the scaling back of existing infrastructure would occur. The landscape's character and appearance is therefore suitably protected in accordance with Policy EN4. The development is acceptable in terms of Policy EN7 subject to the imposition of conditions as outlined above.

Ecology

- 7.35 Policy EN6 of the Flintshire Local Development Plan requires that development proposals that could have a significant negative effect on designated local sites or those with biodiversity and/or geological interest, including priority species, will only be permitted if: a) the need for development outweighs the site's ecological or geological importance; b) there are no reasonable alternative locations; and c) effective mitigation measures are implemented to minimise harm and ensure no overall reduction in biodiversity value. If mitigation is not possible, compensation measures should be provided to create, restore, and enhance biodiversity.
- 7.36 The site is located within the Dee Estuary Site of Special Scientific Interest (SSSI), which is also a Special Protection Area (SPA), Ramsar Site and Local Wildlife Site (LWS) so that special consideration will be required in terms of nature conservation. The application has been subject to extensive consultation with both NRW and the County Ecologist. Further information was requested specifically in relation to the intertidal works and wintering bird disturbance with recommendations that mitigation measures needed to be more specific with regards to the proposals and timetable of works.

Protected Sites

- 7.37 The Dee Estuary SSSI/SPA/Ramsar/SAC surrounds the Point of Ayr Terminal and the associated pipeline works would be within the designated site. The Dee Estuary is designated for its wintering bird populations (SPA/Ramsar site) and for its dune and estuarine habitats (SAC). The designated features also include protected species.
- 7.38 Intertidal mudflats and sandflats were assessed in terms of impacts on intertidal habitats. Direct impacts from the cable trenching in the mudflat and sandflat were concluded to have been appropriately assessed and potential to increase temperatures during operation of the pipeline would

be minor. To avoid disturbing the overwintering bird features of the Dee Estuary SPA and Ramsar site the works should avoid the overwintering period of September - March, if this is not feasible then it would be under supervision of the Ecological Clerk of Works (EcoW) and this can be secured by condition within the Construction Environment Management Plan (CEMP).

- 7.39 Proposals have the potential to impact upon the Dee Estuary SSSI and Gronant Dunes and Talacre Warren SSSI. However, providing measures are in place to protect the Dee Estuary SAC/SPA/Ramsar site these are considered to be adequately addressed.
- 7.40 There are management agreements in place which the applicant is committed to, in agreement with NRW, to ensure favourable management of the designated sites in perpetuity. This includes separate management plans for Talacre dunes and the Warren for dune habitats and associated notable species, plus Llawndy farm.

Other Species

- 7.41 In regard to the Point of Ayr Terminal and Llawndy wetland, species recorded within 300m of the Point of Ayr Terminal and Llawndy Farm ponds included Teal, Pintail and Black-tailed Godwit. The Llawndy ponds are well screened and while the surveys did not meet the 1% SPA population, threshold, it is used by SPA/Ramsar features and there should be consideration of the potential to cause noise and vibration impacts if not visual disturbance if works are undertaken during winter months.
- 7.42 In terms of Breeding Little Tern, 300m is considered to be the predicted disturbance buffer for medium impacts. Constant background noise would not cause disturbance, and sudden loud events shouldn't either due to the distance from the breeding site. A watching brief with regards to the Little Tern colony is proposed if works are undertaken at the terminal between April and July. Relevant noise level monitoring should be included as part of this watching brief.
- 7.43 In terms of impacts to Dune and Estuarine Habitats, the proposed works under sand dunes is welcomed to avoid direct impact on dune features and associated protected species, Natterjack toads (and Sand Lizards). Natterjack Toads are known to be present within the red line boundary within the foreshore works and Point of Ayr terminal but with the nearest known breeding pond is located 20m away. Mitigation measures need to reflect NRW's requirement for a Natterjack Toad Species Conservation Plan.
- 7.44 Compression at the Point of Ayr Terminal would increase the temperature of the carbon dioxide and although cooled by the air coolers as far as practicable, the carbon dioxide would remain above ambient temperature. Heat modelling indicates that ground soil 10m either side

of the pipeline would be affected by the presence of hot fluid inside the pipe but there would be a minimal impact on change in temperatures of soil or sand beyond a distance of approx. 1m from the top of the pipe due to the low thermal conductivity of soil and sand.

