

HyNet Carbon Dioxide Pipeline

Written Response Statement on behalf of Peel
NRE

Planning Inspectorate Reference: EN070007

4 July 2023 (Deadline 5)

Turley

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Client

Peel NRE

Our reference

PEEM2101

1. Introduction

- 1.1 This Written Response Statement has been prepared by Turley and Addleshaw Goddard on behalf of Peel NRE, an Interested Party, to the application by Liverpool Bay CCS Limited ('Applicant') for a development consent order ('Order') seeking powers for the delivery of the HyNet Carbon Dioxide Pipeline and related infrastructure (Planning Inspectorate Reference EN070007) ('Pipeline').
- 1.2 This Response Statement has been prepared to provide an update on the matters of objection raised by Peel NRE in its Written Representations to Deadline 1 (17 April 2023), Deadline 2 (10 May 2023), and Deadline 3 (23 May 2023).
- 1.3 This Response Statement identifies those parts of the Pipeline with which we agree, and those parts with which we do not agree and therefore object, taking into account the changes made to the Pipeline and the additional information submitted.
- 1.4 Background information on Peel NRE and their interests is provided within Peel's Written Representations (17 April 2023) and is not repeated in this Response Statement. This Response should be read in conjunction with the Written Representations (17 April 2023), and Written Response Statement (23 May 2023).
- 1.5 Peel is wholly **supportive** of the principle of the Pipeline. Indeed, Peel NRE recognises that there are potential beneficial synergies between the Pipeline and Protos¹. However, should the Order be granted as proposed, the Pipeline will conflict with planned development at Protos which would prejudice the delivery of a key development within the Cheshire West and Chester Council ("CWACC") area and limit its great potential. The **key issues** presented in this Response Statement, and to which **objections** are raised, include:
- Layout of the Ince Above Ground Installation (AGI).
 - Means of access to the Ince AGI and CO2 Pipeline.
 - Environmental considerations, including the location and extent of ecological mitigation, impacts on development land and businesses (as a result of potential HSE Hazardous Consultation Zones), and cumulative effects.
 - Easement of the CO2 Pipeline at Ince.
 - Negotiating land agreements.

Structure of Response Statement

- 1.6 This report is structured as follows:

¹ Protos is a major energy and resource recovery hub and a major employer near to Ince, Cheshire. Peel NRE has been working closely with Cheshire West and Chester Council to deliver the various components of Protos.

- Section 2: Sets out Peel's objections to the Pipeline.
- Section 3: Protective Provisions.
- Section 4: Sets out how Peel's objections could be withdrawn.

2. Objections

- 2.1 Peel NRE is a supporting organisation of HyNet and remains wholly **supportive** of the principle of the Pipeline. Indeed, Peel NRE recognises that there are potential beneficial synergies between the Pipeline, HyNet and Protos.
- 2.2 Peel NRE has been working with the Applicant to resolve the objections presented in the Written Representations (17 April 2023) and Written Response Statement (23 May 2023), however the Parties (Peel NRE and the Applicant) have not yet managed to reach agreement on some matters (as listed at paragraph 1.5). Those matters that are agreed (to date) are set out in the Statement of Common Ground (SoCG) submitted by the Applicant. Until satisfactory agreement has been reached with the Applicant on all matters to resolve Peel NRE's concerns, Peel NRE maintains its objection and must continue to reserve the right to make further submissions to the Examination.

