

**Planning Act 2008 – Section 92 and The Infrastructure Planning (Examination Procedures) Rules 2010 – Rule 14**

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

**Agenda and arrangements for the Compulsory Acquisition Hearing**

In its letter dated 27 March 2023, the Examining Authority (ExA) notified Interested Parties (IP) of its decision to hold a Compulsory Acquisition Hearing (CAH) into the above matter. It is being held as a blended event on the following date:

Hearing	Date and Time	Location
Compulsory Acquisition Hearing	Wednesday 7 June 2023 (Meeting start time 10.00am <sup>1</sup> ) Arrangement Conference starts: 9.30am <sup>2</sup>	Blended Event Village Hotel, St David's Park, Ewloe, Flintshire, CH5 3YB & Virtual Meeting, via Microsoft Teams

Attendees: Invited Parties who have pre-registered

(This Hearing will also be available for people to observe live online via a link which will be advertised on the project page of the National Infrastructure website shortly before the Hearing is due to start)

**CAH**

The CAH is being held for the ExA to examine the Applicants case for Compulsory Acquisition (CA) and Temporary Possession (TP) and to invite Affected Persons and the Applicant to make oral representations about those matters.

The Hearing will be a blended event, whereby the principal means of conducting the Hearing will be face-to-face within the venue cited above. Participants may join online if they wish using the Microsoft Teams platform. However, should you wish to participate in this CAH virtually, please see the information below about registering to speak prior to the CAH in order for joining invitations to be issued. Should you wish to observe only, observers may attend in person or can watch remotely via the livestream of the event, the link for which will be published on the project page of the National Infrastructure website on the day of the Hearing. The ExA will not accept representations at the CAH in the form of video or audio recordings.

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<sup>1</sup> Full instructions on how to join online or by telephone will be provided in advance of the meeting to those who register to participate.

<sup>2</sup> If you are joining as an active participant, please follow the joining instructions for the virtual event carefully and connect to the Hearing in good time. In common with traditional Hearings, the event will start on time irrespective of any late arrivals, for whom access may not be possible.

The virtual event will be open 30 minutes prior to the start of the CAH to enable a prompt start. The CAH will finish as soon as the ExA deems that all those present have had their say and that all matters have been covered.

The agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them. Any lack of discussion of a particular issue at a hearing does not preclude further examination of this issue, including the asking of further written questions.

Subject to the ExA's power of control over the conduct of the CAH, it will invite relevant parties to make an oral submission at the appropriate point in the agenda. Every effort will be made to ensure that the issues will be discussed on the day that they are scheduled for. Should the consideration of these issues take less time than anticipated, the ExA may conclude the CAH as soon as all relevant contributions have been made and all questions asked and responded to.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time, there may be a need to continue the session for longer on the day. Alternatively, it may be necessary to prioritise matters and defer others to further written questions.

Further information on how to participate in the CAH and details concerning the Arrangements Conference is provided in Advice Note 8.6:

<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advicenotes/advice-note-8-6-virtual-examination-events/>

### **Attendees:**

The following parties have indicated a wish to make an oral submission or are invited to participate by the ExA:

- The Applicant;
- Canal and River Trust;
- Cheshire West and Chester Council;
- Environment Agency;
- Flintshire County Council;
- National Highways;
- Network Rail;
- Peel NRE;
- Stephens Scown on behalf of S & C Oultram;
- Travelodge UK.

If you would like to observe the CAH in real time, then you will be able to access a public livestream on the project page of the National Infrastructure Planning website<sup>3</sup>. For those who choose to observe the CAH later, after the Event has closed, a digital recording of the event will be made available as soon as reasonably

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<sup>3</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/wales/hynet-carbon-dioxide-pipeline/>

possible. This will also be published on the project page of the National Infrastructure Planning website<sup>4</sup>. Any IPs wishing to respond to any matters raised from observing the CAH (real time or otherwise) should do so in writing by Deadline 4 (Tuesday 20 June 2023).

**Please Note:** In order to ensure timely publication of the agenda, this has been drafted shortly after the receipt of submissions for Deadline 2 (10 May 2023) consequently the ExA may need to adjust the agenda at the meeting to allow for responses or additional submission received after this deadline.

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<sup>4</sup> Ibid.

## Draft Agenda

### 1. Welcome, introductions, arrangements for the hearing

The ExA will welcome participants, lead introductions, and go through some housekeeping matters.

The public livestream and recording will start.

