

Application by Liverpool Bay CCS Limited for an Order Granting Development Consent for the HyNet Carbon Dioxide Pipeline Project

The Examining Authority's written questions and requests for information (ExQ1) Issued on 27 March 2023

Response Submitted on Behalf of United Utilities Water Limited (U UW)

This submission sets out the response of U UW to the Examining Authority's written questions and requests for information (ExQ1) issued on 27 March 2023. The relevant question and associated references are set out in black italic text with the response of U UW in blue italic text.

If you have any queries relating to this matter please do not hesitate to contact Andrew Leysens, Planning Manager at [REDACTED]. Please can you also copy any future correspondence to [REDACTED] [@uuplc.co.uk](mailto:[REDACTED]@uuplc.co.uk) and [REDACTED] [@uuplc.co.uk](mailto:[REDACTED]@uuplc.co.uk).

ExQ1	Question to:	Question
Q1.4.3	IPs	<p><i>v) Submit your views on seeking biodiversity enhancement/ facilitating BNG, inclusive of any future proofing.</i></p> <p><i>As noted in our submission dated 08 April 2022 to the EIA Preliminary Environmental Information Report, ecological mitigation and the delivery of areas for biodiversity net gain should not be located on top of our apparatus or restrict access to our assets, for example, any riparian enhancement should ensure that we can continue to access our outfalls. This is because we require unrestricted access for maintenance, repair and replacement to discharge our statutory duties. Similarly, we would request that any vegetation removal in the vicinity of our assets should be first agreed with U UW to ensure that our assets are not damaged.</i></p> <p><i>The latest GIS shp file information that we have received does not include specific details of ecological mitigation and therefore we have not been able to confirm if such proposed features are located on, or near to, our apparatus.</i></p>

ExQ1	Question to:	Question
Q1.4.19	Applicant and IPs, including CWCC and FCC	<p>v) <i>Relevant Planning Authorities/ IPs: Do you have any further comments on tree planting or landscaping provision?</i></p> <p><i>We request that any landscaping provision / vegetation removal in the vicinity of our assets is first agreed with U UW to ensure that our assets are not damaged.</i></p>
Q1.6.5	Applicant/ Statutory Undertakers	<p>• <i>The BoR [APP-030] includes a number of Statutory Undertakers with interests in land. The ExA would ask the Applicant to:</i></p> <p><i>i) Provide a progress report on negotiations with each of the Statutory Undertakers listed in the BoR, with an estimate of the timescale for securing agreement with them;</i></p> <p><i>ii) State whether there are any envisaged impediments to the securing of such agreements; and</i></p> <p><i>iii) State whether any additional Statutory Undertakers have been identified since the submission of the BoR.</i></p> <p><i>At the current time, the impact on U UW land interests is not clear because the applicant has not instructed U UW to undertake a detailed engineering assessment of the impact on our assets, which is considered in further detail below.</i></p> <p><i>Following completion of the development we would wish to be afforded land rights which are at least equal to those in existence at the current time. At the current time we do not have sufficient information to confirm that this will be the case.</i></p>
Q1.6.10	Statutory Undertakers	<p>• <i>Protective Provisions - A number of Statutory Undertakers, including Cadent Gas Ltd; the Canal and River Trust (CRT); National Grid Electricity Transmission PLC; National Grid Gas PLC; National Highways Ltd (NH); Network Rail Infrastructure Ltd (NR); SP Energy Networks and United Utilities Water Ltd, have noted that:</i></p> <p><i>i) Protective Provisions in their favour have not been included within the draft DCO;</i></p> <p><i>ii) their standard Protective Provision wording has not been used; and</i></p> <p><i>iii) site specific circumstances in regard to Protective Provisions have not been taken into account.</i></p> <p><i>The ExA would ask all Statutory Undertakers to:</i></p> <p><i>a) provide copies of their preferred wording or, if they have previously provided wording to the Applicant, explain why the wording in the current version of the draft DCO should not be used;</i></p> <p><i>b) where relevant, advise what site-specific circumstances, in regard to Protective Provisions, have not been taken into account; and</i></p> <p><i>c) provide confirmation that the parties are willing to enter into a side agreement, or has commenced preparation of such a side agreement, or already entered into such a side agreement to the satisfaction of the relevant parties.</i></p>