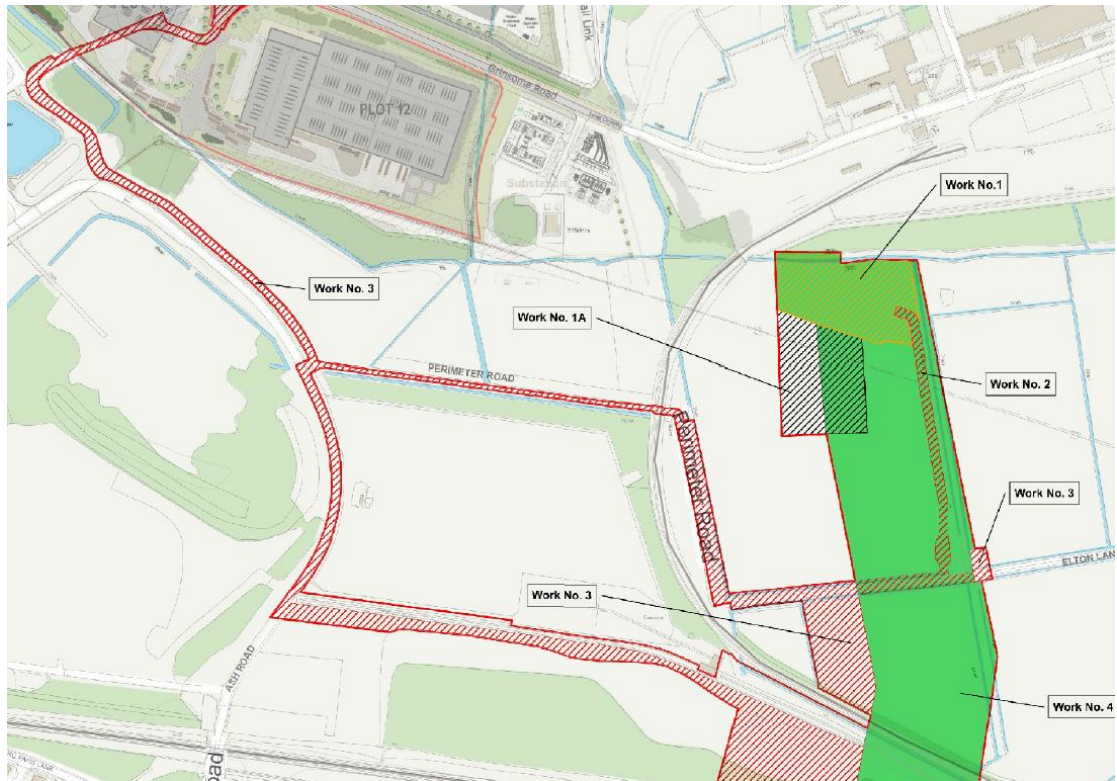
Layout of the Ince Above Ground Installation

- 2.3 There are no concerns with the principle of the Ince AGI element or its general location, however Peel NRE **objects** to the proposed layout of the Ince AGI.
- 2.4 The Ince AGI Landscape Layout (ref. D.2.14-LAY-Sheet 2 Rev B) identifies the location for landscaping/ecological mitigation and a drainage detention pond. The current location of such features has the possibility to constrain future planned development across the Affected Land. Peel NRE accordingly objects to the current proposed layout of the Ince AGI.
- 2.5 Through conversations between Peel NRE and the Applicant, it is understood the layout of the Ince AGI will be updated to addresses Peel NRE's concerns. This is a welcomed proposal. However, until the updated layout plan is formally submitted, and the Applicant obliged to carry out its proposal in accordance with any amended agreed layout, Peel NRE maintains its objection on this basis, although Peel NRE is confident this objection will be resolved with the Applicant.

Access

- 2.6 The proposed access continues to conflict with the delivery of the approved Protos Plastics Park (CWACC Planning application ref. 21/04076/FUL), and the delivery of the railway line consented as part of the overarching planning permission for Protos (ref. 14/02277/S73), which would constrain the delivery of the developments. In the absence of agreement by the Applicant to an alternative access, Peel NRE **objects** to the proposed access (as shown on Works Plan ref. EN070007-D.2.4-WP-Sheet 1).
- 2.7 A plan of the approved Plastics Park masterplan (ref. 20039-FRA-XX-00-DR-A-90-0005 P2) is provided with an overlay of the proposed access route to the Ince AGI and pipeline (shown on plan ref. EN070007-D.2.4-WP-Sheet 1). This is provided at **Figure 1** (and at Appendix 16 to the Written Representations (17 April 2023)). This overlay plan clearly shows the conflict of the Applicant's proposed access with the planned development of the Plastics Park at Protos.

Figure 1: Proposed Access Conflict



2.8 Protos is identified in CWACCs adopted Local Plan as a key strategic site for economic growth and safeguards the land for a multi-modal resource recovery park and energy from waste facility for use in connection with the recycling, recovery and reprocessing of waste materials (Local Plan Part One Policies STRAT 4 and ENV 8; and Local Plan Part Two Policy EP6). As noted in the Written Representations (17 April 2023), the access to the Ince AGI as proposed in the Application would constrain the delivery of a key strategic site in CWACCs Local Plan.

2.9 The delivery of the Plastics Park is integral to Protos. It is a unique proposal which would deliver a cluster of recycling and recovery technologies that would enable mixed recyclables and pre-sorted plastics to be sorted, processed and recycled into products which can be re-used in plastics manufacturing all on a single site. Plastics which could not be recycled would be used as feedstock for the plastics to hydrogen facility, providing a circular economy solution to waste plastic in the region.

2.10 As set out in Our Waste, Our Resources: A Strategy for England, there is an urgent need for new thinking to tackle avoidable plastic waste. In order to try and help address the issue of plastic waste a Policy Paper was published by the Government in March 2020 for a plastic packaging tax, which took effect from April 2022. This tax will result in a significant demand for recycled plastic feedstock and as such the UK needs to develop significantly more plastics recycling and recovery capacity if it is to try meet the Government's aspirations on recycling and the circular economy. The Protos Plastics Park will help to meet the required plastics recycling and recovery requirements.

