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All Interested Parties and Statutory Parties

Your Ref:

Our Ref: EN070007

Date: 24 April 2023

Dear Sir/ Madam

**Planning Act 2008 – sections 89 and 123; and The Infrastructure Planning
(Compulsory Acquisition) Regulations 2010 – Regulation 6**

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

Procedural Decision following request to make changes to the application

We are writing to inform you of the Procedural Decision made by the Examining Authority (ExA) following the change request made by the Applicant dated 27 March 2023 (Examination Library references [CR-001 to CR-126]). All documentation referred to herein have been published under the 'Documents' tab on the [project webpage](#) of the National Infrastructure Planning website.

The Applicant's document entitled 'Cover Letter Change Request' [CR-123] provides a brief description of each of the changes proposed, but states "*A detailed description of each change and their justification can be found in the Notification letter...*" [AS-060]. The latter document was received by the Planning Inspectorate on 23 March 2023. Eighteen changes are proposed with the Applicant stating they are proposed "...*primarily in response to engagement with landowners and other key stakeholders.*" The Applicant also indicated it intended to implement changes it has identified through design work and engagement with potential contractors and highlights "*The change includes relocation of some surface works, which would change the Order Limits, and which would result in changes in the land subject to compulsory acquisition.*"

Insufficient time between the Applicant's 'Notification of Intention to Submit a Change Request' and the actual Change Request was provided for the ExA to respond to the notification. However, the ExA notes the Applicant's intended approach to the submission of the proposed changes and the further proposed consultation it intends to undertake should the Change Request be accepted. It was also noted that the proposed consultation broadly aligns with the requirements of Advice Note 16: 'How to request a change which

may be material'¹. The ExA has reviewed the information provided and assessed the Applicant's request in line with paragraphs 109 to 115 of the DCLG Guidance 'Planning Act 2008: Examination of Applications for Development Consent'² and the Planning Inspectorate's Advice Note 16.

The proposed Changes are briefly outlined in Annex A to this letter, whilst a detailed description of each change and the Applicant's justification for each can be found in the Applicant's 'Notification of Intention to Submit a Change Request' [AS-060]. However, A brief synopsis of the changes are set out below:

- Changes 1, 2, 3, 4, 6, 11 and 17 result in an increase in the size of the Order limits;
- Changes 8, 9, 10, 13 and 14 result in a reduction in the Order limits.
- Change 5 seeks an extension in construction working hours to include Saturday morning working.
- Change 7 proposes an additional footway and cycleway diversion along Chester Road, adjacent to the 2 Sisters Industrial Facility at Work No. 34, and the Temporary stopping up of a footway and cycleway along Chester Road/ Brookside at Work No. 44
- Change 12 provides clarification in terms of construction methodology to allow non-road mobile machinery to cross features at the surface of trenchless crossings.
- Change 15 seeks the permanent acquisition of the subsurface of Plot Nos. 18-04, 18-07 and 18-11, rather than temporary possession of land in regard to those plots.
- Change 16 seeks an additional public right of way diversion near Stanlow at Work No. 11.
- Change 18 would update the land acquisition category of the Land Plans in terms of Plots 9-04 and 16-03a in response to requests from the affected landowners and has been agreed with them in principle.

The Applicant's adopted approach, being the proposed changes are likely to be considered to be material by the ExA, is considered to be correct. Whilst, most changes do not result in additional land being required, Changes 1, 2, 3, 4, 6, 11 and 17 all result in an increase in the size of the Order limits. In the vast majority of Changes no new ownership interests are affected by the Change, as the land effected is within the same ownership. Indeed, the ExA notes the Applicant has indicated that many of the Changes have been made in response to comments or request from the affected landowner and agreed in principle. However, the ExA also notes new ownership interests/ Lessee(s) are affected by some of the proposed Changes, most notably Changes 1 and 17 (and also potentially Change 3).

Bearing the above in mind, the ExA agrees with the Applicant and considers the proposed Changes to be material, as they include the relocation of some surface works, which would change the Order Limits, resulting in changes in the land subject to compulsory acquisition. It is also clear to the ExA that compulsory acquisition is also being sought over additional plots and as such Regulations 5 to 19 (inclusive) of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) would be triggered.

