

STATEMENT OF COMMON GROUND WITH NATIONAL HIGHWAYS

HyNet Carbon Dioxide Pipeline DCO

Planning Act 2008

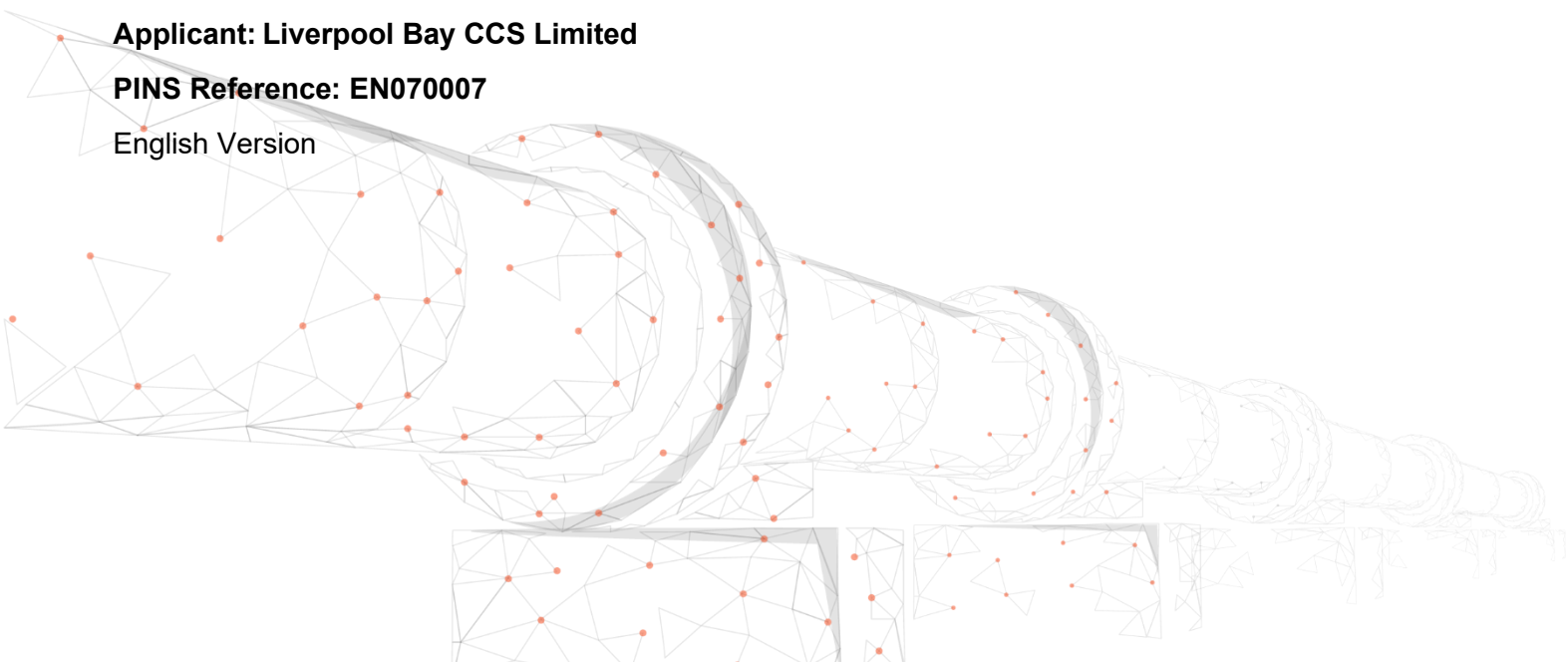
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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Liverpool Bay CCS Limited and (2) National Highways

Signed 

Martin Currie

Director

on behalf of Liverpool Bay CCS

Limited Date: 4 September 2023

Signed .. 

John Ho

Spatial Planning Manager (NW Region)

on behalf of National Highways

Date: 4th September 2023

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1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This Statement of Common Ground (SoCG) has been prepared by Liverpool Bay CCS Limited (the Applicant) and National Highways (NH).
- 1.1.2. For the purpose of this SoCG, the Applicant and NH will jointly be referred to as the 'Parties'.
- 1.1.3. The purpose of this SoCG is to set out the agreement that has been reached between the Parties in respect of a number of matters related to the Development Consent Order (DCO) Proposed Development. It also lists any points on which discussions are ongoing. SoCGs are an established means in the DCO planning process of allowing all Parties to identify and so focus on specific issues that may need to be addressed during the examination.
- 1.1.4. **Chapter 2** of this SoCG records the consultation undertaken with NH by the Applicant. **Chapter 3** of this SoCG sets out the areas of agreement in relation to the above matters, and any areas of ongoing discussion between the Parties.