- 2.11 Additionally, the proposals will create 147 full time equivalent jobs from a range of different employment opportunities with a mix of skilled operatives, technical engineers, administrative staff, and manual works. The construction of the proposal also has the potential to generate c.265 construction phase jobs, and indirect jobs through supply chains².
- 2.12 As such, the proposed Protos Plastics Park is a unique proposal set to contribute to the ambitions of the Government, strategic proposals of CWACC, and provide local direct and indirect jobs.
- 2.13 An alternative means of access should be identified by the Applicant to avoid conflicting with planned development at Protos, and avoid conflicting with the strategic ambitions established by CWACC in their adopted Local Plan; or negotiations should continue with Peel NRE as part of the property terms to reach agreement on the access arrangement, as set out in the SoCG.
- 2.14 It is also noted that construction traffic routes to the Ince AGI would include Ash Road and Grinsome Road via Pool Road, with measures to mitigate effects comprising advanced hazard warning signage along Ash Road is proposed (as set out in the Outline Construction Traffic Management Plan, Annex A, Rev C). Based on revisions to programme (with the inclusion of Saturday morning working), it is anticipated that there will be less than 110 Light Good Vehicles (LGVs) and 30 Heavy Good Vehicles (HGVs) on the road network over a day (Environmental Statement Addendum Change Request 1, Appendix A). Further engagement with Peel NRE should be undertaken on the interaction with vehicles (including HGVs and Abnormal Loads) along these routes with measures to reduce delays / restrictions and engagement with Peel NRE and operators to minimise disruption from these vehicle movements.
- 2.15 At this stage Peel NRE **objects in principle** to the proposed means of access. An alternative means of access should be identified by the Applicant to avoid conflicting with planned development at Protos. Peel NRE is in discussions with the Applicant regarding an alternative means of access and the parties are also close to reaching agreement via Protective Provisions within the draft DCO which, if agreed, would go some way towards alleviating Peel NRE's concerns.

Environmental Considerations

- 2.16 The following previous matters which Peel NRE object to are now resolved: concerns associated to odour impacts. Whilst other matters of objection are being discussed to seek resolution with the Applicant, many matters remain unresolved, and therefore Peel NRE's objection remains.
- 2.17 As part of continuing discussions / agreements, Peel NRE is seeking agreement with the Applicant for ongoing dialogue and approval of details in respect of management plans for landscaping, construction, traffic etc. as part of any implementation of the DCO in order to ensure there is no conflict with Peel's own development proposals at Protos.

1.1 ² Source: Planning Statement for application 21/04076/FUL.

Location and Extents of Ecological Mitigation

- 2.18 With relevance to the Ince AGI, no Environmental Mitigation Areas are defined on the Works Plans (D.2.4-WP-Sheet 1 Rev B). However, ecological mitigation measures are proposed include an area of riparian habitat enhancement along the southern bank of East Central Drain as well as the planting of native triple staggered hedgerow, hedgerow, trees, native shrub planting and species rich grassland around the Ince AGI (D.2.14-LAY-Sheet 2 Rev B). Whilst the need to maintain flexibility at this stage is understood, the location and extent of these works should be discussed with Peel NRE to ensure that these do not prejudice future development ambitions.
- 2.19 It is recognised that additional opportunities for biodiversity enhancement are being considered by the Applicant to achieve at least 1% gain in Priority Habitats, including refining / reducing the extent of proposed temporary impacts and delivery of further habitats. This remains the position outlined in the Draft Biodiversity Net Gain (BNG) Strategy Update (Rev A).
- 2.20 Any further mitigation land requirements identified should be clearly defined and discussed and agreed with Peel NRE if located at Ince AGI to ensure that these do not prejudice development aspirations.
- 2.21 Whilst conversations are continuing between Peel NRE and the Applicant, this matter is not yet fully resolved, and Peel NRE therefore **objects** on the basis that the currently proposed mitigation measures are not fully fixed and agreed and further mitigation requirements are unknown at this stage.

Impacts on Development Land and Businesses

- 2.22 Further discussions in respect to access and land acquisition are being progressed with the Applicant.
- 2.23 Within the Written Representations (17 April and 23 May 2023), Peel NRE has sought clarity on whether the Pipeline would be classified as a Major Accident Hazard Pipeline by the Pipeline Safety Regulations 1996 and therefore 'generate' a Consultation Zone with associated land use restrictions. There are a number of other pieces of legislation noted within Chapter 13: Major Accidents and Disasters (e.g. The Planning (Hazardous Substances) Regulations 2015 and The Dangerous Substances and Explosive Atmospheres Regulations 2002). The Applicant has subsequently confirmed that currently the HSE have not classified the proposal under the legislation noted above. However, there remains a potential for this to be case – dependent on forthcoming HSE advice - and therefore Consultation Zone separation or 'stand-off' distances may be applied. Such additional land use restrictions also have the potential to prejudice currently consented and future development ambitions at Protos.
- 2.24 Given this, Peel NRE maintains this **objection** on the basis that there remain potential impacts and mitigation requirements that are not understood at this stage.