¹<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-16/>

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf



With regard to assessment of likely significant effects of the proposed Changes, the ExA notes the Applicant's document entitled 'Cover Letter Change Request' [CR-123], as well as the *detailed description of each change and their justification contained in its document* 'Notification of Intention to Submit a Change Request' [AS-060].

In regard to the Environmental Statement (ES), the ExA notes the Applicant's 2023 ES Addendum Change Request 1 [CR-124] that was submitted with a view to updating the findings of the Applicant's 2022 ES ([APP-051] to [APP-060], [APP-062] to [APP-097], [APP-099] to [APP-101], [APP-104] to [APP-106], [APP-108] to [APP-120], [APP-131] to [APP-221], together with [AS-025], [AS-029], [AS-031], [AS-035] to [AS-039], [AS-043] to [AS-052], [AS-057] and [AS-059]). Proposed Changes 7, 17 and 18 were scoped out of assessment of likely significant effects in the 2023 ES Addendum Change Request 1, whilst the remaining proposed Changes were scoped into that assessment. It is noted that the Applicant considers the environmental impacts of the remaining proposed Changes have been appropriately assessed, with any likely significant environmental effects identified.

Overall, the ES Addendum Change Request 1 [CR-124] did not identify any change to the conclusions of the assessments contained in the ES. The Applicant therefore concluded that the proposed changes would not result in any new or materially different significant effects on the environment. The Applicant also considered the effect of the proposed Changes in relation to the Habitats Regulations Assessment report and concluded that they would make no difference to the outcomes set out in the application Habitats Regulations Assessment report.

Bearing all of the above in mind, the ExA agrees with the Applicant that none of the proposed changes are so material that they would constitute a materially different project. The proposed changes are not considered, individually or cumulatively, to lead to the project being different in nature or substance to that which was originally applied for in October 2022. However, given the amendment of the Order limits will require an extension to the Order land within the scope of compulsory acquisition and new ownership, lessee, interests in land, etc., would be affected, the Changes go beyond what can be considered non-material in the facts and circumstances of this application. Irrespective of this, in accordance with Regulation 6 of the CA Regulations, the ExA considers the proposed Changes can be accepted into the Examination. In reaching this decision the ExA is satisfied that the relevant documents submitted with the Change Request comply with the requirements of Regulation 5 of the CA Regulations.

The ExA is satisfied that there is sufficient time within the Examination for the proposed changes to be properly and fairly consulted upon and examined, including the opportunity for written submissions and any oral representations to be made at any hearings that are required, along with the procedural requirements of the CA Regulations.

The Applicant's 'Notification of Intention to Submit a Change Request' sets how it perceives the proposed Changes impacting on the Examination timetable and it is clear to the ExA that if this timetable is followed sufficient time remains in the Examination to enable consultation to be undertaken especially in respect of the CA changes and to enable the Applicant to submit an updated consultation report. As such the ExA considers

the proposed development, as changed, would comply with Sections 42, 44 and 47 of the Planning Act 2008.

In accepting the proposed changes into the Examination, despite consent of all those with an interest in the land not been obtained, the ExA notes the Applicant submitted full copies of the documents required by Regulation 5 of the CA Regulations. However, the ExA would remind the Applicant of its obligations to notify the Affected Persons in accordance with the requirements of Regulations 7, 8 and 9.

The ExA requests that this is carried out in accordance with the timescales contained within the Applicant's 'Notification of Intention to Submit a Change Request' letter [AS-060] received on 23 March 2023 with the first CA Regulations notifications and notices arriving or published no later than **24 April 2023**.

In addition to the above, the ExA requests the Applicant submits:

- Consolidated versions of the relevant ES chapters and appendices that incorporate the changes set out in the Applicant's 2023 ES Addendum Change Request 1 and the ES Addendum Change Request 1 – Appendix A Technical Appendices Addendum (Rev A) in the interests of accessibility and clarity. The consolidated versions should be submitted in clean and track change versions.
- In hard copy, submission of 2 coloured sets of the Land Plans and the Work Plans, at the correct size and scale. Please note hard and digital copies of these Plans, in colour and at the correct size and scale should be provided each time they are revised.