### 2. The Applicant's Case for CA and TP

The ExA will invite the Applicant to take up to 20 minutes to provide an overview of:

- its overall approach to CA and TP in the context of the relevant tests under the Planning Act 2008 and DCLG Guidance<sup>5</sup>.
- the purpose, structure and content of the Book of Reference (BoR), the Statement of Reasons (SoR) and the Funding Statement.
- the powers sought and the overall case for them being granted.

The ExA may ask questions.

### 3. Individual objections, issues and voluntary agreements

#### Cheshire West and Chester Council (CWCC)

In response to the ExAs First Written Questions (ExQ1) CWCC states:

- affected land is being assessed and a response will be provided within a later deadline as soon as further information becomes available; and
- The Council has had limited contact from the Applicant regarding land acquisition. The Council reserves its position on this.

a) The ExA will invite **CWCC** or their representatives, if present, to make an oral submission in regard to land within its control which is subject to proposed CA/ TP. The ExA may ask questions.

b) **The Applicant** will be invited to respond. The ExA may ask questions.

#### Flintshire County Council (FCC)

FCC has provided limited response in regard to CA/ TP of land, but in a RR [RR-034] it commented it was seeking general clarification regarding "...potential effect on management of nominated County Council land affected by the proposed scheme..."

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<sup>5</sup> Planning Act 2008, Guidance related to procedures for the CA of land, DCLG, September 2013.

- a) The ExA will invite FCC or its representatives, if present, as an IP who has land interests affected by this proposed Development Consent Order (DCO) application to make an oral submission concerning land within its control which is subject to proposed CA/ TP. The ExA may ask questions.
- b) **The Applicant** will be invited to respond. The ExA may ask questions.

Canal and River Trust – Plots 8-03 and 9-06

- a) The ExA will invite **The Canal and River Trust** or their representatives, if present, to make an oral submission. The ExA may ask questions.
- b) **The Applicant** will be invited to respond. The ExA may ask questions.

Environment Agency – Plots 6-02; 6-03; 6-10; and 6-11; and

ExA notes the EA in its response to the ExQ1 sought clarification as to why it had been identified as an ‘occupier or reputed occupier’ in the BoR [APP-030] for plots 1- 04; 1-06; 1-07; 1-21; 1-25; 2-01; 3-14; 3-15; 3-17; 4-07; 4-10; 4-13; 5-14; 5-16; 5-24; 5-25; 5-26; 6-07; 6-14; 6-17; 6-19; 6-23; 9-16; 9- 17; and 12-10; and

- a) The ExA will invite The EA or their representatives, if present, to make an oral submission. The ExA may ask questions.
- b) The Applicant will be invited to respond. The ExA may ask questions.

National Highways – Plots 5-06, 5-09 and 7-05

The ExA notes National Highways’ objection, in particular regarding:

- Safeguarding National Highways’ interests and the safety and integrity of the Strategic Road Network (M53 and M56).
- The inclusion of the Plots in the Order and to Compulsory Powers being granted in respect of them.
- Other compulsory powers in the Order that affect, and may be exercised in relation to, National Highways’ property and interests.

- a) The ExA will invite National Highways or their representatives, if present, to make an oral submission. The ExA may ask questions.
- b) The Applicant will be invited to respond. The ExA may ask questions.

Network Rail – Plots 1-23; 9-21; 9-24; 9-25; 14-24; 14-29; 17-12; 19-04 and 19-04c

Network Rail state they object to the powers contained in Articles 19 (Discharge of water), 21 (Authority to survey and investigate the land), 22 (Protective work to buildings), 24 (CA of land), 26 (CA of rights and restrictive covenants), 27 Statutory authority to override easements and other rights, 28 (CA of land: minerals), 29 (Private rights), 31 (Acquisition of subsoil or airspace only), 33 (Rights under or over streets), 34 (Temporary use of land for carrying out the authorised development), 35 (Temporary use of land for maintaining the authorised development) and 39 (Felling or lopping of trees and removal of hedgerows) of the draft DCO authorising the Promoter to compulsorily acquire rights in or over land, or temporarily use land, which forms part of Network Rail's operational railway land and which Network Rail relies upon for the carrying out of its statutory undertaking.

a) The ExA will invite Network Rail or their representatives, if present, to make an oral submission. The ExA may ask questions.

b) The Applicant will be invited to respond. The ExA may ask questions.

Turley on behalf of Peel NRE - Plots 1-01, 1-03, 1-04, 1-05, 1-06, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17, 1-18, and 1-19.

The ExA notes Peel NRE objection to the current proposal, as summarised below:

- the permanent acquisition and quantum of land included within this 24.4m corridor.
- the proposed acquisitions will severely restrict future development of land by Peel NRE, not just during construction of the Pipeline but throughout the lifetime of its operation.