Assessment of Cumulative Effects

- 2.25 It is recognised that a number of Other Developments within Protos have been considered as part of the ‘inter-project’ assessment reported in Chapter 19: Combined and Cumulative Effects. However, there are a number of other extant permissions which have not yet been implemented or are under construction as of Summer 2023 which lie within the land owned by Peel at Protos. These remain as outlined within the Written Representations (17 April 2023). Whilst an update has been provided at Deadline 4 (D.6.2.19), these additional projects are not yet captured.
- 2.26 Due to the proximity and scale of these developments and potential for intra-project effects due to the presence of common sensitive environmental receptors (specifically in respect to landscape and visual, air quality, traffic and transport and biodiversity), Peel NRE **objects** to the current scope and contents of the cumulative assessment. It is understood that a fully updated cumulative assessment will be prepared as part of an update ES during the examination.

Easement of the CO2 Pipeline Corridor

- 2.27 The pipeline corridor is proposed to travel north/south along the eastern boundary of the Order limit. The location of the pipeline corridor in the current proposal is an improvement on the location of the pipeline previously proposed in the Section 42 Consultation. However, despite this improvement, the current proposals are still not acceptable to Peel NRE on the basis that the proposed 24.4m corridor around the pipeline for the permanent acquisition of sub-soil (at plots 1-11, 1-12, 1-13, 1-15, 1-18 and 1-19) would cause an unacceptable quantum of land to be restricted from development by way of the proposed restrictive covenants.
- 2.28 Notwithstanding Peel NRE’s objection on this matter, the Applicant has confirmed that the 24.4m easement corridor and associated restrictive covenants proposed to be involved are necessary for the protection of the pipeline. The Parties are currently in discussions to reach an agreed position on this matter but the position has yet to be agreed and so Peel NRE must maintain its **objection in principle** to the current proposal on the basis that the restrictive covenants to be imposed on this land will unacceptably constrain the development of the Protos Plastics Park.

Negotiating Land Agreements

- 2.29 The parties have yet to agree a position on the land agreements however progress has been made in regards to the Heads of Terms. However, at this stage, Peel NRE must maintain its **objection** to the proposed acquisition of land, interests and rights identified within the Land Plans (drawing ref. EN070007-D.2.2-LP-Sheet 1).

3. Protective Provisions

- 3.1 Peel NRE requests that its protective provisions (a copy of which is appended) **(Protective Provisions)** are included in the Order to ensure that its land interests and the planned development of the Protos Plastics Park are sufficiently protected in the carrying out of the authorised development and to ensure that Peel NRE is appropriately consulted at the detailed design stage in respect of the elements of the proposed Order which interface with the Protos Plastics Park.
- 3.2 Peel NRE is in discussions with the Applicant and hopes to seek the agreement of the content of the Protective Provisions with the Applicant prior to the close of the Examination Period. In the event that agreement on the form of Protective Provisions cannot be reached between Peel NRE and the Applicant, Peel NRE would request that the Protective Provisions in the form appended are included in Schedule 10 of the Order in order to afford Peel NRE the appropriate protection in light of the impacts of the proposed Order on its land interests in the Protos Plastics Park.

4. Withdrawal of Objections

4.1 In order for Peel NRE to be in a position to withdraw its objection to the proposed Order, Peel NRE requires confirmation from the Applicant that:

- the access to the Ince AGI is relocated or renegotiated to avoid conflicting with planned development at Protos.
- the acquisition of land and rights over the Affected Land (including the extinguishment of any rights) is on terms agreed with Peel NRE.
- sufficient protection for the Protos expansion is afforded by the Pipeline scheme to enable the Protos expansion to come forward unhindered.
- no works pertinent to the Affected Land shall be carried out without Peel NRE's prior approval of the plans, specification, method statement and programme of works.
- full access rights, during both the construction and operation phases, are retained to the Affected Land for the benefit of Peel NRE.
- reconsideration of the location of drainage infrastructure to avoid conflicting with planned development at Protos.
- clarification on any additional further ecological mitigation requirements at Ince AGI due to BNG.
- clarification on hazards posed by the Pipeline (noting that this is subject to HSE advice).
- updated cumulative assessment, fully considering intra-project effects with consented development within Protos.
- the proposed Protective Provisions are agreed.

Appendix 1: Draft Protective Provisions

Provided separately

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