Next steps

It is now the Applicant's responsibility to publicise the proposed changes that incorporate additional land in accordance with the CA Regulations. The Applicant must advise the Case Team of its proposed schedule as soon as possible, so that an appropriate form for making Relevant Representations about the proposed provision for the Compulsory Acquisition of additional rights over land can be made available on the project webpage of the National Infrastructure Planning website. Upon completion of the Relevant Representation period, a revised Examination Timetable may be issued, that includes relevant deadline(s) for Written Representations to be submitted and any necessary hearings.

Please note that the acceptance of the proposed Changes are made on the basis that all the processes can be completed in the required time prior to the close of the Examination and in accordance with any revised Examination Timetable that may be published in due course. If this is not achieved, then we will not be in a position to take the change request into account in our recommendation report to the Secretary of State as it will not have complied with the relevant statutory procedures.

Yours faithfully

Christopher Butler

Christopher Butler



Lead Member of the Examining Authority

This communication does not constitute legal advice.

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Annex A - Brief summary of each Change proposed in the Applicant's Change Request

Change 1: Relocation of Work No. 51, Cornist Lane Block Valve Station, to the south-east by 120 metres (Applicant's Reference (AR) PS01).

Change 2: Extension of the Order Limits of Work Nos. 41 and 42 with the addition of Plot No. 18-20a, to the north-west and west, at New Bridge Farm, and addition to the Works of the removal of a slurry tank (ARs PS02a and PS02b).

Change 3: Relocation of Work No. 45, Northop Hall Above Ground Installation ('AGI') to the west by 75 metres. (AR: PS03);

Change 4: Extension of the Order Limits of Work No. 23 and addition of Plot Nos. 9-14a, 9-16a, 9-16b, 9-18a 9-18b and 9-19a, to the north to reduce the impact on veteran trees near Backford Brook (AR: PS04);

Change 5: Extension in construction working hours to include Saturday morning working (AR PS05);

Change 6: Extension of the Order Limits at Work No. 3 to enable access to Ince AGI from the adopted highway (AR PS06);

Change 7: Additional footway and cycleway diversion along Chester Road adjacent to the 2 Sisters Industrial Facility at Work No. 34 and the Temporary stopping up of a footway and cycleway along Chester Road/Brookside at Work No. 44 (AR PS07);

Change 8: Reduction of the Order Limits at Work No. 3 to remove a section of the Hapsford railway line spur (AR PS08);

Change 9: Reduction of the Order Limits to remove two residential properties and amenity curtilage at Grove Road Work No. 13 (Mollington) and Halls Green Lane Work No. 25 (South of Stanlow) (AR PS11);

Change 10: Reduction of the Order Limits to remove part of the east bank of the River Gowy at Work No. 13A (AR PS12);

Change 11: Extension of the Order Limits to include a new private access track at Work No. 32A. Reduction of the Order Limits to remove an access track from the B5129 at Work No. 33 (AR PS13);

Change 12: Clarification of construction methodology to allow non-road mobile machinery to cross features at the surface of trenchless crossings (AR PS15);

Change 13: Reduction of the Order Limits at Work No. 31 to remove part of a Public Right of Way (PRoW) along the south bank of the River Dee (AR PS17);

Change 14: Reduction of the Order Limits at Work No. 18 to remove a section of the Shropshire Union Canal (AR PS18);

Change 15: Amendment to the access for the Shotton Lane Construction compound at Work No. 41A near Ewloe to reduce impact on a Badger Setts (AR PS19);

Change 16: Additional PRow diversion near Stanlow at Work No. 11 (AR PS20).

Change 17: Extension of Order Limits to include existing access from Bridleway (Picton PR4) at Work No. 16a (AR PS24);

Change 18: Land Plans Amendments following changes to the DCO Proposed Development Submission (AR PS23).