ExQ1	Question to:	Question
		<p><i>Please note that the above information will be published on our website, so commercial and/ or confidential details need not be given.</i></p> <p><i>UUW does not currently have an agreed set of Protective Provisions or an associated side agreement with the applicant. We are in the process of preparing draft documents for consideration with the applicant and for submission to the Examining Authority. UUW requests the inclusion of a specific set of Protective Provisions relating to UUW assets. We are in process of preparing this document and note the Protective Provisions prepared on behalf of other Statutory Undertakers such as Cadent which form a useful basis for the Protective Provisions which we would request. In addition, we would also request that the Protective Provisions in our favour address a range of other matters including (inter alia):</i></p> <ul style="list-style-type: none"> <i>- the need for the detail of all drainage proposals to be first approved;</i> <i>- the need for the details of water supply requirements to be confirmed and submitted for approval;</i> <i>- the need for the applicant to comply with our Standard Conditions for Works Adjacent to Our Assets;</i> <i>- the need to agree the details of ecological mitigation / enhancement when proposed in proximity to our assets;</i> <i>- the need to agree the details of landscaping provision /removal when proposed in proximity to our assets; and</i> <i>- the need for UUW to be involved in any process to agree the details of any works to watercourses to ensure no detrimental impact on the operation of our outfalls; and</i> <i>- the need for UUW to be involved in any proposed works in areas of contaminated land to ensure that the proposed works are not detrimental to our assets / delivery of our statutory obligations.</i> <p><i>For information, our next meeting with the applicant is scheduled for 21 April.</i></p>
Q1.6.12	Statutory Undertakers	<p><i>Many Statutory Undertakers in their RRs have indicated that their primary concerns are to meet their statutory obligations and ensure that any development does not impact in any adverse way upon these statutory obligations. The ExA would ask whether:</i></p>

ExQ1	Question to:	Question
		<p data-bbox="544 233 2022 336">i) they have undertaken any assessment of the Proposed Development's impact on their statutory obligation(s) or are currently doing such an assessment(s); and ii) they have identified any such concerns and, if so, what those concerns are.</p> <p data-bbox="544 379 2022 483"><i>Uuw has undertaken an initial assessment of the impact on our statutory obligations and the outcome of this assessment has informed our previous consultation responses and the dialogue which we have had with the applicant. We have not repeated these points as part of this submission, however, we can provide some brief comments to update our position below.</i></p> <p data-bbox="544 560 741 587">Asset Protection</p> <p data-bbox="544 632 2022 735"><i>In consideration of asset protection matters, we have highlighted the need for the applicant to have full regard to our Standard Conditions for Works Adjacent to Pipelines and we would expect this to be addressed in the Protective Provisions we are preparing.</i></p> <p data-bbox="544 778 2022 1023"><i>Importantly we have highlighted to the applicant that a more detailed engineering assessment of the impact on our assets is required. The applicant has chosen to not instruct Uuw to undertake this more detailed work at this point in time and therefore the applicant carries the risk of not knowing the measures that will be necessary to ensure that the impact on our assets is managed, what works will be acceptable / unacceptable, the cost of any works, the land required and the lead in time for delivery of the works. For example, we do not know if any diversion of our assets will be necessary. This engineering assessment of the detail of any design of the proposals is therefore critical. The applicant should note that the lead in time for diversions / works to our assets can be significant and this could affect any future construction programme.</i></p> <p data-bbox="544 1066 658 1093">Drainage</p> <p data-bbox="544 1137 2022 1241"><i>In our previous consultation response we identified the need for any water arising from the proposed development to be managed by sustainable means. This continues to be our position. It is imperative that no surface water discharges to the existing public sewer.</i></p> <p data-bbox="544 1284 2022 1345"><i>We have reviewed the outline surface water drainage strategy Rev A (Document Reference Number D.6.5.13) and note that for those above ground installations which are located in England, there is no intention to connect surface water to the public</i></p>