1.2. THE DCO PROPOSED DEVELOPMENT

- 1.2.1. HyNet (the Project) is an innovative low carbon hydrogen and carbon capture, transport and storage project that will unlock a low carbon economy for the North West of England and North Wales and put the region at the forefront of the UK's drive to Net-Zero. The detail of the project and the DCO Proposed Development can be found in the main DCO documentation. The DCO Proposed Development and this SOCG relate to the onshore CO₂ pipeline element of HyNet only. Other elements of HyNet are subject to separate consenting processes and are not addressed here.
- 1.2.2. The DCO Proposed Development impacts NH primarily as a statutory body and land interest.
- 1.2.3. The Applicant has identified the following plots in which NH hold an interest:
2-02, 2-03, 2-05, 2-06, 2-07, 2-09, 2-10, 2-14, 4-20, 5-01, 5-02, 5-03, 5-04, 5-05, 5-06, 5-09, 5-10, 5-12, 5-14, 5-15, 5-20, 5-22, 5-23, 6-02, 6-04, 6-05, 6-06, 6-07, 7-05, 9-04, 9-07, 9-08, 9-09, 9-10, 9-11, 9-12, 9-13
- 1.2.4. A full description of the DCO Proposed Development is detailed in Chapter 3 of the consolidated Environmental Statement (ES) **[REP4-029]**, submitted at Deadline 4. On the 12 July 2023, the ExA accepted the Applicant's Change Request 3, subsequently the description of the development has been updated in accordance with Change Request 3 Environmental Technical Note **[CR3-019]**. The Applicant has submitted a further consolidated Environmental

Statement (ES) at Deadline 7 which contains the concluding description of the DCO Proposed Development.

1.3. TERMINOLOGY

1.3.1. In the Issues tables in **Chapter 3** of this SoCG, 'Agreed' and 'Not Agreed' indicates a final position, and 'Under Discussion' indicates where these points will be the subject of on-going discussion wherever possible to resolve or refine, the extent of disagreement between the Parties.

2. RECORD OF ENGAGEMENT

- 2.1.1. This Chapter provides a summary of the engagement undertaken to date between the Parties in relation to the DCO Proposed Development.