- 7.45 Electromagnetic Fields (EMF) are generated by the current that passes through the cables. However, they are only likely to be detectable within the immediate vicinity of the cables with negligible impact at 0.5m above them. The depth of the cables means there is not likely to be a significant impact on fish or benthic invertebrates.
- 7.46 Construction of the proposal may impact ecological features in terms of noise and vibrational impacts. The Construction Environment Management Plan (CEMP) shall refer to the submitted mitigation measures set out in Register of Environmental Actions and Commitments (REAC) which must be adhered to and should also reflect the reflect NRW's requirements. In terms of nesting birds detailed surveys would be required and mitigation measures to minimise noise disturbance measures and additional noise monitoring. A lighting management plan must be developed to avoid unnecessary lighting disturbances.
- 7.47 After extensive consultation with County Ecologist and NRW it is considered that the proposed development would not have a negative impact on ecological features and the protected site designations subject to conditions. These conditions relate to the submission documents prior to development commencing including submission of a Landscape and Ecological Management Plan (LEMP), an updated Construction Environment Management Plan (CEMP) and an Operation and Maintenance Environment Management Plan (OMEMP).
- 7.48 Following submission of acceptable plans and schemes, and implementation of these throughout the life of the development, the proposal is considered in accordance with local and national policy and complies with policies EN2, EN6, and STR3 of the Flintshire Local Development Plan.

Net Benefit for Biodiversity (NBB)

- 7.49 In autumn 2019 a Chief Planning Officer letter provided guidance on the application of the Environment (Wales) Act Section 6 duty with regard to securing biodiversity enhancement which stated that if this could not be achieved, permission for the development should be refused.
- 7.50 At the time of assessing the impacts of the proposed development in terms of net benefits for biodiversity there was no metric in the Welsh planning system in order to quantify benefit. To address Net Benefit for Biodiversity the applicant has proposed enhancement of the 'Centralised Compound' which would include breaking up of concrete slabs to allow natural regeneration, creation of small pool and removal of the invasive

cotoneaster and termed the area Open Mosaic Habitat on Previously Developed Land (OMPDL). Native tree planting is also proposed within 10m of each bank for 200m of the watercourse length whilst other habitats are proposed to be reinstated for example hedgerows removed to gain access. It was considered that this provision was inadequate and had not taken account of the 'biodiversity benefit' that would have been achieved should the extant planning application remain the restoration of the site was enacted in 2033.

7.51 Welsh Government more recently reasserted their position with the publication of a letter dated 11 October 2023 to all Chief Planning Officers to pre-empt the publication of PPW12 with this updated chapter 6 to be implemented with 'immediate effect'.

7.52 The current guidance with regard to Net Benefit for Biodiversity is as follows:

"Planning authorities must follow a step- wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for. Enhancement must be secured by delivering a biodiversity benefit primarily on site or immediately adjacent to the site, over and above that required to mitigate or compensate for any negative impact..."

..... a scheme of enhancements must be provided to ensure a net benefit for biodiversity. Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission. Enhancement measures could include on-site, locally relevant, habitat creation and/or could be part of the development itself favouring the use of native species using biodiverse nature-based solutions..."

7.53 Extensive negotiation between the County Ecologist and the applicant has been undertaken to ensure adequate provision of Net Biodiversity Benefit. The 'step-wise' approach is clear that off-site compensation measures should be applied a last resort, and as such much discussion was carried out regarding the adjacent parcel of land within the applicants ownership known as 'former colliery site'. The applicant advised that there had not been suitable assessment of this area in terms of contamination of the site. It was suggested that the allocation of this area for Net Benefit for Biodiversity would be unreasonable given the potential costs associated with reclamation of this area.

7.54 Given the above and as an alternative to secure Net Benefit for Biodiversity it has therefore been agreed that the section 106 shall contribute an additional £5,000 per annum in a proposed ecological

enhancement in addition to the measures mentioned in paragraph 7.50 relating to the restoration of the 'Centralised Compound'. The additional financial contribution is index linked and must provide for biodiversity related works within the Llanasa and Trelawnyd community council area (or other area to be defined by Flintshire County Council relevant to the project). Paragraph 7.78 further explains the full financial contributions.