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		<p><i>sewer. We request that the applicant confirms that the extent of land covered by the Order would facilitate the necessary rights to allow the applicant to discharge to these alternative receiving bodies.</i></p> <p><i>We also note that each of the drainage strategies will be subject to further intrusive site surveys to confirm the topographies, condition of the development sites and feasibility of connections at detailed design stage.</i></p> <p><i>In addition we note the Draft Development Consider Order Revision B (Document reference D.3.1 Rev B) which includes ‘Article 19 Discharge of Water’, which affords the applicant the right to discharge water to a range of receiving bodies including public sewer.</i></p> <p><i>We wish to ensure that the intentions set out in the outline drainage strategy (insofar as it relates to water drainage in England) is an approved document and that future detailed design should be in accordance with the outline surface water drainage strategy and the hierarchy for managing surface water. In the event that the applicant choses to change their proposals for surface water drainage, we would wish to be involved in the approval process.</i></p> <p><i>We also request clarity on:</i></p> <ul style="list-style-type: none"> <i>- any dewatering proposals which should not be discharged to public sewer;</i> <i>- any proposals for hazardous fluids, which was noted in our response dated 08 April 2022 to the Preliminary Environmental Information Report; and</i> <i>- any other drainage proposals which are necessitated as a result of the development including any foul drainage, which may be necessary, either during construction or during the operational life of the development.</i> <p><i>With respect to all drainage proposals, it is not clear how this will be addressed as part of any approval process and therefore we request clarity on this point via the Protective Provisions which we proposed to submit.</i></p>
Q1.6.13	Applicant/ Statutory Undertakers	<p><i>Pursuant to the above question (Q1.6.12), the ExA would ask the Applicant and Statutory Undertakers whether any discussions about the Statutory Undertakers concerns, especially those related to them being able to meet their statutory obligations have occurred and, if so, what progress has been made by these parties with regard to addressing those concerns.</i></p>

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		<p><i>See our answer to Q1.6.12.</i></p>
<p>Q1.6.14</p>	<p>Applicant</p>	<p><i>Where a representation is made by a Statutory Undertaker under section 127 of the Planning Act 2008 (PA2008) and has not been withdrawn, the SoS would be unable to authorise powers relating to the statutory undertaker land unless satisfied of specified matters set out in section 127. If the representation is not withdrawn by the end of the examination confirmation would be needed that the “expedience” test is met.</i></p> <p><i>The SoS would also be unable to authorise removal or repositioning of apparatus unless satisfied that the extinguishment or removal would be necessary for the purpose of carrying out the development to which the Order relates in accordance with section 138 of the PA2008. Justification would be needed to show that extinguishment or removal would be necessary.</i></p> <p><i>Please indicate when, if the objections from Statutory Undertakers are not withdrawn, this information would be submitted into the Examination.</i></p> <p><i>In response to this question please note our answer to Q1.6.12. In the absence of the more detailed engineering assessment, it is not clear what impact will be had on the assets of UUW or our associated land interests, which appear to be easements associated with our assets. As a result of the proposed development, we would wish to be afforded land rights which are at least equal to those in existence at the current time. At the current time we do not have sufficient information to confirm that this will be the case.</i></p>
<p>Q1.10.2</p>	<p>Applicant/ IPs</p>	<p><i>Are indicative local watercourse flow rates available before and after development? Would options to slow local surface water flow/formation rates in the DCO area, or nearby, with the formation of new ponds/wetland advantageous to wider sustainability goals be feasible/ possible? If so, could that provision be accommodated?</i></p> <p><i>In our response dated 8 April 2022 to the EIA Preliminary Environmental Information Report, we expressed our desire to fully understand the impact on Watercourses as result of the development proposals. We noted paragraph 18.6.4 of Chapter 18: Water Resources and Flood Risk which stated that minor watercourses would be crossed via trenched crossings. In such occurrences, the hydrological regime would be maintained through temporary diversion or pumping. UUW wishes to confirm the impact on any watercourses that interact with our assets to ensure that there are no detrimental consequences of these works in terms of asset operation, flood risk and changes to fluvial geomorphological processes. This is particularly with reference to any watercourses where we have assets that outfall into the affected watercourses.</i></p> <p><i>We would therefore wish to be consulted on any proposals that affect a watercourse as part of the proposed development and on the detail of any drainage proposals so that we can provide our comment.</i></p>