Table 2-1 – Record of Engagement in relation to the DCO Proposed Development

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
16/05/2022	Email conversation between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Technical submission requirements • Guidance notes on Geotechnical Certification Process • Query on primary contact for HyNet <p>Discussions and Outcomes</p> <p>Information provided on requirement for technical submissions to be in accordance with Design Manual for Roads and Bridges (DMRB) CD 622 Managing Geotechnical Risk (March 2020) at specific pinch points. Guidance notes on Geotechnical Certification Process for Third Party Works Trenchless Installations Under Highways England Strategic Road Network shared for review.</p>
30/05/2022	Email conversation between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Information on crossing points <p>Discussions and Outcomes</p> <p>Email including information on crossing points sent to NH for review</p>
17/06/2022	Email conversation between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Design Manual for Roads and Bridges (DMRB) CD 622 Managing Geotechnical Risk (March 2020) screening form <p>Discussions and Outcomes</p> <p>Email requesting CD622 screening form sent to NH</p>
24/11/2022	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Overview of the DCO Proposed Development • Crossing of National Highways assets (M56 and M53) • Method of crossing • Borehole site investigation works • Key points of contact • Statement of Common Ground <p>Discussions and Outcomes</p> <p>Baseline method of crossing M56 and M53 confirmed to be trenchless (specific choice of trenchless installation i.e. Horizontal Directional Drilling (HDD) or Microtunnel to be determined by EPC Contractor). Confirmation that temporary construction compounds will not be located on NH land. No further borehole site investigation works envisaged however ongoing archaeological surveys are taking place. Technical submissions in accordance with CD 622 are required. SoCG to be issued in draft in December 2022 and a follow up meeting to be arranged.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
13/12/2022	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Run through DCO Proposed Development submission status • Initial review of SoCG Template <p>Discussions and Outcomes</p> <p>It was agreed to review the SoCG in co-ordination with submission of Relevant Representation and provide any comments for consideration.</p>
11/01/2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • SoCG latest position and outstanding items • On-going collaboration item • SoCG timescale for agreement • Relevant representation & protective provisions <p>Discussions and Outcomes</p> <p>A number of matters were agreed throughout the meeting during a review of the SoCG document.</p> <p>Matters around permanent acquisition of sub soil were discussed in greater detail and it was agreed to hold a further call around this matter.</p>
07/02/2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • SoCG latest position and outstanding items • Land acquisition <p>Discussions and Outcomes</p> <p>A number of remaining matters were agreed throughout the meeting during a review of the SoCG document.</p> <p>Outstanding points on the SoCG are to be reviewed by NH and the Applicant.</p> <p>Respective positions on land acquisition were discussed and it was agreed that the detail of an acceptable land agreement would be further discussed between NH and the Applicant.</p> <p>Drainage apparatus associated with NH assets within the Order Limits to be given adequate protection via the consolidated CEMP.</p>
12/04/2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • SoCG latest position and outstanding items • Land acquisition • Existing accesses <p>Discussions and Outcomes</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<p>The Parties discussed the outstanding comments on the SoCG. The Applicant agreed to provide clarification on land plots 2-05 and 2-07. The Applicant also agreed to provide the version of the SoCG to be submitted to the Planning Inspectorate for Examination Deadline 1.</p> <p>NH confirmed they would be registering to take part in the Compulsory Acquisition hearing.</p> <p>The Parties discussed the existing access next south of the M56 (near Picton Lane) that both would want to use at the same time. The Applicant confirmed that the Change Request submitted to the Inspectorate for use of non-mobile machinery would only apply to the local highway network, and not the SRN. Protective Provisions are currently still with the Applicant.</p>
14/04/2023	Email correspondence between Applicant and NH	<p>Key Topics</p> <p>Queries raised during meeting on 12 April 2023 regarding land plots.</p> <p>Discussions and Outcomes</p> <p>The Applicant confirmed by email that:</p> <ul style="list-style-type: none"> • Plot 5-13 should not be included as an interest of NH and will be removed from future iterations of the BoR [CR3-013]. • Plots 2-05, 2-06 and 2-07 have been included in respect of a rent charge under HMLR title CH421433. • Plot 2-11 has been removed from the earlier iteration of the SoCG at paragraph 1.2.3.
02/05/2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <p>Update on Applicant's Change Request and discussion on SoCG</p> <p>Discussions and Outcomes</p> <p>Land plots - NH queried the Plots 2-02 and 2-03 which are currently listed in the BoR as Department for Transport but potentially could be NH interests that are unregistered. Applicant asked to clarify.</p> <p>Compulsory acquisition – NH will review the Protective Provisions. The Applicant is progressing a voluntary agreement. The Applicant clarified that section 61 of the New Roads and Street Works Act (NRSWA 1991) does apply within the DCO (was previously disapplied). Further discussion may be needed with NH real estate team to discuss Applicant's lease proposals.</p> <p>Draft DCO – the Applicant was asked to specify the tracks/access adjacent to the M56 that they would want to use to access drainage apparatus/ponds and also exactly what drainage works were being done in this location.</p> <p>Other consents and licences – the Applicant advised that an additional table was added to the SoCG covering any consents outside of the draft DCO (including abnormal loads).</p>
09/06/2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <p>Update on Heads of Terms (HoT)</p> <p>Discussions and Outcomes</p> <p>NH undertaken preliminary review of HoT. NH advised they will get quote for costs from external surveyors and share with Applicant. Applicant will circulate updated HoT to include transfer of DfT plots. Applicant to share lease with NH, follow up call may be needed to discuss bespoke lease terms designed for agricultural landowners.</p>

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
23.06.2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • HoT • Crown Land Plots • SoCG <p>Discussions and Outcomes</p> <p>NH requested whether HoT will be required to cover additional land plots (e.g those under temporary possession). The Applicant's land team are reviewing currently and will issue additional HoT asap if required. NH to check that Crown Land Plots transferred over from DfT are correct. Applicant agreed to share updated SoCG for Deadline 5 (4 July).</p>
07.07.2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • HoT and land plots <p>Discussions and Outcomes</p> <p>Discussions have taken place between NH and Applicant land team to resolve HoT. Applicant to send over updated HoT for 3 surface sites with plans.</p> <p>NH confirmed that new land plots to be added (previously 37, now 40). Three additional plots – 2-11, 6-03 and 6-08 to be included (post-meeting it was confirmed that these 3 plots are not NH interests). Depth in highway, SRN would be 4 metres minimum in HoT (likely to be deeper), and major A roads would be minimum 2m depth.</p>
18.08.2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Protective Provisions, SoCG <p>Discussions</p> <p>NH advised there were discussions ongoing this week in relation to the protective provisions. The Applicant agreed to update the wording of item NH 3.2.1 to reflect that the parties are seeking to resolve through the compulsory acquisition point through the lease agreement.</p>
25.08.2023	Microsoft Teams meeting between NH and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Protective Provisions <p>Discussions</p> <p>Legal call to discuss the potential to find common ground on protective provisions and NH's proposed changes. The Parties concluded that the position remains not agreed.</p>