Hydrology and Flood Risk

- 7.55 Policy EN14 of the Flintshire Local Development Plan is clear that development will only be permitted where it can be demonstrated that the new development is 'designed to alleviate the threat and consequences of flooding' and be supported by a technical assessment. The site is mostly within Flood Zone C1 (served by significant infrastructure including flood defences) and there are several watercourses and drainage ditches close to the site, e.g. the Talacre Brook.
- 7.56 A Flood Consequences Assessment (FCA) was submitted which indicated that there would be a net gain of tidal flood storage as a result of the proposal, due to a reduction in the footprint of solid structures on the Point of Ayr gas terminal site. It also concluded the proposal is also unlikely to result in an increase in flood risk elsewhere.
- 7.57 Policy STR14 relates to climate change and environmental protection and is clear that development must be directed away from areas at risk of flooding given the increased likely incidences of warmer wetter winters. This development cannot be easily directed elsewhere and it is thereby necessary to impose a time limiting condition (set at 25 years) to address the concerns of likely increase in flood risk.
- 7.58 It is considered that the proposed development would not have a significant negative effect on the water environment subject to the conditions relating to a restriction on the life of the development, a restriction in terms of an increase in surface water that may require infiltration and is therefore in accordance with local and national policy.

Pollution and Nuisance

- 7.59 Policy EN18 of the Flintshire Local Development Plan states that development which would create an increased risk of noise, vibration, odour, dust, light or other pollution or hazard will only be permitted if it would not unacceptably harm general amenity or living conditions; and would not impose significant restrictions on the use or development of surrounding land.
- 7.60 In terms of noise and vibration the assessment indicates that during the operational stage of the proposal the process would have a "low adverse impact" on any nearby residential properties. There are no mitigation

measures proposed for when the site is in operation. The assessment also details predicted impacts on nearby residential properties during the construction phase for the site. The majority of properties which were taken into consideration indicate a negligible/low adverse impact during the construction phase without mitigation being implemented. There are a small number of properties that are predicted to have medium/high adverse impacts during construction due to noise. Hours of construction would be conditioned, and construction would be carried out in accordance with the Construction Environmental Management Plan that would be required to be submitted prior to the commencement of development.

Air Quality

- 7.61 Assessment indicates that during the operational stage of the proposal the process would generally have a "negligible/low impact" on any nearby residential properties. No mitigation measures would be required when the site is in operation. With regard to gaseous emissions as there are no sensitive receptors within the odour risk zones and it is concluded that there is no risk of odours or health effects to the local population.
- 7.62 The assessment details predicted impacts on nearby residential properties during the construction phase for the site. The vast majority of properties taken into consideration indicate a predominantly negligible/low risk during the construction phase. However, there are a small number of properties that are predicted to have medium risk impacts specifically due to dust.
- 7.63 It is considered that the proposal would be acceptable in terms of pollution and nuisance, protecting neighbour amenity, subject to imposition of a number of conditions. These conditions relate to restriction on construction hours, submission of a Noise and Vibration Management Plan, submission of a Dust Management Plan, which is included as part of the Construction Environment Management Plan (CEMP) condition. With these conditions imposed the development is in accordance with policy EN18.

Highways (including Public Rights of Way)

- 7.64 Policy STR6 of the Flintshire Local Development Plan states that an 'essential element in planning for sustainable places is to ensure that the physical and social infrastructure exists'. Highways, walking and cycling and public transport improvements and are all considerations in this regard.
- 7.65 The proposal offers no new road infrastructure and once works are complete access to the site would be derived along the private access road from the roundabout on the A548 and workers would utilise the existing car park within the site. Further consultation has been suggested

with the North Wales and Mid Wales Trunk Road Agency throughout construction.

- 7.66 Should planning permission be granted the submission of the Construction Environment Management Plan (CEMP) including a Construction Traffic Management Plan and Construction Workers Travel Plan will be required by conditions. It will be necessary to ensure that adequate provision is given in terms of parking and management of construction traffic of the local road network.

Public Rights of Way

- 7.67 Sections of Public Footpaths 27 and 28 form part of the Wales Coastal Path and therefore any temporary closure would require an alternative route to be provided. Public Footpath No. 27 abuts the planning application boundary and then proceeds through the application site. This footpath is unaffected by any proposals on the site but may need also need a temporary closure on health and safety grounds during any construction works.
- 7.68 Public Bridleway No. 32 runs along the beach from the Car Park in Talacre in an easterly direction to the county boundary with Denbighshire. The application would cross the bridleway/beach at one point but given the landscape, it is not considered to be adversely impacted.
- 7.69 In conclusion, with the imposition of conditions as set out above, it is considered that the development is acceptable in terms of highway impacts, provision of parking and protection of public footpaths and in accordance with Flintshire Local Development Plan policies PC5 and STR6.