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		<p><i>As noted above, our previous consultation responses identified the need for any water arising from the proposed development to be managed by the sustainable means. This continues to be our position. It is imperative that no surface water discharges to the existing public sewer.</i></p>
<p>Q1.10.3</p>	<p>Applicant and IPs</p>	<p><i>i) Have any local views come forward/ available giving more details as to the cause or date of this historic flooding event? Is this in the area of Chester Road Brook?</i></p> <p><i>ii) The “DG5” flooding register is also referred to in Paragraph 3.3.4 of [APP-168]. Explain the origin, nature and status that register holds for the administrative area.</i></p> <p>IPs</p> <p><i>iii) Please make whatever comments you deem applicable on assessing flood risk or any associated survey, mitigation or avoidance matter triggered. Including measures linked to achieving future climate change resilience through potential wetland creation.</i></p> <p><i>In our response dated 8 April 2022 to the EIA Preliminary Environmental Information Report, we identified the need for a range of flood risk matters to be fully considered by the proposed development. The content of our representation continues to be relevant.</i></p> <p><i>We have provided the applicant with initial information on modelled sewer flood risk. In our response dated 8 April 2022, we specifically noted a potential exceedance path from modelled sewer flood risk which impacts on the proposed works at approximate grid reference SJ 44583 74797. This has been highlighted to the applicant and we request that they confirm how this has been / will be addressed in their proposals. At the current time we are concerned that an installation is proposed at this location which could be at risk of exceedance flows from existing drainage features.</i></p> <p><i>When considering any works to our public sewerage assets, it is critical that flood risk is not increased as a result of the proposed works, for example, as a result of any diversion or changes to levels on top of or near to the sewer. The applicant should not assume that such works to or near to our assets will be acceptable.</i></p>
<p>Q1.10.4</p>	<p>Applicant and IPs</p>	<p><i>iv) Significant dewatering is expected adjacent to the River Gowy and the West Central Drain. These are in the Gowy and Ince Marshes WFD surface water bodies. Do IPs have any comments to make on that aspect or any other aspect of the proposal? Can any related ecological benefits be secured in tandem with dealing with flood risk management issues arising?</i></p>