3. ISSUES

3.1.1. This chapter sets out the areas of agreement in relation to specific issues relating to the DCO Proposed Development, and any areas of ongoing discussion between the Parties. The topics discussed between the Applicant and NH are as follows:

- Engagement, ES & Other Application Documents;
- Compulsory Acquisition;
- Traffic and Transport;
- Issues related to the DCO Proposed Development – Draft DCO (including requirements to the draft DCO); and
- Other Consents, Licences and Permits required outside the draft DCO

Table 3-1 – Engagement, ES & Other Application Documents

Ref.	Description of Matter	Current Position	Status
Engagement			
NH 3.1.1	Engagement	The Parties agree that engagement has been ongoing in the pre-application period (as set out in the record of engagement) and the Applicant has sought to bring forward a design which has had regard to NH's views. NH has been formally consulted on the application as required by the Planning Act 2008 (PA2008).	Agreed
ES			
NH 3.1.2	ES	The Parties agree that the study area as set out in the ES is appropriate. The Parties agree that the baseline conditions as set out in the ES are appropriate. The Parties agree that the impact assessment methodologies used in the ES are appropriate. The Parties agree that the mitigation proposed in the ES is appropriate. NH considers that appropriate regard has been had to its proposals in the cumulative assessment having regard to the level of information available.	Agreed
Other application documents			
NH 3.1.3	Other application documents	NH have confirmed that they do not have an interest in some of the named plots in the BoR [REP3-016] . NH have raised that plot 2-09, 2-10, 2-11, 9-07, 9-12 have been detrunked to the Local Highway Authority (LHA) and consequently these plots should be raised with the LHA as acquisition of the subsoil beneath the Local Highway Network is likely to be a matter of concern to them. The Applicant can confirm that plots 2-09 and 2-11 have now been attributed to the local authority. However, National Highways have been kept as a Cat 1 interest within plot 2-10 as they are a freeholder of this plot under title CH580100. In addition, plot 2-09 still has national highways as a Cat 1 interest relating to the freehold ownership (in respect of subsoil up to half width of highway) as part of the ad medium film rule. NH have also raised that plot 7-05 refers to National Highways as a Cat 2 interest however we note that the plot comprises 7,207sqm of motorway and verge (M53). The Applicant confirms that plot 7-05 has National Highways as a Cat 2 interest here as the land is owned by Cheshire West and Chester Borough Council under title number CH252435 and therefore a Cat 1 interest. NH have also queried interest in plots 2-05, 2-06 and 2-07. The Applicant has checked the interest and can confirm this is in respect of a rentcharge under HMLR title CH421433. Further discussion is required over this interest. The Applicant has confirmed these plots will be included within the updated BoR to be submitted for Deadline 2. NH have noted in the Applicant's responses to the ExA's First Written Questions [REP1-044] , under Q1.6.16, the Applicant has advised that Plots 2-02 and 2-03 are Crown Land and interests relating to the Secretary of State for Transport. NH advised they think these could actually be NH interests that haven't been registered as such yet. The Applicant advised that the Secretary of State for Transport has a rights interest over these plots (in respect of rights granted by a Deed dated 10 October 1978) which has been identified through our HMLR right interpretation	Agreed

		<p>relating to the right to construct and use a water pipe. Discussions with DfT have confirmed that these interests do not belong to the DfT and have passed to NH as the current owners of the M56. As such, the Applicant has updated the BoR [REP3-016], Crown Land Plans [REP3-004] and Statement of Reasons [REP3-010] at Deadline 4.</p> <p>Three additional plots have been raised by NH to be included (plots 2-11, 6-03 and 6-08), NH to confirm.</p>	
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Table 3-2 – Issues related to the Proposed Development – Compulsory Acquisition