It is also understood that discussions with a view to agreeing a position acceptable to both parties are ongoing, but to date has not been resolved.

a) The ExA will invite Peel NRE or their representatives, if present, to make an oral submission. The ExA may ask questions.

b) The Applicant will be invited to respond. The ExA may ask questions.

Carter Jonas on behalf of Travelodge UK – Plot 19-06

The ExA notes the request to speak.

a) The ExA will invite Travelodge or their representatives, if present, to make an oral submission. The ExA may ask questions.

b) The Applicant will be invited to respond. The ExA may ask questions.

Stephens Scown on behalf of S & C Oultram – Plots 18-03 to 18-21, 18-25, 18-26, 19-04, 19-04a and 19-04b.

The ExA notes the request to speak on the above-mentioned plots.

a) The ExA will invite S & C Oultram or their representatives, if present, to make an oral submission. The ExA may ask questions.

b) The Applicant will be invited to respond. The ExA may ask questions.

#### **4. The BoR, SoR, Land Plans, Diligent Enquiries and Updates**

##### BoR update/ CA Schedule

The Applicant provided a CA and TP Schedule [REP1-049] at Deadline 1 and a Schedule of Negotiation with Land Interests [REP2-010] at Deadline 2. These documents set out progress on discussions regarding CA and TP, voluntary agreements, objections and blight.

Please could the Applicant summarise the progress made during the Examination and the progress anticipated during the remainder of the Examination? What progress has been made where there is an objection to rights being acquired?

Please could the Applicant set out where it has not been able to progress discussions with known parties? What steps will be taken during the Examination?

Please could the Applicant summarise the steps to be taken to identify any unknown parties or interests during the Examination?

The ExA may ask more questions or invite more oral submissions.

##### Diligent enquiry

The Applicant response to the ExQ1 [REP1-044] at Q1.6.4 set out its approach to identifying “Unknown Ownerships”. Can the Applicant provide any further update in this regard.

The BoR [REP2-014] refers to “Freehold or Reputed Freehold Owner[s]”, “Lessees or Tenants or Reputed Lessees or Tenants” and “Occupiers or Reputed Occupiers but does not differentiate between these terms within the BoR. Please could the Applicant set out what steps have been taken/ will be taken to firmly establish the ownership, lessee/ tenant or occupiers of those properties for which “reputed” parties have been identified?

The ExA may ask more questions or invite more oral submissions.

#### **5. How it is Intended to Use the Land, Whether Reasonable Alternatives have been Explored and Whether the Rights Sought are Legitimate, Proportionate and Necessary**

## Flexibility

Detailed design is clearly an ongoing aspect of the Proposed Development, with the Applicant advising a number of design details which are yet to be finalised for the DCO Proposed Development and which will not be finalised until the detailed design is produced post-consent. The ExA needs to be clear that the rights granted by the DCO are legitimate, proportionate, and necessary. Bearing this in mind, what is the potential for a reduction in the land and rights proposed to be acquired occurring during detailed design and what liaison with affected parties will take place in that event.

Please could the Applicant comment on the need for a process to consider human rights to be secured during detailed design? If an appropriate process is not secured, how can the ExA be satisfied that the rights granted by the DCO would be legitimate, proportionate, and necessary?

The ExA may ask more questions or invite more oral submissions.

## 6. **Crown Interests, Statutory Undertakers, Special Category Land, Compensation, Funding and Other Matters**

Crown interests

The Applicant's response to ExQ1 [REP1-044] the Applicant stated (Q1.6.16):

- i) *“Communication has commenced with the Crown Estate, [Department for Transport, Ministry of Defence, Welsh Government] ... and requesting progress in discussions leading to consent. Given the limited impact on the Crown rights, it is anticipated that the consent will be forthcoming.”*
- ii) *“Negotiations have been ongoing with the Welsh Ministers since May 2022. Updated Heads of Terms have been issued, and discussions continue.”*

Please could the Applicant provide an update?

The Applicant has indicated in the BoR [REP2-012] that Plot 17-02 is Special Category Land, being Open Space, but the provision of replacement land is not required, as explained in the SoR [REP2-008]. Can the Applicant confirm that plot 17-02 remains the only Special Category Land effected by the Proposed Development and that it still considers replacement land is not required. Please confirm the reason(s) for that view.

The ExA may ask more questions or invite more oral submissions.

## 7. **Any other CA or TP Matters**

Time permitting, and at its discretion, the ExA may invite other oral submissions on CA or TP matters.

## 8. **Any Other Business and Close of the CAH**



Time permitting, and at its discretion, the ExA may invite other oral submissions in regard to any other business regarding CA or TP matters.

Close of the CAH.