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		<p><i>Finchetts Gutter Tributary; Backford Brook; Friars Park Ditch; and Alltami Brook. Should any further areas be considered? if so, state why.</i></p> <p><i>The EA [RR-024] support the production of a Dewatering Management Plan and a Groundwater Management and Monitoring Plan. They wish to be a consultee on the approval of these plans. Can the Applicant confirm the provision within the DCO where the EAs request has been secured.</i></p> <p><i>As per the EA, we would wish to be consulted on any groundwater matters in our area of operation. With regards to dewatering proposals, this should not discharge to public sewer.</i></p>
Q1.10.14	IPs	<p><i>Provide your comments on any outstanding land contamination or pollution control matters arising if you have not already done so.</i></p> <p><i>In the event of the proposals passing through contaminated land, it is critical that appropriate protective measures are in place so that there is no detriment to our existing assets or the water environment. In the event that our assets passed through an area of contaminated land that was due to be proposed, we would wish to be consulted so that we can provide comment and review.</i></p>
Q1.12.4	IPs, including Statutory Undertakers	<ul style="list-style-type: none"> <i>Chapter 12 Landscape and Visual, Table 12.2 lists the elements scoped out of the assessment. This includes recognition each AGI, BVS and control cabinet will require a connection to the local electricity network at the nearest practicable connection points. For the EIA, it is assumed that would be via the closest adopted highway. Any connection works up to that point would be undertaken via the respective statutory undertakers so are not included as part of the DCO Proposed Development. Do statutory undertakers agree the use of the highway is feasible? Do IPs agree with the elements scoped out? If not state why not.</i> <p><i>Notwithstanding the fact that this matter relates to electricity connections, in our submission dated 8 April 2022, we requested that the applicant provides details of any foul and surface water drainage proposals and details of any water supply requirements. We are not in receipt of this information and request that we are provided with early information on any connections, including rates, that may be required. The applicant should not assume that the nearest point of connection for water supply or any foul water drainage will be acceptable.</i></p> <p><i>With regards to drainage, no surface water will be allowed to discharge to the public sewer.</i></p>

ExQ1	Question to:	Question
		<p><i>For clarity, it is normally the applicant's responsibility to connect to the nearest point on our network rather than UUW (subject to certain provisions).</i></p>
<p>Q1.14.1</p>	<p>Applicant and IPs, including FCC and CWCC</p>	<ul style="list-style-type: none"> • Applicant <ul style="list-style-type: none"> i) Outline how monitoring thresholds would be identified and implemented, and indicate whether the DCO should include a commitment to secure remedial measures should monitoring identify higher than predicted noise and vibration levels? ii) Can the Applicant explain if monitoring (and appropriate trigger levels) would be required to determine whether measures need to be implemented to further reduce noise? If so, how would these and any requisite remedial measures be secured? iii) How can noise/vibration mitigation for ecology be relied upon as being suitable based on the information presently known? Or is further information expected? iv) Provide an update where necessary. • Relevant Planning Authorities/ IPs: <ul style="list-style-type: none"> v) Comment on the need for monitoring of construction/ operational phase noise and mitigation. <p><i>In accordance with our submission dated 8 April 2022, UUW requests that the impact of the proposed development includes an assessment of any potential settlement and vibration on UUW's assets. Similarly, any loading on UUW's assets during operation or during construction requires further consideration with UUW. Any approach would need to accord with UUW Standard Conditions for Works Adjacent to Pipelines. We have not seen the latest version of the Noise and Vibration Management Plan and we are in the process of reviewing the latest Construction Environmental Management Plans. We would wish to liaise with the applicant on these points in more detail. We would expect any vibration / settlement matters and the impact on our assets to be addressed via our proposed protective provisions / any associated side agreement.</i></p>
<p>Q1.14.2</p>	<p>Applicant</p>	<p><i>The residual noise and vibration effects identified during construction (moderate and major) and decommissioning (moderate) are described as significant subject to the mitigation that would be contained in the Noise and Vibration Management Plan, which is required by draft DCO [APP-024] Requirement 5 to be included in the CEMP. Please can the Applicant:</i></p> <ul style="list-style-type: none"> i) Clarify whether it is anticipated that the effects would remain significant following the implementation of the Plan; and ii) Explain how such a plan is secured for the decommissioning phase, given that the draft DCO only secures it for the construction phase. <p><i>UUW wishes to be appropriately involved in any matters relating to vibration arising as a result of the development to ensure our assets are protected and that there is no risk to meeting our statutory obligations including any risk of discoloration to</i></p>