Ref.	Description of Matter	Current Position	Status
NH 3.2.1	Matters of Compulsory Acquisition	<p>National Highways objects to the use of compulsory powers in relation to assets, property and interest.</p> <p>National Highways also objects specifically to CA in relation to land forming part of the SRN being the M53 and M56, including acquisition of the subsurface of the carriageway itself at two locations where the pipeline crosses the SRN.</p> <p>The Applicant and National Highways are continuing to engage positively over a commercial agreement which will give sufficient protection to both parties' assets. Both the Applicant and National Highways continue to progress a voluntary agreement, however that has not been concluded. The Applicant accordingly is seeking compulsory powers to which NH objects.</p>	Not Agreed

Table 3-3 – Issues related to the Proposed Development – Traffic and Transport

Ref.	Description of Matter	Current Position	Status
NH3.3.1	Definition of HGV and LGV	For the purposes of the assessment an HGV is defined as being in excess of 3.5 tonnes and an LGV is a vehicle weighing less than 3.5 tonnes.	Agreed
NH3.3.2	Primary and secondary access	The DCO Proposed Development does not propose any primary or secondary access points onto roads managed by NH.	Agreed
NH3.3.3	Suitability of survey data	Traffic surveys undertaken in 2021 were agreed as being acceptable based on guidance in National Highways Advice Note dated 30 July 2021 which established that the effects of the Covid-19 pandemic and their impact on traffic flows could be mitigated by collecting a 14-day sample. Subsequent data in 2022 has been collected for a 7-day period and is considered representative baseline suitable for assessment purposes.	Agreed
NH3.3.4	Principles of construction traffic routing	Wherever possible construction traffic will use suitable routes in terms of geometry and capacity, be accessible to the Strategic Road Network (SRN) and seek to limit disruption to human receptors and other road users.	Agreed
NH3.3.5	Construction techniques	Trenchless crossing techniques will be used to cross NH assets to reduce effects on the NH road network. National Highways have provided a copy of their CD622 specification, which seeks mitigation for foreseeable risks and complications involved with trenchless works; the Applicant will seek preservation of NH assets in accordance with CD 622.	Agreed

Ref.	Description of Matter	Current Position	Status
NH3.3.6	Scope of assessment	No individual junction assessments are required due to the volumes of traffic in peak periods being within agreed thresholds (less than 30 two-way trips during the peak months (August 2024 Project Peak Month)).	Agreed
NH3.3.7	Impacts of DCO Proposed Development	The Parties agree that only the effects of DCO Proposed Development construction need to be considered.	Agreed
NH3.3.8	Impact on SRN	The assessment considers that there are no adverse effects on the operation of traffic using the SRN as a result of the construction traffic generated by the DCO Proposed Development.	Agreed
NH3.3.9	Technical submission	Technical submissions to describe the engineering interface with NH assets will be in accordance with CD 622. This standard applies throughout the project lifecycle from preliminaries to post construction closeout and mandates a series of reports each accompanied by its own geotechnical certificate. The Parties will continue engagement regarding safety standards through protected provisions.	Agreed
NH3.3.10	M56 J14 (Chester Road Services)	<p>NH have confirmed that given the access to the construction compound from Chester Services will be a temporary arrangement and the services are located off the gyratory at M56 J14 with no direct access onto the SRN from the services, this is acceptable (subject to review of location plans, access egress arrangements, impacts to the safe operation of the MSA etc).</p> <p>The MSA is not under any lease arrangements so no landlord consents will be required.</p> <p>NH have confirmed that operators of the site such as Roadchef will need to agree to the temporary operations.</p> <p>The Parties agree that the volume of traffic generated at M56 J14 during the construction phase will be minimal. The Parties agree that with the provision of a review of location plans, access egress arrangements, impacts to the safe operation, that the works in this location are acceptable.</p>	Agreed

Table 3-4– Issues related to the DCO Proposed Development - Draft DCO (including requirements to the draft DCO)

Ref.	Description of Matter	Current Position	Status
NH 3.4.1	Required Possessions	<p>The Applicant is not seeking any possession of operational NH infrastructure (occupation of the surface of 'live' carriageways) in order to construct the DCO Proposed Development. The Applicant proposes to cross NH highways using trenchless installation techniques at a depth which would be in the subsoil not the highway itself. The Applicant will require access over tracks and accesses owned or in use by NH, but would do so in common with NH and not exclusively.</p> <p>The Applicant notes that NH consider any access to NH land must be in accordance with the conditions set out in the NH version of the Protective Provisions.</p> <p>The Applicant understands the interaction between the proposed works and NH access, assets and rights is as follows:</p> <ul style="list-style-type: none"> • Plot 2-14 : Parcel contains an open water course (ditch along the field boundary) which NH presumably drains into. The proposed works will interfere with the watercourse, but will not prevent NH draining into it, this will be controlled through the detailed plans to be approved by the LPA prior to construction commencing. 	Not Agreed