Historic Environment

- 7.70 Policy EN8 states that development proposals affecting listed buildings and their setting will only be permitted only where the historic interest is preserved. The Point of Ayr Lighthouse is a Grade II listed building and the effect of development on its setting will be a particular consideration.
- 7.71 Assessment identified that there would be no material changes to the setting of the vast majority of designated and non-designated assets within the 3km study area. The assessment identified that there would be potential temporary minor adverse construction related impacts on the setting of the Point of Ayr Lighthouse and Llawndy Farm buildings. No impacts on the setting of historic assets were considered likely to occur during the operation of the site and the foreshore works.
- 7.72 Following consultation it was concluded that, at worst, the proposed development would have a very slight visual impact from these designated historic assets and as this would not alter the way that they

are understood, experienced, and appreciated and there would not be any impact on their setting. Archaeological mitigation, which includes specific areas of watching brief and strip/map/excavate works, have been identified. It is proposed to ensure that any below ground archaeology is recorded and preserved. The implementation of this written scheme of investigation is secured through condition. It is therefore considered that the development would accord with Policy EN8.

Restoration

- 7.73 It is important to note that the original consent granted by the Welsh Office under reference P1/185 for the terminal at the Point of Ayr was time limited to 40 years from the date of the permission which effectively granted planning permission for the terminal until 11 February 2033. Condition 3 Planning reference 03/0740/91 refers (018682):

“The oil and gas processing operations hereby permitted shall cease within 40 years from the date of this permission unless the prior written permission of the County Planning Authority has been obtained for an extension of this period”

- 7.74 To ensure effective restoration of the site it is necessary to limit the life of the development to 25 years from the date of the commencement of the Operational phase or by 2053, whichever the earlier. Imposition of conditions relating to submission detailed scheme for the final restoration; submission of a Decommissioning Environmental Management Plan (DEMP); early cessation of the operation; and submission of detailed scheme for aftercare ensure that restoration is appropriate and provided within acceptable timescales.
- 7.75 With appropriate restoration assessed in submission of schemes and plans it is considered that the proposal is in accordance with local and national policy and complies with policies EN2, EN4, EN6, EN11, EN14 and PC2 of the Flintshire Local Development Plan.

Section 106 Agreement

- 7.76 The Point of Ayr Terminal planning application was submitted to Clwyd County Council in August 1991, reference P1/185. The permission was subject to 29 planning conditions and the decision letter made no reference to any planning obligations. However, two agreements referencing the Point of Ayr Terminal permission were signed pursuant to Section 106 of the Town and Country Planning Act 1990. Both agreements are dated October 22nd, 1992 and are between Hamilton Oil Company and the County Council of Clwyd. One relates to the provision of a visitor/community centre, the second relates to a financial contribution for the provision of car parking facilities. The visitor centre

was provided at Llawndy Farm buildings in accordance with the legal agreement.

7.77 The agreement, dated 15th October 1993, is between Delyn Borough Council and Hamilton Oil Company and provides for a financial contribution towards the cost of a countryside ranger for a period of five years from the implementation of the development.

7.78 With regard to existing legal obligations it has been necessary to negotiate an uplift in the contributions provided in the section 106 given the ongoing operations at the site and to account for recent increased and increasing costs to better reflect the continuing impact of the site on the natural environment. The applicant subsequently agreed to the uplift in vehicle provision to £2,500 and events support to £1,500 per annum. The section 106 agreement payments are agreed as follows:

- DangerPoint Operational Costs Contribution - £10,000 per annum
- DangerPoint Guide Contribution - £7,000 per annum
- Events Delivery Contribution - £1,500 per annum
- Ranger Support Contribution - £15,000 per annum
- Ranger Vehicle Contribution - £2,500 per annum
- Proposed Ecological Enhancement Fund - £5,000 per annum

7.79 The infrastructure and monetary contributions that can be required from the Proposals have to be assessed under the Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'. It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following Regulation 122 tests:

1. be necessary to make the development acceptable in planning terms;
2. be directly related to the development; and
3. be fairly and reasonably related in scale and kind to the development.

While the Authority does not yet have a charging schedule in place, CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project or type of infrastructure. From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application. The contribution sought meet the CIL tests and do not breach the pooling restrictions referred to above.

8.00 CONCLUSION

- 8.01 This proposal provides necessary infrastructure for the carbon pipeline wider project and is in accordance with the national and local policy in terms of meeting carbon emission reduction targets.
- 8.02 There are no unacceptable impacts upon local amenity, ecology, landscape or as a result of highways or drainage issues and is in accordance with the relevant LDP policy. It is recommended that the proposal is acceptable subject to the section 106 requirements and suggested conditions as outlined in paragraph 2.01 and 2.02 respectively.

Other Considerations

- 8.03 The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.
- 8.04 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.
- 8.05 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.06 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents in (Environmental Statement)

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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