ExQ1	Question to:	Question
		<p><i>public water supply. We therefore request the opportunity to be involved in the finalisation of any construction management plan and Noise and Vibration Management Plan.</i></p> <p><i>Similarly, with respect to any future decommissioning phase, UUW would wish to be involved in the detail of the proposals to ensure no unacceptable impact on our assets or meeting our statutory obligations.</i></p>
Q1.14.4	Applicant and Relevant Local Authorities (CWCC and FCC)	<ul style="list-style-type: none"> • The ExA notes the Applicants decision not to submit an Operational Vibration Assessment and that no discussions, in regard to this matter, were held with the relevant Local Authorities (CWCC and FCC). However, the ExA would ask: <ul style="list-style-type: none"> i) the Applicant for a fuller explanation as to why it considered such an assessment was not required; and ii) whether the Relevant Local Authorities (CWCC and FCC) agree with the Applicant's decision that such an assessment was not required and, if not, why they do not agree. <p><i>Please refer to our answer to Q.1.14.1.</i></p>
Q1.19.20	Relevant Statutory Undertakers	<ul style="list-style-type: none"> • The ExA would ask relevant Statutory Undertakers for their comments in regard to the disapplication of the provisions set out in Article 8(1) of the draft DCO, which related to the powers to make bylaws under the Water Resources Act 1991 and the powers to make bylaws, the prohibition of obstructions, etc. in watercourses and authorisation of drainage works in connection with a ditch under the Land Drainage Act 1991. <p><i>As noted above, UUW would wish to be involved in any works to watercourses to ensure that the impact on our assets, including our outfalls, is appropriately considered and managed in the decision making process.</i></p> <p><i>The applicant should ensure that the DCO facilitates the necessary rights to discharge surface water to local watercourses so that it is not necessary to discharge surface water to the public sewer.</i></p>
Q1.19.23	Relevant Local Authorities/ Statutory Undertaker	<ul style="list-style-type: none"> • Article 10 (Street works) <p><i>Article 10(5) refers to the consequences of a failure to notify the undertaker (Applicant/ developer) of a decision within a fixed period of time. In this instance it is 42 days, but there are some incidents of 28 days (see Articles 19(9) and 21(7)) . The need to provide a decision within a fixed period, and the consequence of the failure to do so, occurs throughout the draft DCO generally (eg Articles 11(5), 14(7), 18(7), Etc.). The ExA would ask whether the Relevant Local Authorities/ Statutory Undertakers are satisfied in regard to the time limits specified and if not what alternative would be considered acceptable?</i></p>

ExQ1	Question to:	Question
		<p><i>We are not satisfied with the time limits outlined and would request that this is reconsidered and lengthened. We would request that the applicant provides us with a greater notice period that is agreed with the statutory undertaker in respect of each asset to be affected as part of the submission of proposed detailed design as soon as possible.</i></p> <p><i>We wish to emphasise that the notice period in question may need to be followed by an engineering assessment of whether the proposed works is acceptable. This will identify the lead in time for delivery of the proposed works. The applicant should note that this lead in time could be significant.</i></p> <p><i>We wish to emphasise that the applicant should not assume that any works to our assets including diversion or changes in ground levels will be acceptable.</i></p> <p><i>Ultimately it is critical that the applicant engages in early dialogue with us to enable us to continue to maintain our statutory obligations during construction of the pipeline, as such, it is critical that the applicant instructs us to undertake the engineering assessment of the impact on our individual assets to inform their detailed design as soon as possible so that the detail of any designs can be assessed well in advance of any construction commencing.</i></p> <p><i>In addition to the above, in regard to all Articles that express a consequence for failure to notify, the ExA would ask whether such articles should also specify the procedure to follow in the event of the Relevant Local Authority/ Statutory Undertaker making a negative decision which is received by the undertaker within the relevant period?</i></p> <p><i>Yes there should be a procedure clearly outlined that identifies the process in the event of a negative decision. We would expect this to be outlined in protective provisions / any separate side agreement.</i></p> <p><i>Should there be some form of cross reference to Article 47 (Requirements, Appeals, etc.) and Schedule 2, Part 2, Etc. of the draft DCO for example? If not please explain your reasoning in full.</i></p> <p><i>Yes.</i></p>