- **Plots 4-20, 5-01, 5-02, -5-03, 5-04, 5-05:** Parcels appear to contain buried NH Drainage assets. The proposal is to cross these with trenchless techniques as part of the complete M56 crossing and so no interruption is envisaged, detail will be agreed with NH as a part of their CD622 process, and the Applicant would be happy to cover that in the Protective Provisions if that would be helpful.
- **Plots 5-10, 5-12, 5-14, 5-15, 5-20, 5-22, 5-23, 6-04, 6-06:** Parcels appear to contain buried NH Drainage assets. Some of these will be crossed with open trench pipeline construction, so the Applicant proposes that the Construction Contractor consults with NH to agree working methodology and reinstatement requirements to ensure no interruption to M56 drainage. Where the works would not fall within the CD622 process, the Applicant suggests that requisite approval of detail by NH can be secured through the Protective Provisions.
- **Plot 6-04 :** Parcel sits over Environment Agency flood defences alongside the river, presumably NH retain rights to inspect their bridge over the River Gowy. The proposed works cross the River Gowy and associated flood defences by trenchless techniques so no interference with NH rights is anticipated.
- **Plot 6-05 :** Parcel sits next to a 'cow underpass' under the M56, presumably NH retain rights to use the underpass. The proposed works don't interfere with NH use of these parcels for these purposes, but the Construction Contractor will be working adjacent to them. The Applicant will be using the plot 6-05 track to access the area on the West side of the River Gowy, via plot 6-07. There should not be any digging in plot 6-05 as the Construction Contractor will aim to stay away from the M56.

A commitment has been included within the Outline Construction Environmental Management Plan (OCEMP) **[REP6-008]** and Register of Environmental Actions and Commitments (REAC) **[REP6-006]** to satisfy NH that their ability to drain the M56 will not be impacted by the Applicant's works.

NH have raised concerns regarding the application of Article 30(1) to their interests and impact on their private rights. NH provided a version of the Protective Provisions for Deadline 6 to the ExA and have requested these are agreed by the Applicant in full. The Applicant is not able to agree this and is of the view that the version submitted by the Applicant at Deadline 6 should instead be taken forward.

The Parties had a further meeting on 25 August to discuss the Protective Provisions. NH explained that in an effort to reach some common ground, they had revisited its protective provisions to see which of those provisions may be unnecessary for works that solely involve tunnelling beneath the carriageway. The majority of provisions remain relevant to such works but NH has agreed that some will not be relevant in those circumstances and has now agreed for them not to apply in respect of those works. However, given the wide powers being sought by the Applicant which could result in 'unknown' highway works being brought forward under the DCO, it has been necessary to retain all of NH standard provisions to ensure that appropriate protection is in place if the Applicant chooses to exercise those powers. An updated version of the protective provisions will be included in NH's Deadline 7 response. This remains a complete set as previously submitted to the examination but now includes some additional provisions which 'carve out' some of the requirements and obligations from applying to tunnelling works. The Parties currently remain Not Agreed on this point.

Table 3-5– Issues related to Other Consents, Licences And Permits Required outside the draft DCO

Ref.	Description of Matter	Current Position	Status
<p>NH 3.5.1</p>	<p>Permit for Transport of Abnormal Loads. Road Vehicles (Authorisation of Special Type) (Under the The Road Vehicles (Authorisation of Special Types) 2003, or under the Road Traffic Act 1988)</p>	<p>The Road Vehicles (Authorisation of Special Types) 2003 requires all operators to notify the relevant authorities affected by their movement with specific conditions. These can be found on the National Highways website: https://nationalhighways.co.uk/road-safety/abnormal-loads-and-the-esdal-system/notifying-an-abnormal-load-movement-offline/ No action required at present. Applications will be submitted once the DCO has been made and by the appointed Construction Contractor, if required. This falls outside standard practice or main DCO consent. Full information is contained within the Other Consents and Licenses document (Rev C) [REP3-017] submitted at Deadline 3.</p>	<p>Agreed</p>